UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE HUNDRED THIRD CONGRESS
OF THE UNITED STATES OF AMERICA

1994

AND

PROCLAMATIONS

VOLUME 108

IN SIX PARTS

PART 1

PUBLIC LAWS 103–211 THROUGH 103–271

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103–338	To designate the facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, as the "Jerry L. Litton United States Post Office Building", and to authorize travel and transportation expenses for certain Federal career appointees, and for other purposes.	Oct. 6, 1994	3114
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SECOND SESSION, 1994

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6712	National Neighborhood Crime Watch Day, 1994	Aug. 2, 1994	5616
6713	Minority Enterprise Development Week, 1994	Aug. 9, 1994	5617
6714	To Amend the Generalized System of Preferences	Aug. 17, 1994	5618
6715	Women's Equality Day, 1994	Aug. 18, 1994	5619
6716	Classical Music Month, 1994	Aug. 22, 1994	5620
6717	National Gang Violence Prevention Week, 1994	Sept. 10, 1994	5621
6718	National POW/MIA Recognition Day, 1994	Sept. 14, 1994	5622
6719	National Hispanic Heritage Month, 1994	Sept. 14, 1994	5623
6720	Citizenship Day and Constitution Week, 1994	Sept. 16, 1994	5625
6721	National Farm Safety and Health Week, 1994	Sept. 16, 1994	5626
6722	National Historically Black Colleges and Universities Week, 1994.	Sept. 20, 1994	5627
6723	Italian-American Heritage and Culture Month, 1994	Sept. 22, 1994	5628
6724	Gold Star Mother's Day, 1994	Sept. 23, 1994	5629
6725	National Legal Services Week, 1994	Sept. 26, 1994	5630
6726	Placing into Full Force and Effect the Compact of Free Association With the Republic of Palau.	Sept. 27, 1994	5631
6727	Energy Awareness Month, 1994	Sept. 27, 1994	5633
6728	Child Health Day, 1994	Sept. 30, 1994	5634
6729	National Disability Employment Awareness Month, 1994.	Sept. 30, 1994	5636
6730	Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Formulate or Implement Policies That Are Impeding the Transition to Democracy in Liberia or Who Benefit From Such Policies.	Sept. 30, 1994	5637
6731	German-American Day, 1994	Oct. 4, 1994	5638
6732	General Pulaski Memorial Day, 1994	Oct. 5, 1994	5639
6733	Crime Prevention Month, 1994	Oct. 5, 1994	5640
6734	National Children's Day, 1994	Oct. 7, 1994	5641
6735	Leif Erikson Day, 1994	Oct. 7, 1994	5642
6736	Fire Prevention Week, 1994	Oct. 7, 1994	5643
6737	Columbus Day, 1994	Oct. 7, 1994	5644
6738	National School Lunch Week, 1994	Oct. 8, 1994	5645
6739	National Breast Cancer Awareness Month, 1994	Oct. 12, 1994	5646
6740	To Establish Tariff-Rate Quotas on Certain Wheat	Oct. 13, 1994	5648
6741	White Cane Safety Day, 1994	Oct. 14, 1994	5650
6742	Country Music Month, 1994	Oct. 14, 1994	5651
6743	National Character Counts Week, 1994	Oct. 14, 1994	5652
6744	National Forest Products Week, 1994	Oct. 14, 1994	5653
6745	National Penny Charity Week, 1994	Oct. 14, 1994	5654
6746	National Mammography Day, 1994	Oct. 18, 1994	5655
6747	United Nations Day, 1994	Oct. 20, 1994	5656
6748	National Consumers Week, 1994	Oct. 24, 1994	5657
6749	Immigration Measures With Respect to United Nations Security Council Resolution 942.	Oct. 25, 1994	5659
6750	Veterans Day, 1994	Oct. 27, 1994	5660
6751	Thanksgiving Day, 1994	Oct. 27, 1994	5661
6752	The Year of Gospel Music, 1994	Oct. 28, 1994	5662
6753	National Family Caregivers Week, 1994	Nov. 3, 1994	5663
6754	National Military Families Recognition Day, 1994	Nov. 4, 1994	5664

PROCLAMATION		DATE	PAGE
6755	National Women Veterans Recognition Week, 1994	Nov. 5, 1994	5665
6756	National American Indian Heritage Month, 1994	Nov. 5, 1994	5666
6757	National Farm-City Week, 1994	Nov. 16, 1994	5667
6758	National Pearl Harbor Remembrance Day, 1994	Nov. 29, 1994	5668

PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE ONE HUNDRED THIRD CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Tuesday, January 25, 1994, adjourned sine die on Tuesday, November 29, 1994. WILLIAM J. CLINTON, *President;* ALBERT GORE, JR., *Vice President;* THOMAS S. FOLEY, *Speaker of the House of Representatives.*

Public Law 103-211
103d Congress

An Act

Making emergency supplemental appropriations for the fiscal year ending September 30, 1994, and for other purposes.

Feb. 12, 1994
[H.R. 3759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for the fiscal year ending September 30, 1994, and for other purposes, namely:

California. Disaster assistance. Midwest floods.

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Emergency Supplemental Appropriations Act of 1994.

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and flood prevention operations" to repair damage to the waterways and watersheds resulting from the Midwest floods and California fires of 1993 and other natural disasters, and for other purposes, $340,500,000, to remain available until expended: *Provided,* That such assistance may be made available when the primary beneficiary is agriculture or agribusiness regardless of drainage size and no more than $50,000,000 may be spent as a result of this proviso for purposes not currently covered by the Soil Conservation Service: *Provided further,* That such amounts are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That if the Secretary determines that the cost of land and levee restoration exceeds the fair market value of an affected cropland, the Secretary may use sufficient amounts from funds provided under this heading to accept bids from willing sellers to enroll such cropland inundated by the Midwest floods of 1993 in any of the affected States in the Wetlands Reserve Program, authorized by subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for "Emergency conservation program" for expenses resulting from the Midwest floods and California fires of 1993 and other natural disasters, $25,000,000, to remain available until September 30, 1995: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COMMODITY CREDIT CORPORATION

Funds made available in Public Law 103–75 for the Commodity Credit Corporation shall be available to fund the costs of replanting, reseeding, or repairing damage to commercial trees and seedlings, including orchard and nursery inventory as a result of the Midwest floods of 1993 or other natural disasters: *Provided,* That the use of these funds for these purposes is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and that such use shall be available only to the extent the President designates such use an emergency requirement pursuant to such Act.

The first proviso of the matter under the heading "Commodity Credit Corporation" of chapter I of the Emergency Supplemental Appropriations for Relief from the Major, Widespread Flooding in the Midwest Act of 1993 (Public Law 103–75; 107 Stat. 741) is amended by inserting after the colon at the end, the following: "*Provided further,* That such funds shall also be available for payments to producers for the 1993, 1994, and 1995 crops of papaya if (1) the papaya would have been harvested if the papaya plants had not been destroyed by Hurricanes Andrew or Iniki or Typhoon Omar, and (2) the papaya plants would not have produced fruit for a lifetime total of more than 3 crop years based on normal cultivation practices:". Payments to papaya producers shall be made only to the extent that claims for the payments are filed not later than the date that is 60 days after the date of enactment of this Act: *Provided,* That the use of funds for this purpose is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and that such use shall be available only to the extent the President designates such use an emergency requirement pursuant to such Act.

Funds made available in Public Law 103–75 for the Commodity Credit Corporation shall be made available to fund crop loss disaster assistance as under the provisions of Public Law 101–624 for 1993 losses of trees, shrubs, or nursery stock and inventory being grown for commercial sale, if such stock or inventory would normally have been sold in 1993, 1994, or 1995: *Provided,* That the use of these funds for these purposes is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and that such use shall be available only to the extent the President designates such use an emergency requirement pursuant to such Act.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for emergency expenses resulting from the January 1994 earthquake in Southern California and other disasters, $309,750,000, to remain available until expended, of which up to $55,000,000 may be transferred to and merged with the appropriations for "Salaries and expenses" for associated administrative expenses: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ADMINISTRATIVE PROVISIONS

SEC. 201. Section 24 of the Small Business Act (15 U.S.C. 651) is amended in subsection (a) by striking the period at the end thereof and by inserting in lieu thereof the following: ", and shall give priority to a proposal to restore an area determined to be a major disaster by the President on a date not more than three years prior to the fiscal year for which the application is made.".

SEC. 202. Of the $258,900,000 made available under the heading "Small Business Administration, Salaries and Expenses" in Public Law 103–121, the $18,000,000 included in that total amount and designated under such heading to carry out section 24 of the Small Business Act, as amended, shall remain available until September 30, 1995.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $6,600,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $19,400,000: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $18,400,000: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $420,100,000: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $104,800,000: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $560,100,000: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $21,600,000: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft Procurement, Army", $20,300,000, to remain available for obligation until September 30, 1996: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, ARMY

For an additional amount for "Other Procurement, Army", $200,000, to remain available for obligation until September 30, 1996: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i)

of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $26,800,000, to remain available for obligation until September 30, 1996: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—CHAPTER 3

United Nations.

SEC. 301. Notwithstanding sections 607 and 630 of the Foreign Assistance Act of 1961 (22 U.S.C. 2357 and 22 U.S.C. 2390), reimbursements received from the United Nations for expenses of the Department of Defense charged to the appropriations provided by this Act shall be deposited to the miscellaneous receipts of the Treasury.

Somalia.
Bosnia.
Southwest Asia.
Haiti.

SEC. 302. Funds appropriated in this chapter shall only be obligated and expended to fund the incremental and associated costs of the Department of Defense incurred in connection with the ongoing United States operations relating to Somalia; the ongoing United States humanitarian airdrops, hospital operations, and enforcement of the no-fly zone relating to Bosnia; the ongoing United States operations relating to Southwest Asia; and the ongoing United States operations supporting the maritime interception operations relating to Haiti.

Kuwait.

SEC. 303. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $250,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided,* That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriation or fund which incurred such obligations.

CHAPTER 4

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood control and coastal emergencies", $70,000,000, to remain available until expended: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

The prohibition against obligating funds for construction until sixty days from the date the Secretary transmits a report to the Congress in accordance with section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is waived for the Crooked River Project, Ochoco Dam, Oregon, to allow for an earlier start of emergency repair work.

CHAPTER 5

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW-INCOME HOME ENERGY ASSISTANCE

Of the amounts provided under this heading in Public Law 103–112 and designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, subject to the terms and conditions specified in Public Law 103–112, $300,000,000, if designated by the President as an emergency, may be allotted by the Secretary of the Department of Health and Human Services, as she determines is appropriate, to any one or more of the jurisdictions funded under title XXVI of the Omnibus Budget Reconciliation Act of 1981, to meet emergency needs.

The second paragraph under this heading in Public Law 102–394 is amended as follows: strike "June 30, 1994" and insert "September 30, 1994".

106 Stat. 1807.

DEPARTMENT OF EDUCATION

IMPACT AID

For carrying out disaster assistance activities resulting from the January 1994 earthquake in Southern California and other disasters as authorized under section 7 of Public Law 81–874, $165,000,000, to remain available through September 30, 1995: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student financial assistance" for payment of awards made under title IV, part A, subpart 1 of the Higher Education Act of 1965, as amended, $80,000,000, to remain available through September 30, 1995: *Provided,* That notwithstanding sections 442(e) and 462(j) of such Act, the Secretary may reallocate, for use in award year 1994–1995 only, any excess funds returned to the Secretary of Education under the Federal

Work-Study or Federal Perkins Loan programs from award year 1993–1994 to assist individuals who suffered financial harm from the January 1994 earthquake in Southern California and other disasters: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That fiscal year 1992 Federal Work-Study and Federal Perkins Loan funds that were reallocated to institutions for use in award year 1993–1994, pursuant to Public Law 103–75, and fiscal year 1992 Federal Supplemental Educational Opportunity Grant funds that were reallocated to institutions by the Secretary for use in award year 1993–1994, pursuant to section 413D(e) of the Higher Education Act of 1965, as amended, to assist individuals who suffered financial harm as a result of the Midwest floods of 1993 shall remain available for use in award year 1994–1995 by institutions that received such reallocations.

CHAPTER 6

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For the Emergency Fund authorized by 23 U.S.C. 125 to cover expenses arising from the January 1994 earthquake in Southern California and other disasters, $950,000,000; and in addition $400,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress, all to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the limitation on obligations per State in 23 U.S.C. 125(b) shall not apply to projects relating to such earthquake: *Provided further,* That notwithstanding 23 U.S.C. 120(e), the Federal share for any project on the Federal-aid highway system related to such earthquake shall be 100 percent for the costs incurred in the 180 day period beginning on the date of the earthquake: *Provided further,* That notwithstanding any other provision of law, of the funds made available by the Dire Emergency Supplemental Appropriations Act, 1992 (Public Law 102–368) under "Federal Highway Administration, Metropolitan Planning (Highway Trust Fund)," $337,000 of the funds received by Hawaii shall be made available by the State of Hawaii directly to the County of Kauai, Hawaii, for conducting comprehensive reviews of transportation infrastructure needs incurred in connection with Hurricane Iniki, and, these funds shall remain available until expended.

In addition, for emergency expenses resulting from the Loma Prieta earthquake of October 17, 1989, as authorized by 23 U.S.C. 125, $315,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 7

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For an additional amount for emergency expenses resulting from the January 1994 earthquake in Southern California, $21,000,000, to remain available until expended, of which not to exceed $802,000 is available for transfer to General Operating Expenses, the Guaranty and Indemnity Program Account, and the Vocational Rehabilitation Loans Program Account: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, major projects" for emergency expenses resulting from the January 1994 earthquake in Southern California and other disasters, $45,600,000, to remain available until expended, of which such sums as may be necessary may be transferred to the "Medical care" and "Construction, minor projects" accounts: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

For an additional amount under this head, $225,000,000, to remain available until December 31, 1995, of which $200,000,000 shall be for rental assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)), and $25,000,000 shall be for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l): *Provided,* That these funds shall be used first to replenish amounts used from the headquarters reserve established pursuant by section 213(d)(4)(A) of the Housing and Community Development Act of 1974, as amended, for assistance to victims of the January 1994

earthquake in Southern California: *Provided further,* That any amounts remaining after the headquarters reserve has been replenished shall be available under such programs for additional assistance to victims of the earthquake referred to above: *Provided further,* That in administering these funds, the Secretary may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for the requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FLEXIBLE SUBSIDY FUND

For emergency assistance to owners of eligible multifamily housing projects damaged by the January 1994 earthquake in Southern California who are either insured or formerly insured under the National Housing Act, as amended, or otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $100,000,000, to remain available until September 30, 1995: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured under the National Housing Act, may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development: *Provided further,* That assistance is for the repair of damage or the recovery of losses directly attributable to the Southern California earthquake of 1994: *Provided further,* That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for statutory requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That after assisting economically viable FHA insured projects, to the extent funds remain available the Secretary may provide assistance to economically viable projects assisted with a loan made under section 312 of the National Housing Act of 1964 and projects assisted under section 8 of the United States Housing Act of 1937 but not insured under the National Housing Act: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL HOUSING ADMINISTRATION

12 USC 1709 note.

For higher mortgage limits and improved access to mortgage insurance for victims of the January 1994 earthquake in Southern California, title II of the National Housing Act, as amended, is further amended, as follows:

12 USC 1709.

(1) In section 203(h), by—

(A) striking out "section 102(2) and 401 of the Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act"; and

Mortgage insurance.

(B) adding the following new sentence at the end thereof: "In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 18 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for single family residence, and not in excess of 100 percent of the appraised value.".

(2) In section 203(k), by adding at the end thereof the following new paragraph:

Rehabilitation loans.

"(6) The Secretary is authorized, for a temporary period not to exceed 18 months from the date on which the President has declared a major disaster to have occurred, to enter into agreements to insure a rehabilitation loan under this subsection which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size, if such loan is secured by a structure and property that are within a jurisdiction in which the President has declared such disaster, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and if such loan otherwise conforms to the loan-to-value ratio and other requirements of this subsection.".

12 USC 1715y.

(3) In section 234(c), by inserting after "203(b)(2)" in the third sentence the phrase: "or pursuant to section 203(h) under the conditions described in section 203(h)".

12 USC 1709 note.

Eligibility for loans made under the authority granted by the preceding paragraph shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: *Provided,* That the provisions under this heading shall be effective only for the 18-month period following the date of enactment of this Act.

Effective date.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community development grants", as authorized under title I of the Housing and Community Development Act of 1974, for emergency expenses resulting from the January 1994 earthquake in Southern California or the Midwest Floods of 1993, $500,000,000, to remain available until September 30, 1996 for all activities eligible under such title I except those activi-

ties reimbursable by the Federal Emergency Management Agency (FEMA) or available through the Small Business Administration (SBA): *Provided,* That from this amount, the Secretary may transfer up to $75,000,000 to the "HOME investment partnerships program", as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (Public Law 101–625), to remain available until expended, as an additional amount for such emergency expenses for all activities eligible under such title II except activities reimbursable by FEMA or available through SBA: *Provided further,* That the recipients of amounts under this appropriation, including the foregoing transfer (if any), shall use such amounts first to replenish amounts previously obligated under their Community Development Block Grant or HOME programs, respectively, in connection with the Southern California earthquake of January 1994: *Provided further,* That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for statutory requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That with respect to funds made available by this head that are proposed to be used by recipients affected by the Midwest floods of 1993 for the purpose of hazard mitigation through flood plain real property acquisition or relocation, the Secretary shall secure assurances from grantees that such activities will be subject to the requirements of sections 3 and 4 of the Hazard Mitigation and Relocation Assistance Act of 1993 (Public Law 103–181, 107 Stat. 2054–2056): *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCIES

DISASTER RELIEF

For an additional amount for "Disaster Relief" for the January 1994 earthquake in Southern California and other disasters, $4,709,000,000 to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for "Emergency Management Planning and Assistance", to carry out activities under the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), $15,000,000, to remain available until expended, to study the January 1994 earthquake in Southern California in order to enhance seismic safety throughout the United States: *Provided,* That the entire amount is designated by Congress as an emergency

requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 8

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

For an additional amount for emergency expenses resulting from the January 1994 earthquake in Southern California, the Midwest floods and other disasters, $550,000,000, to remain available until expended: *Provided,* That these funds may be transferred to any authorized Federal governmental activity to meet the requirements of such disasters: *Provided further,* That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,* That the President's request shall specifically identify programs, projects and activities to be funded and no funds shall be available for 15 days after the submission of the request: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This title may be cited as the "Emergency Supplemental Appropriations Act of 1994".

TITLE II—SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1994

CHAPTER 1

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

(TRANSFER OF FUNDS)

Funds made available under this heading in Public Law 103–111 and subsequently transferred to the Human Nutrition Information Service pursuant to Secretary's Memorandum No. 1020–39, dated September 30, 1993, are transferred to the Agricultural Research Service: *Provided,* That funds appropriated by Public Law 103–111 for the functions of the former Human Nutrition Information Service shall be made available only to the Agricultural Research Service.

EXTENSION SERVICE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Extension Service", $1,400,000, to remain available until September 30, 1995, of which up to $750,000 may be transferred to the Cooperative State Research Service.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

(TRANSFER OF FUNDS)

Funds made available under this heading in Public Law 103–111 and subsequently transferred to the Agricultural Cooperative Service pursuant to Secretary's Memorandum No. 1020–39, dated September 30, 1993, are transferred to the Rural Development Administration.

PAYMENTS TO STATES AND POSSESSIONS

(TRANSFER OF FUNDS)

Of the funds made available under this heading in Public Law 103–111 and subsequently transferred to the Agricultural Cooperative Service pursuant to Secretary's Memorandum No. 1020–39, dated September 30, 1993, $435,000 are transferred to the Rural Development Administration.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" from fees collected pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act, not to exceed $2,284,000, to remain available until expended: *Provided,* That fees derived from applications received during fiscal year 1994 shall be credited to the appropriation current in the year in which fees are collected and subject to the fiscal year 1994 limitation.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to defray expenses for the automation of fingerprint identification services and related costs, $20,000,000, to remain available until expended: *Provided,* That these funds shall be available to the Federal Bureau of Investigation to hire 500 employees to carry out the automation

of fingerprint services without regard to any employment ceiling imposed by the President or by law.

ADMINISTRATIVE PROVISION

For fiscal year 1994 only, the Director of the Bureau of Justice Assistance, upon good cause shown, may waive the provisions of section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 for projects located in communities covered under a Presidentially declared disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

ADMINISTRATIVE PROVISION

The Secretary of Transportation may use up to $1,500,000 of the proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels, that are currently collected and retained by the Maritime Administration, to relocate, repair and lay up the Nuclear Ship SAVANNAH.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $550,000, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

Notwithstanding the provisions of this or any other Act, not to exceed $2,000,000 of the funds made available under this heading in Public Law 103–121 may be used to carry out projects involving security construction and related improvements for Agency facilities not physically located together with Department of State facilities abroad: *Provided,* That such funds may remain available until expended.

CHAPTER 3

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Resource management" to carry out the Forest Plan in the Pacific Northwest, $2,100,000, of which $400,000 shall be derived by transfer from the "Oil spill emergency

fund" and $1,700,000 shall be derived by transfer from the "Compact of Free Association".

LAND ACQUISITION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Land acquisition" for the acquisition of land or interests in land, from willing sellers, in the Midwest area flooded in 1993, $4,000,000, to remain available until expended, to be derived by transfer from amounts appropriated to the United States Fish and Wildlife Service under the heading "Construction and anadromous fish" in Public Law 103–75, to be used for nonstructural measures to meet flood damage control and fish and wildlife habitat restoration objectives.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction", to replenish funds used for emergency actions related to storm damaged facilities within National Park System areas, $13,102,000, to remain available until expended.

LAND ACQUISITION AND STATE ASSISTANCE

For an additional amount for "Land acquisition and State assistance", $1,274,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, to replenish funds used for emergency actions related to storm damaged facilities within National Park System areas; and in addition, an additional amount not to exceed $5,000,000, to remain available until expended, to be derived by transfer from balances under the heading "Construction", for project modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989, to be available for Federal assistance to the State of Florida for acquisition of lands or interests therein adjacent to, or affecting the restoration of, natural water flows to Everglades National Park and Florida Bay.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The paragraph under this heading in Public Law 103–138 is amended by inserting the words "not to exceed" before the amount "$316,111,000". 107 Stat. 1390.

CONSTRUCTION

For an additional amount for "Construction", $12,363,000, to remain available until expended.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

The paragraph under this heading in Public Law 103–138 is amended by adding the following before the last period: ", and (3) to reimburse Indian trust fund account holders for loss(es) to their respective accounts where the claim for said loss(es) has 107 Stat. 1393.

been reduced to a judgment or settlement agreement approved by the Department of Justice".

DEPARTMENT OF ENERGY

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

96 Stat. 873.

Section 303 of Public Law 97–257, as amended, is repealed. The seventh proviso under the head "Clean Coal Technology" in Public Law 101–512, and the seventh proviso under the head "Clean Coal Technology" in Public Law 102–154, both concerning Federal employment, are repealed.

42 USC 5903d note.

CHAPTER 4

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $61,400,000, to remain available until September 30, 1995.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" for the current population parallel survey, $10,100,000.

CHAPTER 5

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

SALARIES, OFFICERS AND EMPLOYEES

For an additional amount for "Office of the Secretary", $450,000.

CONTINGENT EXPENSES OF THE SENATE

SECRETARY OF THE SENATE

For an additional amount for expenses of the "Office of the Secretary of the Senate", $600,000.

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED

MEMBERS OF CONGRESS

For payment to Karen A. Henry, widow of Paul B. Henry, late a Representative from the State of Michigan, $133,600. Karen A. Henry.

CHAPTER 6

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

(TRANSFERS OF FUNDS)

Of funds provided under this heading under Public Law 103–75, $4,000,000 shall, in combination with funds made available under this heading under Public Law 102–368, be made available for operating, acquisition, construction, and improvement costs associated with the Midwest floods, and shall remain available until expended.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(TRANSFER OF FUNDS)

Of the funds made available under this heading under Public Law 102–368, $2,000,000 shall be made available for costs associated with the Midwest floods, and shall remain available until expended.

FEDERAL RAILROAD ADMINISTRATION

PENNSYLVANIA STATION REDEVELOPMENT PROJECT

For grants to the National Railroad Passenger Corporation, $10,000,000, to remain available until expended, for engineering and design activities to enable the James A. Farley Post Office in New York City to be used as a train station and commercial center: *Provided,* That the Secretary may retain from these funds such amounts as the Secretary shall deem appropriate to undertake the environmental and historic preservation analyses associated with this project: *Provided further,* That no funds provided under this head shall be available for construction until the Secretary submits a report to the House and Senate Committees on Appropriations regarding the financing of necessary improvements to the existing Pennsylvania Station and the financing of the operating and capital costs accruing to the commuter rail authorities operating in said station as a result of this redevelopment project. Reports.

TRUST FUND SHARE OF NEXT GENERATION RAIL TECHNOLOGY DEVELOPMENT

(HIGHWAY TRUST FUND)

107 Stat. 1211.

The obligation limitation for the "High-Speed Ground Transportation" program in Public Law 103–122 is amended by deleting "$3,500,000" and inserting "$7,952,000".

GENERAL PROVISION

23 USC 104 note.

Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1994, is amended by—

(a) inserting "6005," after "6001,"; and

(b) inserting ": *Provided,* That notwithstanding any other provision of law, amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway-safety construction programs under the head 'Federal-Aid Highways' in this Act" after "section 104(a) of title 23, United States Code".

CHAPTER 7

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT

ARMSTRONG RESOLUTION ACCOUNT

For necessary expenses for electronic communications records management activities for compliance with and resolution of Armstrong v. Executive Office of the President, $13,125,000, to remain available until expended.

CHAPTER 8

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $698,000,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $103,200,000, to remain available until expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

(BY TRANSFER)

For an additional amount for "Medical administration and miscellaneous operating expenses", $2,500,000, to be derived by transfer from amounts appropriated under the head "Medical care" in Public Law 103–124.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

During fiscal year 1994, the limitation on commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, is increased by an additional loan principal of not to exceed $20,000,000,000.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

The limitation on commitments during fiscal year 1994 to guarantee loans authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), is increased by an additional loan principal, any part of which is to be guaranteed, of not to exceed $2,000,000,000.

ADMINISTRATIVE PROVISIONS

Of the $260,000,000 earmarked in Public Law 102–389, in the 14th proviso under the head Annual Contributions for Assisted Housing, for special purpose grants (106 Stat. 1571, 1584), $1,300,000 made available for continued assistance to two sugarcane mills on the Hilo-Hamakua Coast of Hawaii shall also be available to community-based and employee-support organizations along the Hamakua Coast, to address social and economic needs in such area. Hawaii.

Notwithstanding any other provision of law, the City of Slidell, Louisiana, is authorized to submit not later than 10 days following the enactment of this Act, and the Secretary of Housing and Urban Development shall consider, the final statement of community development objectives and projected use of funds required by section 104(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(a)(1)) in connection with a grant to the City of Slidell under title I of such Act for fiscal year 1994. Louisiana.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

Of the funds made available under this heading in Public Law 103–124, the $500,000,000 earmarked to not become available

until May 31, 1994, shall instead not become available until September 30, 1994.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

107 Stat. 1295. The proviso under this heading in Public Law 103–124 is repealed.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For an additional amount for "Council on Environmental Quality and Office of Environmental Quality", $300,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $40,000,000, of which $20,000,000 shall become available for obligation on October 1, 1994: *Provided,* That these funds shall be available for the commercial mid-deck augmentation module, in addition to such amounts as may be subsequently appropriated.

107 Stat. 1298. The second proviso under this heading in Public Law 103–124 is amended to read as follows: *"Provided further,* That of the funds provided under this heading, for the redesigned Space Station, (1) not to exceed $160,000,000 shall be for termination costs connected only with Space Station Freedom contracts, (2) not to exceed $172,000,000 shall be for space station operations and utilization capability development, and (3) not to exceed $99,000,000 shall be for supporting development:".

107 Stat. 1298. The fifth and sixth provisos under this heading in Public Law 103–124 are deleted and the fourth proviso thereunder is amended to read: *"Provided further,* That of the funds made available under this heading, not to exceed $117,200,000 shall be available for activities to support cooperative space ventures between the United States and the Republic of Russia outlined in the joint agreement of September 2, 1993:".

RESEARCH AND PROGRAM MANAGEMENT

For an additional amount for "Research and program management", $56,000,000.

GENERAL PROVISIONS

2 USC 1207a. SEC. 2001. (a) Section 1205(a)(1) of the Supplemental Appropriations Act of 1993 is amended by inserting before the semicolon the following: "and amounts transferred by the Architect of the Capitol from funds appropriated to the Architect".

(b) Section 1205(b) of such Act is amended—

(1) by striking "and payments" and inserting ", payments"; and

(2) by inserting before the period at the end the following: ", and payments pursuant to Senate Resolution 139, 103d Congress, agreed to August 4, 1993".

(c) Section 1205 of such Act is amended by adding at the end the following:

"(d) In case of an award under section 307 of Public Law 102–166, a payment pursuant to an agreement under section 310 of such Public Law, or a payment pursuant to Senate Resolution 139, 103d Congress, agreed to August 4, 1993, to an employee described in section 301(c)(1)(B) of such Public Law, to an applicant for a position described in section 301(c)(1)(C) of such Public Law that is to be occupied by such an employee, or to an individual described in section 301(c)(1)(D) of such Public Law who was formerly such an employee, the Architect of the Capitol, at the direction of the Secretary of the Senate, shall transfer to the account established by subsection (a), from funds that are appropriated to the Architect of the Capitol under the heading 'CAPITOL BUILDINGS AND GROUNDS' under the subheading 'SENATE OFFICE BUILDINGS' and that are otherwise available for obligation at the time the award is ordered or the agreement is entered into, an amount sufficient to pay such award or make such payment.".

(d) The amendments made by this section shall be effective on and after October 1, 1992.

Effective date. 2 USC 1207a note.

SEC. 2002. (a) The Senate finds that—

(1) historically it is the policy of the Federal Government to provide financial and other assistance to the victims of natural disasters;

(2) since fiscal year 1988, the Congress has enacted 6 major disaster relief supplemental appropriations Acts providing a total of $17,012,000,000 in budget authority for Federal disaster assistance for domestic disasters;

(3) the provision of Federal disaster assistance reflects the traditions and values of the American people who have always been willing to provide help to those who have been victimized by catastrophic events and forces beyond their control;

(4) the unprecedented growth in the cost of disaster assistance needs to be reconciled with the restraints imposed on discretionary spending and with the deficit reduction goals of the Budget Enforcement Act of 1990 and the Omnibus Budget Reconciliation Act of 1993, under which significant progress is being made in reducing the Federal deficit; and

(5) a prospective policy should be developed for anticipating and funding disaster needs and other emergencies in keeping with continuing fiscal constraints on the Federal Government.

(b) It is the sense of the Senate that—

(1) there should be established in the Senate a Bipartisan Task Force on Funding Disaster Relief; and

(2) the Task Force should—

(A) consult with the Senate committees with jurisdiction over disaster relief programs;

(B) compile information on the history of Federal disaster relief and recovery funding;

(C) evaluate the types and amounts of Federal financial assistance provided to individuals, State and local governments, and nonprofit organizations after disasters strike, as well as relevant insurance coverage and loss experience;

(D) consider the relationship between funding disaster relief and complying with the deficit control requirements of the Budget Enforcement Act of 1990, the Omnibus Budget Reconciliation Act of 1993, and other deficit control provisions enacted prior to 1990; and

(E) report its findings, options, and recommendations to the Senate with regard to the consideration of future disaster assistance funding requests prior to the convening of the 104th Congress.

SEC. 2003. (a) AMENDMENT TO TITLE 31.—Section 301(d) of title 31, United States Code, is amended by inserting "an Under Secretary for Enforcement," after "2 Under Secretaries,".

(b) AMENDMENT TO TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of the Treasury (or Counselor)." and striking "Under Secretary of the Treasury for Monetary Affairs." and inserting in lieu thereof, "Under Secretaries of the Treasury (3).".

TITLE III—RESCINDING CERTAIN BUDGET AUTHORITY

CHAPTER 1

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–111, $12,463,000 are rescinded, including $4,375,000 of contracts and grants for agricultural research under the Act of August 4, 1965, as amended; $6,729,000 for competitive research grants under section 2(b) of the Act of August 4, 1965; and $1,359,000 for necessary expenses of Cooperative State Research Service activities.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $2,897,000 are rescinded.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111 for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), $21,158,000 are rescinded.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(RESCISSIONS)

Of the amounts provided under this heading in Public Law 103–111, the following amounts are rescinded: for the cost of low-

income housing section 502 direct loans, $20,870,000; for the cost of section 515 rental housing loans, $12,443,000; for the cost of section 504 housing repair loans, $1,204,000; for the cost of section 514 farm labor housing loans, $483,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(RESCISSION)

Of the amounts provided under this heading for the cost of credit sales of acquired property direct loans in Public Law 103–111, $8,000,000 are rescinded.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111 for the cost of direct loans, $10,000,000 are rescinded.

RURAL HOUSING VOUCHER PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $25,000,000 are rescinded.

RURAL WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $12,500,000 are rescinded.

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–111, $12,167,000 are rescinded.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

(RESCISSIONS)

Of the amounts provided under this heading in Public Law 103–111, the following amounts are rescinded: for the cost of 5 percent rural electrification direct loans, $1,694,000; for the cost of 5 percent rural telephone direct loans, $1,611,000.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 102–341, $10,000,000 are rescinded.

PUBLIC LAW 480 PROGRAM ACCOUNT

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–111 for title III, $25,000,000 are rescinded, and of the amounts made available for ocean freight differential costs, $4,600,000 are rescinded.

Of the funds made available under this heading in Public Law 103–111 for the cost of direct credit agreements, including the cost of modifying credit agreements, $22,900,000 are rescinded.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–121, $3,000,000 are rescinded.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading, $2,000,000 are rescinded.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121 for a grant to the Catawba Indian Tribe, $500,000 are rescinded.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $29,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

BUYING POWER MAINTENANCE

(RESCISSION)

Of the balances in the Buying Power Maintenance account, $8,800,000 are rescinded.

NEW DIPLOMATIC POSTS

(RESCISSION)

Of the funds made available for the United States Information Agency under this heading in Public Law 102–395, $1,000,000 are rescinded.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $3,000,000 are rescinded.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

Of the funds made available under this heading, $1,700,000 are rescinded.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOANS PROGRAM ACCOUNT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121 for the cost of guaranteed loans, $4,100,000 are rescinded.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $2,000,000 are rescinded.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $850,000 are rescinded.

RADIO CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 103–121, $2,000,000 are rescinded.

NORTH/SOUTH CENTER

(RESCISSION)

Of the funds made available under this heading, $1,000,000 are rescinded.

CHAPTER 3

DEPARTMENT OF DEFENSE—MILITARY PROCUREMENT

AIRCRAFT PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 103–139, $10,000,000 are rescinded.

AIRCRAFT PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–396, $12,800,000 are rescinded.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–139, $42,500,000 are rescinded.

PROCUREMENT, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, $10,000,000 are rescinded.

PROCUREMENT, DEFENSE-WIDE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–139, $14,500,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–396, $50,000,000 are rescinded.

Of the funds made available under this heading in Public Law 103–139, $6,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–139, $104,500,000 are rescinded.

CHAPTER 4—ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $24,970,000 are rescinded.

CONSTRUCTION, GENERAL

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $97,319,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

(RESCISSION)

Of the amounts made available under this heading in Public Laws 102–27, 102–368, 102–377 and prior years' Energy and Water Development Appropriations Acts, $30,000,000 are rescinded.

DEPARTMENT OF ENERGY

ENERGY SUPPLY RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSIONS)

Of the funds made available under this heading in Public Law 103–126, $97,300,000 are rescinded: *Provided,* That the reduction shall be taken as a general reduction, applied to each program equally, so as not to eliminate or disproportionately reduce any program, project or activity in the Energy Supply, Research and Development Activities account as included in the reports accompanying Public Law 103–126.

Of the funds made available under this heading for superconducting magnetic energy storage in Public Law 103–126, $10,000,000 are rescinded.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(RESCISSION)

Of the amounts made available under this heading in Public Law 102–377 and prior years' Energy and Water Development Appropriations Acts, $42,000,000 are rescinded.

RELATED AGENCY

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–126, $12,700,000 are rescinded.

CHAPTER 5

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

(RESCISSION)

Of the unexpended or unobligated balances made available for payment to the International Bank for Reconstruction and Development for the United States share of the paid-in portion of the increases in capital stock for the General Capital Increase, $27,910,500 are rescinded.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Notwithstanding Public Law 103–87, the United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of the increases in capital stock in an amount not to exceed $902,439,500.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEVELOPMENT ASSISTANCE

(RESCISSION)

Of the unexpended or unobligated balances of funds (including earmarked funds) made available for fiscal years 1987 through 1993 to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, $104,018,500 are rescinded.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(RESCISSION)

Of the unexpended or unobligated balances of funds made available under this heading and title VI of Public Law 103–87, and prior Acts making appropriations for foreign operations, export financing, and related programs, for assistance for the new independent states of the former Soviet Union, $55,000,000 are rescinded.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the unexpended or unobligated balances of funds (including earmarked funds) made available for fiscal years 1987 through 1993 to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $61,350,000 are rescinded.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

(RESCISSION)

Of the funds made available under this heading (including earmarked funds) in Public Law 102–391 and prior appropriations Acts, for grants to carry out the provisions of section 23 of the Arms Export Control Act, $91,283,000 are rescinded.

MILITARY ASSISTANCE

(RESCISSION)

Of the funds made available (including earmarked funds) under this heading in Public Law 102–391 and prior appropriations Acts, $438,000 are rescinded.

CHAPTER 6

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

(RESCISSION)

Of the funds made available under this heading in Public Law 100–446 and Public Law 102–154, $3,874,000 are rescinded.

DEPARTMENT OF THE TREASURY

BIOMASS ENERGY DEVELOPMENT

(RESCISSION)

Of the funds available under this heading, $16,275,000 are rescinded.

CHAPTER 7

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Labor, $4,000,000 are rescinded: *Provided,* That the Secretary of Labor may use up to $1,750,000 otherwise appropriated to the Department of Labor for fiscal year 1994 for activities required by the North American Free Trade Agreement Labor Supplemental Agreement, including obligations of the United States abroad pursuant to treaties, international agreements and binational contracts, distribution to international organizations established by the North American Free Trade Agreement on Labor Cooperation between the Government of the United States, the Government of Canada, and the Government of the United Mexican States.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs (including equipment) of the Department of Health and Human Services (except the Social Security Administration), $27,500,000 are rescinded.

SOCIAL SECURITY ADMINISTRATION

SUPPLEMENTAL SECURITY INCOME PROGRAM

(RESCISSION)

Of the amounts appropriated in the first paragraph under this heading in Public Law 103–112, $10,909,000 are rescinded.

LIMITATION ON ADMINISTRATIVE EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–112 to invest in a state-of-the-art computing network, $80,000,000 are rescinded.

DEPARTMENT OF EDUCATION

(RESCISSION)

Of the amounts appropriated in Public Law 103–112 for salaries and expenses and administrative costs of the Department of Education, $8,500,000 are rescinded.

CHAPTER 8

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

CONTINGENT EXPENSES OF THE SENATE

(RESCISSION)

Of the funds made available for the Senate under the heading "Sergeant at Arms and Doorkeeper of the Senate" in Public Law 102–90, $1,500,000 are rescinded.

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

(RESCISSIONS)

Of the amounts made available under this heading in Public Law 101–520, $633,000 are rescinded in the amounts specified for the following headings and accounts:

"ALLOWANCES AND EXPENSES", $633,000, as follows:

"Official Expenses of Members", $128,000; "supplies, materials, administrative costs and Federal tort claims", $125,000; "net expenses of purchase, lease and maintenance of office equipment", $364,000; and "Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation", $16,000.

Of the amounts made available under this heading in Public Law 102–90, $2,352,000 are rescinded in the amounts specified for the following headings and accounts:

"HOUSE LEADERSHIP OFFICES", $253,000;

"COMMITTEE ON THE BUDGET (STUDIES)", $4,000;

"STANDING COMMITTEES, SPECIAL AND SELECT", $378,000;

"ALLOWANCES AND EXPENSES", $943,000, as follows:

"Official Expenses of Members", $876,000; and "stenographic reporting of committee hearings", $67,000;

"COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)", $595,000;

"SALARIES, OFFICERS AND EMPLOYEES", $179,000, as follows:

"Office of the Postmaster", $19,000; "for salaries and expenses of the Office of the Historian", $26,000; "the House Democratic Steering and Policy Committee and the Democratic Caucus", $73,000; and "the House Republican Conference", $61,000.

LIBRARY OF CONGRESS

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–69, $1,000,000 are rescinded.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(RESCISSION)

Of the amounts made available under this heading in Public Law 103–69, $650,000 are rescinded.

CHAPTER 9

DEPARTMENT OF DEFENSE—MILITARY

MILITARY CONSTRUCTION

(RESCISSION)

Of the funds appropriated under Public Law 103–110, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Army, $22,319,000;
Military Construction, Navy, $13,969,000;
Military Construction, Air Force, $24,787,000;
Military Construction, Defense-Wide, $13,663,000;
Military Construction, Army National Guard, $7,568,000;
Military Construction, Air National Guard, $6,187,000;
Military Construction, Army Reserve, $2,551,000;

Military Construction, Naval Reserve, $626,000;
Military Construction, Air Force Reserve, $1,862,000; and
Base Realignment and Closure Account, Part III, $507,692,000:

Provided, That within funds available for "Base Realignment and Closure Account, Part III" for fiscal year 1994, not less than $200,000,000 shall be available solely for environmental restoration and compliance.

CHAPTER 10

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the funds available for programs authorized under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), $10,067,000 are rescinded.

RENTAL PAYMENTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–122, $1,781,000 are rescinded.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–122, $750,000 are rescinded.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAYS TRUST FUND)

(RESCISSION)

Of the available balances under this heading, $65,380,300 are rescinded.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the unobligated balances authorized under section 14 of Public Law 91–258 as amended, $488,200,000 are rescinded.

FEDERAL HIGHWAY ADMINISTRATION

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the funds made available for specific highway projects, $29,832,843 are rescinded: *Provided,* That of the amounts made available for Federal-aid highways pursuant to provisions of the Surface Transportation and Uniform Relocation Assistance Act of 1987, $2,517,473 are rescinded: *Provided further,* That of the authority made available for bridges on Federal dams pursuant to section 320 of title 23, United States Code, $9,478,139 are rescinded: *Provided further,* That this rescission shall not apply to any emergency relief project under section 125 of title 23, United States Code.

RIGHT-OF-WAY REVOLVING FUND

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the unobligated balances authorized under section 108 of title 23, United States Code, and section 7 of Public Law 90–495, $20,000,000 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the funds available for programs authorized under sections 153, 402, and 408 of title 23, United States Code, and section 209 of Public Law 99–599, as amended, the amounts in excess of the funds made available for obligation in Public Law 103–122 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

RAILROAD RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–122, $17,000,000 are rescinded: *Provided,* That funds made available under this heading in Public Law 103–122 may be obligated using contracts and grants.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(RESCISSION)

(HIGHWAY TRUST FUND)

Of the funds made available under this heading in Public Law 99–190 and Public Law 103–122, $808,935 and $2,500,000, respectively, are rescinded.

CHAPTER 11

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the amount made available under this heading in Public Law 103–123, $6,400,000 are rescinded.

INDEPENDENT AGENCY

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATIONS ON AVAILABILITY OF REVENUE)

(RESCISSION)

Of the funds made available under this heading in Public Law 102–27 for District of Columbia: General Services Administration, Southeast Federal Center, Headquarters, $97,691,000 are rescinded: *Provided,* That of the funds made available under this heading in Public Law 102–393 for District of Columbia: Army Corps of Engineers, Headquarters, $10,000,000 are rescinded: *Provided further,* That of the funds made available in Public Law 101–509 for District of Columbia: Southeast Federal Center, $20,000,000 are rescinded: *Provided further,* That of the funds made available under this heading in Public Law 103–123 for rental of space, $6,000,000 are rescinded: *Provided further,* That the Federal courthouse in Spartanburg, South Carolina shall be known and designated as the "Donald Stuart Russell Federal Courthouse" and that any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in this proviso shall be deemed to be a reference to the "Donald Stuart Russell Federal Courthouse".

Federal buildings and facilities. South Carolina.

CHAPTER 12

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

(RESCISSION)

Of the amounts provided under this heading in Public Law 103–124, an additional $66,000,000 are rescinded.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124 and prior years, $100,000,000 are rescinded: *Provided,* That of the foregoing amount, $25,000,000 shall be deducted from the amounts earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959 and $75,000,000 shall be deducted from the amounts earmarked for preservation activities.

ASSISTANCE FOR THE RENEWAL OF SECTION 8 SUBSIDY CONTRACTS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124 and prior years, $76,000,000 are rescinded.

INDEPENDENT AGENCIES

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $770,000 are rescinded.

ENVIRONMENTAL PROTECTION AGENCY

WATER INFRASTRUCTURE/STATE REVOLVING FUNDS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $22,000,000 are rescinded.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $2,000,000 are rescinded.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $63,000,000 are rescinded.

SPACE FLIGHT, CONTROL, AND DATA COMMUNICATIONS

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $32,000,000 are rescinded.

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $25,000,000 are rescinded.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $5,000,000 are rescinded.

ACADEMIC RESEARCH INFRASTRUCTURE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $5,000,000 are rescinded.

NATIONAL SERVICE INITIATIVE

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $5,000,000 are rescinded.

TITLE IV—GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

42 USC 8287 note.

SEC. 402. The Architect of the Capitol shall be considered the agency for the purposes of the election in section 801(b)(2)(B) of the National Energy Conservation Policy Act and the head of the agency for purposes of subsection (b)(2)(C) of such section.

PROHIBITION OF BENEFITS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES

SEC. 403. None of the funds made available in this Act may be used to provide any benefit or assistance to any individual in the United States when it is known to a Federal entity or official to which the funds are made available that—

(1) the individual is not lawfully within the United States;

(2) the direct Federal assistance or benefit to be provided is other than search and rescue; emergency medical care; emergency mass care; emergency shelter; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; warning of further risks or hazards; dissemination of public information and assistance regarding health and safety measures; the provision of food, water, medicine, and other essential needs, including movement of supplies or persons; and reduction of immediate threats to life, property and public health and safety;

(3) temporary housing assistance provided in this Act may be made available to individuals and families for a period of up to 90 days without regard to the requirements of subsection (4);

(4) immediately upon the enactment of this Act, other than for the purposes set forth in subsections (2) and (3) of this section, any Federal entity or official who makes available funds under this Act shall take reasonable steps to determine whether any individual or company seeking to obtain such funds is lawfully within the United States;

Discrimination.

(5) in no case shall such Federal entity, official or their agent discriminate against any individual with respect to filing, inquiry, or adjudication of an application for funding on the bases of race, color, creed, handicap, religion, sex, sexual orientation, national origin, citizenship status or form of lawful immigration status; and

(6) the implementation of this section shall not require the publication or implementation of any intervening regulations.

SEC. 404. (a) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct a study regarding Federal laws, unfunded Federal mandates, and other Federal regulatory requirements, that may prevent or impair the ability of State and local authorities to rebuild expeditiously the areas devastated by the January 1994 earthquake in Southern California. In conducting the study, the Comptroller General shall consult with State and local officials of California.

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report setting forth findings and recommendations as a result of the study conducted under subsection (a). The report shall include—

(1) an identification of the specific Federal laws, unfunded Federal mandates, and other Federal regulatory requirements, referred to in subsection (a);

(2) an analysis of the manner in which such laws, mandates, and other requirements may prevent or impair the ability of State and local authorities to rebuild expeditiously the areas devastated by the January 1994 earthquake in Southern California; and

(3) recommended forms of, and appropriate time periods for, relief from such laws, mandates, and other requirements.

SEC. 405. In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products, and that notice of this provision be given to each recipient of assistance covered under this Act.

SEC. 406. EXTENSION OF RTC CIVIL STATUTE OF LIMITATIONS.

Section 21A(b)(14)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)(C)) is amended by striking clause (i) and inserting in lieu thereof the following:

"(i) the period beginning on the date the claim accrues (as determined pursuant to section 11(d)(14)(B) of the Federal Deposit Insurance Act) and ending on December 31, 1995 or ending on the date of the termination of the Corporation pursuant to section 21A(m)(1), whichever is later; or".

SEC. 407. REPEALS.

Except for subsection (b) of section 3508, sections 3508 and 3509 of the Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act are repealed effective October 30, 1992: *Provided,* That the U.S. Army Corps of Engineers should proceed with the Secretary of the Interior to designate excess lands and transfer them pursuant to Public Law 93–599.

Effective date.

106 Stat. 4734, 4736.

SEC. 408. It is the sense of the Congress that the Department of Defense should proceed with construction of a new facility for the Walter Reed Army Institute of Research at Forest Glen, Maryland, not later than 45 days after enactment of this Act.

SEC. 409. The Administrator of the Federal Aviation Administration is directed to establish and operate an Auxiliary Flight Service Station at Marquette, Michigan, no later than September 1, 1994, using available funds.

TECHNICAL CORRECTION

SEC. 410. Subsection (b) of section 347 of the National Defense Authorization Act for fiscal year 1994 (Public Law 103–160; 107 Stat. 1626) is amended—

(1) by striking out "section 2774(a)(2)(A) of title 10," and inserting in lieu thereof "section 5584(a)(2)(A) of title 5,"; and

(2) by striking out "section 2774(a)(2) of such title" and inserting in lieu thereof "section 5584(a)(2) of such title".

LANDSAT 7—TRANSFER AUTHORITY

SEC. 411. The Secretary of Defense may transfer up to $90,000,000 from Procurement, Defense-wide, 1994/1996 to the National Aeronautics and Space Administration (NASA) to be used only for LANDSAT 7: *Provided,* That no funds may be transferred until the Administrator of NASA certifies a plan that fully funds

the LANDSAT 7 program within the NASA budget for fiscal year 1995 and beyond, and such plan has been submitted to the appropriate Congressional oversight committees.

Approved February 12, 1994.

LEGISLATIVE HISTORY—H.R. 3759:

HOUSE REPORTS: Nos. 103-415 (Comm. on Appropriations) and 103-424 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Feb. 3, considered and passed House.
Feb. 9, 10, considered and passed Senate, amended.
Feb. 11, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Feb. 12, Presidential statement.

Public Law 103-212
103d Congress

An Act

To designate the Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, as the "Clarkson S. Fisher Federal Building and United States Courthouse".

Feb. 16, 1994
[H.R. 1303]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and United States Courthouse located at 402 East State Street in Trenton, New Jersey, shall be known and designated as the "Clarkson S. Fisher Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Clarkson S. Fisher Federal Building and United States Courthouse".

Approved February 16, 1994.

LEGISLATIVE HISTORY—H.R. 1303:

HOUSE REPORTS: No. 103-72 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): May 4, considered and passed House.
Vol. 140 (1994): Feb. 1, considered and passed Senate.

Public Law 103-213
103d Congress

An Act

Feb. 16, 1994
[H.R. 2223]

To designate the Federal building located at 525 Griffin Street in Dallas, Texas, as the "A. Maceo Smith Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 525 Griffin Street in Dallas, Texas, is designated as the "A. Maceo Smith Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "A. Maceo Smith Federal Building".

Approved February 16, 1994.

LEGISLATIVE HISTORY—H.R. 2223:

HOUSE REPORTS: No. 103-226 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 13, considered and passed House.
Vol. 140 (1994): Feb. 1, considered and passed Senate.

Public Law 103-214
103d Congress

An Act

To designate the Federal building located at 100 East Fifth Street in Cincinnati, Ohio, as the "Potter Stewart United States Courthouse".

Feb. 16, 1994
[H.R. 2555]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 100 East Fifth Street in Cincinnati, Ohio, shall be known and designated as the "Potter Stewart United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Potter Stewart United States Courthouse".

Approved February 16, 1994.

LEGISLATIVE HISTORY—H.R. 2555:

HOUSE REPORTS: No. 103-229 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 13, considered and passed House.
Vol. 140 (1994): Feb. 1, considered and passed Senate.

Public Law 103-215
103d Congress

An Act

Feb. 16, 1994
[H.R. 3186]

To designate the United States courthouse located in Houma, Louisiana, as the "George Arceneaux, Jr., United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 800 East Main Street in Houma, Louisiana, is designated as the "George Arceneaux, Jr., United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the courthouse referred to in section 1 is deemed to be a reference to the "George Arceneaux, Jr., United States Courthouse".

Approved February 16, 1994.

LEGISLATIVE HISTORY—H.R. 3186:

HOUSE REPORTS: No. 103-347 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 15, considered and passed House.
Vol. 140 (1994): Feb. 1, considered and passed Senate.

Public Law 103-216
103d Congress

An Act

To designate the United States courthouse under construction at 611 Broad Street, in Lake Charles, Louisiana, as the "Edwin Ford Hunter, Jr., United States Courthouse".

Feb. 16, 1994
[H.R. 3356]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 611 Broad Street, in Lake Charles, Louisiana, shall be known and designated as the "Edwin Ford Hunter, Jr., United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Edwin Ford Hunter, Jr., United States Courthouse".

Approved February 16, 1994.

LEGISLATIVE HISTORY—H.R. 3356:

HOUSE REPORTS: No. 103-348 (Comm. on Public Works and Transportation)
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 15, considered and passed House.
Vol. 140 (1994): Feb. 1, considered and passed Senate.

Public Law 103-217
103d Congress

Joint Resolution

Feb. 22, 1994
[S.J. Res. 119]

To designate the month of March 1994 as "Irish-American Heritage Month".

Whereas the first Irish emigrants arrived in America as early as 1621;

Whereas 9 of the generals who served in the Continental Army during the American Revolution were Irish born;

Whereas Commodore John Barry of County Wexford, Ireland, served brilliantly in the Continental Navy and is widely regarded as the father of the American Navy;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas the contributions of the Irish to America's victory in the American Revolution led Lord Mountjoy to exclaim in the British Parliament that "America was lost by the Irish emigrants";

Whereas beginning at the time of the potato blight and famine in Ireland in 1845, over 700,000 Irish immigrants came to the United States during the 1840's, 900,000 during the 1850's, and over 300,000 in each decade through 1910;

Whereas Irish Americans participated heavily in the industrial and economic development of America during the nineteenth century, building our cities and canals and the railroads that expanded the Nation to the West;

Whereas even today, it is said that under every railroad tie an Irishman is buried;

Whereas the Irish contributed greatly to the development of the labor movement in the United States, including the establishment of the American Miners Association in 1861;

Whereas nearly 150,000 natives of Ireland served in the Union forces during the Civil War;

Whereas more than 500 members of the Irish Brigade were killed while fighting for the Union in the Battle of Antietam on September 17, 1862, a date that has been called the bloodiest day in American history;

Whereas the Irish Brigade fought courageously in several other Civil War battles including Fredericksburg, Chancellorsville, Yorktown, Fair Oaks, Gaines Mill, Allen's Farm, Savage Station, White Oak Bridge, Glendale, Malvern Hill, Gettysburg, and Bristow Station;

Whereas in 1892, Annie Moore from County Cork, Ireland, at age 15 became the first immigrant to pass through Ellis Island;

Whereas Irish Americans have made numerous contributions to the arts and to sports, as exemplified by the achievements of F. Scott Fitzgerald, Eugene O'Neill, Helen Hayes, Georgia O'Keefe, John L. Sullivan, and Connie Mack;
Whereas the first woman to serve as the organizer of the American Federation of Labor was Mary Kennedy O'Sullivan;
Whereas at the beginning of the twentieth century, many of the school teachers in America's largest cities were Irish American women;
Whereas President John F. Kennedy was the first American President to visit Ireland during his term in office;
Whereas Irish Americans, including Kathryn Sullivan, the first American woman to walk in space, and Christa Corrigan McAuliffe, America's first school teacher in space who perished on the Challenger mission, have bravely served as America's pioneers in space;
Whereas more than 200 Irish Americans have been awarded the Congressional Medal of Honor;
Whereas President William Jefferson Clinton is the nineteenth American President of Irish ancestry;
Whereas 37 United States governors and mayors designated March 1993 as "Irish-American Heritage Month"; and
Whereas 44 million Americans are of Irish ancestry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1994 is designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this month with appropriate ceremonies and activities.

Approved February 22, 1994.

LEGISLATIVE HISTORY—S.J. Res. 119:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Oct. 28, considered and passed Senate.
Vol. 140 (1994): Feb. 8, considered and passed House.

Public Law 103-218
103d Congress

An Act

Mar. 9, 1994
[H.R. 2339]

To revise and extend the programs of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994.
29 USC 2201 note

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. Findings, purposes, and policy.
Sec. 4. Definitions.

TITLE I—GRANTS TO STATES

Sec. 101. Program authorized.
Sec. 102. Development grants.
Sec. 103. Extension grants.
Sec. 104. Progress criteria and reports.
Sec. 105. Administrative provisions.
Sec. 106. Authorization of appropriations.
Sec. 107. Repeals.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

Sec. 201. National classification system.
Sec. 202. Training and demonstration projects.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

Sec. 301. Alternative financing mechanisms authorized.

TITLE IV—AMENDMENTS TO OTHER ACTS

Sec. 401. Individuals with Disabilities Education Act.
Sec. 402. Rehabilitation Act of 1973.
Sec. 403. Administrative requirements under the Head Start Act.
Sec. 404. Technical and conforming amendments.

TITLE V—EFFECTIVE DATE

Sec. 501. Effective date.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.).

SEC. 3. FINDINGS, PURPOSES, AND POLICY.

(a) SECTION HEADING.—Section 2 (29 U.S.C. 2201) is amended by striking the heading and inserting the following:

"SEC. 2. FINDINGS, PURPOSES, AND POLICY.".

(b) FINDINGS.—Section 2(a) (29 U.S.C. 2201(a)) is amended to read as follows:

"(a) FINDINGS.—The Congress finds as follows:

"(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) pursue meaningful careers; and

"(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.

"(2) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of all residents of the United States. Technology can provide important tools for making the performance of tasks quicker and easier.

"(3) For some individuals with disabilities, assistive technology devices and assistive technology services are necessary to enable the individuals—

"(A) to have greater control over their lives;

"(B) to participate in, and contribute more fully to, activities in their home, school, and work environments, and in their communities;

"(C) to interact to a greater extent with individuals who do not have disabilities; and

"(D) to otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

"(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing equipment, that significantly benefit individuals with disabilities of all ages. Such devices can be used to increase the involvement of such individuals in, and reduce expenditures associated with, programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

"(5) Most States have technology-related assistance programs carried out under this Act. In spite of the efforts made by such programs, there remains a need to support systems change and advocacy activities in order to assist States to develop and implement consumer-responsive, comprehensive statewide programs of technology-related assistance for individuals with disabilities of all ages.

"(6) Notwithstanding the efforts of such State technology-related assistance programs, there is still a lack of—

"(A) resources to pay for assistive technology devices and assistive technology services;

"(B) trained personnel to assist individuals with disabilities to use such devices and services;

"(C) information among individuals with disabilities and their family members, guardians, advocates, and authorized representatives, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related service personnel, technology experts (including engineers), employers, and other appropriate individuals about the availability and potential of technology for individuals with disabilities;

"(D) aggressive outreach to underrepresented populations and rural populations;

"(E) systems that ensure timely acquisition and delivery of assistive technology devices and assistive technology services, particularly with respect to children;

"(F) coordination among State human services programs, and between such programs and private entities, particularly with respect to transitions between such programs and entities; and

"(G) capacity in such programs to provide the necessary technology-related assistance.

"(7) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities results in the exclusion of such individuals from the use of telecommunications and information technologies and results in unnecessary costs associated with the retrofitting of devices and product systems.

"(8) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of the perception that such individuals constitute a limited market.

"(9) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. In addition, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities and their family members, guardians, advocates, and authorized representatives, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.".

(c) PURPOSES.—Section 2(b) (29 U.S.C. 2201(b)) is amended to read as follows:

"(b) PURPOSES.—The purposes of this Act are as follows:

"(1) To provide financial assistance to the States to support systems change and advocacy activities designed to assist each State in developing and implementing a consumer-responsive comprehensive statewide program of technology-related assistance, for individuals with disabilities of all ages, that is designed to—

"(A) increase the availability of, funding for, access to, and provision of, assistive technology devices and assistive technology services;

"(B) increase the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, in the planning, development, implementation, and evaluation of such a program;

"(C) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, or authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

"(D) increase the provision of outreach to underrepresented populations and rural populations, to enable the two populations to enjoy the benefits of programs carried out to accomplish purposes described in this paragraph to the same extent as other populations;

"(E) increase and promote coordination among State agencies, and between State agencies and private entities, that are involved in carrying out activities under this title, particularly providing assistive technology devices and assistive technology services, that accomplish a purpose described in another subparagraph of this paragraph;

"(F)(i) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

"(ii) facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that impede the availability or provision of assistive technology devices and assistive technology services;

"(G) increase the probability that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living;

"(H) enhance the skills and competencies of individuals involved in providing assistive technology devices and assistive technology services;

"(I) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among—

"(i) individuals with disabilities and their family members, guardians, advocates, and authorized representatives;

"(ii) individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities;

"(iii) educators and related services personnel;

"(iv) technology experts (including engineers);

"(v) employers; and

"(vi) other appropriate individuals;

"(J) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices

and assistive technology services on a statewide basis for individuals with disabilities of all ages; and

"(K) increase the awareness of the needs of individuals with disabilities for assistive technology devices and for assistive technology services.

"(2) To identify Federal policies that facilitate payment for assistive technology devices and assistive technology services, to identify Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment.

"(3) To enhance the ability of the Federal Government to provide States with—

"(A) technical assistance, information, training, and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and

"(B) funding for demonstration projects.".

(d) POLICY.—Section 2 (29 U.S.C. 2201) is amended by adding at the end the following:

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be consumer-responsive and shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of such individuals;

"(3) inclusion, integration, and full participation of such individuals;

"(4) support for the involvement of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systems advocacy and community involvement.".

SEC. 4. DEFINITIONS.

Section 3 (29 U.S.C. 2202) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (2), (3), (7), (8), (10), (11), (13), and (14), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) ADVOCACY SERVICES.—The term 'advocacy services', except as used as part of the term 'protection and advocacy services', means services—

"(A) provided to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and assistive technology services; and

"(B) provided through—

"(i) individual case management for individuals with disabilities;

"(ii) representation of individuals with disabilities (other than representation within the definition of protection and advocacy services);

"(iii) training of individuals with disabilities and their family members, guardians, advocates, and

authorized representatives to successfully conduct advocacy for themselves; or

"(iv) dissemination of information.";

(3) in paragraph (3)(E) (as redesignated by paragraph (1)), by striking "family" and all that follows and inserting "the family members, guardians, advocates, or authorized representatives of such an individual; and";

(4) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

"(4) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term 'comprehensive statewide program of technology-related assistance' means a statewide program of technology-related assistance developed and implemented by a State under title I that—

"(A) addresses the needs of all individuals with disabilities, including members of underrepresented populations and members of rural populations;

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such individuals, or the particular major life activity for which such individuals need the assistance; and

"(C) addresses such needs without requiring that the assistance be provided through any particular agency or service delivery system.

"(5) CONSUMER-RESPONSIVE.—The term 'consumer-responsive' means, with respect to an entity, program, or activity, that the entity, program, or activity—

"(A) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

"(B) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

"(C) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

"(i) decisions relating to the provision of assistive technology devices and assistive technology services; and

"(ii) the planning, development, implementation, and evaluation of the comprehensive statewide program of technology-related assistance.

"(6) DISABILITY.—The term 'disability' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.";

(5) by striking paragraph (7) (as redesignated by paragraph (1)) and inserting the following:

"(7) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

"(A) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual—

"(i) who has a disability; and

"(ii) who is or would be enabled by an assistive technology device or an assistive technology service

to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.";

(6) in paragraph (8) (as redesignated by paragraph (1))—

(A) by striking "section 435(b)" and inserting "section 1201(a)"; and

(B) by striking "1965" and inserting "1965 (20 U.S.C. 1141(a))";

(7) by inserting after paragraph (8) (as redesignated by paragraph (1)) the following:

"(9) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

"(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

"(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.";

(8) in paragraph (11) (as redesignated by paragraph (1))—

(A) by striking "several States" and inserting "several States of the United States";

(B) by striking "Virgin Islands" and inserting "United States Virgin Islands"; and

(C) by striking "the Trust Territory of the Pacific Islands" and inserting "the Republic of Palau (until the Compact of Free Association with Palau takes effect)";

(9) by inserting after such paragraph (11) the following:

"(12) SYSTEMS CHANGE AND ADVOCACY ACTIVITIES.—The term 'systems change and advocacy activities' means efforts that result in laws, regulations, policies, practices, or organizational structures that promote consumer-responsive programs or entities and that facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services on a permanent basis, in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the work force.";

(10) in paragraph (13) (as redesignated by paragraph (1))—

(A) by striking "functions performed and activities carried out under section 101" and inserting "assistance provided through systems change and advocacy activities"; and

(B) by inserting "any of subparagraphs (A) through (K) of" before "section 2(b)(1)"; and

(11) by amending paragraph (14) (as redesignated by paragraph (1)) to read as follows:

"(14) UNDERREPRESENTED POPULATION.—The term 'underrepresented population' includes a population such as minorities, the poor, and persons with limited-English proficiency.".

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES.—Section 101(a) (29 U.S.C. 2211(a)) is amended—

(1) by inserting after "provisions of this title" the following: "to support systems change and advocacy activities designed"; and

(2) by striking "to develop and implement" and inserting "in developing and implementing".

(b) ACTIVITIES.—Section 101 (29 U.S.C. 2211) is amended by striking subsections (b) and (c) and inserting the following:

"(b) ACTIVITIES.—Any State that receives a grant under section 102 or 103 shall use the funds made available through the grant to accomplish the purposes described in section 2(b)(1) and, in accomplishing such purposes, may carry out any of the following systems change and advocacy activities:

"(1) MODEL SYSTEMS AND ALTERNATIVE STATE-FINANCED SYSTEMS.—The State may support activities to increase access to, and funding for, assistive technology, including—

"(A) the development, and evaluation of the efficacy, of model delivery systems that provide assistive technology devices and assistive technology services to individuals with disabilities, that pay for such devices and services, and that, if successful, could be replicated or generally applied, such as—

"(i) the development of systems for the purchase, lease, other acquisition, or payment for the provision, of assistive technology devices and assistive technology services; or

"(ii) the establishment of alternative State or privately financed systems of subsidies for the provision of assistive technology devices and assistive technology services, such as—

"(I) a loan system for assistive technology devices;

"(II) an income-contingent loan fund;

"(III) a low-interest loan fund;

"(IV) a revolving loan fund;

"(V) a loan insurance program; or

"(VI) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices and the provision of assistive technology services;

"(B) the demonstration of assistive technology devices, including—

"(i) the provision of a location or locations within the State where—

"(I) individuals with disabilities and their family members, guardians, advocates, and authorized representatives;

"(II) education, rehabilitation, health care, and other service providers;

"(III) individuals who work for Federal, State, or local government entities; and

"(IV) employers,

can see and touch assistive technology devices, and learn about the devices from personnel who are familiar with such devices and their applications;

"(ii) the provision of counseling and assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives to determine individual needs for assistive technology devices and assistive technology services; and

"(iii) the demonstration or short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

"(C) the establishment of information systems about, and recycling centers for, the redistribution of assistive technology devices and equipment that may include device and equipment loans, rentals, or gifts.

"(2) INTERAGENCY COORDINATION.—The State may support activities—

"(A) to identify and coordinate Federal and State policies, resources, and services, relating to the provision of assistive technology devices and assistive technology services, including entering into interagency agreements;

"(B) to convene interagency work groups to enhance public funding options and coordinate access to funding for assistive technology devices and assistive technology services for individuals with disabilities of all ages, with special attention to the issues of transition (such as transition from school to work, and transition from participation in programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), to participation in programs under part B of such Act (20 U.S.C. 1411 et seq.)) home use, and individual involvement in the identification, planning, use, delivery, and evaluation of such devices and services; or

"(C) to document and disseminate information about interagency activities that promote coordination with respect to assistive technology devices and assistive technology services, including evidence of increased participation of State and local special education, vocational rehabilitation, and State medical assistance agencies and departments.

"(3) OUTREACH.—The State may carry out activities to encourage the creation or maintenance of, support, or provide assistance to, statewide and community-based organizations, or systems, that provide assistive technology devices and assistive technology services to individuals with disabilities or that assist individuals with disabilities in using assistive technology devices and assistive technology services. Such activities may include outreach to consumer organizations and groups in the State to coordinate the activities of the organizations and groups with efforts (including self-help, support groups, and peer mentoring) to assist individuals with disabilities and their family members, guardians, advocates, or author-

ized representatives, to obtain funding for, and access to, assistive technology devices and assistive technology services.

"(4) EXPENSES.—The State may pay for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need.

"(5) STATEWIDE NEEDS ASSESSMENT.—The State may conduct a statewide needs assessment that may be based on data in existence on the date on which the assessment is initiated and may include—

"(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

"(B) in the case of an assessment carried out under a development grant, a description of efforts, during the fiscal year preceding the first fiscal year for which the State received such a grant, to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

"(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

"(ii) a description of the devices and services provided;

"(C) information on the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

"(D) information on the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

"(E) a description of State and local public resources and private resources (including insurance) that are available to establish a consumer-responsive comprehensive statewide program of technology-related assistance;

"(F) information identifying Federal and State laws, regulations, policies, practices, procedures, and organizational structures, that facilitate or interfere with the operation of a consumer-responsive comprehensive statewide program of technology-related assistance;

"(G) a description of the procurement policies of the State and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance made available through a grant made under section 102 or 103 are compatible with other technology devices, including technology devices designed primarily for use by—

"(i) individuals who are not individuals with disabilities;

"(ii) individuals who are elderly; or

"(iii) individuals with particular disabilities; and

"(H) information resulting from an inquiry about whether a State agency or task force (composed of individ-

uals representing the State and individuals representing the private sector) should study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

"(i) the purchase, lease, or other acquisition of assistive technology devices; or

"(ii) the use of assistive technology services.

"(6) PUBLIC AWARENESS PROGRAM.—

"(A) IN GENERAL.—The State may—

"(i) support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for—

"(I) individuals with disabilities and their family members, guardians, advocates, or authorized representatives;

"(II) individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities;

"(III) educators and related services personnel;

"(IV) technology experts (including engineers);

"(V) employers; and

"(VI) other appropriate individuals and entities; or

"(ii) establish and support such a program if no such program exists.

"(B) CONTENTS.—Such a public awareness program may include—

"(i) the development and dissemination of information relating to—

"(I) the nature of assistive technology devices and assistive technology services;

"(II) the appropriateness, cost, and availability of, and access to, assistive technology devices and assistive technology services; and

"(III) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

"(ii) the development of procedures for providing direct communication among public providers of assistive technology devices and assistive technology services and between public providers and private providers of such devices and services (including employers); and

"(iii) the development and dissemination of information relating to the use of the program by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, professionals who work in a field related to an activity described in this section, and other appropriate individuals.

"(7) TRAINING AND TECHNICAL ASSISTANCE.—The State may carry out directly, or may provide support to a public or private entity to carry out, training and technical assistance activities—

"(A) that—

"(i) are provided for individuals with disabilities and their family members, guardians, advocates, and authorized representatives, and other appropriate individuals; and

"(ii) may include—

"(I) training in the use of assistive technology devices and assistive technology services;

"(II) the development of written materials, training, and technical assistance describing the means by which agencies consider the needs of an individual with a disability for assistive technology devices and assistive technology services in developing, for the individual, any individualized education program described in section 614(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(a)(5)), any individualized written rehabilitation program described in section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722), any individualized family service plan described in section 677 of the Individuals with Disabilities Education Act (20 U.S.C. 1477), and any other individualized plans or programs;

"(III) training regarding the rights of the persons described in clause (i) to assistive technology devices and assistive technology services under any law other than this Act, to promote fuller independence, productivity, and inclusion in and integration into society of such persons; and

"(IV) training to increase consumer participation in the identification, planning, use, delivery, and evaluation of assistive technology devices and assistive technology services; and

"(B) that—

"(i) enhance the assistive technology skills and competencies of—

"(I) individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities;

"(II) educators and related services personnel;

"(III) technology experts (including engineers);

"(IV) employers; and

"(V) other appropriate personnel; and

"(ii) include taking actions to facilitate the development of standards, or, when appropriate, the application of such standards, to ensure the availability of qualified personnel.

"(8) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to a program described in subsection (a).

"(9) ACCESS TO TECHNOLOGY-RELATED INFORMATION.—

"(A) IN GENERAL.—The State may develop, operate, or expand a system for public access to information concerning an activity carried out under another paragraph of this subsection, including information about assistive technology devices and assistive technology services, funding sources and costs of such assistance, and individuals,

organizations, and agencies capable of carrying out such an activity for individuals with disabilities.

"(B) ACCESS.—Access to the system may be provided through community-based entities, including public libraries, centers for independent living (as defined in section 702(1) of the Rehabilitation Act of 1973 (29 U.S.C. 796a(1))), and community rehabilitation programs (as defined in section 7(25) of such Act (29 U.S.C. 706(25))).

"(C) SYSTEM.—In developing, operating, or expanding a system described in subparagraph (A), the State may—

"(i) develop, compile, and categorize print, large print, braille, audio, and video materials, computer disks, compact discs (including compact discs formatted with read-only memory), information that can be used in telephone-based information systems, and such other media as technological innovation may make appropriate;

"(ii) identify and classify existing funding sources, and the conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

"(iii) identify existing support groups and systems designed to help individuals with disabilities make effective use of an activity carried out under another paragraph of this subsection; and

"(iv) maintain a record of the extent to which citizens of the State use or make inquiries of the system established in subparagraph (A), and of the nature of such inquiries.

"(D) LINKAGES.—The information system may be organized on an interstate basis or as part of a regional consortium of States in order to facilitate the establishment of compatible, linked information systems.

"(10) INTERSTATE ACTIVITIES.—

"(A) IN GENERAL.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals with disabilities of all ages to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, at school, at work, or in other environments that are part of daily living.

"(B) ELECTRONIC COMMUNICATION.—The State may operate or participate in a computer system through which the State may electronically communicate with other States to gain technical assistance in a timely fashion and to avoid the duplication of efforts already undertaken in other States.

"(11) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

"(A) the development, demonstration, and dissemination of assistive technology devices; and

"(B) the ongoing provision of information about new products to assist individuals with disabilities.

"(12) ADVOCACY SERVICES.—The State may provide advocacy services.

"(13) OTHER ACTIVITIES.—The State may utilize amounts made available through grants made under section 102 or 103 for any systems change and advocacy activities, other than the activities described in another paragraph of this subsection, that are necessary for developing, implementing, or evaluating the consumer-responsive comprehensive statewide program of technology-related assistance.

"(c) NONSUPPLANTATION.—In carrying out systems change and advocacy activities under this title, the State shall ensure that the activities supplement, and not supplant, similar activities that have been carried out pursuant to other Federal or State law.".

SEC. 102. DEVELOPMENT GRANTS.

Section 102 (29 U.S.C. 2212) is amended—

(1) in subsection (a)—

(A) by striking "3-year grants" and inserting "3-year grants to support systems change and advocacy activities described in section 101(b) (including activities described in subsection (e)(7))"; and

(B) by striking "to develop and implement statewide programs" and inserting "in developing and implementing consumer-responsive comprehensive statewide programs";

(2) by striking subsection (b);

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(4) in subsection (b) (as redesignated in paragraph (3))—

(A) in paragraph (3)(C), by striking "statewide program" and inserting "consumer-responsive comprehensive statewide program"; and

(B) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking "(A)" and inserting "(A) STATE.—";

(II) by inserting "United States" before "Virgin Islands"; and

(III) by striking "Trust Territory of the Pacific Islands" and inserting "Republic of Palau"; and

(ii) in subparagraph (B)—

(I) by striking "(B)" and inserting "(B) TERRITORY.—";

(II) by inserting "United States" before "Virgin Islands"; and

(III) by striking "Trust Territory of the Pacific Islands" and inserting "Republic of Palau (until the Compact of Free Association takes effect)";

(5) in paragraph (2) of subsection (c) (as redesignated in paragraph (3)) by striking "statewide programs" and inserting "consumer-responsive comprehensive statewide programs";

(6) by inserting after such subsection (c) the following:

"(d) DESIGNATION OF THE LEAD AGENCY.—

"(1) DESIGNATION.—The Governor of any State that desires to receive a grant under this section shall designate the office, agency, entity, or individual (referred to in this Act as the 'lead agency') responsible for—

"(A) submitting the application described in subsection (e) on behalf of the State;

"(B) administering and supervising the use of amounts made available under the grant;

"(C)(i) coordinating efforts related to, and supervising the preparation of, the application;

"(ii) coordinating the planning, development, implementation, and evaluation of the consumer-responsive comprehensive statewide program of technology-related assistance among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(iii) coordinating efforts related to, and supervising, the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out under the grant; and

"(D) the delegation, in whole or in part, of any responsibilities described in subparagraph (A), (B), or (C) to one or more appropriate offices, agencies, entities, or individuals.

"(2) QUALIFICATIONS.—In designating the lead agency, the Governor may designate—

"(A) a commission appointed by the Governor;

"(B) a public-private partnership or consortium;

"(C) a university-affiliated program;

"(D) a public agency;

"(E) a council established under Federal or State law; or

"(F) another appropriate office, agency, entity, or individual.

"(3) ABILITIES OF LEAD AGENCY.—The State shall provide, in accordance with subsection (e)(1), evidence that the lead agency has the ability—

"(A) to respond to assistive technology needs across disabilities and ages;

"(B) to promote the availability throughout the State of assistive technology devices and assistive technology services;

"(C) to promote and implement systems change and advocacy activities;

"(D) to promote and develop public-private partnerships;

"(E) to exercise leadership in identifying and responding to the technology needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives;

"(F) to promote consumer confidence, responsiveness, and advocacy; and

"(G) to exercise leadership in implementing effective strategies for capacity building, staff and consumer training, and enhancement of access to funding for assistive technology devices and assistive technology services across agencies.";

(7) in subsection (e)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) DESIGNATION OF THE LEAD AGENCY.—Information identifying the lead agency designated by the Governor under subsection (d)(1), and the evidence described in subsection (d)(3).

"(2) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies, including the State insurance department, in the preparation of the application and the continuing role of each agency in the development and implementation of the consumer-responsive comprehensive statewide program of technology-related assistance, including the identification of the available resources and financial responsibility of each agency for paying for assistive technology devices and assistive technology services.

"(3) INVOLVEMENT.—

"(A) CONSUMER INVOLVEMENT.—A description of procedures that provide for—

"(i)(I) the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, and other appropriate individuals, in the development, implementation, and evaluation of the program; and

"(II) the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices or assistive technology services, in decisions relating to such devices and services; and

"(ii) mechanisms for determining consumer satisfaction and participation of individuals with disabilities who represent a variety of ages and types of disabilities, in the consumer-responsive comprehensive statewide program of technology-related assistance.

"(B) PUBLIC INVOLVEMENT.—A description of the nature and extent of—

"(i) the involvement, in the designation of the lead agency under subsection (d), and in the development of the application, of—

"(I) individuals with disabilities and their family members, guardians, advocates, or authorized representatives;

"(II) other appropriate individuals who are not employed by a State agency; and

"(III) organizations, providers, and interested parties, in the private sector; and

"(ii) the continuing role of the individuals and entities described in clause (i) in the program.";

(B) in paragraph (4), by striking "underserved groups" and inserting "underrepresented populations or rural populations";

(C) in paragraphs (4) and (5), by striking "statewide program" each place the term appears and inserting "consumer-responsive comprehensive statewide program";

(D) by striking paragraphs (6), (7), and (17);

(E) by redesignating paragraphs (8) and (9) as paragraphs (17) and (18), respectively, and transferring such paragraphs to the end of the subsection;

(F) by inserting after paragraph (5) the following:

"(6) GOALS, OBJECTIVES, ACTIVITIES, AND OUTCOMES.—Information on the program with respect to—

"(A) the goals and objectives of the State for the program;

"(B) the systems change and advocacy activities that the State plans to carry out under the program; and

"(C) the expected outcomes of the State for the program, consistent with the purposes described in section 2(b)(1).

"(7) PRIORITY ACTIVITIES.—

"(A) IN GENERAL.—An assurance that the State will use funds made available under this section or section 103 to accomplish the purposes described in section 2(b)(1) and the goals, objectives, and outcomes described in paragraph (6), and to carry out the systems change and advocacy activities described in paragraph (6)(B), in a manner that is consumer-responsive.

"(B) PARTICULAR ACTIVITIES.—An assurance that the State, in carrying out such systems change and advocacy activities, shall carry out activities regarding—

"(i) the development, implementation, and monitoring of State, regional, and local laws, regulations, policies, practices, procedures, and organizational structures, that will improve access to, provision of, funding for, and timely acquisition and delivery of, assistive technology devices and assistive technology services;

"(ii) the development and implementation of strategies to overcome barriers regarding access to, provision of, and funding for, such devices and services, with priority for identification of barriers to funding through State education (including special education) services, vocational rehabilitation services, and medical assistance services or, as appropriate, other health and human services, and with particular emphasis on overcoming barriers for underrepresented populations and rural populations;

"(iii) coordination of activities among State agencies, in order to facilitate access to, provision of, and funding for, assistive technology devices and assistive technology services;

"(iv) the development and implementation of strategies to empower individuals with disabilities and their family members, guardians, advocates, and authorized representatives, to successfully advocate for increased access to, funding for, and provision of, assistive technology devices and assistive technology services, and to increase the participation, choice, and control of such individuals with disabilities and their family members, guardians, advocates, and authorized representatives in the selection and procurement of assistive technology devices and assistive technology services;

"(v) the provision of outreach to underrepresented populations and rural populations, including identifying and assessing the needs of such populations,

providing activities to increase the accessibility of services to such populations, training representatives of such populations to become service providers, and training staff of the consumer-responsive comprehensive statewide program of technology-related assistance to work with such populations; and

"(vi) the development and implementation of strategies to ensure timely acquisition and delivery of assistive technology devices and assistive technology services, particularly for children,

unless the State demonstrates through the progress reports required under section 104 that significant progress has been made in the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance, and that other systems change and advocacy activities will increase the likelihood that the program will accomplish the purposes described in section 2(b)(1).

"(8) ASSESSMENT.—An assurance that the State will conduct an annual assessment of the consumer-responsive comprehensive statewide program of technology-related assistance, in order to determine—

"(A) the extent to which the State's goals and objectives for systems change and advocacy activities, as identified in the State plan under paragraph (6), have been achieved; and

"(B) the areas of need that require attention in the next year.

"(9) DATA COLLECTION.—A description of—

"(A) the data collection system used for compiling information on the program, consistent with such requirements as the Secretary may establish for such systems, and, when a national classification system is developed pursuant to section 201, consistent with such classification system; and

"(B) procedures that will be used to conduct evaluations of the program.";

(G) in paragraphs (11)(B)(i) and (12)(B) by striking "individual with disabilities" and inserting "individual with a disability";

(H) in paragraph (16)(A), by striking "the families or representatives of individuals with disabilities" and inserting "their family members, guardians, advocates, or authorized representatives"; and

(I) by adding at the end the following:

"(19) AUTHORITY TO USE FUNDS.—An assurance that the lead agency will have the authority to use funds made available through a grant made under this section or section 103 to comply with the requirements of this section or section 103, respectively, including the ability to hire qualified staff necessary to carry out activities under the program.

"(20) PROTECTION AND ADVOCACY SERVICES.—Either—

"(A) an assurance that the State will annually provide, from the funds made available to the State through a grant made under this section or section 103, an amount calculated in accordance with subsection (f)(4), in order to make a grant to, or enter into a contract with, an

entity to support protection and advocacy services through the systems established to provide protection and advocacy under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.), and section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); or

"(B) at the discretion of the State, a request that the Secretary annually reserve, from the funds made available to the State through a grant made under this section or section 103, an amount calculated in accordance with subsection (f)(4), in order for the Secretary to make a grant to or enter into a contract with such a system to support protection and advocacy services.

"(21) TRAINING ACTIVITIES.—An assurance that the State—

"(A) will develop and implement strategies for including personnel training regarding assistive technology within existing Federal- and State-funded training initiatives, in order to enhance assistive technology skills and competencies; and

"(B) will document such training.

"(22) LIMIT ON INDIRECT COSTS.—An assurance that the percentage of the funds received under the grant that is used for indirect costs shall not exceed 10 percent.

"(23) COORDINATION WITH STATE COUNCILS.—An assurance that the lead agency will coordinate the activities funded through a grant made under this section or section 103 with the activities carried out by other councils within the State, including—

"(A) any council or commission specified in the assurance provided by the State in accordance with section 101(a)(36) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(36));

"(B) the Statewide Independent Living Council established under section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d);

"(C) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

"(D) the State Interagency Coordinating Council established under section 682 of the Individuals with Disabilities Education Act (20 U.S.C. 1482);

"(E) the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024);

"(F) the State mental health planning council established under section 1914 of the Public Health Service Act (42 U.S.C. 300x–3); and

"(G) any council established under section 204, 206(g)(2)(A), or 712(a)(3)(H) of the Older Americans Act of 1965 (42 U.S.C. 3015, 3017(g)(2)(A), or 3058g(a)(3)(H)).

"(24) COORDINATION WITH OTHER SYSTEMS CHANGE AND ADVOCACY ACTIVITIES.—An assurance that there will be coordination between the activities funded through the grant and other related systems change and advocacy activities funded by either Federal or State sources.

"(25) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require."; and

(8) by adding at the end the following:

"(f) PROTECTION AND ADVOCACY REQUIREMENTS.—

"(1) REQUIREMENTS.—A State that, as of June 30, 1993, has provided for protection and advocacy services through an entity that—

"(A) is capable of performing the functions that would otherwise be performed under subsection (e)(20) by the system described in subsection (e)(20); and

"(B) is not a system described in such subsection,

shall be considered to meet the requirements of such subsection. Such entity shall receive funding to provide such protection and advocacy services in accordance with paragraph (4), and shall comply with the same requirements of this title (other than the requirements of such subsection) as a system that receives funding under such subsection.

"(2) PROTECTION AND ADVOCACY SERVICE PROVIDER REPORT.—

"(A) PREPARATION.—A system that receives funds under subsection (e)(20) to carry out the protection and advocacy services described in subsection (e)(20)(A) in a State, or an entity described in paragraph (1) that carries out such services in the State, shall prepare reports that contain such information as the Secretary may require, including the following:

"(i) A description of the activities carried out by the system or entity with such funds.

"(ii) Documentation of significant progress, in providing protection and advocacy services, in each of the following areas:

"(I) Conducting activities that are consumer-responsive, including activities that will lead to increased access to funding for assistive technology devices and assistive technology services.

"(II) Executing legal, administrative, and other appropriate means of representation to implement systems change and advocacy activities.

"(III) Developing and implementing strategies designed to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to successfully advocate for assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act.

"(IV) Coordinating activities with protection and advocacy services funded through sources other than this Act, and coordinating activities with the systems change and advocacy activities carried out by the State lead agency.

"(B) SUBMISSION.—The system or entity shall submit the reports to the program described in subsection (a) in the State not less often than every 6 months.

"(C) UPDATES.—The system or entity shall provide monthly updates to the program described in subsection

(a) concerning the activities and information described in subparagraph (A).

"(3) CONSULTATION WITH STATE PROGRAMS.—Before making a grant or entering into a contract under subsection (e)(20)(B) to support the protection and advocacy services described in subsection (e)(20)(A) in a State, the Secretary shall solicit and consider the opinions of the lead agency in the State with respect to the terms of the grant or contract.

"(4) CALCULATION OF EXPENDITURES.—

"(A) IN GENERAL.—For each fiscal year, for each State receiving a grant under this section or section 103, the Secretary shall specify a minimum amount that the State shall use to provide protection and advocacy services.

"(B) INITIAL YEARS OF GRANT.—Except as provided in subparagraph (C) or (D)—

"(i) the Secretary shall calculate such minimum amount for a State based on the size of the grant, the needs of individuals with disabilities within the State, the population of the State, and the geographic size of the State; and

"(ii) such minimum amount shall be not less than $40,000 and not more than $100,000.

"(C) FOURTH YEAR OF SECOND EXTENSION GRANT.—If a State receives a second extension grant under section 103(a)(2), the Secretary shall specify a minimum amount under subparagraph (A) for the fourth year (if any) of the grant period that shall equal 75 percent of the minimum amount specified for the State under such subparagraph for the third year of the second extension grant of the State.

"(D) FIFTH YEAR OF SECOND EXTENSION GRANT.—If a State receives a second extension grant under section 103(a)(2), the Secretary shall specify a minimum amount under subparagraph (A) for the fifth year (if any) of the grant period that shall equal 50 percent of the minimum amount specified for the State under such subparagraph for the third year of the second extension grant of the State.

"(E) PROHIBITION.—After the fifth year (if any) of the grant period, no Federal funds may be made available under this title by the State to a system described in subsection (e)(20) or an entity described in paragraph (1).".

SEC. 103. EXTENSION GRANTS.

Section 103 (29 U.S.C. 2213) is amended to read as follows:

"SEC. 103. EXTENSION GRANTS.

"(a) EXTENSION GRANTS.—

"(1) INITIAL EXTENSION GRANT.—The Secretary may award an initial extension grant, for a period of 2 years, to any State that meets the standards specified in subsection (b)(1).

"(2) SECOND EXTENSION GRANT.—The Secretary may award a second extension grant, for a period of not more than 5 years, to any State that meets the standards specified in subsection (b)(2).

"(b) STANDARDS.—

"(1) INITIAL EXTENSION GRANT.—In order for a State to receive an initial extension grant under this section, the designated lead agency of the State shall—

"(A) provide the evidence described in section 102(d)(3); and

"(B) demonstrate that the State has made significant progress, and has carried out systems change and advocacy activities that have resulted in significant progress, toward the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102.

"(2) SECOND EXTENSION GRANT.—

"(A) RESPONSIBILITIES OF DESIGNATED LEAD AGENCY.—In order for a State to receive a second extension grant under this section, the designated lead agency shall—

"(i) provide the evidence and make the demonstration described in paragraph (1);

"(ii) describe the steps the State has taken or will take to continue on a permanent basis the consumer-responsive comprehensive statewide program of technology-related assistance with the ability to maintain, at a minimum, the outcomes achieved by the systems change and advocacy activities; and

"(iii) identify future funding options and commitments for the program from the public and private sector and the key individuals, agencies, and organizations to be involved in, and to direct future efforts of, the program.

"(B) DETERMINATION OF COMPLIANCE.—In making any award to a State for a second extension grant, the Secretary shall (except as provided in section 105(a)(2)(A)(iii)) make such award contingent on a determination, based on the onsite visit required under section 105(a)(2)(A)(ii), that the State is making significant progress toward development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance. If the Secretary determines that the State is not making such progress, the Secretary may take an action described in section 105(b)(2), in accordance with the applicable procedures described in section 105.

"(c) AMOUNTS OF GRANTS.—

"(1) INITIAL EXTENSION GRANTS.—

"(A) IN GENERAL.—

"(i) STATES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay an amount that is not less than $500,000 and not greater than $1,500,000 to each State (other than a State described in clause (ii)) that receives an initial extension grant under subsection (a)(1).

"(ii) TERRITORIES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay an amount that is not greater than $150,000 to any of the following States that receives an initial extension grant under subsection (a)(1):

"(I) The United States Virgin Islands.

"(II) Guam.

"(III) American Samoa.

"(IV) The Commonwealth of the Northern Mariana Islands.

"(V) The Republic of Palau (until the Compact of Free Association takes effect).

"(B) CALCULATION OF AMOUNT.—The Secretary shall calculate the amount described in clause (i) or (ii) of subparagraph (A) with respect to a State on the basis of—

"(i) amounts available for making grants pursuant to subsection (a)(1);

"(ii) the population of the State;

"(iii) the types of assistance to be provided in the State; and

"(iv) the amount of resources committed by the State and available to the State from other sources.

"(C) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated in any fiscal year for purposes of carrying out subsection (a)(1) shall first be made available to States that received assistance under this section during the fiscal year preceding the fiscal year concerned.

"(D) INCREASES.—In providing any increases in initial extension grants under subsection (a)(1) above the amounts provided to States under this section for fiscal year 1993, the Secretary may give priority to—

"(i) the States (other than the States described in subparagraph (A)(ii)) that have the largest populations, based on the most recent census data; and

"(ii) the States (other than the States described in subparagraph (A)(ii)) that are sparsely populated, with a wide geographic spread,

where such characteristics have impeded the development of a consumer-responsive, comprehensive statewide program of technology-related assistance.

"(2) SECOND EXTENSION GRANTS.—

"(A) AMOUNTS AND PRIORITY.—The amounts of, and the priority of applicants for, the second extension grants awarded under subsection (a)(2) shall be determined by the Secretary, except that—

"(i) the amount paid to a State for the fourth year (if any) of the grant period shall be 75 percent of the amount paid to the State for the third year of the grant period;

"(ii) the amount paid to a State for the fifth year (if any) of the grant period shall be 50 percent of the amount paid to the State for the third year of the grant period; and

"(iii) after the fifth year of the grant period, no Federal funds may be made available to the State under this title.

"(B) INCREASES.—In providing any increases in second extension grants under subsection (a)(2) above the amounts provided to States under this section for fiscal year 1993, the Secretary may give priority to States described in paragraph (1)(D).

"(d) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application to the Secretary

that contains the following information and assurances with respect to the consumer-responsive comprehensive statewide program of technology-related assistance in the State:

"(1) INFORMATION AND ASSURANCES.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

"(2) NEEDS; PROBLEMS; STRATEGIES; OUTREACH.—

"(A) NEEDS.—A description of needs relating to technology-related assistance of individuals with disabilities (including individuals from underrepresented populations or rural populations) and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals within the State.

"(B) PROBLEMS.—A description of any problems or gaps that remain with the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance in the State.

"(C) STRATEGIES.—A description of the strategies that the State will pursue during the grant period to remedy the problems or gaps with the development and implementation of such a program.

"(D) OUTREACH ACTIVITIES.—A description of outreach activities to be conducted by the State, including dissemination of information to eligible populations, with special attention to underrepresented populations and rural populations.

"(3) ACTIVITIES AND PROGRESS UNDER PREVIOUS GRANT.—A description of—

"(A) the specific systems change and advocacy activities described in section 101(b) (including the activities described in section 1012(e)(7)) carried out under the development grant received by the State under section 102, or, in the case of an application for a grant under subsection (a)(2), under an initial extension grant received by the State under this section, including—

"(i) a description of systems change and advocacy activities that were undertaken to produce change on a permanent basis for individuals with disabilities of all ages;

"(ii) a description of activities undertaken to improve the involvement of individuals with disabilities in the program, including training and technical assistance efforts to improve individual access to assistive technology devices and assistive technology services as mandated under other laws and regulations as in effect on the date of the application, and including actions undertaken to improve the participation of underrepresented populations and rural populations, such as outreach efforts; and

"(iii) an evaluation of the impact and results of the activities described in clauses (i) and (ii);

"(B) the relationship of such systems change and advocacy activities to the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance; and

"(C) the progress made toward the development and implementation of such a program.

"(4) PUBLIC INVOLVEMENT.—

"(A) REPORT.—In the case of an application for a grant under subsection (a)(1), a report on the hearing described in subsection (e)(1) or, in the case of an application for a grant under subsection (a)(2), a report on the hearing described in subsection (e)(2).

"(B) OTHER STATE ACTIONS.—A description of State actions, other than such a hearing, designed to determine the degree of satisfaction of individuals with disabilities, and their family members, guardians, advocates, or authorized representatives, public service providers and private service providers, educators and related services providers, technology experts (including engineers), employers, and other appropriate individuals and entities with—

"(i) the degree of their ongoing involvement in the development and implementation of the consumer-responsive comprehensive statewide program of technology-related assistance;

"(ii) the specific systems change and advocacy activities described in section 101(b) (including the activities described in section 102(e)(7)) carried out by the State under the development grant or the initial extension grant;

"(iii) progress made toward the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance; and

"(iv) the ability of the lead agency to carry out the activities described in section 102(d)(3).

"(5) COMMENTS.—A summary of any comments received concerning the issues described in paragraph (4) and response of the State to such comments, solicited through a public hearing referred to in paragraph (4) or through other means, from individuals affected by the consumer-responsive comprehensive statewide program of technology-related assistance, including—

"(A) individuals with disabilities and their family members, guardians, advocates, or authorized representatives;

"(B) public service providers and private service providers;

"(C) educators and related services personnel;

"(D) technology experts (including engineers);

"(E) employers; and

"(F) other appropriate individuals and entities.

"(6) COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.—An assurance that the State, or any recipient of funds made available to the State under section 102 of this section, will comply with guidelines established under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

"(e) PUBLIC HEARING.—

"(1) INITIAL EXTENSION GRANT.—To be eligible to receive a grant under subsection (a)(1), a State shall hold a public hearing in the third year of a program carried out under a grant made under section 102, after providing appropriate and sufficient notice to allow interested groups and organizations and all segments of the public an opportunity to comment on the program.

"(2) SECOND EXTENSION GRANT.—To be eligible to receive a grant under subsection (a)(2), a State shall hold a public hearing in the second year of a program carried out under a grant made under subsection (a)(1), after providing the notice described in paragraph (1).".

SEC. 104. PROGRESS CRITERIA AND REPORTS.

Section 104 (29 U.S.C. 2214) is amended to read as follows:

"SEC. 104. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 102 or 103 is making significant progress in developing and implementing a consumer-responsive comprehensive statewide program of technology-related assistance consistent with section 2(b)(1).

"(b) REPORTS.—Each State that receives a grant under section 102 or 103 to carry out such a program shall submit annually to the Secretary a report that documents significant progress in developing and implementing a consumer-responsive comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(e), and that documents the following:

"(1) The progress the State has made, as determined in the State's annual assessment described in section 102(e)(8) (consistent with the guidelines established by the Secretary under subsection (a)), in achieving the State's goals, objectives, and outcomes as identified in the State's application as described in section 102(e)(6), and areas of need that require attention in the next year, including unanticipated problems with the achievement of the goals, objectives, and outcomes described in the application, and the activities the State has undertaken to rectify these problems.

"(2) The systems change and advocacy activities carried out by the State including—

"(A) an analysis of the laws, regulations, policies, practices, procedures, and organizational structures that the State has changed, has attempted to change, or will attempt to change during the next year, to facilitate and increase timely access to, provision of, or funding for, assistive technology devices and assistive technology services; and

"(B) a description of any written policies and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices and assistive technology services, particularly policies and procedures regarding access to, provision of, and funding for, such devices and services under education (including special education), vocational rehabilitation, and medical assistance programs.

"(3) The degree of involvement of various State agencies, including the State insurance department, in the development, implementation, and evaluation of the program, including any interagency agreements that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices and assistive technology services such as agreements that identify available resources for assistive technology devices and assistive technology services

and the responsibility of each agency for paying for such devices and services.

"(4) The activities undertaken to collect and disseminate information about the documents or activities analyzed or described in paragraphs (1) through (3), including outreach activities to underrepresented populations and rural populations and efforts to disseminate information by means of electronic communication.

"(5) The involvement of individuals with disabilities who represent a variety of ages and types of disabilities in the planning, development, implementation, and assessment of the consumer-responsive comprehensive statewide program of technology-related assistance, including activities undertaken to improve such involvement, such as consumer training and outreach activities to underrepresented populations and rural populations.

"(6) The degree of consumer satisfaction with the program, including satisfaction by underrepresented populations and rural populations.

"(7) Efforts to train personnel as well as consumers.

"(8) Efforts to reduce the service delivery time for receiving assistive technology devices and assistive technology services.

"(9) Significant progress in the provision of protection and advocacy services, in each of the areas described in section 102(f)(2)(A)(ii).".

SEC. 105. ADMINISTRATIVE PROVISIONS.

(a) REVIEW OF PARTICIPATING STATES.—Section 105(a) (29 U.S.C. 2215(a)) is amended—

(1) in paragraph (1), by inserting before the period the following: ", consistent with the guidelines established under section 104(a)";

(2) by striking paragraph (2) and inserting the following:

"(2) ONSITE VISITS.—

"(A) VISITS.—

"(i) DEVELOPMENT GRANT PROGRAM.—The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program.

"(ii) EXTENSION GRANT PROGRAM.—Except as provided in clause (iii), the Secretary shall conduct an additional onsite visit to any State that applies for a second extension grant under section 103(a)(2) and whose initial onsite visit occurred prior to the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994. The Secretary shall conduct any such visit to the State not later than 12 months after the date on which the Secretary awards the second extension grant.

"(iii) DETERMINATION.—The Secretary shall not be required to conduct a visit described in clause (ii) if the Secretary determines that the visit is not necessary to assess whether the State is making significant progress toward development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance.

"(B) TEAM.—Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers, who—

"(i) shall not be lead agency personnel;

"(ii) shall be from States other than the State being monitored; and

"(iii) shall include an individual with a disability, or a family member, a guardian, an advocate, or an authorized representative of such an individual.

"(C) COMPENSATION.—

"(i) OFFICERS OR EMPLOYEES.—Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business.

"(ii) OTHER MEMBERS.—Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"(D) REPORT.—The Secretary shall prepare a report of findings from the onsite visit. The Secretary shall consider the findings in determining whether to continue funding the program either with or without changes. The report shall be available to the public.";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following:

"(3) ADVANCE PUBLIC NOTICE.—The Secretary shall provide advance public notice of the onsite visit and solicit public comment through such notice from individuals with disabilities and their family members, guardians, advocates, and authorized representatives, public service providers and private service providers, educators and related services personnel, technology experts (including engineers), employers, and other appropriate individuals and entities, regarding the State program funded through a grant made under section 102 or 103. The public comment solicitation notice shall be included in the onsite visit report described in paragraph (2).";

(5) in paragraph (4) (as redesignated in paragraph (3)) by striking "statewide program" and inserting "consumer-responsive comprehensive statewide program".

(b) CORRECTIVE ACTION PLAN.—Section 105(b) (29 U.S.C. 2215(b)) is amended—

(1) in paragraph (2)—

(A) in the heading, by striking "PENALTIES" and inserting "CORRECTIVE ACTIONS";

(B) in the matter preceding subparagraph (A), by striking "penalties" and inserting "corrective actions";

(C) by striking "or" at the end of subparagraph (B);

(D) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(E) by adding at the end the following:

"(D) required redesignation of the lead agency, in accordance with subsection (c)."; and

(2) in paragraph (3), by striking "subsection (a)(4)" and inserting "subsection (a)(5)".

(c) REDESIGNATION.—Section 105 (29 U.S.C. 2215) is amended—

(1) by striking subsection (c); and

(2) by adding at the end the following:

"(c) REDESIGNATION OF LEAD AGENCY.—

"(1) MONITORING PANEL.—

"(A) APPOINTMENT.—Once a State becomes subject to a corrective action plan pursuant to subsection (b), the Governor of the State, subject to approval by the Secretary, shall appoint, within 30 days after the submission of the plan to the Secretary, a monitoring panel consisting of the following representatives:

"(i) The head of the lead agency designated by the Governor.

"(ii) 2 representatives from different public or private nonprofit organizations that represent the interests of individuals with disabilities.

"(iii) 2 consumers who are users of assistive technology devices and assistive technology services and who are not—

"(I) members of the advisory council, if any, of the consumer-responsive comprehensive statewide program of technology-related assistance; or

"(II) employees of the State lead agency.

"(iv) 2 service providers with knowledge and expertise in assistive technology devices and assistive technology services.

"(B) MEMBERSHIP AND CHAIRPERSON.—The monitoring panel shall be ethnically diverse. The panel shall select a chairperson from among the members of the panel.

"(C) INFORMATION.—The panel shall receive periodic reports from the State regarding progress in implementing the corrective action plan and shall have the authority to request additional information necessary to determine compliance.

"(D) MEETINGS.—The meetings of the panel to determine compliance shall be open to the public (subject to confidentiality concerns) and held at locations that are accessible to individuals with disabilities.

"(E) PERIOD.—The panel shall carry out the duties of the panel for the entire period of the corrective action plan, as determined by the Secretary.

"(F) FUNDING.—The panel shall be funded by a portion of the funds received by the State under this title, as directed by the Secretary.

"(2) FAILURE TO APPOINT MONITORING PANEL.—A failure by a Governor of a State to comply with the requirements of paragraph (1) shall result in the termination of funding for the State under this title.

"(3) DETERMINATION.—

"(A) PANEL.—Based on its findings, a monitoring panel may determine that a lead agency designated by a Governor has not accomplished the purposes described in section 2(b)(1) and that there is good cause for redesignation of the agency and the temporary loss of funds by the State under this title.

"(B) GOOD CAUSE.—In this paragraph, the term 'good cause' includes—

"(i) lack of progress with employment of qualified staff;

"(ii) lack of consumer-responsive activities;

"(iii) lack of resource allocation to systems change and advocacy activities;

"(iv) lack of progress with meeting the assurances in section 102(e); or

"(v) inadequate fiscal management.

"(C) RECOMMENDATION AND ACTION.—If a monitoring panel makes such a determination, the panel shall recommend to the Secretary that further remedial action be taken or that the Secretary order the Governor to redesignate the lead agency within 90 days or lose funds under this title. The Secretary, based on the findings and recommendations of the monitoring panel, and after providing to the public notice and an opportunity for comment, shall make a final determination regarding whether to order the Governor to redesignate the lead agency. The Governor shall make any such redesignation in accordance with the requirements that apply to designations under section 102(d).

"(d) CHANGE OF PROTECTION AND ADVOCACY SERVICES PROVIDER.—

"(1) DETERMINATION.—The Governor of a State, based on input from individuals with disabilities and their family members, guardians, advocates, or authorized representatives, may determine that the entity providing protection and advocacy services required by section 102(e)(20) (referred to in this subsection as the 'first entity') has not met the protection and advocacy service needs of the individuals with disabilities and their family members, guardians, advocates, or authorized representatives, for securing funding for and access to assistive technology devices and assistive technology services, and that there is good cause to provide the protection and advocacy services for the State through a contract with a second entity.

"(2) NOTICE AND OPPORTUNITY TO BE HEARD.—On making such a determination, the Governor may not enter into a contract with a second entity to provide the protection and advocacy services unless good cause exists and unless—

"(A) the Governor has given the first entity 30 days notice of the intention to enter into such contract, including specification of the good cause, and an opportunity to respond to the assertion that good cause has been shown;

"(B) individuals with disabilities and their family members, guardians, advocates, or authorized representatives, have timely notice of the determination and opportunity for public comment; and

"(C) the first entity has the opportunity to appeal the determination to the Secretary within 30 days of the determination on the basis that there is not good cause to enter into the contract.

"(3) REDESIGNATION.—

"(A) IN GENERAL.—When the Governor of a State determines that there is good cause to enter into a contract with a second entity to provide the protection and advocacy services, the Governor shall hold an open competition within the State and issue a request for proposals by entities desiring to provide the services.

"(B) TIMING.—The Governor shall not issue such request until the first entity has been given notice and an opportunity to respond. If the first entity appeals the determination to the Secretary in accordance with paragraph (2)(C), the Governor shall issue such request only if the Secretary decides not to overturn the determination of the Governor. The Governor shall issue such request within 30 days after the end of the period during which the first entity has the opportunity to respond, or after the decision of the Secretary, as appropriate.

"(C) PROCEDURE.—Such competition shall be open to entities with the same expertise and ability to provide legal services as a system referred to in section 102(e)(20). The competition shall ensure public involvement, including a public hearing and adequate opportunity for public comment.

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to the Congress, a report on Federal initiatives, including the initiatives funded under this Act, to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

"(2) CONTENTS.—Such report shall include information on—

"(A) the demonstrated successes of such Federal initiatives at the Federal and State levels in improving interagency coordination, streamlining access to funding for assistive technology, and producing beneficial outcomes for users of assistive technology;

"(B) the demonstration activities carried out through the Federal initiatives to—

"(i) promote access to such funding in public programs that were in existence on the date of the initiation of the demonstration activities; and

"(ii) establish additional options for obtaining such funding;

"(C) the education and training activities carried out through the Federal initiatives to promote such access in public programs and the health care system and the efforts carried out through such activities to train professionals in a variety of relevant disciplines, and increase the com-

petencies of the professionals with respect to technology-related assistance;

"(D) the education and training activities carried out through the Federal initiatives to train individuals with disabilities and their family members, guardians, advocates, or authorized representatives, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, technology experts (including engineers), employers, and other appropriate individuals, about technology-related assistance;

"(E) the education and training activities carried out through Federal initiatives to promote awareness of available funding in public programs;

"(F) the research activities carried out through the Federal initiatives to improve understanding of the costs and benefits of access to assistive technology for individuals with disabilities who represent a variety of ages and types of disabilities;

"(G) the program outreach activities to rural and inner-city areas that are carried out through the Federal initiatives;

"(H) the activities carried out through the Federal initiatives that are targeted to reach underrepresented populations and rural populations; and

"(I) the consumer involvement activities in the programs carried out under this Act.

"(3) AVAILABILITY OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—As soon as practicable, the Secretary shall include in the annual report required by this subsection information on the availability of assistive technology devices and assistive technology services. When a national classification system for assistive technology devices and assistive technology services is developed pursuant to section 201, the Secretary shall report such information in a manner consistent with such national classification system.

"(f) INTERAGENCY DISABILITY COORDINATING COUNCIL.— Reports.

"(1) CONTENTS.—On or before October 1, 1995, the Interagency Disability Coordinating Council established under section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 794c) shall prepare and submit to the President and to the Congress a report containing—

"(A) the response of the Interagency Disability Coordinating Council to—

"(i) the findings of the National Council on Disability resulting from the study entitled 'Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities', carried out in accordance with section 201 of this Act, as in effect on the day before the date of the enactment of this subsection; and

"(ii) the recommendations of the National Council on Disability for legislative and administrative change, resulting from such study; and

"(B) information on any other activities of the Interagency Disability Coordinating Council that facilitate the

accomplishment of section 2(b)(1) with respect to the Federal Government.

"(2) COMMENTS.—The report shall include any comments submitted by the National Council on Disability as to the appropriateness of the response described in paragraph (1)(A) and the effectiveness of the activities described in paragraph (1)(B) in meeting the needs of individuals with disabilities for assistive technology devices and assistive technology services.

"(g) EFFECT ON OTHER ASSISTANCE.—This title may not be construed as authorizing a Federal or a State agency to reduce medical or other assistance available or to alter eligibility under any other Federal law.".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 106 (29 U.S.C. 2216) is amended to read as follows:

"SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(b) RESERVATIONS.—

"(1) PROVISION OF INFORMATION AND TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—Of the funds appropriated for any fiscal year under subsection (a), the Secretary shall reserve at least 2 percent or $1,500,000, whichever is greater, of such funds, for the purpose of providing information and technical assistance as described in subparagraphs (B) and (C) to States, individuals with disabilities and their family members, guardians, advocates, or authorized representatives, community-based organizations, and protection and advocacy agencies.

"(B) TECHNICAL ASSISTANCE TO STATES.—In providing such information and technical assistance to States, the Secretary shall consider the input of the directors of consumer-responsive comprehensive statewide programs of technology-related assistance, shall provide a clearinghouse for activities that have been developed and implemented through programs funded under this title, and shall provide information and technical assistance that—

"(i) facilitate service delivery capacity building, training of personnel from a variety of disciplines, and improvement of evaluation strategies, research, and data collection;

"(ii) foster the development and replication of effective approaches to information referral, interagency coordination of training and service delivery, outreach to underrepresented populations and rural populations, and public awareness activities;

"(iii) improve the awareness and adoption of successful approaches to increasing the availability of public and private funding for and access to the provision of assistive technology devices and assistive technology services by appropriate State agencies;

"(iv) assist in planning, developing, implementing, and evaluating appropriate activities to further extend

consumer-responsive comprehensive statewide programs of technology-related assistance;

"(v) promote effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

"(vi) provide technical assistance and training to the entities carrying out activities funded pursuant to this title, to establish or participate in electronic communication activities with other States; and

"(vii) provide any other appropriate information and technical assistance to assist the States in accomplishing the purposes of this Act.

"(C) INFORMATION AND TECHNICAL ASSISTANCE TO INDIVIDUALS WITH DISABILITIES AND OTHER PERSONS.—The Secretary shall provide information and technical assistance to individuals with disabilities and their family members, guardians, advocates, or authorized representatives, community-based organizations, and protection and advocacy agencies, on a nationwide basis, to—

"(i) disseminate information about, and foster awareness and understanding of, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion for individuals with disabilities of all ages;

"(ii) identify, collect, and disseminate information, and provide technical assistance, on effective systems change and advocacy activities;

"(iii) improve the understanding and use of assistive technology funding decisions made as a result of policies, practices, and procedures, or through regulations, administrative hearings, or legal actions, that enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

"(iv) promote effective approaches to Federal-State coordination of programs for individuals with disabilities, through information dissemination and technical assistance activities in response to funding policy issues identified on a nationwide basis by organizations, and individuals, that improve funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages; and

"(v) promote effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services, including the identification and description of mechanisms and means that successfully support self-help and peer mentoring groups for individuals with disabilities.

"(D) COORDINATION.—The Secretary shall coordinate the information and technical assistance activities carried

out under subparagraph (B) or (C) with other activities funded under this Act.

"(E) GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.—

"(i) IN GENERAL.—The Secretary shall provide the technical assistance and information described in subparagraphs (B) and (C) through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to carry out identified activities related to the provision of such technical assistance and information.

"(ii) ENTITIES WITH EXPERTISE IN ASSISTIVE TECHNOLOGY SERVICE DELIVERY, INTERAGENCY COORDINATION, AND SYSTEMS CHANGE AND ADVOCACY ACTIVITIES.—For the purpose of achieving the objectives described in paragraph (1)(B), the Secretary shall reserve not less than 45 percent and not more than 55 percent of the funds reserved under subparagraph (A) for each fiscal year for grants to, or contracts or cooperative agreements with, public or private agencies or organizations with documented experience with and expertise in assistive technology service delivery, interagency coordination, and systems change and advocacy activities.

"(iii) ENTITIES WITH EXPERTISE IN ASSISTIVE TECHNOLOGY SYSTEMS CHANGE AND ADVOCACY ACTIVITIES, PUBLIC FUNDING OPTIONS, AND OTHER SERVICES.—For the purpose of achieving the objectives described in paragraph (1)(C), the Secretary shall reserve not less than 45 percent and not more than 55 percent of the funds reserved under subparagraph (A) for each fiscal year for grants to, or contracts or cooperative agreements with, public or private agencies or organizations with documented experience with and expertise in—

"(I) assistive technology systems change and advocacy activities;

"(II) public funding options; and

"(III) services to increase nationwide the availability of funding for assistive technology devices and assistive technology services.

"(iv) APPLICATION.—The Secretary shall make any grants, and enter into any contracts or cooperative agreements, under this subsection on a competitive basis. To be eligible to receive funds under this subsection an agency, organization, or institution shall submit an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may require.

"(2) ONSITE VISITS.—The Secretary may reserve, from amounts appropriated for any fiscal year under subsection (a), such sums as the Secretary considers to be necessary for the purposes of conducting onsite visits as required by section 105(a)(2).".

SEC. 107. REPEALS.

Section 107 (20 U.S.C. 2217) is repealed. 29 USC 2217.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 201. NATIONAL CLASSIFICATION SYSTEM.

Title II (29 U.S.C. 2231 et seq.) is amended by repealing part A and inserting the following:

"Subtitle A—National Classification System

"SEC. 201. CLASSIFICATION SYSTEM. 29 USC 2231.

"(a) SYSTEM DEVELOPMENT PROJECT.—

"(1) IN GENERAL.—In fiscal year 1995, the Secretary shall initiate a system development project, based on a plan developed in consultation and coordination with other appropriate Federal and State agencies, to develop a national classification system for assistive technology devices and assistive technology services, with the goal of obtaining uniform data through such a system on such devices and services across public programs and information and referral networks.

"(2) PROJECT PLAN.—

"(A) REPRESENTATIVES.—In developing a plan for the system development project, the Secretary shall consult with, and coordinate activities with—

"(i) representatives of Federal agencies, including agencies that are headed by members of the Interagency Disability Coordinating Council established under section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 794c); and

"(ii) as determined by the Secretary, representatives of State agencies and other appropriate organizations that have responsibility for or are involved in the development and modification of assistive technology devices, the provision of assistive technology devices and assistive technology services, or the dissemination of information about assistive technology devices and assistive technology services, including recipients of grants or contracts for the provision of technical assistance to State assistive technology projects under section 106(b), assistive technology reimbursement specialists, representatives of the State assistive technology projects, and representatives of organizations involved in information and referral activities.

"(B) ISSUES.—The Secretary shall conduct such consultation, and such coordination of activities, with respect to the following:

"(i) The costs and benefits, on an agency-by-agency basis, of obtaining uniform data through a national classification system for assistive technology devices

and assistive technology services across public programs and information and referral networks.

"(ii) The types of data that should be collected, including data regarding funding, across a range of programs, including the programs listed in subsection (c)(2), as appropriate.

"(iii) A methodology for developing a single taxonomy and nomenclature for both assistive technology devices and assistive technology services across a range of programs, including the programs listed in subsection (c)(2), as appropriate.

"(iv) The process for developing an appropriate data collection instrument or instruments.

"(v) A methodology for collecting data across a range of programs, including the programs listed in subsection (c)(2), as appropriate.

"(vi) The use of a national classification system by the Internal Revenue Service and State finance agencies to determine whether devices and services are assistive technology devices or assistive technology services for the purpose of determining whether a deduction or credit is allowable under the Internal Revenue Code of 1986 or State tax law.

"(3) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary may carry out this section directly, or, if necessary, by entering into contracts or cooperative agreements with appropriate entities.

"(b) SINGLE TAXONOMY.—In conducting the system development project, the Secretary shall develop a national classification system that includes a single taxonomy and nomenclature for assistive technology devices and assistive technology services.

"(c) DATA COLLECTION INSTRUMENT.—In conducting the system development project, the Secretary shall develop a data collection instrument to—

"(1) collect data regarding funding for assistive technology devices and assistive technology services; and

"(2) collect such data from public programs, including, at a minimum—

"(A) programs carried out under title I, VI, or VII of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq., 795 et seq., or 796 et seq.);

"(B) programs carried out under part B or H of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq. or 1471 et seq.);

"(C) programs carried out under title V or XIX of the Social Security Act (42 U.S.C. 701 et seq. or 1396 et seq.);

"(D) programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

"(E) programs carried out under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

"(d) CONSULTATION.—The Secretary shall conduct the system development project in consultation with the Federal agencies that were consulted in developing the project plan.

"(e) REPORT TO THE PRESIDENT AND THE CONGRESS ON IMPLEMENTATION OF UNIFORM DATA COLLECTION SYSTEM.—Not

later than July 1, 1997, the Secretary shall prepare and submit to the President and the appropriate committees of Congress a report containing—

"(1) the results of the system development project; and

"(2) the recommendations of the Secretary concerning implementation of a national classification system, including uniform data collection.

"(f) RESERVATION.—From the amounts appropriated under subtitle C for fiscal year 1995, the Secretary shall reserve up to $200,000 to carry out this subtitle.".

SEC. 202. TRAINING AND DEMONSTRATION PROJECTS.

Title II (29 U.S.C. 2231 et seq.) is amended by repealing parts B, C, and D and inserting the following: 29 USC 2241 *et seq.*

"Subtitle B—Training and Demonstration Projects

"SEC. 211. TRAINING. Grants Contracts. 29 USC 2241.

"(a) TECHNOLOGY TRAINING.—

"(1) GENERAL AUTHORITY.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, appropriate public or private agencies and organizations, including institutions of higher education and community-based organizations, for the purposes of—

"(A) conducting training sessions;

"(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance, to enhance opportunities for independence, productivity, and inclusion of individuals with disabilities; and

"(C) providing training to develop awareness, skills, and competencies of service providers, consumers, and volunteers, who are located in rural areas, to increase the availability of technology-related assistance in community-based settings for rural residents who are individuals with disabilities.

"(2) ELIGIBLE ACTIVITIES.—Activities conducted under grants, contracts, or cooperative agreements described in paragraph (1) may address the training needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.

"(3) USES OF FUNDS.—An agency or organization that receives a grant or enters into a contract or cooperative agreement under paragraph (1) may use amounts made available through the grant, contract, or agreement to—

"(A) pay for a portion of the cost of courses of training or study related to technology-related assistance; and

"(B) establish and maintain scholarships related to such courses of training or study, with such stipends and

allowances as the Secretary may determine to be appropriate.

"(4) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant or enter into a contract or cooperative agreement under paragraph (1), an agency or organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) STRATEGIES.—At a minimum, any such application shall include a detailed description of the strategies that the agency or organization will use to recruit and train persons to provide technology-related assistance, in order to—

"(i) increase the extent to which such persons reflect the diverse populations of the United States; and

"(ii) increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide such assistance.

"(5) PRIORITIES.—

"(A) IN GENERAL.—Beginning in fiscal year 1994, the Secretary shall—

"(i) establish priorities for activities carried out with assistance under this subsection;

Federal Register, publication.

"(ii) publish such priorities in the Federal Register for the purpose of receiving public comment; and

"(iii) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes announcements for assistance provided under this subsection.

Federal Register, publication.

"(B) EXPLANATION OF DETERMINATION OF PRIORITIES.—Concurrent with the publications required by subparagraph (A), the Secretary shall publish in the Federal Register an explanation of the manner in which the priorities were determined.

"(b) TECHNOLOGY CAREERS.—

"(1) IN GENERAL.—

"(A) GRANTS.—The Secretary shall make grants to assist public or private agencies and organizations, including institutions of higher education, to prepare students and faculty working in specific fields for careers relating to the provision of assistive technology devices and assistive technology services.

"(B) FIELDS.—The specific fields described in subparagraph (A) may include—

"(i) engineering;

"(ii) industrial technology;

"(iii) computer science;

"(iv) communication disorders;

"(v) special education and related services;

"(vi) rehabilitation; and

"(vii) social work.

"(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the interdisciplinary preparation of personnel who provide or who will provide tech-

nical assistance, who administer programs, or who prepare other personnel, in order to—

"(A) support the development and implementation of consumer-responsive comprehensive statewide programs of technology-related assistance to individuals with disabilities; and

"(B) enhance the skills and competencies of individuals involved in the provision of technology-related assistance, including assistive technology devices and assistive technology services, to individuals with disabilities.

"(3) USES OF FUNDS.—An agency or organization that receives a grant under paragraph (1) may use amounts made available through the grant to—

"(A) pay for a portion of the cost of courses of training or study related to technology-related assistance; and

"(B) establish and maintain scholarships related to such courses of training or study, with such stipends and allowances as the Secretary may determine to be appropriate.

"(4) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, an agency or organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) STRATEGIES.—At a minimum, any such application shall include a detailed description of the strategies that the agency or organization will use to recruit and train persons to provide technology-related assistance, in order to—

"(i) increase the extent to which such persons reflect the diverse populations of the United States; and

"(ii) increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide such assistance.

"(c) GRANTS TO HISTORICALLY BLACK COLLEGES.—In exercising the authority granted in subsections (a) and (b), the Secretary shall reserve an adequate amount for grants to historically black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

"SEC. 212. TECHNOLOGY TRANSFER.

Contracts.
29 USC 2242.

"The Secretary shall enter into an agreement with an organization whose primary function is to promote technology transfer from, and cooperation among, Federal laboratories (as defined in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6))), under which funds shall be provided to promote technology transfer that will spur the development of assistive technology devices.

"SEC. 213. DEVICE AND EQUIPMENT REDISTRIBUTION INFORMATION SYSTEMS AND RECYCLING CENTERS.

Grants.
Contracts.
29 USC 2243.

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, public agencies, private entities, or institutions of higher education for the purpose of developing and establishing recycling projects.

"(b) PROJECT ACTIVITIES.—Such recycling projects may include—

"(1) a system for accepting, on an unconditional gift basis, assistive technology devices, including a process for valuing the devices and evaluating their use and potential;

"(2) a system for storing and caring for such devices;

"(3) an information system (including computer databases) by which local educational agencies, rehabilitation entities, local community-based organizations, independent living centers, and other entities, would be informed, on a periodic and timely basis, about the availability and nature of the devices currently held; and

"(4) a system that makes such devices available to consumers and the entities listed in paragraph (3), and provides for tracking each device throughout the useful life of the device.

"(c) MULTIPLE PROVIDERS.—

"(1) IN GENERAL.—With respect to activities funded under this section, an agency, entity, or institution may utilize a single service provider or may establish a system of service providers.

"(2) ASSURANCES.—If an agency, entity, or institution uses multiple providers, the agency, entity, or institution shall assure that—

"(A) all consumers within a State will receive equal access to services, regardless of the geographic location or socioeconomic status of the consumers; and

"(B) all activities of the providers will be coordinated and monitored by the agency, entity, or institution.

"(d) OTHER LAWS.—Nothing in this section shall affect the provision of services or devices pursuant to title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(e) EXISTING PROGRAMS.—Public agencies, private entities, or institutions of higher education that have established recycling programs prior to receiving assistance under this section may use funds made available under this section to extend and strengthen such programs through grants, contracts, or agreements under this section.

29 USC 2244.

"SEC. 214. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

"The Secretary may make grants to individuals with disabilities to enable the individuals to establish or operate commercial or other enterprises that develop or market assistive technology devices or assistive technology services.

29 USC 2245.

"SEC. 215. PRODUCTS OF UNIVERSAL DESIGN.

"The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of products of universal design. In awarding such grants, the Secretary shall give preference to enterprises that are owned or operated by individuals with disabilities.

29 USC 2246.

"SEC. 216. GOVERNING STANDARDS FOR ACTIVITIES.

"Persons and entities that carry out activities pursuant to this subtitle shall—

"(1) be held to the same consumer-responsive standards as the persons and entities carrying out programs under title I;

"(2) make available to individuals with disabilities and their family members, guardians, advocates, and authorized representatives information concerning technology-related assistance in a form that will allow such individuals with disabilities to effectively use such information;

"(3) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials; and

"(4) coordinate their efforts with the consumer-responsive comprehensive statewide program of technology-related assistance for individuals with disabilities in any State in which the activities are carried out.

"Subtitle C—Authorization of Appropriations

"SEC. 221. AUTHORIZATION OF APPROPRIATIONS. 29 USC 2251.

"There are authorized to be appropriated to carry out this title $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

TITLE III—ALTERNATIVE FINANCING MECHANISMS

SEC. 301. ALTERNATIVE FINANCING MECHANISMS AUTHORIZED.

The Act (29 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"TITLE III—ALTERNATIVE FINANCING MECHANISMS

Grants.

"SEC. 301. GENERAL AUTHORITY TO PROVIDE ALTERNATIVE FINANCING MECHANISMS. 29 USC 2281.

"(a) IN GENERAL.—The Secretary shall award grants to States to pay for the Federal share of the cost of the establishment and administration of, or the expansion and administration of, alternative financing mechanisms (referred to individually in this title as an 'alternative financing mechanism') to allow individuals with disabilities and their family members, guardians, and authorized representatives to purchase assistive technology devices and assistive technology services.

"(b) MECHANISMS.—The alternative financing mechanisms may include—

"(1) a low-interest loan fund;

"(2) a revolving fund;

"(3) a loan insurance program;

"(4) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

"(5) other alternative financing mechanisms that meet the requirements of this Act and are approved by the Secretary.

"(c) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of a State to establish alternative financing mechanisms under title I.

29 USC 2282.

"SEC. 302. APPLICATIONS AND PROCEDURES.

"(a) ELIGIBILITY.—States that receive or have received grants under section 102 or 103 shall be eligible to compete for grants under section 301.

Regulations

"(b) REQUIREMENTS.—The Secretary shall make grants under section 301 under such conditions as the Secretary shall, by regulation, determine, except that—

"(1) a State may receive only 1 grant under section 301 and may only receive such a grant for 1 year under this title;

"(2) a State that desires to receive a grant under section 301 shall submit an application to the Secretary, at such time and in such manner as the Secretary may require, containing—

"(A) an assurance that the State will provide at least 50 percent of the cost described in section 301(a), as set forth in section 304, for the purpose of supporting the alternative financing mechanisms that are covered by the grant;

"(B) an assurance that an alternative financing mechanism will continue on a permanent basis; and

"(C) a description of the degree to which the alternative financing mechanisms to be funded under section 301 will expand and emphasize consumer choice and control;

Contracts.

"(3) a State that receives a grant under section 301—

"(A) shall enter into a contract, with a community-based organization (or a consortia of such organizations) that has individuals with disabilities involved at all organizational levels, for the administration of the alternative financing mechanisms that are supported under section 301; and

"(B) shall require that such community-based organization enter into a contract, for the purpose of expanding opportunities under section 301 and facilitating the administration of the alternative financing mechanisms, with—

"(i) commercial lending institutions or organizations; or

"(ii) State financing agencies; and

"(4) a contract between a State that receives a grant under section 301 and a community-based organization described in paragraph (3)—

"(A) shall include a provision regarding the administration of the Federal and the non-Federal shares in a manner consistent with the provisions of this title; and

"(B) shall include any provision required by the Secretary dealing with oversight and evaluation as may be necessary to protect the financial interests of the United States.

"SEC. 303. GRANT ADMINISTRATION REQUIREMENTS. 29 USC 2283.

"A State that receives a grant under section 301, together with any community-based organization that enters into a contract with the State to administer an alternative financing mechanism that is supported under section 301, shall develop and submit to the Secretary, pursuant to a timeline that the Secretary may establish or, if the Secretary does not establish a timeline, within the 12-month period beginning on the date that the State receives the grant, the following policies or procedures for administration of the mechanism:

"(1) A procedure to review and process in a timely fashion requests for financial assistance for both immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific device or service to be provided.

"(2) A policy and procedure to assure that access to the alternative financing mechanism shall be given to consumers regardless of type of disability, age, location of residence in the State, or type of assistive technology device or assistive technology service requested and shall be made available to applicants of all income levels.

"(3) A procedure to assure consumer-controlled oversight.

"SEC. 304. FINANCIAL REQUIREMENTS. 29 USC 2284.

"(a) FEDERAL SHARE.—The Federal share of the costs described in section 301(a) shall be not more than 50 percent.

"(b) REQUIREMENTS.—A State that desires to receive a grant under section 301 shall include in the application submitted under section 302 assurances that the State will meet the following requirements regarding funds supporting an alternative funding mechanism assisted under section 301:

"(1) The State shall make available the funds necessary to provide the non-Federal share of the costs described in section 301(a), in cash, from State, local, or private sources.

"(2) Funds that support an alternative financing mechanism assisted under section 301—

"(A) shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide public funding options; and

"(B) may only be distributed through the entity carrying out the alternative financing mechanism as a payer of last resort for assistance that is not available in a reasonable or timely fashion from any other Federal, State, or local source.

"(3) All funds that support an alternative financing mechanism assisted under section 301, including funds repaid during the life of the mechanism, shall be placed in a permanent separate account and identified and accounted for separately from any other fund. Funds within this account may be invested in low-risk securities in which a regulated insurance company may invest under the law of the State for which the grant is provided and shall be administered with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person.

"(4) Funds comprised of the principal and interest from an account described in paragraph (3) shall be available to support an alternative financing mechanism assisted under section 301. Any interest or investment income that accrues on such funds after such funds have been placed under the control of the entity administering the mechanism, but before such funds are distributed for purposes of supporting the mechanism, shall be the property of the entity administering the mechanism and shall not be taken into account by any officer or employee of the Federal Government for any purpose.

29 USC 2285.

"SEC. 305. AMOUNT OF GRANTS.

"(a) AMOUNT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a grant under section 301 shall be for an amount that is not more than $500,000.

"(2) INCREASES.—Such a grant may be increased by any additional funds made available under subsection (b).

"(b) EXCESS FUNDS.—If funds appropriated under section 308 for a fiscal year exceed the amount necessary to fund the activities described in acceptable applications submitted under section 302 for such year, the Secretary shall make such excess amount available, on a competitive basis, to States receiving grants under section 301 for such year. A State that desires to receive additional funds under this subsection shall amend and resubmit to the Secretary the application submitted under section 302. Such amended application shall contain an assurance that the State will provide an additional amount for the purpose of supporting the alternative financing mechanisms covered by the grant that is not less than the amount of any additional funds paid to the State by the Secretary under this subsection.

"(c) INSUFFICIENT FUNDS.—If funds appropriated under section 308 for a fiscal year are not sufficient to fund each of the activities described in the acceptable applications for such year, a State whose application was approved as acceptable for such year but that did not receive a grant under section 301, may update such application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

29 USC 2286.

"SEC. 306. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title, and the information and technical assistance shall include—

"(1) assisting States in the preparation of applications for grants under section 301;

"(2) assisting States that receive such grants in developing and implementing alternative financing mechanisms; and

"(3) providing any other information and technical assistance to assist States in accomplishing the objectives of this title.

"(b) GRANTS, CONTRACTS, AND AGREEMENTS.—The Secretary shall provide the information and technical assistance described in subsection (a) through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to assist States in the development and

implementation of the alternative financing mechanisms described in section 301.

"SEC. 307. ANNUAL REPORT. 29 USC 2287.

"(a) IN GENERAL.—Not later than December 31 of each year, the Secretary shall submit a report to the Congress stating whether each State program to provide alternative financing mechanisms that was supported under section 301 during the year is making significant progress in achieving the objectives of this title.

"(b) CONTENTS.—The report shall include information on—

"(1) the number of applications for grants under section 301 that were received by the Secretary;

"(2) the number of grants made and the amounts of such grants;

"(3) the ratio of the amount of funds provided by each State for a State program to provide alternative financing mechanisms to the amount of Federal funds provided for such program;

"(4) the type of program to provide alternative financing mechanisms that was adopted in each State and the community-based organization (or consortia of such organizations) with which each State has entered into a contract; and

"(5) the amount of assistance given to consumers (who shall be classified by age, type of disability, type of assistive technology device or assistive technology service received, geographic distribution within the State, gender, and whether the consumers are part of an underrepresented population or a rural population).

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS. 29 USC 2288.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $8,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(b) AVAILABILITY IN SUCCEEDING FISCAL YEAR.—Amounts appropriated under subsection (a) shall remain available for obligation for the fiscal year immediately following the fiscal year for which such amounts were appropriated.

"(c) RESERVATION.—Of the amounts appropriated under subsection (a), the Secretary shall reserve $250,000 for the purpose of providing information and technical assistance to States under section 306.".

TITLE IV—AMENDMENTS TO OTHER ACTS

SEC. 401. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 631(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)(1)) is amended—

(1) by striking ", and" at the end of subparagraph (D) and inserting a comma;

(2) by striking the period at the end of subparagraph (E) and inserting ", and"; and

(3) by adding at the end the following:

"(F) training in the use, applications, and benefits of assistive technology devices and assistive technology services

(as defined in paragraphs (2) and (3) of section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202 (2) and (3))).".

SEC. 402. REHABILITATION ACT OF 1973.

(a) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.—Section 202(b)(8) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(b)(8)) is amended by striking "characteristics of individuals with disabilities" and inserting "characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations,".

(b) TRAINING.—Section 302(b)(1)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 771a(b)(1)(B)), as added by section 302(b) of Public Law 102–569 (106 Stat. 4412), is amended—

(1) by striking "; and" at the end of clause (ii) and inserting a semicolon;

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following:

"(iv) projects to train personnel in the use, applications, and benefits of assistive technology devices and assistive technology services (as defined in paragraphs (2) and (3) of section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202 (2) and (3))).".

SEC. 403. ADMINISTRATIVE REQUIREMENTS UNDER THE HEAD START ACT.

Section 644(f) of the Head Start Act (42 U.S.C. 9839(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ", or to request approval of the purchase (after December 31, 1986) of facilities," after "to purchase facilities"; and

(B) by adding at the end the following: "The Secretary shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of such facilities."; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "or that was previously purchased" before the semicolon;

(B) in subparagraph (C)—

(i) by inserting ", or the previous purchase has resulted," after "purchase will result" in clause (i); and

(ii) in clause (ii)—

(I) by inserting ", or would have prevented," after "will prevent"; and

(II) by striking "and" at the end;

(C) by redesignating subparagraph (D) as subparagraph (E); and

(D) by inserting after subparagraph (C) the following:

"(D) in the case of a request regarding a previously purchased facility, information demonstrating that the facility will be used principally as a Head Start center, or a direct support facility for a Head Start program; and".

SEC. 404. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ASSISTIVE TECHNOLOGY DEVICE.—Section 7(23) of the Rehabilitation Act of 1973 (29 U.S.C. 706(23)), as added by section 102(n) of Public Law 102–569 (106 Stat. 4350), is amended—

(1) by striking "3(1)" and inserting "3(2)"; and

(2) by striking "2202(1)" and inserting "2202(2)".

(b) ASSISTIVE TECHNOLOGY SERVICE.—Section 7(24) of the Rehabilitation Act of 1973 (29 U.S.C. 706(24)), as added by section 102(n) of Public Law 102–569 (106 Stat. 4350), is amended—

(1) by striking "3(2)" and inserting "3(3)"; and

(2) by striking "2202(2)" and inserting "2202(3)".

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

29 USC 2201 note

(a) IN GENERAL.—Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) COMPLIANCE.—Each State receiving a grant under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 shall comply with the amendments made by this Act—

(1) as soon as practicable after the date of the enactment of this Act, consistent with the effective and efficient administration of the Technology-Related Assistance for Individuals With Disabilities Act of 1988; but

(2) not later than—

(A) the next date on which the State receives an award through a grant under section 102 or 103 of such Act; or

(B) October 1, 1994,

whichever is sooner.

Approved March 9, 1994.

LEGISLATIVE HISTORY—H.R. 2339 (S. 1283):

HOUSE REPORTS: No. 103-208 (Comm. on Education and Labor).
SENATE REPORTS: No. 103-119 accompanying S. 1283 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Aug. 2, considered and passed House.
Aug 5, S 1283 considered and passed Senate; H.R. 2339, amended, passed in lieu.
Vol. 140 (1994): Feb. 8, House concurred in Senate amendment with an amendment.
Feb. 11, Senate concurred in House amendment.

Public Law 103-219
103d Congress

An Act

Mar. 9, 1994
[H.R. 3617]

To amend the Everglades National Park Protection and Expansion Act of 1989, and for other purposes.

Conservation.
Florida.
Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8) is hereby amended by adding at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of this Act, the Secretary is authorized to use funds appropriated pursuant to this Act, including any available funds appropriated to the National Park Service for construction in the Department of the Interior and Related Agencies Appropriations Acts for fiscal years 1991 through 1994 for project modifications by the Army Corps of Engineers, in such amounts as determined by the Secretary, to provide Federal assistance to the State of Florida (including political subdivisions of the State) for acquisition of lands described in paragraph (4).

"(2) With respect to any lands acquired pursuant to this subsection, the Secretary may provide not more than 25 percent of the total cost of such acquisition.

"(3) All funds made available pursuant to this subsection shall be transferred to the State of Florida or a political subdivision of the State, subject to an agreement that any lands acquired with such funds will be managed in perpetuity for the restoration of natural flows to the park or Florida Bay.

"(4) The lands referred to in paragraph (1) are those lands or interests therein adjacent to, or affecting the restoration of natural water flows to, the park or Florida Bay which are located east of the park and known as the Frog Pond, Rocky Glades Agricultural Area, and the Eight-and-One-Half Square-Mile Area.".

Approved March 9, 1994.

LEGISLATIVE HISTORY—H.R. 3617:

SENATE REPORTS: No. 103-224 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 22, considered and passed House.
Vol. 140 (1994): Feb. 11, considered and passed Senate.

Public Law 103-220
103d Congress

An Act

Mar. 17, 1994
[S. 1789]

To amend title 23, United States Code, to permit the use of funds under the highway bridge replacement and rehabilitation program for seismic retrofit of bridges, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SEISMIC RETROFIT OF BRIDGES.

Section 144 of title 23, United States Code, is amended—

(1) in the third sentence of subsection (d), by inserting before the period at the end the following: ", except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section"; and

(2) in subsection (e), by adding at the end the following new sentence: "The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.".

Approved March 17, 1994.

LEGISLATIVE HISTORY—S. 1789:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Feb. 7, considered and passed Senate.
Mar. 2, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Mar. 17, Presidential statement.

Public Law 103-221
103d Congress

Joint Resolution

To designate the week beginning April 11, 1994, as "National Public Safety Telecommunicators Week".

Mar. 24, 1994
[S.J. Res. 56]

Whereas over one-half million dedicated men and women are engaged in the operation of emergency response systems for Federal, State, and local governmental entities throughout the United States;

Whereas these individuals are responsible for responding to the telephone calls of the general public for police, fire and emergency medical assistance and for dispatching such assistance to help save the lives and property of our citizens;

Whereas such calls include not only police, fire and emergency medical service calls but those governmental communications related to forestry and conservation operations, highway safety and maintenance activities, and all of the other operations which modern governmental agencies must conduct; and

Whereas America's public safety telecommunicators daily serve the public in countless ways without due recognition by the beneficiaries of their services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 11, 1994, is hereby designated as "National Public Safety Telecommunicators Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved March 24, 1994.

LEGISLATIVE HISTORY—S.J. Res. 56:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Mar. 29, considered and passed Senate.
Vol. 140 (1994): Mar. 11, considered and passed House, amended.
Mar. 17, Senate concurred in House amendments.

Public Law 103-222
103d Congress

Joint Resolution

Mar. 24, 1994
[S.J. Res. 162]

Designating March 25, 1994, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;
Whereas the Founding Fathers of the United States drew heavily upon the political experience and philosophy of ancient Greece in forming the representative democracy of the United States;
Whereas these and other ideals have forged a close bond both between the United States and Greece and between their peoples;
Whereas March 25, 1994, marks the 173rd anniversary of the beginning of the revolution that freed Greek people from the Ottoman Empire and enabled the reestablishment of democracy in Greece; and
Whereas it is proper and desirable to celebrate that anniversary with the Greek people and to reaffirm the democratic principles from which the United States and Greece were born: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1994, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved March 24, 1994.

LEGISLATIVE HISTORY—S.J. Res. 162:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 10, considered and passed Senate.
Mar. 11, considered and passed House.

Public Law 103-223
103d Congress

Joint Resolution

To proclaim March 20, 1994, as "National Agriculture Day".

Mar. 24, 1994
[S.J. Res. 163]

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;
Whereas the United States agricultural sector serves all Americans by providing food, fiber, and other basic necessities of life;
Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in the world trade markets;
Whereas the Nation's heritage of family-owned, family-operated farms and ranches has been the core of the American agricultural system and continues to be the best means for assuring the protection of our natural resources and the production of an adequate and affordable supply of food and fiber for future generations of Americans;
Whereas the American agricultural system provides American consumers with a stable supply of the highest quality food and fiber for the lowest cost per capita in the world;
Whereas American agriculture continually seeks to maintain and improve the high level of product quality and safety expected by the consumer;
Whereas the public should be aware of the contributions of all people—men and women—who are a part of American agriculture and its contributions to American life, health, and prosperity;
Whereas women play a vital role in maintaining the family farm system, both as sole operators and as working partners, and are also attaining important leadership roles throughout the American agricultural system;
Whereas farm workers are an indispensable part of the agricultural system as witnessed by their hard work and dedication;
Whereas scientists and researchers play an integral part in the agricultural system in their search for better and more efficient ways to produce and process safe and nutritious agricultural products;
Whereas farmers and food processors are responding to the desire of health-conscious American consumers by developing more health-oriented food products;
Whereas distributors play an important role in transporting agricultural products to retailers who in turn make the products available to the consumer;

Whereas our youth—the future of our Nation—have become involved through various organizations in increasing their understanding and our understanding of the importance of agriculture in today's society;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being, whether they live in urban or rural areas; and

Whereas since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, other persons involved in the agricultural system, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1994, is proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 14 through March 20.

Approved March 24, 1994.

LEGISLATIVE HISTORY—S.J. Res. 163:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 10, considered and passed Senate.
Mar. 11, considered and passed House.

Public Law 103-224
103d Congress

Joint Resolution

To designate March 20 through March 26, 1994, as "Small Family Farm Week".

Mar. 24, 1994
[S.J. Res. 171]

Whereas the small family farmer contributes enormously to the agricultural productivity of the United States;
Whereas the plight of the small family farmer has been in jeopardy in recent times;
Whereas many small family farms continue to operate in the face of financial and credit difficulties;
Whereas the size and crop makeup of family farms varies from region to region in the United States; and
Whereas the small family farm represents the historical foundation of American agriculture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 20 through March 26, 1994, is designated as "Small Family Farm Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Approved March 24, 1994.

LEGISLATIVE HISTORY—S.J. Res. 171:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 17, considered and passed Senate.
Mar. 21, considered and passed House.

Public Law 103-225
103d Congress

An Act

Mar. 25, 1994
[S. 1926]

To amend the Food Stamp Act of 1977 to modify the requirements relating to monthly reporting and staggered issuance of coupons for households residing on Indian reservations, to ensure adequate access to retail food stores by food stamp households, and to maintain the integrity of the food stamp program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food Stamp Program Improvements Act of 1994. Intergovernmental relations. 7 USC 2011 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Stamp Program Improvements Act of 1994".

TITLE I—REPORTING AND STAGGERED ISSUANCE FOR HOUSEHOLDS ON RESERVATIONS

SEC. 101. BUDGETING AND MONTHLY REPORTING ON RESERVATIONS.

(a) IN GENERAL.—Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking clause (ii); and

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively; and

(2) by adding at the end the following new subparagraph:

"(C) A State agency may require periodic reporting on a monthly basis by households residing on a reservation only if—

"(i) the State agency reinstates benefits, without requiring a new application, for any household residing on a reservation that submits a report not later than 1 month after the end of the month in which benefits would otherwise be provided;

"(ii) the State agency does not delay, reduce, suspend, or terminate the allotment of a household that submits a report not later than 1 month after the end of the month in which the report is due;

"(iii) on the date of enactment of this subparagraph, the State agency requires households residing on a reservation to file periodic reports on a monthly basis; and

"(iv) the certification period for households residing on a reservation that are required to file periodic reports

on a monthly basis is 2 years, unless the State demonstrates just cause to the Secretary for a shorter certification period.".

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 3(c) of such Act (7 U.S.C. 2012(c)) is amended by striking "For" and inserting "Except as provided in section 6(c)(1)(C), for".

(2) Section 5(f)(2)(C) of such Act (7 U.S.C. 2014(f)(2)(C)) is amended by striking "clauses (i), (ii), (iii), and (iv)" and inserting "clauses (i), (ii), and (iii)".

SEC. 102. STAGGERED ISSUANCES ON RESERVATIONS.

Section 7(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2016(h)(1)) is amended by striking the second sentence and inserting the following new sentence: "Upon the request of the tribal organization that exercises governmental jurisdiction over the reservation, the State agency shall stagger the issuance of benefits for eligible households located on reservations for at least 15 days of a month.".

SEC. 103. GAO STUDY AND REPORT ON ADMINISTRATION OF FOOD STAMP PROGRAM BY TRIBAL ORGANIZATIONS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the feasibility and desirability of—

(1) increasing the opportunity for a tribal organization of an Indian tribe to administer the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) in connection with members of the tribe by—

(A) modifying the requirements established under sections 3(n)(2) and 11(d) of such Act (7 U.S.C. 2012(n)(2) and 2020(d));

(B) modifying or eliminating the cost-sharing requirements established for the tribal organization under section 16(a) of such Act (7 U.S.C. 2025); and

(C) taking such other actions as the Comptroller General considers appropriate; and

(2) permitting the tribal organization to establish reasonable and appropriate requirements with respect to issuance, reporting, and certification requirements under the food stamp program for members of the tribe.

(b) REPORT.—Not later than December 1, 1994, the Comptroller General shall report the results of the study required under subsection (a) to the Committee on Agriculture, and the Subcommittee on Native American Affairs of the Committee on Natural Resources, of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Indian Affairs, of the Senate, so that the results of the study may be considered by the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate during the reauthorization of the food stamp program during 1995.

SEC. 104. CONFORMING AMENDMENTS.

(a) Section 908 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 7 U.S.C. 2015 note) is repealed.

7 USC 2015 note, 2016 note.

(b) Section 6(c)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(4)) is amended by striking "Any" and inserting "Except as provided in paragraph (1)(C), any".

TITLE II—ACCESS TO RETAIL FOOD STORES BY FOOD STAMP HOUSEHOLDS

SEC. 201. FOOD STAMP ACT DEFINITIONS.

Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended—

(1) in subsection (k)—

(A) by striking "means (1) an establishment" and all that follows through "spices, (2) an establishment" and inserting the following: "means—

"(1) an establishment or house-to-house trade route that sells food for home preparation and consumption and—

"(A) offers for sale, on a continuous basis, a variety of foods in each of the 4 categories of staple foods specified in subsection (u)(1), including perishable foods in at least 2 of the categories; or

"(B) has over 50 percent of the total sales of the establishment or route in staple foods,

as determined by visual inspection, sales records, purchase records, counting of stockkeeping units, or other inventory or accounting recordkeeping methods that are customary or reasonable in the retail food industry;

"(2) an establishment";

(B) by striking "section, (3) a store" and inserting the following: "section;

"(3) a store"; and

(C) by striking "section, and (4) any private" and inserting the following: "section; and

"(4) any private"; and

(2) by adding at the end the following new subsection:

"(u)(1) Except as provided in paragraph (2), 'staple foods' means foods (as defined in subsection (g)) in the following categories:

"(A) Meat, poultry, or fish.

"(B) Bread or cereals.

"(C) Vegetables or fruits.

"(D) Dairy products.

"(2) 'Staple foods' do not include accessory food items, such as coffee, tea, cocoa, carbonated and uncarbonated drinks, candy, condiments, and spices.".

SEC. 202. PERIODIC NOTICE.

Paragraph (2) of section 9(a) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(2)) is amended to read as follows:

Regulations.

"(2) The Secretary shall issue regulations providing for—

"(A) the periodic reauthorization of retail food stores and wholesale food concerns; and

"(B) periodic notice to participating retail food stores and wholesale food concerns of the definitions of 'retail food store', 'staple foods', 'eligible foods', and 'perishable foods'.".

SEC. 203. USE AND DISCLOSURE OF INFORMATION PROVIDED BY RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the second sentence, by inserting after "disclosed to and used by" the following: "Federal law enforcement and

investigative agencies and law enforcement and investigative agencies of a State government for the purposes of administering or enforcing this Act or any other Federal or State law and the regulations issued under this Act or such law, and";

(2) by inserting after the second sentence the following new sentence: "Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law (including a regulation) any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both."; and

(3) in the last sentence, by striking "Such purposes shall not exclude" and inserting the following: "The regulations shall establish the criteria to be used by the Secretary to determine whether the information is needed. The regulations shall not prohibit".

SEC. 204. DEMONSTRATION PROJECTS TESTING ACTIVITIES DIRECTED AT TRAFFICKING IN COUPONS.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end the following new subsection:

"(l) The Secretary shall use up to $4,000,000 of the funds provided in advance in appropriations Acts for projects authorized by this section to conduct demonstration projects in which State or local food stamp agencies test innovative ideas for working with State or local law enforcement agencies to investigate and prosecute coupon trafficking.".

SEC. 205. CONTINUING ELIGIBILITY. 7 USC 2012 note.

An establishment or house-to-house trade route that is otherwise authorized to accept and redeem coupons under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) on the day before the date of enactment of this Act shall be considered to meet the definition of "retail food store" in section 3(k) of such Act (7 U.S.C. 2012(k)) (as amended by section 201) until the earlier of—

(1) the periodic reauthorization of the establishment or route; or

(2) such time as the eligibility of the establishment or route for continued participation in the food stamp program is evaluated for any reason.

SEC. 206. REPORT ON IMPACT ON RETAIL FOOD STORES. 7 USC 2012 note.

Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the impact of the amendments made by sections 201 and 202 on the involvement of retail food stores in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), including a description of—

(1) the numbers and types of stores that were newly authorized to participate in the food stamp program after implementation of the amendments;

(2) the numbers and types of stores that were withdrawn from the food stamp program after implementation of the amendments;

(3) the procedures used by the Secretary, and the adequacy of the procedures used, to determine the eligibility of stores

to participate in the food stamp program and to authorize and reauthorize the stores to participate in the food stamp program;

(4) the adequacy of the guidance provided by the Secretary to retail food stores concerning—

(A) the definitions of "retail food store", "staple foods", "eligible foods", and "perishable foods" for purposes of the food stamp program; and

(B) eligibility criteria for stores to participate in the food stamp program; and

(5) an assessment of whether the amendment to the definition of "retail food store" under section 3(k) of such Act (as amended by section 201(1)) has had an adverse effect on the integrity of the food stamp program.

Approved March 25, 1994.

LEGISLATIVE HISTORY—S. 1926 (H.R. 3436):

HOUSE REPORTS: No. 103-352 accompanying H.R. 3436 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 10, H.R. 3436 considered and passed House.
Vol. 140 (1994): Mar. 11, S. 1926 considered and passed Senate.
Mar. 16, considered and passed House.

Public Law 103-226
103d Congress

An Act

To provide temporary authority to Government agencies relating to voluntary separation incentive payments, and for other purposes.

Mar. 30, 1994
[H.R. 3345]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Workforce Restructuring Act of 1994.
5 USC 2101 note

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Workforce Restructuring Act of 1994".

SEC. 2. TRAINING.

(a) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended—

(1) in section 4101(4) by striking "fields" and all that follows through the semicolon and inserting "fields which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals;";

(2) in section 4103—

(A) in subsection (a)—

(i) by striking "In" and all that follows through "maintain" and inserting "In order to assist in achieving an agency's mission and performance goals by improving employee and organizational performance, the head of each agency, in conformity with this chapter, shall establish, operate, maintain, and evaluate";

(ii) by striking "and" at the end of paragraph (2);

(iii) by redesignating paragraph (3) as paragraph (4); and

(iv) by inserting after paragraph (2) the following:

"(3) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and"; and

(B) in subsection (b)—

(i) in paragraph (1) by striking "determines" and all that follows through the period and inserting "determines that such training would be in the interests of the Government.";

(ii) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(iii) in subparagraph (C) of paragraph (2) (as so redesignated) by striking "retaining" and all that follows through the period and inserting "such training.";

(3) in section 4105—

(A) in subsection (a) by striking "(a)"; and

(B) by striking subsections (b) and (c);

(4) by repealing section 4106;

(5) in section 4107—

(A) by amending the catchline to read as follows:

"§ 4107. Restriction on degree training";

(B) by striking subsections (a) and (b) and redesignating subsections (c) and (d) as subsections (a) and (b), respectively;

(C) by amending subsection (a) (as so redesignated)—

(i) by striking "subsection (d)" and inserting "subsection (b)"; and

(ii) by striking "by, in, or through a non-Government facility"; and

(D) by amending paragraph (1) of subsection (b) (as so redesignated) by striking "subsection (c)" and inserting "subsection (a)";

(6) in section 4108(a) by striking "by, in, or through a non-Government facility under this chapter" and inserting "for more than a minimum period prescribed by the head of the agency";

(7) in section 4113(b)—

(A) in the first sentence by striking "annually to the Office," and inserting "to the Office, at least once every 3 years, and"; and

(B) by striking the matter following the first sentence and inserting the following: "The report shall set forth—

"(1) information needed to determine that training is being provided in a manner which is in compliance with applicable laws intended to protect or promote equal employment opportunity; and

"(2) information concerning the expenditures of the agency in connection with training and such other information as the Office considers appropriate.";

(8) by repealing section 4114; and

(9) in section 4118—

(A) in subsection (a)(7) by striking "by, in, and through non-Government facilities";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 3381(e) by striking "4105(a)," and inserting "4105,"; and

(2) in the analysis for chapter 41—

(A) by repealing the items relating to sections 4106 and 4114; and

(B) by amending the item relating to section 4107 to read as follows:

"4107. Restriction on degree training.".

5 USC 3381 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

5 USC 5597 note.

SEC. 3. VOLUNTARY SEPARATION INCENTIVES.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), but does not include the Department of Defense, the Central Intelligence Agency, or the General Accounting Office; and

(2) the term "employee" means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 12 months; such term includes an individual employed by a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government; or

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A).

(b) AUTHORITY.—

(1) IN GENERAL.—In order to avoid or minimize the need for involuntary separations due to a reduction in force, reorganization, transfer of function, or other similar action, and subject to paragraph (2), the head of an agency may pay, or authorize the payment of, voluntary separation incentive payments to agency employees—

(A) in any component of the agency;

(B) in any occupation;

(C) in any geographic location; or

(D) on the basis of any combination of factors under subparagraphs (A) through (C).

(2) CONDITION.—

(A) IN GENERAL.—In order to receive an incentive payment, an employee must separate from service with the agency (whether by retirement or resignation) before April 1, 1995.

(B) EXCEPTION.—An employee who does not separate from service before the date specified in subparagraph (A) shall be ineligible for an incentive payment under this section unless—

(i) the agency head determines that, in order to ensure the performance of the agency's mission, it is necessary to delay such employee's separation; and

(ii) the employee separates after completing any additional period of service required (but not later than March 31, 1997).

(c) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(1) shall be paid in a lump sum after the employee's separation;

(2) shall be equal to the lesser of—

(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code, if the employee were entitled to payment under such section; or

(B) $25,000;

(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

(4) shall not be taken into account in determining the amount of any severance pay to which an employee may be entitled under section 5595 of title 5, United States Code, based on any other separation; and

(5) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—

(1) IN GENERAL.—An employee who has received a voluntary separation incentive payment under this section and accepts employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the agency that paid the incentive payment.

(2) WAIVER AUTHORITY.—

(A) EXECUTIVE AGENCY.—If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(B) LEGISLATIVE BRANCH.—If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(C) JUDICIAL BRANCH.—If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(3) DEFINITION.—For purposes of paragraph (1) (but not paragraph (2)), the term "employment" includes employment under a personal services contract with the United States.

(e) REGULATIONS.—The Director of the Office of Personnel Management may prescribe any regulations necessary for the administration of subsections (a) through (d).

(f) EMPLOYEES OF THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program consistent with the program established by subsections (a) through (d) for individuals serving in the judicial branch.

5 USC 8331 note.

SEC. 4. ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.

(a) RELATING TO FISCAL YEARS 1994 AND 1995.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement

and Disability Fund an amount equal to 9 percent of the final basic pay of each employee of the agency—

(A) who, on or after the date of the enactment of this Act and before October 1, 1995, retires under section 8336(d)(2) of such title; and

(B) to whom a voluntary separation incentive payment has been or is to be paid by such agency based on that retirement.

(2) DEFINITIONS.—For the purpose of this subsection—

(A) the term "final basic pay", with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor; and

(B) the term "voluntary separation incentive payment" means—

(i) a voluntary separation incentive payment under section 3 (including under any program established under section 3(f)); and

(ii) any separation pay under section 5597 of title 5, United States Code, or section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103–36; 107 Stat. 104).

(b) RELATING TO FISCAL YEARS 1995 THROUGH 1998.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, in fiscal years 1995, 1996, 1997, and 1998 (and in addition to any amounts required under subsection (a)), each agency shall, before the end of each such fiscal year, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to the product of—

(A) the number of employees of such agency who, as of March 31st of such fiscal year, are subject to subchapter III of chapter 83 or chapter 84 of such title; multiplied by

(B) $80.

(2) DEFINITION.—For the purpose of this subsection, the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), but does not include the General Accounting Office.

(c) REGULATIONS.—The Director of the Office of Personnel Management may prescribe any regulations necessary to carry out this section.

SEC. 5. REDUCTION OF FEDERAL FULL-TIME EQUIVALENT POSITIONS. 5 USC 3101 note.

(a) DEFINITION.—For the purpose of this section, the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), but does not include the General Accounting Office.

(b) LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS.—The President, through the Office of Management and Budget (in consultation with the Office of Personnel Management), shall ensure President.

that the total number of full-time equivalent positions in all agencies shall not exceed—

(1) 2,084,600 during fiscal year 1994;
(2) 2,043,300 during fiscal year 1995;
(3) 2,003,300 during fiscal year 1996;
(4) 1,963,300 during fiscal year 1997;
(5) 1,922,300 during fiscal year 1998; and
(6) 1,882,300 during fiscal year 1999.

(c) MONITORING AND NOTIFICATION.—The Office of Management and Budget, after consultation with the Office of Personnel Management, shall—

(1) continuously monitor all agencies and make a determination on the first date of each quarter of each applicable fiscal year of whether the requirements under subsection (b) are met; and

(2) notify the President and the Congress on the first date of each quarter of each applicable fiscal year of any determination that any requirement of subsection (b) is not met.

(d) COMPLIANCE.—If, at any time during a fiscal year, the Office of Management and Budget notifies the President and the Congress that any requirement under subsection (b) is not met, no agency may hire any employee for any position in such agency until the Office of Management and Budget notifies the President and the Congress that the total number of full-time equivalent positions for all agencies equals or is less than the applicable number required under subsection (b).

(e) WAIVER.—

(1) EMERGENCIES.—Any provision of this section may be waived upon a determination by the President that—

(A) the existence of a state of war or other national security concern so requires; or

(B) the existence of an extraordinary emergency threatening life, health, safety, property, or the environment so requires.

(2) AGENCY EFFICIENCY OR CRITICAL MISSION.—

(A) Subsection (d) may be waived, in the case of a particular position or category of positions in an agency, upon a determination of the President that the efficiency of the agency or the performance of a critical agency mission so requires.

President.

(B) Whenever the President grants a waiver pursuant to subparagraph (A), the President shall take all necessary actions to ensure that the overall limitations set forth in subsection (b) are not exceeded.

(f) EMPLOYMENT BACKFILL PREVENTION.—

(1) IN GENERAL.—The total number of funded employee positions in all agencies (excluding the Department of Defense and the Central Intelligence Agency) shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under section 3 (a)–(e). For purposes of this subsection, positions and vacancies shall be counted on a full-time-equivalent basis.

(2) RELATED RESTRICTION.—No funds budgeted for and appropriated by any Act for salaries or expenses of positions eliminated under this subsection may be used for any purpose other than authorized separation costs.

(g) LIMITATION ON PROCUREMENT OF SERVICE CONTRACTS.— The President shall take appropriate action to ensure that there is no increase in the procurement of service contracts by reason of the enactment of this Act, except in cases in which a cost comparison demonstrates such contracts would be to the financial advantage of the Federal Government. President.

SEC. 6. MONITORING AND REPORT RELATING TO VOLUNTARY SEPARATION INCENTIVE PAYMENTS. 5 USC 5597 note.

No later than December 31st of each fiscal year, the Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives a report which, with respect to the preceding fiscal year, shall include—

(1) the number of employees who received a voluntary separation incentive payment under section 3 during such preceding fiscal year;

(2) the agency from which each such employee separated;

(3) at the time of separation from service by each such employee—

(A) such employee's grade or pay level; and

(B) the geographic location of such employee's official duty station, by region, State, and city (or foreign nation, if applicable); and

(4)(A) the number of waivers made (in the repayment upon subsequent employment) by each agency or other authority under section 3 or the amendments made by section 8; and

(B) the title and the grade or pay level of the position filled by the employee to whom such waiver applied.

SEC. 7. DISLOCATION PAYMENTS FOR CERTAIN CONTRACTOR PERSONNEL.

(a) PAYMENT.—No later than October 31, 1994, the Director of the National Aeronautics and Space Administration shall pay $5,000 to each full-time contractor employee who—

(1) was hired, under a contract relating to the Advanced Solid Rocket Motor Program, by—

(A) Lockheed Missiles and Space Company;

(B) Aerojet Corporation, Advanced Solid Rocket Motor Division; or

(C) Rust Corporation;

(2) was separated from employment in Yellow Creek, Mississippi, as a result of the termination of the Advanced Solid Rocket Motor Program; and

(3)(A) had been hired locally at Yellow Creek, Mississippi; or

(B) based on the separation referred to in paragraph (2), was eligible, but elected not, to be relocated.

(b) OFFSET.—No payment made under this section shall be offset against the severance costs of a contractor.

(c) SOURCE OF PAYMENTS.—Payments under this section shall be from funds appropriated under the subheading "SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS" under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION" under title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Public Law 103–124; 107 Stat. 1299).

(d) LIMITATION ON PAYMENTS.—The amount of total payments made under this section may not exceed $1,000,000.

SEC. 8. SUBSEQUENT EMPLOYMENT AND REPAYMENT OF SEPARATION PAYMENT.

(a) DEFENSE AGENCY SEPARATION PAY.—Section 5597 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the defense agency that paid the separation pay.

"(2) If the employment is with an Executive agency, the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(3) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(4) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.".

(b) CENTRAL INTELLIGENCE AGENCY SEPARATION PAYMENT.—Section 2(b) of the Central Intelligence Agency Voluntary Separation Pay Act (Public Law 103–36; 107 Stat. 104) is amended by adding at the end the following: "An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 and accepts employment with the Government of the United States within 5 years after the date of the separation on which payment of the separation pay is based shall be required to repay the entire amount of the separation pay to the Central Intelligence Agency. If the employment is with an Executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.".

50 USC 403-4 note.

SEC. 9. STANDARDIZATION OF WITHDRAWAL OPTIONS FOR THRIFT SAVINGS PLAN PARTICIPANTS.

(a) PARTICIPATION IN THE THRIFT SAVINGS PLAN.—Section 8351(b) of title 5, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Section 8433(b) of this title applies to any employee or Member who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and separates from Government employment.";

(2) by striking paragraphs (5), (6), and (8);

(3) by redesignating paragraphs (7), (9), and (10) as paragraphs (5), (6), and (7), respectively;

(4) in paragraph (5)(C) (as so redesignated by paragraph (3) of this subsection) by striking "or former spouse" each place it appears;

(5) by amending paragraph (6) (as so redesignated by paragraph (3) of this subsection) to read as follows:

"(6) Notwithstanding paragraph (4), if an employee or Member separates from Government employment and such employee's or Member's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b)."; and

(6) in paragraph (7) (as so redesignated by paragraph (3) of this subsection) by striking "nonforfeiture" and inserting "nonforfeitable".

(b) BENEFITS AND ELECTION OF BENEFITS.—Section 8433 of title 5, United States Code, is amended—

(1) in subsection (b) by striking the matter before paragraph (1) and inserting the following:

"(b) Subject to section 8435 of this title, any employee or Member who separates from Government employment is entitled and may elect—";

(2) by striking subsections (c) and (d) and redesignating subsections (e) through (i) as subsections (c) through (g), respectively;

(3) in subsection (c)(1) (as so redesignated by paragraph (2) of this subsection) by striking "or (c)(4) or required under subsection (d) directly to an eligible retirement plan or plans (as defined in section 402(a)(5)(E) of the Internal Revenue Code of 1954)" and inserting "directly to an eligible retirement plan or plans (as defined in section 402(c)(8) of the Internal Revenue Code of 1986)";

(4) in subsection (d)(2) (as so redesignated by paragraph (2) of this subsection) by striking "or (c)(2)"; and

(5) in subsection (f) (as so redesignated by paragraph (2) of this subsection)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(B) in paragraph (1) (as so redesignated by subparagraph (A) of this paragraph)—

(i) by striking "Notwithstanding subsections (b) and (c), if an employee or Member separates from Government employment under circumstances making such employee or Member eligible to make an election under either of those subsections, and such employee's or Member's" and inserting "Notwithstanding subsection (b), if an employee or Member separates from

Government employment, and such employee's or Member's"; and

(ii) by striking "or (c), as applicable"; and

(C) in paragraph (2) (as so redesignated by subparagraph (A) of this paragraph) by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(c) ANNUITIES: METHODS OF PAYMENT; ELECTION; PURCHASE.—Section 8434(c) of title 5, United States Code, is amended to read as follows:

"(c) Notwithstanding the elimination of a method of payment by the Board, an employee, Member, former employee, or former Member may elect the eliminated method if the elimination of such method becomes effective less than 5 years before the date on which that individual's annuity commences.".

(d) PROTECTIONS FOR SPOUSES AND FORMER SPOUSES.—Section 8435 of title 5, United States Code, is amended—

(1) in subsection (a)(1)(A) by striking "subsection (b)(3), (b)(4), (c)(3), or (c)(4) of section 8433 of this title or change an election previously made under subsection (b)(1), (b)(2), (c)(1), or (c)(2)" and inserting "subsection (b)(3) or (b)(4) of section 8433 of this title or change an election previously made under subsection (b)(1) or (b)(2)";

(2) by striking subsection (b);

(3) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively;

(4) in subsection (b) (as so redesignated by paragraph (3) of this subsection) by amending paragraph (2) to read as follows:

"(2) Paragraph (1) shall not apply if—

"(A) a joint waiver of such method is made, in writing, by the employee or Member and the spouse; or

"(B) the employee or Member waives such method, in writing, after establishing to the satisfaction of the Executive Director that circumstances described under subsection (a)(2) (A) or (B) make the requirement of a joint waiver inappropriate."; and

(5) in subsection (c)(1) (as so redesignated by paragraph (3) of this subsection) by striking "and a transfer may not be made under section 8433(d) of this title".

(e) JUSTICES AND JUDGES.—Section 8440a(b) of title 5, United States Code, is amended—

(1) in paragraph (5) by striking "Section 8433(d)" and inserting "Section 8433(b)"; and

(2) by striking paragraphs (7) and (8) and inserting the following:

"(7) Notwithstanding paragraphs (4) and (5), if any justice or judge retires under subsection (a) or (b) of section 371 or section 372(a) of title 28, or resigns without having met the age and service requirements set forth under section 371(c) of title 28, and such justice's or judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b).".

(f) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b of title 5, United States Code, is amended—

(1) in subsection (b)(4) by amending subparagraph (B) to read as follows:

"(B) Section 8433(b) of this title applies to any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under section 377 of title 28 or section 2(c) of the Retirement and Survivors Annuities for Bankruptcy Judges and Magistrates Act of 1988.";

(2) in subsection (b)(4)(C) by striking "Section 8433(d)" and inserting "Section 8433(b)";

(3) in subsection (b)(5) by striking "retirement under section 377 of title 28 is" and inserting "any of the actions described under paragraph (4) (A), (B), or (C) shall be considered";

(4) in subsection (b) by striking paragraph (8) and redesignating paragraph (9) as paragraph (8); and

(5) in paragraph (8) of subsection (b) (as so redesignated by paragraph (4) of this subsection)—

(A) by striking "Notwithstanding subparagraphs (A) and (B) of paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b) or (c)" and inserting "Notwithstanding paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b)"; and

(B) by striking "and (c), as applicable".

(g) CLAIMS COURT JUDGES.—Section 8440c of title 5, United States Code, is amended—

(1) in subsection (b)(4)(B) by striking "Section 8433(d)" and inserting "Section 8433(b)";

(2) in subsection (b)(5) by striking "retirement under section 178 of title 28 is" and inserting "any of the actions described in paragraph (4) (A) or (B) shall be considered";

(3) in subsection (b) by striking paragraph (8) and redesignating paragraph (9) as paragraph (8); and

(4) in paragraph (8) (as so redesignated by paragraph (3) of this subsection) by striking "Notwithstanding paragraph (4)(A)" and inserting "Notwithstanding paragraph (4)".

(h) JUDGES OF THE UNITED STATES COURT OF VETERANS APPEALS.—Section 8440d(b)(5) of title 5, United States Code, is amended by striking "A transfer shall be made as provided in section 8433(d) of this title" and inserting "Section 8433(b) of this title applies".

(i) TECHNICAL AND CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 8351(b)(5)(B) (as so redesignated by subsection (a)(3) of this section) by striking "section 8433(i)" and inserting "section 8433(g)";

(2) in section 8351(b)(5)(D) (as so redesignated by subsection (a)(3) of this section) by striking "section 8433(i)" and inserting "section 8433(g)";

(3) in section 8433(b)(4) by striking "subsection (e)" and inserting "subsection (c)";

(4) in section 8433(d)(1) (as so redesignated by subsection (b)(2) of this section) by striking "(d) of section 8435" and inserting "(c) of section 8435";

(5) in section 8433(d)(2) (as so redesignated by subsection (b)(2) of this section) by striking "section 8435(d)" and inserting "section 8435(c)";

(6) in section 8433(e) (as so redesignated by subsection (b)(2) of this section) by striking "section 8435(d)(2)" and inserting "section 8435(c)(2)";

(7) in section 8433(g)(5) (as so redesignated by subsection (b)(2) of this section) by striking "section 8435(f)" and inserting "section 8435(e)";

(8) in section 8434(b) by striking "section 8435(c)" and inserting "section 8435(b)";

(9) in section 8435(a)(1)(B) by striking "subsection (c)" and inserting "subsection (b)";

(10) in section 8435(d)(1)(B) (as so redesignated by subsection (d)(3) of this section) by striking "subsection (d)(2)" and inserting "subsection (c)(2)";

(11) in section 8435(d)(3)(A) (as so redesignated by subsection (d)(3) of this section) by striking "subsection (c)(1)" and inserting "subsection (b)(1)";

(12) in section 8435(d)(6) (as so redesignated by subsection (d)(3) of this section) by striking "or (c)(2)" and inserting "or (b)(2)";

(13) in section 8435(e)(1)(A) (as so redesignated by subsection (d)(3) of this section) by striking "section 8433(i)" and inserting "section 8433(g)";

(14) in section 8435(e)(2) (as so redesignated by subsection (d)(3) of this section) by striking "section 8433(i) of this title shall not be approved if approval would have the result described in subsection (d)(1)" and inserting "section 8433(g) of this title shall not be approved if approval would have the result described under subsection (c)(1)";

(15) in section 8435(g) (as so redesignated by subsection (d)(3) of this section) by striking "section 8433(i)" and inserting "section 8433(g)";

(16) in section 8437(c)(5) by striking "section 8433(i)" and inserting "section 8433(g)"; and

(17) in section 8440a(b)(6) by striking "section 8351(b)(7)" and inserting "section 8351(b)(5)".

Regulations.
5 USC 8351 note.

(j) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act or on such earlier date as the Executive Director of the Federal Retirement Thrift Investment Board shall provide in regulation.

SEC. 10. AMENDMENTS TO ALASKA RAILROAD TRANSFER ACT OF 1982 REGARDING FORMER FEDERAL EMPLOYEES.

(a) APPLICABILITY OF VOLUNTARY SEPARATION INCENTIVES TO CERTAIN FORMER FEDERAL EMPLOYEES.—Section 607(a) of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206(a)) is amended by adding at the end the following:

"(4)(A) The State-owned railroad shall be included in the definition of 'agency' for purposes of section 3 (a), (b), (c), and (e) of the Federal Workforce Restructuring Act of 1994 and may elect to participate in the voluntary separation incentive program established under such Act. Any employee of

the State-owned railroad who meets the qualifications as described under the first sentence of paragraph (1) shall be deemed an employee under such Act.

"(B) An employee who has received a voluntary separation incentive payment under this paragraph and accepts employment with the State-owned railroad within 5 years after the date of separation on which payment of the incentive is based shall be required to repay the entire amount of the incentive payment unless the head of the State-owned railroad determines that the individual involved possesses unique abilities and is the only qualified applicant available for the position.".

(b) LIFE AND HEALTH INSURANCE BENEFITS.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by striking subsection (e) and inserting the following:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A) on the date of the enactment of the Federal Workforce Restructuring Act of 1994, is an employee of the State-owned railroad;

"(B) has 20 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(C)(i) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(ii) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985, through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2) until the date such person retires from the State-owned railroad.".

Approved March 30, 1994.

LEGISLATIVE HISTORY—H.R. 3345 (S. 1535):

HOUSE REPORTS: Nos. 103-386 (Comm. on Post Office and Civil Service) and 103-435 (Comm. of Conference).
SENATE REPORTS: No. 103-223 accompanying S. 1535 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Feb. 10, considered and passed House.
Feb. 11, considered and passed Senate, amended.
Mar. 11, Senate concurred in House amendment with an amendment.
Mar. 23, House agreed to conference report.
Mar. 24, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Mar. 30, Presidential statement.

Public Law 103-227
103d Congress

An Act

To improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes.

Mar. 31, 1994
[H.R. 1804]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Goals 2000: Educate America Act. Intergovernmental relations. 20 USC 5801 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act (other than titles V and IX) may be cited as the "Goals 2000: Educate America Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

TITLE I—NATIONAL EDUCATION GOALS

Sec. 101. Purpose.
Sec. 102. National education goals.

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

Sec. 201. Purpose.
Sec. 202. National Education Goals Panel.
Sec. 203. Duties.
Sec. 204. Powers of the Goals Panel.
Sec. 205. Administrative provisions.
Sec. 206. Director and staff; experts and consultants.
Sec. 207. Early childhood assessment.

PART B—NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL

Sec. 211. Purpose.
Sec. 212. National Education Standards and Improvement Council.
Sec. 213. Duties.
Sec. 214. Annual reports.
Sec. 215. Powers of the Council.
Sec. 216. Publication for public comment.
Sec. 217. Administrative provisions.
Sec. 218. Director and staff; experts and consultants.
Sec. 219. Opportunity-To-Learn Development Grant.
Sec. 220. Assessment development and evaluation grants.
Sec. 221. Evaluation.

PART C—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

Sec. 231. Purposes.
Sec. 232. Federal leadership.

Sec. 233. Office of educational technology.
Sec. 234. Uses of funds.
Sec. 235. Non-Federal share.
Sec. 236. Office of training technology transfer.

PART D—AUTHORIZATION OF APPROPRIATIONS

Sec. 241. Authorization of appropriations.

TITLE III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

Sec. 301. Findings.
Sec. 302. Purpose.
Sec. 303. Authorization of appropriations.
Sec. 304. Allotment of funds.
Sec. 305. State applications.
Sec. 306. State improvement plans.
Sec. 307. Secretary's review of applications; payments.
Sec. 308. State use of funds.
Sec. 309. Subgrants for local reform and professional development.
Sec. 310. Availability of information and training.
Sec. 311. Waivers of statutory and regulatory requirements.
Sec. 312. Progress reports.
Sec. 313. Technical and other assistance regarding school finance equity.
Sec. 314. National leadership.
Sec. 315. Assistance to the outlying areas and to the Secretary of the Interior.
Sec. 316. Clarification regarding State standards and assessments.
Sec. 317. State planning for improving student achievement through integration of technology into the curriculum.
Sec. 318. Prohibition on Federal mandates, direction, and control.
Sec. 319. State and local government control of education.

TITLE IV—PARENTAL ASSISTANCE

Sec. 401. Parental information and resource centers.
Sec. 402. Applications.
Sec. 403. Uses of funds.
Sec. 404. Technical assistance.
Sec. 405. Definitions.
Sec. 406. Reports.
Sec. 407. General provision.
Sec. 408. Authorization of appropriations.

TITLE V—NATIONAL SKILL STANDARDS BOARD

Sec. 501. Short title.
Sec. 502. Purpose.
Sec. 503. Establishment of National Board.
Sec. 504. Functions of the National Board.
Sec. 505. Deadlines.
Sec. 506. Reports.
Sec. 507. Authorization of appropriations.
Sec. 508. Definitions.
Sec. 509. Sunset provision.

TITLE VI—INTERNATIONAL EDUCATION PROGRAM

Sec. 601. International Education Program.

TITLE VII—SAFE SCHOOLS

Sec. 701. Short title; statement of purpose.
Sec. 702. Safe schools program authorized.
Sec. 703. Eligible applicants.
Sec. 704. Applications and plans.
Sec. 705. Use of funds.
Sec. 706. National activities.
Sec. 707. National cooperative education statistics system.
Sec. 708. Reports.
Sec. 709. Coordination of Federal assistance.

TITLE VIII—MINORITY-FOCUSED CIVICS EDUCATION

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Grants authorized; authorization of appropriations.
Sec. 804. Definitions.

Sec. 805. Applications.

TITLE IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 901. Short title.
Sec. 902. Findings.

PART A—GENERAL PROVISIONS REGARDING THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 911. Repeal.
Sec. 912. Office of Educational Research and Improvement.
Sec. 913. Assistant Secretary for Educational Research and Improvement.
Sec. 914. Savings provision.
Sec. 915. Existing grants and contracts.

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

Sec. 921. Establishment within Office of Educational Research and Improvement.

PART C—NATIONAL RESEARCH INSTITUTES

Sec. 931. Establishment within the Office of Educational Research and Improvement.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

Sec. 941. Establishment within Office of Educational Research and Improvement.

PART E—NATIONAL LIBRARY OF EDUCATION

Sec. 951. Establishment within Office of Educational Research and Improvement.

PART F—STAR SCHOOLS

Sec. 961. Star schools.

PART G—OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION

Sec. 971. Office of Comprehensive School Health Education.

PART H—FIELD READERS

Sec. 981. Field readers.

PART I—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

Sec. 991. National Occupational Information Coordinating Committee.

TITLE X—MISCELLANEOUS

PART A—MISCELLANEOUS PROVISIONS

Sec. 1011. School prayer.
Sec. 1012. Funding for the Individuals with Disabilities Education Act.
Sec. 1013. National Board for professional teaching standards.
Sec. 1014. Forgiveness of certain overpayments.
Sec. 1015. Study of goals 2000 and students with disabilities.
Sec. 1016. Amendments to summer youth employment and training program.
Sec. 1017. Protection of pupils.
Sec. 1018. Contraceptive devices.
Sec. 1019. Assessments.
Sec. 1020. Public schools.
Sec. 1021. Assessment of educational progress activities.
Sec. 1022. Sense of the Congress.

PART B—GUN-FREE SCHOOLS

Sec. 1031. Short title.
Sec. 1032. Gun-free requirements in elementary and secondary schools.

PART C—ENVIRONMENTAL TOBACCO SMOKE

Sec. 1041. Short title.
Sec. 1042. Definitions.
Sec. 1043. Nonsmoking policy for children's services.
Sec. 1044. Preemption.

PART D—MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP

Sec. 1051. Short title.

Sec. 1052. Grants for midnight basketball league training and partnership programs.

Sec. 1053. Public housing midnight basketball league programs.

20 USC 5801. **SEC. 2. PURPOSE.**

The purpose of this Act is to provide a framework for meeting the National Education Goals established by title I of this Act by—

(1) promoting coherent, nationwide, systemic education reform;

(2) improving the quality of learning and teaching in the classroom and in the workplace;

(3) defining appropriate and coherent Federal, State, and local roles and responsibilities for education reform and lifelong learning;

(4) establishing valid and reliable mechanisms for—

(A) building a broad national consensus on American education reform;

(B) assisting in the development and certification of high-quality, internationally competitive content and student performance standards;

(C) assisting in the development and certification of opportunity-to-learn standards; and

(D) assisting in the development and certification of high-quality assessment measures that reflect the internationally competitive content and student performance standards;

(5) supporting new initiatives at the Federal, State, local, and school levels to provide equal educational opportunity for all students to meet high academic and occupational skill standards and to succeed in the world of employment and civic participation;

(6) providing a framework for the reauthorization of all Federal education programs by—

(A) creating a vision of excellence and equity that will guide all Federal education and related programs;

(B) providing for the establishment of high-quality, internationally competitive content and student performance standards and strategies that all students will be expected to achieve;

(C) providing for the establishment of high-quality, internationally competitive opportunity-to-learn standards that all States, local educational agencies, and schools should achieve;

(D) encouraging and enabling all State educational agencies and local educational agencies to develop comprehensive improvement plans that will provide a coherent framework for the implementation of reauthorized Federal education and related programs in an integrated fashion that effectively educates all children to prepare them to participate fully as workers, parents, and citizens;

(E) providing resources to help individual schools, including those serving students with high needs, develop and implement comprehensive improvement plans; and

(F) promoting the use of technology to enable all students to achieve the National Education Goals;

(7) stimulating the development and adoption of a voluntary national system of skill standards and certification to

serve as a cornerstone of the national strategy to enhance workforce skills; and

(8) assisting every elementary and secondary school that receives funds under this Act to actively involve parents and families in supporting the academic work of their children at home and in providing parents with skills to advocate for their children at school.

SEC. 3. DEFINITIONS. 20 USC 5802.

(a) TITLES I, II, III, AND X.—As used in titles I, II, III, and X of this Act—

(1) the terms "all students" and "all children" mean students or children from a broad range of backgrounds and circumstances, including disadvantaged students and children, students or children with diverse racial, ethnic, and cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students or children with disabilities, students or children with limited-English proficiency, school-aged students or children who have dropped out of school, migratory students or children, and academically talented students and children;

(2) the term "Bureau", unless otherwise provided, means the Bureau of Indian Affairs;

(3) the terms "community", "public", and "advocacy group" include representatives of organizations advocating for the education of American Indian, Alaska Native, and Native Hawaiian children and Indian tribes;

(4) the term "content standards" means broad descriptions of the knowledge and skills students should acquire in a particular subject area;

(5) the term "Governor" means the chief executive of the State;

(6) the terms "local educational agency" and "State educational agency" have the meaning given such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(7) the term "opportunity-to-learn standards" means the criteria for, and the basis of, assessing the sufficiency or quality of the resources, practices, and conditions necessary at each level of the education system (schools, local educational agencies, and States) to provide all students with an opportunity to learn the material in voluntary national content standards or State content standards;

(8) the term "outlying areas" means Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia;

(9) the term "performance standards" means concrete examples and explicit definitions of what students have to know and be able to do to demonstrate that such students are proficient in the skills and knowledge framed by content standards;

(10) the term "related services" has the same meaning given such term under section 602 of the Individuals with Disabilities Education Act;

(11) the term "State assessment" means measures of student performance which include at least 1 instrument of evaluation, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate

the progress of all students in the State toward learning the material in State content standards in 1 or more subject areas;

(12) the term "school" means a public school that is under the authority of the State educational agency or a local educational agency or, for the purpose of carrying out section 315(b), a school that is operated or funded by the Bureau;

(13) the term "Secretary", unless otherwise provided, means the Secretary of Education; and

(14) the term "State", unless otherwise provided, means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(b) TITLES IV, V, VI, VII, VIII, AND IX.—For the purpose of titles IV, V, VI, VII, VIII, and IX—

(1) except as provided in paragraph (3) and unless otherwise provided, the terms used in such titles have the same meanings given such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(2) the term "Bureau", unless otherwise provided, means the Bureau of Indian Affairs; and

(3) the term "Secretary", unless otherwise provided, means the Secretary of Education.

TITLE I—NATIONAL EDUCATION GOALS

20 USC 5811.

SEC. 101. PURPOSE.

The purpose of this title is to establish National Education Goals.

20 USC 5812.

SEC. 102. NATIONAL EDUCATION GOALS.

The Congress declares that the National Education Goals are the following:

(1) SCHOOL READINESS.—(A) By the year 2000, all children in America will start school ready to learn.

(B) The objectives for this goal are that—

(i) all children will have access to high-quality and developmentally appropriate preschool programs that help prepare children for school;

(ii) every parent in the United States will be a child's first teacher and devote time each day to helping such parent's preschool child learn, and parents will have access to the training and support parents need; and

(iii) children will receive the nutrition, physical activity experiences, and health care needed to arrive at school with healthy minds and bodies, and to maintain the mental alertness necessary to be prepared to learn, and the number of low-birthweight babies will be significantly reduced through enhanced prenatal health systems.

(2) SCHOOL COMPLETION.—(A) By the year 2000, the high school graduation rate will increase to at least 90 percent.

(B) The objectives for this goal are that—

(i) the Nation must dramatically reduce its school dropout rate, and 75 percent of the students who do drop out will successfully complete a high school degree or its equivalent; and

(ii) the gap in high school graduation rates between American students from minority backgrounds and their non-minority counterparts will be eliminated.

(3) STUDENT ACHIEVEMENT AND CITIZENSHIP.—(A) By the year 2000, all students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.

(B) The objectives for this goal are that—

(i) the academic performance of all students at the elementary and secondary level will increase significantly in every quartile, and the distribution of minority students in each quartile will more closely reflect the student population as a whole;

(ii) the percentage of all students who demonstrate the ability to reason, solve problems, apply knowledge, and write and communicate effectively will increase substantially;

(iii) all students will be involved in activities that promote and demonstrate good citizenship, good health, community service, and personal responsibility;

(iv) all students will have access to physical education and health education to ensure they are healthy and fit;

(v) the percentage of all students who are competent in more than one language will substantially increase; and

(vi) all students will be knowledgeable about the diverse cultural heritage of this Nation and about the world community.

(4) TEACHER EDUCATION AND PROFESSIONAL DEVELOPMENT.—

(A) By the year 2000, the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

(B) The objectives for this goal are that—

(i) all teachers will have access to preservice teacher education and continuing professional development activities that will provide such teachers with the knowledge and skills needed to teach to an increasingly diverse student population with a variety of educational, social, and health needs;

(ii) all teachers will have continuing opportunities to acquire additional knowledge and skills needed to teach challenging subject matter and to use emerging new methods, forms of assessment, and technologies;

(iii) States and school districts will create integrated strategies to attract, recruit, prepare, retrain, and support the continued professional development of teachers, administrators, and other educators, so that there is a highly talented work force of professional educators to teach challenging subject matter; and

(iv) partnerships will be established, whenever possible, among local educational agencies, institutions of higher education, parents, and local labor, business, and professional associations to provide and support programs for the professional development of educators.

(5) MATHEMATICS AND SCIENCE.—(A) By the year 2000, United States students will be first in the world in mathematics and science achievement.

(B) The objectives for this goal are that—

(i) mathematics and science education, including the metric system of measurement, will be strengthened throughout the system, especially in the early grades;

(ii) the number of teachers with a substantive background in mathematics and science, including the metric system of measurement, will increase by 50 percent; and

(iii) the number of United States undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering will increase significantly.

(6) ADULT LITERACY AND LIFELONG LEARNING.—(A) By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

(B) The objectives for this goal are that—

(i) every major American business will be involved in strengthening the connection between education and work;

(ii) all workers will have the opportunity to acquire the knowledge and skills, from basic to highly technical, needed to adapt to emerging new technologies, work methods, and markets through public and private educational, vocational, technical, workplace, or other programs;

(iii) the number of quality programs, including those at libraries, that are designed to serve more effectively the needs of the growing number of part-time and midcareer students will increase substantially;

(iv) the proportion of the qualified students, especially minorities, who enter college, who complete at least two years, and who complete their degree programs will increase substantially;

(v) the proportion of college graduates who demonstrate an advanced ability to think critically, communicate effectively, and solve problems will increase substantially; and

(vi) schools, in implementing comprehensive parent involvement programs, will offer more adult literacy, parent training and life-long learning opportunities to improve the ties between home and school, and enhance parents' work and home lives.

(7) SAFE, DISCIPLINED, AND ALCOHOL- AND DRUG-FREE SCHOOLS.—

(A) By the year 2000, every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.

(B) The objectives for this goal are that—

(i) every school will implement a firm and fair policy on use, possession, and distribution of drugs and alcohol;

(ii) parents, businesses, governmental and community organizations will work together to ensure the rights of students to study in a safe and secure environment that is free of drugs and crime, and that schools provide a healthy environment and are a safe haven for all children;

(iii) every local educational agency will develop and implement a policy to ensure that all schools are free of violence and the unauthorized presence of weapons;

(iv) every local educational agency will develop a sequential, comprehensive kindergarten through twelfth grade drug and alcohol prevention education program;

(v) drug and alcohol curriculum should be taught as an integral part of sequential, comprehensive health education;

(vi) community-based teams should be organized to provide students and teachers with needed support; and

(vii) every school should work to eliminate sexual harassment.

(8) PARENTAL PARTICIPATION.—

(A) By the year 2000, every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

(B) The objectives for this Goal are that—

(i) every State will develop policies to assist local schools and local educational agencies to establish programs for increasing partnerships that respond to the varying needs of parents and the home, including parents of children who are disadvantaged or bilingual, or parents of children with disabilities;

(ii) every school will actively engage parents and families in a partnership which supports the academic work of children at home and shared educational decisionmaking at school; and

(iii) parents and families will help to ensure that schools are adequately supported and will hold schools and teachers to high standards of accountability.

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

SEC. 201. PURPOSE. 20 USC 5821.

It is the purpose of this part to establish a bipartisan mechanism for—

(1) building a national consensus for education improvement;

(2) reporting on progress toward achieving the National Education Goals; and

(3) reviewing the voluntary national content standards, voluntary national student performance standards and voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council, as well as the criteria for the certification of such standards, and the criteria for the certification of State assessments certified by the National Education Standards and Improvement Council, with the option of disapproving such standards and criteria not later than 90 days after receipt from such Council.

20 USC 5822.

SEC. 202. NATIONAL EDUCATION GOALS PANEL.

(a) ESTABLISHMENT.—There is established in the executive branch a National Education Goals Panel (hereafter in this title referred to as the "Goals Panel") to advise the President, the Secretary, and the Congress.

(b) COMPOSITION.—The Goals Panel shall be composed of 18 members (hereafter in this part referred to as "members"), including—

President.

(1) 2 members appointed by the President;

(2) 8 members who are Governors, 3 of whom shall be from the same political party as the President and 5 of whom shall be from the opposite political party of the President, appointed by the Chairperson and Vice Chairperson of the National Governors' Association, with the Chairperson and Vice Chairperson each appointing representatives of such Chairperson's or Vice Chairperson's respective political party, in consultation with each other;

(3) 4 Members of the Congress, of whom—

(A) 1 member shall be appointed by the Majority Leader of the Senate from among the Members of the Senate;

(B) 1 member shall be appointed by the Minority Leader of the Senate from among the Members of the Senate;

(C) 1 member shall be appointed by the Majority Leader of the House of Representatives from among the Members of the House of Representatives; and

(D) 1 member shall be appointed by the Minority Leader of the House of Representatives from among the Members of the House of Representatives; and

(4) 4 members of State legislatures appointed by the President of the National Conference of State Legislatures, of whom 2 shall be of the same political party as the President of the United States.

(c) SPECIAL APPOINTMENT RULES.—

(1) IN GENERAL.—The members appointed pursuant to subsection (b)(2) shall be appointed as follows:

(A) If the Chairperson of the National Governors' Association is from the same political party as the President, the Chairperson shall appoint 3 individuals and the Vice Chairperson of such association shall appoint 5 individuals.

(B) If the Chairperson of the National Governors' Association is from the opposite political party as the President, the Chairperson shall appoint 5 individuals and the Vice Chairperson of such association shall appoint 3 individuals.

(2) SPECIAL RULE.—If the National Governors' Association has appointed a panel that meets the requirements of subsections (b) and (c), except for the requirements of paragraph (4) of subsection (b), prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of such subsections and shall not be required to be reappointed pursuant to such subsections.

(3) REPRESENTATION.—To the extent feasible, the membership of the Goals Panel shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States.

(d) TERMS.—The terms of service of members shall be as follows:

(1) PRESIDENTIAL APPOINTEES.—Members appointed under subsection (b)(1) shall serve at the pleasure of the President.

(2) GOVERNORS.—Members appointed under paragraph (2) of subsection (b) shall serve for 2-year terms, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of such members' terms concluding every 2 years.

(3) CONGRESSIONAL APPOINTEES AND STATE LEGISLATORS.—Members appointed under paragraphs (3) and (4) of subsection (b) shall serve for 2-year terms.

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

(f) INITIATION.—The Goals Panel may begin to carry out its duties under this part when 10 members of the Goals Panel have been appointed.

(g) VACANCIES.—A vacancy on the Goals Panel shall not affect the powers of the Goals Panel, but shall be filled in the same manner as the original appointment.

(h) TRAVEL.—Each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Goals Panel away from the home or regular place of business of the member.

(i) CHAIRPERSON.—

(1) IN GENERAL.—The members shall select a Chairperson from among the members.

(2) TERM AND POLITICAL AFFILIATION.—The Chairperson of the Goals Panel shall serve a 1-year term and shall alternate between political parties.

(j) CONFLICT OF INTEREST.—A member of the Goals Panel who is an elected official of a State which has developed content, student performance, or opportunity-to-learn standards may not participate in Goals Panel consideration of such standards.

(k) EX OFFICIO MEMBER.—If the President has not appointed the Secretary as 1 of the 2 members the President appoints pursuant to subsection (b)(1), then the Secretary shall serve as a nonvoting ex officio member of the Goals Panel.

20 USC 5823.

SEC. 203. DUTIES.

(a) IN GENERAL.—The Goals Panel shall—

(1) report to the President, the Secretary, and the Congress regarding the progress the Nation and the States are making toward achieving the National Education Goals established under title I of this Act, including issuing an annual report;

(2) report on State opportunity-to-learn standards and strategies and the progress of States that are implementing such standards and strategies to help all students meet State content standards and State student performance standards;

(3) submit to the President nominations for appointment to the National Education Standards and Improvement Council in accordance with subsections (b) and (c) of section 212;

(4) after taking into consideration the public comments received pursuant to section 216 and not later than 90 days after receipt, review the—

(A) criteria developed by the National Education Standards and Improvement Council for the certification of State content standards, State student performance standards, State assessments, and State opportunity-to-learn standards; and

(B) voluntary national content standards, voluntary national student performance standards and voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council,

except that the Goals Panel shall have the option of disapproving such criteria and standards by a two-thirds majority vote of the membership of the Goals Panel not later than 90 days after receipt of such criteria and standards;

(5) report on promising or effective actions being taken at the national, State, and local levels, and in the public and private sectors, to achieve the National Education Goals; and

(6) help build a nationwide, bipartisan consensus for the reforms necessary to achieve the National Education Goals.

(b) REPORT.—

(1) IN GENERAL.—The Goals Panel shall annually prepare and submit to the President, the Secretary, the appropriate committees of Congress, and the Governor of each State a report that shall—

(A) report on the progress of the United States toward achieving the National Education Goals;

(B) identify actions that should be taken by Federal, State, and local governments to enhance progress toward achieving the National Education Goals and to provide all students with a fair opportunity-to-learn; and

(C) report on State opportunity-to-learn standards and strategies and the progress of States that are implementing such standards and strategies to help all students meet State content standards and State student performance standards.

(2) FORM; DATA.—Reports shall be presented in a form, and include data, that is understandable to parents and the general public.

20 USC 5824.

SEC. 204. POWERS OF THE GOALS PANEL.

(a) HEARINGS.—

(1) IN GENERAL.—The Goals Panel shall, for the purpose of carrying out this part, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Goals Panel considers appropriate.

(2) REPRESENTATION.—In carrying out this part, the Goals Panel shall conduct hearings to receive reports, views, and analyses of a broad spectrum of experts and the public on the establishment of voluntary national content standards, voluntary national student performance standards, voluntary national opportunity-to-learn standards, and State assessments described in section 213(f).

(b) INFORMATION.—The Goals Panel may secure directly from any department or agency of the United States information necessary to enable the Goals Panel to carry out this part. Upon request of the Chairperson of the Goals Panel, the head of a department or agency shall furnish such information to the Goals Panel to the extent permitted by law.

(c) POSTAL SERVICES.—The Goals Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(d) USE OF FACILITIES.—The Goals Panel may, with consent of any agency or instrumentality of the United States, or of any State or political subdivision thereof, use the research, equipment, services, and facilities of such agency, instrumentality, State, or subdivision, respectively.

(e) ADMINISTRATIVE ARRANGEMENTS AND SUPPORT.—

(1) IN GENERAL.—The Secretary shall provide to the Goals Panel, on a reimbursable basis, such administrative support services as the Goals Panel may request.

(2) CONTRACTS AND OTHER ARRANGEMENTS.—The Secretary, to the extent appropriate, and on a reimbursable basis, shall make contracts and other arrangements that are requested by the Goals Panel to help the Goals Panel compile and analyze data or carry out other functions necessary to the performance of such responsibilities.

SEC. 205. ADMINISTRATIVE PROVISIONS. 20 USC 5825.

(a) MEETINGS.—The Goals Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Goals Panel or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING AND FINAL DECISION.—

(1) VOTING.—No individual may vote, or exercise any of the powers of a member, by proxy.

(2) FINAL DECISIONS.—

(A) In making final decisions of the Goals Panel with respect to the exercise of its duties and powers the Goals Panel shall operate on the principle of consensus among the members of the Goals Panel.

(B) Except as otherwise provided in this part, if a vote of the membership of the Goals Panel is required to reach a final decision with respect to the exercise of its duties and powers, then such final decision shall be made by a three-fourths vote of the members of the Goals Panel who are present and voting.

(d) PUBLIC ACCESS.—The Goals Panel shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

20 USC 5826.

SEC. 206. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Goals Panel, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, shall appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF EMPLOYEES.—

(1) IN GENERAL.—(A) The Director may appoint not more than 4 additional employees to serve as staff to the Goals Panel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) The employees appointed under subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) ADDITIONAL EMPLOYEES.—The Director may appoint additional employees to serve as staff to the Goals Panel in accordance with title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Goals Panel may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Goals Panel, the head of any department or agency of the United States may detail any of the personnel of such agency to the Goals Panel to assist the Goals Panel in its duties under this part.

20 USC 5827.

SEC. 207. EARLY CHILDHOOD ASSESSMENT.

(a) IN GENERAL.—The Goals Panel shall support the work of its Resource and Technical Planning Groups on School Readiness (hereafter in this section referred to as the "Groups") to improve the methods of assessing the readiness of children for school that would lead to alternatives to currently used early childhood assessments.

(b) ACTIVITIES.—The Groups shall—

(1) develop a model of elements of school readiness that address a broad range of early childhood developmental needs, including the needs of children with disabilities;

(2) create clear guidelines regarding the nature, functions, and uses of early childhood assessments, including assessment formats that are appropriate for use in culturally and linguistically diverse communities, based on model elements of school readiness;

(3) monitor and evaluate early childhood assessments, including the ability of existing assessments to provide valid information on the readiness of children for school; and

(4) monitor and report on the long-term collection of data on the status of young children to improve policy and practice,

including the need for new sources of data necessary to assess the broad range of early childhood developmental needs.

(c) ADVICE.—The Groups shall advise and assist the Congress, the Secretary, the Goals Panel, and others regarding how to improve the assessment of young children and how such assessments can improve services to children.

(d) REPORT.—The Goals Panel shall provide reports on the work of the Groups to the appropriate committees of the Congress, the Secretary, and the public.

PART B—NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL

SEC. 211. PURPOSE. 20 USC 5841.

It is the purpose of this part to establish a mechanism to—

(1) certify and periodically review voluntary national content standards and voluntary national student performance standards that define what all students should know and be able to do;

(2) certify State content standards and State student performance standards submitted by States on a voluntary basis, if such standards are comparable or higher in rigor and quality to the voluntary national content standards and voluntary national student performance standards certified by the National Education Standards and Improvement Council;

(3) certify and periodically review voluntary national opportunity-to-learn standards that describe the conditions of teaching and learning necessary for all students to have a fair opportunity to achieve the knowledge and skills described in the voluntary national content standards and the voluntary national student performance standards certified by the National Education Standards and Improvement Council;

(4) certify opportunity-to-learn standards submitted by States on a voluntary basis, if such standards are comparable or higher in rigor and quality to the voluntary national opportunity-to-learn standards certified by the National Education Standards and Improvement Council; and

(5) certify State assessments submitted by States or groups of States on a voluntary basis, if such assessments—

(A) are aligned with and support State content standards certified by such Council; and

(B) are valid, reliable, and consistent with relevant, nationally recognized, professional and technical standards for assessment when used for their intended purposes.

SEC. 212. NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL. 20 USC 5842.

(a) ESTABLISHMENT.—There is established in the executive branch a National Education Standards and Improvement Council (hereafter in this part referred to as the "Council").

(b) COMPOSITION.—

(1) IN GENERAL.—The Council shall be composed of 19 members (hereafter in this part referred to as "members") who shall be appointed as follows:

(A) The President shall appoint 7 individuals to the Council from among nominations received from the Secretary under subsection (c)(1)(B)(i), of whom— President

(i) 2 shall be from each of the categories described in clause (i), (iii), or (iv) of subsection (c)(1)(A); and

(ii) 1 shall be from the category described in clause (ii) of subsection (c)(1)(A).

President. (B) The President shall appoint 12 individuals to the Council, of whom—

(i) 4 individuals shall be from nominations received from the Speaker of the House of Representatives, of whom 1 individual shall be from each of the categories described in clauses (i) through (iv) of subsection (c)(1)(A);

(ii) 4 individuals shall be from nominations received from the Majority Leader of the Senate, of whom 1 individual shall be from each of the categories described in clauses (i) through (iv) of subsection (c)(1)(A); and

(iii) 4 individuals shall be from nominations received from the Goals Panel, of whom 1 individual shall be from each of the categories described in clauses (i) through (iv) of subsection (c)(1)(A).

President. (2) SPECIAL RULES.—From among nominations received pursuant to subparagraphs (A) and (B) of paragraph (1) the President shall appoint to the Council—

(A) 1 individual representative of post-secondary educational institutions;

(B) 1 individual representative of organized labor; and

(C) 1 individual who is representative of business and is a member of the National Skill Standards Board established under title V.

(c) APPOINTMENT RULES AND QUALIFICATIONS.—

(1) APPOINTMENT CATEGORIES.—(A) The members of the Council shall be appointed from among the following categories of individuals:

(i) Professional educators, including elementary and secondary classroom teachers, preschool educators, related services personnel, and other school-based professionals, State or local educational agency administrators, and other educators.

(ii) Representatives of business and industry, organized labor, and postsecondary educational institutions.

(iii) Representatives of the public, including representatives of advocacy, civil rights and disability groups, parents, civic leaders, State or local education policymakers (including members of State, local, or tribal school boards).

(iv) Education experts, including experts in measurement and assessment, curriculum, school finance and equity, and school reform.

(B)(i) The Secretary shall nominate 21 individuals for membership on the Council, of whom—

(I) 3 individuals shall be nominated from the category described in subparagraph (A)(i); and

(II) 6 individuals shall be nominated from each of the categories described in clauses (ii) through (iv) of subparagraph (A).

(ii) The Speaker of the House of Representatives, in consultation with the Majority Leader and Minority Leader of the House of Representatives, shall nominate 12 individuals

for membership on the Council, of whom 3 individuals shall be nominated from each of the categories described in clauses (i) through (iv) of subparagraph (A).

(iii) The Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, shall nominate 12 individuals for membership on the Council, of whom 3 individuals shall be nominated from each of the categories described in clauses (i) and (iv) of subparagraph (A).

(iv) The Goals Panel shall nominate 12 individuals for membership on the Council, of whom 3 individuals shall be nominated from each of the categories described in clauses (i) and (iv) of subparagraph (A).

(2) REPRESENTATION.—To the extent feasible, the membership of the Council shall be geographically representative of the United States and reflect the diversity of the United States with regard to race, ethnicity, gender, and disability characteristics.

(3) EXPERTISE OR BACKGROUND.—Not less than one-third of the individuals nominated and appointed under subsection (b) shall have expertise or background in the educational needs of children who are from low-income families, from minority backgrounds, have limited-English proficiency, or have disabilities.

(4) DIVISION BETWEEN POLITICAL PARTIES.—To the extent feasible, the individuals nominated and the individuals appointed to the Council shall be equally divided between the 2 major political parties.

(d) TERMS.—

(1) IN GENERAL.—Members shall be appointed for 3-year terms, with no member serving more than 2 consecutive terms.

(2) STAGGERING.—(A) The Council shall establish initial terms for members of 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year.

(B) The Secretary shall determine, pursuant to a lottery, which members serve terms of 1, 2, or 3 years under subparagraph (A).

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 120 days after the date of enactment of this Act.

(f) INITIATION.—The Council shall begin to carry out the duties of the Council under this part when all 19 members have been appointed.

(g) RETENTION.—In order to retain an appointment to the Council, a member shall attend at least two-thirds of the scheduled meetings of the Council in any given year.

(h) VACANCY.—A vacancy on the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

(i) COMPENSATION.—Members of the Council who are not regular full-time employees of the United States may, while attending meetings or hearings of the Council, be provided compensation at a rate fixed by the Secretary, but not exceeding the maximum rate of basic pay payable for GS–15 of the General Schedule.

(j) CONFLICT OF INTEREST.—

(1) IN GENERAL.—A member of the Council may not concurrently serve as a member of the Goals Panel.

(2) PROHIBITION.—A member of the Council who resides in a State which has developed State content standards, State student performance standards, State opportunity-to-learn standards or State assessments that are submitted to the Council for certification may not participate in Council consideration of such standards and assessments.

(3) SPECIAL RULES.—(A) Notwithstanding any other provision of law, before an individual is appointed to the Council, the official responsible for issuing waivers under section 208(b)(3) of title 18, United States Code, shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a copy of the waiver required by that section. Information contained in the waiver that would not otherwise be publicly available under section 208(d)(1) of title 18, United States Code, shall be provided to such committees, but shall be noted as nonpublic information.

(B) The Council shall develop, consistent with the provisions of and regulations promulgated pursuant to section 208(b)(3) of title 18, United States Code, and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate procedures governing the participation of members in any matter that affects the financial interests of the members or of a person or entity whose interests are imputed to the member.

(k) TRAVEL.—Each member of the Council may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(l) OFFICERS.—The members of the Council shall select officers from among its members. The officers of the Council shall serve for one-year terms.

20 USC 5843.

SEC. 213. DUTIES.

(a) VOLUNTARY NATIONAL CONTENT STANDARDS; VOLUNTARY NATIONAL STUDENT PERFORMANCE STANDARDS.—

(1) IN GENERAL.—The Council, which may consult with outside experts, shall—

(A) identify areas in which voluntary national content standards need to be developed;

(B) certify voluntary national content standards and voluntary national student performance standards using the criteria developed under paragraph (2)(A)(i), that define what all students should know and be able to do;

(C) forward such voluntary national content standards and voluntary national student performance standards to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such standards by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such standards; and

(D) develop a process for periodically reviewing any voluntary national content standards, voluntary national student performance standards, and voluntary national opportunity-to-learn standards that have been certified.

(2) CRITERIA.—(A) The Council, which may consult with outside experts, shall—

(i) identify and develop criteria to be used for certifying the voluntary national content standards and voluntary national student performance standards; and

(ii) before applying such criteria, forward such criteria to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such criteria by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such criteria.

(B) The criteria developed by the Council shall address—

(i) the extent to which the proposed standards are internationally competitive and comparable to the best in the world;

(ii) the extent to which the proposed voluntary national content standards and voluntary national student performance standards reflect the best available knowledge about how all students learn and about how the content area can be most effectively taught;

(iii) the extent to which the proposed voluntary national content standards and voluntary national student performance standards have been developed through an open and public process that provides for input and involvement of all relevant parties, including teachers, related services personnel, and other professional educators, employers and postsecondary education institutions, curriculum and subject matter specialists, parents, advocacy groups, secondary school students, and the public; and

(iv) other factors that the Council deems appropriate.

(C) In developing the criteria, the Council shall work with entities that are developing, or have already developed, content and student performance standards, and any other entities that the Council deems appropriate, to identify appropriate certification criteria.

(b) STATE CONTENT STANDARDS; STATE STUDENT PERFORMANCE STANDARDS.—The Council may certify State content standards and State student performance standards presented on a voluntary basis by a State or group of States, using the criteria developed under subsection (a)(2)(A)(i), if such standards are comparable or higher in rigor and quality to the voluntary national content standards and voluntary national student performance standards certified by the Council.

(c) VOLUNTARY NATIONAL OPPORTUNITY-TO-LEARN STANDARDS.—

(1) IN GENERAL.—The Council, which may consult with outside experts, shall certify exemplary, voluntary national opportunity-to-learn standards that will establish a basis for providing all students a fair opportunity to achieve the knowledge and skills set out in the voluntary national content standards certified by the Council. In carrying out the preceding sentence the Council is authorized to consider proposals for voluntary national opportunity-to-learn standards from groups other than groups that receive grants under section 219.

(2) ELEMENTS ADDRESSED.—The voluntary national opportunity-to-learn standards certified by the Council shall address—

(A) the quality and availability to all students of curricula, instructional materials, and technologies, including distance learning;

(B) the capability of teachers to provide high-quality instruction to meet diverse learning needs in each content area to all students;

(C) the extent to which teachers, principals, and administrators have ready and continuing access to professional development, including the best knowledge about teaching, learning, and school improvement;

(D) the extent to which curriculum, instructional practices, and assessments are aligned to voluntary national content standards;

(E) the extent to which school facilities provide a safe and secure environment for learning and instruction and have the requisite libraries, laboratories, and other resources necessary to provide an opportunity-to-learn;

(F) the extent to which schools utilize policies, curricula, and instructional practices which ensure nondiscrimination on the basis of gender; and

(G) other factors that the Council deems appropriate to ensure that all students receive a fair opportunity to achieve the knowledge and skills described in the voluntary national content standards and the voluntary national student performance standards certified by the Council.

(3) ADDITIONAL DUTIES.—In carrying out this subsection, the Council shall—

(A) identify what other countries with rigorous content standards do to—

(i) provide their children with opportunities to learn;

(ii) prepare their teachers; and

(iii) provide continuing professional development opportunities for their teachers; and

(B) develop criteria to be used for certifying the voluntary national opportunity-to-learn standards and State opportunity-to-learn standards and, before applying such criteria, forward such criteria to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such criteria by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such criteria.

(4) RECOMMENDATIONS AND COORDINATION.—The Council shall assist in the development of the voluntary national opportunity-to-learn standards developed by each consortium under section 219 by—

(A) making recommendations to the Secretary regarding priorities and selection criteria for each grant awarded under section 219; and

(B) coordinating with each consortium receiving awards under section 219 to ensure that the opportunity-to-learn standards the consortium develops are appropriate for the needs of all students, are of high quality, and are consistent

with the criteria developed by the Council for the certification of such standards.

(5) APPROVAL.—The Council shall forward the voluntary national opportunity-to-learn standards the Council certifies to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such standards by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such standards.

(d) STATE OPPORTUNITY-TO-LEARN STANDARDS.—The Council may certify State opportunity-to-learn standards submitted voluntarily by a State, using the criteria developed under subsection (c)(3)(B), if such standards are comparable or higher in rigor and quality to the voluntary national opportunity-to-learn standards.

(e) GENERAL PROVISION REGARDING VOLUNTARY NATIONAL STANDARDS.—The Council may certify voluntary national content standards, voluntary national student performance standards, and voluntary national opportunity-to-learn standards if such standards are sufficiently general to be used by any State without restricting State and local control of curriculum and prerogatives regarding instructional methods to be employed.

(f) STATE ASSESSMENTS.—

(1) IN GENERAL.—(A) The Council may certify for a period not to exceed 5 years, State assessments that are submitted voluntarily by a State, using the criteria developed under paragraph (2)(A), if such assessments are aligned with the State's content standards certified by the Council.

(B) State assessments shall be certified by the Council for the purposes of—

(i) informing students, parents, teachers, and related services personnel about the progress of all students toward the standards;

(ii) improving classroom instruction and improving the learning outcomes for all students;

(iii) exemplifying for students, parents, and teachers the kinds and levels of achievement that should be expected of all students, including the identification of State student performance standards;

(iv) measuring and motivating individual students, schools, districts, States, and the Nation to improve educational performance; and

(v) assisting education policymakers in making decisions about education programs.

(C) The Council shall certify State assessments only if—

(i) a State can demonstrate to the Council that all students have been prepared in the content for which such students are being assessed;

(ii) such assessments will not be used to make decisions regarding graduation, grade promotion, or retention of students for a period of 5 years from the date of enactment of this Act; and

(iii) the State has submitted to the Council—

(I) a description of the purposes for which the State assessments have been designed;

(II) the methodologies and process used to develop, select, validate, and use such State assessments;

(III) a copy of the test instrument, as appropriate;

(IV) a description of the other measures the State will use to evaluate student performance; and

(V) evidence that the test or tests which are part of the State assessments are valid, reliable measures of their intended purposes, are aligned with the State content standards, are capable of assessing the progress of all students toward learning the material in the State content standards, and are consistent with relevant nationally recognized professional and technical standards.

(D) The Council, at the request of a State prior to the State's submission to the Council of a State assessment for a proposed use, shall review and provide guidance to such State on a proposed package of measures, including tests that will be included in such a system.

(2) CRITERIA.—(A) The Council shall develop and, not sooner than three years nor later than four years after the date of enactment of this Act, begin utilizing criteria for the certification of State assessments for the purposes described in paragraph (1)(B).

(B) Before using such criteria, the Council shall forward the criteria to the Goals Panel for review, except that the Goals Panel shall have the option of disapproving such criteria by a two-thirds majority vote of the full membership of the Goals Panel not later than 90 days after receipt of such criteria.

(C) The certification criteria developed by the Council shall address the extent to which the State assessments—

(i) are aligned with a State's or a group of States' State content standards certified by the Council; and

(ii) are to be used for a purpose for which they are valid, reliable, and free of discrimination, and are consistent with relevant, nationally recognized professional and technical standards for assessment.

(D) In determining appropriate certification criteria for State assessments, the Council shall—

(i) consider standards and criteria being developed by other national organizations, research on assessment, and emerging new State and local assessments;

(ii) recommend needed research;

(iii) encourage the development and field testing of State assessments; and

(iv) provide a public forum for discussing, debating, and building consensus for the criteria to be used for the certification of State assessments.

(E) Prior to determining the certification criteria, the Council shall seek public comment regarding the proposed criteria.

(F) The Council shall certify State assessments only if such assessments include all students and provide for the adaptations and accommodations necessary to permit the participation of all students with diverse learning needs.

(g) PERFORMANCE OF DUTIES.—In carrying out its responsibilities under this title, the Council shall—

(1) provide for a process of broad public input as part of the process of developing criteria for standards and assessments;

(2) work with Federal and non-Federal departments, agencies, or organizations which are conducting research, studies,

or demonstration projects to determine internationally competitive standards and assessments, and may establish subject matter and other panels to advise the Council on particular content, student performance, and opportunity-to-learn standards and on State assessments;

(3) establish cooperative arrangements with the National Skill Standards Board to promote the coordination of the development of content and student performance standards under this title with the development of skill standards under title V of this Act;

(4) recommend studies to the Secretary that are necessary to carry out the Council's responsibilities;

(5) inform the public about what constitutes high quality, internationally competitive, content, student performance, and opportunity-to-learn standards, and State assessments;

(6) on a regular basis, review and update criteria for certifying content, student performance, and opportunity-to-learn standards, and State assessments; and

(7) periodically recertify, as appropriate, the voluntary national content standards, the voluntary national student performance standards, and the voluntary national opportunity-to-learn standards and the State assessments that the Council certifies under this section.

(h) SPECIAL RULES.—

(1) UNCONDITIONED STATE PARTICIPATION.—No State shall be required to obtain certification of standards or assessments developed under subsection (b), (d), or (f) of this section or to participate in programs under title III of this Act, as a condition of participating in any Federal education program under this or any other Act.

(2) CONSTRUCTION.—Nothing in this Act shall be construed to create a legally enforceable right for any person against a State, local educational agency, or school based on a standard or assessment certified by the Council or the criteria developed by the Council for such certification.

SEC. 214. ANNUAL REPORTS. 20 USC 5844.

Not later than one year after the date the Council concludes its first meeting, and in each succeeding year, the Council shall prepare and submit a report to the President, the Secretary, the appropriate committees of Congress, the Governor of each State, and the Goals Panel regarding its work.

SEC. 215. POWERS OF THE COUNCIL. 20 USC 5845.

(a) HEARINGS.—

(1) IN GENERAL.—The Council shall, for the purpose of carrying out its responsibilities, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) LOCATION.—In carrying out this part, the Council shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public on the establishment of voluntary national content standards, voluntary national student performance standards, voluntary national opportunity-to-learn standards, and State assessments described in section 213(f).

(b) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable the Council to carry out this part. Upon request of the Chairperson of the Council, the head of such department or agency shall furnish such information to the Council to the extent permitted by law.

(c) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(d) USE OF FACILITIES.—The Council may use the research, equipment, services, and facilities of any department, agency, or instrumentality of the United States, or of any State or political subdivision thereof with the consent of such department, agency, instrumentality, State or subdivision, respectively.

(e) ADMINISTRATIVE ARRANGEMENTS AND SUPPORT.—

(1) IN GENERAL.—The Secretary shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

(2) CONTRACTS AND OTHER ARRANGEMENTS.—The Secretary, to the extent appropriate and on a reimbursable basis, shall enter into contracts and other arrangements that are requested by the Council to help the Council compile and analyze data or carry out other functions necessary to the performance of the Council's responsibilities.

Federal Register, publication.
20 USC 5846.

SEC. 216. PUBLICATION FOR PUBLIC COMMENT.

(a) TRANSMITTAL.—For the purpose of obtaining public comment through publication in the Federal Register, the Council shall transmit to the Secretary—

(1) proposed criteria for certifying voluntary national content standards, voluntary national student performance standards, and State content standards and State performance standards;

(2) proposed criteria for certifying voluntary national opportunity-to-learn standards and State opportunity-to-learn standards;

(3) proposed criteria for certifying State assessments; and

(4) proposed voluntary national content standards, voluntary national student performance standards, and voluntary national opportunity-to-learn standards.

(b) PUBLICATION.—The Secretary shall publish such proposed procedures, standards, and criteria in the Federal Register.

20 USC 5847.

SEC. 217. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Council shall meet on a regular basis, as necessary, at the call of the Chairperson of the Council, or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—The Council shall take all action of the Council by a majority vote of the total membership of the Council, ensuring the right of the minority to issue written views. No individual may vote or exercise any of the powers of a member by proxy.

(d) PUBLIC ACCESS.—The Council shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 218. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS. 20 USC 5848.

(a) DIRECTOR.—The Chairperson of the Council shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF EMPLOYEES.—

(1) IN GENERAL.—(A) The Director may appoint not more than four additional employees to serve as staff to the Council without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(B) The employees appointed under subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) ADDITIONAL EMPLOYEES.—The Director may appoint additional employees to serve as staff of the Council consistent with title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States may detail any of the personnel of such department or agency to the Council to assist the Council in its duties under this part.

SEC. 219. OPPORTUNITY-TO-LEARN DEVELOPMENT GRANT. 20 USC 5849.

(a) OPPORTUNITY-TO-LEARN DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Secretary is authorized to award more than one grant, on a competitive basis, to consortia of individuals and organizations to develop voluntary national opportunity-to-learn standards consistent with the provisions of section 213(c), and to develop a listing of model programs for use, on a voluntary basis, by States, which standards and listing may be used to—

(A) provide all students with an opportunity to learn;

(B) assess the capacity and performance of individual schools; and

(C) develop appropriate actions to be taken in the event that the schools fail to achieve such standards.

(2) COMPOSITION OF CONSORTIA.—To the extent possible, each consortium shall include the participation of—

(A) State-level policymakers, such as Governors, State legislators, chief State school officers, and State school board members;

(B) local policymakers and administrators, such as local school board members, superintendents, and principals;

(C) teachers (especially teachers involved in the development of content standards) and related services personnel;

(D) parents and individuals with experience in promoting parental involvement in education;

(E) representatives of business;

(F) experts in vocational-technical education;

(G) representatives of regional accrediting associations;

(H) individuals with expertise in school finance and equity, the education of at-risk students, and the preparation and training of teachers and school administrators;

(I) curriculum and school reform experts;

(J) representatives of advocacy groups, including student and civil rights advocacy groups;

(K) representatives of higher education; and

(L) secondary school students.

(3) DUTIES OF CONSORTIA.—In developing voluntary national opportunity-to-learn standards, each consortium shall—

(A) draw upon current research about student achievement and the necessary conditions for effective teaching and learning; and

(B) provide for the development of more than one draft of standards which incorporate the comments and recommendations of educators and other knowledgeable individuals across the Nation.

(4) EXPERTISE OR BACKGROUND.—One-third of the members of each consortium shall consist of individuals with expertise or background in the educational needs and assessment of children who are from low-income families, are from minority backgrounds, have limited-English proficiency, or have disabilities.

(5) GEOGRAPHIC REPRESENTATION.—The membership of each consortium shall be geographically representative and reflect the racial, ethnic, and gender diversity of the United States.

(b) APPLICATIONS.—

(1) GRANTS FOR CONSORTIUM.—Each consortium that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(2) AWARD CONSIDERATION.—In establishing additional priorities and selection criteria for awarding more than one grant, the Secretary shall give serious consideration to the recommendations made by the Council pursuant to section 213(c)(4)(A).

(c) REPORT.—After the development of the voluntary national opportunity-to-learn standards, each consortium receiving assistance under this section shall submit a report to the Secretary which discusses the background, important issues, and rationale regarding such standards.

20 USC 5850.

SEC. 220. ASSESSMENT DEVELOPMENT AND EVALUATION GRANTS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to State and local educational agencies or consortia of such agencies to help defray the cost of developing, field testing, and evaluating State assessments to be used for some or all of the purposes indicated in section 213(f)(1)(B), that are aligned to State content standards certified by the Council.

(2) RESERVATION.—The Secretary shall reserve a portion of the funds authorized under section 241(d) for grants to State educational agencies and local educational agencies for

purposes of developing such assessments in languages other than English and for students with disabilities.

(b) APPLICATIONS.—Each State or local educational agency, or consortium, that desires to receive a grant under subsection (a)(1) shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(c) REQUIREMENTS.—

(1) IN GENERAL.—A recipient of a grant under this section shall—

(A) examine the validity and reliability of the State assessment for the particular purposes for which such assessment was developed;

(B) ensure that the State assessment is consistent with relevant, nationally recognized professional and technical standards for assessments; and

(C) devote special attention to how a State assessment treats all students, especially with regard to the race, gender, ethnicity, disability, and language proficiency of such students.

(2) USE.—A State assessment developed and evaluated with funds under this section may not be used for decisions about individual students relating to program placement, promotion, or retention, graduation, or employment for a period of 5 years from the date of enactment of this Act.

SEC. 221. EVALUATION. 20 USC 5851.

(a) GRANT.—From funds reserved under section 304(a)(2)(C), the Secretary shall make a grant, in an amount not to exceed $500,000, to the National Academy of Sciences or the National Academy of Education to—

(1) evaluate—

(A) the technical quality of the work performed by the Goals Panel and the Council;

(B) the process the Council uses to develop criteria for certification of standards and assessments;

(C) the process the Council uses to certify voluntary national standards as well as standards and assessments voluntarily submitted by States; and

(D) the process the Goals Panel uses to approve certification criteria and voluntary national standards;

(2) periodically provide to the Goals Panel and the Council, as appropriate, information from the evaluation under paragraph (1); and

(3) report on the activities authorized under sections 219 and 220.

(b) REPORT.—The recipient of a grant under this section shall submit a final report to the Congress, the Secretary, and the public regarding the activities assisted under this section not later than January 1, 1998.

PART C—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

SEC. 231. PURPOSES. 20 USC 5861

It is the purpose of this part to promote achievement of the National Education Goals and—

(1) to provide leadership at the Federal level, through the Department of Education, by developing a national vision and strategy—

(A) to infuse technology and technology planning into all educational programs and training functions carried out within school systems at the State and local level;

(B) to coordinate educational technology activities among the related Federal and State departments or agencies, industry leaders, and interested educational and parental organizations;

(C) to establish working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution; and

(D) to ensure that Federal technology-related policies and programs facilitate the use of technology in education;

(2) to promote awareness of the potential of technology for improving teaching and learning;

(3) to support State and local efforts to increase the effective use of technology for education;

(4) to demonstrate ways in which technology can be used to improve teaching and learning, and to help ensure that all students have an equal opportunity to meet State education standards;

(5) to ensure the availability and dissemination of knowledge (drawn from research and experience) that can form the basis for sound State and local decisions about investment in, and effective uses of, educational technology;

(6) to promote high-quality professional development opportunities for teachers and administrators regarding the integration of technology into instruction and administration;

(7) to promote the effective uses of technology in existing Federal education programs, such as chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and vocational education programs; and

(8) to monitor, advancements in technology to encourage the development of effective educational uses of technology.

20 USC 5862.

SEC. 232. FEDERAL LEADERSHIP.

(a) ACTIVITIES AUTHORIZED.—

(1) IN GENERAL.—In order to provide Federal leadership that promotes higher student achievement through the use of technology in education and to achieve the purposes of this part, the Secretary, in consultation with the Office of Science and Technology Policy, the National Science Foundation, the Department of Commerce, the Department of Energy, the National Aeronautics and Space Administration, and other appropriate Federal departments or agencies, may carry out activities designed to achieve the purposes of this part.

(2) TRANSFER OF FUNDS.—For the purpose of carrying out coordinated or joint activities to achieve the purposes of this part, the Secretary may accept funds from other Federal departments or agencies.

(b) NATIONAL LONG-RANGE TECHNOLOGY PLAN.—

Publication

(1) IN GENERAL.—The Secretary shall develop and publish within 12 months of the date of enactment of this Act, and update when the Secretary determines appropriate, a national

long-range plan that supports the overall national technology policy and carries out the purposes of this part.

(2) PLAN REQUIREMENTS.—The Secretary shall—

(A) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the educational applications of technology, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Program Assistance Act, and providers of technology services and products;

(B) transmit such plan to the President and to the appropriate committees of the Congress; and

(C) publish such plan in a form that is readily accessible to the public. Public information.

(3) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this part, including—

(A) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department of Education;

(B) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Aeronautics and Space Administration, the National Science Foundation, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

(i) to promote the use of technology in education, and training and lifelong learning, including plans for the educational uses of a national information infrastructure; and

(ii) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

(C) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

(D) how the Secretary will promote—

(i) higher achievement of all students through the integration of technology into the curriculum;

(ii) increased access to the benefits of technology for teaching and learning for schools with a high concentration of children from low-income families;

(iii) the use of technology to assist in the implementation of State systemic reform strategies;

(iv) the application of technological advances to use in education; and

(v) increased opportunities for the professional development of teachers in the use of new technologies;

(E) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing

guidelines to facilitate an easy exchange of data and effective use of technology in education;

(F) how the Secretary will utilize the outcome of the evaluation undertaken pursuant to section 908 of the Star Schools Program Assistance Act to promote the purposes of this part; and

(G) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

(c) ASSISTANCE.—The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317.

SEC. 233. OFFICE OF EDUCATIONAL TECHNOLOGY.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"OFFICE OF EDUCATIONAL TECHNOLOGY

20 USC 3425.

"SEC. 216. (a) There shall be in the Department of Education an Office of Educational Technology (hereafter in this section referred to as the 'Office'), to be administered by the Director of Educational Technology. The Director of Educational Technology shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

"(b) The Director of the Office of Educational Technology (hereafter in this section referred to as the 'Director'), through the Office, shall—

"(1) in support of the overall national technology policy and in consultation with other Federal departments or agencies which the Director determines appropriate, provide leadership to the Nation in the use of technology to promote achievement of the National Education Goals and to increase opportunities for all students to achieve State content and challenging State student performance standards;

"(2) review all programs and training functions administered by the Department and recommend policies in order to promote increased use of technology and technology planning throughout all such programs and functions;

"(3) review all relevant programs supported by the Department to ensure that such programs are coordinated with and support the national long-range technology plan developed pursuant to section 232(b) of the Goals 2000: Educate America Act; and

"(4) perform such additional functions as the Secretary may require.

"(c) The Director is authorized to select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Office, subject to the provisions of title 5, United States Code (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(d) The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.".

(b) COMPENSATION OF THE DIRECTOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of the Office of Educational Technology.".

SEC. 234. USES OF FUNDS. 20 USC 5863.

(a) IN GENERAL.—The Secretary shall use funds appropriated pursuant to the authority of section 241(d) for activities designed to carry out the purpose of this part, including—

(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the educational uses of technology, including professional development;

(2) consulting with representatives of industry, elementary and secondary education, higher education, and appropriate experts in technology and the educational applications of technology, in carrying out the activities assisted under this part;

(3) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

(4) research on, and the development of, educational applications of the most advanced and newly emerging technologies;

(5) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

(6) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals and State content standards and State student performance standards;

(7) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

(8) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

(9) research on, and the evaluation of, the effectiveness and benefits of technology in education, giving priority to research on, and evaluation of, such effectiveness and benefits in elementary and secondary schools;

(10) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, by using, to the extent possible, existing information and resources; Reports.

(11) conferences on, and dissemination of information regarding, the uses of technology in education;

(12) the development of model strategies to promote gender equity in the use of technology;

(13) encouraging collaboration between the Department of Education and other Federal departments and agencies in the

development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

(14) such other activities as the Secretary determines meet the purposes of this part.

(b) SPECIAL RULES.—

(1) IN GENERAL.—The Secretary shall carry out the activities described in subsection (a) directly or by grant or contract.

(2) GRANTS AND CONTRACTS.—Each grant or contract under this part shall be awarded—

(A) on a competitive basis; and

(B) pursuant to a peer review process.

20 USC 5864.

SEC. 235. NON-FEDERAL SHARE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary may require any recipient of a grant or contract under this part to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

(b) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this part after the first year such recipient receives funds under such grant or contract.

(c) MAXIMUM.—The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this part.

SEC. 236. OFFICE OF TRAINING TECHNOLOGY TRANSFER.

(a) TRANSFER.—

20 USC 5093 note.

(1) IN GENERAL.—The Office of Training Technology Transfer as established under section 6103 of the Training Technology Transfer Act of 1988 (20 U.S.C. 5093) is transferred to and established in the Office of Educational Technology.

(2) TECHNICAL AMENDMENT.—The first sentence of section 6103(a) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5093(a)) is amended by striking "Office of Educational Research and Improvement" and inserting "Office of Educational Technology".

PART D—AUTHORIZATION OF APPROPRIATIONS

20 USC 5871.

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL EDUCATION GOALS PANEL.—There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out part A of this title.

(b) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—There are authorized to be appropriated $3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out part B of this title.

(c) OPPORTUNITY-TO-LEARN DEVELOPMENT GRANTS.—There are authorized to be appropriated $2,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out section 219.

(d) ASSESSMENT DEVELOPMENT AND EVALUATION GRANTS.—There are authorized to be appropriated $5,000,000 for fiscal year

1994, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out section 220.

TITLE III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

SEC. 301. FINDINGS. 20 USC 5881.

The Congress finds that—

(1) all students can learn and achieve to high standards and must realize their potential if the United States is to prosper;

(2) the reforms in education from 1977 through 1992 have achieved some good results, but such reform efforts often have been limited to a few schools or to a single part of the educational system;

(3) leadership must come from teachers, related services personnel, principals, and parents in individual schools, and from policymakers at the local, State, tribal, and national levels, in order for lasting improvements in student performance to occur;

(4) simultaneous top-down and bottom-up education reform is necessary to spur creative and innovative approaches by individual schools to help all students achieve internationally competitive standards;

(5) strategies must be developed by communities and States to support the revitalization of all local public schools by fundamentally changing the entire system of public education through comprehensive, coherent, and coordinated improvement in order to increase student learning;

(6) parents, teachers, and other local educators, and business, community, and tribal leaders must be involved in developing systemwide improvement strategies that reflect the needs of their individual communities;

(7) State and local education improvement efforts must incorporate strategies for providing all students and families with coordinated access to appropriate social services, health care, nutrition, and early childhood education, and child care to remove preventable barriers to learning and enhance school readiness for all students;

(8) States and local educational agencies, working together, must immediately set about developing and implementing such systemwide improvement strategies if our Nation is to educate all children to meet their full potential and achieve the National Education Goals described in title I;

(9) State and local systemic improvement strategies must provide all students with effective mechanisms and appropriate paths to the work force as well as to higher education;

(10) businesses should be encouraged—

(A) to enter into partnerships with schools;

(B) to provide information and guidance to schools based on the needs of area businesses for properly educated graduates in general and on the need for particular workplace skills that the schools may provide;

(C) to provide necessary education and training materials and support; and

(D) to continue the lifelong learning process throughout the employment years of an individual;

(11) schools should provide information to businesses regarding how the business community can assist schools in meeting the purposes of this Act;

(12) institutions of higher education should be encouraged to enter into partnerships with schools to provide information and guidance to schools on the skills and knowledge graduates need in order to enter and successfully complete postsecondary education, and schools should provide information and guidance to institutions of higher education on the skills, knowledge, and preservice training teachers need, and the types of professional development educators need in order to meet the purposes of this Act;

(13) the appropriate and innovative use of technology, including distance learning, can be very effective in helping to provide all students with the opportunity to learn and meet high standards;

(14) Federal funds should be targeted to support State and local initiatives, and to leverage State and local resources for designing and implementing systemwide education improvement plans;

(15) all students are entitled to participate in a broad and challenging curriculum and to have access to resources sufficient to address other education needs; and

(16) quality education management services are being utilized by local educational agencies and schools through contractual agreements among local educational agencies or schools and businesses providing quality education management services.

20 USC 5882.

SEC. 302. PURPOSE.

(a) PURPOSE.—It is the purpose of this title to improve the quality of education for all students by improving student learning through a long-term, broad-based effort to promote coherent and coordinated improvements in the system of education throughout the Nation at the State and local levels.

(b) CONGRESSIONAL INTENT.—This title provides new authorities and funding for the Nation's school systems without replacing or reducing funding for existing Federal education programs. It is the intention of the Congress that no State or local educational agency will reduce its funding for education or for education reform on account of receiving any funds under this title.

20 USC 5883.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $400,000,000 for the fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998, to carry out this title.

20 USC 5884.

SEC. 304. ALLOTMENT OF FUNDS.

(a) RESERVATIONS OF FUNDS.—From funds appropriated under section 303, the Secretary—

(1) shall reserve a total of one percent to provide assistance, in amounts determined by the Secretary—

(A) to the outlying areas;

(B) to the Secretary of the Interior to benefit Indian students in schools operated or funded by the Bureau; and

(C) to the Alaska Federation of Natives in cooperation with the Alaska Native Education Council to benefit Alaska Native students; and

(2) may reserve a total of not more than 5 percent for—

(A) national leadership activities under sections 313 and 314;

(B) the costs of peer review of State improvement plans and applications under this title; and

(C) evaluation activities under section 221.

(b) STATE ALLOTMENTS.—From the amount appropriated under section 303 and not reserved under subsection (a) in each fiscal year the Secretary shall make allotments to State educational agencies as follows:

(1) 50 percent of such amount shall be allocated in accordance with the relative amounts each State would have received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year if funds under such chapter in such preceding fiscal year were not reserved for the outlying areas.

(2) 50 percent of such amount shall be allocated in accordance with the relative amounts each State would have received under part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 for the preceding fiscal year if funds under such chapter in such preceding fiscal year were not reserved for the outlying areas.

(c) REALLOTMENTS.—If the Secretary determines that any amount of a State educational agency's allotment for any fiscal year under subsection (b) will not be needed for such fiscal year by the State, the Secretary shall reallot such amount to other State educational agencies that need additional funds, in such manner as the Secretary determines is appropriate.

(d) MAINTENANCE OF EFFORT.—Each recipient of funds under this title, in utilizing the proceeds of an allotment received under this title, shall maintain the expenditures of such recipient for the activities assisted under this title at a level equal to not less than the level of such expenditures maintained by such recipient for the fiscal year preceding the fiscal year for which such allotment is received, except that the Secretary may reduce, temporarily or permanently, the level of expenditures required by this subsection if the Secretary determines that such recipient has justifiable reasons for a reduction in the level of expenditures required by this subsection.

SEC. 305. STATE APPLICATIONS. 20 USC 5885.

(a) APPLICATION.—

(1) IN GENERAL.—Each State educational agency that desires to receive an allotment under this title shall submit an application to the Secretary at such time and in such manner as the Secretary may determine.

(2) ADDITIONAL INFORMATION.—In addition to the information described in subsections (b) and (c), each such application shall include—

(A) an assurance that the State educational agency will cooperate with the Secretary in carrying out the Secretary's responsibilities under section 312, and will comply with reasonable requests of the Secretary for data related

to the State's progress in developing and implementing its State improvement plan under section 306;

(B) an assurance that State law provides adequate authority to carry out each component of the State's improvement plan developed, or to be developed under section 306, or that such authority will be sought;

(C) an assurance that the State content standards and State student performance standards developed for student achievement are not less rigorous than such standards used prior to the date of enactment of this Act;

(D) an assurance that the State will provide for broad public participation in the planning process; and

(E) such other assurances and information as the Secretary may require.

(b) FIRST YEAR.—A State educational agency's application for the first year of assistance under this title shall—

(1) describe the process by which the State educational agency will develop a State improvement plan that meets the requirements of section 306; and

(2) describe how the State educational agency will use funds received under this title for such year, including how such agency will make subgrants to local educational agencies in accordance with section 309(a), and how such agency will use funds received under this title for education preservice programs and professional development activities in accordance with section 309(b).

(c) SUBSEQUENT YEARS.—A State educational agency's application for the second year of assistance under this title shall—

(1) cover the second through fifth years of the State's participation;

(2) include a copy of the State's improvement plan that meets the requirements of section 306, or if the State improvement plan is not complete, a statement of the steps the State will take to complete the plan and a schedule for doing so; and

(3) include an explanation of how the State educational agency will use funds received under this title, including how such agency will make subgrants to local educational agencies in accordance with section 309(a), and how such agency will use such funds received under this title for education preservice programs and professional development activities in accordance with section 309(b).

20 USC 5886.

SEC. 306. STATE IMPROVEMENT PLANS.

(a) BASIC SCOPE OF PLAN.—Except as provided in section 305(c)(2) and consistent with the requirements of this section, any State educational agency that wishes to receive an allotment under this title after its first year of participation shall develop and implement a State improvement plan for the improvement of elementary and secondary education in the State.

(b) PLAN DEVELOPMENT.—

(1) IN GENERAL.—A State improvement plan under this title shall be developed by a broad-based State panel in cooperation with the State educational agency and the Governor. The panel shall include—

(A) the Governor and the chief State school officer, or their designees;

(B) the chairperson of the State board of education and the chairpersons of the appropriate authorizing committees of the State legislature, or their designees;

(C) teachers, principals, and administrators who have successfully improved student performance, and deans or senior administrators of a college, school, or department of education;

(D) representatives of teacher's organizations, parents, secondary school students, institutions of higher education, business and labor leaders, community-based organizations of demonstrated effectiveness, organizations serving young children, local boards of education, State and local officials responsible for health, social, and other related services, private schools in which students or teachers participate in Federal education programs, and, as appropriate, Indian tribes and others;

(E) representatives from rural and urban local educational agencies in the State, as appropriate; and

(F) experts in educational measurement and assessment.

(2) APPOINTMENT.—The Governor and the chief State school officer shall each appoint half the members of the panel and shall jointly select the Chairperson of the panel and the representative of private schools described in paragraph (1)(D).

(3) REPRESENTATION.—(A) To the extent feasible, the membership of the panel shall be geographically representative of the State and reflect the diversity of the population of the State with regard to race, ethnicity, gender, and disability characteristics.

(B) The membership of the panel shall be composed so that the minimum total number of members of the panel with expertise or background in the educational needs or assessments of children from low-income families, children with minority backgrounds, children with limited-English proficiency, or children with disabilities, serving on the panel—

(i) bears the same relation to the total number of members serving on the panel as the total number of all such children in the State bears to the total number of all children in the State; or

(ii) is at least one-third of the number of members of the panel,

whichever is less.

(4) CONSULTATION.—The panel shall consult the Governor, the chief State school officer, the State board of education, and relevant committees of the State legislature in developing the State improvement plan.

(5) OUTREACH.—The panel shall be responsible for conducting a statewide, grassroots outreach process, including conducting public hearings, to involve educators, related services personnel, parents, local officials, tribal government officials as appropriate, individuals representing private nonprofit elementary and secondary schools, community and business leaders, citizens, children's advocates, secondary school students, and others with a stake in the success of students and their education system, and who are representative of the diversity of the State and the State's student population, including, students of limited-English proficiency, students with

disabilities, and, as appropriate, American Indian, Alaska Native, and Native Hawaiian students, in the development of the State improvement plan and in a continuing dialogue regarding the need for and nature of standards for students and local and State responsibilities for helping all students achieve such standards in order to assure that the development and implementation of the State improvement plan reflects local needs and experiences and does not result in a significant increase in paperwork for teachers.

(6) PROCEDURE AND APPROVAL.—The panel shall develop a State improvement plan, provide opportunity for public comment, and submit such plan to the State educational agency for approval.

(7) SUBMISSION.—The State educational agency shall submit the original State improvement plan developed by the panel and the State improvement plan if modified by such agency, together with an explanation of any changes made by such agency to the plan developed by the panel, to the Secretary for approval.

(8) MATTERS NOT UNDER THE JURISDICTION OF THE STATE EDUCATIONAL AGENCY.—If any portion of a State improvement plan addresses matters that, under State or other applicable law, are not under the authority of the State educational agency, the State educational agency shall obtain the approval of, or changes to, such portion, with an explanation thereof, from the Governor or other official responsible for that portion before submitting such plan to the Secretary.

(9) MONITORING; REVISIONS; REPORTING.—After approval of the State improvement plan by the Secretary, the panel shall be informed of progress on such plan by the State educational agency, and such agency, in close consultation with teachers, principals, administrators, advocates and parents in local educational agencies and schools receiving funds under this title, shall monitor the implementation and operation of such plan. The panel shall review such plan, and based on the progress described in the preceding sentence, determine if revisions to such plan are appropriate and necessary. The panel shall periodically report such determination to the public.

(c) TEACHING, LEARNING, STANDARDS, AND ASSESSMENTS.—Each State educational agency, with broad-based classroom teacher input, shall establish and include in its State improvement plan strategies for meeting the National Education Goals by improving teaching and learning and students' mastery of basic and advanced skills in core content areas, such as English, mathematics, science (including physics), history, geography, foreign languages, the arts, civics and government, and economics. Such strategies—

(1) shall include—

(A) a process for developing or adopting State content standards and State student performance standards for all students, which process shall include coordinating the standards developed pursuant to section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act;

(B) a process for developing and implementing valid, nondiscriminatory, and reliable State assessments—

(i) which assessments shall—

(I) be aligned with such State's content standards;

(II) involve multiple measures of student performance;

(III) provide for—

(aa) the participation in such assessments of all students with diverse learning needs; and

(bb) the adaptations and accommodations necessary to permit such participation;

(IV) be consistent with relevant, nationally recognized professional and technical standards for such assessments;

(V) be capable of providing coherent information about student attainments relative to the State content standards; and

(VI) support effective curriculum and instruction; and

(ii) which process shall provide for monitoring the implementation of such assessments and the impact of such assessments on improved instruction for all students;

(C) a process for aligning State or local curricula, instructional materials, and State assessments with the State content standards and State student performance standards; and

(D) a process for familiarizing teachers with the State content standards and State student performance standards and developing the capability of teachers to provide high quality instruction within the content areas described in the matter preceding paragraph (1) of this subsection;

(2) may include strategies such as—

(A) a process for providing assistance and support to local educational agencies and schools to strengthen the capacity of such agencies and schools to provide all students the opportunity to increase educational achievement and meet State content standards and State student performance standards;

(B) assessing the effectiveness and equity of the school finance program of the State to identify disparities in the resources available to each local educational agency and school in such State and how such disparities affect the ability of the State educational agency and local educational agencies to develop and implement plans under this title;

(C) a process for developing, selecting, or recommending instructional materials, including gender equitable and multicultural materials, and technology to support and assist local educational agencies and schools to provide all students the opportunity to meet State content standards and State student performance standards;

(D) a process for providing appropriate and effective professional development, including the use of technology, distance learning, and gender-equitable methods, necessary for teachers, school administrators, and others to help all students meet State content standards and State student performance standards; and

(E) a process for improving the State's system of teacher and school administrator preparation and licensure, and of continuing professional development programs, including the use of technology at both the State and local levels, so that all teachers, related services personnel, and administrators develop the subject matter and pedagogical expertise needed to prepare all students to meet State content standards and State student performance standards.

(d) OPPORTUNITY-TO-LEARN STANDARDS AND STRATEGIES.—

(1) IN GENERAL.—Each State improvement plan shall establish standards or strategies for providing all students with an opportunity to learn. Such standards or strategies shall include such factors as the State deems appropriate to ensure that all students receive a fair opportunity to achieve the knowledge and skills as described in State content standards and State student performance standards adopted by the State.

(2) IMPLEMENTATION.—Notwithstanding any other provision of this Act, the implementation of opportunity-to-learn standards or strategies shall be voluntary on the part of the States, local educational agencies, and schools.

(3) CONSTRUCTION.—Nothing in this section shall be construed to—

(A) mandate equalized spending per pupil for a State, local educational agency, or school; or

(B) mandate national school building standards for a State, local educational agency, or school.

(e) GOVERNANCE, ACCOUNTABILITY AND MANAGEMENT.—Each State improvement plan shall establish strategies for improved governance, accountability and management of the State's education system, such as—

(1) aligning responsibility, authority, and accountability throughout the education system, so that decisions regarding the means for achieving State content standards and State student performance standards are made closest to the learners; and

(2) creating an integrated and coherent approach to recruiting, retaining and supporting the continued professional development of teachers (including vocational teachers), and other educators, giving special attention to the recruitment into and retention of qualified minorities in the education profession.

(f) PARENTAL AND COMMUNITY SUPPORT AND INVOLVEMENT.—Each State improvement plan shall describe strategies for how the State educational agency will involve parents and other community representatives in planning, designing, and implementing the State improvement plan, including strategies such as—

(1) focusing public and private community resources and public school resources on prevention and early intervention to address the needs of all students by identifying and removing unnecessary regulations and obstacles to coordination; and

(2) increasing the access of all students to social services, health care, nutrition, related services, and child care services, and locating such services in schools, cooperating service agencies, community-based centers, or other convenient sites designed to provide "one-stop shopping" for parents and students.

(g) MAKING THE IMPROVEMENTS SYSTEMWIDE.—To help provide all students throughout the State the opportunity to meet State standards, each State improvement plan shall describe strategies, such as strategies that—

(1) provide for the availability of curricular materials, learning technologies, including distance learning, and professional development in a manner that ensures equal access by all local educational agencies in the State; and

(2) develop partnerships with Indian tribes and schools funded by the Bureau, where appropriate, to improve consistency and compatibility in curriculum among public elementary and secondary schools, and such schools funded by the Bureau at all grade levels.

(h) PROMOTING BOTTOM-UP REFORM.—Each State improvement plan shall include strategies for ensuring that comprehensive, systemic reform is promoted from the bottom up in communities, local educational agencies, and schools, as well as guided by coordination and facilitation from State leaders, including strategies such as—

(1) providing flexibility to individual schools and local educational agencies to enable such schools and agencies to adapt and integrate State content standards into courses of study appropriate for individual schools and communities; and

(2) facilitating the provision of waivers from State rules and regulations that impede the ability of local educational agencies or schools to carry out local improvement plans.

(i) DROPOUT STRATEGIES.—Each State improvement plan shall include strategies for assisting local educational agencies and schools to enable such agencies and schools—

(1) to meet the needs of school-aged children who have dropped out of school;

(2) to bring such children into the education system; and

(3) to help such students meet State content standards and State student performance standards.

(j) COORDINATION WITH SCHOOL-TO-WORK PROGRAMS.—If a State has received Federal assistance for the purpose of planning for, expanding, or establishing a school-to-work program, then a State shall include in the State improvement plan a description of how such school-to-work program will be incorporated into the school reform efforts of the State. In particular, the State improvement plan shall include a description of how secondary schools will be modified in order to provide career guidance, the integration of academic and vocational education, and work-based learning, if such programs are proposed in the State's school-to-work plan.

(k) BENCHMARKS AND TIMELINES.—Each State improvement plan shall include specific benchmarks of improved student performance and of progress in implementing such plan, and timelines against which the progress of the State in carrying out such plan, including the elements described in subsections (c) through (j), can be measured.

(l) COORDINATING STRATEGIES.—Each State plan shall include strategies for coordinating the integration of academic and vocational instruction pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act.

(m) PROGRAM IMPROVEMENT AND ACCOUNTABILITY.—Each State improvement plan shall describe—

(1) how the State will monitor progress towards implementing the State and local improvement plans; and

(2) procedures the State plans to use, consistent with State law, to improve schools that are not meeting the State content standards voluntarily adopted by the State within the established timelines.

(n) PEER REVIEW AND SECRETARIAL APPROVAL.—

(1) IN GENERAL.—(A) The Secretary shall review, within a reasonable period of time, each State improvement plan prepared under this section, and each application submitted under section 305, through a peer review process involving the assistance and advice of State and local education policymakers, educators, classroom teachers, related services personnel, experts on educational innovation and improvement, parents, advocates, and other appropriate individuals. Such peer review process shall be representative of the diversity of the United States with regard to geography, race, ethnicity, gender and disability characteristics. Such peer review process shall include at least 1 site visit to each State, except during the period when a State improvement plan is being developed.

(B) Notwithstanding the provisions of subparagraph (A), in the first year that a State educational agency submits an application for development of a State improvement plan under this title the Secretary shall not be required to—

(i) review such application through a peer review process; and

(ii) conduct a site visit.

(2) APPROVAL.—The Secretary shall approve a State improvement plan if such plan is submitted to the Secretary not later than 2 years after the date the State educational agency receives its first allotment under section 304(b), and when the Secretary determines, after considering the peer reviewers' comment, that such plan—

(A) reflects a widespread commitment within the State;

(B) holds reasonable promise of helping all students to achieve at the high levels called for by this Act;

(C) meets the requirements of subsections (a) through (k); and

(D) allows local schools, local educational agencies and communities the flexibility to implement local improvement plans in a manner which reflects local needs and requirements in order to promote a 'bottom up' system of school reform.

(3) DISAPPROVAL.—The Secretary shall not disapprove a State improvement plan, or any State application submitted under section 305, before offering the State—

(A) an opportunity to revise such plan or application; and

(B) a hearing.

(o) REGULAR REVIEW.—Each State improvement plan shall include a process for periodically reviewing and updating any State content standards, State student performance standards, State opportunity-to-learn standards or strategies, and State assessments.

(p) AMENDMENTS TO PLAN.—

(1) IN GENERAL.—Each State educational agency shall periodically review its State improvement plan and revise such

plan, as appropriate, in accordance with the process described in subsection (b).

(2) REVIEW.—The Secretary shall review any major amendment to a State improvement plan and shall not disapprove any such amendment before offering a State educational agency—

(A) an opportunity to revise such amendment; and

(B) a hearing.

(q) PREEXISTING STATE PLANS AND PANELS.—

(1) IN GENERAL.—If a State has developed a comprehensive and systemic State improvement plan to help all students meet State standards or any component of such plan, that meets the intent and purposes of this section, then the Secretary may approve such plan or component notwithstanding that such plan was not developed in accordance with subsection (b) if the Secretary determines that such approval would further the purposes of State systemic education improvement.

(2) SPECIAL RULE.—(A) If, before the date of enactment of this Act, a State has made substantial progress in developing a plan that meets the intent and purposes of this section, but was developed by a panel that does not meet the requirements of paragraphs (1) through (3) of subsection (b), the Secretary may, at the request of the Governor and the State educational agency, treat such panel as meeting the requirements of this title if the Secretary determines that there has been statewide involvement of educators, parents, students, advocacy groups, and other interested members of the public in the development of the plan.

SEC. 307. SECRETARY'S REVIEW OF APPLICATIONS; PAYMENTS. 20 USC 5887.

(a) FIRST YEAR.—The Secretary shall approve the State educational agency's first year application under section 305(b) if the Secretary determines that—

(1) such application meets the requirements of this title; and

(2) there is a substantial likelihood that the second year application of the State educational agency under section 305(c) will provide for the development and implementation of a State improvement plan that complies with section 306.

(b) SECOND THROUGH FIFTH YEARS.—The Secretary shall approve the State educational agency's second year application under section 305(c)(1) for the second through fifth years of participation only if—

(1)(A) the Secretary has approved the State improvement plan under section 306(n); or

(B) the Secretary determines that the State has made substantial progress in developing its State improvement plan and will implement such plan not later than the end of the second year of participation; and

(2) the application meets the other requirements of this title.

(c) PAYMENTS.—For any fiscal year for which a State has an approved application under this title, the Secretary shall provide an allotment to the State educational agency in the amount determined under section 304(b).

20 USC 5888.

SEC. 308. STATE USE OF FUNDS.

(a) FIRST YEAR.—In the first year for which a State educational agency receives an allotment under this title, such agency—

(1) if the amount made available under section 303 for such year is equal to or greater than $50,000,000, shall use at least 60 percent of such allotted funds to award subgrants—

(A) in accordance with section 309(a), to local educational agencies for the development or implementation of local improvement plans; and

(B) in accordance with section 309(b), to improve educator preservice programs and for professional development activities consistent with the State improvement plan;

(2) if the amount made available under section 303 for such year is less than $50,000,000, may use such funds for the subgrants described in paragraph (1); and

(3) shall use any such allotted funds not used in accordance with paragraphs (1) and (2) to develop, revise, expand, or implement a State improvement plan described in section 306.

(b) SUCCEEDING YEARS.—Each State educational agency that receives an allotment under this title for any year after the first year of such agency receives assistance under this title shall—

(1) use at least 90 percent of such allotment to make subgrants—

(A) in accordance with section 309(a), to local educational agencies for the implementation of the State improvement plan and of local improvement plans; and

(B) in accordance with section 309(b), to improve educator preservice programs and for professional development activities that are consistent with the State improvement plan; and

(2) use the remainder of such assistance for State activities designed to implement its State improvement plan, such as—

(A) supporting the development or adoption of State content standards and State student performance standards, State opportunity-to-learn standards, and State assessments linked to such standards, including—

(i) through consortia of States; or

(ii) with the assistance of the National Education Standards and Improvement Council established under part B of title II;

(B) supporting the implementation of high-performance management and organizational strategies, such as site-based management, shared decisionmaking, or quality management principles, to promote effective implementation of such plan;

(C) supporting the development and implementation, at the local educational agency and school building level, of improved human resource development systems for recruiting, selecting, mentoring, supporting, evaluating and rewarding educators;

(D) providing special attention to the needs of minority, limited-English proficient, disabled, and female students, including instructional programs and activities that encourage such students in elementary and secondary schools to aspire to enter and complete post-secondary education or training;

(E) supporting innovative and proven methods of enhancing a teacher's ability to identify student learning needs, and motivating students to develop higher order thinking skills, discipline, and creative resolution methods;

(F) supporting the development, at the State or local level, of performance-based accountability and incentive systems for schools;

(G) outreach to and training for parents, tribal officials, organizations serving young children, classroom teachers, related services personnel, and other educators, and the public, related to education improvement;

(H) providing technical assistance and other services to increase the capacity of local educational agencies and schools to develop and implement systemic local improvement plans, implement new State assessments, and develop curricula consistent with the State content standards and State student performance standards;

(I) promoting public magnet schools, public "charter schools", and other mechanisms for increasing choice among public schools, including information and referral programs which provide parents with information on available choices;

(J) supporting activities relating to the planning of, and evaluation of, projects under which local educational agencies or schools contract with private management organizations to reform a school;

(K) supporting intergenerational mentoring programs;

(L) supporting the development, at the State or local level, of school-based programs that restore discipline and reduce violence in schools and communities, such as community mobilization programs; and

(M) collecting and analyzing data.

(c) LIMIT ON ADMINISTRATIVE COSTS.—A State educational agency that receives an allotment under this title in any fiscal year shall use not more than 4 percent of such allotment in such year, or $100,000, whichever is greater, for administrative expenses, which administrative expenses shall not include the expenses related to the activities of the panel established under section 306(b)(1).

(d) SPECIAL RULE.—Any new public school established under this title—

(1) shall be nonsectarian;

(2) shall not be affiliated with a nonpublic sectarian school or religious institution; and

(3) shall operate under the authority of a State educational agency or local educational agency.

SEC. 309. SUBGRANTS FOR LOCAL REFORM AND PROFESSIONAL DEVELOPMENT. 20 USC 5889.

(a) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

(1) IN GENERAL.—(A) Each State educational agency shall make subgrants, through a competitive process to carry out the authorized activities described in paragraph (4), to local educational agencies (or consortia of such agencies) in accordance with section 308.

(B) In making such subgrants, the State educational agency shall award not less than 1 subgrant in each fiscal year to Urban and rural areas.

an urban local educational agency and not less than 1 subgrant in each fiscal year to a rural local educational agency, where appropriate, except that this provision shall not apply to the District of Columbia. An education service agency may serve as a fiscal agent for a rural local educational agency.

(C) Each such subgrant shall be for a project of sufficient duration and of sufficient size, scope, and quality to carry out the purpose of this title effectively.

(2) APPLICATION REQUIRED.—(A) A local educational agency desiring to receive a subgrant under this subsection for the development of a local improvement plan shall submit an application to the State educational agency. Such application shall contain assurances that the local educational agency intends to develop a local improvement plan that meets the requirements of this section.

(B) A local educational agency only shall be eligible to receive a subgrant under this subsection to develop a local improvement plan for one fiscal year.

(3) PLAN REQUIRED.—Each local educational agency desiring to receive a subgrant under this subsection to implement a local improvement plan shall submit a local improvement plan to the State educational agency. Each such plan shall—

(A) be developed by a broad-based panel that—

(i) is appointed by the local educational agency and is representative of the diversity of students and community with regard to race, language, ethnicity, gender, disability, and socioeconomic characteristics and includes teachers, parents, advocacy groups, school administrators, business representatives, and others, as appropriate; and

(ii) shall, following the selection of its members, establish the procedures regarding the operation of the panel, including the designation of the chairperson;

(B) address districtwide education improvement, directed at enabling all students to meet the State content standards and State student performance standards, including specific goals and benchmarks, reflect the priorities of the State improvement plan (either approved or under development) and include a strategy for—

(i) ensuring that all students have a fair opportunity to learn;

(ii) improving teaching and learning;

(iii) improving governance and management;

(iv) generating, maintaining, and strengthening parental and community involvement; and

(v) expanding improvements throughout the local educational agency;

(C) promote the flexibility of local schools in developing plans which address the particular needs of their school and community and are consistent with the local improvement plan;

(D) describe a process of broad-based community participation in the development, implementation, and evaluation of the local improvement plan;

(E) describe how the local educational agency will encourage and assist schools to develop and implement comprehensive school improvement plans that—

(i) focus on helping all students reach State content standards and State student performance standards; and

(ii) address relevant elements of the local improvement plan of the local educational agency identified in subparagraph (B);

(F) describe how the local educational agency will implement specific programs aimed at ensuring improvements in school readiness and the ability of students to learn effectively at all grade levels by identifying the most pressing needs facing students and their families with regard to social services, health care, nutrition, and child care, and entering into partnerships with public and private nonprofit agencies to increase the access of students and families to coordinated nonsectarian services in a school setting or at a nearby site;

(G) describe how the subgrant funds will be used by the local educational agency, and the procedures to be used to make funds available to schools in accordance with paragraph (6)(A);

(H) identify, with an explanation, any State or Federal requirements that the local educational agency believes impede educational improvement and that such agency requests be waived in accordance with section 311, which requests shall promptly be transmitted to the Secretary by the State educational agency; and

(I) contain such other information as the State educational agency may reasonably require.

(4) SUBMISSION.—A local educational agency which has approved a local improvement plan shall submit such plan to the State educational agency for approval together with a description of modifications to such plan and any comments from the local panel regarding such plan.

(5) MONITORING.—The panel described in paragraph (3)(A), after approval of the local educational agency's application by the State educational agency, shall be informed of progress on such plan by the local educational agency, and the local educational agency shall monitor the implementation and effectiveness of the local improvement plan in close consultation with teachers, related services personnel, principals, administrators, community members, and parents from schools receiving funds under this title, as well as assure that implementation of the local improvement plan does not result in a significant increase in paperwork for teachers. The panel shall review such plan and based on the progress described in the preceding sentence, determine if revisions to the local improvement plan should be recommended to the local educational agency. The panel shall periodically report such determination to the public.

(6) AUTHORIZED ACTIVITIES.—(A) A local educational agency that receives a subgrant under this subsection—

(i) in the first year such agency receives the subgrant shall use—

(I) not more than 25 percent of the subgrant funds to develop a local improvement plan or for any local educational agency activities approved by the State educational agency that are reasonably related to carrying out the State or local improvement plans,

which may include the establishment of innovative new public schools; and

(II) not less than 75 percent of the subgrant funds to support individual school improvement initiatives related to providing all students in the school the opportunity to meet State content standards and State student performance standards; and

(ii) in subsequent years, shall use subgrant funds for any activities approved by the State educational agency which are reasonably related to carrying out the State or local improvement plans which may include the establishment of innovative new public schools, except that at least 85 percent of such funds shall be made available to individual schools to develop and implement comprehensive school improvement plans which are designed to meet the needs of their particular student population and help all students meet State content standards and State student performance standards.

Disadvantaged.

(B) At least 50 percent of the funds made available by a local educational agency to individual schools under this section in any fiscal year shall be made available to schools with a special need for such assistance, as indicated by a high number or percentage of students from low-income families, low student achievement, or other similar criteria developed by the local educational agency.

(C) A local educational agency may not use more than five percent of the subgrant funds such agency receives in each fiscal year under this title for administrative expenses.

(7) SPECIAL CONSIDERATION.—The State educational agency shall give special consideration in awarding a subgrant to—

(A) a consortium of local educational agencies; or

(B) a local educational agency that provides in the application or local improvement plan described in paragraph (2) or (3), respectively, that such subgrant funds will be used to assist a consortium of schools that has developed a plan for school improvement.

(b) SUBGRANTS FOR PRESERVICE TEACHER EDUCATION AND PROFESSIONAL DEVELOPMENT ACTIVITIES.—

(1) IN GENERAL.—(A) Each State educational agency shall make subgrants, through a competitive, peer-reviewed process to a local educational agency, or a consortium of local educational agencies, in cooperation with institutions of higher education, nonprofit organizations, or any combination thereof, in accordance with section 308 to—

(i) improve preservice teacher education programs consistent with the State improvement plan, including how to work effectively with parents and the community; and

(ii) support continuing, sustained professional development activities for educators and school administrators or related services personnel working with educators which will increase student learning in accordance with the State improvement plan.

(B) Each State educational agency awarding subgrants under subparagraph (A) shall give priority to awarding such subgrants to—

(i) a local educational agency or consortium serving a greater number or percentage of disadvantaged students than the statewide average of such number or percentage;

(ii) a local educational agency or consortium that forms partnerships with collegiate educators to establish professional development sites; and

(iii) a local educational agency or consortium that—

(I) focuses on upgrading teachers' knowledge of content areas; or

(II) targets preparation and continued professional development of teachers of students with limited-English proficiency and students with disabilities.

(2) APPLICATION.—Each local educational agency or consortium that desires to receive a subgrant under this subsection shall submit an application to the State educational agency which—

(A) describes how the applicant will use the subgrant to improve teacher preservice and school administrator education programs or to implement educator professional development activities consistent with the State improvement plan;

(B) identifies the criteria to be used by the applicant to judge improvements in preservice education or the effects of professional development activities consistent with the State improvement plan; and

(C) contains any other information that the State educational agency determines is appropriate.

(3) REQUIRED ACTIVITIES.—A recipient of a subgrant under this subsection shall use the subgrant funds for activities supporting—

(A) the improvement of preservice teacher education and school administrator programs so that such programs equip educators with the subject matter and pedagogical expertise necessary for preparing all students to meet standards; or

(B) the development and implementation of new and improved forms of continuing and sustained professional development opportunities for teachers, principals, and other educators at the school or district level that equip educators with such expertise, and with other knowledge and skills necessary for leading and participating in continuous education improvement.

(4) PERMISSIVE ACTIVITIES.—A recipient of a subgrant under this subsection may use the subgrant funds for costs related to release time for teachers to participate in professional development activities, which professional development shall include related services personnel as appropriate.

(c) SPECIAL AWARD RULE.—

(1) IN GENERAL.—Each State educational agency shall award at least 50 percent of subgrant funds under subsection (a) in each fiscal year to local educational agencies that have a greater percentage or number of disadvantaged children than the statewide average such percentage or number for all local educational agencies in the State. Disadvantaged.

(2) WAIVER.—The State educational agency may waive the requirement of paragraph (1) if such agency does not receive

a sufficient number of applications to comply with such requirement.

20 USC 5890.

SEC. 310. AVAILABILITY OF INFORMATION AND TRAINING.

(a) INFORMATION AND TRAINING.—Proportionate to the number of children in a State or in a local educational agency who are enrolled in private elementary or secondary schools—

(1) a State educational agency or local educational agency which uses funds under this title to develop goals, State content standards or State student performance standards, curricular materials, and State assessments shall, upon request, make information related to such goals, standards, materials, and assessments available to private schools; and

(2) a State educational agency or local educational agency which uses funds under this title for teacher and administrator training shall provide in the State improvement plan described in section 306 for the training of teachers and administrators in private schools located in the geographical area served by such agency.

(b) WAIVER.—If, by reason of any provision of law, a State or local educational agency is prohibited from providing for the equitable participation of teachers and administrators from private schools in training programs assisted with Federal funds provided under this title, or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation, the Secretary shall waive such requirements and shall arrange for the provision of training consistent with State goals and State content standards for such teachers and administrators. Such waivers shall be subject to consultation, withholding, notice, and judicial review in accordance with section 1017 of the Elementary and Secondary Education Act of 1965.

20 USC 5891

SEC. 311. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement applicable to any program or Act described in subsection (b) for a State educational agency, local educational agency, or school if—

(A) and only to the extent that, the Secretary determines that such requirement impedes the ability of the State, or of a local educational agency or school in the State, to carry out the State or local improvement plan;

(B) the State educational agency has waived, or agrees to waive, similar requirements of State law;

(C) in the case of a statewide waiver, the State educational agency—

(i) provides all local educational agencies and parent organizations in the State with notice and an opportunity to comment on the State educational agency's proposal to seek a waiver; and

(ii) submits the local educational agencies' comments to the Secretary; and

(D) in the case of a local educational agency waiver, the local educational agency provides parents, community groups, and advocacy or civil rights groups with the opportunity to comment on the proposed waiver.

(2) APPLICATION.—(A)(i) To request a waiver under paragraph (1), a local educational agency or school that receives funds under this title, or a local educational agency or school that does not receive funds under this title but is undertaking school reform efforts that the Secretary determines are comparable to the activities described in section 306, shall transmit an application for such a waiver to the State educational agency. The State educational agency then shall submit approved applications for waivers under paragraph (1) to the Secretary.

(ii) A State educational agency that receives funds under this title may request a waiver under paragraph (1) by submitting an application for such waiver to the Secretary.

(B) Each application submitted to the Secretary under subparagraph (A) shall—

(i) identify the statutory or regulatory requirements that are requested to be waived and the goals that the State educational agency or local educational agency or school intends to achieve;

(ii) describe the action that the State educational agency has undertaken to remove State statutory or regulatory barriers identified in the application of local educational agencies;

(iii) describe the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describe the numbers and types of students to be impacted by such waiver;

(v) describe a timetable for implementing a waiver; and

(vi) describe the process the State educational agency will use to monitor, on a biannual basis, the progress in implementing a waiver.

(3) TIMELINESS.—The Secretary shall act promptly on a request for a waiver under paragraph (1) and shall provide a written statement of the reasons for granting or denying such request.

(4) DURATION.—Each waiver under paragraph (1) shall be for a period not to exceed 4 years. The Secretary may extend such period if the Secretary determines that the waiver has been effective in enabling the State or affected local educational agencies to carry out reform plans.

(b) INCLUDED PROGRAMS.—The statutory or regulatory requirements subject to the waiver authority of this section are any such requirements under the following programs or Acts:

(1) Chapter 1 of title I of the Elementary and Secondary Education Act of 1965, including Even Start.

(2) Part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965.

(3) The Dwight D. Eisenhower Mathematics and Science Education Act.

(4) The Emergency Immigrant Education Act of 1984.

(5) The Drug-Free Schools and Communities Act of 1986.

(6) The Carl D. Perkins Vocational and Applied Technology Education Act.

(c) WAIVERS NOT AUTHORIZED.—The Secretary may not waive any statutory or regulatory requirement of the programs or Acts described in subsection (b)—

(1) relating to—

(A) maintenance of effort;

(B) comparability of services;

(C) the equitable participation of students and professional staff in private schools;

(D) parental participation and involvement; and

(E) the distribution of funds to States or to local educational agencies; and

(2) unless the underlying purposes of the statutory requirements of each program or Act for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) TERMINATION OF WAIVERS.—The Secretary shall periodically review the performance of any State, local educational agency, or school for which the Secretary has granted a waiver under subsection (a)(1) and shall terminate the waiver if the Secretary determines that the performance of the State, the local educational agency, or the school in the area affected by the waiver has been inadequate to justify a continuation of the waiver.

Education Flexibility Partnership Demonstration Act.

(e) FLEXIBILITY DEMONSTRATION.—

(1) SHORT TITLE.—This subsection may be cited as the "Education Flexibility Partnership Demonstration Act".

(2) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary may carry out an education flexibility demonstration program under which the Secretary authorizes not more than 6 State educational agencies serving eligible States to waive statutory or regulatory requirements applicable to 1 or more programs or Acts described in subsection (b), other than requirements described in subsection (c), for the State educational agency or any local educational agency or school within the State.

(B) AWARD RULE.—In carrying out subparagraph (A), the Secretary shall select for participation in the demonstration program described in subparagraph (A) three State educational agencies serving eligible States that each have a population of 3,500,000 or greater and three State educational agencies serving eligible States that each have a population of less than 3,500,000, determined in accordance with the most recent decennial census of the population performed by the Bureau of the Census.

(C) DESIGNATION.—Each eligible State participating in the demonstration program described in subparagraph (A) shall be known as an "Ed-Flex Partnership State".

(3) ELIGIBLE STATE.—For the purpose of this subsection the term "eligible State" means a State that—

(A) has developed a State improvement plan under section 306 that is approved by the Secretary; and

(B) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(4) STATE APPLICATION.—(A) Each State educational agency desiring to participate in the education flexibility demonstration program under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State

has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

(I) Federal statutory or regulatory requirements described in paragraph (2)(A); and

(II) State statutory or regulatory requirements relating to education; and

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive.

(B) The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within such State in carrying out comprehensive educational reform and otherwise meeting the purposes of this Act, after considering—

(i) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(ii) the ability of such plan to ensure accountability for the activities and goals described in such plan;

(iii) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(iv) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and for monitoring and evaluating the results of such waivers.

(5) LOCAL APPLICATION.—(A) Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement described in paragraph (2)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and the statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe for each school year specific, measurable, educational goals for each local educational agency or school affected by the proposed waiver; and

(iv) explain why the waiver will assist the local educational agency or school in reaching such goals.

(B) A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (4)(A).

(C) A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively; and

(ii) the waiver of Federal statutory or regulatory requirements described in paragraph (2)(A) will assist the local educational agency or school in reaching its educational goals.

Reports

(6) MONITORING.—Each State educational agency participating in the demonstration program under this subsection shall annually monitor the activities of local educational agencies and schools receiving waivers under this subsection and shall submit an annual report regarding such monitoring to the Secretary.

(7) DURATION OF FEDERAL WAIVERS.—(A) The Secretary shall not approve the application of a State educational agency under paragraph (4) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers has been effective in enabling such State or affected local educational agencies or schools to carry out their local reform plans.

(B) The Secretary shall periodically review the performance of any State educational agency granting waivers of Federal statutory or regulatory requirements described in paragraph (2)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and opportunity for hearing, that such agency's performance has been inadequate to justify continuation of such authority.

(f) ACCOUNTABILITY.—In deciding whether to extend a request for a waiver under subsection (a)(1), or a State educational agency's authority to issue waivers under subsection (e), the Secretary shall review the progress of the State educational agency, local educational agency, or school affected by such waiver or authority to determine if such agency or school has made progress toward achieving the desired results described in the application submitted pursuant to subsection (a)(2)(B)(iii) or (e)(5)(A)(ii).

Federal Register, publication.

(g) PUBLICATION.—A notice of the Secretary's decision to grant waivers under subsection (a)(1) and to authorize State educational agencies to issue waivers under subsection (e) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, other interested parties, and the public.

20 USC 5892.

SEC. 312. PROGRESS REPORTS.

(a) STATE REPORTS TO THE SECRETARY.—Each State educational agency that receives funds under this title shall annually report to the Secretary regarding—

(1) progress in meeting State goals and plans;

(2) proposed State activities for the succeeding year; and

(3) in summary form, the progress of local educational agencies in meeting local goals and plans and increasing student learning.

(b) SECRETARY'S REPORTS TO CONGRESS.—By April 30, 1996, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing—

(1) the activities assisted under, and outcomes of, grants or contracts under section 220, including—

(A) a description of the purpose, uses, and technical merit of assessments evaluated with funds awarded under such paragraph; and

(B) an analysis of the impact of such assessments on the performance of students, particularly students of different racial, gender, ethnic, or language groups and individuals with disabilities;

(2) the activities assisted under, and outcomes of, allotments under this title; and

(3) the effect of waivers granted under section 311, including—

(A) a listing of all State educational agencies, local educational agencies and schools seeking and receiving waivers;

(B) a summary of the State and Federal statutory or regulatory requirements that have been waived, including the number of waivers sought and granted under each such statutory or regulatory requirement;

(C) a summary of waivers that have been terminated, including a rationale for the terminations; and

(D) recommendations to the Congress regarding changes in statutory or regulatory requirements, particularly those actions that should be taken to overcome Federal statutory or regulatory impediments to education reform.

SEC. 313. TECHNICAL AND OTHER ASSISTANCE REGARDING SCHOOL FINANCE EQUITY. 20 USC 5893.

(a) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—From funds reserved in each fiscal year under section 304(a)(2)(A), the Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies and other public and private agencies, institutions, and organizations to provide technical assistance to State and local educational agencies to assist such agencies in achieving a greater degree of equity in the distribution of financial resources for education among local educational agencies in the State.

(2) ACTIVITIES.—A grant, contract or cooperative agreement under this section may support technical assistance activities, such as—

(A) the establishment and operation of a center or centers for the provision of technical assistance to State and local educational agencies;

(B) the convening of conferences on equalization of resources within local educational agencies, within States, and among States; and

(C) obtaining advice from experts in the field of school finance equalization.

(b) DATA.—Each State educational agency or local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965 shall provide such data and information on school finance as the Secretary may require to carry out this section.

(c) MODELS.—The Secretary is authorized, directly or through grants, contracts, or cooperative agreements, to develop and disseminate models and materials useful to States in planning and implementing revisions of the school finance systems of such States.

20 USC 5894

SEC. 314. NATIONAL LEADERSHIP.

(a) TECHNICAL ASSISTANCE AND INTEGRATION OF STANDARDS.—From funds reserved in each fiscal year under section 304(a)(2)(A), the Secretary may, directly or through grants or contracts—

(1) provide technical assistance to States, local educational agencies, and tribal agencies developing or implementing school improvement plans, in a manner that ensures that such assistance is broadly available;

(2) gather data on, conduct research on, and evaluate systemic education improvement and how such improvement affects student learning, including the programs assisted under this title;

(3) disseminate research findings and other information on outstanding examples of systemic education improvement in States and local communities through existing dissemination systems within the Department of Education, including through publications, electronic and telecommunications mediums, conferences, and other means;

(4) provide grants to tribal divisions of education for coordination efforts between school reform plans developed for schools funded by the Bureau and public schools described in section 306(g)(2), including tribal activities in support of such plans;

(5) support national demonstration projects that unite local and State educational agencies, institutions of higher education, government, business, and labor in collaborative arrangements in order to make educational improvements systemwide; and

(6) support model projects to integrate multiple content standards, if—

(A) such standards are certified by the National Education Standards and Improvement Council and approved by the National Goals Panel for different subject areas, in order to provide balanced and coherent instructional programs for all students; and

(B) such projects are appropriate for a wide range of diverse circumstances, localities (including both urban and rural communities), and populations.

(b) RESERVATION OF FUNDS.—

Urban and rural areas.
Disadvantaged

(1) IN GENERAL.—The Secretary shall use at least 50 percent of the funds reserved each year under section 304(a)(2)(A) to make grants, in accordance with the provisions of section 309(a) that the Secretary determines appropriate, and provide technical and other assistance to urban and rural local educational agencies with large numbers or concentrations of students who are economically disadvantaged or who have limited English proficiency, to assist such agencies in developing and implementing local school improvement plans, except that any school that received funds under section 309(a) shall not receive assistance pursuant to this paragraph other than technical assistance.

(2) SURVEY.—The Secretary shall use not less than $1,000,000 of the funds reserved for fiscal year 1994 under section 304(a)(2)(A) to replicate coordinated services programs that have been found to be successful in helping students and families and improving student outcomes, and shall disseminate information about such programs to schools that plan to develop coordinated services programs.

(c) ADMINISTRATION.—Any activities assisted under this section that involve research shall be administered through the Office of Educational Research and Improvement.

SEC. 315. ASSISTANCE TO THE OUTLYING AREAS AND TO THE SECRETARY OF THE INTERIOR. 20 USC 5895.

(a) OUTLYING AREAS.—

(1) IN GENERAL.—Funds reserved for outlying areas under section 304(a)(1)(A) shall be distributed among such areas by the Secretary according to relative need of such areas.

(2) INAPPLICABILITY OF PUBLIC LAW 95–134.—The provisions of Public Law 95–134, permitting the consolidation of grants to the insular areas, shall not apply to funds received by such areas under this title.

(b) SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—The funds reserved for the Secretary of the Interior under section 304(a)(1)(B) shall be made in a payment which shall be pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines shall best achieve the provisions of this section and this Act The agreement shall, at a minimum, contain assurances that—

(A) a panel, as set forth in paragraph (4) of this subsection, shall be established;

(B) a reform and improvement plan, designed to increase student learning and assist students in meeting the National Education Goals, meeting the requirements pertaining to State improvement plans required in section 306 and providing for the fundamental restructuring and improvement of elementary and secondary education in schools funded by the Bureau, shall be developed by such panel; and

(C) the provisions and activities required under such State improvement plans, including the requirements for timetables for opportunity-to-learn standards, shall be carried out in the same time frames and under the same conditions stipulated for the States in sections 305 and 306, provided that for these purposes, the term "local educational agencies" shall be interpreted to mean "schools funded by the Bureau".

(2) VOLUNTARY SUBMISSION.—The provisions applicable to the States in section 213 of this Act shall apply to the Bureau plan with regard to voluntary submission of standards and assessments to the National Education Standards and Improvement Council for review and certification.

(3) PLAN SPECIFICS.—The reform and improvement plan shall include, in addition to the requirements described above, specific provisions for—

(A) opportunity to learn standards pertaining to residential programs and transportation costs associated with

programs located on or near reservations or serving students in off-reservation residential boarding schools;

(B) review and incorporation of the National Education Goals and the voluntary national content standards, voluntary natural student performance standards, and voluntary natural opportunity-to-learn standards developed under part B of title II of this Act, provided that such review shall include the issues of cultural and language differences; and

(C) provision for coordination of the efforts of the Bureau with the efforts for school improvement of the States and local educational agencies in which the schools funded by the Bureau are located, including the development of the partnerships outlined in section 306(g)(2) of the Act.

Establishment.

(4) PANEL.—(A) To carry out the provisions of this section, and to develop the plan for system-wide reform and improvement required under the agreement required under paragraph (1), the Secretary of the Interior shall establish a panel coordinated by the Assistant Secretary of the Interior for Indian Affairs. Such panel shall consist of—

(i) the Director of the Office of Indian Education Programs of the Bureau and two heads of other divisions of such Bureau as the Assistant Secretary shall designate;

(ii) a designee of the Secretary of Education; and

(iii) a representative nominated by each of the following:

(I) The organization representing the majority of teachers and professional personnel in schools operated by the Bureau.

(II) The organization representing the majority of nonteaching personnel in schools operated by the Bureau, if not the same organization as in subclause (I).

(III) School administrators of schools operated by the Bureau.

(IV) Education line officers located in Bureau area or agency offices serving schools funded by the Bureau.

(V) The organization representing the majority of contract or grant schools funded by the Bureau not serving students on the Navajo reservation.

(VI) The organization representing the majority of contract or grant schools funded by the Bureau serving students on the Navajo reservation.

(VII) The organization representing the school boards required by statute for schools operated by the Bureau not serving students on the Navajo reservation.

(VIII) The organization representing the school boards required by statute for schools funded by the Bureau serving students on the Navajo reservation.

(B) Including the additional members required by paragraph (5), a majority of the members of such panel shall be from the entities designated under subparagraph (A)(iii).

(5) ADDITIONAL MEMBERS.—In addition, the members of the panel described in paragraph (4) shall designate for full membership on the panel four additional members—

(A) one of whom shall be a representative of a national organization which represents primarily national Indian education concerns; and

(B) three of whom shall be chairpersons (or their designees) of Indian tribes with schools funded by the Bureau on their reservations (other than those specifically represented by organizations referred to in paragraph (4)), provided that preference for no less than two of these members shall be given to Indian tribes with a significant number of schools funded by the Bureau on their reservations, or with a significant percentage of their children enrolled in schools funded by the Bureau.

(c) BIA COST ANALYSIS.—

(1) IN GENERAL.—(A) The Secretary of the Interior shall reserve from the funds received pursuant to section 304(a)(1)(B) in the first fiscal year that the Secretary of the Interior receives such funds an amount not to exceed $500,000 to provide, through the National Academy of Sciences or the National Academy of Education, for an analysis of the costs associated with meeting the academic and home-living/residential standards of the Bureau for each school funded by the Bureau. The purpose of such analysis shall be to provide the Bureau and the panel described in paragraph (4) with baseline data regarding the current state of operations funded by the Bureau and to provide a framework for addressing the implementation of opportunity-to-learn standards.

(B) The results of such analysis shall be reported, in aggregate and school specific form, to the chairpersons and ranking minority members of the Committees on Education and Labor and Appropriations of the House of Representatives and the Select Committee on Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, the Secretary of Education (who shall transmit the report to the appropriate entities under this Act), and the Assistant Secretary of the Interior for Indian Affairs, not later than 6 months after the date of enactment of this Act. Reports

(2) CONTENT.—Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

(A) the standards either published in the Federal Register as having effect in schools operated by the Bureau on the date of enactment of this Act or the standards incorporated into each grant or contract in effect on such date with a tribally controlled school funded under section 1128 of Public Law 95–561 (as amended);

(B) the best projections of student counts and demographics, as provided by the Bureau and as independently reviewed by the National Academy of Sciences or the National Academy of Education; and

(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on the date of enactment of this Act.

(d) SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense to ensure that, to the extent practicable,

the purposes of this title are applied to the Department of Defense schools.

20 USC 5896.

SEC. 316. CLARIFICATION REGARDING STATE STANDARDS AND ASSESSMENTS.

Notwithstanding any other provision of this title, standards or State assessments described in a State improvement plan submitted in accordance with section 306 shall not be required to be certified by the Council.

20 USC 5897.

SEC. 317. STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM.

(a) PURPOSE.—It is the purpose of this section to assist each State to plan effectively for improved student learning in all schools through the use of technology as an integral part of the State improvement plan described in section 306.

(b) PROGRAM AUTHORIZED.—

Grants.

(1) AUTHORITY.—The Secretary shall award grants in accordance with allocations under paragraph (2) to each State educational agency that, as part of its application under section 305, requests a grant to develop (or continue the development of), and submits as part of the State improvement plan described in section 306, a systemic statewide plan to increase the use of state-of-the-art technologies that enhance elementary and secondary student learning and staff development in support of the National Education Goals and State content standards and State student performance standards.

(2) FORMULA.—From the amount appropriated pursuant to the authority of subsection (f) in each fiscal year, each State educational agency with an application approved under section 305 shall receive a grant under paragraph (1) in such year in an amount determined on the same basis as allotments are made to State educational agencies under subsections (b) and (c) of section 304 for such year, except that each such State shall receive at least $75,000.

(c) PLAN OBJECTIVES.—Each State educational agency shall use funds received under this section to develop and, if the Secretary has approved the systemic statewide plan, to implement such plan. Such plan shall have as its objectives—

(1) the promotion of higher student achievement through the use of technology in education;

(2) the participation of all schools and school districts in the State, especially those schools and districts with a high percentage or number of disadvantaged students;

(3) the development and implementation of a cost-effective, high-speed, statewide, interoperable, wide-area-communication educational technology support system for elementary and secondary schools within the State, particularly for such schools in rural areas; and

(4) the promotion of shared usage of equipment, facilities, and other technology resources by adult learners during after-school hours.

(d) PLAN REQUIREMENTS.—At a minimum, each systemic statewide plan shall—

(1) be developed by a task force that—

(A) includes among its members experts in the educational use of technology and representatives of the State panel described in section 306(b); and

(B) ensures that such plan is integrated into the State improvement plan described in section 306;

(2) be developed in collaboration with the Governor, representatives of the State legislature, the State board of education, institutions of higher education, appropriate State agencies, local educational agencies, public and private telecommunication entities, parents, public and school libraries, students, adult literacy providers, and leaders in the field of technology, through a process of statewide grassroots outreach to local educational agencies and schools in the State;

(3) identify and describe the requirements for introducing state-of-the-art technologies into the classroom and school library in order to enhance educational curricula, including the installation and ongoing maintenance of basic connections, hardware and the necessary support materials;

(4) describe how the application of advanced technologies in the schools will enhance student learning, provide greater access to individualized instruction, promote the standards and strategies described in section 306(d), and help make progress toward the achievement of the National Education Goals;

(5) describe how the ongoing training of educational personnel will be provided;

(6) describe the resources necessary, and procedures, for providing ongoing technical assistance to carry out such plan;

(7) provide for the dissemination on a statewide basis of exemplary programs and practices relating to the use of technology in education;

(8) establish a funding estimate (including a statement of likely funding sources) and a schedule for the development and implementation of such plan;

(9) describe how the State educational agency will assess the impact of implementing such plan on student achievement and aggregate achievement for schools;

(10) describe how the State educational agency and local educational agencies in the State will coordinate and cooperate with business and industry, and with public and private telecommunications entities;

(11) describe how the State educational agency will promote the purchase of equipment by local educational agencies that, when placed in schools, will meet the highest possible level of interoperability and open system design;

(12) describe how the State educational agency will consider using existing telecommunications infrastructure and technology resources;

(13) describe how the State educational agency will apply the uses of technology to meet the needs of children from low-income families;

(14) describe the process through which such plan will be reviewed and updated periodically; and

(15) describe how the State educational agency will facilitate collaboration between State literacy resource centers, local educational agencies, and adult and family literacy providers, to ensure that technology can be used by adult and family literacy providers during after school hours.

(e) REPORTS.—Each State educational agency receiving a grant under this section shall submit a report to the Secretary within 1 year of the date such agency submits to the Secretary its systemic statewide plan under this section. Such report shall—

(1) describe the State's progress toward implementation of the provisions of such plan;

(2) describe any revisions to the State's long-range plans for technology;

(3) describe the extent to which resources provided pursuant to such plan are distributed among schools to promote the standards and strategies described in section 306(d); and

(4) include any other information the Secretary deems appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1994 to carry out this section.

20 USC 5898.

SEC. 318. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

20 USC 5899.

SEC. 319. STATE AND LOCAL GOVERNMENT CONTROL OF EDUCATION.

(a) FINDINGS.—The Congress finds as follows:

(1) Congress is interested in promoting State and local government reform efforts in education.

(2) In Public Law 96–88 the Congress found that education is fundamental to the development of individual citizens and the progress of the Nation.

(3) In Public Law 96–88 the Congress found that in our Federal system the responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States.

(4) In Public Law 96–88 the Congress declared the purpose of the Department of Education was to supplement and complement the efforts of States, the local school systems, and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community based organizations, parents and schools to improve the quality of education.

(5) With the establishment of the Department of Education, Congress intended to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies.

(6) Public Law 96–88 specified that the establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and local school systems and other instrumentalities of the States.

(7) Public Law 96–88 specified that no provision of a program administered by the Secretary or by any other officer of the Department of Health, Education, and Welfare shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system.

(b) REAFFIRMATION.—The Congress agrees and reaffirms that the responsibility for control of education is reserved to the States and local school systems and other instrumentalities of the States and that no action shall be taken under the provisions of this Act by the Federal Government which would, directly or indirectly, impose standards or requirements of any kind through the promulgation of rules, regulations, provision of financial assistance and otherwise, which would reduce, modify, or undercut State and local responsibility for control of education.

TITLE IV—PARENTAL ASSISTANCE

SEC. 401. PARENTAL INFORMATION AND RESOURCE CENTERS. 20 USC 5911.

(a) PURPOSE.—The purpose of this title is—

(1) to increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) to strengthen partnerships between parents and professionals in meeting the educational needs of children aged birth through 5 and the working relationship between home and school;

(3) to enhance the developmental progress of children assisted under this title; and

(4) to fund at least 1 parental information and resource center in each State before September 30, 1998.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants in each fiscal year to nonprofit organizations, and nonprofit organizations in consortia with local educational agencies, to establish parental information and resource centers that provide training, information, and support to—

(A) parents of children aged birth through 5 years;

(B) parents of children enrolled in elementary and secondary schools; and

(C) individuals who work with the parents described in subparagraphs (A) and (B).

(2) AWARD RULE.—In awarding grants under this title, the Secretary shall ensure that such grants are distributed, to the greatest extent possible, to all geographic regions of the United States.

SEC. 402. APPLICATIONS. 20 USC 5912.

(a) GRANTS APPLICATIONS.—

(1) IN GENERAL.—Each nonprofit organization and nonprofit organization in consortium with a local educational agency which desires a grant under this title shall submit an applica-

tion to the Secretary at such time and in such manner as the Secretary shall determine.

(2) CONTENTS.—Each application submitted under paragraph (1) shall, at a minimum, include assurances that a grantee will—

(A)(i) be governed by a board of directors the membership of which includes parents; or

(ii) be an organization that represents the interests of parents;

(B) establish a special advisory committee the membership of which—

(i) includes—

(I) parents described in subparagraphs (A) and (B) of section 401(b)(1); and

(II) representatives of education professionals with expertise in improving services for disadvantaged children; and

(ii) is broadly representative of minority, low-income, and other individuals and groups that have an interest in compensatory education and family literacy;

(C) use at least one-half of the funds provided under this Act in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

(D) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(E) serve both urban and rural areas;

(F) design a center that meets the unique training, information, and support needs of parents described in subparagraphs (A) and (B) of section 401(b)(1), particularly parents who are educationally or economically disadvantaged;

(G) demonstrate the capacity and expertise to conduct the effective training information and support activities for which assistance is sought;

(H) network with—

(i) clearinghouses;

(ii) parent centers for the parents of infants, toddlers, children, and youth with disabilities served under section 631(e) of the Individuals with Disabilities Education Act;

(iii) other organizations and agencies;

(iv) established national, State, and local parent groups representing the full range of parents of children, aged birth through 5 years; and

(v) parents of children enrolled in elementary and secondary schools;

(I) focus on serving parents described in subparagraphs (A) and (B) of section 401(b) who are parents of low-income, minority, and limited-English proficient, children; and

(J) use part of the funds received under this title to establish, expand, or operate Parents as Teachers programs or Home Instruction for Preschool Youngsters programs.

(b) GRANT RENEWAL.—In each fiscal year after the first fiscal year a grantee receives assistance under this title, the grantee shall demonstrate in the application submitted for each fiscal year after such first year that a portion of the services provided by such grantee is supported through non-Federal contributions, which contributions may be in cash or in kind.

SEC. 403. USES OF FUNDS. 20 USC 5913.

Grant funds received under this title may be used—

(1) for parent training, information, and support programs that assist parents to—

(A) better understand their children's educational needs;

(B) provide followup support for their children's educational achievement;

(C) communicate more effectively with teachers, counselors, administrators, and other professional educators and support staff;

(D) participate in the design and provision of assistance to students who are not making adequate educational progress;

(E) obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents described in subparagraphs (A) and (B) of section 401(b);

(F) seek technical assistance regarding compliance with the requirements of this title and of other Federal programs relevant to achieving the National Education Goals;

(G) participate in State and local decisionmaking;

(H) train other parents; and

(I) plan, implement, and fund activities that coordinate the education of their children with other Federal programs that serve their children or their families; and

(2) to include State or local educational personnel where such participation will further the activities assisted under the grant.

SEC. 404. TECHNICAL ASSISTANCE. 20 USC 5914.

The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information and support programs and parental information and resource centers.

SEC. 405. DEFINITIONS. 20 USC 5915

For purposes of this title—

(1) the term "parent education" includes parent support activities, the provision of resource materials on child development, parent-child learning activities and child rearing issues, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

(2) the term "Parents as Teachers program" means a voluntary early childhood parent education program that—

(A) is designed to provide all parents of children from birth through age 5 with the information and support such parents need to give their child a solid foundation for school success;

(B) is based on the Missouri Parents as Teachers model with the philosophy that parents are their child's first and most influential teachers;

(C) provides—

(i) regularly scheduled personal visits with families by certified parent educators;

(ii) regularly scheduled developmental screenings; and

(iii) linkage with other resources within the community in order to provide services that parents may want and need, except that such services are beyond the scope of the Parents as Teachers program;

(3) the term "Home Instruction for Preschool Youngsters program" means a voluntary early-learning program for parents with one or more children between the ages of 3 through 5, that—

(A) provides support, training, and appropriate educational materials necessary for parents to implement a school-readiness, home instruction program for their child; and

(B) includes—

(i) group meetings with other parents participating in the program;

(ii) individual and group learning experiences with the parent and child;

(iii) provision of resource materials on child development and parent-child learning activities; and

(iv) other activities that enable the parent to improve learning in the home.

20 USC 5916.

SEC. 406. REPORTS.

Each organization receiving a grant under this title shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this title, including—

(1) the number of parents, including the number of minority and limited-English-proficient parents, who receive information and training;

(2) the types and modes of training, information, and support provided under this title;

(3) the number of Parents as Teachers programs and Home Instruction for Preschool Youngsters programs which have been assisted under this title; and

(4) the strategies used to reach and serve parents of minority and limited-English-proficient children, parents with limited literacy skills, and other parents in need of the services provided under this title.

20 USC 5917.

SEC. 407. GENERAL PROVISION.

Notwithstanding any other provision of this title—

(1) no person, including a parent who educates a child at home, public school parent, or private school parent, shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this title;

(2) no program assisted under this title shall take any action that infringes in any manner on the right of a parent to direct the education of their children; and

(3) the provisions of section 438(c) of the General Education Provision Act shall apply to organizations awarded grants under this title.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5918.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1998 to carry out this title.

TITLE V—NATIONAL SKILL STANDARDS BOARD

National Skill Standards Act of 1994.

SEC. 501. SHORT TITLE. 20 USC 5931.

This title may be cited as the "National Skill Standards Act of 1994".

SEC. 502. PURPOSE. 20 USC 5932.

It is the purpose of this title to establish a National Skill Standards Board to serve as a catalyst in stimulating the development and adoption of a voluntary national system of skill standards and of assessment and certification of attainment of skill standards—

(1) that will serve as a cornerstone of the national strategy to enhance workforce skills;

(2) that will result in increased productivity, economic growth, and American economic competitiveness; and

(3) that can be used, consistent with civil rights laws—

(A) by the Nation, to ensure the development of a high skills, high quality, high performance workforce, including the most skilled frontline workforce in the world;

(B) by industries, as a vehicle for informing training providers and prospective employees of skills necessary for employment;

(C) by employers, to assist in evaluating the skill levels of prospective employees and to assist in the training of current employees;

(D) by labor organizations, to enhance the employment security of workers by providing portable credentials and skills;

(E) by workers, to—

(i) obtain certifications of their skills to protect against dislocation;

(ii) pursue career advancement; and

(iii) enhance their ability to reenter the workforce;

(F) by students and entry level workers, to determine the skill levels and competencies needed to be obtained in order to compete effectively for high wage jobs;

(G) by training providers and educators, to determine appropriate training services to offer;

(H) by government, to evaluate whether publicly funded training assists participants to meet skill standards where such standards exist and thereby protect the integrity of public expenditures;

(I) to facilitate the transition to high performance work organizations;

(J) to increase opportunities for minorities and women, including removing barriers to the entry of women into nontraditional employment; and

(K) to facilitate linkages between other components of the national strategy to enhance workforce skills, including school-to-work transition, secondary and postsecondary vocational-technical education, and job training programs.

20 USC 5933.

SEC. 503. ESTABLISHMENT OF NATIONAL BOARD.

(a) IN GENERAL.—There is established a National Skill Standards Board (hereafter in this title referred to as the "National Board").

(b) COMPOSITION.—

(1) IN GENERAL.—The National Board shall be composed of 28 members (appointed in accordance with paragraph (3)), of whom—

(A) one member shall be the Secretary of Labor;

(B) one member shall be the Secretary of Education;

(C) one member shall be the Secretary of Commerce;

(D) one member shall be the Chairperson of the National Education Standards and Improvement Council established pursuant to section 212(a);

(E) eight members shall be representatives of business (including representatives of small employers and representatives of large employers) selected from among individuals recommended by recognized national business organizations or trade associations;

(F) eight members shall be representatives of organized labor selected from among individuals recommended by recognized national labor federations; and

(G)(i) 2 members shall be neutral, qualified human resource professionals; and

(ii) 6 members shall be representatives from the following groups, with at least 1 member from each group:

(I) Educational institutions (including vocational-technical institutions).

(II) Community-based organizations.

(III) State and local governments.

(IV) Nongovernmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons.

(2) DIVERSITY REQUIREMENTS.—The members described in subparagraph (G) of paragraph (1) shall have expertise in the area of education and training. The members described in subparagraphs (E), (F), and (G) of paragraph (1) shall—

(A) in the aggregate, represent a broad cross-section of occupations and industries; and

(B) to the extent feasible, be geographically representative of the United States and reflect the racial, ethnic, and gender diversity of the United States.

(3) APPOINTMENT.—The membership of the National Board shall be appointed as follows:

President

(A) Twelve members (four from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be appointed by the President.

(B) Six members (two from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be appointed by the Speaker of the House of Representatives, of whom three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Majority Leader of the House of Representatives and three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Minority Leader of the House of Representatives.

(C) Six members (two from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be appointed by the President pro tempore of the Senate, of whom three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Majority Leader of the Senate and three members (one from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)) shall be selected from recommendations made by the Minority Leader of the Senate.

(4) EX OFFICIO NONVOTING MEMBERS.—The members of the National Board specified in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be ex officio, nonvoting members of the National Board.

(5) TERM.—Each member of the National Board appointed under subparagraph (E), (F), or (G) of paragraph (1) shall be appointed for a term of 4 years, except that of the initial members of the Board appointed under such subparagraphs—

(A) twelve members shall be appointed for a term of 3 years (four from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)), of whom—

(i) two from each such class shall be appointed in accordance with paragraph (3)(A);

(ii) one from each such class shall be appointed in accordance with paragraph (3)(B); and

(iii) one from each such class shall be appointed in accordance with paragraph (3)(C); and

(B) twelve members shall be appointed for a term of 4 years (four from each class of members described in subparagraphs (E), (F), and (G) of paragraph (1)), of whom—

(i) two from each such class shall be appointed in accordance with paragraph (3)(A);

(ii) one from each such class shall be appointed in accordance with paragraph (3)(B); and

(iii) one from each such class shall be appointed in accordance with paragraph (3)(C).

(6) VACANCIES.—Any vacancy in the National Board shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) CHAIRPERSON AND VICE CHAIRPERSONS.—

(1) CHAIRPERSON.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the National Board, by majority vote, shall elect a Chairperson once every 2 years from among the members of the National Board.

(B) INITIAL CHAIRPERSON.—The first Chairperson of the National Board shall be elected, by a majority vote of the National Board, from among the members who are representatives of business (as described in subparagraph (E) of subsection (b)(1)) and shall serve for a term of 2 years.

(2) VICE CHAIRPERSONS.—The National Board, by majority vote, shall annually elect 3 Vice Chairpersons (each representing a different class of the classes of members described in subparagraphs (E), (F), and (G) of subsection (b)(1) and each of whom shall serve for a term of 1 year) from among its members appointed under subsection (b)(3).

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—All Members of the National Board who are not full-time employees or officers of the Federal Government shall serve without compensation. All members of the National Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) EXPENSES.—The members of the National Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57, title 5, United States Code, while away from their homes or regular places of business in the performance of services for the National Board.

(e) EXECUTIVE DIRECTOR AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Chairperson of the National Board shall appoint an Executive Director who shall be compensated at a rate determined by the National Board, not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—The Executive Director may appoint and compensate such additional staff as may be necessary to enable the Board to perform its duties. Such staff shall include at least one individual with expertise in measurement and assessment.

(B) COMPENSATION.—The Executive Director may fix the compensation of the staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(f) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the National Board is authorized, in carrying out this title, to accept voluntary and uncompensated services.

(g) AGENCY SUPPORT.—

(1) USE OF FACILITIES.—The National Board may use the research, equipment, services, and facilities of any agency or

instrumentality of the United States with the consent of such agency or instrumentality.

(2) STAFF OF FEDERAL AGENCIES.—Upon the request of the National Board, the head of any Federal agency of the United States may detail to the National Board, on a reimbursable basis, any of the personnel of such Federal agency to assist the National Board in carrying out this title. Such detail shall be without interruption or loss of civil service status or privilege.

(h) CONFLICT OF INTEREST.—An individual who has served as a member of the National Board may not have any financial interest in an assessment and certification system developed or endorsed under this title for a period of 3 years after the termination of service of such individual from the National Board.

(i) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the National Board may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(j) TERMINATION.—The National Board shall terminate on September 30, 1999.

SEC. 504. FUNCTIONS OF THE NATIONAL BOARD. 20 USC 5934.

(a) IDENTIFICATION OF OCCUPATIONAL CLUSTERS.—

(1) IN GENERAL.—Subject to paragraph (2), the National Board shall identify broad clusters of major occupations that involve 1 or more than 1 industry in the United States and that share characteristics that are appropriate for the development of common skill standards.

(2) PROCEDURES FOR IDENTIFICATION.—Prior to identifying broad clusters of major occupations under paragraph (1), the National Board shall engage in extensive public consultation, including solicitation of public comment on proposed clusters through publication in the Federal Register. Federal Register, publication.

(b) ESTABLISHMENT OF VOLUNTARY PARTNERSHIPS TO DEVELOP STANDARDS.—

(1) IN GENERAL.—For each of the occupational clusters identified pursuant to subsection (a), the National Board shall encourage and facilitate the establishment of voluntary partnerships to develop a skill standards system in accordance with subsection (d).

(2) REPRESENTATIVES.—Such voluntary partnerships shall include the full and balanced participation of—

(A)(i) representatives of business (including representatives of large employers and representatives of small employers) who have expertise in the area of workforce skill requirements, and who are recommended by national business organizations or trade associations representing employers in the occupation or industry for which a standard is being developed; and

(ii) representatives of trade associations that have received grants from the Department of Labor or the Department of Education to establish skill standards prior to the date of enactment of this title;

(B) employee representatives who have expertise in the area of workforce skill requirements and who shall be—

(i) individuals recommended by recognized national labor organizations representing employees in the occupation or industry for which a standard is being developed; and

(ii) such other individuals who are nonmanagerial employees with significant experience and tenure in such occupation or industry as are appropriate given the nature and structure of employment in the occupation or industry;

(C) representatives of—

(i) educational institutions;

(ii) community-based organizations;

(iii) State and local agencies with administrative control or direction over education, vocational-technical education, or employment and training;

(iv) other policy development organizations with expertise in the area of workforce skill requirements; and

(v) non-governmental organizations with a demonstrated history of successfully protecting the rights of racial, ethnic, or religious minorities, women, individuals with disabilities, or older persons; and

(D) individuals with expertise in measurement and assessment, including relevant experience in designing unbiased assessments and performance-based assessments.

(3) EXPERTS.—The partnerships described in paragraph (1) may also include such other individuals who are independent, qualified experts in their fields.

(c) RESEARCH, DISSEMINATION, AND COORDINATION.—In order to support the activities described in subsections (b) and (d), the National Board shall—

(1) conduct workforce research relating to skill standards (including research relating to use of skill standards in compliance with civil rights laws) and make such research available to the public, including the voluntary partnerships described in subsection (b);

(2) identify and maintain a catalog of skill standards used by other countries and by States and leading firms and industries in the United States;

(3) serve as a clearinghouse to facilitate the sharing of information on the development of skill standards and other relevant information among representatives of occupations and industries identified pursuant to subsection (a), the voluntary partnerships described in subsection (b), and among education and training providers through such mechanisms as the Capacity Building and Information and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)) and the Educational Resources Information Center Clearinghouses;

(4) develop a common nomenclature relating to skill standards;

(5) encourage the development and adoption of curricula and training materials, for attaining the skill standards developed pursuant to subsection (d), that provide for structured work experiences and related study programs leading to progressive levels of professional and technical certification and postsecondary education;

(6) provide appropriate technical assistance to voluntary partnerships involved in the development of standards and systems described in subsection (b); and

Technical assistance

(7) facilitate coordination among voluntary partnerships that meet the requirements of subsection (b) to promote the development of a coherent national system of voluntary skill standards.

(d) ENDORSEMENT OF SKILL STANDARDS SYSTEMS.—

(1) DEVELOPMENT OF ENDORSEMENT CRITERIA.—(A) The National Board, after extensive public consultation, shall develop objective criteria for endorsing skill standards systems relating to the occupational clusters identified pursuant to subsection (a). Such criteria shall, at a minimum, include the components of a skill standards system described in subparagraph (B). The endorsement criteria shall be published in the Federal Register, and updated as appropriate.

Federal Register, publication.

(B) The skill standards systems endorsed pursuant to paragraph (1) shall have one or more of the following components:

(i) Voluntary skill standards, which at a minimum—

(I) take into account relevant standards used in other countries and relevant international standards;

(II) meet or exceed the highest applicable standards used in the United States, including apprenticeship standards registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act", 50 Stat. 664, chapter 663, 29 U.S.C. 50 et seq.);

(III) take into account content and performance standards certified pursuant to title II;

(IV) take into account the requirements of high performance work organizations;

(V) are in a form that allows for regular updating to take into account advances in technology or other developments within the occupational cluster;

(VI) are formulated in such a manner that promotes the portability of credentials and facilitates worker mobility within an occupational cluster or industry and among industries; and

(VII) are not discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with Federal civil rights laws.

(ii) A voluntary system of assessment and certification of the attainment of skill standards developed pursuant to subparagraph (A), which at a minimum—

(I) has been developed after taking into account relevant methods of such assessment and certification used in other countries;

(II) utilizes a variety of evaluation techniques, including, where appropriate, oral and written evaluations, portfolio assessments, and performance tests; and

(III) includes methods for establishing that the assessment and certification system is not

discriminatory with respect to race, color, gender, age, religion, ethnicity, disability, or national origin, consistent with Federal civil rights laws.

(iii) A system to promote the use of and to disseminate information relating to skill standards, and assessment and certification systems, developed pursuant to this paragraph (including dissemination of information relating to civil rights laws relevant to the use of such standards and systems) to entities such as institutions of higher education offering professional and technical education, labor organizations, trade associations, employers providing formalized training, and other organizations likely to benefit from such standards and systems.

(iv) A system to evaluate the implementation of the skill standards, and assessment and certification systems developed pursuant to this paragraph, and the effectiveness of the information disseminated pursuant to subparagraph (C) for informing the users of such standards and systems of the requirements of relevant civil rights laws.

(v) A system to periodically revise and update the skill standards, and assessment and certification systems developed pursuant to this paragraph, which will take into account changes in standards in other countries.

(2) ENDORSEMENT.—The National Board, after public review and comment, shall endorse those skill standards systems relating to the occupational clusters identified pursuant to subsection (a) that—

(A) meet the objective endorsement criteria that are developed pursuant to paragraph (1); and

(B) are submitted by voluntary partnerships that meet the requirements of subsection (b).

(e) RELATIONSHIP WITH CIVIL RIGHTS LAWS.—

(1) IN GENERAL.—Nothing in this title shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, color, gender, age, religion, ethnicity, disability, or national origin.

(2) EVIDENCE.—The endorsement or absence of an endorsement by the National Board of a skill standard, or assessment and certification system, under subsection (d) shall not be used in any action or proceeding to establish that the use of a skill standard or assessment and certification system conforms or does not conform to the requirements of civil rights laws.

(f) COORDINATION.—The National Board shall establish cooperative arrangements with the National Education Standards and Improvement Council to promote the coordination of the development of skill standards under this section with the development of voluntary national content standards and voluntary national student performance standards in accordance with section 213.

(g) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—From funds appropriated pursuant to section 507—

(A) the National Board may enter into contracts and cooperative agreements to carry out the purposes of this title; and

(B) the Secretary of Labor may, in accordance with paragraph (2), award grants to voluntary partnerships for the development of skill standards systems meeting the requirements of subsection (d).

(2) GRANTS TO VOLUNTARY PARTNERSHIPS.—

(A) ELIGIBILITY AND APPLICATION.—Voluntary partnerships that meet the requirements of subsection (b) shall be eligible to apply for a grant under this subsection. Each such voluntary partnership desiring a grant shall submit an application to the National Board at such time, in such manner, and accompanied by such information as the National Board may reasonably require.

(B) REVIEW AND RECOMMENDATION.—The National Board shall review each application submitted pursuant to subparagraph (A) in accordance with the objective criteria published pursuant to subparagraph (C) and shall forward each such application to the Secretary of Labor accompanied by a nonbinding recommendation for the approval or disapproval of each such application by the Secretary.

(C) CRITERIA FOR REVIEW.—Prior to each fiscal year, the National Board shall publish objective criteria to be used by the Board in reviewing applications under subparagraph (B).

(3) LIMITATION ON USE OF FUNDS.—

(A) IN GENERAL.—Not more than 20 percent of the funds appropriated pursuant to the authority of section 507(a) for each fiscal year shall be used by the National Board for the costs of administration.

(B) COSTS OF ADMINISTRATION DEFINED.—For purposes of this paragraph, the term "costs of administration" means costs relating to staff, supplies, equipment, space, and travel and per diem, costs of conducting meetings and conferences, and other related costs.

SEC. 505. DEADLINES. 20 USC 5935.

Not later than December 31, 1995, the National Board shall, at a minimum—

(1) identify occupational clusters pursuant to section 504(a) representing a substantial portion of the workforce; and

(2) promote the development of an initial set of skill standards in accordance with section 504(d) for such clusters.

SEC. 506. REPORTS. 20 USC 5936.

The National Board shall prepare and submit to the President and the Congress in each of the fiscal years 1994 through 1999, a report on the activities conducted under this title. Such report shall include information on the extent to which skill standards have been adopted by employers, training providers, and other entities, and on the effectiveness of such standards in accomplishing the purposes described in section 502.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5937.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $15,000,000 for fiscal year 1994 and such sums as may be necessary for each of fiscal years 1995 through 1999.

(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

20 USC 5938.

SEC. 508. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) COMMUNITY-BASED ORGANIZATIONS.—The term "community-based organizations" has the meaning given the term in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

(2) EDUCATIONAL INSTITUTION.—The term "educational institution" means a high school, a vocational school, and an institution of higher education.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) which continues to meet the eligibility and certification requirements under section 498 of such Act.

(4) SKILL STANDARD.—The term "skill standard" means a standard that specifies the level of knowledge and competence required to successfully perform work-related functions within an occupational cluster.

20 USC 5939

SEC. 509. SUNSET PROVISION.

(a) REPEAL.—This title is repealed on September 30, 1999.

(b) REVIEW OF REPEAL.—It is the sense of the Congress that the appropriate committees of the Congress should review the accomplishments of the National Board prior to the date of repeal described in subsection (a) in order to determine whether it is appropriate to extend the authorities provided under this title for a period beyond such date.

TITLE VI—INTERNATIONAL EDUCATION PROGRAM

20 USC 5951.

SEC. 601. INTERNATIONAL EDUCATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary, with the concurrence of the Director of the United States Information Agency and with the foreign policy guidance of the Secretary of State, shall carry out an International Education Program in accordance with this section that shall provide for—

(1) the study of international education programs and delivery systems; and

(2) an international education exchange program.

Grants.

(b) ASSESSMENT AND INFORMATION.—The Secretary shall award grants for the study, evaluation, and analysis of education systems in other nations, particularly Great Britain, France, Germany and Japan. Such studies shall focus upon a comparative analysis of curriculum, methodology, and organizational structure, including the length of the school year and school day. In addition, the studies shall provide an analysis of successful strategies employed by other nations to improve student achievement, with a specific focus upon application to schooling and the National Education Goals.

(c) INTERNATIONAL EDUCATION EXCHANGE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the United States Information Agency, shall carry out a program to be known as the International

Education Exchange Program. Under such program the Secretary shall award grants to or enter into contracts with organizations with demonstrated effectiveness or expertise in international achievement comparisons, in order to—

(i) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education and economic education developed in the United States;

(ii) assist eligible countries in the adaptation and implementation of such programs or joint research concerning such programs;

(iii) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies;

(iv) provide a means for the exchange of ideas and experiences in civics and government education and economic education among political, educational, and private sector leaders of participating eligible countries; and

(v) provide support for—

(I) research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy.

(B) PROGRAM ADMINISTRATION.—The Secretary and the Director of the United States Information Agency, or their designees, shall be jointly responsible for the design of the program described in subparagraph (A). The Secretary and the Director of the United States Information Agency shall name to an oversight committee an equal number of representatives. Such committee shall determine the specifications for requests for proposals, the eligibility and review criteria for proposals, and the review process for proposals, for grants or contracts under this section. The Director of the United States Information Agency shall have particular responsibility for ensuring that programs assisted under this section are not duplicative of other efforts in the target countries and that foreign partner institutions are creditable.

(C) RESERVATIONS.—In carrying out the program described in subparagraph (A), there shall be reserved in each fiscal year—

(i) 50 percent of the amount available to carry out this subsection for civics and government education activities; and

(ii) 50 percent of such amount available to carry out this subsection for economic education activities.

(2) CONTRACT AUTHORIZED.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the United States Information Agency, is authorized to contract with independent nonprofit edu-

cational organizations to carry out the provisions of this subsection.

(B) NUMBER.—The Secretary, in consultation with the Director of the United States Information Agency, shall award at least 1 but not more than 3 contracts described in subparagraph (A) in each of the areas described in clauses (i) and (ii) of paragraph (1)(B).

(C) AVOIDANCE OF DUPLICATION.—The Secretary, in consultation with the Director of the United States Information Agency, shall award contracts described in subparagraph (A) so as to avoid duplication of activities in such contracts.

(D) REQUIREMENTS.—Each organization with which the Secretary enters into a contract pursuant to subparagraph (A) shall—

(i) be experienced in—

(I) the development and national implementation of curricular programs in civics and government education and economic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies, in schools funded by the Bureau, and in private schools throughout the Nation with the cooperation and assistance of national professional educational organizations, colleges and universities, and private sector organizations;

(II) the development and implementation of cooperative university and school-based inservice training programs for teachers of grades kindergarten through grade 12 using scholars from such relevant disciplines as political science, political philosophy, history, law and economics;

(III) the development of model curricular frameworks in civics and government education and economic education;

(IV) the administration of international seminars on the goals and objectives of civics and government education or economic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers; and

(V) the evaluation of civics and government education or economic education programs; and

(ii) have the authority to subcontract with other organizations to carry out the provisions of this subsection.

(3) ACTIVITIES.—The international education program described in this subsection shall—

(A) provide eligible countries with—

(i) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(ii) visits to school systems, institutions of higher learning, and nonprofit organizations conducting exem-

plary programs in civics and government education and economic education in the United States;

(iii) home stays in United States communities;

(iv) translations and adaptations regarding United States civics and government education and economic education curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas;

(v) translation of basic documents of United States constitutional government for use in eligible countries, such as The Federalist Papers, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory, constitutional law and economics; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy;

(B) provide United States participants with—

(i) seminars on the histories, economics, and governments of eligible countries;

(ii) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civics and government education and economic education located in eligible countries;

(iii) home stays in eligible countries;

(iv) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government and economics of such countries that are useful in United States classrooms;

(v) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and improvement of an efficient market economy; and

(C) assist participants from eligible countries and the United States in participating in international conferences on civics and government education and economic education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(4) PARTICIPANTS.—The primary participants in the international education program assisted under this subsection shall be leading educators in the areas of civics and government

education and economic education, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and eligible countries.

(5) PERSONNEL AND TECHNICAL EXPERTS.—The Secretary is authorized to provide Department of Education personnel and technical experts to assist eligible countries to establish and implement a database or other effective methods to improve educational delivery systems, structure and organization.

(6) DEFINITIONS.—For the purpose of this subsection the term "eligible country" means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, Georgia, the Commonwealth of Independent States, and any country that formerly was a republic of the Soviet Union whose political independence is recognized in the United States.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) ASSESSMENT AND INFORMATION.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (b).

(2) INTERNATIONAL EDUCATION EXCHANGE.—There are authorized to be appropriated $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1999, to carry out subsection (c).

Safe Schools Act of 1994.
Grants.

TITLE VII—SAFE SCHOOLS

20 USC 5961.

SEC. 701. SHORT TITLE; STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Safe Schools Act of 1994".

(b) STATEMENT OF PURPOSE.—It is the purpose of this title to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

20 USC 5962.

SEC. 702. SAFE SCHOOLS PROGRAM AUTHORIZED.

(a) AUTHORITY.—

(1) IN GENERAL.—From funds appropriated pursuant to the authority of subsection (b)(1), the Secretary shall make competitive grants to eligible local educational agencies to enable such agencies to carry out projects and activities designed to achieve Goal Six of the National Education Goals by helping to ensure that all schools are safe and free of violence.

(2) GRANT DURATION AND AMOUNT.—Grants under this title may not exceed—

(A) two fiscal years in duration; and

(B) $3,000,000.

(3) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, grants under this title shall be awarded to eligible local educational agencies serving rural, as well as urban, areas.

(b) AUTHORIZATION OF APPROPRIATIONS AND RESERVATION.—

(1) AUTHORIZATION.—There are authorized to be appropriated $50,000,000 for fiscal year 1994 to carry out this title.

(2) RESERVATION.—The Secretary is authorized in each fiscal year to reserve not more than 10 percent of the amount appropriated pursuant to the authority of paragraph (1) to carry out national activities described in section 706, of which 50 percent of such amount shall be available in such fiscal year to carry out the program described in section 706(b).

SEC. 703. ELIGIBLE APPLICANTS. 20 USC 5963.

(a) IN GENERAL.—To be eligible to receive a grant under this title, a local educational agency shall demonstrate in the application submitted pursuant to section 704(a) that such agency—

(1) serves an area in which there is a high rate of—

(A) homicides committed by persons between the ages 5 to 18, inclusive;

(B) referrals of youth to juvenile court;

(C) youth under the supervision of the courts;

(D) expulsions and suspensions of students from school;

(E) referrals of youth, for disciplinary reasons, to alternative schools; or

(F) victimization of youth by violence, crime, or other forms of abuse; and

(2) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

(b) PRIORITY.—In awarding grants under this title, the Secretary shall give priority to a local educational agency that submits an application that assures a strong local commitment to the projects or activities assisted under this title, such as—

(1) the formation of partnerships among the local educational agency, a community-based organization, a nonprofit organization with a demonstrated commitment to or expertise in developing education programs or providing educational services to students or the public, a local law enforcement agency, or any combination thereof; and

(2) a high level of youth participation in such projects or activities.

SEC. 704. APPLICATIONS AND PLANS. 20 USC 5964.

(a) APPLICATION.—In order to receive a grant under this title, an eligible local educational agency shall submit to the Secretary an application that includes—

(1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant;

(2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts;

(3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served;

(4) a description of educational materials to be developed in the first most predominate non-English language of the schools and communities to be served by the grant, if applicable;

(5) if the local educational agency receives Federal education funds, an explanation of how activities assisted under this title will be coordinated with and support any systemic education improvement plan prepared with such funds;

(6) the applicant's plan to establish school-level advisory committees, which include faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat such problems;

(7) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure the applicant's progress in achieving the purpose of this title;

(8) a description of how, in subsequent fiscal years, the grantee will integrate the violence prevention activities the grantee carries out with funds under this title with activities carried out under the grantee's comprehensive plan for drug and violence prevention adopted under the Drug-Free Schools and Communities Act of 1986;

(9) a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law enforcement, judicial, health, and social service programs supported under the Juvenile Justice and Delinquency Prevention Act of 1974, and other appropriate agencies and organizations serving the community;

(10) a description of how the grantee will inform parents about the extent of crime and violence in their children's schools and maximize the participation of parents in the grantee's violence prevention activities;

(11) an assurance that grant funds under this title will be used to supplement and not supplant State and local funds that would, in the absence of funds under this title, be made available by the applicant for the purposes of the grant;

(12) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the effectiveness of projects and activities assisted under this title or the extent of school violence and discipline problems throughout the Nation; and

(13) such other information as the Secretary may require.

(b) PLAN.—In order to receive funds under this title for a second year, a grantee shall submit to the Secretary a comprehensive, long-term, school safety plan for reducing and preventing school violence and discipline problems. Such plan shall contain a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community.

20 USC 5965.

SEC. 705. USE OF FUNDS.

(a) IN GENERAL.—A local educational agency shall use grant funds received under this title for one or more of the following activities:

(1) Identifying and assessing school violence and discipline problems, including coordinating needs assessment activities with education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations, juvenile justice programs, and gang prevention activities.

(2) Conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline.

(3) Planning for comprehensive, long-term strategies for addressing and preventing school violence and discipline problems through the involvement and coordination of school programs with other education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations.

(4) Training school personnel in programs of demonstrated effectiveness in addressing violence, including violence prevention, conflict resolution, anger management, peer mediation, and identification of high-risk youth.

(5) Activities which involve parents in efforts to promote school safety and prevent school violence.

(6) Community education programs, including video- and technology-based projects, informing parents, businesses, local government, the media and other appropriate entities about—

(A) the local educational agency's plan to promote school safety and reduce and prevent school violence and discipline problems; and

(B) the need for community support.

(7) Coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations and juvenile justice programs.

(8) Developing and implementing violence prevention activities and materials, including—

(A) conflict resolution and social skills development for students, teachers, aides, other school personnel, and parents;

(B) disciplinary alternatives to expulsion and suspension of students who exhibit violent or antisocial behavior;

(C) student-led activities such as peer mediation, peer counseling, and student courts; or

(D) alternative after-school programs that provide safe havens for students, which may include cultural, recreational, educational and instructional activities, and mentoring and community service programs.

(9) Educating students and parents regarding the dangers of guns and other weapons and the consequences of their use.

(10) Developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if such behavior occurs.

(11) Supporting "safe zones of passage" for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols.

(12) Counseling programs for victims and witnesses of school violence and crime.

(13) Acquiring and installing metal detectors and hiring security personnel.

(14) Reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities.

(15) Evaluating projects and activities assisted under this title.

(16) The cost of administering projects or activities assisted under this title.

(17) Other projects or activities that meet the purpose of this title.

(b) LIMITATIONS.—

(1) IN GENERAL.—A local educational agency may use not more than—

(A) a total of 5 percent of grant funds received under this title in each fiscal year for activities described in paragraphs (11), (13), and (14) of subsection (a); and

(B) 5 percent of grant funds received under this title in each fiscal year for activities described in paragraph (16) of subsection (a).

(2) SPECIAL RULE.—A local educational agency shall only be able to use grant funds received under this title for activities described in paragraphs (11), (13), and (14) of subsection (a) if funding for such activities is not available from other Federal sources.

(3) PROHIBITION.—A local educational agency may not use grant funds received under this title for construction.

20 USC 5966.

SEC. 706. NATIONAL ACTIVITIES.

(a) NATIONAL ACTIVITIES.—

(1) IN GENERAL.—To carry out the purpose of this title, the Secretary—

(A) is authorized to use funds reserved under section 702(b)(2) to—

(i) conduct national leadership activities such as research, program development and evaluation, data collection, public awareness activities, training and technical assistance, dissemination (through appropriate research entities assisted by the Department of Education) of information on successful projects, activities, and strategies developed pursuant to this title;

(ii) provide grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking; and

(iii) conduct peer review of applications under this title; and

(B) shall develop a written safe schools model so that all schools can develop models that enable all students to participate regardless of any language barrier.

(2) SPECIAL RULE.—The Secretary may carry out the activities described in paragraph (1) directly, through interagency agreements, or through grants, contracts or cooperative agreements.

District of Columbia.

(b) NATIONAL MODEL CITY.—The Secretary shall designate the District of Columbia as a national model city and shall provide funds made available pursuant to section 702(b)(2) in each fiscal year to a local educational agency serving the District of Columbia in an amount sufficient to enable such agency to carry out a comprehensive program to address school and youth violence.

SEC. 707. NATIONAL COOPERATIVE EDUCATION STATISTICS SYSTEM.

Subparagraph (A) of section 406(h)(2) of the General Education Provisions Act (20 U.S.C. 1221e–1(h)(2)(A)) is amended—

(1) in clause (vi), by striking "and" after the semicolon; and

(2) by adding after clause (vii) the following new clause:

"(viii) school safety policy, and statistics on the incidents of school violence; and".

SEC. 708. REPORTS. 20 USC 5967.

(a) REPORT TO SECRETARY.—Each local educational agency that receives funds under this title shall submit to the Secretary a report not later than March 1, 1995, that describes progress achieved in carrying out the plan described in section 704(b).

(b) REPORT TO CONGRESS.—The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report not later than October 1, 1995, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under section 704(a), and an evaluation of programs assisted under this title.

SEC. 709. COORDINATION OF FEDERAL ASSISTANCE. 20 USC 5968.

The Secretary, as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention of the Department of Justice, shall coordinate the programs and activities carried out under this title with the programs and activities carried out by the departments and offices represented within the Council that provide assistance under other Federal law for purposes that are determined by the Secretary to be similar to the purpose of this title, in order to avoid redundancy and coordinate Federal assistance, research, and programs for youth violence prevention.

TITLE VIII—MINORITY-FOCUSED CIVICS EDUCATION

Minority-Focused Civics Education Act of 1994.
Native Americans.
20 USC 5981.

SEC. 801. SHORT TITLE.

This title may be cited as the "Minority-Focused Civics Education Act of 1994".

SEC. 802. PURPOSES. 20 USC 5982.

It is the purpose of this title—

(1) to encourage improved instruction for minorities and Native Americans in American government and civics through a national program of accredited summer teacher training and staff development seminars or institutes followed by academic year inservice training programs conducted on college and university campuses or other appropriate sites, for—

(A) social studies and other teachers responsible for American history, government, and civics classes; and

(B) other educators who work with minority and Native American youth; and

(2) through such improved instruction to improve minority and Native American student knowledge and understanding of the American system of government.

20 USC 5983

SEC. 803. GRANTS AUTHORIZED; AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to eligible entities for the development and implementation of seminars in American government and civics for elementary and secondary school teachers and other educators who work with minority and Native American students.

(2) AWARD RULE.—In awarding grants under this title, the Secretary shall ensure that there is wide geographic distribution of such grants.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998, to carry out this title.

20 USC 5984.

SEC. 804. DEFINITIONS.

For purposes of this title—

(1) the term "eligible entity" means a State educational agency, an institution of higher education or a State higher education agency, or a public or private nonprofit organization, with experience in coordinating or conducting teacher training seminars in American government and civics education, or a consortium thereof; and

(2) the term "State higher education agency" means the officer or agency primarily responsible for the State supervision of higher education.

20 USC 5985.

SEC. 805. APPLICATIONS.

(a) APPLICATION REQUIRED.—Each eligible entity desiring a grant under this title shall submit an application to the Secretary, at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

(1) define the learning objectives and course content of each seminar to be held and describe the manner in which seminar participants shall receive substantive academic instruction in the principles, institutions and processes of American government;

(2) provide assurances that educators successfully participating in each seminar will qualify for either graduate credit or professional development or advancement credit according to the criteria established by a State or local educational agency;

(3) describe the manner in which seminar participants shall receive exposure to a broad array of individuals who are actively involved in the political process, including political party representatives drawn equally from the major political parties, as well as representatives of other organizations involved in the political process;

(4) provide assurances that the seminars will be conducted on a nonpartisan basis;

(5) describe the manner in which the seminars will address the role of minorities or Native Americans in the American political process, including such topics as—

(A) the history and current political state of minorities or Native Americans;

(B) recent research on minority or Native American political socialization patterns and cognitive learning styles; and

(C) studies of political participation patterns of minorities or Native Americans;

(6) describe the pedagogical elements for teachers that will enable teachers to develop effective strategies and lesson plans for teaching minorities or Native American students at the elementary and secondary school levels;

(7) identify the eligible entities which will conduct the seminars for which assistance is sought;

(8) in the case that the eligible entity is an institution of higher education, describe the plans for collaborating with national organizations in American government and civics education;

(9) provide assurances that during the academic year educators participating in the summer seminars will provide inservice training programs based upon what such educators have learned and the curricular materials such educators have developed or acquired for their peers in their school systems with the approval and support of their school administrators; and

(10) describe the activities or services for which assistance is sought, including activities and services such as—

(A) development of seminar curricula;

(B) development and distribution of instructional materials;

(C) scholarships for participating teachers; and

(D) program assessment and evaluation.

(c) PRIORITY.—The Secretary, in approving applications for assistance under this title, shall give priority to applications which demonstrate that—

(1) the applicant will serve teachers who teach in schools with a large number or concentration of economically disadvantaged students;

(2) the applicant has demonstrated national experience in conducting or coordinating accredited summer seminars in American government or civics education for elementary and secondary school teachers;

(3) the applicant will coordinate or conduct seminars on a national or multistate basis through a collaboration with an institution of higher education, State higher education agency or a public or private nonprofit organization, with experience in coordinating or conducting teacher training programs in American government and civics education;

(4) the applicant will coordinate or conduct seminars designed for more than one minority student population and for Native Americans; and

(5) the applicant will coordinate or conduct seminars that offer a combination of academic instruction in American government, exposure to the practical workings of the political system, and training in appropriate pedagogical techniques for working with minority and Native American students.

Educational Research, Development, Dissemination, and Improvement Act of 1994.

TITLE IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

20 USC 6001.

SEC. 901. SHORT TITLE.

This title may be cited as the "Educational Research, Development, Dissemination, and Improvement Act of 1994".

20 USC 6002.

SEC. 902. FINDINGS.

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to prepare students to achieve the National Education Goals. The Federal Government should support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every student in the United States. The Office of Educational Research and Improvement within the Department of Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, are minorities, belong to a language minority, or have a disability. The Federal commitment to education was sufficient to serve not more than—

(A) in 1993, 1 out of every 6 low-income children in need of preschool education;

(B) in 1990, 3 out of every 5 children in need of remediation;

(C) in 1991, 1 out of every 5 children in need of bilingual education; and

(D) in 1992, 1 out of every 20 youths eligible for assistance under the Job Training Partnership Act.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the United States a sound foundation of knowledge on which to design school improvements. The educational achievement of minority children is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by the year 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on education.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office should develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the education decisionmakers of the United States.

(7) A National Educational Research Policy and Priorities Board should be established to work collaboratively with the Assistant Secretary to forge a national consensus with respect to a long-term agenda for educational research, development, dissemination, and the activities of the Office.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions should be created to promote knowledge development necessary to accelerate the application of research findings to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the educational system of the United States, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office. The Office therefore should assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office with that of other components of the Department of Education is critical. The Office should improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

PART A—GENERAL PROVISIONS REGARDING THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 911. REPEAL.

(a) REPEAL.—Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is repealed.

(b) CONFORMING AMENDMENT.—The second sentence of section 209 of the Department of Education Organization Act (20 U.S.C. 3419) is amended by inserting "and such functions as set forth in the Educational Research, Development, Dissemination, and Improvement Act of 1994" after "delegate".

SEC. 912. OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT. 20 USC 6011.

(a) DECLARATION OF POLICY REGARDING EDUCATIONAL OPPORTUNITY.—

(1) IN GENERAL.—The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, disability, national origin, or social class. Although the American educational system has pursued this objective, it has not been attained. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, development, improvement activities, data collection, synthesis, technical assistance, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) MISSION OF OFFICE.—

(A) The mission of the Office shall be to provide national leadership in—

(i) expanding fundamental knowledge and understanding of education;

(ii) promoting excellence and equity in education; and the achievement of the National Educational Goals by spurring reform in the school systems of the United States;

(iii) promoting the use and application of research and development to improve practice in the classroom; and

(iv) monitoring the state of education.

(B) The mission of the Office shall be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers.

(b) PURPOSE AND STRUCTURE OF OFFICE.—

(1) IN GENERAL.—The Secretary, acting through the Office, shall carry out the policies set forth in subsection (a). In carrying out such policies, the Office shall be guided by the Research Priorities Plan developed by the Assistant Secretary working collaboratively with the Board and which has been approved by the Board.

(2) ADMINISTRATIVE STRUCTURE.—The Office shall be administered by the Assistant Secretary and shall include—

(A) the National Educational Research Policy and Priorities Board established by section 921;

(B) the national research institutes established by section 931;

(C) the national education dissemination system established by section 941;

(D) the National Center for Education Statistics; and

(E) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

(3) AUTHORIZED ACTIVITIES.—

(A) OFFICE.—In fulfilling its purposes under this section, the Office is authorized to—

(i) conduct and support education-related research activities, including basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations of national significance;

(ii) disseminate the findings of education research, and provide technical assistance to apply such information to specific problems at school sites;

(iii) collect, analyze, and disseminate data related to education, and to library and information services;

(iv) promote the use of knowledge gained from research and statistical findings in schools, other educational institutions, and communities;

(v) provide training in education research; and

(vi) promote the coordination of education research and research support within the Federal Government, and otherwise assist and foster such research.

(c) APPOINTMENT OF EMPLOYEES.—

(1) IN GENERAL.—The Assistant Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5, United States Code, governing appointment

in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees of the Office as the Assistant Secretary considers necessary to accomplish its functions, provided that—

(A) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(B) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS–15, as determined in accordance with section 5376 of title 5, United States Code;

(C) the appointment of such employee is necessary to provide the Office with scientific or technical expertise which could not otherwise be obtained by the Office through the competitive service; and

(D) the total number of such employees does not exceed one-fifth of the number of full-time, regular scientific or professional employees of the Office.

(2) REAPPOINTMENT OF EMPLOYEES.—The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a clear and convincing justification of need, for one additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

(d) AUTHORITY TO PUBLISH.—

(1) IN GENERAL.—The Assistant Secretary is authorized to prepare and publish such information, reports, and documents as may be of value in carrying out the purposes of this title without further clearance or approval by the Secretary or any other office of the Department of Education.

(2) QUALITY ASSURANCE.—In carrying out such authority, the Assistant Secretary shall—

(A) establish such procedures as may be necessary to assure that all reports and publications issued by the Office are of the highest quality; and

(B) provide other offices of the Department of Education with an opportunity to comment upon any report or publication prior to its publication when its contents relate to matters for which such office has responsibility.

(e) BIENNIAL REPORT ON ACTIVITIES OF OFFICE.—The Assistant Secretary shall transmit to the President and the Congress by not later than December 30 of every other year a report which shall consist of—

(1) a description of the activities carried out by and through each research institute during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

(2) a description of the activities carried out by and through the national education dissemination system established by section 941 during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

(3) such written comments and recommendations as may be submitted by the Board concerning the activities carried out by and through each of the institutes and the national education dissemination system during the fiscal years for which such report is prepared;

(4) a description of the coordination activities undertaken pursuant to subsection (g) during the fiscal years for which such report is prepared;

(5) recommendations for legislative and administrative changes necessary to improve the coordination of all educational research, development, and dissemination activities carried out within the Federal Government; and

(6) such additional comments, recommendations, and materials as the Assistant Secretary considers appropriate.

(f) RESEARCH PRIORITIES PLAN.—

(1) IN GENERAL.—Working collaboratively with the Board, the Assistant Secretary shall—

(A) survey and assess the state of knowledge in education research, development and dissemination to identify disciplines and areas of inquiry in which the state of knowledge is insufficient and which warrant further investigation, taking into account the views of both education researchers and practicing educators;

(B) consult with the National Education Goals Panel and other authorities on education to identify national priorities for the improvement of education;

(C) actively solicit recommendations from education researchers, teachers, school administrators, cultural leaders, parents, and others throughout the United States through such means as periodic regional forums;

(D) provide recommendations for the development, maintenance, and assurance of a strong infrastructure for education, research, and development in the United States; and

(E) on the basis of such recommendations, develop a research priorities program which shall recommend priorities for the investment of the resources of the Office over the next 5-, 10-, and 15-year periods, including as priorities those areas of inquiry in which further research, development and dissemination—

(i) is necessary to attain the National Education Goals;

(ii) promises to yield the greatest practical benefits to teachers and other educators in terms of improving education; and

(iii) will not be undertaken in sufficient scope or intensity by the other Federal and non-Federal entities engaged in education research and development.

(2) CONTENTS OF PLAN.—(A) The research and priorities plan described in paragraph (1) shall, at a minimum—

(i) set forth specific objectives which can be expected to be achieved as a result of a Federal investment in the priorities set forth in the plan;

(ii) include recommendations with respect to research and development on cross-cutting issues which should be carried out jointly by 2 or more of the research institutes; and

(iii) include an evaluative summary of the educational research and development activities undertaken by the Federal Government during the preceding 2 fiscal years, which shall describe—

(I) what has been learned as a result of such activities;

(II) how such new knowledge or understanding extends or otherwise relates to what had been previously known or understood;

(III) the implications of such new knowledge or understanding for educational practice and school reform; and

(IV) any development, reform, and other assistance activities which have utilized such knowledge or understanding and the effects of such efforts.

(B) REPORT.—(i) Not later than 6 months after the first meeting of the Board and by October 1 of every second year thereafter, the Assistant Secretary shall publish a report specifying the proposed research priorities of the Office and allow a 60-day period beginning on the date of the publication of the report for public comment and suggestions.

(ii) Not later than 90 days after the expiration of the 60-day period referred to in clause (i), the Assistant Secretary shall submit to the Board a report specifying the proposed research priorities of the Office and any public comment and suggestions obtained under such subparagraph for the Board's review and approval.

(g) COORDINATION.—With the advice and assistance of the Board, the Assistant Secretary shall work cooperatively with the Secretary and the other Assistant Secretaries of the Department of Education to establish and maintain an ongoing program of activities designed to improve the coordination of education research, development, and dissemination and activities within such Department and within the Federal Government to—

(1) minimize duplication in education research, development, and dissemination carried out by the Federal Government;

(2) maximize the value of the total Federal investment in education research, development, and dissemination; and

(3) enable entities engaged in education research, development, and dissemination within the Federal Government to interact effectively as partners and take full advantage of the diverse resources and proficiencies which each entity has available.

(h) ACTIVITIES REQUIRED WITH RESPECT TO COORDINATION.—In carrying out such program of coordination, the Assistant Secretary shall compile (and thereafter regularly maintain) and make available a comprehensive inventory of education research, development, dissemination activities, and expenditures being carried out by the Federal Government.

(i) STANDARDS FOR THE CONDUCT AND EVALUATION OF RESEARCH.—

(1) IN GENERAL.—In consultation with the Board, the Assistant Secretary shall develop such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to assure that such activities meet the highest standards

of professional excellence. In developing such standards, the Assistant Secretary shall review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development and shall also actively solicit recommendations from research organizations and members of the general public.

(2) CONTENTS OF STANDARDS.—Such standards shall at a minimum—

(A) require that a process of open competition be used in awarding or entering into all grants, contracts, and cooperative agreements under this title;

(B) require that a system of peer review be utilized by the Office—

(i) for reviewing and evaluating all applications for grants and cooperative agreements and bids for those contracts which exceed $100,000;

(ii) for evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office; and

(iii) for reviewing and designating exemplary and promising programs in accordance with section 941(d);

(C) describe the general procedures which shall be used by each peer review panel in its operations;

(D)(i) describe the procedures which shall be utilized in evaluating applications for grants, proposed cooperative agreements, and contract bids; and

(ii) specify the criteria and factors which shall be considered in making such evaluations;

(E) describe the procedures which shall be utilized in reviewing educational programs which have been identified by or submitted to the Secretary for evaluation in accordance with section 941(d); and

(F) require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance.

(3) PUBLICATION AND PROMULGATION OF STANDARDS.—

(A) The Assistant Secretary shall publish proposed standards—

(i) which meet the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (2) not later than 1 year after the date of the enactment of this title;

(ii) which meet the requirements of paragraph (2)(E) not later than 2 years after such date; and

(iii) which meet the requirements of subparagraph (F) of paragraph (2) not later than 3 years after such date.

(B) Following the publication of such proposed standards, the Assistant Secretary shall solicit comments from interested members of the public with respect to such proposed standards for a period of not more than 120 days. After giving due consideration to any comments which may have been received, the Assistant Secretary shall transmit such standards to the Board for its review and approval.

(C) Upon the approval of the Board, the Assistant Secretary shall transmit final standards to the Secretary which meet the requirements of the particular subparagraphs of paragraph (2) for which such standards were developed. Such standards shall be binding upon all activities carried out with funds appropriated pursuant to subsection (m).

(j) ADDITIONAL RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—In carrying out the activities and programs of the Office, the Assistant Secretary—

(1) shall be guided by the Research Priorities Plan developed by the Assistant Secretary working collaboratively with the Board and which has been approved by the Board;

(2) shall ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary and involving Indian and Alaska Native researchers and educators in activities that relate to the education of Indian and Alaska Native people;

(3) shall ensure that the selection of research topics and the administration of the program are free from undue partisan political influence;

(4) shall ensure that all statistics and other data collected and reported by the Office shall be collected, cross-tabulated, analyzed, and reported by sex within race or ethnicity and socioeconomic status whenever feasible (and when such data collection or analysis is not feasible, ensure that the relevant report or document includes an explanation as to why such data collection or analysis is not feasible);

(5) is authorized to administer funds to support a single project when more than 1 Federal agency uses funds to support such project, and the Assistant Secretary may act for all such agencies in administering such funds; and

(6) is authorized to offer information and technical assistance to State and local educational agencies, school boards, and schools, including schools funded by the Bureau, to ensure that no student is—

(A) denied access to the same rigorous, challenging curriculum that such student's peers are offered; or

(B) grouped or otherwise labeled in such a way that may impede such student's achievement.

(k) INDEPENDENT EVALUATIONS.—The Secretary shall enter into one or more contracts for the conduct of an independent evaluation of the effectiveness of the implementation of the provisions of this title. Such evaluations shall be transmitted to the Congress, the President, and the Assistant Secretary not later than 54 months after the date of the enactment of this title. Contracts.

(l) DEFINITIONS.—For purposes of this title, the following definitions apply:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act.

(2) AT-RISK STUDENT.—The term "at-risk student" means a student who, because of limited English proficiency, poverty,

race, geographic location, or economic disadvantage, faces a greater risk of low educational achievement or reduced academic expectations.

(3) BOARD.—The term "Board" means the National Educational Research Policy and Priorities Board.

(4) DEVELOPMENT.—The term "development"—

(A) means the systematic use, adaptation, and transformation of knowledge and understanding gained from research to create alternatives, policies, products, methods, practices, or materials which can contribute to the improvement of educational practice; and

(B) includes the design and development of prototypes and the testing of such prototypes for the purposes of establishing their feasibility, reliability, and cost-effectiveness.

(5) DISSEMINATION.—The term "dissemination" means the communication and transfer, through the provision of technical assistance and other means, of the results of research and proven practice in forms that are understandable, easily accessible and usable or adaptable for use in the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, policymakers, and the public.

(6) EDUCATIONAL RESEARCH.—The term "educational research" includes basic and applied research, inquiry with the purpose of applying tested knowledge gained to specific educational settings and problems, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education.

(7) FIELD-INITIATED RESEARCH.—The term "field-initiated research" means education research in which topics and methods of study are generated by investigators, including teachers and other practitioners, not by the source of funding.

(8) NATIONAL EDUCATION DISSEMINATION SYSTEM.—The term "national education dissemination system" means the activities carried out by the Office of Reform Assistance and Dissemination established by section 941.

(9) OFFICE.—The term "Office", unless otherwise specified, means the Office of Educational Research and Improvement established in section 209 of the Department of Education Organization Act.

(10) NATIONAL RESEARCH INSTITUTE.—The term "national research institute" means an institute established in section 931.

(11) TECHNICAL ASSISTANCE.—The term "technical assistance" means assistance in identifying, selecting, or designing solutions based on research to address educational problems, planning, and design that leads to adapting research knowledge to school practice, training to implement such solutions, and other assistance necessary to encourage adoption or application of research.

(12) UNITED STATES; STATE.—The terms "United States" and "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact

of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

(m) AUTHORIZATION OF APPROPRIATIONS.—

(1) NATIONAL INSTITUTES.—

(A) For the purpose of carrying out section 931, there is authorized to be appropriated $68,000,000 for fiscal year 1995.

(B)(i) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on the Education of At-Risk Students, there are authorized to be appropriated $60,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(ii) Of the total amounts appropriated pursuant to clause (i)—

(I) 50 percent shall be used by the Assistant Secretary for the purpose of carrying out the provisions of section 931 relating to the National Institute on the Education of At-Risk Students; and

(II) 50 percent shall be used for the purpose of carrying out the provisions of section 931 relating to the National Institute on Student Achievement, Curriculum, and Assessment.

(C) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Educational Governance, Finance, Policy-Making, and Management, there are authorized to be appropriated $10,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(D) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Early Childhood Development and Education, there are authorized to be appropriated $15,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(E) For the purpose of carrying out the provisions of section 931 relating to the National Institute on Postsecondary Education, Libraries, and Lifelong Learning, there are authorized to be appropriated $15,000,000 for fiscal year 1996, and such sums as are necessary for each of fiscal years 1997, 1998, and 1999.

(F) COORDINATION AND SYNTHESIS.—The Assistant Secretary is authorized to reserve not more than 10 percent of the total amounts appropriated in any fiscal year pursuant to subparagraphs (A) through (E) (but not more than 33 percent of the amount appropriated for any single institute in any fiscal year) for the purposes of supporting coordination and synthesis activities described in section 931(i) or to address other priorities which are consistent with the Research Priorities Plan developed by the Assistant Secretary and approved by the Board.

(2) NATIONAL EDUCATION DISSEMINATION SYSTEM.—

(A)(i) For the purpose of carrying out paragraph (2) of subsection (b) and subsections (c) through (g) of section 941, there are authorized to be appropriated $23,000,000

for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999.

(ii) Of the amount appropriated under clause (i) for any fiscal year, the Secretary shall make available not less than $8,000,000 to carry out subsection (f) of section 941 (relating to Educational Resources Information Center Clearinghouses).

(B) For the purpose of carrying out subsection (h) of section 941 (relating to regional educational laboratories), there are authorized to be appropriated $41,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999. Of the amounts appropriated under the preceding sentence for a fiscal year, the Secretary shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(C) For the purpose of carrying out subsection (j) of section 941 (relating to the teacher research dissemination demonstration program) there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 through 1999.

(D) For the purpose of carrying out subsection (i) of section 941 (relating to the Goals 2000 Community Partnerships program), there are authorized to be appropriated $30,000,000 for fiscal year 1995, $50,000,000 for fiscal year 1996, and such sums as are necessary for each of the fiscal years 1997 and 1999.

(3) NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD.—Of the amounts appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary shall make available 2 percent of such amounts, or $1,000,000, whichever is less, for the purpose of supporting the activities and expenses of the Board and the collaborative development of the Research Priorities Plan by the Assistant Secretary and the Board.

(4) ALLOCATIONS FOR GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Of the amounts appropriated under paragraph (1) or (2) for any fiscal year, not less than 95 percent shall be expended to carry out the purposes described in such paragraphs through grants, cooperative agreements, or contracts.

(5) LIMITATIONS ON APPROPRIATIONS.—No amounts are authorized to be appropriated under paragraph (1) or (2) for fiscal year 1996 or any fiscal year thereafter unless the Board has been appointed in accordance with section 921.

(6) GRANT AUTHORIZED.—

(A) IN GENERAL.—From the amounts appropriated pursuant to paragraph (1) for any fiscal year, the Secretary is authorized, in accordance with the provisions of this paragraph, to award a grant of not more than $5,000,000 to a public or private institution, agency or organization for a period not to exceed 5 years for the purpose of conducting a State-by-State poll to determine the perceptions of recent graduates of secondary schools, their instructors in institutions of higher education, parents of recent such graduates, and employers of recent such graduates on how

well schools have prepared students for further education or employment.

(B) MATCHING REQUIREMENT.—The grant described in subparagraph (A) shall be awarded on a competitive basis and shall be matched on a two-to-one basis by the recipient.

SEC. 913. ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT.

Subsection (b) of section 202 of the Department of Education Organization Act is amended— 20 USC 3412.

(1) in paragraph (1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively; and

(2) by adding at the end the following new paragraph:

"(3) There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

"(A) appointed by the President, by and with the consent of the Senate; and President.

"(B) selected (giving due consideration to recommendations from the National Educational Research Policy and Priorities Board) from among individuals who—

"(i) are distinguished educational researchers or practitioners;

"(ii) have proven management ability; and

"(iii) have substantial knowledge of education within the United States.".

SEC. 914. SAVINGS PROVISION. 20 USC 1221e note.

Notwithstanding any other provision of law, contracts for the regional educational laboratories, Educational Resources Information Center Clearinghouses and research and development centers and regional educational laboratories assisted under section 405 of the General Education Provisions Act, as such section was in effect on the day before the date of the enactment of this title, shall remain in effect until the termination date of such contracts.

SEC. 915. EXISTING GRANTS AND CONTRACTS. 20 USC 1221e note.

(a) IN GENERAL.—Notwithstanding any other provision of law, grants and contracts for the research and development centers assisted under section 405 of the General Education Provisions Act, as such section was in effect on the day before the date of enactment of this Act, shall remain in effect until the termination date of such grants or contracts, as the case may be, except that such grants and contracts may be extended to implement the provisions of this title.

(b) USE OF FUNDS.—In carrying out subsection (a), the Secretary shall use funds appropriated pursuant to section 912(m)(1).

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

SEC. 921. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT. 20 USC 6021.

(a) IN GENERAL.—There is established within the Office a National Educational Research Policy and Priorities Board.

(b) FUNCTIONS.—It shall be the responsibility of the Board to—

(1) work collaboratively with the Assistant Secretary to determine priorities that should guide the work of the Office and provide guidance to the Congress in its oversight of the Office;

(2) review and approve the Research Priorities Plan developed by the Assistant Secretary in collaboration with the Board;

(3) review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office pursuant to this title; and

(4) review regularly, evaluate, and publicly comment upon, the implementation of its recommended priorities and policies by the Department and the Congress.

(c) ADDITIONAL RESPONSIBILITIES OF THE BOARD.—It shall also be the responsibility of the Board to—

(1) provide advice and assistance to the Assistant Secretary in carrying out the coordination activities described in section 912;

(2) make recommendations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the Director of each research institute established by section 931 after making special efforts to identify qualified women and minorities and soliciting and giving due consideration to recommendations from professional associations and interested members of the public;

(3) advise and make recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for the Office;

(4) review and comment upon proposed contract grant, and cooperative agreement proposals in accordance with section 931(c)(4);

(5) advise the United States on the Federal educational research and development effort;

(6) recommend ways for strengthening active partnerships among researchers, educational practitioners, librarians, and policymakers;

(7) recommend ways to strengthen interaction and collaboration between the various program offices and components;

(8) solicit advice and information from the educational field, to define research needs and suggestions for research topics, and shall involve educational practitioners, particularly teachers, in this process;

(9) solicit advice from practitioners, policymakers, and researchers, and recommend missions for the national research centers assisted under this title by identifying topics which require long-term, sustained, systematic, programmatic, and integrated research and dissemination efforts;

(10) provide recommendations for translating research findings into workable, adaptable models for use in policy and in practice across different settings, and recommendations for other forms of dissemination; and

(11) provide recommendations for creating incentives to draw talented young people into the field of educational

research, including scholars from disadvantaged and minority groups.

(d) STANDING SUBCOMMITTEES.—The Board may establish a standing subcommittee for each of the Institutes established by section 931 and for the Office of Reform Assistance and Dissemination established by section 941(b) which shall advise, assist, consult with and make recommendations to the Assistant Secretary, the Board, the Director of such entity and the Congress on matters related to the activities carried out by and through such entities.

(e) POWERS OF THE BOARD.—In carrying out its functions, powers, and responsibilities, the Board—

(1) shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule who shall assist in carrying out and managing the activities of the Board and perform such other functions the Board determines to be necessary and appropriate;

(2) shall utilize such additional staff as may be appointed or assigned by the Assistant Secretary;

(3) may arrange for the detail of staff personnel and utilize the services and facilities of any department or agency of the Federal Government;

(4) may enter into contracts, or make other arrangements as may be necessary to carry out its functions;

(5) shall participate in any public meetings or other activities carried out by the Assistant Secretary in the development of the Research Priorities Plan;

(6) may review any grant, contract, or cooperative agreement made or entered into by the Office;

(7) may, to the extent otherwise permitted by law, obtain directly from any department or agency of the United States such information as the Board deems necessary to carry out its responsibilities;

(8) may convene workshops and conferences, collect data, and establish subcommittees which may be composed of members of the Board and nonmember consultants (including employees of the Department of Education) with expertise in the particular area addressed by such subcommittees; and

(9) shall establish such rules and procedures to govern its operations as it considers appropriate, to the extent otherwise permitted by law.

(f) MEMBERSHIP IN GENERAL.—

(1) QUALIFICATIONS.—The members of the Board shall be individuals who, by virtue of their training, experience, and background in educational research and the education professions, are exceptionally qualified to appraise the educational research and development effort of the United States and to fulfill the responsibilities described in subsections (b) and (c).

(2) BROAD REPRESENTATION.—Due consideration shall be given to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the United States.

(3) LIMITATION.—A voting member of the Board may not serve on any other governing or advisory board within the

Department of Education or as a paid consultant of such Department.

(4) CONFLICT OF INTEREST.—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(g) SECRETARIAL APPOINTMENTS.—The Board shall consist of 15 members appointed by the Secretary. Of the members of the Board—

(1) five shall be appointed from among researchers in the field of education who have been nominated by the National Academy of Sciences;

(2) five shall be outstanding school-based professional educators; and

(3) five shall be individuals who are knowledgeable about the educational needs of the United States and may include parents with experience in promoting parental involvement in education, Chief State School Officers, local educational agency superintendents, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(h) REQUIREMENTS FOR NOMINATIONS BY THE NATIONAL ACADEMY OF SCIENCES.—

(1) IN GENERAL.—In making nominations for the members of the Board described in subsection (g)(1), the National Academy of Sciences—

(A) shall give due consideration to recommendations from research and education organizations;

(B) may not nominate any individual who is an elected officer or employee of such organization; and

(C) shall nominate not less than 5 individuals for each of the positions on the Board for which such organization has responsibility for making nominations.

(2) REQUEST FOR ADDITIONAL NOMINATIONS.—In the event that the Secretary determines that none of the individuals nominated by the National Academy of Sciences meets the qualifications for membership on the Board specified in subsection (g), the Secretary may request that such organization make additional nominations.

(i) NOMINATIONS FOR BOARD MEMBERSHIP.—Prior to appointing any member of the Board, the Secretary shall actively solicit and give due consideration to recommendations from organizations such as the National Education Association, the American Federation of Teachers, the National Parent-Teachers Association, the American Library Association, the American Association of School Administrators, the National Association of State Boards of Education, the National Indian School Board Association, the Association of Community Tribal Schools, the National Indian Education Association, and other education-related organizations and interested members of the public.

(j) EX OFFICIO MEMBERS.—The ex officio, nonvoting members of the Board shall include the Assistant Secretary and may also include—

(1) the Director of Research for the Department of Defense;

(2) the Director of Research for the Department of Labor;

(3) the Director of the National Science Foundation;

(4) the Director of the National Institutes of Health;

(5) the chair of the National Endowment for the Arts;
(6) the chair of the National Endowment for the Humanities;
(7) the Librarian of Congress; and
(8) the Director of the Office of Indian Education Programs of the Department of the Interior.

(k) CHAIR.—The Board shall select a Chair from among its appointed members who shall serve for a renewable term of 2 years.

(l) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term of office of each voting member of the Board shall be 6 years.

(2) EXCEPTIONS.—(A) Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term for which the predecessor of the individual was appointed shall be appointed for the remainder of the term. A vacancy shall be filled in the same manner in which the original appointment was made.

(B) The terms of office of the members of the Board who first take office after the date of the enactment of this title shall, as designated by a random selection process at the time of appointment, be as follows:

(i) 3 years for each of 5 members of the Board.
(ii) 4 years for each of 5 members of the Board.
(iii) 6 years for each of 5 members of the Board.

(3) PROHIBITION ON CERTAIN CONSECUTIVE TERMS.—An individual who has been a member of the Board for 12 consecutive years shall thereafter be ineligible for appointment during the 6-year period beginning on the date of the expiration of the 12th year.

(4) PROHIBITION REGARDING REMOVAL.—The Secretary shall neither remove nor encourage the departure of a member of the Board before the expiration of such member's term.

(m) MEETINGS OF BOARD.—

(1) INITIAL MEETING.—The Secretary shall ensure that the first meeting of the Board is held not later than May 15, 1995.

(2) SUBSEQUENT MEETINGS.—The Board shall meet quarterly, at the call of the Chair, and when at least one-third of the members of the Board make a written request to meet.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) OPEN MEETINGS.—The Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Board.

PART C—NATIONAL RESEARCH INSTITUTES

SEC. 931. ESTABLISHMENT WITHIN THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT. 20 USC 6031.

(a) ESTABLISHMENT OF INSTITUTES.—In order to fulfill the research and development purposes of the Office, and to carry out a program of high-quality and rigorously evaluated research and development that is capable of improving Federal, State, Indian tribal, and local education policies and practices, there are established within the Office the following Institutes:

(1) The National Institute on Student Achievement, Curriculum, and Assessment.

(2) The National Institute on the Education of At-Risk Students.

(3) The National Institute on Educational Governance, Finance, Policy-Making, and Management.

(4) The National Institute on Early Childhood Development and Education.

(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Education.

(b) DIRECTORS.—

(1) IN GENERAL.—Each Institute established by subsection (a) shall be headed by a Director who shall be appointed by the Assistant Secretary from among individuals who have significant experience and expertise in the disciplines relevant to the purposes of such Institute. The Assistant Secretary shall give due consideration to recommendations made by the Board of individuals qualified to fill the position.

(2) REPORTING.—Each Director shall report directly to the Assistant Secretary regarding the activities of the Institute and shall work with the other directors to promote research synthesis across the Institutes.

(c) AUTHORITIES AND DUTIES.—

(1) IN GENERAL.—The Assistant Secretary is authorized to conduct research, development, demonstration, and evaluation activities to carry out the purposes for which such Institute was established—

(A) directly;

Grants.
Contracts.

(B) through grants, contracts, and cooperative agreements with institutions of higher education, regional educational laboratories, public and private organizations, institutions, agencies, and individuals, or a consortium thereof, which may include—

(i) grants to support research and development centers which are—

(I) awarded competitively for a period of 5 years and which may be renewed for an additional 5 years;

(II) of sufficient size, scope, and quality, and funded at not less than $1,500,000 annually in order to support a full range of basic research, applied research and dissemination activities, which may also include development activities; and

(III) established by institutions of higher education, by institutions of higher education in consortium with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

(ii) meritorious unsolicited proposals for educational research and related activities;

(iii) proposals that are specifically invited or requested by the Assistant Secretary, on a competitive basis; and

(iv) dissertation grants, awarded for a period of not more than 2 years and in a total amount not

to exceed $20,000 to graduate students in the sciences, humanities, and the arts to support research by such scholars in the field of education;

(C) through the provision of technical assistance;

(D) through the award of fellowships to support graduate study in educational research by qualified African-American, Hispanic, American Indian and Alaska Native, and other individuals from groups which have been traditionally underrepresented in the field of educational research which shall—

(i) be awarded on the basis of merit for a period of 3 years; and

Federal Register, publication.

(ii) provide stipends to each fellow in an amount which shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except that such amounts shall be adjusted as necessary so as not to exceed each fellow's demonstrated level of need; and

(E) through the award of fellowships in the Office for scholars, researchers, policymakers, education practitioners, librarians, and statisticians engaged in the use, collection, and dissemination of information about education and educational research which—

(i) shall be awarded following the biennial publication in the Federal Register of proposed research priorities and a period of 60 days for public comments and suggestions with respect to such priorities;

(ii) shall be awarded competitively following the publication of a notice in the Federal Register inviting the submission of applications; and

(iii) may include such stipends and allowances, including travel and subsistence expenses provided under title 5, United States Code, as the Assistant Secretary considers appropriate.

(2) SCOPE AND FOCUS OF ACTIVITIES.—In carrying out the purposes for which each Institute is established, the Assistant Secretary shall—

(A) maintain an appropriate balance between applied and basic research;

(B) significantly expand the role of field-initiated research in meeting the education research and development needs of the United States by reserving not less than 20 percent of the amounts available to each Institute in fiscal years 1996 and 1997 and 25 percent in fiscal years 1998 and 1999 to support field-initiated research;

(C) provide for and maintain a stable foundation of long-term research and development on core issues and concerns conducted through university-based research and development centers by reserving not less than one-third of the amounts available to each Institute in any fiscal year to support such research and development centers;

(D) support and provide research information that leads to policy formation by State legislatures, State and local boards of education, schools funded by the Bureau, and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement;

(E) promote research that is related to the core content areas;

(F) plan and coordinate syntheses that provide research knowledge related to each level of the education system (from preschool to postsecondary education) to increase understanding of student performance across different educational levels;

(G) conduct and support research in early childhood, elementary and secondary, vocational, adult and postsecondary education (including the professional development of teachers) to the extent that such research is related to the purposes for which such Institute has been established;

(H) conduct sustained research and development on improving the educational achievement of poor and minority individuals as an integral part of its work; and

(I) coordinate the Institute's activities with the activities of the regional educational laboratories and with other educational service organizations in designing the Institute's research agenda and projects in order to increase the responsiveness of such Institute to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

(3) REQUIREMENTS REGARDING FINANCIAL ASSISTANCE.—No grant, contract, or cooperative agreement may be made under this title unless—

Federal Register, publication.

(A) sufficient notice of the availability of, and opportunity to compete for, assistance has first been provided to potential applicants through notice published in the Federal Register or other appropriate means;

(B) such grant, contract, or agreement has been evaluated through peer review in accordance with the standards developed pursuant to section 912(i);

(C) such grant, contract, or agreement will be evaluated in accordance with the standards developed pursuant to section 912(i);

(D) in the case of a grant, contract, or cooperative agreement which exceeds $500,000 for a single fiscal year or $1,000,000 for more than one fiscal year, the Secretary has complied with the requirements of paragraph (4); and

(E) in the case of a grant, contract, or cooperative agreement to support a research and development center, all applications for such assistance have been evaluated by independent experts according to standards and criteria which include—

(i) whether applicants have assembled a group of high quality researchers sufficient to achieve the mission of the center;

(ii) whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center;

(iii) whether there is a substantial staff commitment to the work of the center;

(iv) whether the directors and support staff will devote a majority of their time to the activities of the center;

(v) review of the contributions of primary researchers (other than researchers at the proposed center) to evaluate the appropriateness of such primary researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time commitment to achievement of the mission of the center; and

(vi) the manner in which the results of education research will be disseminated for further use, including how the center will work with the Office of Reform Assistance and Dissemination.

(4) BOARD REVIEW OF CERTAIN PROPOSED GRANT AND CONTRACT ACTIONS.—The Assistant Secretary may not solicit any contract bid or issue a request for proposals or applications for any grant or cooperative agreement the amount of which exceeds $500,000 in any single fiscal year or which exceeds an aggregate amount of $1,000,000 for more than one fiscal year unless the Board has had an opportunity to review such proposed grant, contract, or cooperative agreement and to provide written comments to the Assistant Secretary with respect to whether—

(A) the purposes and scope of the proposed action are consistent with the Research Priorities Plan; and

(B) the methodology and approach of the proposed action are sound and adequate to achieve the objectives of such grant, contract, or cooperative agreement.

(5) HISTORICALLY UNDERUTILIZED RESEARCHERS AND INSTITUTIONS.—The Assistant Secretary shall establish and maintain initiatives and programs to increase the participation in the activities of each Institute of groups of researchers and institutions that have been historically underutilized in Federal educational research activities, including— Women. Minorities. Native Americans.

(A) researchers who are women, African-American, Hispanic, American Indian and Alaska Native, or other ethnic minorities;

(B) promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors;

(C) Historically Black Colleges and Universities, Tribally Controlled Community Colleges, and other institutions of higher education with large numbers of minority students;

(D) institutions of higher education located in rural areas; and

(E) institutions and researchers located in States and regions of the United States which have historically received the least Federal support for educational research and development.

(6) ADDITIONAL AUTHORITIES.—The Assistant Secretary—

(A) may obtain (in accordance with section 3109 of title 5 but without regard to the limitation in such section on the period of service) the services of experts or consultants with scientific or professional qualifications in the disciplines relevant to the purposes of such Institute;

(B) may use, with their consent, the services, equipment, personnel, information, and facilities of other Fed-

eral, State, or local public agencies, with or without reimbursement therefore; and

(C) may accept voluntary and uncompensated services.

(d) NATIONAL INSTITUTE ON STUDENT ACHIEVEMENT, CURRICULUM, AND ASSESSMENT.—

(1) FINDINGS.—The Congress finds as follows:

(A) The current achievement levels of students in the United States are far below those that might indicate competency in challenging subject matter in core content areas.

(B) During the last 20 years, relatively little changed in how students were taught. Despite much research suggesting better alternatives, classrooms continue to be dominated by textbooks, teacher lectures, short-answer activity sheets, and unequal patterns of student attention.

(C) Despite progress in narrowing the gaps, the differences in performance between Caucasian students and their minority counterparts remain unacceptably large. While progress has been made in reducing the gender gap in mathematics, such gap still remains at higher levels of problem solving. Too little progress has been made in reducing gender performance gaps favoring males in science and females in writing.

(2) PURPOSE.—The purpose of the National Institute on Student Achievement, Curriculum, and Assessment is to carry out a coordinated and comprehensive program of research and development to provide research-based leadership to the United States as it seeks to improve student achievement in core content areas and the integration of such areas. Such program shall—

(A) identify, develop, and evaluate innovative and exemplary methods to improve student knowledge at all levels in the core content areas, such as—

(i) student learning and assessment in various subject matters;

(ii) the effects of organizational patterns on the delivery of instruction, including issues of grouping and tracking, ungraded classrooms, and on the effects of various pedagogies, including the issues of technology in education;

(iii) standards for what students should know and be able to do, particularly standards of desired performance set to internationally competitive levels;

(iv) methods to improve the process of reading, the craft of writing, the growth of reasoning skills, and the development of information-finding skills;

(v) enabling students to develop higher order thinking skills;

(vi) methods to teach effectively all students in mixed-ability classrooms;

(vii) curriculum, instruction, and assessment, in vocational education and school-to-work transition;

(viii) the impact and effectiveness of Federal, State, and local efforts to provide gender-fair educational opportunities to elementary and secondary students;

(ix) programs, policies, and approaches which promote gender equity in elementary and secondary education;

(x) improving the working conditions of teachers and other educational practitioners, which may include such topics as—

(I) teacher isolation;

(II) professional resources available to teachers;

(III) continuing educational and professional opportunities available to teachers;

(IV) physical facilities and equipment, such as office space, telephone, computer access, and fax machines and television cable access available to teachers in the work environment;

(V) opportunities for teachers to share information and resources with other teachers and education professionals;

(VI) opportunities for advanced learning experience; and

(VII) the reduction of stress in the teaching profession;

(xi) curriculum development designed to meet challenging standards, including State efforts to develop such curriculum;

(xii) the need for, and methods of delivering, teacher education, development, and inservice training;

(xiii) educational methods and activities to reduce and prevent violence in schools;

(xiv) the use of technology in learning, teaching and testing; and

(xv) other topics relevant to the mission of the institute;

(B) conduct basic and applied research in the areas of human learning, cognition, and performance, including research and development on the education contexts which promote excellence in learning and instruction, and motivational issues related to learning;

(C) identify, develop, and evaluate programs designed to enhance academic achievement and narrow racial and gender performance gaps in a variety of subject areas, including research and development on methods of involving parents in their children's education and ways to involve business, industry and other community partners in promoting excellence in schools; and

(D) include a comprehensive, coordinated program of research and development in the area of assessment which—

(i) addresses issues such as—

(I) the validity, reliability, generalizability, costs, relative merits, and most appropriate uses of various approaches and methods of assessing student learning and achievement;

(II) methods and approaches to assessing student opportunities to learn (including the quality of instruction and the availability of resources necessary to support learning) and evaluating the quality of school environment;

(III) the impact of high-stakes uses of assessment on student performance and motivation,

narrowing of curriculum, teaching practices, and test integrity;

(IV) the impact of various methods of assessment on children of different races, ethnicities, gender, socioeconomic status, and English language proficiencies, and children with other special needs;

(V) standards of performance, quality, and validity for various methods of assessment and the means by which such standards should be developed;

(VI) current and emerging testing practices of State and local education agencies within the United States, as well as other nations;

(VII) the diverse effects, both intended and unintended, of assessments as actually used in the schools, including effects on curriculum and instruction, effects on equity in the allocation of resources and opportunities, effects on equity of outcomes, effects on other procedures and standards for judging students and practitioners and possible inflation of test scores;

(VIII) identifying and evaluating how students with limited-English proficiency and students with disabilities are included and accommodated in the various assessment programs of State and local education agencies;

(IX) the feasibility and validity of comparing or equating the results of different assessments;

(X) test security, accountability, validity, reliability, and objectivity;

(XI) relevant teacher training and instruction in giving a test, scoring a test, and in the use of test results to improve student achievement;

(XII) developing, identifying, or evaluating new educational assessments, including performance-based and portfolio assessments which demonstrate skill and a command of knowledge; and

(XIII) other topics relevant to the purposes of the Institute; and

(ii) may reflect recommendations made by the National Education Goals Panel.

(e) NATIONAL INSTITUTE ON THE EDUCATION OF AT-RISK STUDENTS.—

(1) FINDINGS.—The Congress finds as follows:

(A) The rate of decline in our urban schools is escalating at a rapid pace. Student performance in most inner city schools grows worse each year. At least half of all students entering ninth grade fail to graduate 4 years later and many more students from high-poverty backgrounds leave school with skills that are inadequate for today's workplace. Student performance in many inner city neighborhoods grows worse each year. At least half of all students entering ninth grade fail to graduate in 4 years. In 1992, the average National Assessment of Educational Progress reading score of Caucasian 17 year-olds was approximately 25 points higher than that of African-

American 17 year-olds and 20 points higher than that of Hispanic 17 year-olds.

(B) Rural schools enroll a disproportionately large share of the poor and at-risk students of the United States and yet often lack the means to address effectively the needs of these children. Intensive efforts should be made to overcome the problems of geographic isolation, declining population, inadequate financial resources and other impediments to the educational success of children residing in rural areas.

(C) By the year 2000, an estimated 3,400,000 school age children with limited-English proficiency will be entering the school system. The Federal Government should develop effective policies and programs to address the educational needs of this growing population of children who are at increased risk of educational failure.

(D) An educational emergency exists in those urban and rural areas where there are large concentrations of children who live in poverty. The numbers of disadvantaged children will substantially increase by the year 2020, when the number of impoverished children alone will be 16,500,000, a 33 percent increase over the 12,400,000 children in poverty in 1987.

(E) American Indian and Alaska Native students have high dropout, illiteracy and poverty rates, and experience cultural, linguistic, social and geographic isolation. The estimated 400,000 Indian and Alaska Native student population from over 500 Indian and Alaska Native tribes, is small and scattered throughout remote reservations and villages in 32 States, and in off-reservation rural and urban communities where Indians constitute but a small percentage of public school student bodies. To meaningfully address the special educational needs of this historically under-served population, the existing research and development system should be opened to Indian and Alaska Native people to identify needs and design ways to address such needs.

(F) Minority scholars as well as institutions and groups that have been historically committed to the improvement of the education of at-risk students need to be more fully mobilized in the effort to develop a new generation of programs, models, practices, and schools capable of responding to the urgent needs of students who are educationally at-risk.

(2) PURPOSE.—It shall be the purpose of the Institute on the Education of At-Risk Students to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve educational opportunities for at-risk students. Such program shall—

(A) undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate and adapt interventions, programs, and models which promote greater achievement and educational success by at-risk students, such as—

(i) methods of instruction and educational practices (including community services) which improve the achievement and retention of at-risk students;

(ii) the quality of educational opportunities afforded at-risk students, particularly the quality of educational opportunities afforded such students in highly concentrated urban areas and sparsely populated rural areas;

(iii) methods for overcoming the barriers to learning that may impede student achievement;

(iv) innovative teacher training and professional development methods to help at-risk students meet challenging standards;

(v) methods to improve the quality of the education of American Indian and Alaska Native students not only in schools funded by the Bureau, but also in public elementary and secondary schools located on or near Indian reservations, including—

(I) research on mechanisms to facilitate the establishment of tribal departments of education that assume responsibility for all education programs of State educational agencies operating on an Indian reservation and all education programs funded by the Bureau on an Indian reservation;

(II) research on the development of culturally appropriate curriculum for American Indian and Alaska Native students, including American Indian and Alaska Native culture, language, geography, history and social studies, and graduation requirements related to such curriculum;

(III) research on methods for recruiting, training and retraining qualified teachers from American Indian and Alaska Native communities, including research to promote flexibility in the criteria for certification of such teachers;

(IV) research on techniques for improving the educational achievement of American Indian and Alaska Native students, including methodologies to reduce dropout rates and increase graduation by such students; and

(V) research concerning the performance by American Indian and Alaska Native students of limited-English proficiency on standardized achievement tests, and related factors;

(vi) means by which parents and community resources and institutions (including cultural institutions) can be utilized to support and improve the achievement of at-risk students;

(vii) the training of teachers and other educational professionals and paraprofessionals to work more effectively with at-risk students;

(viii) the most effective uses of technology in the education of at-risk students;

(ix) programs designed to promote gender equity in schools that serve at-risk students;

(x) improving the ability of classroom teachers and schools to assist new and diverse populations of stu-

dents in successfully assimilating into the classroom environment;

(xi) methods of assessing the achievement of students which are sensitive to cultural differences, provide multiple methods of assessing student learning, support student acquisition of higher order capabilities, and enable identification of the effects of inequalities in the resources available to support the learning of children throughout the United States; and

(xii) other topics relevant to the purpose of the Institute; and

(B) maximize the participation of those schools and institutions of higher education that serve the greatest number of at-risk students in inner city and rural areas, and on Indian reservations, including model collaborative programs between schools and school systems, institutions of higher education, cultural institutions, and community organizations.

(3) CONSULTATION WITH INDIAN AND ALASKA NATIVE EDUCATORS.—All research and development activities supported by the Institute which relate to the education of Indian and Alaska Native students shall be developed in close consultation with Indian and Alaska Native researchers and educators, Tribally Controlled Community Colleges, tribal departments of education, and others with expertise in the needs of Indian and Native Alaska students.

(f) NATIONAL INSTITUTE ON EARLY CHILDHOOD DEVELOPMENT AND EDUCATION.—

(1) FINDINGS.—The Congress finds as follows:

(A) Despite efforts to expand and improve preschool programs, many children still reach school age unprepared to benefit from formal education programs.

(B) Early intervention for disadvantaged children from birth to age five has been shown to be a highly cost-effective strategy for reducing later expenditures on a wide variety of health, developmental, and educational problems that often interfere with learning. Long-term studies of the benefits of preschool education have a demonstrated return on investment ranging from three to six dollars for every one dollar spent.

(C) The Federal Government should play a central role in providing research-based information on early childhood education models which enhance children's development and ultimately their success in school.

(2) PURPOSE.—The purpose of the National Institute on Early Childhood Development and Education is to carry out a comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve early childhood development and education. Such program shall undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate methods and approaches that promise to improve early childhood development and education, such as—

(A) social and educational development of infants, toddlers, and preschool children;

(B) the role of parents and the community in promoting the successful social and educational development of children from birth to age five;

(C) topics relating to children's readiness to learn, such as prenatal care, nutrition, and health services;

(D) family literacy and parental involvement in student learning;

(E) methods for integrating learning in settings other than the classroom, particularly within families and communities;

(F) practices and approaches which sustain the benefits of effective preschool and child care programs;

(G) effective learning methods and curriculum for early childhood learning, including access to current materials in libraries;

(H) the importance of family literacy and parental involvement in student learning;

(I) effective teaching and learning methods, and curriculum;

(J) instruction that considers the cultural environment of children;

(K) access to current materials in libraries;

(L) the impact that outside influences have on learning, including television, and drug and alcohol abuse;

(M) the structure and environment of early childhood education and child care settings which lead to improved social and educational development;

(N) training and preparation of teachers and other professional and paraprofessional preschool and child care workers;

(O) the use of technology, including methods to help parents instruct their children; and

(P) other topics relevant to the purpose of the Institute.

(3) CERTAIN REQUIREMENTS.—In carrying out the activities of the Institute, the Assistant Secretary shall ensure that the Institute's research and development program provides information that can be utilized in improving the major Federal early childhood education programs.

(g) NATIONAL INSTITUTE ON EDUCATIONAL GOVERNANCE, FINANCE, POLICY-MAKING, AND MANAGEMENT.—

(1) FINDINGS.—The Congress finds as follows:

(A) Many elementary and secondary schools in the United States—

(i) are structured according to models that are ineffective and rely on notions of management and governance that may be outdated or insufficient for the challenges of the next century; and

(ii) are unsuccessful in equipping all students with the knowledge and skills needed to succeed as citizens and in the working world.

(B) New approaches are needed in the governance and management of elementary and secondary education within the United States at the State, local, school building and classroom level.

(C) Not enough is known about the effects of various systems of school governance and management on student achievement to provide sound guidance to policymakers

as such policymakers pursue school restructuring and reform.

(D) A concentrated Federal effort is needed to support research, development, demonstration, and evaluation of approaches to school governance, finance and management which promise to improve education equity and excellence throughout the United States.

(2) PURPOSE.—It shall be the purpose of the National Institute on Educational Governance, Finance, Policy-Making, and Management to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the United States as it seeks to improve student achievement through school restructuring and reform. Such program shall undertake research necessary to provide a sound basis from which to identify, develop and evaluate approaches in elementary and secondary school governance, finance, policy-making, and management at the State, local, tribal, school building and classroom level which promise to improve educational equity and excellence, such as—

(A) open enrollment programs, public school choice, magnet schools and other systems through which parents may select the public schools and educational programs in which their children are enrolled;

(B) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule and, as appropriate, conducting such further research as may be recommended or suggested by the report issued by the National Education Commission on Time and Learning pursuant to section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1 note);

(C) effective approaches to organizing learning;

(D) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

(E) effective approaches to organizing, structuring, and financing vocational education;

(F) the provision of financial and other rewards and incentives to schools and educators based on performance to improve student achievement;

(G) the use of regulatory flexibility on the State or school district level to promote innovation and school restructuring;

(H) policy decisions at all levels and the impact of such decisions on school achievement and other student outcomes;

(I) the effective use of dollars for classroom construction;

(J) expanding the role of teachers in policymaking and administration at the school and school district-wide level;

(K) disparity in school financing among States, school districts, schools, and schools funded by the Bureau;

(L) the use of technology in areas such as assisting in school-based management or ameliorating the effects of disparity in school financing among States, school districts, and schools funded by the Bureau;

(M) the involvement of parents and families in the management and governance of schools and the education of their children;

(N) effective approaches to increasing the representation of women and minorities among leadership and management positions in education;

(O) approaches to systemic reforms involving the coordination of multiple policies of each level of government to promote higher levels of student achievement;

(P) approaches to coordinated services for children;

(Q) teacher certification at the State and tribal levels;

(R) school-based management, shared decisionmaking and other innovative school structures, and State and local reforms and educational policies, which show promise for improving student achievement;

(S) policies related to school-to-work transitions and preparing non-college-bound students; and

(T) other topics relevant to the mission of the Institute.

(h) NATIONAL INSTITUTE ON POSTSECONDARY EDUCATION, LIBRARIES, AND LIFELONG LEARNING.—

(1) FINDINGS.—The Congress finds as follows:

(A) The American system of postsecondary education is foremost in the world in such system's achievement of both academic excellence and equity in access, but maintaining that preeminence requires renewed efforts to strengthen the quality of postsecondary education. Disappointing student performance on achievement tests and licensure examinations, declining rates of postsecondary education persistence and completion among minorities, and other troubling trends in the quality of postsecondary education should be addressed by the United States as part of its overall drive to improve American education.

(B) The need to improve our economic productivity of the United States to meet the competitive challenges of a new, international economy, coupled with high levels of mobility in the United States labor market and demographic changes in the workforce, now demands more and higher quality programs of learning and training in the American workplace.

(C) The more than 1,000,000 men and women incarcerated in the prisons and jails in the United States are among the most severely educationally disadvantaged in the United States, with high rates of functional illiteracy and extremely low levels of educational attainment. Since an estimated 90 percent of these individuals are expected to be released by the end of the decade, the United States must act to assure that our correctional system has the means to equip these Americans with the knowledge and skills they will need to participate productively in our society.

(D) The development of a "Nation of Students" capable of and committed to the pursuit of formal and informal lifelong learning and literacy is essential to sustain both national and individual economic success and to provide a nurturing environment in which all children and youth can learn and achieve. Historically the most effective

community resource for lifelong learning, the public library system of the United States, should expand and restructure its delivery of services to take full advantage of the potential of new information technologies to meet the needs of learning communities.

(2) PURPOSE.—The purpose of the National Institute on Postsecondary Education, Libraries, and Lifelong Learning is to promote greater coordination of Federal research and development on issues related to adult learning and to carry out a program of research and development in adult learning to provide nonpartisan, research-based leadership to the United States as it seeks to improve libraries, postsecondary education, literacy, and lifelong learning throughout the United States. Such program—

(A) shall only support research and development in those areas of postsecondary education, libraries, literacy, and lifelong learning which are not being addressed by other entities within the Federal Government;

(B) may include basic and applied research, development, replication, and evaluation activities in areas such as—

(i) methods of assessing and evaluating individual, program, and institutional performance;

(ii) the uses and applications of new technologies to improve program effectiveness and enhance student learning;

(iii) the most effective training methods for adults to upgrade education and vocational skills;

(iv) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills;

(v) adult literacy and effective methods, including technology, to eliminate illiteracy;

(vi) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks;

(vii) the use of technology to develop and deliver effective training methods for adults to upgrade their education and their vocational skills; and

(viii) institutional and classroom policies and practices at the postsecondary level necessary to improve matriculation, persistence, achievement and graduation by students who are economically disadvantaged, ethnic and racial minorities, women, older, working, and who have children;

(ix) instructional practices and programs which are effective in correctional settings;

(x) new models of service delivery for public library systems which expand opportunities for lifelong learning;

(xi) effective programs and approaches which promote greater access to and success by minorities in postsecondary programs which prepare such minorities for scientific, technical, teaching, and health career fields;

(xii) effective teaching for the preparation and continuing education of teachers;

(xiii) the development and evaluation of curricular materials for the initial and continuing education of teachers and teacher educators;

(xiv) the role of Historically Black Colleges and Universities, Tribally Controlled Indian Community Colleges, women's colleges, and other special mission institutions in providing access, excellence, and equal opportunity in higher education;

(xv) methods for evaluating the quality of education at different types of institutions of higher education at all levels and the roles and responsibilities of regional and national accrediting agencies;

(xvi) methods for evaluating the productivity of different types of institutions of higher education;

(xvii) financial barriers to postsecondary educational opportunity, including—

(I) the role of Federal programs authorized under title IV of the Higher Education Act of 1965 and State grant and work programs in mitigating such barriers;

(II) the impact of the rising total cost of postsecondary education on access to higher education; and

(III) the extent and impact of student reliance on loans to meet the costs of higher education;

(xviii) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills;

(xix) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks; and

(xx) other topics relevant to the mission of the Institute.

(3) INVOLVEMENT OF CERTAIN AGENCIES AND ORGANIZATIONS.—In promoting coordination and collaboration on research and development on issues related to postsecondary education, literacy, libraries, and lifelong learning, the Institute shall, as appropriate, seek the involvement—

(A) within the Department of Education of—

(i) the Office of Library Programs;

(ii) the Office of Correctional Education;

(iii) the Office of Vocational and Adult Education;

(iv) the National Institute on Disability and Rehabilitation Research; and

(v) the Office of Postsecondary Education;

(B) of the National Institute for Literacy;

(C) of the National Board for Professional Teaching Standards;

(D) of the Employment and Training Administration of the Department of Labor;

(E) of the Administration for Children and Families within the Department of Health and Human Services;

(F) of the National Institutes of Health;

(G) of the National Endowment for the Humanities;
(H) of the National Endowment for the Arts;
(I) of the Bureau of Prisons of the Department of Justice;
(J) of the Department of Commerce;
(K) of the Department of Defense; and
(L) of the Office of Indian Education Programs of the Department of the Interior.

(4) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities described in paragraph (2), the Assistant Secretary shall ensure that the activities of the National Center on Literacy are fully coordinated with those of the National Institute for Literacy.

(i) COORDINATION AND RESEARCH SYNTHESIS.—The Assistant Secretary shall promote and provide for research syntheses and the coordination of research and development activities among the Institutes established by this section to investigate those cross-cutting disciplines and areas of inquiry which are relevant to the missions of more than one of the Institutes. Such activities—

(1) may be carried out jointly by any one of the Institutes and—
(A) one (or more) of the Institutes;
(B) the National Center for Education Statistics; or
(C) any research and development entity administered by other offices of the Department of Education or by any other Federal agency or department; and

(2) shall meet all the standards developed by the Assistant Secretary and approved by the Board for other research and development conducted by the Office.

(j) DATES FOR ESTABLISHMENT OF INSTITUTES.—The National Institute on the Education of At-Risk Students, the National Institute on Educational Governance, Finance, Policy-Making, and Management, the National Institute on Early Childhood Development and Education, the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on Postsecondary Education, Libraries, and Lifelong Learning shall each be established on October 1, 1995.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

SEC. 941. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT. 20 USC 6041.

(a) IN GENERAL.—

(1) FINDINGS.—The Congress finds as follows:

(A) In order to improve the American educational system for all students, achieve the National Education Goals, and provide for greater educational equity, policymakers, administrators, teachers, and parents must have ready access to the best information and methods available as a result of educational research and development.

(B) The Office of Educational Research and Improvement should have as one of its primary purposes the dissemination of such information and methods in order to assist the national education reform effort.

(C) All current resources within the Office, the Department of Education, and other agencies that can help accom-

plish the purposes described in subparagraph (B) should be coordinated by the Assistant Secretary, to the extent practicable, so as to form a systematic process to accomplish such purposes.

(D) Education research has the capacity to improve teaching and learning in our Nation's schools, however, teachers need training in the skills necessary to translate research into practice and to allow teachers to become knowledgeable practitioners and leaders in educational improvement.

(E) Adequate linkages between research and development providers and practitioners are essential to ensuring that research on effective practice is useful, disseminated to and supported with technical assistance for all educators, and that all educators are partners in the research and development process.

(2) PURPOSE.—The purpose of this section is to—

(A) create a national system of dissemination, development, and educational improvement in order to create, adapt, identify, validate, and disseminate to educators, parents, and policymakers those educational programs that have potential or have been shown to improve educational opportunities for all students; and

(B) empower and increase the capacity of teachers to participate in the research and development process.

(3) DEFINITION OF EDUCATIONAL PROGRAM.—For the purposes of this section, the term "educational program" includes educational policies, research findings, practices, and products.

(b) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—There is established within the Office an Office of Reform Assistance and Dissemination (hereafter in this section referred to as the "Dissemination Office") through which the Secretary shall carry out all functions and activities described in this section. Such office shall be headed by a Director who shall be appointed by the Assistant Secretary and have demonstrated expertise and experience in dissemination, including promoting the effective use of research in the classroom.

(2) CERTAIN DUTIES.—The Dissemination Office shall—

(A) disseminate relevant and useful research, information, products, and publications developed through or supported by the Department of Education to schools, educators, parents, and policymakers throughout the United States;

(B) operate a depository for all Department of Education publications and products and make available for reproduction such publications and products;

(C) provide technical and financial assistance to individuals and organizations in the process of developing promising educational programs but who might not, without such assistance, be able to complete necessary development and assessment activities;

(D) coordinate the dissemination efforts of the Office, the regional educational laboratories, the research institutes, the National Diffusion Network, and the Educational Resources Information Center Clearinghouses;

(E) provide training and technical assistance regarding the implementation and adoption of exemplary and promising programs by interested entities;

(F) carry out a program of research on models for successful knowledge dissemination, and utilization, and strategies for reaching education policymakers, practitioners, and others interested in education;

(G) develop the capacity to connect schools and teachers seeking information with the relevant regional educational laboratories assisted under subsection (h), the National Diffusion Network, the Institutes assisted under this section, and the Educational Resources Information Center Clearinghouses; and

(H) provide a biennial report to the Secretary regarding the types of information, products, and services that teachers, schools, and school districts have requested and have determined to be most useful, and describe future plans to adapt Department of Education products and services to address the needs of the users of such information, products, and services. Reports.

(3) ADDITIONAL DUTIES.—The Dissemination Office shall carry out a process for the identification of educational programs that work, dissemination through electronic networking and new technologies and the functions and activities performed by the following:

(A) The Educational Resources Information Center Clearinghouses.

(B) The regional educational laboratories.

(C) The Teacher Research Dissemination Demonstration Program.

(D) The Goals 2000 Community Partnerships Program.

(E) The existing National Diffusion Network and its Developer-Demonstrator and State Facilitator projects.

(F) Such other programs, activities, or entities the Secretary determines are consistent with purposes for which the Dissemination Office is established.

(c) IDENTIFICATION OF PROGRAMS.—The Assistant Secretary shall coordinate a process through which successful educational programs are actively sought out for possible dissemination through the national educational dissemination system. Such process shall, at a minimum, have the capability to—

(1) work closely with the Institutes, research and development centers, regional educational laboratories, the National Diffusion Network and its Developer-Demonstrator and State Facilitator projects, learning grant institutions established under the Goals 2000 Community Partnerships Program, Department of Education-supported technical assistance providers, and other entities to identify successful educational programs at the regional, State, local, or classroom level;

(2) review successful educational programs supported by the Department of Education through all of its programs;

(3) through cooperative agreements, review for possible inclusion in the system educational programs administered by the Departments of Health and Human Services (particularly the Head Start program), Labor, and Defense, the National Science Foundation, the Department of the Interior (particu-

larly the Office of Indian Education Programs), and any other appropriate Federal agency; and

(4) provide for an active outreach effort to identify successful educational programs through cooperative arrangements with State and local education agencies, teachers and teacher organizations, curriculum associations, foundations, private schools, institutions of higher education, and other entities that could enhance the ability of the Secretary to identify programs for possible inclusion in the dissemination system.

(d) DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS.—

(1) IN GENERAL.—The Assistant Secretary, in consultation with the Board, shall establish 1 or more panels of appropriately qualified experts and practitioners to—

(A) evaluate educational programs that have been identified by the Secretary under subsection (c) or that have been submitted to the Secretary for such evaluation by some other individual or organization; and

(B) recommend to the Secretary programs that should be designated as exemplary or promising educational programs.

(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In determining whether an educational program should receive a recommendation under paragraph (1), a panel established under such paragraph shall consider—

(A) whether, based on empirical data, which may include test results, the program is effective and should be designated as exemplary and disseminated through the national dissemination system; or

(B) whether there is sufficient evidence to lead a panel of experts and practitioners to believe that the program shows promise for improving student achievement and should be designated as promising and disseminated through the national dissemination system while the program continues to be evaluated.

(3) REQUIREMENT REGARDING APPROVAL OF PROGRAMS.—In seeking out programs for approval under paragraph (2), the Assistant Secretary shall seek programs that may be implemented at the State, local, and classroom level.

(4) REQUIREMENTS REGARDING PANELS.—

(A) A panel shall not eliminate a program from consideration under this subsection based solely on the fact that the program does not have one specific type of supporting data, such as test scores.

(B) The Assistant Secretary may not designate a program as exemplary or promising unless a panel established under paragraph (1) has recommended that the program be so designated.

(C) The Secretary shall establish such panels under paragraph (1) as may be necessary to ensure that each program identified or submitted for evaluation is evaluated.

(D) Not less than ⅔ of the membership of a panel established under paragraph (1) shall consist of individuals who are not officers or employees of the United States. Members of panels under paragraph (1) who are not employees of the United States shall receive compensation for each day they are engaged in carrying out the duties of the panel as well as compensation for their expenses.

(e) DISSEMINATION OF EXEMPLARY AND PROMISING PROGRAMS.—In order to ensure that programs identified as exemplary or promising are available for adoption by the greatest number of teachers, schools, local and State education agencies, and Bureau-funded schools, the Assistant Secretary shall utilize the capabilities of—

(1) the Educational Resources Information Center Clearinghouses;

(2) electronic networking;

(3) the regional educational laboratories;

(4) the National Diffusion Network;

(5) entities established under the Goals 2000 Community Partnerships Program;

(6) department-supported technical assistance providers;

(7) the National Library of Education; and

(8) other public and private nonprofit entities, including existing education associations and networks, that have the capability to assist educators in adopting exemplary and promising programs.

(f) EDUCATIONAL RESOURCES INFORMATION CENTER CLEARINGHOUSES.—

(1) IN GENERAL.—The Assistant Secretary shall establish a system of 16 clearinghouses having, at a minimum, the functions and scope of work as the clearinghouses had on the day preceding the date of the enactment of this title. The Assistant Secretary shall establish for the clearinghouses a policy for the abstraction from, and inclusion in, the Educational Resources Information Center Clearinghouses system for books, periodicals, reports, and other materials related to education.

(2) ADDITIONAL FUNCTIONS.—In addition to those functions carried out by the clearinghouses on the day preceding the date of the enactment of this title, such clearinghouses may—

(A) periodically produce interpretive summaries, digests, and syntheses of the results and findings of education-related research and development; and

(B) contain and make available to users information concerning those programs designated as exemplary and promising under subsection (d).

(3) COORDINATION OF ACTIVITIES.—The Assistant Secretary shall assure that the functions and activities of such clearinghouses are coordinated with the activities of the Institutes, the regional educational laboratories, learning grant institutions, other clearinghouses supported by the Department of Education, the National Diffusion Network, and other appropriate entities within the Office and such Department.

(4) SPECIAL RESPONSIBILITIES OF THE SECRETARY.—To assure that the information provided through such clearinghouses is fully comprehensive, the Secretary shall—

(A) require that all reports, studies, and other resources produced directly or by grant or contract with the Department of Education are made available to clearinghouses;

(B) establish cooperative agreements with the Departments of Defense, Health and Human Services, Interior, and other Federal departments and agencies to assure that all education-related reports, studies, and other resources produced directly or by grant from or contract

with the Federal Government are made available to such clearinghouses; and

(C) devise an effective system for maximizing the identification, synthesis, and dissemination of information related to the needs of Indian and Alaska Native children.

(5) COPYRIGHT PROHIBITED.—

(A) No clearinghouse or other entity receiving assistance under this subsection may copyright or otherwise charge a royalty or other fee that—

(i) is for the use or redissemination of any database, index, abstract, report, or other information produced with assistance under this subsection; and

(ii) exceeds the incremental cost of disseminating such information.

(B) For purposes of subparagraph (A), the incremental cost of dissemination does not include any portion of the cost of collecting, organizing, or processing the information which is disseminated.

(g) DISSEMINATION THROUGH NEW TECHNOLOGIES.—

(1) IN GENERAL.—The Assistant Secretary is authorized to award grants or contracts in accordance with this subsection to support the development of materials, programs, and resources which utilize new technologies and techniques to synthesize and disseminate research and development findings and other information which can be used to support educational improvement.

(2) ELECTRONIC NETWORKING.—

(A) ELECTRONIC NETWORK.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall establish and maintain an electronic network which shall, at a minimum, link—

(i) each office of the Department of Education;

(ii) the Institutes established by section 931;

(iii) the National Center for Education Statistics;

(iv) the National Library of Education; and

(v) entities engaged in research, development, dissemination, and technical assistance under grant from, or contract, or cooperative agreement with, the Department of Education.

(B) CERTAIN REQUIREMENTS FOR NETWORK.—The network described in subparagraph (A) shall—

(i) to the extent feasible, build upon existing national, regional, and State electronic networks and support video, telecomputing, and interactive communications;

(ii) at a minimum, have the capability to support electronic mail and file transfer services;

(iii) be linked to and accessible to other users, including State and local education agencies, institutions of higher education, museums, libraries, and others through the Internet and the National Research and Education Network; and

(iv) be provided at no cost (excluding the costs of necessary hardware) to the contractors and grantees described in clause (v) of subparagraph (A) and to educational institutions accessing such network

through the Internet and the National Research and Education Network.

(C) INFORMATION RESOURCES.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, may make available through the network described in subparagraph (A)—

(i) information about grant and contract assistance available through the Department of Education;

(ii) an annotated directory of current research and development activities and projects being undertaken with the assistance of the Department of Education;

(iii) information about publications published by the Department of Education and, to the extent feasible, the full text of such publications;

(iv) statistics and data published by the National Center for Education Statistics;

(v) syntheses of research and development findings;

(vi) a directory of other education-related electronic networks and databases, including information about the means by which such networks and databases may be accessed;

(vii) a descriptive listing of materials and courses of instruction provided by telecommunications partnerships assisted under the Star Schools program;

(viii) resources developed by the Educational Resources Information Center Clearinghouses;

(ix) education-related software (including video) which is in the public domain;

(x) a listing of instructional materials available through telecommunications to local education agencies through the Public Broadcasting Service and State educational television networks; and

(xi) such other information and resources the Assistant Secretary considers useful and appropriate.

(D) EVALUATIONS REGARDING OTHER FUNCTIONS OF NETWORK.—The Assistant Secretary shall also undertake projects to test and evaluate the feasibility of using the network described in subparagraph (A) for—

(i) the submission of applications for assistance to the Department of Education; and

(ii) the collection of data and other statistics through the National Center for Education Statistics.

(E) TRAINING AND TECHNICAL ASSISTANCE.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall—

(i) provide such training and technical assistance as may be necessary to enable the contractors and grantees described in clause (v) of subparagraph (A) to participate in the electronic network described in such subparagraph; and

(ii) work with the National Science Foundation to provide, upon request, assistance to State and local educational agencies, the Department of the Interior's Office of Indian Education Programs, tribal departments of education, State library agencies, libraries, museums, and other educational institutions in obtain-

ing access to the Internet and the National Research and Education Network.

(h) REGIONAL EDUCATIONAL LABORATORIES FOR RESEARCH, DEVELOPMENT, DISSEMINATION, AND TECHNICAL ASSISTANCE.—

Contracts. Nonprofit organizations.

(1) REGIONAL EDUCATIONAL LABORATORIES.—The Assistant Secretary shall enter into contracts with public or private nonprofit entities to establish a networked system of not less than 10 and not more than 12 regional educational laboratories which serve the needs of each region of the United States in accordance with the provisions of this subsection. The amount of assistance allocated to each laboratory by the Assistant Secretary shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(2) REGIONS.—The regions served by the regional educational laboratories shall be the 10 geographic regions in existence on the day preceding the date of the enactment of this title, except that in fiscal year 1996, the Assistant Secretary may support not more than 2 additional regional educational laboratories serving regions not in existence on the day preceding the date of enactment of this Act, provided that—

(A) the amount appropriated for the regional educational laboratories in fiscal year 1996 exceeds the amount appropriated for the regional educational laboratories in fiscal year 1995 by not less than $2,000,000;

(B) each such additional regional laboratory shall be supported by not less than $2,000,000 annually;

(C) the creation of any such additional laboratory region is announced at the time of the announcement of the competition for contracts for all regional educational laboratories;

(D) the creation of a regional educational laboratory that involves the combination or subdivision of a region or regions in existence on the day preceding the date of enactment of this Act in which States in 1 such region are combined with States in another such region does not result in any region in existence on such date permanently becoming part of a larger region, nor result in any such region permanently subsuming another region, nor creates within the continental United States a region that is smaller than 4 contiguous States, nor partitions a region in existence on the day preceding the date of the enactment of this Act to include less than 4 contiguous States included in the region on the day preceding the date of enactment of this Act;

Federal Register, publication.

(E) the Assistant Secretary has published a notice in the Federal Register inviting the public, for a period of not less than 60 days, to make recommendations with respect to the creation of 1 or 2 additional regional educational laboratories;

(F) the Assistant Secretary has solicited and received letters of support for the creation of any new region from the Chief State School Officers and State boards of education in each of the contiguous States that would be included in such new region.

(3) DUTIES.—Each regional educational laboratory receiving assistance under this section shall promote the implementation of broad-based systemic school improvement strategies and shall have as such laboratory's central mission and primary function to—

(A) develop and disseminate educational research products and processes to schools, teachers, local educational agencies, State educational agencies, librarians, and schools funded by the Bureau, as appropriate, and through such development and dissemination, and provide technical assistance, to help all students meet standards;

(B) develop a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(C) provide technical assistance to State and local educational agencies, school boards, schools funded by the Bureau, as appropriate, State boards of education, schools, and librarians;

(D) facilitate school restructuring at the individual school level, including technical assistance for adapting model demonstration grant programs to each school;

(E) serve the educational development needs of the region by providing education research in usable forms in order to promote school improvement and academic achievement and to correct educational deficiencies;

(F) facilitate communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the National Education Goals;

(G) provide training in—

(i) the field of education research and related areas;

(ii) the use of new educational methods; and

(iii) the use of information-finding methods, practices, techniques, and products developed in connection with such training for which the regional educational laboratory may support internships and fellowships and provide stipends;

(H) use applied educational research to assist in solving site-specific problems and to assist in development activities;

(I) conduct applied research projects designed to serve the particular needs of the region only in the event that such quality applied research does not exist as determined by the regional education laboratory or the Department of Education;

(J) collaborate and coordinate services with other technical assistance providers funded by the Department of Education;

(K) provide support and technical assistance in—

(i) replicating and adapting exemplary and promising practices;

(ii) the development of high-quality, challenging curriculum frameworks;

(iii) the development of valid, reliable assessments which are linked to State, local, or Bureau-funded content and student performance standards and reflect recent advances in the field of educational assessment;

(iv) the improvement of professional development strategies to assure that all teachers are prepared to teach a challenging curriculum;

(v) expanding and improving the use of technology in education to improve teaching and learning;

(vi) the development of alternatives for restructuring school finance systems to promote greater equity in the distribution of resources; and

(vii) the development of alternative administrative structures which are more conducive to planning, implementing, and sustaining school reform and improved educational outcomes; and

(L) bring teams of experts together to develop and implement school improvement plans and strategies.

(4) NETWORKING.—In order to improve the efficiency and effectiveness of the regional laboratories, the governing boards of the regional laboratories shall establish and maintain a network to—

(A) share information about the activities each laboratory is carrying out;

(B) plan joint activities that would meet the needs of multiple regions;

(C) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(D) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(5) ADDITIONAL DUTIES.—Each regional education laboratory receiving assistance under this subsection shall carry out the following activities:

(A) Collaborate with the Institutes established under section 931 in order to—

(i) maximize the use of research conducted through the Institutes in the work of such laboratory;

(ii) keep the Institutes apprised of the work of the regional educational laboratory in the field; and

(iii) inform the Institutes about additional research needs identified in the field.

(B) Consult with the State educational agencies and library agencies in the region in developing the plan for serving the region.

(C) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

Reports.

(D) Report and disseminate information on overcoming the obstacles faced by rural educators and rural schools.

(E) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed

or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(6) CERTAIN REQUIREMENTS.—In carrying out its responsibilities, each regional educational laboratory shall—

(A) establish a governing board that—

(i) reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies, and that includes teachers and education researchers;

(ii) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Assistant Secretary concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Assistant Secretary, the mission of the regional educational laboratory for the duration of the contract period;

(iii) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(iv) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(v) directs the regional educational laboratory to carry out the laboratory's duties in a manner as will make progress toward achieving the National Education Goals and reforming schools and educational systems; and

(vi) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers.

(B) Comply with the standards developed by the Assistant Secretary and approved by the Board under section 912.

(C) Coordinate its activities, collaborate, and regularly exchange information with the Institutes established under section 941, the National Diffusion Network, and its Developer-Demonstrator and State Facilitator projects, learning grant institutions and district education agents assisted under subsection (i), the Educational Resources Information Center Clearinghouses, and other entities engaged in technical assistance and dissemination activities which are supported by other offices of the Department of Education.

(D) Allocate the regional educational laboratory's resources to and within each State in a manner which

reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(7) EVALUATIONS.—The Assistant Secretary shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in paragraph (1) in the third year that such laboratory receives assistance under this subsection in accordance with the standards developed by the Assistant Secretary and approved by the Board and shall transmit the results of such evaluations to the relevant committees of the Congress, the Board, and the appropriate regional educational laboratory board.

Federal Register, publication.

(8) INVITATION REGARDING COMPETITION FOR AWARDS OF ASSISTANCE.—Prior to awarding a grant or entering into a contract under this section, the Secretary shall invite applicants, including the regional educational laboratories in existence on the day preceding the date of enactment of this Act, to compete for such award through notice in the Federal Register and in the publication of the Department of Commerce known as the Commerce Business Daily.

(9) APPLICATION FOR ASSISTANCE.—Each application for assistance under this subsection shall—

(A) cover not less than a 5-year period;

(B) describe how the applicant would carry out the activities required by this subsection; and

(C) contain such additional information as the Secretary may reasonably require.

(10) RULE OF CONSTRUCTION.—No regional educational laboratory receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(11) ADVANCE PAYMENT SYSTEM.—Each regional educational laboratory shall participate in the advance payment system at the Department of Education.

(12) ADDITIONAL PROJECTS.—In addition to activities described in paragraph (3), the Assistant Secretary, from amounts appropriated pursuant to subsection (h), is authorized to enter into agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve the National Education Goals and for other purposes.

(13) PLAN.—Not later than July 1 of each year, each regional educational laboratory shall submit to the Assistant Secretary a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of—

(A) the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(B) an assessment of how well such laboratory is meeting the needs of the region.

(14) CONSTRUCTION.—Nothing in this subsection shall be construed to require any modifications in the regional educational laboratory contracts in effect on the day preceding the date of enactment of this title.

(i) GOALS 2000 COMMUNITY PARTNERSHIPS PROGRAM.—

(1) PURPOSE.—The purpose of the Goals 2000 Community Partnerships program is to improve the quality of learning and teaching in the most impoverished urban and rural communities of the United States by supporting sustained collaborations between universities, schools, businesses, and communities which apply and utilize the results of educational research and development.

(2) GRANTS FOR GOALS 2000 COMMUNITY PARTNERSHIPS.—The Assistant Secretary is authorized to make grants to eligible entities to support the establishment of Learning Grant Institutions and District Education Agents and the activities authorized under this subsection within eligible communities.

(3) DEFINITION OF ELIGIBLE ENTITY AND ELIGIBLE COMMUNITY.—For the purposes of this subsection:

(A) The term "eligible entity" includes any institution of higher education, regional educational laboratory, National Diffusion Network project, national research and development center, public or private nonprofit corporation, or any consortium thereof, that—

(i) has demonstrated experience, expertise and commitment in serving the educational needs of at-risk students; and

(ii) is, by virtue of its previous activities, knowledgeable about the unique needs and characteristics of the community to be served.

(B) The term "eligible community" means a unit of general purpose local government (such as a city, township, or village), a nonmetropolitan county, tribal village, or a geographically distinct area (such as a school district, school attendance area, ward, precinct or neighborhood), or any group of such entities that—

(i) has a population of not less than 200,000 and not more than 300,000; and

(ii) in which not less than one-half of the school-age children have family incomes which are below the poverty line, as determined by the 1990 United States Census, participation in the National School Lunch program, or other current, reliable data concerning family income.

(4) GOALS 2000 COMMUNITY PARTNERSHIPS.—Each learning grant institution receiving assistance under this subsection shall establish a Goals 2000 community partnership to carry out the activities authorized under this subsection. Such partnership—

(A) shall include the participation of one or more local educational agencies, institutions of higher education, community-based organizations, parents, teachers, and the business community;

(B) may include the participation of human, social service and health care agencies, Head Start and child care agencies, libraries, museums, employment and train-

ing agencies, and the State educational agency or tribal department of education; and

(C) shall be broadly representative of all segments of the community in which the activities will be carried out.

(5) COMPREHENSIVE GOALS 2000 PLAN.—Each Goals 2000 Community Partnership shall develop a comprehensive plan for assuring educational success and high achievement for all students in the community Each such plan shall—

(A) adopt the National Education Goals;

(B) identify additional needs and goals for educational improvement within the community;

(C) focus on helping all students reach challenging content and student performance standards;

(D) be consistent with the State and local improvement plans for system-wide education improvement developed pursuant to title III;

(E) establish a comprehensive community-wide plan for achieving such goals; and

(F) develop a means for measuring the progress of the community in meeting such goals for improvement.

(6) IMPLEMENTATION OF COMMUNITY-WIDE PLAN.—Each Goals 2000 Community Partnership shall, utilizing the District Education Agent, provide assistance in implementing the community-wide plan for educational improvement by—

(A) supporting innovation, restructuring, and continuous improvement in educational practice by—

(i) disseminating information throughout the community about exemplary and promising educational programs, practices, products, and policies;

(ii) evaluating the effectiveness of federally funded educational programs within the community and identifying changes in such programs which are likely to improve student achievement;

(iii) identifying, selecting and replicating exemplary and promising educational programs, practices, products, and policies in both in- and out-of-school settings;

(iv) applying educational research to solve specific problems in the classroom, home and community which impede learning and student achievement; and

(v) supporting research and development by teachers, school administrators, and other practitioners which promise to improve teaching and learning and the organization of schools;

(B) improving the capacity of educators, school administrators, child care providers and other practitioners to prepare all students to reach challenging standards and to attain the goals set out in the comprehensive community-wide plan through such means as—

(i) the training of prospective and novice teachers (including preschool and early childhood educators) in a school setting under the guidance of master teachers and teacher educators;

(ii) training and other activities to promote the continued learning and professional development of experienced teachers, related services personnel, school

administrators to assure that such teachers develop the subject matter and pedagogical expertise needed to prepare all students to reach challenging standards;

(iii) training and other activities to increase the ability of prospective, novice, and experienced teachers to teach effectively at-risk students, students with disabilities, students with limited-English proficiency, and students from diverse cultural backgrounds; and

(iv) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective, and experienced teachers;

(C) promoting the development of an integrated system of service delivery to children from birth through age 18 and their families by facilitating linkages and cooperation among—

(i) local educational agencies;

(ii) health and social services agencies and providers;

(iii) juvenile justice and criminal justice agencies;

(iv) providers of employment training; and

(v) child care, Head Start, and other early childhood agencies; and

(D) mobilizing the resources of the community in support of student learning and high achievement by facilitating effective partnerships and collaboration among—

(i) local educational agencies;

(ii) postsecondary educational institutions;

(iii) public libraries;

(iv) parents;

(v) community-based organizations, neighborhood associations, and other civic and community organizations;

(vi) child care, Head Start, and other early childhood agencies;

(vii) churches, synagogues and other religious institutions;

(viii) labor organizations; and

(ix) business and industry.

(7) ADDITIONAL REQUIREMENTS.—In carrying out its responsibilities under this subsection, each partnership receiving assistance under this subsection shall—

(A) appoint a District Education Agent who shall be responsible, on a full-time basis, for directing the implementation of the community-wide plan, who shall have significant experience and expertise in the field of education in—

(i) addressing the needs of at-risk students; and

(ii) conducting educational research and promoting the application of the results of such research to educational practice;

(B) provide for such other professional and support personnel as may be necessary to implement the community-wide plan under the direction of the District Education Agent; and

(C) coordinate the partnership's activities and work cooperatively with the National Diffusion Network State

facilitators, regional educational laboratories, and other components of the Office to utilize most effectively Federal research, development, and dissemination resources in implementing the community-wide plan.

(8) APPLICATION FOR GRANTS.—Any eligible entity desiring a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require. Each such application shall—

(A) include a comprehensive plan for meeting the objectives and requirements of this subsection; and

(B) provide evidence of support for the application from local elected officials, the State educational agency, the local educational agency, parents, local community leaders, businesses, and other appropriate organizations.

(9) PRIORITY IN MAKING GRANTS; DURATION AND AMOUNT OF GRANT.—Each grant made under this subsection shall be—

(A) awarded on a competitive basis, with first priority given to those applications from communities with the greatest percentage of school-age children in families with poverty-level incomes;

(B) made for a 5-year period, with funding for the second and each succeeding year in such period conditioned upon a determination by the Assistant Secretary that the grant recipient has complied with the conditions of the grants during the previous year; and

(C) an amount equal to not less than $1,000,000 per year.

(10) LIMITATION OF ONE GRANT PER CONGRESSIONAL DISTRICT.—Not more than one grant under this subsection shall be awarded within a single congressional district.

Grants.
Contracts.
Nonprofit organizations.

(11) TECHNICAL ASSISTANCE; EVALUATIONS.—In administering the program authorized under this subsection, the Assistant Secretary shall, either directly or through grant or contract with an eligible nonprofit agency—

(A) upon request, provide technical assistance to eligible entities to assist in the development of a comprehensive community-wide plan to meet the requirements of this subsection and in the preparation of applications for assistance;

(B) regularly provide technical assistance to learning grant institutions receiving assistance under this subsection to assist with the development and implementation of the comprehensive community-wide plan for educational improvement;

(C) provide for an independent evaluation of the activities assisted under this subsection, including—

(i) the impact of the Goals 2000 Community Partnerships program on children and families within each community, including effects on the extent of educational achievement, rates of school retention and completion, and enrollment in postsecondary educational programs; and

(ii) whether an intensified effort to apply and utilize educational research within a limited geographic area significantly improves student learning and achievement; and

(D) plan for the expansion of the Goals 2000 Community Partnerships program throughout the remainder of the United States beginning in fiscal year 1999.

(j) TEACHER RESEARCH DISSEMINATION DEMONSTRATION PROGRAM.—

(1) FINDINGS.—The Congress finds that—

(A) education research, including research funded by the Office, is not having the impact on the schools of the United States that such research should;

(B) relevant education research and resulting solutions are not being adequately disseminated to and used by the teachers that need such research and solutions;

(C) there are insufficient linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (h), the National Diffusion Network State facilitators, the Educational Resources Information Center Clearinghouses, the comprehensive technical assistance centers assisted under the Elementary and Secondary Education Act of 1965, and the public schools to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

(D) the average teacher has little time to plan or engage in a professional dialogue with peers about strategies for improved learning;

(E) teachers do not have direct access to information systems or networks;

(F) teachers have little control over what inservice education teachers will be offered; and

(G) individual teachers are not encouraged to move beyond the walls of their school buildings to identify and use outside resources.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts or cooperative agreements with, public and private agencies and organizations, including institutions of higher education, the regional education laboratories, and the research and development centers, or consortia thereof—

(i) to develop and carry out projects that demonstrate effective strategies for helping elementary and secondary education teachers, in both urban and rural areas, become knowledgeable about, assist in the design and use of, and use, education research, including education research carried out under this section; and

(ii) to develop, implement, and evaluate models for creation of teacher research dissemination networks.

(B) PRIORITY.—In awarding grants and entering into contracts and cooperative agreements under subparagraph (A) the Secretary shall give priority to entities that have received Federal funds for research and dissemination.

(3) APPLICATIONS.—

(A) IN GENERAL.—An entity desiring to receive assistance under this subsection shall submit an application to the Secretary in such form, at such time, and containing

such information and assurances as the Secretary may require.

(B) CONTENTS.—Each such application shall describe how the project described in the application—

(i) was developed with the active participation of elementary and secondary school teachers;

(ii) will include the continuing participation of elementary and secondary school teachers in the management of the project;

(iii) is organized around one or more significant research topics;

(iv) will involve collaboration with entities that have received Federal funds for research and dissemination; and

(v) will sustain over time teacher research dissemination networks after Federal funding for such networks terminates.

(4) USE OF FUNDS.—Funds provided under this subsection may be used—

(A) to train elementary and secondary education teachers (particularly new teachers) about the sources of education research findings, including research findings available through activities supported by the Office, and how to access and use such findings to improve the quality of instruction;

(B) to develop simple formats, both administrative and technological, that allow elementary and secondary education teachers easy access to and use of education research findings;

(C) to share strategies and materials;

(D) to support professional networks;

(E) to survey teacher needs in the areas of research and development; and

(F) for other activities designed to support elementary and secondary education teachers in becoming knowledgeable about, assisting in the design of, and using, educational research.

(5) STIPENDS.—The Secretary may provide for the payment of such stipends (including allowances for subsistence and other expenses for elementary and secondary teachers), as the Secretary determines to be appropriate, to teachers participating in the projects authorized under this subsection.

(6) COORDINATION.—Recipients of funds under this subsection shall, to the greatest extent possible, coordinate their activities with related activities under the Elementary and Secondary Education Act of 1965.

(7) REPORT.—The Secretary shall, within 5 years of the date of enactment of this Act, submit to the Congress a report on the effectiveness of activities assisted under this subsection.

PART E—NATIONAL LIBRARY OF EDUCATION

20 USC 6051.

SEC. 951. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) IN GENERAL.—There is established within the Department of Education a National Library of Education (hereafter in this

section referred to as the "Library"), which shall be maintained by the Department of Education as a governmental activity.

(b) FUNCTIONS OF LIBRARY.—The functions of the Library are—

(1) to provide a central location within the Federal Government for information about education;

(2) to provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(3) to promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(c) MISSION.—The mission of the Library shall be to—

(1) become a principal center for the collection, preservation, and effective utilization of the research and other information related to education and to the improvement of educational achievement;

(2) strive to ensure widespread access to the Library's facilities and materials, coverage of all education issues and subjects, and quality control;

(3) have an expert library staff; and

(4) use modern information technology that holds the potential to link major libraries, schools, and educational centers across the United States into a network of national education resources.

(d) ONE-STOP INFORMATION AND REFERRAL SERVICE.—The Library shall establish and maintain a central information and referral service to respond to telephonic, mail and electronic and other inquiries from the public concerning— Telecommunications.

(1) programs and activities of the Department of Education;

(2) publications produced by the Department of Education and, to the extent feasible, education related publications produced by the Departments of Labor, Health and Human Services, and other Federal departments and agencies;

(3) services and resources available to the public through the Office, including the Educational Resources Information Center Clearinghouses, the research institutes, and the national education dissemination system;

(4) statistics and other information produced by the National Center for Education Statistics; and

(5) referrals to additional sources of information and expertise about educational issues which may be available through educational associations and foundations, the private sector, colleges and universities, libraries and bibliographic databases.

The Library shall maintain and actively publicize a toll-free telephone number through which public inquiries to the Library may be made.

(e) COMPREHENSIVE REFERENCE SERVICES.—

(1) IN GENERAL.—The Library shall, to the extent feasible, provide for the delivery of a full range of reference services on subjects related to education to employees of the Department of Education and such Department's contractors and grantees, other Federal employees, and members of the general public. Such services may include—

(A) specialized subject searches;

(B) search and retrieval of electronic databases;

(C) document delivery by mail and facsimile transmission;

(D) research counseling, bibliographic instruction, and other training services;

(E) interlibrary loan services; and

(F) selective dissemination of information services.

(2) PRIORITY.—The Library shall first give priority in the provision of reference services to requests made by employees of the Department of Education.

(f) COOPERATION AND RESOURCE SHARING.—The Library shall promote greater cooperation and resource sharing among libraries and archives with significant collections in the area of education through means such as—

(1) the establishment of information and resource sharing networks among such entities;

(2) the development of a national union list of education journals held by education libraries throughout the United States;

(3) the development of directories and indexes to textbook and other specialized collections held by education libraries throughout the United States; and

(4) cooperative efforts to preserve, maintain and promote access to items of special historical value or interest.

(g) ADMINISTRATION.—The Library shall be administered by an Executive Director who shall—

(1) be appointed by the Assistant Secretary from among persons with significant training or experience in library and information science; and

(2) be paid at not less than the minimum rate of basic pay payable for GS–15 of the General Schedule.

(h) TASK FORCE.—

(1) IN GENERAL.—The Assistant Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the "Task Force") to provide advice on the establishment of the Library.

(2) PREPARATION OF PLAN.—The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this section.

(3) CERTAIN AUTHORITIES.—The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this section.

(4) REPORT.—The Task Force shall prepare and submit to the Assistant Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

(i) TRANSFER OF FUNCTIONS.—There are hereby transferred to the Library all functions of—

(1) the Department of Education Research Library;

(2) the Department of Education Reference Section; and

(3) the Department of Education Information Branch.

(j) COLLECTION DEVELOPMENT POLICY.—Not later than 180 days after the date of the enactment of this title, the Assistant Secretary shall promulgate a comprehensive collection development policy to govern the Library's operations, acquisitions, and services to users. Such collection development policy shall—

(1) be consistent with the functions of the Library described in subsection (b);

(2) emphasize the acquisition and maintenance of a comprehensive collection of reference materials; and

(3) avoid unnecessary duplication by putting a priority on meeting the information needs of the Library's users through cooperation and resource-sharing with other entities with significant collections in the field of education.

(k) ARREARAGE AND PRESERVATION.—On the basis of the collection development policy promulgated under subsection (j), the Executive Director shall develop a multiyear plan which shall set forth goals and priorities for actions needed to—

(1) eliminate within 3 years the arrearage of uncataloged books and other materials in the Library's collections; and

(2) respond effectively and systematically to the preservation needs of the Library's collections, relying, whenever possible, upon cooperative efforts with other institutions to preserve and maintain the usability of books and materials in the Library's collections.

PART F—STAR SCHOOLS

SEC. 961. STAR SCHOOLS.

Subsection (a) of section 908 of the Star Schools Assistance Act (20 U.S.C. 4085b(a)) is amended by striking "greater" and inserting "lesser".

PART G—OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION

SEC. 971. OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

(a) IN GENERAL.—Subsection (c) of section 4605 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3155(c)) is amended—

(1) in the matter preceding paragraph (1), by striking "Office of the Secretary" and inserting "Office of Elementary and Secondary Education"; and

(2) by adding at the end the following new paragraph:

"(4) To act as a liaison office for the coordination of the activities undertaken by the Office under this section with related activities of the Department of Health and Human Services and to expand school health education research grant programs under this section.".

(b) TRANSITION.—The Secretary shall take all appropriate actions to facilitate the transfer of the Office of Comprehensive School Health Education pursuant to the amendment made by subsection (a). 20 USC 3155 note.

PART H—FIELD READERS

SEC. 981. FIELD READERS.

Section 402 of the Department of Education Organization Act (20 U.S.C. 3462) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

"(2) APPLICABILITY.—The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.".

PART I—AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT

SEC. 991. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

Section 422 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2422) is amended—

(1) in paragraph (2) of subsection (a), by inserting "(including postsecondary employment and training programs)" after "training programs"; and

(2) in subsection (b)—

(A) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(B) in the matter preceding paragraph (1) (as redesignated in subparagraph (A)), by inserting "the State board or agency governing higher education," after "coordinating council,"; and

(C) in paragraph (1) (as redesignated in subparagraph (A))—

(i) by striking "Act and of" and inserting "Act, of"; and

(ii) by inserting "and of the State board or agency governing higher education" after "Job Training Partnership Act";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) DATA COLLECTION SYSTEM.—In the development and design of a system to provide data on graduation or completion rates, job placement rates from occupationally specific programs, licensing rates, and awards of high school graduate equivalency diplomas (GED), each State board for higher education shall develop a data collection system the results of which can be integrated into the occupational information system developed under this section.".

TITLE X—MISCELLANEOUS

PART A—MISCELLANEOUS PROVISIONS

SEC. 1011. SCHOOL PRAYER. 20 USC 6061.

No funds authorized to be appropriated under this Act may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

SEC. 1012. FUNDING FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT. 20 USC 6062.

(a) FINDINGS.—The Congress finds that—

(1) the Individuals with Disabilities Education Act was established with the commitment of forty percent Federal funding but currently receives only eight percent Federal funding;

(2) this funding shortfall is particularly burdensome to school districts and schools in low-income areas which serve higher than average proportions of students with disabilities and have fewer local resources to contribute; and

(3) it would cost the Federal Government approximately $10,000,000,000 each year to fully fund the Individuals with Disabilities Education Act.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Federal Government should provide States and communities with adequate resources under the Individuals with Disabilities Education Act as soon as reasonably possible, through the reallocation of noneducation funds within the current budget monetary constraints.

SEC. 1013. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

Section 551 of the Higher Education Act of 1965 (20 U.S.C. 1107) is amended—

(1) in paragraph (1) of subsection (b), by striking "the Federal share of";

(2) in subparagraph (B) of subsection (e)(1), by striking "share of the cost of the activities of the Board is" and inserting "contributions described in subsection (f) are"; and

(3) by amending subsection (f) to read as follows:

"(f) MATCHING FUNDS REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance under this subpart to the Board unless the Board agrees to expend non-Federal contributions equal to $1 for every $1 of the Federal funds provided pursuant to such financial assistance.

"(2) NON-FEDERAL CONTRIBUTIONS.—The non-Federal contributions described in paragraph (1)—

"(A) may include all non-Federal funds raised by the Board on or after January 1, 1987; and

"(B) may be used for outreach, implementation, administration, operation, and other costs associated with the development and implementation of national teacher assessment and certification procedures under this subpart.".

SEC. 1014. FORGIVENESS OF CERTAIN OVERPAYMENTS.

(a) IN GENERAL.—Notwithstanding section 1401 of the Elementary and Secondary Education Act of 1965 or any other provision of law—

(1) the allocation of funds appropriated for fiscal year 1993 under the Department of Education Appropriations Act, 1993, to Colfax County, New Mexico under section 1005 of the Elementary and Secondary Education Act of 1965, and any other allocations or grants for such fiscal year resulting from such allocation to such county under any program administered by the Secretary of Education, shall be deemed to be authorized by law; and

(2) in any program for which allocations are based on fiscal year 1993 allocations under section 1005 of such Act, the fiscal year 1993 allocations under such section deemed to be authorized by law in accordance with paragraph (1) shall be used.

(b) SPECIAL RULE.—Notwithstanding subsection (a)(1) of this section, in carrying out section 1403(a) of the Elementary and Secondary Education Act of 1965 for fiscal year 1994, the amount allocated to Colfax County, New Mexico under section 1005 of such Act for fiscal year 1993 shall be deemed to be the amount that the Secretary determines would have been allocated under such section 1005 had the correct data been used for fiscal year 1993.

20 USC 6063.

SEC. 1015. STUDY OF GOALS 2000 AND STUDENTS WITH DISABILITIES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall make appropriate arrangements with the National Academy of Sciences or the National Academy of Education to conduct a comprehensive study of the inclusion of children with disabilities in school reform activities assisted under the Goals 2000: Educate America Act.

(2) DEFINITION.—For purposes of this section, the term "children with disabilities" has the same meaning given such term in section 602 of the Individuals with Disabilities Education Act.

(b) STUDY COMPONENTS.—The study conducted under subsection (a) shall include—

(1) an evaluation of the National Education Goals and objectives, curriculum reforms, standards, and other programs and activities intended to achieve those goals;

(2) a review of the adequacy of assessments and measures used to gauge progress towards meeting National Education Goals and any national and State standards, and an examination of other methods or accommodations necessary or desirable to collect data on the educational progress of children with disabilities, and the costs of such methods and accommodations;

(3) an examination of what incentives or assistance might be provided to States to develop improvement plans that adequately address the needs of children with disabilities;

(4) the relation of the Goals 2000: Educate America Act to other Federal laws governing or affecting the education of children with disabilities; and

(5) such other issues as the National Academy of Sciences or the National Academy of Education considers appropriate.

(c) STUDY PANEL MEMBERSHIP.—Any panel constituted in furtherance of the study to be conducted under subsection (a) shall include consumer representatives.

(d) FINDINGS AND RECOMMENDATIONS.—The Secretary shall request the National Academy of Sciences or the National Academy of Education to submit an interim report of its findings and recommendations to the President and Congress not later than 12 months, and a final report not later than 24 months, from the date of the completion of procurement relating to the study. Reports.

(e) FUNDING.—From funds appropriated to the Secretary for research related to individuals with disabilities the Secretary shall make available $600,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out this section. Amounts made available under this subsection shall remain available until expended.

SEC. 1016. AMENDMENTS TO SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM.

(a) PROGRAM DESIGN.—

(1) ACADEMIC ENRICHMENT AUTHORIZED.—Paragraph (1) of section 253(a) of the Job Training Partnership Act (20 U.S.C. 1632(a)) is amended by inserting "academic enrichment" after "remedial education,". 29 USC 1632.

(2) REQUIRED SERVICES AND DESIGN.—(A) Subsection (c) of such section 253 of the Job Training Partnership Act (20 U.S.C. 1632(c)) is amended by adding at the end the following new paragraphs: 29 USC 1632.

"(3) BASIC EDUCATION AND PREEMPLOYMENT TRAINING.—The programs under this part shall provide, either directly or through arrangements with other programs, each of the following services to a participant where the assessment and the service strategy indicate such services are appropriate:

"(A) Basic and Remedial Education.

"(B) Preemployment and Work Maturity Skills Training.

"(4) INTEGRATION OF WORK AND LEARNING.—

"(A) WORK EXPERIENCE.—Work experience provided under this part, to the extent feasible, shall include contextual learning opportunities which integrate the development of general competencies with the development of academic skills.

"(B) CLASSROOM TRAINING.—Classroom training provided under this part shall, to the extent feasible, include opportunities to apply knowledge and skills relating to academic subjects to the world of work.".

(B) Section 253 of the Job Training Partnership Act (20 U.S.C. 1632) is further amended by adding at the end the following new subsection: 29 USC 1632.

"(e) EDUCATIONAL LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include arrangements to ensure that there is a regular exchange of information relating to the progress, problems and needs of participants, including the results of assessments of the skill levels of participants.".

29 USC 1633.

(C) Section 254 of the Job Training Partnership Act is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON PRIVATE ACTIONS.—Nothing in this part shall be construed to establish a right for a participant to bring an action to obtain services described in the assessment or service strategy developed under section 253(c).".

29 USC 1635.

(b) TRANSFER OF FUNDS TO YEAR ROUND PROGRAM.—Section 256 of the Job Training Partnership Act is amended by striking "10 percent" and inserting "20 percent".

SEC. 1017. PROTECTION OF PUPILS.

Section 439 of the General Education Provisions Act (20 U.S.C. 1232g) is amended to read as follows:

"PROTECTION OF PUPIL RIGHTS

20 USC 1232h.

"SEC. 439. (a) All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

"(b) No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

"(1) political affiliations;

"(2) mental and psychological problems potentially embarrassing to the student or his family;

"(3) sex behavior and attitudes;

"(4) illegal, anti-social, self-incriminating and demeaning behavior;

"(5) critical appraisals of other individuals with whom respondents have close family relationships;

"(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

"(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

"(c) Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

"(d) ENFORCEMENT.—The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

"(1) there has been a failure to comply with such section; and

"(2) compliance with such section cannot be secured by voluntary means.

"(e) OFFICE AND REVIEW BOARD.—The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.".

20 USC 6064.

SEC. 1018. CONTRACEPTIVE DEVICES.

The Department of Health and Human Services and the Department of Education shall ensure that all federally funded programs

which provide for the distribution of contraceptive devices to unemancipated minors develop procedures to encourage, to the extent practical, family participation in such programs.

SEC. 1019. ASSESSMENTS. 20 USC 6065.

(a) TITLE II.—No funds provided under title II of this Act shall be used to develop or undertake assessments that will be used to make decisions regarding the graduation, grade promotion, or retention of students for 5 years after the date of enactment of this Act.

(b) TITLE III.—Assessments developed with funds under title III of this Act may be used for decisions regarding graduation, grade promotion, or retention of students only on the condition that students have been prepared in the content for which the students are being assessed.

SEC. 1020. PUBLIC SCHOOLS. 20 USC 6066.

Except as provided in section 310, nothing in this Act shall be construed to authorize the use of funds under title III of this Act to directly or indirectly benefit any school other than a public school.

SEC. 1021. ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.

Section 421(h) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2421(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by inserting at the end the following:

"(2)(A) Notwithstanding any provision of section 406 of the General Education Provisions Act, the Commissioner of Education Statistics may authorize a State educational agency or a consortium of such agencies to use items and data from the National Assessment of Educational Progress for the purpose of evaluating a course of study related to vocational education, if the Commissioner has determined, in writing, that such use will not—

"(i) result in the identification of characteristics or performance of individual students or schools;

"(ii) result in the ranking or comparing of schools or local educational agencies;

"(iii) be used to evaluate the performance of teachers, principals, or other local educators for the purpose of dispensing rewards or punishments; or

"(iv) corrupt or harm the use and value of data collected for the National Assessment of Educational Progress.

"(B) Not later than 60 days after making an authorization under subsection (a), the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, a report which contains— Reports.

"(i) a copy of the request for such authorization;

"(ii) a copy of the written determination under subsection (a); and

"(iii) a description of the details and duration of such authorization.

"(C) The Commissioner may not grant more than one such authorization in any fiscal year and shall ensure that the authorized use of items or data from the National Assessment is evaluated for technical merit and for its affect on the National Assessment of Educational Progress. The results of such evaluations shall be

promptly reported to the committees specified in subparagraph (B).".

20 USC 6067.

SEC. 1022. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) no funds appropriated pursuant to this Act should be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act");

(2) in the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products;

(3) in providing financial assistance under this Act, the head of each Federal agency should provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress; and

(4) if it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning to any product sold in or shipped to the United States that is not made in the United States, such person should be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections existed on the date of enactment of this Act.

PART B—GUN-FREE SCHOOLS

Gun-Free Schools Act of 1994. 20 USC 2701 note.

SEC. 1031. SHORT TITLE.

This part may be cited as the "Gun-Free Schools Act of 1994".

SEC. 1032. GUN-FREE REQUIREMENTS IN ELEMENTARY AND SECONDARY SCHOOLS.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

20 USC 3381 *et seq.*

(1) by redesignating title X as title IX;

20 USC 3381 *et seq.*

(2) by redesignating sections 8001 through 8005 as sections 9001 through 9005, respectively; and

(3) by inserting after title VII the following new title:

"TITLE VIII—GUN-FREE SCHOOLS

20 USC 3351.

"SEC. 8001. GUN-FREE REQUIREMENTS.

"(a) REQUIREMENTS.—

"(1) IN GENERAL.—No assistance may be provided to any local educational agency under this Act unless such agency has in effect a policy requiring the expulsion from school for a period of not less than one year of any student who is determined to have brought a weapon to a school under the jurisdiction of the agency except such policy may allow the chief administering officer of the agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) DEFINITION.—For the purpose of this section, the term "weapon" means a firearm as such term is defined in section 921 of title 18, United States Code.

"(b) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency has in effect the policy required by subsection (a); and

"(2) a description of the circumstances surrounding any expulsions imposed under the policy required by subsection (a), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the types of weapons concerned.".

PART C—ENVIRONMENTAL TOBACCO SMOKE

Pro-Children Act of 1994.

SEC. 1041. SHORT TITLE. 20 USC 6081.

This part may be cited as the "Pro-Children Act of 1994".

SEC. 1042. DEFINITIONS. 20 USC 6082.

As used in this part:

(1) CHILDREN.—The term "children" means individuals who have not attained the age of 18.

(2) CHILDREN'S SERVICES.—The term "children's services" means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after the date of the enactment of this Act, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(6)), or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate Secretary in any enforcement action under this title,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966.

(3) PERSON.—The term "person" means any State or local subdivision thereof, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(4) INDOOR FACILITY.—The term "indoor facility" means a building that is enclosed.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

20 USC 6083.

SEC. 1043. NONSMOKING POLICY FOR CHILDREN'S SERVICES.

(a) PROHIBITION.—After the date of the enactment of this Act, no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) ADDITIONAL PROHIBITION.—After the date of the enactment of this Act, no person shall permit smoking within any indoor facility (or portion thereof) owned or leased or contracted for by such person for the provision by such person of regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of the employees of such person who provides such services, except that this subsection shall not apply to—

(1) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(2) any private residence.

(c) FEDERAL AGENCIES.—

(1) KINDERGARTEN, ELEMENTARY, OR SECONDARY EDUCATION OR LIBRARY SERVICES.—After the date of the enactment of this Act, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) HEALTH OR DAY CARE OR EARLY CHILDHOOD DEVELOPMENT SERVICES.—After the date of the enactment of this Act, no Federal agency shall permit smoking within any indoor facility (or portion thereof) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children, except that this paragraph shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(3) APPLICATION OF PROVISIONS.—The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

Federal Register, publication.

(d) NOTICE.—The prohibitions in subsections (a) through (c) shall be incorporated by publication of a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after the date of the enactment of this Act, whichever occurs first.

Effective date

(e) SPECIAL WAIVER.—

(1) IN GENERAL.—On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) who employs individuals who are

members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(A) took effect before the date of enactment of this Act; and

(B) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(2) TERMINATION OF WAIVER.—A special waiver granted under this subsection shall terminate on the earlier of—

(A) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(B) the date that is 1 year after the date of the enactment of this Act.

(f) CIVIL PENALTIES.—

(1) IN GENERAL.—Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibition in subsection (c), the term "person" shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) ADMINISTRATIVE PROCEEDING.—A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before making such assessment or issuing such order, or both, the Secretary shall give written notice thereof to such person by certified mail with return receipt and provide therein an opportunity to request in writing not later than 30 days after the date of receipt of such notice such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing which should be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) CIRCUMSTANCES AFFECTING PENALTY OR ORDER.—In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any

prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) MODIFICATION.—The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or its agencies or instrumentalities owes to the person against whom the penalty is assessed.

(5) PETITION FOR REVIEW.—Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review thereof with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy thereof to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) FAILURE TO COMPLY.—If a person fails to pay an assessment of a civil penalty or comply with an order, after either or both are final under this section, or after a court under paragraph (5) has entered a final judgment in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at then currently prevailing rates from the day either or both are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

20 USC 6084.

SEC. 1044. PREEMPTION.

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

Midnight Basketball League Training and Partnership Act.

PART D—MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP

Children and youth.
42 USC 11901 note.

SEC. 1051. SHORT TITLE.

This part may be cited as the "Midnight Basketball League Training and Partnership Act".

SEC. 1052. GRANTS FOR MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP PROGRAMS.

Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a) is amended—

(1) in the section heading by inserting "AND ASSISTED" after "PUBLIC";

(2) in the subsection heading for subsection (a), by inserting "PUBLIC HOUSING" before "YOUTH"; and

(3) by adding at the end the following new subsection:

"(l) MIDNIGHT BASKETBALL LEAGUE TRAINING AND PARTNERSHIP PROGRAMS.—

"(1) AUTHORITY.—The Secretary shall make grants, to the extent that amounts are approved in appropriations Acts under paragraph (13), to—

"(A) eligible entities to assist such entities in carrying out midnight basketball league programs meeting the requirements of paragraph (4); and

"(B) eligible advisory entities to provide technical assistance to eligible entities in establishing and operating such midnight basketball league programs.

"(2) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), grants under paragraph (1)(A) may be made only to the following eligible entities:

"(i) Entities eligible under subsection (b) for a grant under subsection (a).

"(ii) Nonprofit organizations providing employment counseling, job training, or other educational services.

"(iii) Nonprofit organizations providing federally assisted low-income housing.

"(B) PROHIBITION ON SECOND GRANTS.—A grant under paragraph (1)(A) may not be made to an eligible entity if the entity has previously received a grant under such paragraph, except that the Secretary may exempt an eligible advisory entity from the prohibition under this subparagraph in extraordinary circumstances.

"(3) USE OF GRANT AMOUNTS.—Any eligible entity that receives a grant under paragraph (1)(A) may use such amounts only—

"(A) to establish or carry out a midnight basketball league program under paragraph (4);

"(B) for salaries for administrators and staff of the program;

"(C) for other administrative costs of the program, except that not more than 5 percent of the grant amount may be used for such administrative costs; and

"(D) for costs of training and assistance provided under paragraph (4)(I).

"(4) PROGRAM REQUIREMENTS.—Each eligible entity receiving a grant under paragraph (1)(A) shall establish a midnight basketball league program as follows:

"(A) The program shall establish a basketball league of not less than 8 teams having 10 players each.

"(B) Not less than 50 percent of the players in the basketball league shall be residents of federally assisted low-income housing or members of low-income families (as such term is defined in section 3(b) of the United States Housing Act of 1937).

"(C) The program shall be designed to serve primarily youths and young adults from a neighborhood or community whose population has not less than 2 of the following characteristics (in comparison with national averages):

"(i) A substantial problem regarding use or sale of illegal drugs.

"(ii) A high incidence of crimes committed by youths or young adults.

"(iii) A high incidence of persons infected with the human immunodeficiency virus or sexually transmitted diseases.

"(iv) A high incidence of pregnancy or a high birth rate, among adolescents.

"(v) A high unemployment rate for youths and young adults.

"(vi) A high rate of high school drop-outs.

"(D) The program shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held immediately following the conclusion of league basketball games at or near the site of the games and at other specified times.

"(E) The program shall serve only youths and young adults who demonstrate a need for such counseling, training, and education provided by the program, in accordance with criteria for demonstrating need, which shall be established by the Secretary, in consultation with the Advisory Committee.

"(F) The majority of the basketball games of the league shall be held between the hours of 10:00 p.m. and 2:00 a.m. at a location in the neighborhood or community served by the program.

"(G) The program shall obtain sponsors for each team in the basketball league. Sponsors shall be private individuals or businesses in the neighborhood or community served by the program who make financial contributions to the program and participate in or supplement the employment, job training, and educational services provided to the players under the program with additional training or educational opportunities.

"(H) The program shall comply with any criteria established by the Secretary, in consultation with the Advisory Committee established under paragraph (9).

"(I) Administrators or organizers of the program shall receive training and technical assistance provided by eligible advisory entities receiving grants under paragraph (8).

"(5) GRANT AMOUNT LIMITATIONS.—

"(A) PRIVATE CONTRIBUTIONS.—The Secretary may not make a grant under paragraph (1)(A) to an eligible entity that applies for a grant under paragraph (6) unless the applicant entity certifies to the Secretary that the entity will supplement the grant amounts with amounts of funds from non-Federal sources, as follows:

"(i) In each of the first 2 years that amounts from the grant are disbursed (under subparagraph (E)), an amount sufficient to provide not less than 35 percent of the cost of carrying out the midnight basketball league program.

"(ii) In each of the last 3 years that amounts from the grant are disbursed, an amount sufficient to provide not less than 50 percent of the cost of carrying out the midnight basketball league program.

"(B) NON-FEDERAL FUNDS.—For purposes of this paragraph, the term 'funds from non-Federal sources' includes amounts from nonprofit organizations, public housing agencies, States, units of general local government, and Indian housing authorities, private contributions, any salary paid to staff (other than from grant amounts under paragraph (1)(A)) to carry out the program of the eligible entity, in-kind contributions to carry out the program (as determined by the Secretary after consultation with the Advisory Committee), the value of any donated material, equipment, or building, the value of any lease on a building, the value of any utilities provided, and the value of any time and services contributed by volunteers to carry out the program of the eligible entity.

"(C) PROHIBITION ON SUBSTITUTION OF FUNDS.—Grant amounts under paragraph (1)(A) and amounts provided by States and units of general local government to supplement grant amounts may not be used to replace other public funds previously used, or designated for use, under this section.

"(D) MAXIMUM AND MINIMUM GRANT AMOUNTS.—

"(i) IN GENERAL.—The Secretary may not make a grant under paragraph (1)(A) to any single eligible entity in an amount less than $55,000 or exceeding $130,000, except as provided in clause (ii).

"(ii) EXCEPTION FOR LARGE LEAGUES.—In the case of a league having more than 80 players, a grant under paragraph (1)(A) may exceed $130,000, but may not exceed the amount equal to 35 percent of the cost of carrying out the midnight basketball league program.

"(E) DISBURSEMENT.—Amounts provided under a grant under paragraph (1)(A) shall be disbursed to the eligible entity receiving the grant over the 5-year period beginning on the date that the entity is selected to receive the grant, as follows:

"(i) In each of the first 2 years of such 5-year period, 23 percent of the total grant amount shall be disbursed to the entity.

"(ii) In each of the last 3 years of such 5-year period, 18 percent of the total grant amount shall be disbursed to the entity.

"(6) APPLICATIONS.—To be eligible to receive a grant under paragraph (1)(A), an eligible entity shall submit to the Secretary an application in the form and manner required by the Secretary (after consultation with the Advisory Committee), which shall include—

"(A) a description of the midnight basketball league program to be carried out by the entity, including a description of the employment counseling, job training, and other educational services to be provided;

"(B) letters of agreement from service providers to provide training and counseling services required under paragraph (4) and a description of such service providers;

"(C) letters of agreement providing for facilities for basketball games and counseling, training, and educational

services required under paragraph (4) and a description of the facilities;

"(D) a list of persons and businesses from the community served by the program who have expressed interest in sponsoring, or have made commitments to sponsor, a team in the midnight basketball league; and

"(E) evidence that the neighborhood or community served by the program meets the requirements of paragraph (4)(C).

"(7) SELECTION.—The Secretary, in consultation with the Advisory Committee, shall select eligible entities that have submitted applications under paragraph (6) to receive grants under paragraph (1)(A). The Secretary, in consultation with the Advisory Committee, shall establish criteria for selection of applicants to receive such grants. The criteria shall include a preference for selection of eligible entities carrying out midnight basketball league programs in suburban and rural areas.

"(8) TECHNICAL ASSISTANCE GRANTS.—Technical assistance grants under paragraph (1)(B) shall be made as follows:

"(A) ELIGIBLE ADVISORY ENTITIES.—Technical assistance grants may be made only to entities that—

"(i) are experienced and have expertise in establishing, operating, or administering successful and effective programs for midnight basketball and employment, job training, and educational services similar to the programs under paragraph (4); and

"(ii) have provided technical assistance to other entities regarding establishment and operation of such programs.

"(B) USE.—Amounts received under technical assistance grants shall be used to establish centers for providing technical assistance to entities receiving grants under paragraph (1)(A) of this subsection and subsection (a) regarding establishment, operation, and administration of effective and successful midnight basketball league programs under this subsection and subsection (c)(3).

"(C) NUMBER AND AMOUNT.—To the extent that amounts are provided in appropriations Acts under paragraph (13)(B) in each fiscal year, the Secretary shall make technical assistance grants under paragraph (1)(B). In each fiscal year that such amounts are available the Secretary shall make 4 such grants, as follows:

"(i) 2 grants shall be made to eligible advisory entities for development of midnight basketball league programs in public housing projects.

"(ii) 2 grants shall be made to eligible advisory entities for development of midnight basketball league programs in suburban or rural areas.

"(iii) Each grant shall be in an amount not exceeding $25,000.

"(9) ADVISORY COMMITTEE.—The Secretary of Housing and Urban Development shall appoint an Advisory Committee to assist the Secretary in providing grants under this subsection. The Advisory Committee shall be composed of not more than 7 members, as follows:

"(A) Not less than 2 individuals who are involved in managing or administering midnight basketball programs

that the Secretary determines have been successful and effective. Such individuals may not be involved in a program assisted under this subsection or a member or employee of an eligible advisory entity that receives a technical assistance grant under paragraph (1)(B).

"(B) A representative of the Center for Substance Abuse Prevention of the Public Health Service, Department of Health and Human Services, who is involved in administering the grant program for prevention, treatment, and rehabilitation model projects for high risk youth under section 509A of the Public Health Service Act (42 U.S.C. 290aa–8), who shall be selected by the Secretary of Health and Human Services.

"(C) A representative of the Department of Education, who shall be selected by the Secretary of Education.

"(D) A representative of the Department of Health and Human Services, who shall be selected by the Secretary of Health and Human Services from among officers and employees of such Department involved in issues relating to high-risk youth.

"(10) REPORTS.—The Secretary shall require each eligible entity receiving a grant under paragraph (1)(A) and each eligible advisory entity receiving a grant under paragraph (1)(B) to submit to the Secretary, for each year in which grant amounts are received by the entity, a report describing the activities carried out with such amounts.

"(11) STUDY.—To the extent amounts are provided under appropriation Acts pursuant to paragraph (13)(C), the Secretary shall make a grant to one entity qualified to carry out a study under this paragraph. The entity shall use such grant amounts to carry out a scientific study of the effectiveness of midnight basketball league programs under paragraph (4) of eligible entities receiving grants under paragraph (1)(A). The Secretary shall require such entity to submit a report describing the study and any conclusions and recommendations resulting from the study to the Congress and the Secretary not later than the expiration of the 2-year period beginning on the date that the grant under this paragraph is made. Reports.

"(12) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'Advisory Committee' means the Advisory Committee established under paragraph (9).

"(B) The term 'eligible advisory entity' means an entity meeting the requirements under paragraph (8)(A).

"(C) The term 'eligible entity' means an entity described under paragraph (2)(A).

"(D) The term 'federally assisted low-income housing' has the meaning given the term in section 5126 of the Public and Assisted Housing Drug Elimination Act of 1990.

"(E) The term 'Secretary' unless otherwise specified, means the Secretary of Housing and Urban Development.

"(13) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(A) for grants under paragraph (1)(A), $2,650,000 in each of fiscal years 1994 and 1995;

"(B) for technical assistance grants under paragraph (1)(B), $100,000 in each of fiscal years 1994 and 1995; and

"(C) for a study grant under paragraph (11), $250,000 in fiscal year 1994.".

SEC. 1053. PUBLIC HOUSING MIDNIGHT BASKETBALL LEAGUE PROGRAMS.

Section 520(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C 11903a(c)) is amended by adding at the end the following new paragraph:

"(3) MIDNIGHT BASKETBALL LEAGUE PROGRAMS.—Notwithstanding any other provision of this subsection and subsection (d), a grant under this section may be used to carry out any youth sports program that meets the requirements of a midnight basketball league program under subsection (l)(4) (not including subparagraph (B) of such subsection) if the program serves primarily youths and young adults from the public housing project in which the program assisted by the grant is operated.".

Approved March 31, 1994.

LEGISLATIVE HISTORY—H.R. 1804 (S. 1150):

HOUSE REPORTS: Nos. 103-168 (Comm. on Education and Labor) and 103-446 (Comm. of Conference).

SENATE REPORTS: No. 103-85 accompanying S. 1150 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 139 (1993): Oct. 13, considered and passed House.

Vol. 140 (1994): Feb. 2-4, 7, 8, H.R. 1804 considered and passed Senate, amended, in lieu of S. 1150.

Feb. 23, House concurred in Senate amendment with an amendment.

Mar. 23, House agreed to conference report.

Mar. 23-25, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):

Mar. 31, Presidential remarks.

Public Law 103-228
103d Congress

An Act

To temporarily extend certain provisions of the Marine Mammal Protection Act.

Mar. 31, 1994
[H.R. 4122]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 114(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1383a(a)(1)), is amended by striking "April 1, 1994," and inserting in lieu thereof "May 1, 1994.".

Approved March 31, 1994.

LEGISLATIVE HISTORY—H.R. 4122:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 24, considered and passed House.
Mar. 25, considered and passed Senate.

Public Law 103-229
103d Congress

Joint Resolution

Apr. 6, 1994
[H.J. Res. 329]

Designating March 23, 1994, as "Education and Sharing Day, U.S.A.".

Whereas the Congress recognizes that ethical teachings and values have played a prominent role in the foundation of civilization and in the history of our great Nation;

Whereas President William J. Clinton has indicated that ethical considerations should inform the decisions of Society;

Whereas ethical teachings and values have formed the cornerstone of society since the dawn of civilization and found expression in the Seven Noahide Laws;

Whereas sharing and education represent 2 pillars of these laws and ethical conduct;

Whereas Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement, is revered worldwide for the contributions he has made to education and sharing;

Whereas the over 2,000 educational, social, and rehabilitative centers administered by the Lubavitch movement advance these ideals for the millions of people whom they serve each year;

Whereas Rabbi Menachem Mendel Schneerson has interpreted, in the miraculous events of our times, the increasing vitality of these ideals for the furtherance of human understanding and betterment;

Whereas the extraordinary life and work of Rabbi Menachem Mendel Schneerson have long been acknowledged by the Congress through the enactment of joint resolutions designating his birthday in each of the last 16 years as "Education and Sharing Day, U.S.A.";

Whereas the Lubavitcher Rebbe's 92nd birthday falls on March 23, 1994;

Whereas in tribute to this esteemed spiritual leader, the Lubavitcher Rebbe's birthday will be designated as "Education and Sharing Day, U.S.A.; and

Whereas such designation will signal a renewal of our Nation's commitment to greater acts of charity, to an enriched emphasis on education, and to the furtherance of ethical teachings and values in the affairs of government and in the lives of our citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 23, 1994, the 92nd birthday of the Rabbi Menachem Mendel Schneerson, leader of the worldwide Lubavitch movement, is designated as "Education and Sharing Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 6, 1994.

LEGISLATIVE HISTORY—H.J. Res. 329:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 21, considered and passed House.
Mar. 24, considered and passed Senate.

Public Law 103-230
103d Congress

An Act

Apr. 6, 1994
[S. 1284]

To amend the Developmental Disabilities Assistance and Bill of Rights Act to modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994.
42 USC 6000 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. Headings and short title.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Federal share.
Sec. 105. Records and audits.
Sec. 106. Recovery.
Sec. 107. State control of operations.
Sec. 108. Reports.
Sec. 109. Responsibilities of the Secretary.
Sec. 110. Employment of handicapped individuals.
Sec. 111. Rights of the developmentally disabled.

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 201. Part heading.
Sec. 202. Purpose.
Sec. 203. State plans.
Sec. 204. Habilitation plans.
Sec. 205. Councils.
Sec. 206. State allotments.
Sec. 207. Federal share and non-Federal share.
Sec. 208. Payments to the States for planning, administration, and services.
Sec. 209. Withholding of payments for planning, administration, and services.
Sec. 210. Nonduplication.
Sec. 211. Appeals by States.
Sec. 212. Authorization of appropriations.
Sec. 213. Review, analysis, and report.

TITLE III—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 301. Part heading.
Sec. 302. Purpose.
Sec. 303. System required.
Sec. 304. Authorization of appropriations.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Sec. 401. Part heading.
Sec. 402. Purpose.
Sec. 403. Grant authority.
Sec. 404. Applications.
Sec. 405. Grant awards.
Sec. 406. Authorization of appropriations and definition.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

Sec. 501. Part heading.
Sec. 502. Purpose.
Sec. 503. Grant authority.
Sec. 504. Authorization of appropriations.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. HEADINGS AND SHORT TITLE.

(a) TITLE.—The heading of title I of the Act is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS".

(c) SHORT TITLE.—Section 100 (42 U.S.C. 6000 note) is amended—

(1) by striking "SEC. 100"; and

(2) in the section heading, by striking "SHORT TITLE" and inserting the following new section heading:

"SEC. 100. SHORT TITLE.".

SEC. 102. FINDINGS AND PURPOSES.

Section 101 (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in critical areas;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports;

"(9) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that individuals from racial and ethnic minority backgrounds are fully included in all activities under this Act, and that greater efforts are made to recruit individuals from minority backgrounds into the field of developmental disabilities; and

"(10) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society, in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under subsection (c)(2), a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals;

"(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) specific efforts must be made to ensure that individuals from racial and ethnic minority backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities service system;

"(6) recruitment efforts within developmental disabilities at the level of preservice training, community training, practice, administration and policymaking must focus on bringing larger numbers of racial and ethnic minorities into the field in order to provide appropriate skills, knowledge, role models, and sufficient manpower to address the growing needs of an increasingly diverse population;

"(7) with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(8) individuals with developmental disabilities should have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in

homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 103. DEFINITIONS.

Section 102 (42 U.S.C. 6001) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"For purposes of this title:

"(1) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian Consortium' means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

"(2) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

"(3) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

"(4) CHILD DEVELOPMENT ACTIVITIES.—The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(5) COMMUNITY LIVING ACTIVITIES.—The term 'community living activities' means such priority area activities as will assist individuals with developmental disabilities to obtain and

receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

"(6) COMMUNITY SUPPORTS.—The term 'community supports' means activities, services, supports, and other assistance designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

"(B) develop local networks that can provide informal support; and

"(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(7) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

"(8) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the individual attains age 22;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity—

"(i) self-care;

"(ii) receptive and expressive language;

"(iii) learning;

"(iv) mobility;

"(v) self-direction;

"(vi) capacity for independent living; and

"(vii) economic self-sufficiency; and

"(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

"(9) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means services provided to infants, toddlers, young children, and their families to—

"(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

"(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

"(10) EMPLOYMENT ACTIVITIES.—The term 'employment activities' means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

"(11) FAMILY SUPPORT SERVICE.—The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities that are designed to—

"(A) strengthen the family's role as primary caregiver;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home, whenever possible.

Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

"(12) FEDERAL PRIORITY AREAS.—The term 'Federal priority areas' means community living activities, employment activities, child development activities, and system coordination and community education activities.

"(13) INDEPENDENCE.—The term 'independence' means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

"(14) INDIVIDUAL SUPPORTS.—The term 'individual supports' means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

"(A) enable such individual to control such individual's environment, permitting the most independent life possible;

"(B) prevent placement into a more restrictive living arrangement than is necessary; and

"(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

"(15) INTEGRATION AND INCLUSION.—The term 'integration and inclusion', with respect to individuals with developmental disabilities, means—

"(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

"(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

"(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning,

working, and enjoying life in regular contact with citizens without disabilities; and

"(D) having friendships and relationships with individuals and families of their own choosing.

"(16) NONPROFIT.—The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(17) OTHER ORGANIZATIONS.—The term 'other organizations' means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

"(18) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

"(19) PREVENTION.—The term 'prevention' means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

"(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

"(20) PRODUCTIVITY.—The term 'productivity' means—

"(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

"(B) engagement in work that contributes to a household or community.

"(21) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.

"(22) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(23) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(24) SERVICE COORDINATION ACTIVITIES.—The term 'service coordination activities' (also referred to as 'case management

activities') means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

"(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

"(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

"(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

"(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

"(25) STATE.—The term 'State', except as provided in section 155, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

"(26) STATE DEVELOPMENTAL DISABILITIES COUNCIL.—The term 'State Developmental Disabilities Council' means a Council established under section 124.

"(27) STATE PRIORITY AREA.—The term 'State priority area' means priority area activities in an area considered essential by the State Developmental Disabilities Council.

"(28) SUPPORTED EMPLOYMENT.—The term 'supported employment' means competitive work in integrated work settings for individuals with developmental disabilities—

"(A)(i) for whom competitive employment has not traditionally occurred; or

"(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(29) SYSTEM COORDINATION AND COMMUNITY EDUCATION ACTIVITIES.—The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

"(C) enhance individual, family, and citizen participation and involvement; and

"(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

"(30) UNIVERSITY AFFILIATED PROGRAM.—The term 'university affiliated program' means a university affiliated program established under section 152.

"(31) UNSERVED AND UNDERSERVED.—The term 'unserved and underserved' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.".

SEC. 104. FEDERAL SHARE.

Section 103 (42 U.S.C. 6002) is repealed.

SEC. 105. RECORDS AND AUDITS.

(a) SECTION HEADING.—Section 104 (42 U.S.C. 6003) is amended—

(1) by striking "SEC. 104."; and

(2) in the section heading, by striking "RECORDS AND AUDIT" and inserting the following new section heading:

"SEC. 104. RECORDS AND AUDITS.".

(b) RECORDS AND AUDITS.—Section 104 (42 U.S.C. 6003) is amended—

(1) in subsection (a)—

(A) by striking "Each" and inserting "RECORDS.—Each";

(B) by striking "including" and inserting "including—";

(C) by realigning the margins of subparagraphs (A), (B), and (C) of paragraph (1) so as to align with the margins of subparagraphs (A) and (B) of paragraph (28) of section 102;

(D) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (30) of section 102;

(E) in paragraph (1), by striking "disclose" and inserting "disclose—"; and

(F) by striking the comma each place such appears and inserting a semicolon; and

(2) in subsection (b), by striking "The Secretary" and inserting "ACCESS.—The Secretary".

SEC. 106. RECOVERY.

Section 105 (42 U.S.C. 6004) is repealed.

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 106 (42 U.S.C. 6005) is amended—

(1) by striking "SEC. 106.";

(2) in the section heading, by striking "STATE CONTROL OF OPERATIONS" and inserting the following new section heading:

"SEC. 106. STATE CONTROL OF OPERATIONS.";

and

(3) by striking "facility for persons" and inserting "programs, services, and supports for individuals".

SEC. 108. REPORTS.

(a) SECTION HEADING.—Section 107 (42 U.S.C. 6006) is amended—

(1) by striking "SEC. 107."; and

(2) in the section heading, by striking "REPORTS" and inserting the following new section heading:

"SEC. 107. REPORTS.".

(b) REPORTS.—Section 107 (42 U.S.C. 6006) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking, "By January" and inserting "DEVELOPMENTAL DISABILITIES COUNCIL REPORTS.—By January";

(ii) by striking "the State Planning Council of each State" and inserting "each State Developmental Disabilities Council";

(iii) by striking "a report concerning" and inserting "a report of"; and

(iv) by striking "such report" and inserting "report";

(B) in paragraph (1), by striking "of such activities" and all that follows through "from such activities" and inserting "of activities and accomplishments";

(C) in paragraph (2)—

(i) by striking "such accomplishments" and inserting "accomplishments"; and

(ii) by striking "by the State";

(D) in paragraph (4)—

(i) by striking "Planning" and inserting "Developmental Disabilities";

(ii) by striking "each" each place such term appears;

(iii) by striking "report" and inserting "reports";

(iv) by striking "1902(a)(31)(C)" and inserting "1902(a)(31)";

(v) by striking "plan" and inserting "plans"; and

(vi) by striking "; and" and inserting a semicolon;

(E) by striking paragraph (5); and

(F) by adding at the end the following new paragraphs:

"(5) a description of—

"(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(C) a summary of actions taken to improve access and services for unserved and underserved groups;

"(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

"(7) a description of the method by which the State Developmental Disabilities Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.";

(2) in subsection (b)—

(A) by striking "By January" and inserting "PROTECTION AND ADVOCACY SYSTEM REPORTS.—By January"; and

(B) by inserting before the period ", including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used"; and

(3) in subsection (c)—

(A) by realigning the margins of subparagraphs (A) and (B) of paragraph (1) so as to align with the margins of subparagraph (C) of such paragraph;

(B) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (1) of subsection (a);

(C) by striking the subsection designation and inserting "(c) SECRETARY REPORTS.—";

(D) by striking "(1) By" and inserting the following: "(1) IN GENERAL.—By";

(E) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "integration" each place such term appears and inserting "integration and inclusion"; and

(II) by striking "persons" and inserting "individuals";

(ii) by striking subparagraph (C) and inserting the following new subparagraph:

"(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(iii) a summary of actions taken to improve access and services for unserved and underserved groups;"; and

(iii) in subparagraph (D), by striking "persons" and inserting "individuals"; and

(F) in paragraph (2)—

(i) by striking "use and include" and inserting "include and analyze";

(ii) by striking "to the Secretary"; and

(iii) by striking "In preparing" and inserting "INCLUSION OF COUNCIL AND SYSTEM INFORMATION.—In preparing".

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

(a) SECTION HEADING.—Section 108 (42 U.S.C. 6007) is amended—

(1) by striking "SEC. 108."; and

(2) in the section heading, by striking "RESPONSIBILITIES OF THE SECRETARY" and inserting the following new section heading:

"SEC. 108. RESPONSIBILITIES OF THE SECRETARY.".

(b) RESPONSIBILITIES.—Section 108 (42 U.S.C. 6007) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "REGULATIONS.—The Secretary"; and

(2) in subsection (b)—

(A) by striking "Within ninety" and inserting "INTERAGENCY COMMITTEE.—Within 90"; and

(B) by striking "Administration for Developmental Disabilities" and inserting "Administration on Developmental Disabilities,".

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

(a) SECTION HEADING.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "SEC. 109."; and

(2) in the section heading, by striking "EMPLOYMENT OF HANDICAPPED INDIVIDUALS" and inserting the following new section heading:

"SEC. 109. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.".

(b) EMPLOYMENT.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "handicapped individuals" and inserting "individuals with disabilities";

(2) by striking "Act of" and inserting "Act of 1973"; and

(3) by striking "which govern" and all that follows through "subcontracts." and inserting the following: "that govern employment—

"(1) by State rehabilitation agencies and community rehabilitation programs; and

"(2) under Federal contracts and subcontracts.".

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

(a) SECTION HEADING.—Section 110 (42 U.S.C. 6009) is amended—

(1) by striking "SEC. 110."; and

(2) in the section heading, by striking "RIGHTS OF THE DEVELOPMENTALLY DISABLED" and inserting the following new section heading:

"SEC. 110. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.".

(b) RIGHTS.—Section 110 (42 U.S.C. 6009) is amended—

(1) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(2) in paragraph (1), by striking "Persons" and inserting "Individuals";

(3) in paragraph (2)—

(A) by striking "a person" and inserting "an individual";

(B) by striking "the person" and inserting "the individual"; and

(C) by striking "the person's" and inserting "the individual's";

(4) in paragraph (3), by striking "persons" each place such term appears and inserting "individuals";

(5) in paragraph (4), by striking "persons" each place such term appears and inserting "individuals"; and

(6) in the matter following subparagraph (C) of paragraph (4), by striking "persons" each place such term appears and inserting "individuals".

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. PART HEADING.

The heading of Part B of title I of the Act is amended to read as follows:

"PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS".

SEC. 202. PURPOSE.

Section 121 (42 U.S.C. 6021) is amended to read as follows:

"SEC. 121. PURPOSE.

"The purpose of this part is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under section 101(c)(2), the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.".

SEC. 203. STATE PLANS.

Section 122 (42 U.S.C. 6022) is amended to read as follows:

"SEC. 122. STATE PLAN.

"(a) IN GENERAL.—Any State desiring to take advantage of this part shall have a State plan submitted to, and approved by, the Secretary under this section.

"(b) PLANNING CYCLE.—The plan under subsection (a) shall be reviewed annually and revised at least once every 3 years.

"(c) STATE PLAN REQUIREMENTS.—In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

"(1) STATE COUNCIL.—The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 124 and describe the membership of such Council.

"(2) DESIGNATED STATE AGENCY.—The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 124(d).

"(3) COMPREHENSIVE REVIEW AND ANALYSIS.—The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

"(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

"(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

"(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

"(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

"(iii) an analysis of the barriers that impede full participation of members of unserved and underserved groups;

"(iv) consideration of the report conducted pursuant to section 124(e);

"(v) consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act;

"(vi) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

"(vii) an analysis of existing and projected fiscal resources;

"(viii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

"(ix) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (vi) for all subpopulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

"(4) PLAN OBJECTIVES.—The plan shall—

"(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

"(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy activities in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

"(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

"(5) ASSURANCES.—The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

"(A) USE OF FUNDS.—With respect to the funds paid to the State under section 125, the plan shall provide assurances that—

"(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

"(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

"(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

"(iv) part of such funds will be made available by the State to public or private entities;

"(v) not more than 25 percent of such funds will be allocated to the agency designated under section 124(d) for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

"(vi) not less than 65 percent of the amount available to the State under section 125 shall be expended

for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area; and

"(vii) the remainder of the amount available to the State from allotments under section 125 (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 124(c).

"(B) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

"(C) CONFLICT OF INTEREST.—The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

"(D) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

"(E) PROGRAM STANDARDS.—The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

"(F) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

"(G) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 110 (relating to rights of individuals with developmental disabilities).

"(H) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

"(I) INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SURVEY REPORTS.—The plan shall provide assurances that the State will provide the State Developmental

Disabilities Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

"(J) VOLUNTEERS.—The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(K) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(L) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State.

"(M) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 124(d)(3).

"(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(d) PUBLIC REVIEW, SUBMISSION, AND APPROVAL.—

"(1) PUBLIC REVIEW.—The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation. Regulations.

"(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

"(3) PLAN APPROVAL.—The Secretary shall approve any State plan and annual updates of such plan that comply with

the provisions of subsections (a), (b), and (c). The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State.".

SEC. 204. HABILITATION PLANS.

Section 123 (42 U.S.C. 6023) is repealed.

SEC. 205. COUNCILS.

Section 124 (42 U.S.C. 6024) is amended to read as follows:

"SEC. 124. STATE DEVELOPMENTAL DISABILITIES COUNCILS AND DESIGNATED STATE AGENCIES.

"(a) IN GENERAL.—Each State that receives assistance under this part shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the 'Council') to promote, through systemic change, capacity building, and advocacy activities (consistent with section 101(c)(2)), the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c).

"(b) COUNCIL MEMBERSHIP.—

"(1) COUNCIL APPOINTMENTS.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

"(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

"(3) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D, the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental

disabilities in the State in which such agencies and groups are located. Such representatives shall—

"(A) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

"(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 122(c)(5)(C).

"(4) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 50 percent of the membership of each Council shall consist of individuals who are—

"(A)(i) individuals with developmental disabilities;

"(ii) parents or guardians of children with developmental disabilities; or

"(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

"(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under this part.

"(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (4)—

"(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

"(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), and immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

"(C) one-third shall be a combination of individuals described in paragraph (4)(A).

"(6) INSTITUTIONALIZED INDIVIDUALS.—Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

"(c) COUNCIL RESPONSIBILITIES.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

"(1) SYSTEMIC CHANGE, CAPACITY BUILDING, AND ADVOCACY ACTIVITIES.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 121.

"(2) EXAMINATION OF PRIORITY AREAS.—Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance

for individuals with developmental disabilities and their families, pursuant to section 122.

"(3) STATE PLAN DEVELOPMENT.—The Council shall develop and submit to the Secretary the State plan required under section 122 after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

"(4) STATE PLAN IMPLEMENTATION.—The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 102, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

"(A) DEMONSTRATION OF NEW APPROACHES.—The Council may conduct, on a time-limited basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this part, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

"(B) OUTREACH.—The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

"(C) TRAINING.—The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide, services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

"(D) SUPPORTING COMMUNITIES.—The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals and their families access, resources, and opportunities.

"(E) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

"(F) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may conduct activities to enhance coordination with—

"(i) other councils or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973, the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act and other similar councils or committees);

"(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

"(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

"(G) BARRIER ELIMINATION, SYSTEMS DESIGN, AND CITIZEN PARTICIPATION.—The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

"(H) PUBLIC EDUCATION AND COALITION DEVELOPMENT.—The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

"(I) INFORMING POLICYMAKERS.—The Council may provide information to Federal, State, and local policymakers, including the Congress, the Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

"(J) PREVENTION.—The Council may conduct prevention activities as defined in section 102.

"(K) OTHER ACTIVITIES.—The Council may conduct other systemic change, capacity building, and advocacy activities to promote the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

"(5) STATE PLAN MONITORING.—Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

"(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the designated State agency with respect to the activities carried out under this Act and make any recommendations for change to the Governor.

"(7) REPORTS.—The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities under this part including—

"(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

"(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this Act; and

"(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

"(9) STAFF HIRING AND SUPERVISION.—A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be consistent with State law and personnel policies.

"(10) STAFF ASSIGNMENTS.—The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this

part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

"(11) CONSTRUCTION.—

"(A) ACTIVITIES OF THE COUNCIL.—Nothing in this part shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

"(B) AUTHORITY OF THE COUNCIL.—Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(d) DESIGNATED STATE AGENCY.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall designate the State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, any designation of a State agency shall be made in accordance with the requirements of this subsection.

"(2) DESIGNATION.—

"(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

"(i) the Council if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

"(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

"(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination at the discretion of the Governor (or legislature as the case may be) shall be made after the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve

as an advocate for individuals with developmental disabilities.

"(C) REVIEW OF DESIGNATION.—After April 1, 1994, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

"(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

"(3) RESPONSIBILITIES.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (A) through (F).

"(A) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

"(B) FISCAL RESPONSIBILITIES.—The designated State agency shall—

"(i) receive, account for, and disperse funds under this part based on the State plan required in section 122; and

"(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper dispersement of, and accounting for, funds paid to the State under this part.

"(C) RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

"(D) NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 125A(c).

"(E) ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

"(F) MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

"(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

"(A) NECESSARY EXPENDITURES OF STATE DESIGNATED AGENCY.—At the request of any State, a portion of any allotment or allotments of such State under this part for

any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

"(B) CONDITION FOR FEDERAL FUNDING.—Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

"(C) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

"(e) 1990 REPORT.—Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

"(1) COMPREHENSIVE REVIEW AND ANALYSIS.—Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) CONSUMER SATISFACTION.—Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individuals' families.

"(3) PUBLIC REVIEW AND COMMENT.—Each Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that

result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) BASIS FOR STATE PLAN.—Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 206. STATE ALLOTMENTS.

(a) SECTION HEADING.—Section 125 (42 U.S.C. 6025) is amended—

(1) by striking "SEC. 125."; and

(2) in the section heading, by striking "STATE ALLOTMENTS" and inserting the following new section heading:

"SEC. 125. STATE ALLOTMENTS.".

(b) ALLOTMENTS.—Section 125 (42 U.S.C. 6025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A), (B), and (C) so as to align with the margin of subparagraph (A) of paragraph (4); and

(ii) by realigning the margin of the matter following subparagraph (C) so as to align with the margin of paragraph (3);

(B) by striking "(a)(1) For" and inserting the following:

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—For";

(C) in paragraph (2)—

(i) by striking "(2) Adjustments" and inserting the following:

"(2) ADJUSTMENTS.—Adjustments";

(ii) by striking "may be" and inserting "shall be"; and

(iii) by striking "not less" and inserting "and the percentage of the total appropriation for each State not less";

(D) in paragraph (3)—

(i) by striking "(3)(A) Except" and all that follows through "September 30, 1990." and inserting the following:

"(3) MINIMUM ALLOTMENT FOR APPROPRIATIONS LESS THAN OR EQUAL TO $75,000,000.—

"(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $210,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment

received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i), may not be less than the greater of—

"(I) $400,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(ii) by striking "(B) Notwithstanding" and inserting the following:

"(B) REDUCTION OF ALLOTMENT.—Notwithstanding";

(E) in paragraph (4), to read as follows:

"(4) MINIMUM ALLOTMENT FOR APPROPRIATIONS IN EXCESS OF $75,000,000.—

"(A) IN GENERAL.—In any case in which amounts appropriated under section 130 for a fiscal year exceeds $75,000,000, the allotment under this section for such fiscal year—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $220,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i) may not be less than the greater of—

"(I) $450,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).

"(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).";

(F) in paragraph (5)—

(i) by striking "In determining" and inserting "STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining"; and

(ii) by striking, "section 122(b)(2)(C)" and inserting "section 122(c)(3)(A)"; and

(G) in paragraph (6), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(2) in subsection (b), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c) OBLIGATION OF FUNDS.—For the purposes of this part, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this part.";

(5) in subsection (d) (as redesignated by paragraph (3)), by striking "Whenever" and inserting "COOPERATIVE EFFORTS BETWEEN STATES.—Whenever"; and

(6) in subsection (e) (as redesignated by paragraph (3)), by striking "The amount" and inserting "REALLOTMENTS.—The amount".

SEC. 207. FEDERAL SHARE AND NON-FEDERAL SHARE.

Part B of title I of the Act is amended by inserting after section 125 (42 U.S.C. 6025) the following new section:

42 USC 6025a.

"SEC. 125A. FEDERAL AND NON-FEDERAL SHARE.

"(a) AGGREGATE COSTS.—The Federal share of all projects in a State supported by an allotment to the State under this part may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

"(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

"(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

"(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 122, the Secretary shall not consider—

"(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 125; and

"(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(c) NON-FEDERAL SHARE.—

"(1) IN KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project assisted by a grant or an allotment under this part may be provided in kind.

"(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS, PUBLIC, OR PRIVATE ENTITIES.—

"(A) IN GENERAL.—Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this part.

"(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to

provide support services to the Council pursuant to section 124(d)(4), may be counted as part of such State's non-Federal share of allotments under this part.

"(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required on a grant-by-grant basis may vary.".

SEC. 208. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 126 (42 U.S.C. 6026) is amended—

(1) by striking "SEC. 126." and inserting "(a) STATE PLAN EXPENDITURES.—";

(2) in the section heading, by striking "PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following new section heading:

"SEC. 126. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) by adding at the end the following new subsection:

"(b) SUPPORT SERVICES.—Payments to States for support services provided by the designated State agency pursuant to section 124(d)(4) may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.".

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 127 (42 U.S.C. 6027) is amended—

(1) in the matter preceding paragraph (1), by striking "SEC. 127.";

(2) in the section heading by striking "WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following new section heading:

"SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) in paragraph (1), by striking "sections" and inserting "section".

SEC. 210. NONDUPLICATION.

Section 128 (42 U.S.C. 6028) is repealed.

SEC. 211. APPEALS BY STATES.

Section 129 (42 U.S.C. 6029) is amended—

(1) by striking "SEC. 129."; and

(2) in the section heading, by striking "APPEALS BY STATES" and inserting the following new section heading:

"SEC. 129. APPEALS BY STATES.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

Section 130 (42 U.S.C. 6030) is amended by striking "$77,400,000" and all that follows and inserting the following: "$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 213. REVIEW, ANALYSIS, AND REPORT.

42 USC 6025 note

(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental

Disabilities Assistance and Bill of Rights Act prior to the date of enactment of this Act, including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act.

(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act.

(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

TITLE III—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 301. PART HEADING.

The heading of part C of title I of the Act is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 141 (42 U.S.C. 6041) is amended—

(1) by striking "SEC. 141.";

(2) in the section heading, by striking "PURPOSE" and inserting the following new section heading:

"SEC. 141. PURPOSE.";

(3) by striking "system" and inserting "Protection and Advocacy system (hereafter referred to in this part as the 'system')"; and

(4) by striking "persons" and inserting "individuals".

SEC. 303. SYSTEM REQUIRED.

(a) SECTION HEADING.—Section 142 (42 U.S.C. 6042) is amended—

(1) by striking "SEC. 142."; and

(2) in the section heading, by striking "SYSTEM REQUIRED" and inserting the following new section heading:

"SEC. 142. SYSTEM REQUIRED.".

(b) SYSTEM.—Section 142 (42 U.S.C. 6042) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "SYSTEM REQUIRED.—In order";

(B) in paragraph (1), by striking "persons" and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) in subparagraph (A), by striking "minority" and inserting "ethnic and racial minority";

(iii) by striking subparagraph (C);

(iv) in subparagraph (E), by striking "Planning Council" and inserting "Developmental Disabilities Council authorized under part B";

(v) in subparagraph (F), by striking "and" at the end thereof; and

(vi) in subparagraph (G)—

(I) in clause (i), by striking "person" each place such term appears and inserting "individual";

(II) in the matter preceding subclause (I) of clause (ii), by striking "person" and inserting "individual";

(III) in clause (ii)(I), by striking "by reason of the mental or physical condition of such person" and inserting "by reason of such individual's mental or physical condition";

(IV) in clause (ii)(III), by striking "person" and inserting "individual";

(V) in clause (iii), by realigning the margins of subclauses (I), (II), and (III) so as to align with the margins of subclauses (I), (II), and (III) of clause (ii);

(VI) in clause (iii), by striking "(iii) any" and inserting the following:

"(iii) any"; and

(VII) in clause (iii)(III), by striking "person" and inserting "individual";

(vii) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (I), respectively;

(viii) by inserting after subparagraph (B) the following new subparagraphs:

"(C) on an annual basis, develop a statement of objectives and priorities for the system's activities; and

"(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—

"(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and

"(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and with other related programs, including the parent training and information centers, education ombudsman programs and assistive technology projects;";

(ix) by inserting after subparagraph (G), as so redesignated in clause (vii), the following new subparagraph:

"(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident;";

(x) by adding at the end the following new subparagraphs:

"(J) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under this Act;

"(K) have the authority to educate policymakers; and

"(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;";

(D) by striking paragraphs (3) and (5);

(E) in paragraph (4)—

(i) by striking "the State" and all that follows through "provided with" and inserting "the State must provide to the system";

(ii) by striking "1902(a)(31)(B)" and inserting "1902(a)(31)"; and

(iii) by redesignating such paragraph as paragraph (3); and

(F) by adding at the end the following new paragraph:

"(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.";

(2) in subsection (b)—

(A) by striking "(b)(1) To" and inserting the following:

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—To";

(B) in paragraph (1)—

(i) in subparagraph (A), to read as follows:

"(A) the total amount appropriated under section 143 for a fiscal year is at least $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Common-

wealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $107,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $200,000; or

"(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(ii) in subparagraph (B), to read as follows:

"(B) the total amount appropriated under section 143 for a fiscal year is less than $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $80,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $150,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(C) by realigning the margins of subparagraphs (A) and (B) of paragraph (2) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(D) by realigning the margins of paragraphs (2) through (4) so as to align with paragraph (4) of subsection (a);

(E) in paragraph (2), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(F) in paragraph (3), by striking "A State" and inserting "MONITORING THE ADMINISTRATION OF THE SYSTEM.—A State";

(G) in paragraph (4), by striking "Notwithstanding" and inserting "REDUCTION OF ALLOTMENT.—Notwithstanding"; and

(H) by inserting at the end the following new paragraph:

"(5) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which amounts appropriated under section 143 for a fiscal year exceeds $24,500,000, the Secretary shall—

"(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach $24,500,000) to eligible systems with respect to activities carried out under this title; and

"(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortiums to provide protection and advocacy services.";

(3) in subsection (c), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "In States" and inserting "GOVERNING BOARD.—In States";

(B) in paragraph (1), by inserting before the semicolon "and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals";

(C) in paragraph (2), by striking "and" at the end thereof;

(D) in paragraph (3), by striking the period and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—

"(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

"(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals.";

(5) in subsection (e), by striking "As used" and inserting "RECORDS.—As used";

(6) in subsection (f)—

(A) by striking "If the" and inserting "ACCESS TO RECORDS.—If the"; and

(B) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(7) in subsection (g)—

(A) by striking "(g)(1) Nothing" and inserting the following:

"(g) LEGAL ACTION.—

"(1) IN GENERAL.—Nothing";

(B) in paragraph (1), by striking "persons" and inserting "individuals"; and

(C) in paragraph (2), by striking "(2) Amounts" and inserting the following:

"(2) USE OF AMOUNTS FROM JUDGMENT.—Amounts";

(8) in subsection (h), by striking "Notwithstanding" and inserting "PAYMENT TO SYSTEMS.—Notwithstanding";

(9) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(10) by inserting after subsection (a) the following new subsection:

"(b) AMERICAN INDIAN CONSORTIUM.—Upon application to the Secretary, an American Indian consortium, as defined in section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium shall coordinate activities with existing systems."; and

(11) by adding at the end the following new subsections:

"(j) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this Act, the Secretary shall not require a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(k) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report. The results of such review shall be distributed to the Governor of the State and to other interested public and private parties.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 143 (42 U.S.C. 6043) is amended—

(1) by striking "SEC. 143.";

(2) in the section heading, by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting the following new section heading:

"SEC. 143. AUTHORIZATION OF APPROPRIATIONS.";

(3) by striking "$24,200,000 for fiscal year 1991" and inserting "$24,000,000 for fiscal year 1994"; and

(4) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

SEC. 401. PART HEADING.

The heading of part D of title I of the Act is amended to read as follows:

"PART D—UNIVERSITY AFFILIATED PROGRAMS".

SEC. 402. PURPOSE.

Section 151 (42 U.S.C. 6061) is amended to read as follows:

"SEC. 151. PURPOSE AND SCOPE OF ACTIVITIES.

"The purpose of this part is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with

a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities through the provision of the following activities, which are conducted in a culturally competent manner:

"(1) Interdisciplinary preservice preparation of students and fellows, including the preparation of leadership personnel.

"(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

"(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities.".

SEC. 403. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 152 (42 U.S.C. 6062) is amended—

(1) by striking "SEC. 152."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following new section heading:

"SEC. 152. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 152 (42 U.S.C. 6062) is amended—

(1) in subsection (a)—

(A) by striking "From appropriations" and inserting "ADMINISTRATION AND OPERATION.—From appropriations"; and

(B) by striking "102(18)." and inserting "151. Grants may be awarded for a period not to exceed 5 years.";

(2) in subsection (b), to read as follows:

"(b) TRAINING PROJECTS.—

"(1) IN GENERAL.—From amounts appropriated under section 156(a), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

"(2) ELIGIBILITY LIMITATIONS.—A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

"(A) such program has operated for at least 1 year; or

"(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

"(3) AREAS OF FOCUS.—Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging

national significance described in subparagraphs (A) through (H).

"(A) EARLY INTERVENTION.—Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

"(B) AGING.—Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

"(C) COMMUNITY SERVICES.—Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community members, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

"(D) POSITIVE BEHAVIORAL SUPPORTS.—Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

"(i) address ethical and legal principles and standards, including the role of personal and cultural values in designing assessments and interventions;

"(ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;

"(iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;

"(iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;

"(v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;

"(vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and

"(vii) address techniques for evaluating the outcomes of interventions.

"(E) ASSISTIVE TECHNOLOGY SERVICES.—Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(F) AMERICANS WITH DISABILITIES ACT.—Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

"(G) COMMUNITY TRANSITION.—Grants under this subsection for training projects with respect to transition from school to adult life shall be for the purpose of assisting university affiliated programs in providing training to individuals with developmental disabilities and their families, generic community agencies, advocacy organizations, and others in order to stimulate the development and improvement of policies, procedures, systems, and other mechanisms that prepare youth with developmental disabilities to enter adult life. Such projects shall be coordinated with State transition projects funded under section 626(e) of the Individuals with Disabilities Education Act, where such State transition projects exist.

"(H) OTHER AREAS.—Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

"(4) COURSES, TRAINEESHIPS AND FELLOWSHIPS.—Grants under this subsection may be used by university affiliated programs to—

"(A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and

"(B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(5) PROHIBITED ACTIVITIES.—Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a).

"(6) CRITERIA.—Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

"(A) APPLICATION.—An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

"(i) competency and value based;

"(ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

"(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

"(B) GENERAL PROJECT REQUIREMENTS.—Training projects under this subsection shall—

"(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(ii) be conducted in consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(iii) be integrated into the appropriate university affiliated program and university curriculum;

"(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(v) to the extent practical, be conducted in environments where services are actually delivered;

"(vi) to the extent possible, be interdisciplinary in nature;

"(vii) utilize strategies to recruit and train members from racial and ethnic minority backgrounds and individuals with disabilities; and

"(viii) address the issue of cultural competence in the training provided.";

(3) in subsection (c)—

(A) by striking "From amounts appropriated under section 154(b)" and inserting "SUPPLEMENTAL AWARDS.—From amounts appropriated under section 156(a)";

(B) in paragraph (1)—

(i) by striking "service-related training to persons" and inserting "interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals";

(ii) by striking "integration into the community of persons with developmental disabilities" and insert-

ing "integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b)"; and

(iii) by striking "persons" each place such term appears and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "(A) the" and inserting "the";

(ii) by striking "persons" and inserting "individuals";

(iii) by striking "(B) the" and inserting "the"; and

(iv) by striking "parents" and inserting "family members";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "(e) From amounts appropriated under section 154(a)" and inserting "(d) FEASIBILITY STUDIES.—From amounts appropriated under section 156(a)"; and

(B) by striking—

(i) "or a satellite center"; and

(ii) "or satellite center"; and

(6) by striking subsections (f) and (g).

SEC. 404. APPLICATIONS.

(a) SECTION HEADING.—Section 153 (42 U.S.C. 6063) is amended—

(1) by striking "SEC. 153."; and

(2) in the section heading, by striking "APPLICATIONS" and inserting the following new section heading:

"SEC. 153. APPLICATIONS.".

(b) APPLICATIONS.—Section 153 (42 U.S.C. 6063) is amended—

(1) in subsection (a)—

(A) by striking "Not later than six" and inserting: "STANDARDS.—Not later than 12";

(B) by striking "Act of 1984" and inserting "Assistance and Bill of Rights Act Amendments of 1994";

(C) by striking "persons" and inserting "individuals"; and

(D) by striking "section 102(18)" and inserting "section 151";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "No grants" and all that follows through "Such an application" and inserting "ASSURANCES.—The application under subsection (a)";

(B) in paragraph (1), by striking "grant will" and all that follows through "level of such funds;" and inserting the following: "grant will—

"(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

"(B) be used to supplement and, to the extent practicable, increase the level of such funds;";

(C) in paragraph (2), by striking "subsection (a)" each place such term appears and inserting "subsection (b)";

(D) in paragraph (3)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) by striking "treatment, services, or habilitation" and inserting "services"; and

(iii) by striking "the developmentally disabled" and inserting "individuals with developmental disabilities"; and

(E) in paragraph (5)—

(i) by striking "Planning" and inserting "Developmental Disabilities"; and

(ii) by striking "or the satellite center is or will be located";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (a), (b), and (e) as subsections (b), (c), and (f), respectively;

(5) by inserting after the section heading the following new subsection:

"(a) IN GENERAL.—No grants may be made under section 152(a) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.";

(6) by inserting after subsection (c), as so redesignated by paragraph (4), the following new subsections:

"(d) CONSUMER ADVISORY COMMITTEE.—The Secretary shall only make grants under section 152(a) to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers. The consumer advisory committee shall reflect the racial and ethnic diversity of the geographic area served by the university affiliated program. Grants.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of any project to be provided through grants under this part may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

"(2) PROJECT EXPENDITURES.—For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this part.";

(7) in subsection (f), as so redesignated by paragraph (4)—

(A) by striking "(f)(1) The Secretary" and inserting the following:

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary";

(B) in paragraph (1), by striking "Such peer review" and all that follows through "152(b)(1)(D).";

(C) in paragraph (2)—

(i) by striking "(2) Regulations" and inserting the following:

"(2) REGULATIONS.—Regulations"; and

(ii) by striking "experience or training" and inserting "experience and training";

(D) in paragraph (3), to read as follows:

"(3) APPROVAL.—

"(A) IN GENERAL.—The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) APPLICABILITY.—This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.";

(E) in paragraph (4)—

(i) by striking "(4) The Secretary" and inserting the following:

"(4) ESTABLISHMENT OF PEER REVIEW GROUPS.—The Secretary"; and

(ii) by realigning the margins of subparagraphs (A) and (B) so as to align with the margin of subparagraph (A) of paragraph (3); and

(F) in paragraph (5), by striking "(5) The Secretary" and inserting the following:

"(5) WAIVERS OF APPROVAL.—The Secretary"; and

(8) by adding at the end the following new subsection:

"(g) REVIEW BY OTHER FEDERAL AGENCIES.—The Secretary shall establish such a process for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.".

SEC. 405. GRANT AWARDS.

Section 154 (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. PRIORITY FOR GRANT AWARDS.

"(a) IN GENERAL.—In awarding and distributing grant funds under this part, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

"(1) EXISTING STATE UNIVERSITY AFFILIATED PROGRAMS.—First priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to an existing State university affiliated program that meets the requirements under section 153.

"(2) UNSERVED STATES.—Second priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to a university or public or nonprofit entity associated with a college or university that desires to establish a university affiliated program in a State that is unserved by a university affiliated program as of the date of enactment of the Developmental Assistance and Bill of Rights Act Amendments of 1994.

"(3) TRAINING PROJECTS IN ALL UNIVERSITY AFFILIATED PROGRAMS.—Third priority shall be given, with respect to the provision of grant awards, to each university affiliated program that receives funding under section 152(a) and that meets the eligibility limitations under section 152(b) to the establishment of training projects under section 152(b) in the amount of $90,000 in each such program.

"(4) INCREASED FUNDING FOR TRAINING PROJECTS.—Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 152(b) to $100,000.

"(5) INCREASED FUNDING FOR UNIVERSITY AFFILIATED PROGRAMS.—Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university affiliated program grant award under section 152(a) to $250,000.

"(6) ADDITIONAL TRAINING.—Sixth priority shall be given, with respect to the provision of grant awards, to an existing university affiliated program in a State that is served by such program under section 152(a) to provide additional training under subsection (b) or (c) of section 152 within such State or other geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university affiliated program within such State under section 152(a). All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university affiliated program in the State (if applicable) and in consultation with the State Developmental Disabilities Council.

"(b) ADDITIONAL PROGRAMS.—For purposes of making grants under subsection (a)(6), the Secretary shall consider applications for grants for university affiliated programs—

"(1) for States that are currently underserved by a university affiliated program; and

"(2) that are in addition to the total number of university affiliated programs receiving grants under this subsection for the preceding fiscal year.

"(c) SINGLE APPLICATION.—When every State is served by a university affiliated program under section 152(a) in the amount of $200,000 and every such program has been awarded a training grant under section 152(b) in the amount of $90,000, the Secretary may accept applications under such sections in a single application.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Part D of title I (42 U.S.C. 151 et seq.) is amended by adding at the end the following new sections:

"SEC. 155. DEFINITION. 42 USC 6065.

"For purposes of this part, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

"SEC. 156. AUTHORIZATION OF APPROPRIATIONS. 42 USC 6066.

"(a) IN GENERAL.—For the purpose of making grants under subsections (a), (b), (c), and (d) of section 152, there are authorized

to be appropriated $19,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) LIMITATION.—With respect to peer review or other activities directly related to peer review, the Secretary may not use—

"(1) for fiscal year 1994, more than $300,000 of the funds made available under subsection (a) for such review or such other activities; and

"(2) for any succeeding fiscal year, more than the amount of the funds made available under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities.".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

The heading of part E of title I of the Act is amended to read as follows:

Grants.
Contracts.

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

SEC. 502. PURPOSE.

Section 161 (42 U.S.C. 6081) is amended to read as follows:

"SEC. 161. PURPOSE.

"The purpose of this part is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

"(1) data collection and analysis;

"(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

"(A) technical assistance for the development of information and referral systems;

"(B) educating policymakers;

"(C) Federal interagency initiatives;

"(D) the enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

"(E) transition of youth with developmental disabilities from school to adult life; and

"(F) special pilots and evaluation studies to explore the expansion of programs under part B to individuals with severe disabilities other than developmental disabilities.".

SEC. 503. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 162 (42 U.S.C. 6082) is amended—

(1) by striking "SEC. 162."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following new section heading:

"SEC. 162. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 162 (42 U.S.C. 6082) is amended—

(1) in subsection (a), to read as follows:

"(a) IN GENERAL.—The Secretary—

"(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

"(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs that includes data on the participation of individuals from racial and ethnic minority backgrounds; and

"(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of State Developmental Disabilities Councils under part B, protection and advocacy systems under part C, and university affiliated programs under part D, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under parts B, C, and D; and

"(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

"(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families that are culturally competent and that improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

"(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

"(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families;

"(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are from racial and ethnic minority backgrounds including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under parts B, C, and D, and increase the involvement of students and professionals of such groups in the provi-

sion of services to, supports to, and advocacy for, individuals with developmental disabilities; and

"(E) conducting research and providing technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life.";

(2) in subsection (b), to read as follows:

"(b) APPLICATION AND OTHER GRANT REQUIREMENTS.—No grant may be made under subsection (a) unless—

Regulations.

"(1) an application has been submitted to the Secretary in such form, in such manner, and containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

"(2) each State in which the applicant's project will be conducted has a State plan approved under section 122;

"(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this part will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities);

"(4) the applicant demonstrates, where appropriate, how the project will address, in whole or part, the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds; and

"(5) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application.";

(3) in subsection (c), by striking "Not later" and inserting "PRIORITIES FOR GRANTS.—Not later";

(4) in subsection (d)—

(A) by striking "Payments under" and inserting "GRANT PAYMENTS.—Payments under"; and

(B) by inserting before the period in the second sentence ", except as otherwise provided under section 163";

(5) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(6) by inserting after subsection (a) the following new subsection:

"(b) INVESTIGATIONS.—

"(1) IN GENERAL.—Not later than April 1, 1994, there shall be a special initiative to support grants to investigate the expansion of part B activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

"(A) A national study of State Developmental Disabilities Councils that are currently mandated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

"(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers,

opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

"(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

"(2) APPLICATION.—No grant may be made under this subsection unless an applicant submits to the Secretary an application, and meets the additional application requirements, under subsection (c)."; and

(7) by adding at the end thereof the following new subsection:

"(f) LIST OF RECIPIENTS.—Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b), including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.". Federal Register, publication.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 163(a) (42 U.S.C. 6083(a)) is amended—

(1) by striking "$3,650,000" and inserting "$4,000,000";

(2) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(3) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

(b) LIMITATIONS.—Section 163(b) (42 U.S.C. 6083(b)) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) PROJECTS OF NATIONAL SIGNIFICANCE.—At least 8 percent, but in no event less than $300,000, of the amounts appropriated pursuant to subsection (a) shall be used to carry out the provisions of section 162(a)(1)(B).

"(2) INVESTIGATIONS.—

"(A) IN GENERAL.—The additional authority to fund projects under section 162(b) shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

"(B) TIME LINE FOR FUNDING.—If amounts are available to carry out subparagraphs (A), (B), and (C) of section 162(b)(1), the Administration shall provide funding to carry out such subparagraphs not later than May 1 of the fiscal year in which such funds become available.

"(3) PROGRAMMATIC REVIEWS OR OTHER ADMINISTRATIVE ACTIVITIES.—The Secretary may not use the funds made available under subsection (a) for programmatic reviews as prescribed by regulation or other administrative activities under parts B, C, and D.

"(4) TECHNICAL ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—If technical assistance to improve the effectiveness of protection and advocacy systems under part C is provided under section 142(c)(5)—

"(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this part; and

"(B) the amount set aside for technical assistance under section 162(a)(1)(B) shall be proportionally reduced.".

Approved April 6, 1994.

LEGISLATIVE HISTORY—S. 1284 (H.R. 2204) (H.R. 3505):

HOUSE REPORTS: Nos. 103-121 accompanying H.R. 2204 (Comm. on Energy and Commerce), 103-378 accompanying H.R. 3505 (Comm. on Energy and Commerce), and 103-442 (Comm. of Conference).
SENATE REPORTS: No. 103-120 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): June 14, H.R. 2204 considered and passed House.
Aug 5, S. 1284 considered and passed Senate.
Nov. 21, H.R 3505 considered and passed House; S. 1284, amended, passed in lieu.
Vol. 140 (1994): Mar. 21, House agreed to conference report.
Mar. 24, Senate agreed to conference report.

Public Law 103-231
103d Congress

An Act

To extend certain compliance dates for pesticide safety training and labeling requirements.

Apr. 6, 1994
[S. 1913]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPLIANCE.

Until January 1, 1995, it shall not be a misuse under section 12(a)(2)(G) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136j(a)(2)(G)) to use any pesticide product in a manner inconsistent with the provisions of 40 CFR part 170 that are (1) subject to the compliance date specified in 40 CFR section 170.5(c) and (2) incorporated by reference on the label or labeling of any pesticide product. This delay in compliance shall not apply to specific worker protection requirements that appear directly on the label or labeling of the pesticide product.

SEC. 2. REENTRY INTERVAL.

(a) IN GENERAL.—Notwithstanding the provisions of 40 CFR part 170, until January 1, 1995, a worker may enter an area treated with a pesticide product during the restricted entry interval specified on the label of the pesticide product to perform tasks related to the production of agricultural plants if the agricultural employer ensures that—

(1) no hand labor activity is performed;

(2) no such entry is allowed for the first 4 hours following the end of the application of the pesticide product;

(3) no such entry is allowed until any inhalation exposure level listed on the product labeling has been reached; and

(4) the personal protective equipment specified on the product labeling for early entry is provided in clean and operating condition to the worker.

(b) PROTECTIVE EQUIPMENT FOR IRRIGATION WORK.—For irrigation work for which the only contact with treated surfaces is to the feet, lower legs, hands, and arms, the agricultural employer may provide coveralls, chemical resistant gloves, and chemical resistant footwear instead of the personal protective equipment specified on the label.

SEC. 3. CROP ADVISORS.

Notwithstanding the provisions of 40 CFR part 170, until January 1, 1995, persons performing duties as crop advisors shall not be considered workers or handlers under 40 CFR part 170 (or

for the purposes of the pesticide label) and shall not be subject to the requirements of 40 CFR part 170.

SEC. 4. SAFETY TRAINING.

(a) TRAINING MATERIALS.—Not later than September 23, 1994, the Administrator shall develop and distribute pesticide safety training materials that convey, at a minimum, the information referred in 40 CFR section 170.230(c)(4).

(b) IMPLEMENTATION.—The Administrator shall assist the appropriate Federal, State, and tribal agencies in implementing the pesticide safety training programs required under 40 CFR part 170.

SEC. 5. DEFINITIONS.

As used in this Act:

(1) The term "hand labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. The term "hand labor" shall not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

(2) The term "agricultural employer" means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for management or condition of an agricultural establishment that uses such workers.

(3) The term "worker" means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment. The term "worker" shall not include any person employed by a commercial pesticide handling establishment to perform tasks as a crop advisor.

(4) The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 6. EFFECTIVE PERIOD.

The provisions in this Act shall be effective until January 1, 1995.

Approved April 6, 1994.

LEGISLATIVE HISTORY—S. 1913:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 9, considered and passed Senate.
Mar. 17, considered and passed House, amended.
Mar. 24, Senate concurred in House amendment

Public Law 103-232
103d Congress

An Act

Apr. 11, 1994
[S. 476]

To reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Fish and Wildlife Foundation Improvement Act of 1994.

TITLE I—AMENDMENTS TO NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT

16 USC 3701 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "National Fish and Wildlife Foundation Improvement Act of 1994".

SEC. 102. COOPERATIVE PROGRAMS WITH NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Section 2(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701) is amended by inserting "and the National Oceanic and Atmospheric Administration" after "the United States Fish and Wildlife Service".

SEC. 103. MEMBERSHIP OF BOARD OF DIRECTORS OF FOUNDATION.

(a) CONSULTATIONS REGARDING APPOINTMENTS.—

(1) IN GENERAL.—Section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b)) is amended by adding at the end the following: "The Secretary of the Interior shall consult with the Under Secretary of Commerce for Oceans and Atmosphere before appointing any Director of the Board.".

16 USC 3702 note.

(2) APPLICATION.—The amendment made by paragraph (1) shall apply to appointments of Directors of the Board of Directors of the National Fish and Wildlife Foundation made after the date of the enactment of this Act.

(b) EXPANSION OF BOARD.—Section 3(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(a)) is amended—

(1) in the matter preceding paragraph (1) by striking "nine" and inserting "15"; and

(2) in paragraph (2) by striking "three" and inserting "4".

16 USC 3702 note.

(c) INITIAL TERMS.—Of the Directors on the Board of Directors of the National Fish and Wildlife Foundation first appointed pursuant to the amendment made by subsection (b)(1), notwithstanding

the second sentence of section 3(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(b))—

(1) 2 shall be appointed to a term of 2 years;

(2) 2 shall be appointed to a term of 4 years; and

(3) 2 shall be appointed to a term of 6 years;

as specified by the Secretary of the Interior at the time of appointment.

(d) COMPLETION OF APPOINTMENTS.—The Secretary of the Interior shall appoint the additional members of the Board of Directors of the National Fish and Wildlife Foundation authorized by the amendment made by subsection (a), by not later than 60 days after the date of the enactment of this Act. 16 USC 3702 note.

(e) AUTHORITY OF BOARD NOT AFFECTED.—The authority of the Board of Directors of the National Fish and Wildlife Foundation to take any action otherwise authorized by law shall not be affected by reason of the Secretary of the Interior not having completed the appointment of Directors of the Board of Directors of the National Fish and Wildlife Foundation pursuant to the amendment made by subsection (b)(1). 16 USC 3702 note.

SEC. 104. REAUTHORIZATION OF NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

(a) REAUTHORIZATION.—Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended—

(1) in subsection (a) by striking "not to exceed $15,000,000" and all that follows through the end of the sentence and inserting "$25,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998."; and

(2) by adding at the end the following:

"(c) ADDITIONAL AUTHORIZATION.—The amounts authorized to be appropriated under this section are in addition to any amounts provided or available to the Foundation under any other Federal law.".

(b) CLERICAL AMENDMENT.—Section 10(b)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(b)(1)) is amended by striking "paragraphs (2) and (3)," and inserting "paragraph (2),".

SEC. 105. CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY. Ohio.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Ohio without reimbursement all right, title, and interest of the United States in and to the property known as the Senecaville National Fish Hatchery, located in Senecaville, Ohio, including—

(1) all easements and water rights relating to that property, and

(2) all land, improvements, and related personal property comprising that hatchery.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Ohio Department of Natural Resources for the Ohio fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Ohio fishery resources management program.

Brownsville Wetlands Policy Act of 1994. Texas.

TITLE II—BROWNSVILLE WETLANDS POLICY CENTER

SEC. 201. SHORT TITLE.

This title may be cited as the "Brownsville Wetlands Policy Act of 1994".

SEC. 202. ESTABLISHMENT OF WETLANDS POLICY CENTER AT THE PORT OF BROWNSVILLE, TEXAS.

(a) ESTABLISHMENT OF CENTER.—For purposes of utilizing grants made by the United States Fish and Wildlife Service there may be established in accordance with this title, on property owned or held in trust by the Brownsville Navigation District at the Port of Brownsville, Texas, a wetlands policy center which shall be known as the "Brownsville Wetlands Policy Center at the Port of Brownsville, Texas" (in this title referred to as the "Center"). The Center shall be operated and maintained by the Port of Brownsville with programs to be administered by the University of Texas at Brownsville.

(b) MISSION OF THE CENTER.—The primary mission of the Center shall be to utilize the unique wetlands property at the Port of Brownsville and adjacent waters of South Texas to focus on wetland matters for the purposes of protecting, restoring, and maintaining the Lagoon Ecosystems of the Western Gulf of Mexico Region.

(c) BOARD OF DIRECTORS.—The Center shall be governed by a Board of Directors to oversee the management and financial affairs of the Center. The Board of Directors shall be cochaired by the Port of Brownsville, the University of Texas at Brownsville, and the designee of the Director of the Fish and Wildlife Service, and shall include as members other representatives considered appropriate by those cochairs.

(d) OVERSIGHT OF THE CENTER.—

(1) ANNUAL REPORT.—The Board of Directors of the Center shall prepare an annual report and submit it through the Director of the United States Fish and Wildlife Service to the Congress.

(2) CONTENTS.—Annual reports under this subsection shall cover the programs, projects, activities, and accomplishments of the Center. The reports shall include a review of the budget of the Center, including all sources of funding received to carry out Center operations.

(3) AVAILABILITY OF INFORMATION.—The Board of Directors of the Center shall make available all pertinent information and records to allow preparation of annual reports under this subsection.

Reports.

(4) GENERAL ACCOUNTING OFFICE.—The Comptroller General of the United States shall periodically submit to the Congress reports on the operations of the Center.

SEC. 203. GRANTS.

The Director of the United States Fish and Wildlife Service shall, subject to the availability of appropriations, make grants to the Center for use for carrying out activities of the Center.

SEC. 204. LEASE.

The Director of the United States Fish and Wildlife Service, subject to the availability of appropriations, may enter into a long-term lease with the Port of Brownsville for use by the Center of wetlands property owned by the Port of Brownsville. Terms of the lease shall be negotiated, and the lease shall be signed by both parties, prior to the disposal of any Federal funds pursuant to this title. The lease shall include a provision authorizing the Director to terminate the lease at any time.

SEC. 205. OTHER REQUIREMENTS.

As conditions of receiving assistance under this title—

(1) the University of Texas at Brownsville shall make available to the Center for fiscal years 1994, 1995, 1996, and 1997—

(A) administrative office space;

(B) classroom space; and

(C) other in-kind contributions for the Center, including overhead and personnel; and

(2) the Port of Brownsville shall make available up to 7,000 acres of Port Property for the programs, projects, and activities of the Center.

The Board of Directors of the Center shall include in their annual report under section 202(d) a statement of whether these conditions have been met.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director of the United States Fish and Wildlife Service $5,000,000 for fiscal year 1994, $4,000,000 for fiscal year 1995, $4,000,000 for fiscal year 1996; and such sums as may be necessary for fiscal year 1997, for making grants to the Center under section 203, including for use for the establishment, operation, maintenance, and management of the Center.

SEC. 207. RELATIONSHIP OF CENTER WITH THE CENTER FOR ENVIRONMENTAL STUDIES AND SERVICES, CORPUS CHRISTI, TEXAS.

None of the funds appropriated pursuant to this title may be used to relocate any of the administrative operations of the United States Fish and Wildlife Service from the Center for Environmental Studies and Services Building on the campus of Corpus Christi State University, to the Brownsville Wetlands Policy Center at the Port of Brownsville, Texas, established pursuant to this title.

TITLE III—WALTER B. JONES CENTER FOR THE SOUNDS AT THE POCOSIN LAKES NATIONAL WILDLIFE REFUGE

North Carolina. 16 USC 668dd note.

SEC. 301. FINDINGS.

The Congress finds the following:

(1) The Pocosin Lakes National Wildlife Refuge, located in northeastern North Carolina, provides unique opportunities for observing and interpreting the biological richness of the region's estuaries and wetlands.

(2) Although there are 10 national wildlife refuges in eastern North Carolina, not one has an educational or interpretative center for visitors.

(3) The State of North Carolina, Tyrrell County, the town of Columbia, the Conservation Fund, and private citizens have proposed to enter into a partnership with the United States Fish and Wildlife Service to establish an educational and interpretative facility to be known as the Center for the Sounds.

(4) Establishment of the Center for the Sounds would bestow economic benefits upon Tyrrell County and the town of Columbia.

(5) The Federal Government has designated the Albemarle-Pamlico estuary system of northeastern North Carolina as an estuary of national concern.

(6) Throughout his congressional career, the Honorable Walter B. Jones was a strong supporter of the National Wildlife Refuge System.

(7) During his years of service in the House of Representatives, Walter B. Jones supported the establishment and expansion of National Wildlife Refuges in eastern North Carolina; these include 6 new National Wildlife Refuges established in his district, including the Alligator River National Wildlife Refuge and the Pocosin Lakes National Wildlife Refuge, which are respectively the third largest and fifth largest National Wildlife Refuges east of the Mississippi River.

(8) Walter B. Jones helped increase refuge acreage in his district by over 303,000 acres, thus ensuring the protection of these lands for wildlife habitat and public recreation.

(9) Walter B. Jones' support for reintroducing endangered red wolves into the wild at Alligator River National Wildlife Refuge was a major factor in securing public acceptance of, and support for, this first successful effort to reintroduce endangered predators into formerly occupied habitat.

(10) Walter B. Jones devoted much of his congressional career, including his years as Chairman of the Merchant Marine and Fisheries Committee, to the conservation of fish and wildlife, for the benefit of the Nation and the people of North Carolina.

(11) Walter B. Jones should most appropriately be recognized for his work on behalf of fish and wildlife conservation by having the Center for the Sounds at the Pocosin Lakes National Wildlife Refuge System named in his honor.

SEC. 302. AUTHORITY TO CONSTRUCT AND OPERATE FACILITY.

The Secretary of the Interior may, subject to the availability of appropriations, construct and operate a facility at the Pocosin Lakes National Wildlife Refuge in Tyrrell County, North Carolina, which shall be known as the "Walter B. Jones Center for the Sounds", for the following purposes:

(1) Providing public opportunities, facilities, and resources to study the natural history and natural resources of northeastern North Carolina.

(2) Offering a variety of environmental educational programs and interpretive exhibits.

(3) Fostering an awareness and understanding of the interactions among wildlife, estuarine and wetland ecosystems, and human activities.

(4) Providing office space and facilities for refuge administration, research, education, and related activities.

SEC. 303. DESIGN.

The Secretary of the Interior shall ensure that the design, size, and location of a facility constructed under this title are consistent with the cultural and natural history of the area with which the facility will be concerned.

SEC. 304. COST SHARING.

The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of operating and maintaining the facility authorized under this title, and shall take appropriate steps to seek to obtain such contributions.

SEC. 305. REPORT.

Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress on progress made in designing and constructing a facility under this title, including steps taken under section 304 to obtain contributions and any such contributions that have been pledged to or received by the United States.

Approved April 11, 1994.

LEGISLATIVE HISTORY—S. 476 (H.R. 2684):

HOUSE REPORTS: No. 103-249 accompanying H.R. 2684 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 103-225 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 2, 3, H.R. 2684 considered and passed House.
Vol. 140 (1994): Mar. 8, S. 476 considered and passed Senate.
Mar. 21, considered and passed House, amended.
Mar. 25, Senate concurred in House amendments.

Public Law 103-233
103d Congress

An Act

To amend section 203 of the Housing and Community Development Amendments of 1978 to provide for the disposition of multifamily properties owned by the Secretary of Housing and Urban Development, to provide for other reforms in programs administered by the Secretary, and to make certain technical amendments, and for other purposes.

Apr. 11, 1994
[S. 1299]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Multifamily Housing Property Disposition Reform Act of 1994.
12 USC 1701 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Multifamily Housing Property Disposition Reform Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—MULTIFAMILY PROPERTY DISPOSITION REFORM

Sec. 101. Multifamily property disposition.
Sec. 102. Repeal of State agency multifamily property disposition demonstration.
Sec. 103. Preventing mortgage defaults on multifamily housing projects.
Sec. 104. Interest rates on assigned mortgages.
Sec. 105. Authorization of appropriations.

TITLE II—OTHER PROGRAM REFORMS

Subtitle A—Home Investment Partnerships Program

Sec. 201. Participation by State agencies or instrumentalities.
Sec. 202. Simplification of program-wide income targeting for rental housing.
Sec. 203. Homeownership units.
Sec. 204. Simplification of matching requirements.
Sec. 205. Repeal of separate audit requirement.
Sec. 206. Environmental review requirements.
Sec. 207. Use of CDBG funds for HOME program expenses.
Sec. 208. Flexibility of HOME program for disaster areas.
Sec. 209. Applicability and regulations.

Subtitle B—HOPE Homeownership Program

Sec. 221. Matching requirement under HOPE for homeownership of single family homes program.

Subtitle C—Community Development Block Grants

Sec. 231. Section 108 eligible activities.
Sec. 232. Economic development grants.
Sec. 233. Guarantee of obligations backed by section 108 loans.
Sec. 234. Flexibility of CDBG program for disaster areas.

TITLE III—TECHNICAL AMENDMENTS

Sec. 301. Definition of "families".
Sec. 302. Elimination of requirement to identify CIAP replacement needs.
Sec. 303. Project-based accounting.
Sec. 304. Operating subsidy adjustments for anticipated fraud recoveries.

Sec. 305. Environmental review provisions.
Sec. 306. Correction of FHA multifamily mortgage limits.
Sec. 307. Amendments to FHA multifamily risk-sharing and housing finance agency pilot programs.
Sec. 308. Subsidy layering review.

TITLE I—MULTIFAMILY PROPERTY DISPOSITION REFORM

SEC. 101. MULTIFAMILY PROPERTY DISPOSITION.

12 USC 1701z-11 note.

(a) FINDINGS.—The Congress finds that—

(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from $5,500,000,000 in 1991 to $11,900,000,000 in 1992 to cover estimated future losses;

(2) the inventory of multifamily housing projects owned by the Secretary has more than quadrupled since 1989, and, by the end of 1994, may exceed 69,000 units;

(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to $288,000,000 in fiscal year 1993;

(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with approximately 219,000 units, are delinquent;

(5) the inventory of insured and formerly insured multifamily housing projects is deteriorating, potentially endangering tenants and neighborhoods; and

(6) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time.

(b) MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAMILY HOUSING PROJECTS.

"(a) GOALS.—The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

"(1) is consistent with the National Housing Act and this section;

"(2) will protect the financial interests of the Federal Government; and

"(3) will, in the least costly fashion among reasonable available alternatives, address the goals of—

"(A) preserving certain housing so that it can remain available to and affordable by low-income persons;

"(B) preserving and revitalizing residential neighborhoods;

"(C) maintaining existing housing stock in a decent, safe, and sanitary condition;

"(D) minimizing the involuntary displacement of tenants;

"(E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons;

"(F) minimizing the need to demolish multifamily housing projects;

"(G) supporting fair housing strategies; and

"(H) disposing of such projects in a manner consistent with local housing market conditions.

In determining the manner in which a project is to be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

"(b) DEFINITIONS.—For purposes of this section:

"(1) MULTIFAMILY HOUSING PROJECT.—The term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.

"(2) SUBSIDIZED PROJECT.—The term 'subsidized project' means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

"(A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act.

"(B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act.

"(C) Direct loans made under section 202 of the Housing Act of 1959.

"(D) Assistance in the form of—

"(i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965,

"(ii) additional assistance payments under section 236(f)(2) of the National Housing Act,

"(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975), or

"(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

"(3) FORMERLY SUBSIDIZED PROJECT.—The term 'formerly subsidized project' means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

"(4) UNSUBSIDIZED PROJECT.—The term 'unsubsidized project' means a multifamily housing project owned by the

Secretary that is not a subsidized project or a formerly subsidized project.

"(5) AFFORDABLE.—A unit shall be considered affordable if—

"(A) for units occupied—

"(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; and

"(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; or

"(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937.

"(6) LOW-INCOME FAMILIES AND VERY LOW-INCOME FAMILIES.—The terms 'low-income families' and 'very low-income families' shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937.

"(7) PREEXISTING TENANT.—The term 'preexisting tenant' means, with respect to a multifamily housing project acquired pursuant to this section by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, a family that resides in a unit in the project immediately before the acquisition of the project by the purchaser.

"(8) MARKET AREA.—The term 'market area' means a market area determined by the Secretary.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) DISPOSITION OF PROPERTY.—

"(1) DISPOSITION TO PURCHASERS.—In carrying out this section, the Secretary may dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and consistent with the goals in subsection (a), only to a purchaser determined by the Secretary to be capable of—

"(A) satisfying the conditions of the disposition plan developed under paragraph (2) for the project;

"(B) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

"(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(D) providing adequate organizational, staff, and financial resources to the project; and

"(E) meeting such other requirements as the Secretary may determine.

"(2) DISPOSITION PLAN.—

"(A) IN GENERAL.—Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section.

"(B) MARKET-WIDE PLANS.—In developing the initial disposition plan under this subsection for a multifamily housing project located in a market area in which at least 1 other multifamily housing project owned by the Secretary is located, the Secretary may coordinate the disposition of all such multifamily housing projects located within the same market area to the extent and in such manner as the Secretary determines appropriate to carry out the goals under subsection (a).

"(C) SALES PRICE.—The initial sales price shall be reasonably related to the intended use of the project after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

"(D) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures—

"(i) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

"(ii) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

"(E) TECHNICAL ASSISTANCE.—To carry out the procedures developed under subparagraph (D), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act, or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this subparagraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this subparagraph, notwithstanding the source of the funding.

"(3) FORECLOSURE SALE.—In carrying out this section, the Secretary shall—

"(A) prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

"(B) dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Secretary determines is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

"(d) MANAGEMENT AND MAINTENANCE OF PROPERTIES.—

"(1) CONTRACTING FOR MANAGEMENT SERVICES.—In carrying out this section, the Secretary may—

"(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession) with for-profit and nonprofit entities and public agencies (including public housing authorities) on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

"(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the project and any such standards established by the Secretary;

"(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

"(iii) providing adequate organizational, staff, and financial resources to the project; and

"(iv) meeting such other requirements as the Secretary may determine; and

"(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

"(2) MAINTENANCE OF PROJECTS OWNED BY SECRETARY.—In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

"(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

"(B) to the greatest extent possible, maintain full occupancy in all such projects; and

"(C) maintain all such projects for purposes of providing rental or cooperative housing.

"(3) PROJECTS SUBJECT TO A MORTGAGE HELD BY SECRETARY.—In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (2).

"(e) REQUIRED ASSISTANCE.—In disposing of multifamily housing property under this section, consistent with the goal of section 203(a)(3)(A), the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f), one or more of the following actions:

"(1) CONTRACT WITH OWNER FOR PROJECT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

"(A) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING MORTGAGE-RELATED ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

"(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition or foreclosure, unless the Secretary acts pursuant to the provisions of subparagraph (C);

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8; and

"(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

"(B) SUBSIDIZED OR FORMERLY SUBSIDIZED PROJECTS RECEIVING RENTAL ASSISTANCE.—In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

"(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

"(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8, the owner shall lease the available unit to a family eligible for assistance under such section 8.

"(C) EXCEPTIONS.—

"(i) AUTHORITY.—In lieu of providing project-based assistance under section 8 of the United States Housing Act of 1937 in accordance with subparagraph (A)(i) or (B)(i) for a project, the Secretary may, for certain units in unsubsidized projects located within the same market area as the project otherwise required to be assisted with such project-based assistance—

"(I) require use and rent restrictions providing that such units shall be available to and affordable by very low-income families for the remaining useful life of the project (as defined by the Secretary), or

"(II) provide project-based assistance under section 8 for such units to be occupied by only very low-income persons,

but only if the requirements under clause (ii) are met.

"(ii) REQUIREMENTS.—The requirements under this clause are that—

"(I) upon the disposition of the project otherwise required to be assisted with project-based assistance under subparagraph (A)(i) or (B)(i), the Secretary shall make available tenant-based assistance under section 8 to low-income families residing in units otherwise required to be assisted with such project-based assistance; and

"(II) the number of units subject to use restrictions or provided assistance under clause (i) shall be at least equivalent to the number of units otherwise required to be assisted with project-based assistance under section 8 in accordance with subparagraph (A)(i) or (B)(i).

"(D) UNSUBSIDIZED PROJECTS.—Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

"(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

"(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 (as in effect before October 1, 1983);

"(II) the property disposition program under section 8(b) of such Act;

"(III) the project-based certificate program under section 8 of such Act;

"(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

"(V) section 23 of such Act (as in effect before January 1, 1975);

"(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965; or

"(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

"(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937.

"(2) ANNUAL CONTRIBUTION CONTRACTS FOR TENANT-BASED ASSISTANCE.—In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 on behalf of all low-income families who are otherwise eligible for assistance in accordance with subparagraph (A), (B), or (D) of paragraph (1) on the date that the project is acquired by the purchaser, subject to the following requirements:

"(A) REQUIREMENT OF SUFFICIENT AFFORDABLE HOUSING IN AREA.—The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

"(B) LIMITATION FOR SUBSIDIZED AND FORMERLY SUBSIDIZED PROJECTS.—The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary in any fiscal year.

"(3) OTHER ASSISTANCE.—

"(A) IN GENERAL.—In accordance with the authority provided under the National Housing Act, the Secretary may provide other assistance pursuant to subsection (f) to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

"(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

"(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in force such use or rent restrictions as the Secretary may prescribe.

"(B) VERY LOW-INCOME TENANTS.—If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937, the Secretary shall provide tenant-based assistance under section 8 of such Act to such families.

"(f) DISCRETIONARY ASSISTANCE.—In addition to the actions required under subsection (e) for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a), take one or more of the following actions:

"(1) DISCOUNTED SALES PRICE.—In accordance with the authority provided under the National Housing Act, the Secretary may reduce the selling price of the project. Such reduced sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937, the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

"(2) USE AND RENT RESTRICTIONS.—The Secretary may require certain units in a project to be subject to use or rent restrictions providing that such units will be available to and affordable by low- and very low-income persons for the remaining useful life of the property, as defined by the Secretary.

"(3) SHORT-TERM LOANS.—The Secretary may provide short-term loans to facilitate the sale of a multifamily housing project if—

"(A) authority for such loans is provided in advance in an appropriation Act;

"(B) such loan has a term of not more than 5 years;

"(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

"(D) the terms of such loan are consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 502 of the Congressional Budget Act of 1974.

"(4) UP-FRONT GRANTS.—If the Secretary determines that action under this paragraph is more cost-effective than establishing rents pursuant to subsection (h)(2), the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 to (in addition to providing project-based section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other related development costs.

"(5) TENANT-BASED ASSISTANCE.—The Secretary may make available tenant-based assistance under section 8 of the United

States Housing Act of 1937 to families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

"(6) ALTERNATIVE USES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, after providing notice to and an opportunity for comment by preexisting tenants, the Secretary may allow not more than—

"(i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and

"(ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

"(B) DISPLACEMENT PROTECTION.—The Secretary may take actions under subparagraph (A) only if—

"(i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

"(ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

"(7) TRANSFER FOR USE UNDER OTHER PROGRAMS OF SECRETARY.—

"(A) IN GENERAL.—Notwithstanding the provisions of subsection (e), the Secretary may, pursuant to an agreement under subparagraph (B), transfer a multifamily housing project—

"(i) to a public housing agency for use of the project as public housing; or

"(ii) to an entity eligible to own or operate housing assisted under section 202 of the Housing Act of 1959 or under section 811 of the Cranston-Gonzalez National Affordable Housing Act for use as supportive housing under either of such sections.

"(B) REQUIREMENTS FOR AGREEMENT.—An agreement providing for the transfer of a project described in subparagraph (A) shall—

"(i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 202 of the Housing Act of 1959, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act, as applicable; and

"(ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

"(8) REBUILDING.—Notwithstanding any provision of section 8 of the United States Housing Act of 1937, the Secretary may provide project-based assistance in accordance with subsection (e) of this section to support the rebuilding of a multifamily housing project rebuilt or to be rebuilt (in whole or in part and on-site, off-site, or in a combination of both) in connection with disposition under this section, if the Secretary determines that—

"(A) the project is not being maintained in a decent, safe, and sanitary condition;

"(B) rebuilding the project would be less expensive than substantial rehabilitation;

"(C) the unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project; and

"(D) the rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

The provisions of subsection (j)(2) shall apply to any tenants of the project who are displaced.

"(9) EMERGENCY ASSISTANCE FUNDS.—The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act for the provision of assistance under such Act on behalf of eligible families who would reside in any multifamily housing projects.

"(g) PROTECTION FOR UNASSISTED VERY LOW-INCOME TENANTS.—For each multifamily housing project disposed of under this section, the Secretary shall require that, for any very low-income family who is a preexisting tenant of the project who (upon disposition) would be required to pay rent in an amount in excess of 30 percent of the adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937) of the family—

"(1) for a period of 2 years beginning upon the date of the acquisition of the project by the purchaser under such disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before acquisition;

"(2) such family shall be considered displaced for purposes of the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B) of the United States Housing Act of 1937; and

"(3) notice shall be provided to such family, not later than the date of the acquisition of the project by the purchaser—

"(A) of the requirements under paragraphs (1) and (2); and

"(B) that, after the expiration of the period under paragraph (1), the rent for the unit occupied by the family may be increased.

"(h) CONTRACT REQUIREMENTS.—Contracts for project-based rental assistance under section 8 of the United States Housing

Act of 1937 provided pursuant to this section shall be subject to the following requirements:

"(1) CONTRACT TERM.—The contract shall have a term of 15 years, except that the term may be less than 15 years—

"(A) to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term; except that the Secretary shall require that the amount of rent payable by tenants of the project for units assisted under such contract shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 for a period of at least 15 years; or

"(B) if such assistance is provided—

"(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

"(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

"(2) CONTRACT RENT.—The Secretary shall establish the contract rents under such contracts at levels that, together with other resources available to the purchasers, provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed the percentage of the existing housing fair market rentals for the market area in which the project assisted under the contract is located as determined by the Secretary under section 8(c) of the United States Housing Act of 1937.

"(i) RIGHT OF FIRST REFUSAL FOR LOCAL AND STATE GOVERNMENT AGENCIES.—

"(1) NOTIFICATION.—Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government (including public housing agencies) and State agency or agencies designated by the chief executive officer of the State in which the project is located of such acquisition of title and that, for a period beginning upon such notification that does not exceed 90 days, such unit of general local government and agency or agencies shall have the exclusive right under this subsection to make bona fide offers to purchase the project.

"(2) RIGHT OF FIRST REFUSAL.—During the 90-day period, the Secretary may not sell or offer to sell the multifamily housing project other than to a party notified under paragraph (1), unless the unit of general local government and the designated State agency or agencies notify the Secretary that they will not make an offer to purchase the project. The Secretary shall accept a bona fide offer to purchase the project made during such period if it complies with the terms and conditions of the disposition plan for the project or is otherwise acceptable to the Secretary.

"(3) PROCEDURE.—The Secretary shall establish any procedures necessary to carry out this subsection.

"(j) DISPLACEMENT OF TENANTS AND RELOCATION ASSISTANCE.—

"(1) IN GENERAL.—Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the

Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

"(2) RIGHTS OF DISPLACED TENANTS.—The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

"(A) to return, whenever possible, to a repaired or rebuilt unit;

"(B) to occupy a unit in another multifamily housing project owned by the Secretary;

"(C) to obtain housing assistance under the United States Housing Act of 1937; or

"(D) to receive any other available similar relocation assistance as the Secretary determines to be appropriate.

"(k) MORTGAGE AND PROJECT SALES.—

"(1) IN GENERAL.—The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

"(2) SALE OF CERTAIN PROJECTS.—The Secretary may not approve the sale of any subsidized project—

"(A) that is subject to a mortgage held by the Secretary, or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,

unless such sale is made as part of a transaction that will ensure that the project will continue to operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

"(3) MORTGAGE SALES TO STATE AND LOCAL GOVERNMENTS.—Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

"(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

"(4) SALE OF MORTGAGES COVERING UNSUBSIDIZED PROJECTS.—Notwithstanding any other provision of law, the Secretary may sell mortgages held on projects that are not subsidized or formerly subsidized projects on such terms and conditions as the Secretary may prescribe.

"(5) MORTGAGE SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

"(6) PROJECT SALE DEMONSTRATION.—The Secretary may carry out a demonstration to test the feasibility of disposing of troubled multifamily housing projects that are owned by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

"(l) REPORT TO CONGRESS.—Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

"(1) the average and median size of the projects;

"(2) the geographic locations of the projects, by State and region;

"(3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;

"(4) the status of HUD-held mortgages;

"(5) the physical condition of the HUD-held and HUD-owned inventory;

"(6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

"(7) the proportion of units that are vacant;

"(8) the number of projects for which the Secretary is mortgagee in possession;

"(9) the number of projects sold in foreclosure sales;

"(10) the number of HUD-owned projects sold;

"(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

"(12) a description of the extent to which the provisions of this section and actions taken under this section have displaced tenants of multifamily housing projects;

"(13) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

"(14) a description of the activities carried out under subsection (i) during the preceding year.".

(c) CLARIFICATION OF FEDERAL PREFERENCES.—

(1) PUBLIC HOUSING TENANCY.—Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(2) SECTION 8 ASSISTANCE.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(3) VOUCHER ASSISTANCE.—The first sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended by inserting after "displaced" the following: "(including displacement because of disposition of a multifamily housing project under section 203 of the Housing and Community Development Amendments of 1978)".

(d) DEFINITION OF OWNER.—Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by inserting "an agency of the Federal Government," after "cooperative,".

(e) AMENDMENT TO NATIONAL HOUSING ACT.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding at the end the following new section:

"PARTIAL PAYMENT OF CLAIMS ON MULTIFAMILY HOUSING PROJECTS

"SEC. 541. (a) AUTHORITY.—Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to— 12 USC 1735f-19.

"(1) accept partial payment of the claim under the mortgage insurance contract; and

"(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

"(b) REPAYMENT.—As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be

secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.".

Regulations. 12 USC 10701z-11 note

(f) EFFECTIVE DATE.—The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) not later than 90 days after the date of the enactment of this Act. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations.

SEC. 102. REPEAL OF STATE AGENCY MULTIFAMILY PROPERTY DISPOSITION DEMONSTRATION.

Section 184 of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z–11 note) is hereby repealed.

SEC. 103. PREVENTING MORTGAGE DEFAULTS ON MULTIFAMILY HOUSING PROJECTS.

(a) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) PREPARATION OF ASSESSMENTS FOR INDEPENDENT ENTITIES.—Section 402(a) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended by adding at the end the following new sentence: "The assessment shall be prepared by an entity that does not have an identity of interest with the owner.".

12 USC 1715z-1a note.

(2) TIMING OF SUBMISSION OF NEEDS ASSESSMENTS.—Section 402(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–1a note) is amended to read as follows:

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.".

(3) REVIEW OF COMPREHENSIVE NEEDS ASSESSMENTS.—Section 404(d) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended to read as follows:

12 USC 1715z-1a note.

"(d) REVIEW.—

"(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment and shall notify the owner of the property for which the assessment was submitted of the findings of such review.

"(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

"(A) notify the owner of the portion or portions of the assessment requiring completion or other revision; and

"(B) require the owner to submit an amended assessment to the Secretary not later than 30 days after such notification.".

(4) REPEAL OF NOTICE PROVISION.—Section 404 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715–1a note) is amended by striking subsection (f). 12 USC 1715z-1a note.

(5) PUBLICATION.—Section 404 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–1a note), as amended by paragraph (4) of this subsection, is further amended by inserting after subsection (e) the following new subsection:

"(f) PUBLICATION OF METHOD FOR RECEIVING CAPITAL NEEDS ASSESSMENT.—The Secretary shall cause to be published in the Federal Register the method by which the Secretary determines which capital needs assessments will be received each year in accordance with section 402(b) and subsection (d) of this section.". Federal Register, publication.

(6) FUNDING.—Title IV of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–1a note) is amended by adding at the end the following new section:

"SEC. 409. FUNDING.

"(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

"(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978, except for assistance set aside under section 201(n)(1).

"(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937.

"(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments of 1978.

"(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.".

(b) FLEXIBLE SUBSIDY PROGRAM.—

(1) DELETION OF UTILITY COST REQUIREMENTS.—Section 201(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(i)) is hereby repealed.

(2) REPEAL OF MANDATORY CONTRIBUTION FROM OWNER.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(2)) is amended by striking ", except that" and all that follows and inserting a period.

(3) FUNDING.—Section 201(n) of the Housing and Community Development Amendments of 1978 (42 U.S.C. 1715z–1a(n)) is amended to read as follows: 12 USC 1715z-1a.

"(n) ALLOCATION OF ASSISTANCE.—

"(1) SET-ASIDE.—In providing, and contracting to provide, assistance for capital improvements under this section, in each fiscal year the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before the date of enactment of the Cranston-Gonzalez National

Affordable Housing Act. The Secretary may make such assistance available on a noncompetitive basis.

"(2) GENERAL RULES FOR ALLOCATION.—Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

"(A) may award assistance on a noncompetitive basis; and

"(B) shall award assistance to eligible projects on the basis of—

"(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

"(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

"(3) EXCEPTIONS.—The Secretary may make exceptions to selection criteria set forth in paragraph (2)(B) to permit the provision of assistance to eligible projects based upon—

"(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

"(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

"(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

"(4) CONSIDERATIONS.—In providing assistance under this section, the Secretary shall take into consideration—

"(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

"(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative requirements.".

(4) REPEAL.—Section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) is amended—

(A) by striking subsection (o); and

(B) by redesignating subsection (p) as subsection (o).

12 USC 1715z-1a note.

(c) IMPLEMENTATION AND EFFECTIVE DATES FOR SUBSECTIONS (a) AND (b).—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply with respect to amounts made available for fiscal year 1994 and fiscal years thereafter.

(2) EXCEPTION.—Section 201(n)(1) of the Housing and Community Development Amendments of 1978 (as added by the amendment made by subsection (b)(3) of this section) shall take effect on the date of enactment of this Act.

(3) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish any requirements necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into consideration any public comments received. Federal Register, publication. Regulations.

(d) STREAMLINED REFINANCING.—As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978. 12 USC 1715n note.

(e) GAO STUDY ON PREVENTION OF DEFAULT.— Reports.

(1) IN GENERAL.—Not later than April 1, 1995, the Comptroller General of the United States shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that evaluates the adequacy of loan loss reserves in the General Insurance and Special Risk Insurance Funds and presents recommendations for the Secretary to prevent losses from occurring.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) evaluate the factors considered in arriving at loss estimates and determine whether other factors should be considered;

(B) determine the relative benefit of creating a new, actuarially sound insurance fund for all new multifamily housing insurance commitments; and

(C) recommend alternatives to the Secretary's current procedures for preventing the future default of multifamily housing project mortgages insured under title II of the National Housing Act.

(f) GAO STUDY ON ACTUARIAL SOUNDNESS OF CERTAIN INSURANCE PROGRAMS.— Reports.

(1) IN GENERAL.—Not later than April 1, 1995, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that evaluates, in connection with the General Insurance Fund, the role and performance of the nursing home, hospital, and retirement service center insurance programs.

(2) CONTENTS.—The reports submitted under paragraph (1) shall—

(A) evaluate the strategic importance of these insurance programs to the mission of the FHA;

(B) evaluate the impact of these insurance programs upon the financial performance of the General Insurance Fund;

(C) assess the potential losses expected under these programs through fiscal year 1999;

(D) evaluate the risk of these programs to the General Insurance Fund in connection with changes in national health care policy;

(E) assess the ability of the FHA to manage these programs; and

(F) make recommendations for any necessary changes.

(g) RISK ASSESSMENT.—

(1) SPECIAL RISK INSURANCE FUND.—Section 238(c) of the National Housing Act (12 U.S.C. 1715z–3(c)) is amended by adding at the end the following new paragraph:

Reports.

"(3) The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

(2) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended by adding at the end the following new subsection:

Reports.

"(g) RISK ASSESSMENT.—The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.".

12 USC 1715z-1a note.

(h) ALTERNATIVE USES FOR PREVENTION OF DEFAULT.—

(1) IN GENERAL.—Subject to notice to and comment by existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act, the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

(A) such other uses are acceptable to the Secretary;

(B) such other uses would be otherwise insurable under title II of the National Housing Act;

(C) the outstanding principal balance on the mortgage covering such project is not increased;

(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

(E) such other use serves a public purpose.

(2) DISPLACEMENT PROTECTION.—The Secretary may take actions under paragraph (1) only if—

(A) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 is made available to each eligible family residing in the project that is displaced as a result of such actions; and

(B) the Secretary determines that sufficient habitable, affordable (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978) rental housing is available in the market area in which the project is located to ensure use of such assistance.

Federal Register, publication. Effective date. Regulations

(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.

SEC. 104. INTEREST RATES ON ASSIGNED MORTGAGES.

Section 7(i)(5) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)(5)) is amended by striking the first semicolon, and all that follows through "as determined by the Secretary".

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) SPECIAL RISK INSURANCE FUND.—Section 238(b) of the National Housing Act (12 U.S.C. 1715z–3(b)) is amended by striking the fifth sentence.

(b) GENERAL INSURANCE FUND.—Section 519 of the National Housing Act (12 U.S.C. 1735c) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) (as added by section 103(g)(2) of this Act) as subsection (f).

(c) MULTIFAMILY INSURANCE FUND APPROPRIATIONS.—Title V of the National Housing Act (12 U.S.C. 1731a et seq.) is amended by adding after section 541 (as added by section 101(e) of this Act) the following new section:

"SEC. 542. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL AND SPECIAL RISK INSURANCE FUNDS. 12 USC 1735f-20.

"There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 and 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 519, and the Special Risk Insurance Fund, as provided by section 238:

"(1) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of new insurance commitments.

"(2) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of modifications to existing loans, loan guarantees, or insurance commitments.

"(3) The cost to the Government, as defined in section 502 of the Congressional Budget Act, of loans provided under section 203(f) of the Housing and Community Development Amendments of 1978.

"(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 203(b) of the Housing and Community Development Amendments of 1978) upon disposition by the Secretary.".

TITLE II—OTHER PROGRAM REFORMS

Subtitle A—Home Investment Partnerships Program

SEC. 201. PARTICIPATION BY STATE AGENCIES OR INSTRUMENTALITIES.

Section 104(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(2)) is amended—

(1) by striking "and" after "Columbia,"; and

(2) by inserting before the period at the end the following: ", or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive

officer to act on behalf of the State with regard to the provisions of this Act".

SEC. 202. SIMPLIFICATION OF PROGRAM-WIDE INCOME TARGETING FOR RENTAL HOUSING.

Section 214(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12744(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "such funds are invested with respect to dwelling units that are occupied by" and inserting "(i) the families receiving such rental assistance are"; and

(B) by striking ", and" and inserting ", or (ii) the dwelling units assisted with such funds are occupied by families having such incomes; and"; and

(2) in subparagraph (B)—

(A) by striking "such funds are invested with respect to dwelling units that are occupied by" and inserting "(i) the families receiving such rental assistance are"; and

(B) by inserting before the semicolon at the end the following: ", or (ii) the dwelling units assisted with such funds are occupied by such households".

SEC. 203. HOMEOWNERSHIP UNITS.

(a) REMOVAL OF FIRST-TIME HOMEBUYER REQUIREMENT.—Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) SIMPLIFICATION OF RESALE PROVISIONS.—Section 215(b)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(3)(B)), as so redesignated by subsection (a) of this section, is amended by striking "subsection" and inserting "title".

SEC. 204. SIMPLIFICATION OF MATCHING REQUIREMENTS.

Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended to read as follows:

"(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to housing that qualifies as affordable housing under this title that total, throughout a fiscal year, not less than 25 percent of the funds drawn from the jurisdiction's HOME Investment Trust Fund in such fiscal year. Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).".

SEC. 205. REPEAL OF SEPARATE AUDIT REQUIREMENT.

Section 283 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12833) is amended—

(1) by striking the section designation and heading and inserting the following:

"SEC. 283. AUDITS BY COMPTROLLER GENERAL.";

(2) by striking subsection (a);

(3) in subsection (b)—

(A) by striking "(b) AUDITS BY THE COMPTROLLER GENERAL.—";

(B) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively; and

(C) by moving subsections (a) and (b), as so redesignated by subparagraph (B), 2 ems to the left so that such subsections are flush with the left margin; and

(4) in subsection (a), as so redesignated by paragraph (3)(B), by striking the second sentence.

SEC. 206. ENVIRONMENTAL REVIEW REQUIREMENTS.

Section 288 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12838) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "participating jurisdictions" and inserting "jurisdictions, Indian tribes, or insular areas"; and

(B) by adding at the end the following new sentences: "The regulations shall provide— Regulations.

"(1) for the monitoring of the environmental reviews performed under this section;

"(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

"(3) for the suspension or termination of the assumption under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a State or unit of general local government with respect to any particular release of funds.";

(2) in the first sentence of subsection (b), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area";

(3) in subsection (c)(4)(B), by striking "participating jurisdiction" and inserting "jurisdiction, Indian tribe, or insular area"; and

(4) in subsection (d), by striking "ASSISTANCE TO A STATE.—In the case of assistance to States" and inserting the following: "ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT FROM A STATE.—In the case of assistance to units of general local government from a State".

SEC. 207. USE OF CDBG FUNDS FOR HOME PROGRAM EXPENSES.

(a) ADMINISTRATIVE EXPENSES.—Section 105(a)(13) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(13)) is amended by inserting after "charges related to" the following: "(A) administering the HOME program under title II of the Cranston-Gonzalez National Affordable Housing Act; and (B)".

(b) PROJECT DELIVERY COSTS.—Section 105(a)(21) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(21)) is amended—

(1) by inserting "in connection with tenant-based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National Affordable Housing Act" after "housing counseling"; and

(2) by striking "authorized" and all that follows through "any law" and inserting "assisted under title II of the Cranston-Gonzalez National Affordable Housing Act".

SEC. 208. FLEXIBILITY OF HOME PROGRAM FOR DISASTER AREAS.

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended by adding at the end the following new section:

42 USC 12840.

"SEC. 290. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS.

"For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all statutory requirements for purposes of assistance under this title for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and low-income housing affordability.".

42 USC 5301 note.

SEC. 209. APPLICABILITY AND REGULATIONS.

The amendments made by this title shall apply with respect to any amounts made available to carry out title II of the Cranston-Gonzalez National Affordable Housing Act after the date of the enactment of this Act and any amounts made available to carry out such title before such date of enactment that remain uncommitted on such date. The Secretary shall issue any regulations necessary to carry out the amendments made by this title not later than the expiration of the 45-day period beginning on the date of the enactment of this Act.

Subtitle B—HOPE Homeownership Program

SEC. 221. MATCHING REQUIREMENT UNDER HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES PROGRAM.

Section 443(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12893(c)(1)) is amended by striking "33 percent" and inserting "25 percent".

Subtitle C—Community Development Block Grants

SEC. 231. SECTION 108 ELIGIBLE ACTIVITIES.

The first sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended—

(1) by striking "or" after "section 105(a);"; and

(2) by inserting before the period the following: "; (5) the acquisition, construction, reconstruction, or installation of public facilities (except for buildings for the general conduct of government); or (6) in the case of colonias (as such term is defined in section 916 of the Cranston-Gonzalez National Affordable Housing Act), public works and site or other improvements".

SEC. 232. ECONOMIC DEVELOPMENT GRANTS.

(a) GRANTS.—

(1) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(q) ECONOMIC DEVELOPMENT GRANTS.—

"(1) AUTHORIZATION.—The Secretary may make grants in connection with notes or other obligations guaranteed under this section to eligible public entities for the purpose of enhancing the security of loans guaranteed under this section or improving the viability of projects financed with loans guaranteed under this section.

"(2) ELIGIBLE ACTIVITIES.—Assistance under this subsection may be used only for the purposes of and in conjunction with projects and activities assisted under subsection (a).

"(3) APPLICATIONS.—Applications for assistance under this subsection may be submitted only by eligible public entities, and shall be in the form and in accordance with the procedures established by the Secretary. Eligible public entities may apply for grants only in conjunction with requests for guarantees under subsection (a).

"(4) SELECTION CRITERIA.—The Secretary shall establish criteria for awarding assistance under this subsection. Such criteria shall include—

"(A) the extent of need for such assistance;

"(B) the level of distress in the community to be served and in the jurisdiction applying for assistance;

"(C) the quality of the plan proposed and the capacity or potential capacity of the applicant to successfully carry out the plan; and

"(D) such other factors as the Secretary determines to be appropriate.".

(2) CONFORMING AMENDMENT.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended—

(A) in section 101(c) in the second sentence, by inserting "or a grant" after "guarantee"; and 42 USC 5301.

(B) in section 104(b)(3), by inserting "or a grant" after "guarantee". 42 USC 5304.

(b) USE OF UDAG RECAPTURES.—Section 119(o) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(o)) is amended by inserting before the period the following: ", except that amounts available to the Secretary for use under this subsection as of October 1, 1993, and amounts released to the Secretary pursuant to subsection (t) may be used to provide grants under section 108(q).".

(c) UDAG RETENTION PROGRAM.—

(1) AMENDMENT.—Section 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5318) is amended by adding at the end the following new subsection:

"(t) UDAG RETENTION PROGRAM.—If a grant or a portion of a grant under this section remains unexpended upon the issuance of a notice implementing this subsection, the grantee may enter into an agreement, as provided under this subsection, with the Secretary to receive a percentage of the grant amount and relinquish all claims to the balance of the grant within 90 days of the issuance of notice implementing this subsection (or such later date as the Secretary may approve). The Secretary shall not recapture any funds obligated pursuant to this section during a period beginning on the date of enactment of the Multifamily Housing Property Disposition Reform Act of 1994 until 90 days after the

issuance of a notice implementing this subsection. A grantee may receive as a grant under this subsection—

"(1) 33 percent of such unexpended amounts if—

"(A) the grantee agrees to expend not less than one-half of the amount received for activities authorized pursuant to section 108(q) and to expend such funds in conjunction with a loan guarantee made under section 108 at least equal to twice the amount of the funds received; and

"(B)(i) the remainder of the amount received is used for economic development activities eligible under title I of this Act; and

"(ii) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of activities under subparagraph (B) are derived from such unexpended amounts; or

"(2) 25 percent of such unexpended amounts if—

"(A) the grantee agrees to expend such funds for economic development activities eligible under title I of this Act; and

"(B) except when waived by the Secretary in the case of a severely distressed jurisdiction, not more than one-half of the costs of such activities are derived from such unexpended amount.".

Federal Register, publication. Effective date. 42 USC 5318 note.

(2) IMPLEMENTATION.—Not later than 10 days after the date of enactment of this Act, the Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection.

SEC. 233. GUARANTEE OF OBLIGATIONS BACKED BY SECTION 108 LOANS.

Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding after subsection (q) (as added by section 232(a)(1) of this Act) the following new subsection:

"(r) GUARANTEE OF OBLIGATIONS BACKED BY LOANS.—

"(1) AUTHORITY.—The Secretary may, upon such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on such trust certificates or other obligations as may—

"(A) be offered by the Secretary or by any other offeror approved for purposes of this subsection by the Secretary; and

"(B) be based on and backed by a trust or pool composed of notes or other obligations guaranteed or eligible for guarantee by the Secretary under this section.

"(2) FULL FAITH AND CREDIT.—To the same extent as provided in subsection (f), the full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee made by the Secretary under this subsection.

"(3) SUBROGATION.—If the Secretary pays a claim under a guarantee made under this section, the Secretary shall be subrogated for all the rights of the holder of the guaranteed certificate or obligation with respect to such certificate or obligation.

"(4) EFFECT OF LAWS.—No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of—

"(A) the power to contract with respect to public offerings and other sales of notes, trust certificates, and other obligations guaranteed under this section upon such terms and conditions as the Secretary deems appropriate;

"(B) the right to enforce any such contract by any means deemed appropriate by the Secretary; and

"(C) any ownership rights of the Secretary, as applicable, in notes, certificates, or other obligations guaranteed under this section, or constituting the trust or pool against which trust certificates, or other obligations guaranteed under this section, are offered.".

SEC. 234. FLEXIBILITY OF CDBG PROGRAM FOR DISASTER AREAS.

Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"SEC. 122. SUSPENSION OF REQUIREMENTS FOR DISASTER AREAS. 42 USC 5321.

"For funds designated under this title by a recipient to address the damage in an area for which the President has declared a disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary may suspend all requirements for purposes of assistance under section 106 for that area, except for those related to public notice of funding availability, nondiscrimination, fair housing, labor standards, environmental standards, and requirements that activities benefit persons of low- and moderate-income.".

TITLE III—TECHNICAL AMENDMENTS

SEC. 301. DEFINITION OF "FAMILIES".

The first sentence of section 3(b)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)(B)) is amended by striking "means families with children" and inserting "includes families with children and".

SEC. 302. ELIMINATION OF REQUIREMENT TO IDENTIFY CIAP REPLACEMENT NEEDS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) in subsection (d)—

(A) by striking paragraph (2);

(B) in paragraph (4), in the matter preceding subparagraph (A)—

(i) by striking "and replacements,"; and

(ii) by striking "(1), (2), and (3)" and inserting "(1) and (2)"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in subsection (f)(1)—

(A) in subparagraph (A), by striking "(d)(4)(A)" and inserting "(d)(3)(A)";

(B) by striking subparagraph (B);

(C) in subparagraph (C), by striking "(d)(4)" and inserting "(d)(3)";

(D) in subparagraph (D)—

(i) by striking "(1), (2), and (3)" and inserting "(1) and (2)"; and

(ii) by striking "(d)(4)" and inserting "(d)(3)"; and

(E) by redesignating subparagraphs (C) and (D), as so amended, as subparagraphs (B) and (C), respectively;

(3) in subsection (g), by striking "(d)(4)" and inserting "(d)(3)"; and

(4) in subsection (h)(2), by striking "(d)(4)" and inserting "(d)(3)".

SEC. 303. PROJECT-BASED ACCOUNTING.

Section 6(c)(4)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(E)) is amended by striking "250" and inserting "500".

SEC. 304. OPERATING SUBSIDY ADJUSTMENTS FOR ANTICIPATED FRAUD RECOVERIES.

Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended by adding at the end the following new paragraph:

"(4) Adjustments to a public housing agency's operating subsidy made by the Secretary under this section shall reflect actual changes in rental income collections resulting from the application of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

SEC. 305. ENVIRONMENTAL REVIEW PROVISIONS.

(a) LEAD-BASED PAINT HAZARD REDUCTION.—Section 1011 of the Housing and Community Development Act of 1992 (42 U.S.C. 4852) is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following new subsection:

"(o) ENVIRONMENTAL REVIEW.—

"(1) IN GENERAL.—For purposes of environmental review, decisionmaking, and action pursuant to the National Environmental Policy Act of 1969 and other provisions of law that further the purposes of such Act, a grant under this section shall be treated as assistance under the HOME Investment Partnership Act, established under title II of the Cranston-Gonzalez National Affordable Housing Act, and shall be subject to the regulations promulgated by the Secretary to implement section 288 of such Act.

Grants.

"(2) APPLICABILITY.—This subsection shall apply to—

"(A) grants awarded under this section; and

"(B) grants awarded to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately owned rental units pursuant to title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139, 105 Stat. 736).".

(b) PROGRAMS UNDER UNITED STATES HOUSING ACT OF 1937.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 26. ENVIRONMENTAL REVIEWS. 42 USC 1437x.

"(a) IN GENERAL.—

"(1) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for projects or activities under this title, as specified by the Secretary upon the request of a public housing agency (including an Indian housing authority) under this section, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, which would otherwise apply to the Secretary with respect to the release of funds.

"(2) IMPLEMENTATION.—The Secretary, after consultation with the Council on Environmental Quality, shall issue such regulations as may be necessary to carry out this section. Such regulations shall specify the programs to be covered. Regulations.

"(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects or activities, the public housing agency (including an Indian housing authority) has submitted to the Secretary a request for such release accompanied by a certification of the State or unit of general local government which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the release of funds which are covered by such certification.

"(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

"(1) be in a form acceptable to the Secretary;

"(2) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(3) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under subsection (a); and

"(4) specify that the certifying officer—

"(A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions

of such Act or other such provision of law apply pursuant to subsection (a); and

"(B) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his or her responsibilities as such an official.

"(d) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in subsection (c), the Secretary may permit the State to perform those actions of the Secretary described in subsection (b) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of subsection (b).".

42 USC 3547.

(c) SPECIAL PROJECTS.—

(1) IN GENERAL.—

(A) RELEASE OF FUNDS.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds for special projects appropriated under an appropriations Act for the Department of Housing and Urban Development, such as special projects under the head "Annual Contributions for Assisted Housing" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, and to assure to the public undiminished protection of the environment, the Secretary of Housing and Urban Development may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for the release of funds for particular special projects upon the request of recipients of special projects assistance, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would otherwise apply to the Secretary were the Secretary to undertake such special projects as Federal projects.

Regulations.

(B) IMPLEMENTATION.—The Secretary shall issue regulations to carry out this subsection only after consultation with the Council on Environmental Quality. Such regulations shall—

(i) provide for monitoring of the performance of environmental reviews under this subsection;

(ii) in the discretion of the Secretary, provide for the provision or facilitation of training for such performance; and

(iii) subject to the discretion of the Secretary, provide for suspension or termination by the Secretary of the assumption under subparagraph (A).

(C) RESPONSIBILITIES OF STATE OR UNIT OF GENERAL LOCAL GOVERNMENT.—The Secretary's duty under subparagraph (B) shall not be construed to limit any responsibility assumed by a State or unit of general local government

with respect to any particular release of funds under subparagraph (A).

(2) PROCEDURE.—The Secretary shall approve the release of funds for projects subject to the procedures authorized by this subsection only if, not less than 15 days prior to such approval and prior to any commitment of funds to such projects, the recipient submits to the Secretary a request for such release, accompanied by a certification of the State or unit of general local government which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for special projects to be carried out pursuant thereto which are covered by such certification.

(3) CERTIFICATION.—A certification under the procedures authorized by this subsection shall—

(A) be in a form acceptable to the Secretary;

(B) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(C) specify that the State or unit of general local government under this subsection has fully carried out its responsibilities as described under paragraph (1); and

(D) specify that the certifying officer—

(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to paragraph (1); and

(ii) is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

(4) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in paragraph (1), the Secretary may permit the State to perform those actions of the Secretary described in paragraph (2) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of paragraph (2).

SEC. 306. CORRECTION OF FHA MULTIFAMILY MORTGAGE LIMITS.

The National Housing Act (12 U.S.C. 1701 et seq.) is amended in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), and 234(e)(3) by striking "$59,160" each place it appears and inserting "$56,160". 12 USC 1713, 1715e, 1715k, 1715y.

SEC. 307. AMENDMENTS TO FHA MULTIFAMILY RISK-SHARING AND HOUSING FINANCE AGENCY PILOT PROGRAMS.

(a) RISK-SHARING PILOT PROGRAM.—Section 542(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—The Secretary shall carry out a pilot program in conjunction with qualified participating entities to determine the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

Contracts.

"(2) PROGRAM REQUIREMENTS.—

"(A) IN GENERAL.—In carrying out the pilot program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

"(B) MORTGAGE INSURANCE AND REINSURANCE.—Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans, on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

"(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

"(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

"(i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;

"(ii) reserves pledged or otherwise restricted by the qualified participating entity in an amount equal to an agreed upon percentage of the loss assumed by the entity under subparagraph (C);

"(iii) funds pledged through a State or local guarantee fund; or

"(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified participating entity.

"(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified participating entity to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection, except as provided in this section, without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss. Any financing permitted on property insured under this

subsection other than the first mortgage shall be expressly subordinate to the insured mortgage.

"(F) AUTHORITY OF SECRETARY.—The Secretary, upon request of a qualified participating entity, may insure or reinsure and make commitments to insure or reinsure under this section any mortgage, advance, loan, or pool of mortgages otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the qualified participating entity will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, issuance of commitments, approval of insurance of advances, cost certification, servicing, property disposition, or other functions as the Secretary shall approve as consistent with the purpose of this section. All appraisals of property for mortgage insurance under this section shall be completed by a Certified General Appraiser in accordance with the Uniform Standards of Professional Appraisal Practice.

"(G) DISCLOSURE OF RECORDS.—Qualified participating entities shall make available to the Secretary or the Secretary's designee, at the Secretary's request, such financial and other records as the Secretary deems necessary for purposes of review and monitoring for the program under this section.";

(2) in paragraph (4), by striking "financial institutions and entities to be eligible to enter into reinsurance agreements" and inserting "eligibility under this subsection of qualified participating entities";

(3) by striking paragraph (8) and inserting the following new paragraph:

"(11) IMPLEMENTATION.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection."; and

(4) by inserting after paragraph (7) the following new paragraphs:

"(8) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured or reinsured under this subsection.

"(9) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured or reinsured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of the Internal Revenue Code of 1986.

"(10) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.".

(b) HOUSING FINANCE AGENCY PILOT PROGRAM.—Section 542(c) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in paragraph (1), by inserting after "qualified housing finance agencies" the following: "(including entities established by States that provide mortgage insurance)";

(2) in paragraph (2)—

(A) in subparagraph (C), by striking the last sentence and inserting the following: "Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement."; and

(B) by adding at the end the following new subparagraph:

"(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.";

(3) in paragraph (7)—

(A) by striking "very low-income"; and

(B) by striking "(2)"; and

(4) by adding at the end the following new paragraphs:

"(9) ENVIRONMENTAL AND OTHER REVIEWS.—

"(A) ENVIRONMENTAL REVIEWS.—

"(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

Regulations.

"(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

"(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

"(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

"(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary

of the qualified housing finance agency's responsibilities under subclause (I).

"(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

"(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

"(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

"(I) be in a form acceptable to the Secretary;

"(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

"(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

"(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

"(iv) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's

responsibilities referred to in the second sentence of clause (ii).

"(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act, the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act by qualified housing finance agencies, for purposes of this section.

"(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

"(10) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) MORTGAGE.—The term 'mortgage' means a first mortgage on real estate that is—

"(i) owned in fee simple; or

"(ii) subject to a leasehold interest that—

"(I) has a term of not less than 99 years and is renewable; or

"(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

"(B) FIRST MORTGAGE.—The term 'first mortgage' means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

"(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE.—The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974.".

(c) DEFINITIONS.—Section 544 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures."; and

(2) by adding at the end the following new paragraph:

"(5) The term 'qualified participating entity' means an entity approved by the Secretary for participation in the pilot program under this subsection, which may include—

"(A) the Federal National Mortgage Association;
"(B) the Federal Home Loan Mortgage Corporation;
"(C) State housing finance and mortgage insurance agencies; and
"(D) the Federal Housing Finance Board.".

SEC. 308. SUBSIDY LAYERING REVIEW.

Section 911 of the Housing and Community Development Act of 1992 (42 U.S.C. 3545 note) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 may be satisfied in connection with a project receiving assistance under a program that is within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 by a certification by a housing credit agency to the Secretary, submitted in accordance with guidelines established by the Secretary, that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which assistance is to be provided within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986 shall not be any greater than is necessary to provide affordable housing."; and

(2) by striking subsection (c) and inserting the following new subsection:

"(c) REVOCATION BY SECRETARY.—If the Secretary determines that a housing credit agency has failed to comply with the guidelines established under subsection (a), the Secretary—

"(1) may inform the housing credit agency that the agency may no longer submit certification of subsidy layering compliance under this section; and

"(2) shall carry out section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 relating to affected projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

Approved April 11, 1994.

LEGISLATIVE HISTORY—S. 1299 (H.R. 4067):

SENATE REPORTS: No. 103-174 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 18, considered and passed Senate.
Vol 140 (1994): Mar. 21, 22, H.R. 4067 considered and passed House; S. 1299, amended, passed in lieu.
Mar. 25, Senate concurred in House amendments.

Public Law 103-234
103d Congress

An Act

Apr. 14, 1994
[S. 1206]

To redesignate the Federal building located at 380 Trapelo Road in Waltham, Massachusetts, as the "Frederick C. Murphy Federal Center".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 380 Trapelo Road in Waltham, Massachusetts, and known as the Waltham Federal Center, shall be known and designated as the "Frederick C. Murphy Federal Center".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Frederick C. Murphy Federal Center".

Approved April 14, 1994.

LEGISLATIVE HISTORY—S. 1206:

HOUSE REPORTS: No. 103-455 (Comm. on Public Works and Transportation)
CONGRESSIONAL RECORD, Vol. 140 (1994):
Feb. 1, considered and passed Senate.
Apr. 12, considered and passed House.

Public Law 103-235
103d Congress

An Act

To extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education.

Apr 28, 1994
[S. 2004]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

The matter preceding clause (i) of section 435(a)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)(2)(C)) is amended by striking "July 1, 1994" and inserting "July 1, 1998".

Approved April 28, 1994.

LEGISLATIVE HISTORY—S. 2004:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 25, considered and passed Senate.
Apr. 12, 13, considered and passed House.

Public Law 103-236
103d Congress

An Act

Apr. 30, 1994
[H.R. 2333]

To authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.
22 USC 2651 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1994 and 1995".

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TITLE I—DEPARTMENT OF STATE AND RELATED AGENCIES

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department of State under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law, including the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—For "Diplomatic and Consular Programs", of the Department of State $1,704,589,000 for the fiscal year 1994 and $1,781,139,000 for the fiscal year 1995.

(2) SALARIES AND EXPENSES.—For "Salaries and Expenses", of the Department of State $396,722,000 for the fiscal year 1994 and $391,373,000 for the fiscal year 1995.

(3) ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For "Acquisition and Maintenance of Buildings Abroad", $381,481,000 for the fiscal year 1994 and $309,760,000 for the fiscal year 1995.

(4) REPRESENTATION ALLOWANCES.—For "Representation Allowances", $4,780,000 for the fiscal year 1994 and $4,780,000 for the fiscal year 1995.

(5) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For "Emergencies in the Diplomatic and Consular Service", $7,805,000 for the fiscal 1994 and $6,500,000 for the fiscal year 1995.

(6) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $23,469,000 for the fiscal year 1994 and $23,798,000 for the fiscal year 1995.

(7) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For "Payment to the American Institute in Taiwan", $15,165,000 for the fiscal year 1994 and $15,465,000 for the fiscal year 1995.

(8) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For "Protection of Foreign Missions and Officials", $10,551,000 for the fiscal year 1994 and $10,079,000 for the fiscal year 1995.

(9) REPATRIATION LOANS.—For "Repatriation Loans", $776,000 for the fiscal year 1994 and $776,000 for the fiscal year 1995, for administrative expenses.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for "Salaries and Expenses" under subsection (a)(2) $500,000 is authorized to be appropriated for the fiscal year 1994 and $500,000 for the fiscal year 1995 for the Department of State for the recruitment of Hispanic American students from United States institutions of higher education with a high percentage enrollment of Hispanic Americans and for the training of Hispanic Americans for careers in the Foreign Service and in international affairs.

(2) Of the amounts authorized to be appropriated for "Diplomatic and Consular Programs" under subsection (a)(1)—

(A) $5,000,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 for grants, contracts, and other activities to conduct research and promote international cooperation on environmental and other scientific issues;

(B) $11,500,000 is authorized to be available for fiscal year 1994 and $11,900,000 is authorized to be available for fiscal year 1995, only for administrative expenses of the bureau charged with carrying out the purposes of the Migration and Refugee Assistance Act of 1962;

(C) $700,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 to carry out the activities of the Commission on Protecting and Reducing Government Secrecy established under title IX of this Act and such amounts under this subparagraph are authorized to remain available until expended; and

(D) $400,000 is authorized to be appropriated for each of the fiscal years 1994 and 1995 to carry out the activities of the Office of Cambodian Genocide Investigations established under title 5 of this Act.

(E) $2,000,000 is authorized to be appropriated for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research.

(3) Of the amounts authorized to be appropriated for "Acquisition and Maintenance of Buildings Abroad" under subsection (a)(3), $95,904,000 is authorized to be appropriated for the fiscal year 1994 and $114,825,000 is authorized to be appropriated for the fiscal year 1995 for Maintenance of Buildings and Facility Rehabilitation.

(4) Of the amounts authorized to be appropriated for "Protection of Foreign Missions and Officials" in subsection (a)(8)—

(A) $940,000 is authorized to be available to reimburse the City of Seattle and the State of Washington for security costs associated with the Asian Pacific Economic Cooperation conference held in Seattle in November 1993, on a one-time-only basis, and for purposes of obligation and expenditure of amounts under this subparagraph under Public Law 103–121 as reimbursement for extraordinary protective services under section 208 of title 3, United States Code, the limitations of section 202(10) of title 3, United States Code (concerning 20 or more consulates), shall not apply; and

(B) $1,000,000 is authorized to be available for fiscal year 1995 to reimburse State and local government agencies for security costs associated with the Western Hemisphere summit scheduled to be held in Miami, Florida in December 1994.

Effective date.

(c) REPEAL.—Effective October 1, 1995, section 401(a)(3) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399) is repealed.

22 USC 4851.

SEC. 102. INTERNATIONAL ORGANIZATIONS, PROGRAMS, AND CONFERENCES.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated for "Contributions to International Organizations", $865,885,000 for the fiscal year 1994 and $873,222,000 for the fiscal year 1995 for the Department

of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(b) ASSESSED CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated for "Contributions for International Peacekeeping Activities", $401,607,000 for the fiscal year 1994 and $510,204,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) PEACEKEEPING OPERATIONS.—There are authorized to be appropriated for "Peacekeeping Operations", $75,623,000 for the fiscal year 1994 and $75,000,000 for the fiscal year 1995 for the Department of State to carry out section 551 of Public Law 87–195.

(d) SUPPLEMENTAL PEACEKEEPING.—In addition to amounts authorized to be appropriated for such purpose by subsection (b), there are authorized to be appropriated $670,000,000 for "Assessed Contributions for International Peacekeeping Activities" for the period beginning on the date of enactment of this Act and ending September 30, 1995.

(e) INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated for "International Conferences and Contingencies", $6,000,000 for the fiscal year 1994 and $6,000,000 for the fiscal year 1995 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and to carry out other authorities in law consistent with such purposes.

(f) FOREIGN CURRENCY EXCHANGE RATES.—In addition to amounts otherwise authorized to be appropriated by subsections (a) and (b) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 and 1995 to offset adverse fluctuations in foreign currency exchange rates. Amounts appropriated under this subsection shall be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to Congress that such amounts are necessary due to such fluctuations.

(g) WITHHOLDING OF FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated for "Contributions for International Organizations" shall be reduced in the amount of $118,875,000 for each of the fiscal years 1994 and 1995, and for each year thereafter, unless the President certifies to the Speaker of the House of Representatives and the President of the Senate that no United States agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes, condones, or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization. 22 USC 287e note.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry

out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses" $11,200,000 for the fiscal year 1994 and $15,358,000 for the fiscal year 1995; and

(B) for "Construction" $14,400,000 for the fiscal year 1994 and $10,398,000 for the fiscal year 1995.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", $740,000 for the fiscal year 1994 and $740,000 for the fiscal year 1995.

(3) INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", $3,550,000 for the fiscal year 1994 and $3,550,000 for the fiscal year 1995.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", $16,200,000 for the fiscal year 1994 and $14,669,000 for the fiscal year 1995.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated for "Migration and Refugee Assistance" for authorized activities, $589,188,000 for the fiscal year 1994 and $592,000,000 for the fiscal year 1995.

(2) There are authorized to be appropriated $80,000,000 for the fiscal year 1994 and $80,000,000 for the fiscal year 1995 for assistance for refugees resettling in Israel.

(3) There are authorized to be appropriated $1,500,000 for the fiscal year 1994 and $1,500,000 for the fiscal year 1995 for humanitarian assistance, including but not limited to, food, medicine, clothing, and medical and vocational training to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to be available until expended.

SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For "United States Bilateral Science and Technology Agreements", $4,275,000 for the fiscal year 1994.

(2) ASIA FOUNDATION.—For "Asia Foundation", $16,000,000 for the fiscal year 1994 and $16,068,000 for the fiscal year 1995.

SEC. 106. UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act—

(1) $53,500,000 for the fiscal year 1994 and $59,292,000 for the fiscal year 1995; and

(2) such sums as may be necessary for each of the fiscal years 1994 and 1995 for increases in salary, pay, retirement, other employee benefits authorized by law, and other non-discretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 49 of the Arms Control and Disarmament Act (22 U.S.C. 2589) is amended—

(1) by striking subsection (a); and

(2) in the first sentence of subsection (b) by striking "pursuant to this section" and inserting "to carry out this Act".

PART B—AUTHORITIES AND ACTIVITIES

SEC. 121. AUTHORIZED STRENGTH OF THE FOREIGN SERVICE.

(a) END FISCAL YEAR 1994 LEVELS.—The number of members of the Foreign Service authorized to be employed as of September 30, 1994—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 820 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, shall not exceed 1,200, of whom not more than 175 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 250 shall be members of the Senior Foreign Service.

(b) END FISCAL YEAR 1995 LEVELS.—The number of members of the Foreign Service authorized to be employed as of September 30, 1995—

(1) for the Department of State, shall not exceed 9,100, of whom not more than 770 shall be members of the Senior Foreign Service;

(2) for the United States Information Agency, not to exceed 1,200, of whom not more than 165 shall be members of the Senior Foreign Service; and

(3) for the Agency for International Development, not to exceed 1,850, of whom not more than 240 shall be members of the Senior Foreign Service.

(c) DEFINITION.—For the purposes of this section, the term "members of the Foreign Service" is used within the meaning of such term under section 103 of the Foreign Service Act of 1980 (22 U.S.C 3903), except that such term does not include—

(1) members of the Service under paragraphs (6) and (7) of such section;

(2) members of the Service serving under temporary resident appointments abroad;

(3) members of the Service employed on less than a full-time basis;

(4) members of the Service subject to involuntary separation in cases in which such separation has been suspended pursuant to section 1106(8) of the Foreign Service Act of 1980; and

(5) members of the Service serving under non-career limited appointments.

(d) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Secretary of State and the Director of the United States Information Agency may waive any limitation under subsection (a) or (b) which applies to the Department of State or the United States Information Agency, as the case may be, to the extent that such waiver is necessary to carry on the foreign affairs functions of the United States.

Notification.

(2) Not less than 15 days before any agency head implements a waiver under paragraph (1), such agency head shall notify the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such notice shall include an explanation of the circumstances and necessity for such waiver.

SEC. 122. TRANSFERS AND REPROGRAMMINGS.

(a) AMENDMENTS TO SECTION 24 OF THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696) is amended—

(1) in subsection (b)(7) by striking subparagraph (E);

(2) in subsection (d)(1)—

(A) by striking "the second" and inserting "either"; and

(B) by striking "such second" and inserting "such";

(3) in subsection (d)(2) by amending the first sentence to read as follows: "Amounts appropriated for the 'Diplomatic and Consular Programs' account may not exceed by more than 5 percent the amount specifically authorized to be appropriated for such account for a fiscal year."; and

(4) by striking subsection (d)(4).

(b) DIPLOMATIC CONSTRUCTION PROGRAM.—Section 401 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851) is amended by striking subsections (c) and (h)(3).

(c) REPROGRAMMING.—Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended in subsection (a)(7) by striking "$500,000" and inserting "$1,000,000".

SEC. 123. EXPENSES RELATING TO CERTAIN INTERNATIONAL CLAIMS AND PROCEEDINGS.

Section 38 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) is amended by adding at the end the following new subsections:

"(c) PROCUREMENT OF SERVICES.—The Secretary of State may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in preparing or prosecuting a proceeding before an international tribunal or a claim by or against a foreign government or other foreign entity, whether or not the expert is expected to testify, or to procure other support services for such proceedings or claims. The Secretary need not provide any written justification for the use of procedures other than competitive procedures when procuring such services under this subsection and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.

"(d) INTERNATIONAL LITIGATION FUND.—

"(1) ESTABLISHMENT.—In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal,

or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund (hereafter in this subsection referred to as the "ILF"). The ILF may be available without fiscal year limitation. Funds otherwise available to the Department for the purposes of this paragraph may be credited to the ILF.

"(2) REPROGRAMMING PROCEDURES.—Funds credited to the ILF shall be treated as a reprogramming of funds under section 34 and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings. This paragraph shall not apply to the transfer of funds under paragraph (3).

"(3) TRANSFERS OF FUNDS.—Funds received by the Department of State from another agency of the United States Government or pursuant to the Department of State Appropriations Act of 1937 (49 Stat. 1321, 22 U.S.C. 2661) to meet costs of preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, shall be credited to the ILF.

"(4) USE OF FUNDS.—Funds deposited in the ILF shall be available only for the purposes of paragraph (1).".

SEC. 124. CHILD CARE FACILITIES AT CERTAIN POSTS ABROAD.

Section 31 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2703) is amended in subsection (e) by striking "For the fiscal years 1992 and 1993, the" and inserting "The".

SEC. 125. EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

Section 4 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671) is amended in subsection (c)—

(1) by striking "and the Foreign Service"; and

(2) by striking "an annual confidential" and inserting "a periodic".

SEC. 126. ROLE OF THE NATIONAL FOREIGN AFFAIRS TRAINING CENTER.

Chapter 7 of the Foreign Service Act of 1980 is amended— 22 USC 4021.

(1) in the chapter title, by striking "Foreign Service Institute,";

(2) in section 701 (22 U.S.C. 4021)—

(A) by striking the section title and inserting "Institution for Training.";

(B) in subsection (a)—

(i) by striking the subsection heading and inserting "Institution or Center for Training";

(ii) by striking "the Foreign Service Institute (hereinafter in this chapter referred to as the 'Institute')" and inserting "an institution or center for training (hereinafter in this chapter referred to as the 'institution')"; and

(iii) by striking "Institute" and inserting "institution"; and

(C) by adding at the end the following new subsection:

"(d)(1) The Secretary of State is authorized to provide for special professional foreign affairs training and instruction of employees of foreign governments through the institution.

"(2) Training and instruction under paragraph (1) shall be on a reimbursable or advance-of-funds basis. Such reimbursements or advances to the Department of State may be provided by an agency of the United States Government or by a foreign government and shall be credited to the currently available applicable appropriation account.

"(3) In making such training available to employees of foreign governments, priority consideration should be given to officials of newly emerging democratic nations and then to such other countries as the Secretary determines to be in the national interest of the United States.

"(4) The authorities of section 704 shall apply to training and instruction provided under this section."; and

22 USC 4021, 4022, 4024, 4025, 4027.

(3) in sections 701(b), 702, 704, 705, and 707, by striking "Foreign Service Institute" and "Institute" each place such terms appear and inserting "institution".

SEC. 127. CONSULAR AUTHORITIES.

(a) PERSONS AUTHORIZED TO ISSUE PASSPORTS ABROAD.—The Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (44 Stat. 887, 22 U.S.C. 211a) is amended by striking "by diplomatic representatives of the United States, and by such consul generals, consuls, or vice consuls when in charge," and inserting "by diplomatic and consular officers of the United States, and by other employees of the Department of State who are citizens of the United States,".

(b) NOTARIAL AUTHORITY.—The Act entitled "An Act to provide for the reorganization of the consular service of the United States", approved April 5, 1906 (34 Stat. 100, 22 U.S.C. 4221) is amended in section 7 by adding at the end "Pursuant to such regulations as the Secretary of State may prescribe, the Secretary may designate any other employee of the Department of State who is a citizen of the United States to perform any notarial function authorized to be performed by a consular officer of the United States under this Act.".

22 USC 4215.

SEC. 128. REPORT ON CONSOLIDATION OF ADMINISTRATIVE OPERATIONS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State, jointly with the Director of the United States Information Agency, the Director of the Arms Control and Disarmament Agency, and the Administrator of the Agency for International Development) shall submit, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, a report concerning the feasibility of consolidating domestic administrative operations for the Department of State, the Agency for International Development, the Arms Control and Disarmament Agency and the United States Information Agency. Such report shall include specific recommendations for implementation.

22 USC 2680-2.

SEC. 129. FACILITATING ACCESS TO THE DEPARTMENT OF STATE BUILDING.

(a) PROCEDURES TO FACILITATE ACCESS.—The Department of State shall maintain procedures to ensure that the members and staff of the congressional committees of jurisdiction are granted easy access to the Department of State in the conduct of their duties.

(b) PARKING.—The Department of State shall also make available adequate parking for members and staff of the congressional committees of jurisdiction in order to facilitate attendance of meetings at the Department of State.

SEC. 130. REPORT ON SAFETY AND SECURITY OF UNITED STATES PERSONNEL IN SARAJEVO.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to enhance the security and physical safety of United States diplomatic personnel in Sarajevo, Bosnia-Hercegovina.

SEC. 131. PASSPORT SECURITY.

(a) SENSE OF CONGRESS.—The Congress strongly urges the Secretary of State to ensure that any new passport issuances should, to the maximum extent practicable—

(1) be secure against counterfeiting, alteration, duplication, or simulation;

(2) be easily verifiable with appropriate inspection by public officials and private and commercial personnel; and

(3) contain only United States-sourced materials and technology.

(b) REPORT TO CONGRESS.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives detailing actions taken by the Department of State to accomplish the goals set forth in subsection (a).

SEC. 132. RECORD OF PLACE OF BIRTH FOR TAIWANESE-AMERICANS.

22 USC 2705 note.

For purposes of the registration of birth or certification of nationality of a United States citizen born in Taiwan, the Secretary of State shall permit the place of birth to be recorded as Taiwan.

SEC. 133. TERRORISM REWARDS AND REPORTS.

(a) REWARDS FOR INFORMATION ON ACTS OF INTERNATIONAL TERRORISM IN THE UNITED STATES.—

(1) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended in subsection (a) by striking "and is primarily outside the territorial jurisdiction of the United States".

(2) Notwithstanding section 36(g) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708), in addition to amounts otherwise available the Department of State may expend not more than $4,000,000 in fiscal years 1994 and 1995 to pay rewards pursuant to section 36(a) of such Act.

(b) ANNUAL REPORTS ON TERRORISM.—

(1) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f) is amended in subsection (b)(2)—

(A) by striking "and" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(C) by adding at the end the following:

"(E) efforts by the United States to eliminate international financial support provided to those groups directly or provided in support of their activities.".

(2) Section 304(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138) is amended— 22 USC 2656g.

(A) by striking "Treasury" and inserting "Treasury, in consultation with the Attorney General and appropriate investigative agencies,"; and

(B) by inserting at the end "Each such report shall provide a detailed list and description of specific assets.".

22 USC 292 note. **SEC. 134. PROPERTY AGREEMENTS.**

Whenever the Department of State enters into lease-purchase agreements involving property in foreign countries pursuant to section 1 of the Foreign Service Buildings Act (22 U.S.C. 292), the Department shall account for such transactions in accordance with fiscal year obligations.

22 USC 2684a. **SEC. 135. CAPITAL INVESTMENT FUND.**

(a) ESTABLISHMENT.—There is established within the Department of State a Capital Investment Fund to provide for the procurement of information technology and other related capital investments for the Department of State and to ensure the efficient management, coordination, operation, and utilization of such resources.

(b) FUNDING.—Funds otherwise available for the purposes of subsection (a) may be deposited in such Fund.

(c) AVAILABILITY.—Amounts deposited into the Fund are authorized to remain available until expended.

(d) EXPENDITURES FROM THE FUND.—Amounts deposited in the Fund shall be available for expenditure to procure capital equipment and information technology.

(e) REPROGRAMMING PROCEDURES.—Funds credited to the Capital Investment Fund shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 136. FEES FOR COMMERCIAL SERVICES.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669 et seq.) is amended by adding the following new section at the end:

22 USC 2724. **"SEC. 52. FEES FOR COMMERCIAL SERVICES.**

"(a) AUTHORITY TO CHARGE FEE.—(1) Subject to paragraph (2), the Secretary of State is authorized to charge a fee to cover the actual or estimated cost of providing any person, firm or organization (other than agencies of the United States Government) with commercial services at posts abroad on matters within the authority of the Department of State.

"(2) The authority of this section may be exercised only in countries where the Department of Commerce does not perform commercial services for which it collects fees.

"(b) USE OF FEES.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any

Department of State appropriation to recover the costs of providing commercial services.".

SEC. 137. PERSONAL SERVICES CONTRACTS ABROAD.

Section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)) is amended by inserting before the period "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States".

SEC. 138. PUBLISHING INTERNATIONAL AGREEMENTS.

Section 112a of title 1 of the United States Code is amended—

(1) by inserting "(a)" immediately before "The Secretary of State"; and

(2) by adding at the end the following new subsections:

"(b) The Secretary of State may determine that publication of certain categories of agreements is not required, if the following criteria are met:

"(1) such agreements are not treaties which have been brought into force for the United States after having received Senate advice and consent pursuant to section 2(2) of Article II of the Constitution of the United States;

"(2) the public interest in such agreements is insufficient to justify their publication, because (A) as of the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, the agreements are no longer in force, (B) the agreements do not create private rights or duties, or establish standards intended to govern government action in the treatment of private individuals; (C) in view of the limited or specialized nature of the public interest in such agreements, such interest can adequately be satisfied by an alternative means; or (D) the public disclosure of the text of the agreement would, in the opinion of the President, be prejudicial to the national security of the United States; and

"(3) copies of such agreements (other than those in paragraph (2)(D)), including certified copies where necessary for litigation or similar purposes, will be made available by the Department of State upon request.

"(c) Any determination pursuant to subsection (b) shall be published in the Federal Register.". Federal Register, publication.

SEC. 139. REPEAL OF REPORTING REQUIREMENTS.

The following provisions of law are repealed:

(1) Section 37(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709), relating to firearms regulations for special agents.

(2) Section 214(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), relating to extraordinary protective services to foreign missions.

(3) Section 216(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4316(d)), relating to application of travel restrictions to personnel of certain countries and organizations.

(4) Section 108 of the Foreign Relations Authorization Act, Fiscal Year 1978 (22 U.S.C. 2151n–1), relating to Americans incarcerated abroad.

(5) Section 512(b)(2) of the Foreign Relations Authorization Act, Fiscal Year 1978 (22 U.S.C. 2428a(b)), relating to withdrawal of United States troops from Korea.

(6) Section 412(b) of the Foreign Service Act of 1980 (22 U.S.C. 3972(b)), relating to special differentials for Foreign Service officers.

(7) The second sentence of section 2207(c) of the Foreign Service Act of 1980 (22 U.S.C. 4171(c)), relating to foreign language competence requirements: exceptions.

(8) The second sentence of section 103(b) of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (22 U.S.C. 2656 note), relating to status of certain consulates to be reopened.

(9) Section 9 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465g), relating to evaluation of Cuba service programming.

(10) Section 130(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 3982 note), relating to merger of Foreign Service Information Corps into the Foreign Service Corps.

(11) Section 207(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 2460 note), relating to foreign travel financed from the United States Information Agency's private sector program.

(12) Section 120(d) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93), relating to Foreign Service associates pilot project.

(13) Section 611 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4711), relating to United States scholarship program for developing countries. 99 Stat. 412.

(14) Section 812(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93), relating to Japan's fulfillment of its common defense commitments. 22 USC 1928 note.

(15) Section 153(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 4301 note; Public Law 100–204), relating to United States-Soviet reciprocity in matters relating to embassies.

(16) Section 1(5) of the joint resolution entitled "Joint resolution relating to NASA and the International Space Year", approved July 31, 1990 (Public Law 101–339), relating to the international space year—1992. 104 Stat. 384.

(17) Section 232 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102–228), relating to activities to reduce Soviet military threat. 22 USC 2551 note.

(18) Section 401(c) of the Conventional Forces in Europe Treaty Implementation Act of 1991 (22 U.S.C. 2551 note), relating to the Arms Control and Disarmament Agency's revitalization report.

(19) Section 708(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 287 note) relating to the protection of Tyre by UNIFIL.

(20) Section 408(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 2349aa) relating to perimeter security at United States embassies and consulates abroad. 22 USC 4858.

(21) Section 162(d) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2187(e)) relating to contributions to and procedures of the United Nations.

(22) Section 531(i) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (22 U.S.C. 2370 note) relating to El Salvador.

(23) Section 724 of the International Security Development Cooperation Act of 1981 (22 U.S.C. 2384) relating to assistance to Nicaragua.

(24) Section 201(f) of the Fishery Conservation and Management Act, 1976 (16 U.S.C. 1821(f)) relating to assistance allocation of United States fish stock surplus.

(25) The second sentence of section 2207(c) of the Foreign Service Act of 1980 (22 U.S.C. 4171) relating to foreign language competence.

(26) Section 209A(b)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309a) relating to United States responsibility for employees of the United Nations.

(27) Section 117 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (22 U.S.C. 287(b) note) relating to policies pursued by other countries in the United Nations. 22 USC 287b note.

SEC. 140. VISAS.

(a) SURCHARGE FOR PROCESSING CERTAIN VISAS.— 8 USC 1351.

(1) Notwithstanding any other provision of law, the Secretary of State is authorized to charge a fee or surcharge for processing machine readable nonimmigrant visas and machine readable combined border crossing identification cards and nonimmigrant visas.

(2) Fees collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation, to recover the costs of providing consular services. Such fees shall remain available for obligation until expended.

(3) For fiscal years 1994 and 1995, fees deposited under the authority of paragraph (2) may not exceed a total of $107,500,000. For subsequent fiscal years, fees may be collected under the authority of paragraph (1) only in such amounts as shall be prescribed in subsequent authorization Acts.

(4) The provisions of the Act of August 18, 1856 (Revised Statutes 1726–28; 22 U.S.C. 4212–14), concerning accounting for consular fees shall not apply to fees collected under this subsection.

(5) No fee or surcharge authorized under paragraph (1) may be charged to a citizen of a country that is a signatory as of the date of enactment of this Act to the North American Free Trade Agreement, except that the Secretary of State may charge such fee or surcharge to a citizen of such a country if the Secretary determines that such country charges a visa application or issuance fee to citizens of the United States.

(b) AUTOMATED VISA LOOKOUT SYSTEM.—Not later than 18 months after the date of the enactment of this Act, the Secretary of State shall implement an upgrade of all overseas visa lookout operations to computerized systems with automated multiple-name search capabilities. 8 USC 1182 note.

(c) PROCESSING OF VISAS FOR ADMISSION TO THE UNITED STATES.— 8 USC 1182 note.

(1)(A) Beginning 24 months after the date of the enactment of this Act, whenever a United States consular officer issues a visa for admission to the United States, that official shall certify, in writing, that a check of the Automated Visa Lookout System, or any other system or list which maintains information about the excludability of aliens under the Immigration and Nationality Act, has been made and that there is no basis under such system for the exclusion of such alien.

(B) If, at the time an alien applies for an immigrant or nonimmigrant visa, the alien's name is included in the Department of State's visa lookout system and the consular officer to whom the application is made fails to follow the procedures in processing the application required by the inclusion of the alien's name in such system, the consular officer's failure shall be made a matter of record and shall be considered as a serious negative factor in the officer's annual performance evaluation.

(2) If an alien to whom a visa was issued as a result of a failure described in paragraph (1)(B) is admitted to the United States and there is thereafter probable cause to believe that the alien was a participant in a terrorist act causing serious loss of life or property in the United States, the Secretary of State shall convene an Accountability Review Board under the authority of title III of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

8 USC 1182 note.

(d) ACCESS TO THE INTERSTATE IDENTIFICATION INDEX.—

(1) Subject to paragraphs (2) and (3), the Department of State Consolidated Immigrant Visa Processing Center shall have on-line access, without payment of any fee or charge, to the Interstate Identification Index of the National Crime Information Center solely for the purpose of determining whether a visa applicant has a criminal history record indexed in such Index. Such access does not entitle the Department of State to obtain the full content of automated records through the Interstate Identification Index. To obtain the full content of a criminal history record, the Department shall submit a separate request to the Identification Records Section of the Federal Bureau of Investigation, and shall pay the appropriate fee as provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101–162).

(2) The Department of State shall be responsible for all one-time start-up and recurring incremental non-personnel costs of establishing and maintaining the access authorized in paragraph (1).

(3) The individual primarily responsible for the day-to-day implementation of paragraph (1) shall be an employee of the Federal Bureau of Investigation selected by the Department of State, and detailed to the Department on a fully reimbursable basis.

Reports.

(4) Not later than December 31, 1996, the Secretary of State and the Director of the Federal Bureau of Investigation shall jointly submit to the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives, and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate, a report on the effectiveness of the procedure authorized in this subsection.

(5) This subsection shall cease to have effect after December 31, 1997. Termination date.

SEC. 141. LOCAL GUARD CONTRACTS ABROAD.

Section 136 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) is amended— 22 USC 4864.

(1) in subsection (c)—

(A) in paragraph (2), by striking "due to their distance from the post";

(B) by redesignating paragraphs (2) and (3) as paragraphs (6) and (7) respectively; and

(C) by inserting after paragraph (1) the following:

"(2) absent compelling reasons, award such contracts through the competitive process;

"(3) in evaluating and scoring proposals for such contracts, award not less than 60 percent of the total points on the basis of technical factors and subfactors;

"(4) in countries where contract denomination and/or payment in local currencies constitutes a barrier to competition by United States firms—

"(A) allow solicitations to be bid in United States dollars; and

"(B) allow contracts awarded to United States firms to be paid in United States dollars;

"(5) ensure that United States diplomatic and consular posts assist United States firms in obtaining local licenses and permits;"; and

(2) in subsection (d)—

(A) paragraph (1)(D), by striking "and" and inserting "or"; and

(B) by adding at the end the following new paragraph (4):

"(4) the term 'barrier to local competition' means—

"(A) conditions of extreme currency volatility;

"(B) restrictions on repatriation of profits;

"(C) multiple exchange rates which significantly disadvantage United States firms;

"(D) government restrictions inhibiting the free convertibility of foreign exchange; or

"(E) conditions of extreme local political instability.";

(C) by striking "and" at the end of paragraph (2); and

(D) by striking the period at the end of paragraph (3) and inserting "; and".

SEC. 142. WOMEN'S HUMAN RIGHTS PROTECTION.

(a) SENSE OF CONGRESS.—The Congress makes the following declarations:

(1) The State Department should designate a senior advisor to the appropriate Undersecretary to promote international women's human rights within the overall human rights policy of the United States Government.

(2) The purpose of assigning a special assistant on women's human rights issues is not, to segregate such issues, but rather to assure that they are considered along with other human rights issues in the development of United States foreign policy.

(3) A specifically designated special assistant is necessary because within the human rights field and the foreign policy

establishment, the issues of gender-based discrimination and violence against women have long been ignored or made invisible.

(4) The Congress believes that abuses against women would have greater visibility and protection of women's human rights would improve if the advocate were responsible for integrating women's human rights issues into United States foreign policy, bilateral assistance, multilateral diplomacy, trade policy, and democracy promotion.

(b) CONGRESSIONAL NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall notify the Congress of the steps taken to fulfill the objectives detailed in subsection (a).

PART C—DEPARTMENT OF STATE ORGANIZATION

SEC. 161. ORGANIZATION OF THE DEPARTMENT OF STATE.

(a) ORGANIZATION.—Section 1 of the State Department Basic Authorities Act of 1956 is amended to read as follows:

"ORGANIZATION OF THE DEPARTMENT OF STATE

22 USC 2651a.

"SECTION 1. (a) SECRETARY OF STATE.—

"(1) The Department of State shall be administered, in accordance with this Act and other provisions of law, under the supervision and direction of the Secretary of State (hereinafter referred to as the 'Secretary').

President.

"(2) The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

"(3)(A) Notwithstanding any other provision of law and except as provided in this section, the Secretary shall have and exercise any authority vested by law in any office or official of the Department of State. The Secretary shall administer, coordinate, and direct the Foreign Service of the United States and the personnel of the Department of State, except where authority is inherent in or vested in the President.

"(B)(i) The Secretary shall not have the authority of the Inspector General or the Chief Financial Officer.

"(ii) The Secretary shall not have any authority given expressly to diplomatic or consular officers.

"(4) The Secretary is authorized to promulgate such rules and regulations as may be necessary to carry out the functions of the Secretary of State and the Department of State. Unless otherwise specified in law, the Secretary may delegate authority to perform any of the functions of the Secretary or the Department to officers and employees under the direction and supervision of the Secretary. The Secretary may delegate the authority to redelegate any such functions.

President.

"(b) UNDER SECRETARIES.—There shall be in the Department of State not more than 5 Under Secretaries of State, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) ASSISTANT SECRETARIES.—

"(1) IN GENERAL.—There shall be in the Department of State not more than 20 Assistant Secretaries of State, each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for at level IV of the Executive Schedule under section 5315 of title 5. President.

"(2) ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR.—(A) There shall be in the Department of State an Assistant Secretary of State for Democracy, Human Rights, and Labor who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy and such other related duties as the Secretary may from time to time designate. The Secretary of State shall carry out the Secretary's responsibility under section 502B of the Foreign Assistance Act of 1961 through the Assistant Secretary.

"(B) The Assistant Secretary of State for Democracy, Human Rights, and Labor shall maintain continuous observation and review all matters pertaining to human rights and humanitarian affairs (including matters relating to prisoners of war and members of the United States Armed Forces missing in action) in the conduct of foreign policy including the following:

"(i) Gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each country to which requirements of sections 116 and 502B of the Foreign Assistance Act of 1961 are relevant.

"(ii) Preparing the statements and reports to Congress required under section 502B of the Foreign Assistance Act of 1961.

"(iii) Making recommendations to the Secretary of State and the Administrator of the Agency for International Development regarding compliance with sections 116 and 502B of the Foreign Assistance Act of 1961, and as part of the Assistant Secretary's overall policy responsibility for the creation of United States Government human rights policy, advising the Administrator of the Agency for International Development on the policy framework under which section 116(e) projects are developed and consulting with the Administrator on the selection and implementation of such projects.

"(iv) Performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.

"(d) DEPUTY ASSISTANT SECRETARIES.—There shall be in the Department of State not more than 66 Deputy Assistant Secretaries of State.

"(e) OTHER SENIOR OFFICIALS.—In addition to officials of the Department of State who are otherwise authorized to be appointed by the President, by and with the advice and consent of the Senate, and to be compensated at level IV of the Executive Schedule of section 5315 of title 5, United States Code, four other such appointments are authorized.".

22 USC 2651a note.

(b) APPLICATION.—The amendments made by this section and section 133 shall apply with respect to officials, offices, and bureaus of the Department of State when executive orders, regulations, or departmental directives implementing such amendments become effective, or 90 days after the date of enactment of this Act, whichever comes earlier.

22 USC 2651a note.

(c) TRANSITION.—Any officer of the Department of State holding office on the date of the enactment of this Act shall not be required to be reappointed to any other office, at the Department of State at the same level performing similar functions, as determined by the President, by reason of the enactment of the amendments made by this section and section 162.

22 USC 2651a note.

(d) REFERENCES IN OTHER ACTS.—Except as specifically provided in this Act, or the amendments made by this Act, a reference in any other provision of law to an official or office of the Department of State affected by the amendment made by subsection (a) (other than the Inspector General of the Department of State and the Chief Financial Officer of the Department of State) shall be deemed to be a reference to the Secretary of State or the Department of State, as may be appropriate.

22 USC 2651a note.

(e) OFFICE OF THE COORDINATOR FOR COUNTERTERRORISM.—Notwithstanding any other provision of this section, for not less than one year after the date of the enactment of this Act there shall be in the Department of State an Office of the Coordinator for Counterterrorism which shall be headed by a Coordinator for Counterterrorism. The office shall have the same responsibilities and functions as the Office of the Coordinator for Counterterrorism at the Department of State had as of January 20, 1993.

22 USC 2651a note. President.

(f) DEPUTY ASSISTANT SECRETARY FOR BURDENSHARING.—

(1) ESTABLISHMENT.—None of the funds authorized to be appropriated by this Act shall be available for obligation or expenditure during fiscal year 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State the position of Deputy Assistant Secretary for Burdensharing, the incumbent of which shall be an official of ambassadorial rank, appointed by the President by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Deputy Assistant Secretary for Burdensharing shall perform such duties and exercise such authorities as the Secretary of State shall prescribe, including the principal duty of negotiations for the following:

(A) Increased in-kind and financial support (including increased payment of basing costs) by countries allied to the United States for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries.

(B) Recoupment of funds associated with financial commitments from such countries for paying the United States the residual value of United States facilities in such countries that the United States relinquishes to such countries upon the termination of the use of such facilities by the United States.

SEC. 162. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ACT OF MAY 26, 1949.—The Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes" (May 26, 1949; Public Law 81–73; 22 U.S.C. 2652 et seq.) is repealed. 22 USC 811a, 2652, 2653, 2658.

(b) FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1979.—Section 115 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2652a) is amended by striking subsection (a).

(c) FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1992 AND 1993.—Section 122 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2652b) is amended—

(1) by striking subsection (c);

(2) in subsection (a) by striking ", which is in addition to the positions provided under the first section of the Act of May 26, 1949 (22 U.S.C. 2652); and

(3) by striking subsection (d)(1).

(d) TITLE 5, UNITED STATES CODE.—

(1) Section 5314 of title 5, United States Code, is amended by striking—

"Under Secretary of State for Political Affairs and Under Secretary of State for Economic and Agricultural Affairs and an Under Secretary of State for Coordinating Security Assistance Programs and Under Secretary of State for Management.

"Counselor of the Department of State."

and inserting—

"Under Secretaries of State (5).".

(2) Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of State (15).", "Legal Adviser of the Department of State.", "Chief of Protocol, Department of State.", "Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.", "Assistant Secretary for International Narcotics Matters, Department of State.", "Assistant Secretary for South Asian Affairs, Department of State.", and inserting "20 Assistant Secretaries of State and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate.". President.

(e) FOREIGN ASSISTANCE ACT OF 1961.—The Foreign Assistance Act of 1961 is amended—

(1) in section 116(c) (22 U.S.C. 2151n), by striking "Assistant Secretary for Human Rights and Humanitarian Affairs" and inserting "Assistant Secretary of State for Democracy, Human Rights, and Labor";

(2) in sections 502B(b) (22 U.S.C. 2304(b)), 502B(c)(1) (22 U.S.C. 2304(c)), and 505(g)(4)(A) (22 U.S.C. 2314(g)(4)(A)) by striking "Human Rights and Humanitarian Affairs" each place it appears and inserting "Democracy, Human Rights, and Labor";

(3) in section 573(c) by striking "Human Rights and Humanitarian Affairs" and inserting "Democracy, Human Rights, and Labor"; and 22 USC 2349aa–2.

(4) in section 624 by striking subsection (f). 22 USC 2384.

(f) ARMS EXPORT CONTROL ACT.—Section 5(d)(1) of the Arms Export Control Act is amended (22 U.S.C. 2755(d)(1)) by striking "Assistant Secretary of State for Human Rights and Humanitarian Affairs" and inserting "Secretary of State".

(g) DIPLOMATIC SECURITY ACT.—The Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended—

(1) in section 102(b) (22 U.S.C. 4801(b)) by—

(A) striking paragraph (2); and

(B) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively;

22 USC 4802.

(2) in subsection 103(a)—

(A) by inserting "(1)" before "The Secretary of State";

(B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(C) by inserting at the end the following new paragraph:

"(2) Security responsibilities shall include the following:

"(A) FORMER OFFICE OF SECURITY FUNCTIONS.—Functions and responsibilities exercised by the Office of Security, Department of State, before November 11, 1985.

"(B) SECURITY AND PROTECTIVE OPERATIONS.—

"(i) Establishment and operations of post security and protective functions abroad.

"(ii) Development and implementation of communications, computer, and information security.

"(iii) Emergency planning.

"(iv) Establishment and operation of local guard services abroad.

"(v) Supervision of the United States Marine Corps security guard program.

"(vi) Liaison with American overseas private sector security interests.

"(vii) Protection of foreign missions and international organizations, foreign officials, and diplomatic personnel in the United States, as authorized by law.

"(viii) Protection of the Secretary of State and other persons designated by the Secretary of State, as authorized by law.

"(ix) Physical protection of Department of State facilities, communications, and computer and information systems in the United States.

"(x) Conduct of investigations relating to protection of foreign officials and diplomatic personnel and foreign missions in the United States, suitability for employment, employee security, illegal passport and visa issuance or use, and other investigations, as authorized by law.

"(xi) Carrying out the rewards program for information concerning international terrorism authorized by section 36(a) of the State Department Basic Authorities Act of 1956.

"(xii) Performance of other security, investigative, and protective matters as authorized by law.

"(C) COUNTERTERRORISM PLANNING AND COORDINATION.—Development and coordination of counterterrorism planning, emergency action planning, threat analysis programs, and liaison with other Federal agencies to carry out this paragraph.

"(D) SECURITY TECHNOLOGY.—Development and implementation of technical and physical security programs, including security-related construction, radio and personnel security communications, armored vehicles, computer and communica-

tions security, and research programs necessary to develop such measures.

"(E) DIPLOMATIC COURIER SERVICE.—Management of the diplomatic courier service.

"(F) PERSONNEL TRAINING.—Development of facilities, methods, and materials to develop and upgrade necessary skills in order to carry out this section.

"(G) FOREIGN GOVERNMENT TRAINING.—Management and development of antiterrorism assistance programs to assist foreign government security training which are administered by the Department of State under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.).";

(3) by striking section 104; 22 USC 4803, 2652; 5 USC 5315.

(4) by striking section 105;

(5) in section 107, by striking "The Chief of Protocol of the Department of State shall consult with the Assistant Secretary of Diplomatic Security" and inserting "The Secretary of State shall take into account security considerations"; 22 USC 4804. 22 USC 4806.

(6) in title II by amending the title heading to read as follows: "TITLE II—PERSONNEL"; 22 USC 4821 *et seq.*

(7) by amending section 201 to read as follows: 22 USC 4821.

"SEC. 201. DIPLOMATIC SECURITY SERVICE.

"The Secretary of State may establish a Diplomatic Security Service, which shall perform such functions as the Secretary may determine.";

(8) in section 202— 22 USC 4822.

(A) by striking "The" in the first sentence and inserting "Any such";

(B) by striking "shall" each place it appears in the first, third, and fourth sentences and inserting "should"; and

(C) by striking the last sentence;

(9) in section 203— 22 USC 4823.

(A) by amending the heading to read as follows:

"SEC. 203. SPECIAL AGENTS.";

(B) in the first sentence by striking "Positions in the Diplomatic Security Service" and inserting "Special agent positions"; and

(C) in the last sentence by striking "In the case of positions designated for special agents, the" and inserting "The"; and

(10) in section 402(a)(2) by striking "Assistant Secretary for Diplomatic Security" and inserting "Secretary of State". 22 USC 4852.

(h) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 101(a)(1) (8 U.S.C. 1101(a)(1)) by striking "Assistant Secretary of State for Consular Affairs" and inserting "official designated by the Secretary of State pursuant to section 104(b) of this Act";

(2) in section 104 (8 U.S.C. 1104)—

(A) in the heading by striking "; BUREAU OF CONSULAR AFFAIRS";

(B) in subsection (a), by striking "the Bureau of Consular Affairs" and inserting "the Administrator";

(C) by amending subsection (b) to read as follows:

"(b) The Secretary of State shall designate an Administrator who shall be a citizen of the United States, qualified by experience. The Administrator shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. The Administrator shall be charged with any and all responsibility and authority in the administration of this Act which are conferred on the Secretary of State as may be delegated to the Administrator by the Secretary of State or which may be prescribed by the Secretary of State, and shall perform such other duties as the Secretary of State may prescribe.";

(D) in subsection (c), by striking "Bureau" and inserting "Department of State"; and

(E) in subsection (d), by striking all after "respectively" before the period; and

(3) in section 105 (8 U.S.C. 1105) by striking "Assistant Secretary of State for Consular Affairs" and inserting "Administrator" each place it appears.

(i) DEPARTMENT OF STATE APPROPRIATIONS ACT, 1989.—Section 306 of the Department of State Appropriations Act, 1989 (Public Law 100–459) is repealed. 102 Stat. 2208.

(j) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1989.—Section 8125 of the Department of Defense Appropriations Act, Fiscal Year 1989 (Public Law 100–463) is amended by striking subsection (c). 10 USC 113 note.

(k) STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—(1) Section 35 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2707) is amended—

(A) by striking subsection (a); and

(B) in subsection (b)—

(i) by striking the text preceding paragraph (1) and inserting the following: "The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international communications and information policy. The Secretary of State shall—";

(ii) by striking paragraph (2);

(iii) by redesignating paragraph (1) as paragraph (2);

(iv) by inserting before paragraph (2) (as so redesignated) the following:

"(1) exercise primary authority for the conduct of foreign policy with respect to such telecommunications functions, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this responsibility, the Secretary shall coordinate with other agencies as appropriate, and, in particular, shall give full consideration to the authority vested by law or Executive order in the Federal Communications Commission, the Department of Commerce and the Office of the United States Trade Representative in this area;";

(v) in paragraph (2) (as so redesignated) by striking "with the bureaus and offices of the Department of State and", and inserting before the semicolon "and with the Federal Communications Commission, as appropriate"; and

(vi) in paragraph (3), by striking "the Senior Interagency Group on International Communications and Information Policy" and inserting "any senior interagency

policymaking group on international telecommunications and information policy and chair such interagency meetings as may be necessary to coordinate actions on pending issues;".

(2) Nothing in the amendments made by paragraph (1) affects the nature or scope of the authority that is on the date of enactment of this Act vested by law or Executive order in the Department of Commerce, the Office of the United States Trade Representative, the Federal Communications Commission, or any officer thereof. 22 USC 2707 note.

(3) Section 3 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2670) is amended—

(A) by striking "and" at the end of subsection (k);

(B) by striking the period at the end of subsection (l) and inserting "; and"; and

(C) by adding at the end the following:

"(m) establish, maintain, and operate passport and dispatch agencies.".

(4) Section 2 of the State Department Basic Authorities Act of 1956 is amended by striking "(l) pay" and inserting "(m) pay". 22 USC 2669.

(m) REFUGEE ACT OF 1980.—The Refugee Act of 1980 (Public Law 96–212) is amended—

(1) in the heading for title III, by striking "UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND"; 8 USC 1525 *et seq.*

(2) by striking the heading for part A;

(3) by repealing section 301; and 8 USC 1525.

(4) by striking the heading for part B.

(n) IMMIGRATION AND NATIONALITY ACT.—

(1) Section 411(b) of the Immigration and Nationality Act (8 U.S.C. 1521(b)) is amended by striking "and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this chapter referred to as the 'Coordinator')" and inserting "the Secretary of State".

(2) Section 412 of the Immigration and Nationality Act (8 U.S.C. 1522) is amended—

(A) in subsection (a)(2)(A), by striking ", together with the Coordinator,";

(B) in subsections (b)(3) and (b)(4), by striking "in consultation with the Coordinator,"; and

(C) in subsection (e)(7)(C), by striking ", in consultation with the United States Coordinator for Refugee Affairs,".

(3) Section 413(a) of the Immigration and Nationality Act (8 U.S.C. 1523) is amended by striking ", in consultation with the Coordinator,".

(o) STATE DEPARTMENT BASIC AUTHORITIES ACT.—Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.) is amended—

(1) in section 202(a) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7); 22 USC 4302.

(2) in section 203 by amending such section to read as follows: 22 USC 4303.

"AUTHORITIES OF THE SECRETARY OF STATE

"SEC. 203. The Secretary shall carry out the following functions:

"(1) Assist agencies of Federal, State, and municipal government with regard to ascertaining and according benefits,

privileges, and immunities to which a foreign mission may be entitled.

"(2) Provide or assist in the provision of benefits for or on behalf of a foreign mission in accordance with section 204.

"(3) As determined by the Secretary, dispose of property acquired in carrying out the purposes of this Act.

"(4) As determined by the Secretary, designate an office within the Department of State to carry out the purposes of this Act. If such an office is established, the President may appoint, by and with the advice and consent of the Senate, a Director, with the rank of ambassador. Of the Director and the next most senior person in the office, one should be an individual who has served in the Foreign Service and the other should be an individual who has served in the United States intelligence community.

"(5) Perform such other functions as the Secretary may determine necessary in furtherance of the policy of this title.";

22 USC 4304. (3) in section 204—

(A) in subsections (a), (b), and (c), by striking "Director" each place it appears and inserting "Secretary"; and

(B) in paragraph (d), by striking "the Director or any other" and inserting "any";

22 USC 4304a. (4) in section 204A, by striking "Director" each place it appears and inserting "Secretary";

22 USC 4305. (5) in section 205—

(A) in subsection (a), by striking "Director" and inserting "Secretary"; and

(B) in subsection (c)(2) by striking "authorize the Director to"; and

22 USC 4308. (6) in section 208—

(A) in subsection (d) by striking "Director" and inserting in its place "Secretary";

(B) in subsections (c), (e), and (f), by striking "Office of Foreign Missions" each place it appears and inserting "Department of State"; and

(C) in subsection (h)(2) by striking "Director or the".

(p) OFFICE OF COUNSELOR; LEGAL ADVISER.—

(1) The Act entitled "An Act to create the Office of Counselor of the United States" (May 18, 1937; Public Law 75–91; 22 U.S.C. 2655) is repealed.

(2) The Act entitled "An Act for the reorganization and improvement of the Foreign Service of the United States and for other purposes" (May 24, 1924; Public Law 68–135; 22 U.S.C. 2654) is amended by striking section 30.

22 USC 2664.

(q) AMENDMENT TO THE DEPARTMENT OF STATE APPROPRIATIONS AUTHORIZATION ACT OF 1973.—Section 9 of the Department of State Appropriations Authorization Act of 1973 (22 U.S.C. 2655) is amended—

22 USC 2655a. (1) in subsection (a)—

(A) by striking "In addition to the positions provided under the first section of the Act of May 26, 1949, as amended (22 U.S.C. 2652), there" and inserting "There"; and

(B) by inserting before the period at the end of the subsection "and for such other related duties as the Secretary may from time to time designate"; and

(2) by striking subsection (b).

SEC. 163. DIRECTOR GENERAL OF THE FOREIGN SERVICE.

Section 208 of the Foreign Service Act of 1980 (22 U.S.C. 3928) is amended to read as follows:

"SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.

President.

"The President shall appoint, by and with the advice and consent of the Senate, a Director General of the Foreign Service, who shall be a current or former career member of the Foreign Service. The Director General should assist the Secretary of State in the management of the Service and perform such functions as the Secretary of State may prescribe.".

SEC. 164. ADMINISTRATIVE EXPENSES.

(a) ADMINISTRATIVE EXPENSES FOR NARCOTICS, TERRORISM, AND CRIME.—Section 482 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a) is amended by adding the following new subsection:

"(d) ADMINISTRATIVE ASSISTANCE.—(1) Except as provided in paragraph (2), personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau designated by the Secretary of State to replace the Bureau for International Narcotics Matters.

"(2) Paragraph (1) shall not apply to the extent that it would result in a reduction in funds available for antinarcotics assistance to foreign countries.".

(b) AMENDMENT TO THE MIGRATION AND REFUGEE ASSISTANCE ACT.—Section 5 of the Migration and Refugee Assistance Act (22 U.S.C. 2605) is amended by adding at the end the following new subsection:

"(c) Personnel funded pursuant to this section are authorized to provide administrative assistance to personnel assigned to the bureau charged with carrying out this Act.".

PART D—PERSONNEL

Subpart 1—General Provisions

SEC. 171. LABOR-MANAGEMENT RELATIONS.

Section 1017(e) of the Foreign Service Act of 1980 (22 U.S.C. 4117(e)) is amended to read as follows:

"(e)(1) Notwithstanding any other provision of this chapter—

"(A) participation in the management of a labor organization for purposes of collective bargaining or acting as a representative of a labor organization for such purposes is prohibited under this chapter—

"(i) on the part of any management official or confidential employee;

"(ii) on the part of any individual who has served as a management official or confidential employee during the preceding two years; or

"(iii) on the part of any other employee if the participation or activity would result in a conflict of interest or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such employee; and

"(B) service as a management official or confidential employee is prohibited on the part of any individual having participated in the management of a labor organization for

purposes of collective bargaining or having acted as a representative of a labor organization during the preceding two years.

"(2) For the purposes of paragraph (1)(A)(ii) and paragraph (1)(B), the term 'management official' shall not include chiefs of mission, principal officers and their deputies, and administrative and personnel officers abroad.".

SEC. 172. WAIVER OF LIMITATION FOR CERTAIN CLAIMS FOR PERSONAL PROPERTY DAMAGE OR LOSS.

(a) CLAIMS RESULTING FROM EMERGENCY EVACUATION IN A FOREIGN COUNTRY.—Subsection 3721(b) of title 31 of the United States Code is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding after paragraph (1), as so designated, the following:

"(2) The Secretary of State may waive the settlement and payment limitation referred to in paragraph (1) for claims for damage or loss by United States Government personnel under the jurisdiction of a chief of mission in a foreign country if such claims arise in circumstances where there is in effect a departure from the country authorized or ordered under circumstances described in section 5522(a) of title 5, if the Secretary determines that there exists exceptional circumstances that warrant such a waiver.".

31 USC 3721 note.

(b) RETROACTIVE APPLICATION.—The amendments made by subsection (a) shall apply with respect to claims arising on or after October 31, 1988.

SEC. 173. SENIOR FOREIGN SERVICE PERFORMANCE PAY.

22 USC 3965 note.

(a) PROHIBITION ON AWARDS.—Notwithstanding any other provision of law, the Secretary of State may not award or pay performance payments for fiscal years 1994 and 1995 under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965), unless the Secretary awards or pays performance awards to other Federal employees for such fiscal years.

22 USC 3965 note.

(b) AWARDS IN SUBSEQUENT FISCAL YEARS.—The Secretary may not make a performance award or payment in any fiscal year after a fiscal year referred to in subsection (a) for the purpose of providing an individual with a performance award or payment to which the individual would otherwise have been entitled in a fiscal year referred to in such subsection but for the prohibition described in such subsection.

22 USC 3965 note.

(c) APPLICATION TO USIA, AID, AND ACDA.—Subsections (a) and (b) shall apply to the United States Information Agency, the Agency for International Development, and the Arms Control and Disarmament Agency in the same manner as such subsections apply to the Department of State, except that the Director of the United States Information Agency, the Administrator of the Agency for International Development, and the Director of the Arms Control and Disarmament Agency shall be subject to the limitations and authority of the Secretary of State under subsections (a) and (b) for their respective agencies.

(d) AMENDMENT TO FOREIGN SERVICE ACT OF 1980.—Section 405(b)(4) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(4)) is amended to read as follows:

"(4) Any award under this section shall be subject to the limitation on certain payments under section 5307 of title 5, United States Code.".

SEC. 174. REASSIGNMENT AND RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.

Section 813 of the Foreign Service Act of 1980 (22 U.S.C. 4053) is amended by striking all that follows the section caption and inserting the following:

"(a) A participant, who completes an assignment under section 302(b) in a position to which the participant was appointed by the President, and is not otherwise eligible for retirement—

"(1) shall be reassigned within 90 days after the termination of such assignment and any period of authorized leave, or

"(2) if the Secretary of State determines that reassignment is not in the interest of the Foreign Service, shall be retired from the Service and receive retirement benefits in accordance with section 806 or 855, as appropriate.

"(b) A participant who completes an assignment under section 302(b) in a position to which the participant was appointed by the President and is eligible for retirement and is not reassigned within 90 days after the termination of such assignment and any period of authorized leave, shall be retired from the Service and receive retirement benefits in accordance with section 806 or section 855, as appropriate.

"(c) A participant who is retired under subsection (a)(2) and is subsequently employed by the United States Government, thereafter, shall be eligible to retire only under the terms of the applicable retirement system.".

SEC. 175. REPORT ON CLASSIFICATION OF SENIOR FOREIGN SERVICE POSITIONS.

(a) AUDIT AND REVIEW.—Not later than December 31, 1994, the Comptroller General of the United States shall conduct a classification audit of all Senior Foreign Service positions in Washington, District of Columbia, assigned to the Department of State, the Agency for International Development, and the United States Information Agency and shall review the methods for classification of such positions.

(b) REPORT.—Not later than March 1, 1995, the Comptroller General shall submit a report of such audit and review to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 176. ALLOWANCES.

(a) AWAY-FROM-POST EDUCATION ALLOWANCE.—Section 5924(4)(A) of title 5, United States Code, is amended by inserting after the first sentence the following: "When travel from school to post is infeasible, travel may be allowed between the school attended and the home of a designated relative or family friend or to join a parent at any location, with the allowable travel expense not to exceed the cost of travel between the school and the post.".

(b) EDUCATIONAL TRAVEL FOR COLLEGE STUDENTS STUDYING ABROAD.—Section 5924(4)(B) of title 5, United States Code, is amended in the first sentence after "in the United States" by inserting "(or to and from a school outside the United States if the dependent is attending that school for less than one year under a program approved by the school in the United States at which the dependent is enrolled, with the allowable travel expense not

to exceed the cost of travel to and from the school in the United States)".

SEC. 177. GRIEVANCES.

(a) GRIEVANCE BOARD PROCEDURES.—Section 1106 of the Foreign Service Act of 1980 (22 U.S.C. 4136) is amended in the first sentence of paragraph (8) by striking "until the Board has ruled upon the grievance." and inserting "until the date which is one year after such determination or until the Board has ruled upon the grievance, whichever comes first. The Board shall extend the one-year limitation under the preceding sentence and the Department shall continue to suspend such action, if the Board determines that the agency or the Board is responsible for the delay in the resolution of the grievance. The Board may also extend the 1-year limit if it determines that the delay is due to the complexity of the case, the unavailability of witnesses or to circumstances beyond the control of the agency, the Board or the grievant.".

(b) TIME LIMITATION ON REQUESTS FOR JUDICIAL REVIEW.—Section 1110 of the Foreign Service Act of 1980 (22 U.S.C. 4140) is amended in the first sentence by inserting before the period ", if the request for judicial review is filed not later than 180 days after the final action of the Secretary or the Board (or in the case of an aggrieved party who is posted abroad at the time of the final action of the Secretary or the Board, if the request for judicial review is filed not later than 180 days after the aggrieved party's return to the United States)".

22 USC 3922a note.

SEC. 178. MID-LEVEL WOMEN AND MINORITY PLACEMENT PROGRAM.

(a) PURPOSE.—It is the purpose of this section to promote the acquisition and retention of highly qualified, trained, and experienced women and minority personnel within the Foreign Service, to provide the maximum opportunity for the Foreign Service to meet staffing needs and to acquire the services of experienced and talented women and minority personnel, and to help alleviate the impact of downsizing, reduction-in-force, and budget restrictions occurring in the defense and national security-related agencies of the United States.

(b) ESTABLISHMENT.—For each of the fiscal years 1994 and 1995, the Secretary of State shall to the maximum extent practicable appoint to the Foreign Service qualified women and minority applicants who are participants in the priority placement program of the Department of Defense, the Department of Defense outplacement referral program, the Office of Personnel Management Automated Applicant Referral System, or the Office of Personnel Management Interagency Placement Program. The Secretary shall make such appointments through the mid-level entry program of the Department of State under section 306 of the Foreign Service Act of 1980.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit a report concerning the implementation of subsection (a) to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives. Such report shall include recommendations on methods to improve implementation of the purpose of this section.

SEC. 179. EMPLOYMENT ASSISTANCE REFERRAL SYSTEM FOR CERTAIN MEMBERS OF THE FOREIGN SERVICE. 22 USC 4010a note.

(a) REFERRAL SYSTEM.—Certain members of the Foreign Service (as described in subsection (b)), may participate in the Office of Personnel Management's Interagency Placement programs or any successor program. Such members of the Foreign Service shall be treated in the same manner as employees participating in such a program as of the effective date of this Act.

(b) CERTAIN MEMBERS OF THE FOREIGN SERVICE.—For purposes of this section, the term "members of the Foreign Service" means any individual holding a career or career candidate appointment under chapter 3 of the Foreign Service Act of 1980.

SEC. 180. UNITED STATES CITIZENS HIRED ABROAD.

(a) AMENDMENTS TO THE FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended as follows:

(1) Section 309(b) of such Act is amended— 22 USC 3949.

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4); and

(C) by inserting at the end "; and (5) as a foreign national employee.".

(2) Section 311 of such Act is amended to read as follows: 22 USC 3951.

"(a) The Secretary, under section 303, may appoint United States citizens, who are family members of government employees assigned abroad or are hired for service at their post of residence, for employment in positions customarily filled by Foreign Service officers, Foreign Service personnel, and foreign national employees.

"(b) The fact that an applicant for employment in a position referred to in subsection (a) is a family member of a Government employee assigned abroad shall be considered an affirmative factor in employing such person.

"(c)(1) Non-family members employed under this section for service at their post of residence shall be paid in accordance with local compensation plans established under section 408.

"(2) Family members employed under this section shall be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407.

"(3) In exceptional circumstances, non-family members may be paid in accordance with the Foreign Service Schedule or the salary rates established under section 407, if the Secretary determines that the national interest would be served by such payments.

"(d) Nonfamily member United States citizens employed under this section shall not be eligible for benefits under chapter 8 of this Act, or under chapters 83 or 84 of title 5, United States Code.".

(3) Section 404(a) of such Act is amended by striking "who are family members of Government employees paid in accordance with a local compensation plan established under". 22 USC 3964.

(4) Section 408 of such Act is amended— 22 USC 3968.

(A) in subsection (a)(1) by striking the first sentence and inserting "The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service and United States citizens employed under section 311(c)(1).";

(B) in the second sentence of subsection (a)(1), by striking "employed in the Service abroad who were hired while residing abroad and to those family members of Government employees who are paid in accordance with such plans";

(C) in the third sentence of subsection (a)(1), by striking "foreign national" each place it appears; and

(D) by adding at the end of subsection (a)(1) the following: "For United States citizens under a compensation plan, the Secretary shall (A) provide such citizens with a total compensation package (including wages, allowances, benefits, and other employer payments, such as for social security) that has the equivalent cost to that received by foreign national employees occupying a similar position at that post and (B) define those allowances and benefits provided under United States law which shall be included as part of this total compensation package, notwithstanding any other provision of law, except that this section shall not be used to override United States minimum wage requirements, or any provision of the Social Security Act or the Internal Revenue Code.

22 USC 3984. (5) Section 504(b) of such Act is amended by inserting "(other than those employed in accordance with section 311)" after "citizen of the United States".

22 USC 4001. (6) Section 601(b)(2) of such Act is amended—

(A) by striking "and" the last place it appears; and

(B) by inserting "and other members of the Service" after "categories of career candidates,".

22 USC 4011. (7) Section 611 of such Act is amended by striking all that follows "Foreign Service Schedule" and inserting "or who is paid in accordance with section 407 or is a United States citizen paid under a compensation plan under section 408.".

22 USC 4083. (8) Section 903(a) of such Act is amended by inserting "(other than a member employed under section 311)" after "member of the Service" each place it appears.

22 USC 4102. (9) Section 1002(8)(A) of such Act is amended by inserting "a member of the Service who is a United States citizen (other than a family member) employed under section 311," after "a consular agent,".

22 USC 4131. (10) Section 1101(a)(1) of such Act is amended by inserting "(other than a United States citizen employed under section 311 who is not a family member)" after "citizen of the United States".

(b) AMENDMENTS TO THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—Section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)) is amended by inserting before the period: "; and such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States".

SEC. 181. REDUCTION IN FORCE AUTHORITY WITH REGARD TO CERTAIN MEMBERS OF THE FOREIGN SERVICE.

(a) IN GENERAL.—The Foreign Service Act of 1980 (22 U.S.C. 4001 et seq.) is amended as follows:

(1) By redesignating sections 611, 612, and 613 as sections 612, 613, and 614, respectively.

(2) By inserting after section 610 the following new section:

22 USC 4011–4013.

"SEC. 611. REDUCTIONS IN FORCE.

Regulations. 22 USC 4010a.

"(a) The Secretary may conduct reductions in force and shall prescribe regulations for the separation of members of the Service holding a career or career candidate appointment under chapter 3 of this Act, under such reductions in force which give due effect to the following:

"(1) Organizational changes.

"(2) Documented employee knowledge, skills, or competencies.

"(3) Tenure of employment.

"(4) Documented employee performance.

"(5) Military preference, subject to section 3501(a)(3) of title 5, United States Code.

"(b) The provisions of section 609 shall be applicable to any member of the Service holding a career or career candidate appointment under chapter 3 of this Act, who is separated under the provisions of this section.

"(c) An employee against whom action is taken under this section may elect either to file a grievance under chapter 11 or to appeal to the Merit Systems Protection Board under procedures prescribed by the Board. Grievances under chapter 11 shall be limited to cases of reprisal, interference in the conduct of an employee's official duties, or similarly inappropriate use of the authority of this section.".

(3) By amending section 609 (22 U.S.C. 4009)—

(A) in subsection (a)(2), by inserting "or 611" after "608(b)"; and

(B) in subsection (b) by inserting "or 611" after "608(b)".

(4) Chapter 11 of the Foreign Service Act of 1980 is amended—

(A) in section 1101(b)(3) by striking "611" and inserting "612"; and 22 USC 4131.

(B) in section 1106(8) by inserting before the period at the end of the paragraph "or with respect to any action which would delay the separation of an employee pursuant to a reduction in force conducted under section 611". 22 USC 4136.

(5) The table of contents for the Foreign Service Act is amended by striking out the items related to sections 611, 612, and 613 and inserting in lieu thereof the following:

"Sec. 611. Reductions in force.
"Sec. 612. Termination of limited appointments.
"Sec. 613. Termination of appointments of consular agents and foreign national employees.
"Sec. 614. Foreign Service awards.".

(b) MANAGEMENT RIGHTS.—Section 1005 of the Foreign Service Act of 1980 (22 U.S.C. 4105(a)) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) to conduct reductions in force, and to prescribe regulations for the separation of employees pursuant to such reductions in force conducted under section 611;".

Publication. 22 USC 4010a note.

(c) CONSULTATION.—The Secretary of State (or in the case of any other agency authorized by law to utilize the Foreign Service personnel system), the head of that agency shall consult with the Director of the Office of Personnel Management before prescribing regulations for reductions in force under section 611 of the Foreign Service Act of 1980 (as added by subsection (a) of this section), and shall publish such regulations.

SEC. 182. RESTORATION OF WITHHELD BENEFITS.

Effective date. 10 USC 1058 note.

(a) ELIGIBILITY.—With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense has approved the employment or the holding of a position pursuant to the provisions of section 1058, title 10, United States Code, before the date of enactment of this Act, the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.

10 USC 1058 note.

(b) TECHNICAL CORRECTION.—Subsection (d) of section 1433 of Public Law 103–160 is repealed.

Subpart 2—Foreign Language Competence Within the Foreign Service

SEC. 191. FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE.

22 USC 3926 note.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State shall promulgate regulations—

(1) establishing hiring preferences for Foreign Service Officer candidates competent in languages, with priority preference given to those languages in which the Department of State has a deficit;

(2) establishing a standard that employees will not receive long-term training in more than 3 languages, and requiring that employees achieve full professional proficiency (S4/R4) in 1 language as a condition for training in a third, with exceptions for priority needs of the service at the discretion of the Director General;

(3) requiring that employees receiving long-term training in a language, or hired with a hiring preference for a language, serve at least 2 tours in jobs requiring that language, with exceptions for certain limited-use languages and priority needs of the service at the discretion of the Director General;

(4) requiring that significant consideration be given to foreign language competence and use in the evaluation, assignment, and promotion of all Foreign Service Officers of the Department of State;

(5) requiring the identification of appropriate Washington, D.C. metropolitan area positions as language-designated; and

(6) requiring remedial training and suspension of language differential payments for employees receiving such payments who have failed to maintain required levels of proficiency.

(b) REPEAL.—Section 164 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4001 note; Public Law 101–246) is repealed.

SEC. 192. DESIGNATION OF FOREIGN LANGUAGE RESOURCES COORDINATOR.

22 USC 4021 note.

(a) POLICY.—It is the sense of the Congress that—

(1) the Department of State, by virtue of the Secretary's overall responsibility under section 701(a) of the Foreign Service Act of 1980 (22 U.S.C. 4011(a)) for training and instruction in the field of foreign relations to meet the needs of all Federal agencies, should take the lead in this interagency effort; and

(2) in order to promote efficiency and quality in the training provided by the Secretary of State and other Federal agencies, the Secretary should call upon other agencies to share in the joint management and coordination of Federal foreign language resources.

(b) FOREIGN LANGUAGE RESOURCES COORDINATOR.—

(1) The Secretary of State should appoint a Foreign Language Resources Coordinator (in this subsection referred to as the "Coordinator") who shall be responsible—

(A) for coordinating the efforts of the appropriate agencies of Government—

(i) to strengthen mechanisms for sharing of foreign language resources; and

(ii) to identify Federal foreign language resource requirements in the areas of diplomacy, military preparedness, international security, and other foreign policy objectives; and

(B) for making recommendations to the Secretary of State as to which Federal foreign language assets, if any, should be made available to the private sector in support of national global economic competitiveness goals.

(2) All appropriate United States Government agencies maintaining and utilizing Federal foreign language training and related resources shall cooperate fully with any Coordinator.

SEC. 193. FOREIGN LANGUAGE SERVICES.

22 USC 2695a.

(a) SURCHARGE FOR CERTAIN FOREIGN LANGUAGE SERVICES.—Notwithstanding any other provision of law, the Secretary of State is authorized to require the payment of an appropriate fee, surcharge, or reimbursement for providing other Federal agencies with foreign language translation and interpretation services.

(b) USE OF FUNDS.—Funds collected under the authority of subsection (a) shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing translation or interpretation services in any foreign language. Such funds may remain available until expended.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out international information activities, and educational and cultural exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, the Board for International Broadcasting Act, the Inspector General Act of 1978, the Center for Cultural and Technical Interchange Between North and South Act, the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $487,988,000 for the fiscal year 1994 and $494,862,000 for the fiscal year 1995.

(2) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—For the "Fulbright Academic Exchange Programs", $130,538,000 for the fiscal year 1994 and $126,312,000 for the fiscal year 1995.

(B) OTHER PROGRAMS.—For "Hubert H. Humphrey Fellowship Program", "Edmund S. Muskie Fellowship Program", "International Visitors Program", "Israeli-Arab Scholarship Program", "Mike Mansfield Fellowship Program", "Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation", "Citizen Exchange Programs", "Congress-Bundestag Exchange Program", "Newly Independent States and Eastern Europe Training", "Institute for Representative Government", "American Studies Collections", "South Pacific Exchanges", "East Timorese Scholarships", "Cambodian Scholarships", and "Arts America", $96,962,000 for the fiscal year 1994 and $97,046,000 for the fiscal year 1995.

(3) BROADCASTING TO CUBA.—For "Broadcasting to Cuba", $21,000,000 for the fiscal year 1994 and $27,609,000 for the fiscal year 1995.

(4) INTERNATIONAL BROADCASTING ACTIVITIES.—For "International Broadcasting Activities" under title III, $541,676,000 for the fiscal year 1994, and $609,740,000 for the fiscal year 1995.

(5) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $4,247,000 for the fiscal year 1994 and $4,396,000 for the fiscal year 1995.

(6) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For "Center for Cultural and Technical Interchange between East and West", $26,000,000 for the fiscal year 1994 and $24,500,000 for the fiscal year 1995.

(7) TITLE V OF PUBLIC LAW 98–164.—To carry out title V of Public Law 98–164, $35,000,000 for the fiscal year 1994 and $35,000,000 for the fiscal year 1995.

(b) LIMITATIONS.—

(1) Of the amounts authorized to be appropriated for "Salaries and Expenses" under section 201(a)(1) for fiscal year 1995, $500,000 is authorized to be appropriated for expenses and activities related to United States participation in the 1996 Budapest World's Fair (Budapest Expo '96).

(2) Of the amounts authorized to be appropriated for "Fulbright Academic Exchange Programs" under subsection (a)(2)(A)—

(A) $3,000,000 is authorized to be available for fiscal year 1995 for the Vietnam Scholarship Program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138); and

(B) $1,500,000 is authorized to be available for fiscal year 1994 and $2,000,000 is authorized to be available for fiscal year 1995, for the "Environment and Sustainable Development Exchange Program" established by section 241.

(3) Of the amounts authorized to be appropriated for "Other Programs" under subsection (a)(2)(B) $1,000,000 is authorized to be available for each of the fiscal years 1994 and 1995 for the "American Studies Collections" program established under section 235.

PART B—USIA AND RELATED AGENCIES AUTHORITIES AND ACTIVITIES

SEC. 221. USIA OFFICE IN LHASA, TIBET.

(a) ESTABLISHMENT OF OFFICE.—The Director of the United States Information Agency shall seek to establish an office in Lhasa, Tibet, for the purpose of—

(1) disseminating information about the United States;

(2) promoting discussions on conflict resolution and human rights;

(3) facilitating United States private sector involvement in educational and cultural activities in Tibet; and

(4) advising the United States Government with respect to Tibetan public opinion.

(b) REPORT BY THE DIRECTOR OF USIA.—Not later than April 1 of each year, the Director of the United States Information Agency shall submit a detailed report on developments relating to the implementation of this section to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 222. CHANGES IN ADMINISTRATIVE AUTHORITIES.

Section 801 of the United States Informational and Educational Exchange Act of 1948 (22 U.S.C. 1471) is amended—

(1) in paragraph (5) by striking "and" after the semicolon;

(2) in paragraph (6) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) notwithstanding any other provision of law, to carry out projects involving security construction and related improvements for Agency facilities not physically located together with Department of State facilities abroad.".

22 USC 1474 note.

SEC. 223. EMPLOYMENT AUTHORITY.

For fiscal years 1994 and 1995, the Director of the United States Information Agency may, in carrying out the provisions of the United States Information and Educational Exchange Act of 1948, employ individuals or organizations by contract for services to be performed in the United States or abroad, who shall not, by virtue of such employment, be considered to be employees of the United States Government for the purposes of any law administered by the Office of Personnel Management, except that the Director may determine the applicability to such individuals of section 804(5) of that Act.

SEC. 224. BUYING POWER MAINTENANCE ACCOUNT.

Section 704(c) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477b(c)) is amended—

(1) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(2) by inserting "(1)" after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) In carrying out this subsection, there may be established a Buying Power Maintenance account.

"(3) In order to eliminate substantial gains to the approved levels of overseas operations for the United States Information Agency, the Director shall transfer to the Buying Power Maintenance account such amounts appropriated for 'Salaries and Expenses' as the Director determines are excessive to the needs of the approved level of operations under that appropriation account because of fluctuations in foreign currency exchange rates or changes in overseas wages and prices.

"(4) In order to offset adverse fluctuations in foreign currency exchange rates or foreign wages and prices, the Director may transfer from the Buying Power Maintenance account to the 'Salaries and Expenses' appropriations account such amounts as the Director determines are necessary to maintain the approved level of operations under that appropriation account.

"(5) Funds transferred by the Director from the Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in that other account. Funds transferred by the Director from another account to the Buying Power Maintenance account shall be merged with the funds in the Buying Power Maintenance account and shall be available for the purposes of that account until expended.

"(6) Any restriction contained in an appropriation Act or other provision of law limiting the amounts that may be obligated or expended by the United States Information Agency shall be deemed to be adjusted to the extent necessary to offset the net effect of fluctuations in foreign currency exchange rates or overseas wage and price changes in order to maintain approved levels.

"(7)(A) Subject to the limitations contained in this paragraph, not later than the end of the 5th fiscal year after the fiscal year for which funds are appropriated or otherwise made available for the 'Salaries and Expenses' account, the Director may transfer any unobligated balance of such funds to the Buying Power Maintenance account.

"(B) The balance of the Buying Power Maintenance account may not exceed $50,000,000 as a result of any transfer under this paragraph.

"(C) Any transfer pursuant to this paragraph shall be treated as a reprogramming of funds under section 705 and shall be available for obligation or expenditure only in accordance with the procedures under such section.

"(D) The authorities contained in this section may only be exercised to such an extent and in such amounts as specifically provided in advance in appropriation Acts.".

SEC. 225. CONTRACT AUTHORITY.

Section 802(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1472(b)) is amended by adding at the end the following:

"(4)(A) Notwithstanding the other provisions of this subsection, the United States Information Agency is authorized to enter into contracts for periods not to exceed 7 years for circuit capacity to distribute radio and television programs.

"(B) The authority of this paragraph may be exercised for a fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.".

SEC. 226. UNITED STATES TRANSMITTER IN KUWAIT.

None of the funds authorized to be appropriated by this or any other Act may be obligated or expended for the design, development, or construction of a United States short-wave radio transmitter in Kuwait.

SEC. 227. FULBRIGHT-HAYS ACT AUTHORITIES.

Section 105(a) of Public Law 87-256 is amended to read as follows: 22 USC 2455.

"(a) Amounts appropriated to carry out the purposes of this Act are authorized to be made available until expended.".

SEC. 228. SEPARATE LEDGER ACCOUNTS FOR NED GRANTEES.

Section 504(h)(1) of the National Endowment for Democracy Act (22 U.S.C. 4413(h)(1)) is amended by striking "accounts" and inserting "bank accounts or separate self-balancing ledger accounts".

SEC. 229. COORDINATION OF UNITED STATES EXCHANGE PROGRAMS. President.

(a) COORDINATION.—Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end the following:

"(f)(1) The President shall ensure that all exchange programs conducted by the United States Government, its departments and agencies, directly or through agreements with other parties, are reported at a time and in a format prescribed by the Director. The President shall ensure that such exchanges are consistent with United States foreign policy and avoid duplication of effort.

"(2) Not later than 90 days after the date of enactment of this subsection, and annually thereafter, the President shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report pursuant to paragraph (1). Such report shall include information for each exchange program supported by the United States on the objectives of such exchange, the number of exchange participants supported, the types of exchange activities conducted, the

total amount of Federal expenditures for such exchanges, and the extent to which such exchanges are duplicative.".

(b) REPORT BY THE DIRECTOR OF USIA.—Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report—

(1) detailing the range of exchange programs administered by the Agency;

(2) identifying possible areas of duplication of inefficiency; and

(3) recommending program consolidation and administrative restructuring as warranted.

22 USC 2452 note.

SEC. 230. LIMITATION CONCERNING PARTICIPATION IN INTERNATIONAL EXPOSITIONS.

Notwithstanding any other provision of law, the United States Information Agency shall not obligate or expend any funds for a United States Government funded pavilion or other major exhibit at any international exposition or world's fair registered by the Bureau of International Expositions in excess of amounts expressly authorized and appropriated for such purpose.

SEC. 231. PRIVATE SECTOR OPPORTUNITIES.

Section 104(e)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454) is amended by inserting before the period ", and of similar services and opportunities for interchange not supported by the United States Government".

SEC. 232. AUTHORITY TO RESPOND TO PUBLIC INQUIRIES.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) is amended by adding at the end the following new sentence: "The provisions of this section shall not prohibit the United States Information Agency from responding to inquiries from members of the public about its operations, policies, or programs.".

SEC. 233. TECHNICAL AMENDMENT RELATING TO NEAR AND MIDDLE EAST RESEARCH AND TRAINING.

Section 228(d) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note) is amended by inserting "and includes the Republic of Turkey" before the period at the end thereof.

SEC. 234. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS OF THE UNITED STATES INFORMATION AGENCY.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency may make available for distribution within the United States the following:

(1) The United States Information Agency's Thomas Jefferson Paper Show, which commemorates the 250th anniversary of the birth of Thomas Jefferson.

(2) The documentary entitled "Crimes Against Humanity", a film about the ensuing conflict in the former Yugoslavia.

SEC. 235. AMERICAN STUDIES COLLECTIONS.

22 USC 2452 note.

(a) AUTHORITY.—In order to promote a thorough understanding of the United States among emerging elites abroad, the Director of the United States Information Agency is authorized to establish and support collections at appropriate university libraries abroad to further the study of the United States, and to enter into agreements with such universities for such purposes.

(b) DESIGN AND DEVELOPMENT.—Such collections—

(1) shall be developed in consultation with United States associations and organizations of scholars in the principal academic disciplines in which American studies are conducted; and

(2) shall be designed primarily to meet the needs of undergraduate and graduate students of American studies.

(c) SITE SELECTION.—In selecting universities abroad as sites for such collections, the Director shall—

(1) ensure that such universities are able, within a reasonable period of the establishment of such collections, to assume responsibility for their maintenance in current form;

(2) ensure that undergraduate and graduate students shall enjoy reasonable access to such collections; and

(3) include in any agreement entered into between the United States Information Agency and a university abroad, terms embodying a contractual commitment of such maintenance and access under this subsection.

(d) FUNDING.—

(1) The Director of the United States Information Agency is authorized to establish an endowment fund (hereafter in this section referred to as the "fund") to carry out the purposes of this section and to enter into such agreements as may be necessary to carry out the purposes of this section.

(2)(A) The Director shall make deposits to the fund of amounts appropriated or otherwise made available to carry out this section.

(B) The Director is authorized to accept, use, and dispose of gifts of donations of services or property to carry out this section. Sums donated to carry out the purposes of this section shall be deposited into the fund.

(3) The corpus of the fund shall be invested in federally-insured bank savings accounts or comparable interest-bearing accounts, certificates of deposit, money market funds, obligations of the United States, or other low-risk instruments and securities.

(4) The Director may withdraw or expend amounts from the fund for any expenses necessary to carry out the purposes of this section.

(e) AVAILABILITY OF AUTHORIZATIONS OF APPROPRIATIONS.—Authorizations of appropriations for the purposes of this section shall be available without fiscal year limitation and shall remain available until used.

SEC. 236. EDUCATIONAL AND CULTURAL EXCHANGES WITH TIBET.

22 USC 2452 note.

The Director of the United States Information Agency shall establish programs of educational and cultural exchange between the United States and the people of Tibet. Such programs shall include opportunities for training and, as the Director considers

appropriate, may include the assignment of personnel and resources abroad.

22 USC 2452 note.

SEC. 237. SCHOLARSHIPS FOR EAST TIMORESE STUDENTS.

Notwithstanding any other provision of law, the Bureau of Educational and Cultural Affairs of the United States Information Agency shall make available for each of the fiscal years 1994 and 1995, scholarships for East Timorese students qualified to study in the United States for the purpose of studying at the undergraduate level in a United States college or university. Each scholarship made available under this subsection shall be for not less than one semester of study.

22 USC 2452 note.

SEC. 238. CAMBODIAN SCHOLARSHIP AND EXCHANGE PROGRAMS.

(a) PURPOSE.—It is the purpose of this section to provide financial assistance—

(1) to establish a scholarship program for Cambodian college and post-graduate students to study in the United States; and

(2) to expand Cambodian participation in exchange programs of the United States Information Agency.

(b) PROGRAM.—(1) The Director of the United States Information Agency shall establish a scholarship program to enable Cambodian college students and post-graduate students to study in the United States.

(2) The Director of the United States Information Agency shall also include qualified Cambodian citizens in exchange programs funded or otherwise sponsored by the Agency, in particular the Fulbright Academic Program, the International Visitor Program, and the Citizen Exchange Program.

(c) DEFINITION.—For the purposes of this section, the term "scholarship" means an amount to be used for full or partial support of tuition and fees to attend an educational institution, and may include fees, books, and supplies, equipment required for courses at an educational institution, living expenses at a United States educational institution, and travel expenses to and from, and within, the United States.

22 USC 2452 note.

SEC. 239. INCREASING AFRICAN PARTICIPATION IN USIA EXCHANGE PROGRAMS.

The Director of the United States Information Agency shall expand exchange program allocations to Africa, in particular Fulbright Academic Exchanges, International Visitor Programs, and Citizen Exchanges, and shall further encourage a broadening of affiliations and links between United States and African institutions.

22 USC 2452 note.

SEC. 240. ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.

(a) PURPOSE.—The purpose of this section is to establish a program to promote academic exchanges in disciplines relevant to environment and sustainable development.

(b) PROGRAM AUTHORITY.—Notwithstanding any other provision of law, the Director of the United States Information Agency, through the Bureau of Educational and Cultural Affairs, shall provide scholarships beginning in the fiscal year 1994, and for each fiscal year thereafter, for study at United States institutions of higher education in furtherance of the purpose of this section for

foreign students who have completed their undergraduate education and for postsecondary educators.

(c) GUIDELINES.—The scholarship program under this section shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall administer this program under the auspices of the Fulbright Academic Exchange Program.

(3) The United States Information Agency shall ensure the regional diversity of this program through the selection of candidates from Asia, Africa, Latin America, as well as Europe and the Middle East.

(d) DEFINITION.—For purposes of this section, the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965.

SEC. 241. SOUTH PACIFIC EXCHANGE PROGRAMS.

Grants.
22 USC 2452 note.

(a) AUTHORIZED PROGRAMS.—The Director of the United States Information Agency is authorized to award academic scholarships to qualified students from the sovereign nations of the South Pacific region to pursue undergraduate and postgraduate study at institutions of higher education in the United States; to make grants to accomplished United States scholars and experts to pursue research, to teach, or to offer training in such nations; and to make grants for youth exchanges.

(b) LIMITATION.—Grants awarded to United States scholars and experts may not exceed 10 percent of the total funds awarded for any fiscal year for programs under this section.

SEC. 242. INTERNATIONAL EXCHANGE PROGRAMS INVOLVING DISABILITY RELATED MATTERS.

22 USC 2452 note.

(a) AUTHORITY.—In carrying out the authorities of section 102(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)), the President shall ensure that such authorities are used to promote educational, cultural, medical, and scientific meetings, training, research, visits, interchanges, and other activities, with respect to disability matters, including participation by individuals with disabilities (within the meaning of section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)) in such activities, through such nonprofit organizations as have a demonstrated capability to coordinate exchange programs involving disability-related matters.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to Congress describing implementation of the requirements of this section.

(c) ANNUAL SUMMARY OF ACTIVITIES.—As part of the Congressional presentation materials submitted in connection with the annual budget request for the United States Information Agency, the Director of the Agency shall include a summary of the international exchange activities which meet the requirements of this section.

Mike Mansfield Fellowship Act.

PART C—MIKE MANSFIELD FELLOWSHIPS

22 USC 6101 note.

SEC. 251. SHORT TITLE.

This part may be cited as the "Mike Mansfield Fellowship Act".

Grants. 22 USC 6101.

SEC. 252. ESTABLISHMENT OF FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—(1) There is hereby established the "Mike Mansfield Fellowship Program" pursuant to which the Director of the United States Information Agency will make grants, subject to the availability of appropriations, to the Mansfield Center for Pacific Affairs to award fellowships to eligible United States citizens for periods of 2 years each (or, pursuant to section 253(5)(C), for such shorter period of time as the Center may determine based on a Fellow's level of proficiency in the Japanese language or knowledge of the political economy of Japan) as follows:

(A) During the first year each fellowship recipient will study the Japanese language as well as Japan's political economy.

(B) During the second year each fellowship recipient will serve as a fellow in a parliamentary office, ministry, or other agency of the Government of Japan or, subject to the approval of the Center, a nongovernmental Japanese institution associated with the interests of the fellowship recipient, and the agency of the United States Government from which the fellow originated, consistent with the purposes of this part.

(2) Fellowships under this part may be known as "Mansfield Fellowships", and individuals awarded such fellowships may be known as "Mansfield Fellows".

(b) ELIGIBILITY OF CENTER FOR GRANTS.—Grants may be made to the Center under this section only if the Center agrees to comply with the requirements of section 253.

(c) INTERNATIONAL AGREEMENT.—The Director of the United States Information Agency should enter into negotiations for an agreement with the Government of Japan for the purpose of placing fellows in the Government of Japan.

(d) PRIVATE SOURCES.—The Center is authorized to accept, use, and dispose of gifts or donations of services or property in carrying out the fellowship program, subject to the review and approval of the Director of the United States Information Agency.

(e) USE OF FEDERAL FACILITIES.—The National Foreign Affairs Training Center is authorized and encouraged to assist, on a reimbursable basis, in carrying out Japanese language training by the Center through the provision of teachers, classroom space, teaching materials, and facilities, to the extent that such provision is not detrimental to the Institute's carrying out its other responsibilities under law.

22 USC 6102.

SEC. 253. PROGRAM REQUIREMENTS.

The program established under this part shall comply with the following requirements:

(1) United States citizens who are eligible for fellowships under this part shall be employees of the Federal Government having at least two years experience in any branch of the Government, a strong career interest in United States-Japan relations, and a demonstrated commitment to further service

in the Federal Government, and such other qualifications as are determined by the Center.

(2) Not more than 10 fellowships may be awarded each year of which not more than 3 shall be awarded to individuals who are not detailed employees of the Government.

(3)(A) Fellows shall agree to maintain satisfactory progress in language training and appropriate behavior in Japan, as determined by the Center, as a condition of continued receipt of Federal funds.

(B) Fellows who are not detailees shall agree to return to the Federal Government for further employment for a period of at least 2 years following the end of their fellowships, unless, in the determination of the Center, the fellow is unable (for reasons beyond the fellow's control and after receiving assistance from the Center as provided in paragraph (8)) to find reemployment for such period.

(4) During the period of the fellowship, the Center shall provide—

(A) to each fellow who is not a detailee a stipend at a rate of pay equal to the rate of pay that individual was receiving when he or she entered the program, plus a cost-of-living adjustment calculated at the same rate of pay, and for the same period of time, for which such adjustments were made to the salaries of individuals occupying competitive positions in the civil service during the same period as the fellowship; and

(B) to each fellow (including detailees) certain allowances and benefits as that individual would have been entitled to, but for his or her separation from Government service, as a United States Government civilian employee overseas under the Standardized Regulations (Government Civilians, Foreign Areas) of the Department of State, as follows: a living quarters allowance to cover the higher cost of housing in Japan, a post allowance to cover the significantly higher costs of living in Japan, an education allowance to assist parents in providing their children with educational services ordinarily provided without charge by United States public schools, moving expenses of up to $1,000 for personal belongings of fellows and their families in their move to Japan and one-round-trip economy-class airline ticket to Japan for each fellow and the fellow's immediate family.

(5)(A) For the first year of each fellowship, the Center shall provide fellows with intensive Japanese language training in the Washington, D.C., area, as well as courses in the political economy of Japan.

(B) Such training shall be of the same quality as training provided to Foreign Service officers before they are assigned to Japan.

(C) The Center may waive any or all of the training required by subparagraph (A) to the extent that a fellow has Japanese language skills or knowledge of Japan's political economy, and the 2-year fellowship period shall be shortened to the extent such training is less than one year.

(6) Any fellow who is not a detailee who does not comply with the requirements of this section shall reimburse the United States Information Agency for the Federal funds expended for

the Fellow's participation in the fellowship, together with interest on such funds (calculated at the prevailing rate), as follows:

(A) Full reimbursement for noncompliance with paragraph (3)(A) or (9).

(B) Pro rata reimbursement for noncompliance with paragraph (3)(B) for any period the fellow is reemployed by the Federal Government that is less than the period specified in paragraph (3)(B), at a rate equal to the amount the fellow received during the final year of the fellowship for the same period of time, including any allowances and benefits provided under paragraph (4).

(7) The Center shall select fellows based solely on merit. The Center shall make positive efforts to recruit candidates reflecting the cultural, racial, and ethnic diversity of the United States.

(8) The Center shall assist, to the extent possible, any fellow who is not a detailee in finding employment in the Federal Government if such fellow was not able, at the end of the fellowship, to be reemployed in the agency from which he or she separated to become a fellow.

(9) No fellow may engage in any intelligence or intelligence-related activity on behalf of the United States Government.

(10) The financial records of the Center shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the financial records of the Center are normally kept. All books, financial records, files, and other papers, things, and property belonging to or in use by the Center and necessary to facilitate the audit shall be made available to the person or persons conducting the audit, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

Reports.

(11) The Center shall provide a report of the audit to the Director of the United States Information Agency no later than six months following the close of the fiscal year for which the audit is made. The report shall set forth the scope of the audit and include such statements, together with the independent auditor's opinion of those statements, as are necessary to present fairly the Center's assets and liabilities, surplus or deficit, with reasonable detail, including a statement of the Center's income and expenses during the year, including a schedule of all contracts and grants requiring payments in excess of $5,000 and any payments of compensation, salaries, or fees at a rate in excess of $5,000 per year. The report shall be produced in sufficient copies for the public.

22 USC 6103.

SEC. 254. SEPARATION OF GOVERNMENT PERSONNEL DURING THE FELLOWSHIPS.

(a) SEPARATION.—Under such terms and conditions as the agency head may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts a fellowship

under the program established by this part and is not detailed under section 255.

(b) REEMPLOYMENT.—Any fellow who is not a detailee, at the end of the fellowship, is entitled to be reemployed in the same manner as if covered by section 3582 of title 5, United States Code.

(c) RIGHTS AND BENEFITS.—Notwithstanding section 8347(o), 8713, or 8914 of title 5, United States Code, and in accordance with regulations of the Office of Personnel Management, an employee, while serving as a fellow who is not a detailee, is entitled to the same rights and benefits as if covered by section 3582 of title 5, United States Code. The Center shall reimburse the employing agency for any costs incurred under section 3582 of title 5, United States Code.

(d) COMPLIANCE WITH BUDGET ACT.—Funds are available under this section to the extent and in the amounts provided in appropriation Acts.

SEC. 255. MANSFIELD FELLOWS ON DETAIL FROM GOVERNMENT SERVICE. 22 USC 6104.

(a) IN GENERAL.—(1) An agency head may detail, for a period of not more than 2 years, an employee of the agency who has been awarded a Mansfield Fellowship, to the Center.

(2) Each fellow who is detailed under this section shall enter into a written agreement with the Federal Government before receiving a fellowship that the fellow will—

(A) continue in the service of the fellow's agency at the end of the fellowship for a period of at least 2 years unless the fellow is involuntarily separated from the service of such agency; and

(B) pay to the United States Information Agency any additional expenses incurred by the Federal Government in connection with the fellowship if the fellow is voluntarily separated from service with the fellow's agency before the end of the period for which the fellow has agreed to continue in the service of such agency.

(3) The payment agreed to under paragraph (2)(B) may not be required of a fellow who leaves the service of such agency to enter into the service of another agency in any branch of the United States Government unless the head of the agency that authorized the fellowship notifies the employee before the effective date of entry into the service of the other agency that payment will be required under this section.

(b) STATUS AS GOVERNMENT EMPLOYEE.—A fellow detailed under subsection (a) is deemed, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of such allowances and other benefits from appropriations available therefore is deemed to comply with section 5536 of title 5, United States Code.

(c) REIMBURSEMENT.—Fellows may be detailed under subsection (a) without reimbursement to the United States by the Center.

(d) ALLOWANCES AND BENEFITS.—A fellow detailed under subsection (a) may be paid by the Center for allowances and benefits listed in section 253(4)(B).

22 USC 6105.

SEC. 256. LIABILITY FOR REPAYMENTS.

If any fellow fails to fulfill the fellow's agreement to pay the United States Information Agency for the expenses incurred by the United States Information Agency in connection with the fellowship, a sum equal to the amount of the expenses of the fellowship shall be recoverable by the United States Information Agency from the fellow (or a legal representative) by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the fellow from the Federal Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Federal Government.

22 USC 6106.

SEC. 257. DEFINITIONS.

For purposes of this part—

(1) the term "agency of the United States Government" includes any agency of the legislative branch and any court of the judicial branch as well as any agency of the executive branch;

(2) the term "agency head" means—

(A) in the case of the executive branch of Government or an agency of the legislative branch other than the House of Representatives or the Senate, the head of the respective agency;

(B) in the case of the judicial branch of Government, the chief judge of the respective court;

(C) in the case of the Senate, the President pro tempore, in consultation with the Majority Leader and Minority Leader of the Senate; and

(D) in the case of the House of Representatives, the Speaker of the House, in consultation with the Majority Leader and Minority Leader of the House;

(3) the term "Center" means the Mansfield Center for Pacific Affairs; and

(4) the term "detailee" means an employee of an agency of the United States Government on assignment or loan to the Mansfield Center for Pacific Affairs without a change of position from the agency by which he or she is employed.

United States International Broadcasting Act of 1994.

TITLE III—UNITED STATES INTERNATIONAL BROADCASTING ACT

22 USC 6201 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "United States International Broadcasting Act of 1994".

22 USC 6201.

SEC. 302. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

The Congress makes the following findings and declarations:

(1) It is the policy of the United States to promote the right of freedom of opinion and expression, including the freedom "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with Article 19 of the Universal Declaration of Human Rights.

(2) Open communication of information and ideas among the peoples of the world contributes to international peace

and stability and the promotion of such communication is in the interests of the United States.

(3) It is in the interest of the United States to support broadcasting to other nations consistent with the requirements of this title.

(4) The continuation of existing United States international broadcasting, and the creation of a new broadcasting service to the people of the People's Republic of China and other countries of Asia which lack adequate sources of free information, would enhance the promotion of information and ideas, while advancing the goals of United States foreign policy.

(5) The reorganization and consolidation of United States international broadcasting will achieve important economies and strengthen the capability of the United States to use broadcasting to support freedom and democracy in a rapidly changing international environment.

SEC. 303. STANDARDS AND PRINCIPLES. 22 USC 6202.

(a) BROADCASTING STANDARDS.—United States international broadcasting shall—

(1) be consistent with the broad foreign policy objectives of the United States;

(2) be consistent with the international telecommunications policies and treaty obligations of the United States;

(3) not duplicate the activities of private United States broadcasters;

(4) not duplicate the activities of government supported broadcasting entities of other democratic nations;

(5) be conducted in accordance with the highest professional standards of broadcast journalism;

(6) be based on reliable information about its potential audience; and

(7) be designed so as to effectively reach a significant audience.

(b) BROADCASTING PRINCIPLES.—United States international broadcasting shall include—

(1) news which is consistently reliable and authoritative, accurate, objective, and comprehensive;

(2) a balanced and comprehensive projection of United States thought and institutions, reflecting the diversity of United States culture and society;

(3) clear and effective presentation of the policies of the United States Government and responsible discussion and opinion on those policies;

(4) programming to meet needs which remain unserved by the totality of media voices available to the people of certain nations;

(5) information about developments in each significant region of the world;

(6) a variety of opinions and voices from within particular nations and regions prevented by censorship or repression from speaking to their fellow countrymen;

(7) reliable research capacity to meet the criteria under this section;

(8) adequate transmitter and relay capacity to support the activities described in this section; and

(9) training and technical support for independent indigenous media through government agencies or private United States entities.

President.
22 USC 6203.

SEC. 304. ESTABLISHMENT OF BROADCASTING BOARD OF GOVERNORS.

(a) ESTABLISHMENT.—There is hereby established within the United States Information Agency a Broadcasting Board of Governors (hereafter in this title referred to as the "Board").

(b) COMPOSITION OF THE BOARD.—

(1) The Board shall consist of 9 members, as follows:

(A) 8 voting members who shall be appointed by the President, by and with the advice and consent of the Senate.

(B) The Director of the United States Information Agency who shall also be a voting member.

(2) The President shall designate one member (other than the Director of the United States Information Agency) as Chairman of the Board.

(3) Exclusive of the Director of the United States Information Agency, not more than 4 of the members of the Board appointed by the President shall be of the same political party.

(c) TERM OF OFFICE.—The term of office of each member of the Board shall be three years, except that the Director of the United States Information Agency shall remain a member of the Board during the Director's term of service. Of the other 8 voting members, the initial terms of office of two members shall be one year, and the initial terms of office of 3 other members shall be two years, as determined by the President. The President shall appoint, by and with the advice and consent of the Senate, Board members to fill vacancies occurring prior to the expiration of a term, in which case the members so appointed shall serve for the remainder of such term. Any member whose term has expired may serve until a successor has been appointed and qualified. When there is no Director of the United States Information Agency, the acting Director of the agency shall serve as a member of the Board until a Director is appointed.

(d) SELECTION OF BOARD.—Members of the Board appointed by the President shall be citizens of the United States who are not regular full-time employees of the United States Government. Such members shall be selected by the President from among Americans distinguished in the fields of mass communications, print, broadcast media, or foreign affairs.

(e) COMPENSATION.—Members of the Board, while attending meetings of the Board or while engaged in duties relating to such meetings or in other activities of the Board pursuant to this section (including travel time) shall be entitled to receive compensation equal to the daily equivalent of the compensation prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code. While away from their homes or regular places of business, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently. The Director of the United States Information Agency shall not be entitled to any compensation under this title, but may be allowed travel expenses as provided under this subsection.

(f) DECISIONS.—Decisions of the Board shall be made by majority vote, a quorum being present. A quorum shall consist of 5 members.

SEC. 305. AUTHORITIES OF THE BOARD. 22 USC 6204.

(a) AUTHORITIES.—The Board shall have the following authorities:

(1) To direct and supervise all broadcasting activities conducted pursuant to this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

(2) To review and evaluate the mission and operation of, and to assess the quality, effectiveness, and professional integrity of, all such activities within the context of the broad foreign policy objectives of the United States.

(3) To ensure that United States international broadcasting is conducted in accordance with the standards and principles contained in section 303.

(4) To review, evaluate, and determine, at least annually, the addition or deletion of language services.

(5) To make and supervise grants for broadcasting and related activities in accordance with sections 308 and 309.

(6) To allocate funds appropriated for international broadcasting activities among the various elements of the International Broadcasting Bureau and grantees, subject to the limitations in sections 308 and 309 and subject to reprogramming notification requirements in law for the reallocation of funds.

(7) To review engineering activities to ensure that all broadcasting elements receive the highest quality and cost-effective delivery services.

(8) To undertake such studies as may be necessary to identify areas in which broadcasting activities under its authority could be made more efficient and economical.

(9) To submit to the President and the Congress, through the Director of the United States Information Agency, an annual report which summarizes and evaluates activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act. Reports.

(10) To the extent considered necessary to carry out the functions of the Board, procure supplies, services, and other personal property.

(11) To appoint such staff personnel for the Board as the Board may determine to be necessary, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(12) To obligate and expend, for official reception and representation expenses, such amount as may be made available through appropriations (which for each of the fiscal years 1994 and 1995 may not exceed the amount made available to the Board for International Broadcasting for such purposes for fiscal year 1993).

(13) To make available in the annual report required by paragraph (9) information on funds expended on administrative and managerial services by the Bureau and by grantees and

the steps the Board has taken to reduce unnecessary overhead costs for each of the broadcasting services.

(14) The Board may provide for the use of United States Government transmitter capacity for relay to Radio Free Asia.

(b) BROADCASTING BUDGETS.—

(1) The Director of the Bureau and the grantees identified in sections 308 and 309 shall submit proposed budgets to the Board. The Board shall forward its recommendations concerning the proposed budget for the Board and broadcasting activities under this title, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act to the Director of the United States Information Agency for the consideration of the Director as a part of the Agency's budget submission to the Office of Management and Budget.

(2) The Director of the United States Information Agency shall include in the Agency's submission to the Office of Management and Budget the comments and recommendations of the Board concerning the proposed broadcasting budget.

(c) IMPLEMENTATION.—The Director of the United States Information Agency and the Board, in carrying out their functions, shall respect the professional independence and integrity of the International Broadcasting Bureau, its broadcasting services, and grantees.

(d) TECHNICAL AMENDMENT.—

(1) Section 4 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465b) is amended by striking "and the Associate Director for Broadcasting of the United States Information Agency" and inserting "of the Voice of America".

(2) Section 5(b) of the Radio Broadcasting to Cuba Act (22 U.S.C.1465c(b)) is amended by striking "Director and Associate Director for Broadcasting of the United States Information Agency" and inserting "Broadcasting Board of Governors".

22 USC 6205.

SEC. 306. FOREIGN POLICY GUIDANCE.

To assist the Board in carrying out its functions, the Secretary of State, acting through the Director of the United States Information Agency, shall provide information and guidance on foreign policy issues to the Board.

22 USC 6206.

SEC. 307. INTERNATIONAL BROADCASTING BUREAU.

(a) ESTABLISHMENT.—There is hereby established an International Broadcasting Bureau within the United States Information Agency (hereafter in this title referred to as the "Bureau"), to carry out all nonmilitary international broadcasting activities supported by the United States Government other than those described in sections 308 and 309.

(b) SELECTION OF THE DIRECTOR OF THE BUREAU.—

(1) The Director of the Bureau shall be appointed by the Chairman of the Board, in consultation with the Director of the United States Information Agency and with the concurrence of a majority of the Board. The Director of the Bureau shall be entitled to receive compensation at the rate prescribed by law for level IV of the Executive Schedule.

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of the International Broadcasting Bureau, the United States Information Agency.".

SEC. 308. LIMITS ON GRANTS FOR RADIO FREE EUROPE AND RADIO LIBERTY. 22 USC 6207.

(a) BOARD OF RFE/RL, INCORPORATED.—The Board may not make any grant to RFE/RL, Incorporated, unless the certificate of incorporation of RFE/RL, Incorporated, has been amended to provide that—

(1) the Board of Directors of RFE/RL, Incorporated, shall consist of the members of the Broadcasting Board of Governors established under section 304 and of no other members; and

(2) such Board of Directors shall make all major policy determinations governing the operation of RFE/RL, Incorporated, and shall appoint and fix the compensation of such managerial officers and employees of RFE/RL, Incorporated, as it considers necessary to carry out the purposes of the grant provided under this title.

(b) LOCATION OF PRINCIPAL PLACE OF BUSINESS.—

(1) The Board may not make any grant to RFE/RL, Incorporated unless the headquarters of RFE/RL, Incorporated and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

(2) Not later than 90 days after confirmation of all members of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of RFE/RL, Incorporated who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C. Reports.

(c) LIMITATION ON GRANT AMOUNTS.—The total amount of grants made by the Board for the operating costs of Radio Free Europe and Radio Liberty may not exceed $75,000,000 for any fiscal year after fiscal year 1995.

(d) ALTERNATIVE GRANTEE.—If the Board determines at any time that RFE/RL, Incorporated, is not carrying out the functions described in section 309 in an effective and economical manner, the Board may award the grant to carry out such functions to another entity after soliciting and considering applications from eligible entities in such manner and accompanied by such information as the Board may reasonably require.

(e) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make RFE/RL, Incorporated a Federal agency or instrumentality.

(f) AUTHORITY.—Grants authorized under section 305 for RFE/RL, Incorporated, shall be available to make annual grants for the purpose of carrying out similar functions as were carried out by RFE/RL, Incorporated, on the day before the date of enactment of this Act with respect to Radio Free Europe and Radio Liberty, consistent with section 2 of the Board for International Broadcasting Act of 1973, as in effect on such date.

(g) GRANT AGREEMENT.—Grants to RFE/RL, Incorporated, by the Board shall only be made in compliance with a grant agreement. The grant agreement shall establish guidelines for such grants. The grant agreement shall include the following provisions—

(1) that a grant be used only for activities which the Board determines are consistent with the purposes of subsection (f);

(2) that RFE/RL, Incorporated, shall otherwise comply with the requirements of this section;

(3) that failure to comply with the requirements of this section may result in suspension or termination of a grant without further obligation by the Board or the United States;

(4) that duplication of language services and technical operations between RFE/RL, Incorporated and the International Broadcasting Bureau be reduced to the extent appropriate, as determined by the Board; and

(5) that RFE/RL, Incorporated, justify in detail each proposed expenditure of grant funds, and that such funds may not be used for any other purpose unless the Board gives its prior written approval.

(h) PROHIBITED USES OF GRANT FUNDS.—No grant funds provided under this section may be used for the following purposes:

(1)(A) Except as provided in subparagraph (B), to pay any salary or other compensation, or enter into any contract providing for the payment of salary or compensation in excess of the rates established for comparable positions under title 5 of the United States Code or the foreign relations laws of the United States, except that no employee may be paid a salary or other compensation in excess of the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(B) Salary and other compensation limitations under subparagraph (A) shall not apply prior to October 1, 1995, with respect to any employee covered by a union agreement requiring a salary or other compensation in excess of such limitations.

(2) For any activity for the purpose of influencing the passage or defeat of legislation being considered by Congress.

(3) To enter into a contract or obligation to pay severance payments for voluntary separation for employees hired after December 1, 1990, except as may be required by United States law or the laws of the country where the employee is stationed.

(4) For first class travel for any employee of RFE/RL, Incorporated, or the relative of any employee.

(5) To compensate freelance contractors without the approval of the Board.

Effective dates.

(i) REPORT ON MANAGEMENT PRACTICES.—(1) Effective not later than March 31 and September 30 of each calendar year, the Inspector General of the United States Information Agency shall submit to the Board, the Director of the United States Information Agency, and the Congress a report on management practices of RFE/RL, Incorporated, under this section. The Inspector General of the United States Information Agency shall establish a special unit within the Inspector General's office to monitor and audit the activities of RFE/RL, Incorporated, and shall provide for on-site monitoring of such activities.

(j) AUDIT AUTHORITY.—

(1) Such financial transactions of RFE/RL, Incorporated, as relate to functions carried out under this section may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of RFE/RL, Incorporated, are normally kept.

(2) Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, papers, and property belonging to or in use by RFE/RL, Incorporated pertaining to such financial transactions and necessary to facilitate an audit. Such representatives shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of RFE/RL, Incorporated, shall remain in the possession and custody of RFE/RL, Incorporated.

(3) Notwithstanding any other provision of law and upon repeal of the Board for International Broadcasting Act, the Inspector General of the United States Information Agency is authorized to exercise the authorities of the Inspector General Act of 1978 with respect to RFE/RL, Incorporated.

(k) PLAN FOR RELOCATION.—None of the funds authorized to be appropriated for the fiscal years 1994 or 1995 may be used to relocate the offices or operations of RFE/RL, Incorporated from Munich, Germany, unless—

(1) such relocation is specifically provided for in an appropriation Act or pursuant to a reprogramming notification; and

(2)(A) such relocation is authorized by the Board and the Board submits to the Comptroller General of the United States and the appropriate Congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation; or

(B) prior to the confirmation of all members of the Board, such relocation is authorized by the President, the President certifies that a significant national interest requires that such relocation determination be made before the confirmation of all members of the Board, and the President submits to the Comptroller General of the United States and the appropriate congressional committees a detailed plan for such relocation, including cost estimates and any and all fiscal data, audits, business plans, and other documents which justify such relocation.

(l) REPORTS ON PERSONNEL CLASSIFICATION.—Not later than 90 days after the date of confirmation of all members of the Board, the Board shall submit a report to the Congress containing a justification, in terms of the types of duties performed at specific rates of salary and other compensation, of the classification of personnel employed by RFE/RL, Incorporated. The report shall include a comparison of the rates of salary or other compensation and classifications provided to employees of RFE/RL, Incorporated, with the rates of salary or other compensation and classifications of employees of the Voice of America stationed overseas in comparable positions and shall identify any disparities and steps which should be taken to eliminate such disparities.

SEC. 309. RADIO FREE ASIA. 22 USC 6208.

(a) AUTHORITY.—

(1) Grants authorized under section 305 shall be available to make annual grants for the purpose of carrying out radio broadcasting to the following countries: The People's Republic of China, Burma, Cambodia, Laos, North Korea, Tibet, and Vietnam.

(2) Such broadcasting service shall be referred to as "Radio Free Asia".

(b) FUNCTIONS.—Radio Free Asia shall—

(1) provide accurate and timely information, news, and commentary about events in the respective countries of Asia and elsewhere; and

(2) be a forum for a variety of opinions and voices from within Asian nations whose people do not fully enjoy freedom of expression.

(c) SUBMISSION OF DETAILED PLAN FOR RADIO FREE ASIA.—

(1) No grant may be awarded to carry out this section unless the Board, through the Director of the United States Information Agency, has submitted to Congress a detailed plan for the establishment and operation of Radio Free Asia, including—

(A) a description of the manner in which Radio Free Asia would meet the funding limitations provided in subsection (d)(4);

(B) a description of the numbers and qualifications of employees it proposes to hire; and

(C) how it proposes to meet the technical requirements for carrying out its responsibilities under this section.

(2) The plan required by paragraph (1) shall be submitted not later than 90 days after the date on which all members of the Board are confirmed.

(3) No grant may be awarded to carry out the provisions of this section unless the plan submitted by the Board includes a certification by the Board that Radio Free Asia can be established and operated within the funding limitations provided for in subsection (d)(4) and subsection (d)(5).

(4) If the Board determines that a Radio Free Asia cannot be established or operated effectively within the funding limitations provided for in this section, the Board may submit, through the Director of the United States Information Agency, an alternative plan and such proposed changes in legislation as may be necessary to the appropriate congressional committees.

(d) GRANT AGREEMENT.—Any grant agreement or grants under this section shall be subject to the following limitations and restrictions:

(1)(A) The Board may not make any grant to Radio Free Asia unless the headquarters of Radio Free Asia and its senior administrative and managerial staff are in a location which ensures economy, operational effectiveness, and accountability to the Board.

Reports.

(B) Not later than 90 days after confirmation of the Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of Radio Free Asia who will be located within the metropolitan area of Washington, D.C., and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.

(2) Any grant agreement under this section shall require that any contract entered into by Radio Free Asia shall specify that all obligations are assumed by Radio Free Asia and not by the United States Government, and shall further specify that funds to carry out the activities of Radio Free Asia may not be available after September 30, 1999.

(3) Any grant agreement shall require that any lease agreements entered into by Radio Free Asia shall be, to the maximum extent possible, assignable to the United States Government.

(4) Grants made for the operating costs of Radio Free Asia may not exceed $22,000,000 in any fiscal year.

(5) The total amount of grant funds made available for one-time capital costs of Radio Free Asia may not exceed $8,000,000.

(6) Grants awarded under this section shall be made pursuant to a grant agreement which requires that grant funds be used only for activities consistent with this section, and that failure to comply with such requirements shall permit the grant to be terminated without fiscal obligation to the United States.

(e) LIMITATIONS ON ADMINISTRATIVE AND MANAGERIAL COSTS.—It is the sense of the Congress that administrative and managerial costs for operation of Radio Free Asia should be kept to a minimum and, to the maximum extent feasible, should not exceed the costs that would have been incurred if Radio Free Asia had been operated as a Federal entity rather than as a grantee.

(f) ASSESSMENT OF THE EFFECTIVENESS OF RADIO FREE ASIA.— Reports.
Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on—

(1) whether Radio Free Asia is technically sound and cost-effective,

(2) whether Radio Free Asia consistently meets the standards for quality and objectivity established by this title,

(3) whether Radio Free Asia is received by a sufficient audience to warrant its continuation,

(4) the extent to which such broadcasting is already being received by the target audience from other credible sources; and

(5) the extent to which the interests of the United States are being served by maintaining broadcasting of Radio Free Asia.

(g) SUNSET PROVISION.—The Board may not make any grant President.
for the purpose of operating Radio Free Asia after September 30, 1998, unless the President of the United States determines in the President's fiscal year 1999 budget submission that continuation of funding for Radio Free Asia for 1 additional year is in the interest of the United States.

(h) NOTIFICATION AND CONSULTATION REGARDING DISPLACEMENT OF VOICE OF AMERICA BROADCASTING.—The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia. The Chairman of the Board shall consult with such committees on the impact of any such reduction in Voice of America broadcasting activities.

(i) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—Nothing in this title may be construed to make Radio Free Asia a Federal agency or instrumentality.

22 USC 6209.

SEC. 310. TRANSITION.

President.

(a) AUTHORIZATION.—

(1) The President is authorized consistent with the purposes of this Act to direct the transfer of all functions and authorities from the Board for International Broadcasting to the United States Information Agency, the Board, or the Bureau as may be necessary to implement this title.

(2)(A) Not later than 120 days after the date of enactment of this Act, the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting shall jointly prepare and submit to the President for approval and implementation a plan to implement the provisions of this title. Such plan shall include at a minimum a detailed cost analysis to implement fully the recommendations of such plan. The plan shall identify all costs in excess of those authorized for such purposes and shall provide that any excess cost to implement the plan shall be derived only from funds authorized in section 201 of this Act.

(B) The President shall transmit copies of the approved plan, together with any recommendations for legislative changes that may be necessary, to the appropriate congressional committees.

(b) NEW APPOINTEES.—The Director of the United States Information Agency may assign employees of the Agency for service with RFE/RL, Incorporated, with the concurrence of the president of RFE/RL, Incorporated. Such assignment shall not affect the rights and benefits of such personnel as employees of the United States Information Agency.

(c) BOARD FOR INTERNATIONAL BROADCASTING PERSONNEL.—All Board for International Broadcasting full-time United States Government personnel (except special Government employees) and part-time United States Government personnel holding permanent positions shall be transferred to the United States Information Agency, the Board, or the Bureau. Such transfer shall not cause any such employee to be separated or reduced in grade or compensation.

(d) OTHER AUTHORITIES.—The Director of the United States Information Agency is authorized to utilize the provisions of titles VIII and IX of the United States Information and Educational Exchange Act of 1948, and any other authority available to the Director on the date of enactment of this Act, to the extent that the Director considers necessary in carrying out the provisions and purposes of this title.

Effective date.

(e) REPEAL.—The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed effective September 30, 1995, or the date on which all members of the Board are confirmed, whichever is earlier.

(f) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title; and

(B) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the United States Information Agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings pending before the Board for International Broadcasting at the time this title takes effect, with respect to functions transferred by this title, but such proceedings shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the termination or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been terminated or modified if this title had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Board for International Broadcasting or by or against any individual in the official capacity of such individual as an officer of the Board for International Broadcasting shall abate by reason of the enactment of this title.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Board for International Broadcasting relating to a function transferred under this title may be continued by the United States Information Agency with the same effect as if this title had not been enacted.

(6) REFERENCES.—A reference in any provision of law, reorganization plan, or other authority to the Associate Director for Broadcasting of the United States Information Agency shall be considered to be a reference to the Director of the International Broadcasting Bureau of the United States Information Agency.

(7) EFFECT ON OTHER LAWS.—The provisions of, and authorities contained in or transferred pursuant to, this title are not intended to repeal, limit, or otherwise derogate from the authorities or functions of or available to the Director of the United States Information Agency or the Secretary of State under law, reorganization plan, or otherwise, unless such provision hereof—

(A) specifically refers to the provision of law or authority existing on the effective date of this title, so affected; or

(B) is in direct conflict with such law or authority existing on the effective date of this title.

22 USC 6210.

SEC. 311. PRESERVATION OF AMERICAN JOBS.

It is the sense of the Congress that the Director of the United States Information Agency and the Chairman of the Board for International Broadcasting should, in developing the plan for consolidation and reorganization of overseas international broadcasting services, limit, to the maximum extent feasible, consistent with the purposes of the consolidation, elimination of any United States-based positions and should affirmatively seek to transfer as many positions as possible to the United States.

22 USC 6211.

SEC. 312. PRIVATIZATION OF RADIO FREE EUROPE AND RADIO LIBERTY.

(a) DECLARATION OF POLICY.—It is the sense of the Congress that, in furtherance of the objectives of section 302 of this Act, the funding of Radio Free Europe and Radio Liberty should be assumed by the private sector not later than December 31, 1999, and that the funding of Radio Free Europe and Radio Liberty Research Institute should be assumed by the private sector at the earliest possible time.

(b) PRESIDENTIAL SUBMISSION.—The President shall submit with his annual budget submission as provided for in section 307 an analysis and recommendations for achieving the objectives of subsection (a).

(c) REPORTS ON TRANSFER OF RFE/RL RESEARCH INSTITUTE.—Not later than 120 days after the date of enactment of this Act, the Board for International Broadcasting, or the Board, if established, shall submit to the appropriate congressional committees a report on the steps being taken to transfer RFE/RL Research Institute pursuant to subsection (a) and shall provide periodic progress reports on such efforts until such transfer has been achieved.

22 USC 6212.

SEC. 313. REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS.

(a) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent fiscal year, any funds appropriated for the purposes of broadcasting subject to the direction and supervision of the Board shall not be available for obligation or expenditure—

(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

(2) in excess of the authorized level of appropriations.

(b) SUBSEQUENT AUTHORIZATION.—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) APPLICATION.—The provisions of this section—

(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which

are authorized by law and administered under or pursuant to this title.

SEC. 314. DEFINITIONS. 22 USC 6213.

For the purposes of this title—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives;

(2) the term "RFE/RL, Incorporated" includes—

(A) the corporation having the corporate title described in section 307(b)(3); and

(B) any alternative grantee described in section 307(e); and

(3) the term "salary or other compensation" includes any deferred compensation or pension payments, any payments for expenses for which the recipient is not obligated to itemize, and any payments for personnel services provided to an employee of RFE/RL, Incorporated.

SEC. 315. TECHNICAL AND CONFORMING AMENDMENTS.

(a) VOICE OF AMERICA BROADCASTS.—Section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463) is repealed.

(b) ISRAEL RELAY STATION.—Section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is repealed. 104 Stat. 63.

(c) BOARD FOR INTERNATIONAL BROADCASTING ACT.—Section 4(a)(1) of the Board for International Broadcasting Act of 1973 is amended to read as follows: 22 USC 2873.

"(1) to make grants to RFE/RL, Incorporated and, until September 30, 1995, to make grants to entities established in the privatization of certain functions of RFE/RL, Incorporated in order to carry out the purposes set forth in section 2 of this Act;". Grants.

TITLE IV—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS REFORM AND PEACEKEEPING OPERATIONS

SEC. 401. UNITED NATIONS OFFICE OF INSPECTOR GENERAL.

(a) WITHHOLDING OF PORTION OF CERTAIN ASSESSED CONTRIBUTIONS.—Until a certification is made under subsection (b), the following amounts shall be withheld from obligation and expenditure (in addition to any amounts required to be withheld by any other provision of this Act):

(1) FY 1994 ASSESSED CONTRIBUTIONS FOR U.N. REGULAR BUDGET.—Of the funds appropriated for "Contributions to International Organizations" for fiscal year 1994, 10 percent of the amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(2) FY 1995 ASSESSED CONTRIBUTIONS FOR U.N. REGULAR BUDGET.—Of the funds appropriated for "Contributions to International Organizations" for fiscal year 1995, 20 percent of the

amount for United States assessed contributions to the regular budget of the United Nations shall be withheld.

(3) SUPPLEMENTAL ASSESSED PEACEKEEPING CONTRIBUTIONS.—Of the funds appropriated for "Contributions for International Peacekeeping Activities" for a fiscal year pursuant to the authorization of appropriations under section 102(d), 50 percent shall be withheld.

President.

(b) CERTIFICATION.—The certification referred to in subsection (a) is a certification by the President to the Congress that—

(1) the United Nations has established an independent office of Inspector General to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations;

(2) the Secretary General of the United Nations has appointed an Inspector General, with the approval of the General Assembly, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations;

(3) the Inspector General is authorized to—

(A) make investigations and reports relating to the administration of the programs and operations of the United Nations;

(B) have access to all records, documents, and other available materials relating to those programs and operations; and

(C) have direct and prompt access to any official of the United Nations;

(4) the United Nations has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the Inspector General;

(5) the United Nations has procedures in place designed to ensure compliance with the recommendations of the Inspector General; and

(6) the United Nations has procedures in place to ensure that all annual and other relevant reports submitted by the Inspector General are made available to the General Assembly without modification.

(c) SPECIALIZED AGENCIES.—United States representatives to the United Nations should promote complete Inspector General access to all records and officials of the specialized agencies of the United Nations, and should strive to achieve such access by fiscal year 1996.

(d) DEFINITION.—For purposes of this part, the term "Inspector General" means the head of an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

SEC. 402. UNITED STATES PARTICIPATION IN MANAGEMENT OF THE UNITED NATIONS.

It is the sense of the Congress that, consistent with the United Nations Charter, United States nationals should have equitable representation at senior management levels in the United Nations

system, especially in the Department for Administration and Mangement and in the office of the Inspector General.

SEC. 403. SENSE OF THE SENATE ON DEPARTMENT OF DEFENSE FUNDING FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of the Senate that beginning October 1, 1995, funds made available to the Department of Defense (including funds for "Operation and Maintenance") shall be available for—

(1) United States assessed or voluntary contributions for United Nations peacekeeping operations, or

(2) the unreimbursable incremental costs associated with the participation of United States Armed Forces in any United Nations peacekeeping operation (other than an operation necessary to protect American lives or United States national interests),

only to the extent that the Congress has authorized, appropriated, or otherwise approved funds for such purposes.

SEC. 404. ASSESSED CONTRIBUTIONS FOR UNITED NATIONS PEACEKEEPING OPERATIONS.

(a) REASSESSMENT OF CONTRIBUTION PERCENTAGES.—The Permanent Representative of the United States to the United Nations should make every effort to ensure that the United Nations completes an overall review and reassessment of each nation's assessed contributions for United Nations peacekeeping operations. As part of the overall review and assessment, the Permanent Representative should make every effort to advance the concept that, when appropriate, host governments and other governments in the region where a United Nations peacekeeping operation is carried out should bear a greater burden of its financial cost.

(b) LIMITATION ON UNITED STATES CONTRIBUTIONS.— 22 USC 287e note.

(1) FISCAL YEARS 1994 AND 1995.—Funds authorized to be appropriated for "Contributions for International Peacekeeping Activities" for fiscal years 1994 and 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 30.4 percent of the total of all assessed contributions for that operation, notwithstanding the last sentence of the paragraph headed "Contributions to International Organizations" in Public Law 92–544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note).

(2) SUBSEQUENT FISCAL YEARS.—Funds authorized to be appropriated for "Contributions for International Peacekeeping Activities" for any fiscal year after fiscal year 1995 shall not be available for the payment of the United States assessed contribution for a United Nations peacekeeping operation in an amount which is greater than 25 percent of the total of all assessed contributions for that operation.

(3) CONFORMING AMENDMENT.—The last sentence of the paragraph headed "Contributions to International Organizations" in Public Law 92–544, as amended by section 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (22 U.S.C. 287e note), is amended by striking "conducted by or under the auspices of the United Nations or" and inserting "(other than United Nations peacekeeping operations) conducted".

SEC. 405. UNITED STATES PERSONNEL TAKEN PRISONER WHILE SERVING IN MULTINATIONAL FORCES.

It is the sense of the Congress that—

(1) the President should take immediate steps, unilaterally and in appropriate international bodies, to assure that any United States military personnel serving as part of a multinational force who are captured are accorded protections equivalent to those accorded to prisoners of war under the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(2) the President should also take all necessary steps to bring to justice all individuals responsible for any mistreatment or torture of, or for causing the death of, United States military personnel who are captured while serving in a multinational force.

SEC. 406. TRANSMITTALS OF CERTAIN UNITED NATIONS DOCUMENTS.

Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b) is amended—

(1) by inserting "(a) PERIODIC REPORTS.—" after "SEC. 4."; and

(2) by adding at the end the following:

"(b) TRANSMITTAL OF SECURITY COUNCIL RESOLUTIONS.—Not later than 3 days (excluding Saturdays, Sundays, and legal holidays) after adoption of any resolution by the Security Council, the Secretary of State shall transmit the text of such resolution and any supporting documentation to the designated congressional committees.

"(c) REPORTS ON PEACEKEEPING OPERATIONS.—The Secretary of State shall promptly transmit to the designated congressional committees any published report prepared by the United Nations and distributed to the members of the Security Council that contains assessments of any proposed, ongoing, or concluded United Nations peacekeeping operation.".

President.
22 USC 287b note.

SEC. 407. CONSULTATIONS AND REPORTS.

(a) CONSULTATIONS AND REPORTS ON U.N. PEACEKEEPING OPERATIONS.—

(1) CONSULTATIONS.—Each month the President shall consult with the Congress on the status of United Nations peacekeeping operations.

(2) INFORMATION TO BE PROVIDED.—In connection with these consultations, the following information shall be provided each month to the designated congressional committees:

(A) With respect to ongoing United Nations peacekeeping operations, the following:

(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

(iii) An estimate of the total cost to the United Nations of each such operation for the period covered

by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution, and the estimated costs to the United States of such changes.

(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

(i) The anticipated duration, mandate, and command and control arrangements of such operation.

(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

(3) WRITTEN INFORMATION.—The information described in clauses (i) and (iii) of paragraph (2)(A) and the information described in clauses (i) and (ii) of paragraph (2)(B) shall be provided each month to the designated congressional committees in written form not later than the 10th day of that month.

(4) INTERIM INFORMATION.—(A) The President shall submit to the designated congressional committees a written interim report if, during the period between the monthly consultations required by paragraph (1), the United States learns that the United Nations Security Council is likely, before the next such consultation, to vote on a resolution that would authorize a new United Nations peacekeeping operation and that resolution was not previously reported on pursuant to paragraph (2)(B). Each interim report shall include the information described in clauses (i) and (ii) of paragraph (2)(B).

(B) Any such interim report shall be submitted not less than 5 days before the vote of the United Nations Security Council, unless the President determines that exceptional circumstances prevented compliance with the requirement to report 5 days in advance. If the President makes such a determination, the interim report shall be submitted promptly (but in no case later than 3 days after the vote) and shall include a copy of the determination and a description of the exceptional circumstances which were the basis for that determination.

(5) NOTIFICATION AND QUARTERLY REPORTS REGARDING UNITED STATES ASSISTANCE.—(A) The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations. This subparagraph does not apply to—

(i) assistance having a value of less than $3,000,000 in the case of nonreimburseable assistance or less than $14,000,000 in the case of reimburseable assistance, or

(ii) assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

(B) The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations. Each report shall describe the assistance provided for each such operation, listed by category of assistance. The report for the fourth calendar quarter of each year shall be submitted as part of the annual report required by section 4(d) of the United Nations Participation Act of 1945 (as added by subsection (b) of this section) and shall include cumulative information for the preceding calendar year.

(b) ANNUAL REPORTS.—Section 4 of the United Nations Participation Act of 1945 (22 U.S.C. 287b), as amended by the preceding section of this title, is further amended by adding at the end the following:

"(d) ANNUAL REPORT.—In addition to the report required by subsection (a), the President, at the time of submission of the annual budget request to the Congress, shall submit to the designated congressional committees a report that includes the following:

"(1) COSTS OF PEACEKEEPING OPERATIONS.—

"(A) In accordance with section 407(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, a description of all assistance provided by the United States to the United Nations to support peacekeeping operations during the previous calendar quarter and during the previous year.

"(B) With respect to United Nations peacekeeping operations—

"(i) the aggregate cost of all United Nations peacekeeping operations for the prior fiscal year;

"(ii) the costs of each United Nations peacekeeping operation for the prior fiscal year; and

"(iii) the amount of United States contributions (both assessed and voluntary) to United Nations peacekeeping operations on an operation-by-operation basis for the prior fiscal year.

"(C) With respect to other international peacekeeping operations in which the United States participates—

"(i) the aggregate cost of all such operations for the prior fiscal year;

"(ii) the costs of each such operation for the prior fiscal year; and

"(iii) the amount of United States contributions (both assessed and voluntary) to such operations on an operation-by-operation basis for the prior fiscal year.

"(D) In the case of the first 2 reports submitted pursuant to this subsection, a projection of all United States costs for United Nations peacekeeping operations during each of the next 2 fiscal years, including assessed and voluntary contributions.

"(2) OTHER MATTERS REGARDING PEACEKEEPING OPERATIONS.—

"(A) An assessment of the effectiveness of ongoing international peacekeeping operations, their relevance to United States national interests, the efforts by the United Nations and other international organizations (as applicable) to resolve the relevant armed conflicts, and the projected termination dates for all such operations.

"(B) The dollar value and percentage of total peacekeeping contracts that have been awarded to United States contractors during the previous year.

"(3) UNITED NATIONS REFORM.—

"(A)(i) A description of the status of efforts to establish and implement an independent office of the Inspector General at the United Nations.

"(ii) If an office of the Inspector General has been established at the United Nations, a discussion of whether the Inspector General is keeping the Secretary General and the members of the General Assembly fully informed about problems, deficiencies, the necessity for corrective action, and the progress of corrective action.

"(iii) For purposes of this subparagraph, the term 'office of the Inspector General' means an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

"(B) A description of the status of efforts to reduce the United States peacekeeping assessment rate.

"(C) A description of the status of other United States efforts to achieve financial and management reform at the United Nations.

"(4) MILITARY PERSONNEL PARTICIPATING IN MULTINATIONAL FORCES.—A description of—

"(A) the status under international law of members of multinational forces, including the legal status of such personnel if captured, missing, or detained;

"(B) the extent of the risk for United States military personnel who are captured while participating in multinational forces in cases where their captors fail to respect the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

"(C) the specific steps that have been taken to protect United States military personnel participating in multinational forces, together (if necessary) with any recommendations for the enactment of legislation to achieve that objective.

"(5) HUMAN RIGHTS AND U.N. PEACEKEEPING FORCES.—A description of the efforts by United Nations peacekeeping forces to promote and protect internationally recognized human rights standards, including the status of investigations in any case of alleged human rights violations during the preceding year by personnel participating in United Nations peacekeeping forces, as well as any action taken in such cases.

"(e) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term 'designated congressional committees' has the

meaning given that term by section 415 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.".

SEC. 408. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS.

Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding after section 519 (22 U.S.C. 2321m) the following:

22 USC 2321n.

"SEC. 520. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR INTERNATIONAL PEACEKEEPING OPERATIONS.

"(a) GENERAL AUTHORITY.—The President may transfer to international and regional organizations of which the United States is a member such excess defense articles as the President determines necessary to support international peacekeeping operations and other activities and operations to maintain and restore international peace and security. Such transfers shall be on such terms and conditions as the President may determine, consistent with this section.

"(b) CONDITIONALITY OF AUTHORITY.—

"(1) IN GENERAL.—The authority of subsection (a) may not be exercised with respect to an international or regional organization until the United States has entered into a written agreement with that organization providing that the value of any excess defense articles transferred under this section shall be credited against United States assessed contributions to that organization. For purposes of this paragraph, the term 'value' means such amount as may be agreed upon by the United States and the recipient organization, except that such amount may not be less than the value (as defined in section 644(m)(1) of this Act) of the articles transferred.

"(2) CREDITING OF TRANSFERS.—(A) The credit provided for pursuant to paragraph (1) shall be counted against United States assessed contributions to the recipient organization that are payable from the 'Contribution to International Peacekeeping Activities' account of the Department of State, except to the extent such credit is counted, in accordance with subparagraph (B), against an assessed contribution payable from an account established within the Department of Defense.

"(B) If—

"(i) an account is established within the Department of Defense for payment of a portion of United States assessed contributions for United Nations operations,

"(ii) excess defense articles are transferred under this section for a United Nations operation, and

"(iii) the United States assessed contribution for that operation is payable from that account,

the credit for those excess defense articles shall be counted against the assessed contribution payable from that account, but only to the extent that the value of the excess defense articles so transferred for that operation during a fiscal year does not exceed the total United States assessed contribution payable for that operation from that account during that fiscal year.

"(c) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense (or the Coast Guard);

"(2) funds available to the Department of Defense (or the Coast Guard) for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President has established procedures and requirements, comparable to those applicable under section 505 of this Act, to ensure that such excess defense articles will be used only for purposes that have been agreed to by the United States.

"(d) NOTIFICATION TO CONGRESS.— President.

"(1) IN GENERAL.—The President shall notify the designated congressional committees regarding any transfer of excess defense articles under this section in accordance with paragraph (2). This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of—

"(i) the acquisition cost and the value (as defined in section 644(m)(1) of this Act) of the excess defense articles to be transferred, and

"(ii) the aggregate acquisition cost and the aggregate value (as so defined) of all excess defense articles for which notification has been provided under this subsection during that fiscal year with respect to transfers to the same organization under this section.

"(2) TIMING OF NOTICE.—(A) The President shall notify the designated congressional committees pursuant to paragraph (1) at least 15 days before the excess defense articles are transferred under this section, except as provided in subparagraph (B).

"(B) If the President determines that an unforeseen emergency requires the immediate transfer of excess defense articles under this section, the President—

"(i) may waive the requirement of subparagraph (A) that notice be provided at least 15 days in advance of the transfer; and

"(ii) shall promptly notify the designated congressional committees of such waiver and transfer.

"(3) DESIGNATED COMMITTEES.—As used in this subsection, the term 'designated congressional committees' means the Committee on Foreign Affairs, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transporting excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—Notwithstanding any other provision of law, the President may direct the crating, packing, handling, and transporting of excess defense articles without charge to

an international or regional organization if the President determines that waiving such costs advances the foreign policy interests of the United States.

"(f) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section and to any costs of crating, packing, handling, and transporting incurred under subsection (e)(2).".

22 USC 287e note.

SEC. 409. REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) ASSESSED CONTRIBUTIONS.—For assessed contributions authorized to be appropriated for "Assessed Contributions to International Organizations" by this Act, the President may withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agencies for any calendar year if the United Nations or any such agency has failed to implement or to continue to implement consensus-based decisionmaking procedures on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states that are the major financial contributors to such assessed budgets.

President.

(b) NOTICE TO CONGRESS.—The President shall notify the Congress when a decision is made to withhold any share of the United States assessed contribution to the United Nations or its specialized agencies pursuant to subsection (a) and shall notify the Congress when the decision is made to pay any previously withheld assessed contribution. A notification under this subsection shall include appropriate consultation between the President (or the President's representative) and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(c) CONTRIBUTIONS FOR PRIOR YEARS.—Subject to the availability of appropriations, payment of assessed contributions for prior years may be made to the United Nations or any of its specialized agencies notwithstanding subsection (a) if such payment would further United States interests in that organization.

President.

(d) REPORT TO CONGRESS.—Not later than February 1 of each year, the President shall submit to the Congress a report concerning the amount of United States assessed contributions paid to the United Nations and each of its specialized agencies during the preceding calendar year.

22 USC 287e note.

(e) REPEAL OF EXISTING LAW.—Section 162 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 is amended by striking subsections (a), (b), (c), and (d).

22 USC 287e note.

SEC. 410. LIMITATION ON CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED ORGANIZATIONS.

The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

SEC. 411. UNITED NATIONS SECURITY COUNCIL MEMBERSHIP.

(a) FINDINGS.—The Congress makes the following findings:

(1) The effectiveness of the United Nations Security Council in maintaining international peace and security depends on its being representative of the membership of the United Nations.

(2) The requirement of equitable geographic distribution in Article 23 of the United Nations Charter requires that the members of the Security Council of the United Nations be chosen by nondiscriminatory means.

(3) The use of informal regional groups of the General Assembly as the sole means for election of the nonpermanent members of the Security Council is inherently discriminatory in the absence of guarantees that all member states will have the opportunity to join a regional group, and has resulted in discrimination against Israel.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should direct the Secretary of State to request the Secretary General of the United Nations to seek immediate resolution of the problem described in this section. The President shall inform the Congress of any progress in resolving this situation, together with the submission to Congress of the request for funding for the "Contributions to International Organizations" account of the Department of State for the fiscal year 1995. President.

SEC. 412. REFORMS IN THE WORLD HEALTH ORGANIZATION.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that United States contributions to the World Health Organization (WHO) should be utilized in the most effective and efficient manner possible, particularly for the reduction of diseases and disabilities in developing countries.

(b) POLICY.—The President shall direct the United States representatives to the World Health Assembly, the Executive Board, and the World Health Organization to monitor the activities of the World Health Organization to ensure that such organizations achieve— President.

(1) the timely implementation of reforms and management improvements, including those outlined in the resolutions of the 46th World Health Assembly related to the external Auditor (WHA 46.21), the Report of the Executive Board on the WHO Response to Global Change (WHA 46.16) and actions for Budgetary Reform (WHA 46.35); and

(2) the effective and efficient utilization and monitoring of resources, including—

(A) the determination of strategic and financial priorities; and

(B) the establishment of realistic and measurable targets in accordance with the established health priorities.

SEC. 413. REFORMS IN THE FOOD AND AGRICULTURE ORGANIZATION.

In light of the longstanding efforts of the United States and the other major donor nations to reform the Food and Agriculture Organization (FAO) and the findings of the ongoing investigation of the General Accounting Office, the Congress makes the following declarations:

(1) It should be the policy of the United States to promote the following reforms in the Food and Agriculture Organization:

(A) Decentralization of the administrative structure of FAO, including eliminating redundant or unnecessary headquarters staff, increased responsibilities of regional offices, increased time for consideration of budget issues by member states, and a more meaningful and direct role for member states in the decisionmaking process.

(B) Reform of the FAO Council, including formation of an executive management committee to provide oversight of management.

(C) Limitation of the term of the Director General and the number of terms which an individual may serve.

(D) Restructuring of the Technical Cooperation Program (TCP), including reducing the number of non-emergency projects funded through the TCP and establishing procedures to deploy TCP consultants, supplies, and equipment in a timely manner.

(2) In an effort to increase the presence of United States personnel at the international food agencies and to enhance the professionalism of these institutions, it should be the policy of the United States, to the maximum extent practicable, to utilize existing personnel programs such as the United States Department of Agriculture Associate Professional Officer program to place United States personnel with unique skills in the Food and Agriculture Organization, the International Fund for Agricultural Development, and the World Food Program.

SEC. 414. SENSE OF CONGRESS REGARDING ADHERENCE TO UNITED NATIONS CHARTER.

It is the sense of the Congress that—

(1) the President should seek an assurance from the Secretary General of the United Nations that the United Nations will comply with Article 100 of the United Nations Charter;

(2) neither the Secretary General of the United Nations nor his staff should seek or receive instructions from any government or from any other authority external to the United Nations; and

(3) the President should report to Congress when he receives such assurance from the Secretary General of the United Nations.

22 USC 287b note.

SEC. 415. DESIGNATED CONGRESSIONAL COMMITTEES.

For purposes of this part, the term "designated congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

PART B—GENERAL PROVISIONS AND OTHER INTERNATIONAL ORGANIZATIONS

SEC. 421. AGREEMENT ON STATE AND LOCAL TAXATION.

The President is authorized to bring into force for the United States the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, which was signed by the United States on April 21, 1992, except that, notwithstanding

the provisions of Article 1.B of such Agreement, such Agreement shall not require any refunds of monies paid with respect to tax years ending on or before December 31, 1993.

SEC. 422. CONFERENCE ON SECURITY AND COOPERATION IN EUROPE.

The President is authorized to implement, for the United States, the provisions of Annex 1 of the Decision concerning Legal Capacity and Privileges and Immunities, issued by the Council of Ministers of the Conference on Security and Cooperation in Europe on December 1, 1993, in accordance with the terms of that Annex.

SEC. 423. INTERNATIONAL BOUNDARY AND WATER COMMISSION.

(a) AUTHORIZATION TO RECEIVE PAYMENTS.—Section 2 of the American-Mexican Chamizal Convention Act of 1964 (Public Law 88–300; 22 U.S.C. 277d–18) is amended—

(1) by inserting "(a)" before "The"; and

(2) by adding at the end the following new subsections:

"(b) The United States Commissioner is authorized to receive payments of money from public or private sources in the United States or Mexico made for the purpose of sharing in the cost of replacement of the Bridge of the Americas which crosses the Rio Grande between El Paso, Texas, and Cd. Juarez, Chihuahua. Notwithstanding any other provision of law, such payments of money shall be credited to any appropriation to the Commission which is currently available. Funds received under this subsection shall be available only for the replacement of such bridge.

"(c) The authority of subsection (b) may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.".

(b) EXPENDITURES FOR WATER POLLUTION PROBLEMS.—Title I of the Act of June 20, 1956 (70 Stat. 302, 22 U.S.C. 277d–12), is amended in the fourth undesignated paragraph under the heading "INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO" by striking "Tijuana Rivers," and all that follows before the period and inserting "Tijuana Rivers, or other streams running across or near the boundary, and for taking emergency actions, consistent with the emergency provisions of the Safe Drinking Water Act, to protect against health threatening surface and ground water pollution problems along the United States-Mexico boundary".

(c) FALCON AND AMISTAD DAMS MAINTENANCE FUND.—Section 2 of the Act of June 18, 1954 (68 Stat. 255, as amended by the Act of December 23, 1963, 77 Stat. 475) is amended to read as follows:

"SEC. 2. (a) A separate fund, known as the 'Falcon and Amistad Operating and Maintenance Fund' (hereinafter referred to as the 'Maintenance Fund'), shall be created in the Treasury of the United States. The Maintenance Fund shall be administered by the Administrator of the Western Area Power Administration for use by the Commissioner of the United States Section of the International Boundary and Water Commission to defray operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams.

"(b) All revenues collected in connection with the disposition of electric power generated at the Falcon and Amistad Dams, except those revenues paid pursuant to subsection (d) to the general fund of the Treasury of the United States, shall be credited to the Maintenance Fund and shall remain available until expended for

defraying operation, maintenance, and emergency costs for the hydroelectric facilities at the dams.

"(c) The authority of subsection (b) may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.

"(d) Revenues in the Maintenance Fund in excess of operation, maintenance, and emergency needs shall be paid annually to the general fund of the Treasury of the United States to return the costs of replacements and the original investments, with interest.

"(e) All moneys received from the Government of Mexico for any energy which might be delivered to that Government by the United States Section of the International Boundary and Water Commission pursuant to any special agreement concluded in accordance with Article 19 of the said Treaty shall be credited to the general fund of the Treasury of the United States.".

SEC. 424. UNITED STATES MEMBERSHIP IN THE ASIAN-PACIFIC ECONOMIC COOPERATION ORGANIZATION.

(a) UNITED STATES MEMBERSHIP.—The President is authorized to maintain membership of the United States in the Asian-Pacific Economic Cooperation (APEC).

(b) PAYMENT OF ASSESSED CONTRIBUTIONS.—For fiscal year 1994 and for each fiscal year thereafter, the United States assessed contributions to APEC may be paid from funds appropriated for "Contributions to International Organizations".

SEC. 425. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL COPPER STUDY GROUP.

(a) UNITED STATES MEMBERSHIP.—The President is authorized to accept the Terms of Reference of and maintain membership of the United States in the International Copper Study Group (ICSG).

(b) PAYMENTS OF ASSESSED CONTRIBUTIONS.—For fiscal year 1995 and thereafter the United States assessed contributions to the ICSG may be paid from funds appropriated for "Contributions to International Organizations".

22 USC 288f-4.

SEC. 426. EXTENSION OF THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT TO THE INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES.

The International Organizations Immunities Act (22 U.S.C. 288 et seq.) is amended by adding at the end the following new section:

"SEC. 14. The International Union for Conservation of Nature and Natural Resources shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

SEC. 427. INTER-AMERICAN ORGANIZATIONS.

Taking into consideration the long-term commitment by the United States to the affairs of this Hemisphere and the need to build further upon the linkages between the United States and its neighbors, it is the sense of the Congress that the Secretary

of State, in allocating the level of resources for international organizations, should pay particular attention to funding levels of the Inter-American organizations.

SEC. 428. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL COFFEE ORGANIZATION.

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Coffee Organization.

SEC. 429. PROHIBITION ON CONTRIBUTIONS TO THE INTERNATIONAL JUTE ORGANIZATION.

None of the funds authorized to be appropriated by this Act may be used to fund any United States contribution to the International Jute Organization.

SEC. 430. MIGRATION AND REFUGEE AMENDMENTS.

(a) MIGRATION AND REFUGEE ASSISTANCE ACT AMENDMENTS.—The Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) is amended—

(1) in section 2 by striking "the Intergovernmental Committee for European Migration" and inserting "the International Organization for Migration" each place it appears; 22 USC 2601.

(2) in section 2(a) by striking "the Committee" and inserting "the Organization" each place it appears;

(3) in the first sentence of section 2(a) by inserting before the period ", as amended in Geneva, Switzerland, on May 20, 1987"; and

(4) in section 2(c)(2), by striking "$50,000,000" and inserting "$100,000,000".

(b) PUBLIC LAW 100-204.—Section 745 of Public Law 100-204 (22 U.S.C. 2601 note) is repealed.

SEC. 431. WITHHOLDING OF UNITED STATES CONTRIBUTIONS FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.

(a) WITHHOLDING OF UNITED STATES CONTRIBUTIONS FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.—Section 307 of the Foreign Assistance Act of 1961 is amended— 22 USC 2227.

(1) in subsection (a) by striking "the South-West Africa People's Organization" and inserting "Burma, Iraq, North Korea, Syria"; and

(2) by inserting after subsection (b) the following:

"(c) The limitations of subsection (a) shall not apply to contributions to the International Atomic Energy Agency or the United Nations Children's Fund (UNICEF).".

(b) UNITED NATIONS DEVELOPMENT PROGRAM.—

(1) Except as provided in paragraphs (2) and (3), for fiscal years 1994 and 1995 none of the funds made available for United Nations Development Program or United Nations Development Program—Administered Funds shall be available for programs and activities in or for Burma.

(2) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1994, $11,000,000 may be available only if the President certifies to the Congress that the United Nations Development Program's programs and activities in or for Burma promote the enjoyment of internation-

ally guaranteed human rights in Burma and do not benefit the State Law and Order Restoration Council (SLORC) military regime.

(3) Of the funds made available for United Nations Development Program and United Nations Development Program—Administered Funds for fiscal year 1995, $27,600,000 may be available only if the President certifies to the Congress that—

(A) the United Nations Development Program has approved or initiated no new programs and no new funding for existing programs in or for Burma since the United Nations Development Program Governing Council (Executive Board) meeting of June 1993,

(B) such programs address unforeseen urgent humanitarian concerns, or

(C) a democratically elected government in Burma has agreed to such programs.

TITLE V—FOREIGN POLICY

PART A—GENERAL PROVISIONS

22 USC 2601 note.

SEC. 501. UNITED STATES POLICY CONCERNING OVERSEAS ASSISTANCE TO REFUGEES AND DISPLACED PERSONS.

(a) STANDARDS FOR REFUGEE WOMEN AND CHILDREN.—The United States Government, in providing for overseas assistance and protection of refugees and displaced persons, shall seek to address the protection and provision of basic needs of refugee women and children who represent 80 percent of the world's refugee population. As called for in the 1991 United Nations High Commissioner for Refugees (UNHCR) "Guidelines on the Protection of Refugee Women", whether directly, or through international organizations and nongovernmental voluntary organizations, the Secretary of State shall seek to ensure—

(1) specific attention on the part of the United Nations and relief organizations to recruit and employ female protection officers;

(2) implementation of gender awareness training for field staff including, but not limited to, security personnel;

(3) the protection of refugee women and children from violence and other abuses on the part of governments or insurgent groups;

(4) full involvement of women refugees in the planning and implementation of (A) the delivery of services and assistance, and (B) the repatriation process;

(5) incorporation of maternal and child health needs into refugee health services and education, specifically to include education on and access to services in reproductive health and birth spacing;

(6) the availability of counseling and other services, grievance processes, and protective services to victims of violence and abuse, including but not limited to rape and domestic violence;

(7) the provision of educational programs, particularly literacy and numeracy, vocational and income-generation skills training, and other training efforts promoting self-sufficiency

for refugee women, with special emphasis on women heads of household;

(8) education for all refugee children, ensuring equal access for girls, and special services and family tracing for unaccompanied refugee minors;

(9) the collection of data that clearly enumerate age and gender so that appropriate health, education, and assistance programs can be planned;

(10) the recruitment, hiring, and training of more women program professionals in the international humanitarian field; and

(11) gender-awareness training for program staff of the United Nations High Commissioner for Refugees (UNHCR) and nongovernmental voluntary organizations on implementation of the 1991 UNHCR "Guidelines on the Protection of Refugee Women".

(b) PROCEDURES.—The Secretary of State should adopt specific procedures to ensure that all recipients of United States Government refugee and migration assistance funds implement the standards outlined in subsection (a).

(c) REQUIREMENTS FOR REFUGEE AND MIGRATION ASSISTANCE.—The Secretary of State, in providing migration and refugee assistance, should support the protection efforts set forth under this section by raising at the highest levels of government the issue of abuses against refugee women and children by governments or insurgent groups that engage in, permit, or condone—

(1) a pattern of gross violations of internationally recognized human rights, such as torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial to life, liberty, and the security of person;

(2) the blockage of humanitarian relief assistance;

(3) gender-specific persecution such as systematic individual or mass rape, forced pregnancy, forced abortion, enforced prostitution, any form of indecent assault or act of violence against refugee women, girls, and children; or

(4) continuing violations of the integrity of the person against refugee women and children on the part of armed insurgents, local security forces, or camp guards.

(d) INVESTIGATION OF REPORTS.—Upon receipt of credible reports of abuses under subsection (c), the Secretary of State should immediately investigate such reports through emergency fact-finding missions or other means of investigating such reports and help identify appropriate remedial measures.

(e) MULTILATERAL IMPLEMENTATION OF THE 1991 UNHCR "GUIDELINES ON THE PROTECTION OF REFUGEE WOMEN".—The Secretary of State should work to ensure that multilateral organizations fully incorporate the needs of refugee women and children into all elements of refugee assistance programs and work to encourage other governments that provide refugee assistance to adopt refugee assistance policies designed to encourage full implementation of the 1991 UNHCR's "Guidelines on the Protection of Refugee Women".

SEC. 502. INTERPARLIAMENTARY EXCHANGES.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) Section 2 of Public Law 86-420 is amended— 22 USC 276i.

(A) by striking "$100,000" and inserting "$80,000"; and

(B) by striking "$50,000" both places it appears and inserting "$40,000".

22 USC 276e.

(2) Section 2 of Public Law 86–42 is amended—

(A) by striking "$50,000" and inserting "$70,000"; and

(B) by striking "$25,000" both places it appears and inserting "$35,000".

22 USC 276 note.

(b) DEPOSIT OF FUNDS IN INTEREST-BEARING ACCOUNTS.—Funds appropriated and disbursed pursuant to section 303 of Title III of Public Law 100–202 (101 Stat. 1329–23; 22 U.S.C. 276 note) are authorized to be deposited in interest-bearing accounts and any interest which accrues shall be deposited, periodically, in a miscellaneous account of the Treasury.

SEC. 503. FOOD AS A HUMAN RIGHT.

(a) THE RIGHT TO FOOD AND UNITED STATES FOREIGN POLICY.—

(1) IN GENERAL.—The United States should, in accordance with its international obligations and in keeping with the long-standing humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) RESPONSIBILITIES OF ASSISTANT SECRETARY OF STATE.—The responsibilities of the Assistant Secretary of State who is responsible for human rights and humanitarian affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

(b) INTERNATIONAL EFFORT TO STRENGTHEN THE RIGHT TO FOOD.—It is the sense of the Congress that a major effort should be made to strengthen the right to food in international law to assure the access of all persons to adequate food supplies.

SEC. 504. TRANSPARENCY IN ARMAMENTS.

It is the sense of the Congress that—

(1) no sale of any defense article or defense service should be made, no license should be issued for the export of any defense article or defense service, and no agreement to transfer in any way any defense article or defense service should be made to any nation that does not fully furnish all pertinent data to the United Nations Register of Conventional Arms pursuant to United Nations General Assembly Resolution 46/36L by the reporting date specified by such register;

(2) if a nation has not submitted the required information by the reporting date of a particular year, but subsequently submits notification to the United Nations that it intends to provide such information at the next reporting date, an agreement may be negotiated with the nation or a license may be issued, but the actual delivery of such defense article or service should not occur until that nation submits such information; and

(3) the President should seek to restart the United Nations Security Council "Perm-5" talks and should report to the Congress on the progress of such talks and the effects of United

States agreements since October 1991 to sell arms to the developing world.

SEC. 505. SENSE OF THE SENATE CONCERNING INSPECTOR GENERAL ACT.

It is the sense of the Senate that—

(1) there is a growing concern among some of the Members of this body that the unlimited terms of Office of Inspectors General in Federal agencies may be undesirable, therefore

(2) the issue of amending the Inspector General Act to establish term limits for Inspectors General should be examined and considered as soon as possible by the appropriate committees of jurisdiction.

SEC. 506. TORTURE CONVENTION IMPLEMENTATION.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"SEC. 2340. DEFINITIONS.

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person with custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"SEC. 2340A. TORTURE.

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

"SEC. 2340B. EXCLUSIVE REMEDIES.

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 507. UNITED STATES POLICY CONCERNING IRAQ.

(a) POLICY.—It is the sense of the Congress that the President should—

(1) take steps to encourage the United Nations Security Council—

(A) to reaffirm support for the protection of all Iraqi Kurdish and other minorities pursuant to Security Council Resolution 688;

(B) to maintain the United Nations embargo on the Iraqi regime until Iraq complies with all relevant Security Council resolutions;

(C) to consider lifting selectively the United Nations embargo on the areas under the administration of the democratically-elected leadership of Iraqi Kurdistan, subject to the verifiable conditions that—

(i) the inhabitants of such areas do not conduct trade with the Iraqi regime, and

(ii) the partial lifting of the embargo will not materially assist the Iraqi regime;

(D) to consider extending international protection, including the establishment of a safe haven, to the marsh Arabs in southern Iraq; and

(E) to pursue international judgments against Iraqi officials responsible for war crimes and crimes against humanity, based upon documentary evidence obtained from Iraqi and other sources;

(2) continue to advocate the maintenance of Iraq's territorial integrity and the transition to a unified, democratic Iraq;

(3) take steps to encourage the provision of humanitarian assistance for the people fleeing from the marshes in southern Iraq;

(4) design a multilateral assistance program for the people of Iraqi Kurdistan to support their drive for self-sufficiency; and

(5) take steps to intensify discussions with the Government of Turkey, whose support and cooperation in the protection of the people of Iraqi Kurdistan is critical, to ensure that the stability of both Turkey and the entire region are enhanced by the measures taken under this section.

SEC. 508. HIGH-LEVEL VISITS TO TAIWAN.

It is the sense of the Congress that—

(1) the President should be commended for meeting with Taiwan's Minister of Economic Affairs during the Asia-Pacific Economic Cooperation Conference in Seattle;

(2) the President should send Cabinet-level appointees to Taiwan to promote United States interests and to ensure the continued success of United States business in Taiwan; and

(3) in addition to Cabinet-level visits, the President should take steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member.

SEC. 509. TRANSFER OF CERTAIN OBSOLETE OR SURPLUS DEFENSE ARTICLES IN THE WAR RESERVE ALLIES STOCKPILE TO THE REPUBLIC OF KOREA.

(a) AUTHORITY.—(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, in return for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are equipment, tanks, weapons, repair parts, and ammunition that—

(A) are obsolete or surplus items;

(B) are in the inventory of the Department of Defense;

(C) are intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of enactment of this Act, are located in a stockpile in the Republic of Korea.

(b) CONCESSIONS.—The value of the concessions negotiated pursuant to subsection (a) shall be at least equal to the fair market value of the items transferred. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) ADVANCE NOTIFICATION OF TRANSFER.—Not less than 30 days before making a transfer under the authority of this section, the President shall transmit to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the congressional defense committees a notification of the proposed transfer. The notification shall identify the items to be transferred and the concessions to be received. President.

(d) EXPIRATION OF AUTHORITY.—No transfer may be made under the authority of this section more than two years after the date of the enactment of this Act.

SEC. 510. EXTENSION OF THE FAIR TRADE IN AUTO PARTS ACT OF 1988.

(a) IN GENERAL.—Section 2125 of the Fair Trade in Auto Parts Act of 1988 (15 U.S.C. 4704) is amended by striking "1993" and inserting "1998".

15 USC 4704 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on December 30, 1993.

President. Haiti. Iraq. Iran.

SEC. 511. REPORT ON THE USE OF FOREIGN FROZEN OR BLOCKED ASSETS.

Not later than 60 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report containing a detailed accounting analysis and justification for all expenditures made from the assets of foreign governments that have been frozen or blocked by the United States Government, including expenditures from frozen or blocked assets of Haiti, Iraq, and Iran.

SEC. 512. EXTENSION OF CERTAIN ADJUDICATION PROVISIONS.

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking "1993 and 1994" and inserting "1993, 1994, 1995, and 1996"; and

(B) in subsection (e), by striking out "October 1, 1994" each place it appears and inserting in lieu thereof "October 1, 1996"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1996".

SEC. 513. POLICY REGARDING THE CONDITIONS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA SHOULD MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.

(a) FINDINGS.—The Senate makes the following findings:

(1) In an Executive Order of May 28, 1993, the President established conditions for renewal of most-favored-nation (MFN) status for the People's Republic of China in 1994.

(2) The Executive Order requires that in making a recommendation about the further extension of MFN status to China, the Secretary of State shall not recommend extension unless the Secretary determines that—

(A) extension will substantially promote the freedom of emigration objectives of section 402 of the Trade Act of 1974; and

(B) China is complying with the 1992 bilateral agreement between the United States and China concerning prison labor.

(3) The Executive Order further requires that in making a recommendation, the Secretary of State shall determine whether China has made overall, significant progress with respect to—

(A) taking steps to begin adhering to the Universal Declaration of Human Rights;

(B) releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expression of religious beliefs in connection with the Democracy Wall and Tiananmen Square movements;

(C) ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations;

(D) protecting Tibet's distinctive religious and cultural heritage; and

(E) permitting international radio and television broadcasts into China.

(4) The Executive Order further requires the Executive Branch to resolutely pursue all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with United States businesses, and adheres to the Nuclear Nonproliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

(5) The Chinese government should cooperate with international efforts to obtain North Korea's full, unconditional compliance with the Nuclear Non-Proliferation Treaty.

(6) The President has initiated an intensive high-level dialogue with the Chinese government which began last year with a meeting between the Secretary of State and the Chinese Foreign Minister, including a meeting in Seattle between the President and the President of China, meetings in Beijing with the Secretary of the Treasury, the Assistant Secretary for Human Rights and others, a recent meeting in Paris between the Secretary of State and the Chinese Foreign Minister, and recent meetings in Washington with several Under Secretaries and their Chinese counterparts.

(7) The President's efforts have led to some recent progress on some issues of concern to the United States.

(8) Notwithstanding this, substantially more progress is needed to meet the standards in the President's Executive Order.

(9) The Chinese government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress critics and failed to control abuses by its own security forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that the President of the United States should use all appropriate opportunities, in particular more high-level exchanges with the Chinese government, to press for further concrete progress toward meeting the standards for continuation of MFN status as contained in the Executive Order.

SEC. 514. IMPLEMENTATION OF PARTNERSHIP FOR PEACE.

President.
22 USC 1928 note.

(a) REPORT TO CONGRESS.—The President shall submit annually, beginning 90 days after the date of enactment of this Act, a detailed report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the implementation of the "Partnership for Peace" initiative, including an assessment of the progress made by former members of the Warsaw Treaty Organization in meeting the criteria for full membership articulated in Article 10 of the North Atlantic Treaty, wherein any other European state may, by unanimous agreement, be invited to accede to the North Atlantic Treaty if it is in a position to further the principles of the Treaty and to contribute to the security of the North Atlantic area.

(b) AUTHORITY OF THE PRESIDENT.—The President is authorized to confer, pursuant to agreement with any country eligible to participate in the Partnership for Peace, rights in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of that country in the United States comparable to the rights conferred by that country in respect of the military and related civilian personnel (including dependents of any such personnel) and activities of the United States in that country.

SEC. 515. POLICY TOWARD THAILAND, CAMBODIA, LAOS, AND BURMA.

It is the sense of the Congress that—

(1) the creation of a new Cambodian government through United Nations sponsored elections offers a unique opportunity for the revival of the Cambodian nation, an opportunity which the United States should help realize;

(2) the President should enunciate a clear policy toward Burma and, in so doing, be guided by the approach in Senate Resolution 112;

(3) the government and people of Thailand are to be commended for Thailand's return to civilian, democratic rule, and for its contribution to the implementation of the Paris Peace Accords on Cambodia;

(4) the President of the United States should convey to Thailand United States concern over the continued support for the Khmer Rouge by elements of the Thai military and to urge the Thai Government to intensify its efforts to terminate that support, in accordance with the Paris Peace Accords;

(5) the Government of Thailand should continue to allow the democratic leaders of Burma to operate freely within Thailand and to grant them free passage to allow them to present their case at the United Nations and other international gatherings;

(6) the President of the United States should urge the Government of Thailand to prosecute, with the full force of law, those responsible for the trafficking, forced labor, and physical and sexual abuse of women and children in Thailand, and to protect the civil and human rights of Burmese women in Thailand and prevent their further victimization; and

(7) the United States should work with the United Nations High Commissioner for Refugees, the Government of Thailand, and other relevant parties to ensure that the rights of asylum seekers in Thailand, and in particular the Hmong people from Laos, are fully respected and that force is not used in any repatriations.

SEC. 516. PEACE PROCESS IN NORTHERN IRELAND.

It is the sense of the Congress that the United States should—

(1) strongly encourage all parties to the conflict in the North of Ireland to renounce violence and to participate in the current search for peace in the region; and

(2) assist in furthering the peace process where appropriate.

SEC. 517. SENSE OF THE SENATE ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT.

(a) SENATE FINDINGS.—The Senate makes the following findings:

(1) The freedom and security of the international community rests on the sanctity of the rule of law.

(2) The international community is increasingly threatened by unlawful acts such as war crimes, genocide, aggression, crimes against humanity, terrorism, drug trafficking, money laundering, and other crimes of an international character.

(3) The prosecution of individuals suspected of carrying out such acts is often impeded by political and legal obstacles such as amnesties, disputes over extradition, differences in the structure and capabilities of national courts, and the lack of uniform guidelines under which to try such individuals.

(4) The war crimes trials held in the aftermath of World War II at Nuremberg, Germany, and Tokyo, Japan, demonstrated that fair and effective prosecution of war criminals could be carried out in an international forum.

(5) Since its inception in 1945 the United Nations has sought to build on the precedent established at the Nuremberg and Tokyo trials by establishing a permanent international criminal court with jurisdiction over crimes of an international character.

(6) United Nations General Assembly Resolution 44/39, adopted on December 4, 1989, called on the International Law Commission to study the feasibility of an international criminal court.

(7) In the years after passage of that resolution the International Law Commission has taken a number of steps to advance the debate over such a court, including—

(A) the provisional adoption of a draft Code of Crimes Against the Peace and Security of Mankind;

(B) the creation of a Working Group on an International Criminal Jurisdiction and the formulation by that Working Group of several concrete proposals for the establishment and operation of an international criminal court; and

(C) the determination that an international criminal court along the lines of that suggested by the Working Group is feasible and that the logical next step would be to proceed with the formal drafting of a statute for such a court.

(8) United Nations General Assembly Resolution 47/33, adopted on November 25, 1992, called on the International Law Commission to begin the process of drafting a statute for an international criminal court at its next session.

(9) Given the developments of recent years, the time is propitious for the United States to lend its support to this effort.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the establishment of an international criminal court with jurisdiction over crimes of an international character would greatly strengthen the international rule of law;

(2) such a court would thereby serve the interests of the United States and the world community; and

(3) the United States delegation should make every effort to advance this proposal at the United Nations.

(c) REQUIRED REPORT.—Not later than 14 days after the date of enactment of this Act the President shall submit to the Committee on Foreign Relations of the Senate a detailed report on develop- President.

ments relating to, and United States efforts in support of, the establishment of an international criminal court with jurisdiction over crimes of an international character.

SEC. 518. INTERNATIONAL CRIMINAL COURT PARTICIPATION.

The United States Senate will not consent to the ratification of a treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international nature which permits representatives of any terrorist organization, including but not limited to the Palestine Liberation Organization, or citizens, nationals or residents of any country listed by the Secretary of State under section 6(j) of the Export Administration Act of 1979 as having repeatedly provided support for acts of international terrorism, to sit in judgement on American citizens.

SEC. 519. PROTECTION OF FIRST AND FOURTH AMENDMENT RIGHTS.

The United States Senate will not consent to the ratification of any Treaty providing for United States participation in an international criminal court with jurisdiction over crimes of an international character unless American citizens are guaranteed, in the terms establishing such a court, and in the court's operation, that the court will take no action infringing upon or diminishing their rights under the First and Fourth Amendments of the Constitution of the United States, as interpreted by the United States.

SEC. 520. POLICY ON TERMINATION OF UNITED STATES ARMS EMBARGO.

(a) FINDINGS.—The Congress makes the following findings:

(1) On July 10, 1991, the United States adopted a policy suspending all licenses and other approvals to export or otherwise transfer defense articles and defense services to Yugoslavia.

(2) On September 25, 1991, the United Nations Security Council adopted Resolution 713, which imposed a mandatory international embargo on all deliveries of weapons and military equipment to Yugoslavia.

(3) The United States considered the policy adopted July 10, 1991, to comply fully with Resolution 713 and therefore took no additional action in response to that resolution.

(4) On January 8, 1992, the United Nations Security Council adopted Resolution 727, which decided that the mandatory arms embargo imposed by Resolution 713 should apply to any independent states that might thereafter emerge on the territory of Yugoslavia.

(5) On February 29 and March 1, 1992, the people of Bosnia and Herzegovina voted in a referendum to declare independence from Yugoslavia.

(6) On April 7, 1992, the United States recognized the Government of Bosnia and Herzegovina.

(7) On May 22, 1992, the Government of Bosnia and Herzegovina was admitted to full membership in the United Nations.

(8) Consistent with Resolution 727, the United States has continued to apply the policy adopted July 10, 1991, to independent states that have emerged on the territory of the former Yugoslavia, including Bosnia and Herzegovina.

(9) Subsequent to the adoption of Resolution 727 and Bosnia and Herzegovina's independence referendum, the siege of Sarajevo began and fighting spread to other areas of Bosnia and Herzegovina.

(10) The Government of Serbia intervened directly in the fighting by providing significant military, financial, and political support and direction to Serbian-allied irregular forces in Bosnia and Herzegovina.

(11) In statements dated May 1 and May 12, 1992, the Conference on Security and Cooperation in Europe declared that the Government of Serbia and the Serbian-controlled Yugoslav National Army were committing aggression against the Government of Bosnia and Herzegovina and assigned to them prime responsibility for the escalation of bloodshed and destruction.

(12) On May 30, 1992, the United Nations Security Council adopted Resolution 757, which condemned the Government of Serbia for its continued failure to respect the territorial integrity of Bosnia and Herzegovina.

(13) Serbian-allied irregular forces have occupied approximately 70 percent of the territory of Bosnia and Herzegovina, committed gross violations of human rights in the areas they have occupied, and established a secessionist government committed to eventual unification with Serbia.

(14) The military and other support and direction provided to Serbian-allied irregular forces in Bosnia and Herzegovina constitutes an armed attack on the Government of Bosnia and Herzegovina by the Government of Serbia within the meaning of Article 51 of the United Nations Charter.

(15) Under Article 51, the Government of Bosnia and Herzegovina, as a member of the United Nations, has an inherent right of individual or collective self-defense against the armed attack from the Government of Serbia until the United Nations Security Council has taken measures necessary to maintain international peace and security.

(16) The measures taken by the United Nations Security Council in response to the armed attack on Bosnia and Herzegovina have not been adequate to maintain international peace and security.

(17) Bosnia and Herzegovina have been unable successfully to resist the armed attack from Serbia because it lacks the means to counter heavy weaponry that Serbia obtained from the Yugoslav National Army upon the dissolution of Yugoslavia, and because the mandatory international arms embargo has prevented Bosnia and Herzegovina from obtaining from other countries the means to counter such heavy weaponry.

(18) On December 18, 1992, with the affirmative vote of the United States, the United Nations General Assembly adopted Resolution 47/121, which urged the United Nations Security Council to exempt Bosnia and Herzegovina from the mandatory arms embargo imposed by Resolution 713.

(19) In the absence of adequate measures to maintain international peace and security, continued application to the Government of Bosnia and Herzegovina of the mandatory international arms embargo imposed by the United Nations Security Council prior to the armed attack on Bosnia and Herzegovina undermines that government's right of individual or collective

self-defense and therefore contravenes Article 51 of the United Nations Charter.

(20) Bosnia and Herzegovina's right of self-defense under Article 51 of the United Nations Charter includes the right to ask for military assistance from other countries and to receive such assistance if offered.

(b) POLICY ON TERMINATION OF ARMS EMBARGO.—(1) It is the sense of the Congress that the President should terminate the United States arms embargo of the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

(2) As used in this subsection, the term "United States arms embargo of the Government of Bosnia and Herzegovina" means the application to the Government of Bosnia and Herzegovina of—

(A) the policy adopted July 10, 1991, and published in the Federal Register of July 19, 1991 (58 Fed. Reg. 33322) under the heading "Suspension of Munitions Export Licenses to Yugoslavia"; and

(B) any similar policy being applied by the United States Government as of the date of receipt of the request described in subsection (a) pursuant to which approval is routinely denied for transfers of defense articles and defense services to the former Yugoslavia.

(c) POLICY ON MILITARY ASSISTANCE.—The President should provide appropriate military assistance to the Government of Bosnia and Herzegovina upon receipt from that government of a request for assistance in exercising its right of self-defense under Article 51 of the United Nations Charter.

SEC. 521. SENSE OF SENATE ON RELATIONS WITH VIETNAM.

It is the sense of the Senate that—

(1) the Government of the United States is committed to seeking the fullest possible accounting of American servicemen unaccounted for during the war in Vietnam;

(2) cooperation by the Government of Vietnam on resolving the fate of those American servicemen unaccounted for has increased significantly over the last three years and is essential to the resolution of outstanding POW/MIA cases;

(3) substantial and tangible progress has been made in the POW/MIA accounting process;

(4) cooperative efforts between the United States and Vietnam should continue in order to resolve all outstanding questions concerning the fate of Americans missing-in-action;

(5) United States senior military commanders and United States personnel working in the field to account for United States POW/MIAs in Vietnam believe that lifting the United States trade embargo against Vietnam will facilitate and accelerate the accounting efforts;

(6) therefore, in order to maintain and expand further United States and Vietnamese efforts to obtain the fullest possible accounting, the President should lift the United States trade embargo against Vietnam expeditiously; and

(7) moveover, as the United States and Vietnam move toward normalization of relations, the Government of Vietnam should demonstrate further improvements in meeting internationally recognized standards of human rights.

SEC. 522. REPORT ON SANCTIONS ON VIETNAM. President.

Not later than 30 days after the date of enactment of this Act, the President shall submit a report, taking into account information available to the United States Government, to the Senate and the House of Representatives on achieving the fullest possible accounting of United States personnel unaccounted for from the Vietnam War, including—

(1) progress on recovering and repatriating American remains from Vietnam;

(2) progress on resolution of discrepancy cases;

(3) the status of Vietnamese cooperation in implementing trilateral investigations with Laos; and

(4) progress on accelerated efforts to obtain all POW/MIA related documents from Vietnam.

SEC. 523. REPORT ON PEOPLE'S MUJAHEDDIN OF IRAN. President.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report detailing the structure, current activities, external support, and history of the People's Mujaheddin of Iran. Such report shall include information on any current direct or indirect support by the People's Mujaheddin for acts of international terrorism.

(b) CONSULTATION.—In compiling the report required under subsection (a), the President shall consult with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Transportation, the intelligence community, and such law enforcement agencies as may be appropriate.

(c) CLASSIFICATION.—The President should, to the maximum extent possible, submit the report required under subsection (a) in an unclassified form.

SEC. 524. AMENDMENTS TO THE PLO COMMITMENTS COMPLIANCE ACT.

The PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) is amended—

(1) in section 804(b), by striking "Beginning 30 days after the date of enactment of this Act, and every 120 days thereafter in which the dialogue between the United States and the PLO has not been discontinued", and inserting "In conjunction with each written policy justification required under section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994 or every 180 days,"; 104 Stat. 78.

(2) in section 804(b)(1), by striking "regarding the cessation of terrorism and recognition of Israel's right to exist" and inserting "and each of the commitments described in section (4)(A) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)";

(3) in section 804(b)(2), by inserting "and Oslo" after "Geneva";

(4) in section 802(8), by inserting "and on September 9, 1993" after "1988"; 104 Stat. 76.

(5) in section 802, by redesignating paragraph (8) as paragraph (10);

(6) by striking "and" at the end of section 802(7); and

(7) by inserting after section 802(7) the following:

"(8) the President, following an attempted terrorist attack upon a Tel Aviv beach on May 30, 1990, suspended the United States dialogue with the PLO;

"(9) the President resumed the United States dialogue with the PLO in response to the commitments made by the PLO in letters to the Prime Minister of Israel and the Foreign Minister of Norway of September 9, 1993; and".

SEC. 525. FREE TRADE IN IDEAS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should not restrict travel or exchanges for informational, educational, religious, cultural, or humanitarian purposes or for public performances or exhibitions, between the United States and any other country.

(b) AMENDMENTS TO TRADING WITH THE ENEMY ACT.—(1) Section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended to read as follows:

"(4) The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code.".

50 USC app. 5 note.

(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as amended by paragraph (1) of this subsection, may not be regulated or prohibited.

(c) AMENDMENTS TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—

(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended by striking paragraph (3) and inserting the following new paragraphs:

Exports and imports.

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 5 of the Export Administration Act of 1979, or under section 6 of such Act

to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of title 18, United States Code; or

"(4) any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.".

(2) The amendments made by paragraph (1) to section 203(b)(3) of the International Emergency Economic Powers Act apply to actions taken by the President under section 203 of such Act before the date of enactment of this Act which are in effect on such date and to actions taken under such section on or after such date. 50 USC 1702 note.

(3) Section 203(b)(4) of the International Emergency Economic Powers Act (as added by paragraph (1)) shall not apply to restrictions on the transactions and activities described in section 203(b)(4) in force on the date of enactment of this Act, with respect to countries embargoed under the International Emergency Economic Powers Act on the date of enactment of this Act. 50 USC 1702 note.

SEC. 526. EMBARGO AGAINST CUBA.

It is the sense of the Congress that the President should advocate and seek a mandatory international United Nations Security Council embargo against the dictatorship of Cuba.

SEC. 527. EXPROPRIATION OF UNITED STATES PROPERTY. 22 USC 2370a.

(a) PROHIBITION.—None of the funds made available to carry out this Act, the Foreign Assistance Act of 1961, or the Arms Export Control Act may be provided to a government or any agency or instrumentality thereof, if the government of such country (other than a country described if subsection (d))—

(1) has on or after January 1, 1956—

(A) nationalized or expropriated the property of any United States person,

(B) repudiated or nullified any contract with any United States person, or

(C) taken any other action (such as the imposition of discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

(2) has not, within the period specified in subsection (c), either—

(A) returned the property,

(B) provided adequate and effective compensation for such property in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, as required by international law,

(C) offered a domestic procedure providing prompt, adequate and effective compensation in accordance with international law, or

(D) submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes or other mutually agreeable binding international arbitration procedure.

President.

(b) OTHER ACTIONS.—The President shall instruct the United States Executive Directors of each multilateral development bank and international financial institution to vote against any loan or other utilization of the funds of such bank or institution for the benefit of any country to which assistance is prohibited under subsection (a), unless such assistance is directed specifically to programs which serve the basic human needs of the citizens of that country.

(c) PERIOD FOR SETTLEMENT OF CLAIMS.—The period of time described in subsection (a)(2) is the latest of the following—

(1) 3 years after the date on which a claim was filed,

(2) in the case of a country that has a totalitarian or authoritarian government at the time of the action described in subsection (a)(1), 3 years after the date of installation of a democratically elected government, or

(3) 90 days after the date of enactment of this Act.

(d) EXCEPTED COUNTRIES AND TERRITORIES.—This section shall not apply to any country established by international mandate through the United Nations or to any territory recognized by the United States Government to be in dispute.

(e) RESUMPTION OF ASSISTANCE.—A prohibition or termination of assistance under subsection (a) and an instruction to vote against loans under subsection (b) shall cease to be effective when the President certifies in writing to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate that such government has taken one of the steps described in subsection (a)(2).

(f) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act and at the beginning of each fiscal year thereafter, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, a report containing the following:

(1) A list of every country in which the United States Government is aware that a United States person has an outstanding expropriation claim.

(2) The total number of such outstanding expropriation claims made by United States persons against each such country.

(3) The period of time in which each such claim has been outstanding.

(4) The status of each case and efforts made by the United States Government and the government of the country in which such claim has been made, to take one or more of the steps described in subsection (a)(2).

(5) Each project a United States Executive Director voted against as a result of the action described in subsection (b).

(g) WAIVER.—The President may waive the prohibitions in subsections (a) and (b) for a country, on an annual basis, if the President determines and so notifies Congress that it is in the national interest to do so.

(h) DEFINITIONS.—For the purpose of this section, the term "United States person" means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

SEC. 528. REPORT ON RUSSIAN MILITARY OPERATIONS IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION. President

(a) IN GENERAL.—Not later than 5 months after the date of enactment of this Act, the President shall submit to Congress a report on the operations and activities of the armed forces of the Russian Federation, including elements purportedly operating outside the chain of command of the armed forces of the Russian Federation, outside the borders of the Russian Federation and, specifically, in the other independent states that were a part of the former Soviet Union and in the Baltic States.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include, but not be limited to—

(1) an assessment of the numbers and types of Russian armed forces deployed in each of the other independent states of the former Soviet Union and in the Baltic States and a summary of their operations and activities since the demise of the Soviet Union in December 1991;

(2) a detailed assessment of the involvement of Russian armed forces in conflicts in or involving Armenia, Azerbaijan, Georgia, Moldova, and Tajikistan, including support provided directly or indirectly to one or more parties to these conflicts;

(3) an assessment of the political and military objectives of the operations and activities discussed in paragraphs (1) and (2) and of the strategic objectives of the Russian Federation in its relations with the other independent states of the former Soviet Union and the Baltic States;

(4) an assessment of other significant actions, including political and economic, taken by the Russian Federation to influence the other independent states of the former Soviet Union and the Baltic States in pursuit of its strategic objectives; and

(5) an analysis of the new Russian military doctrine adopted by President Yeltsin on November 2, 1993, with particular regard to its implications for Russian policy toward the other independent states of the former Soviet Union and the Baltic States.

(c) DEFINITIONS.—For the purposes of this section—

(1) "the other independent states of the former Soviet Union" means Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(2) "the Baltic States" means Latvia, Lithuania, and Estonia.

SEC. 529. UNITED STATES POLICY ON NORTH KOREA.

It is the sense of the Congress that:

(1) It is in the United States national security interest to curtail the proliferation of weapons of mass destruction, particularly nuclear weapons.

(2) The North Korea nuclear weapons program is one of the most pressing national security challenges the United States currently faces.

(3) North Korea's development of other weapons of mass destruction and of ballistic missiles further threatens United States national security interests and regional security.

(4) United States policy should ensure that North Korea does not possess a nuclear bomb or the capability to build one.

(5) United States forces in Korea must remain vigilant and maintain a robust defense posture.

(6) While diplomacy is the preferable method of dealing with the North Korean nuclear challenge, all options, including the appropriate use of force, remain available.

(7) In fashioning an appropriate policy for dealing with the challenge presented by North Korea's nuclear program, the Administration should consult closely with United States treaty allies, particularly Japan and the Republic of Korea, as well as with China, Russia, and other members of the United Nations Security Council.

(8) United States policy should support the efforts of the International Atomic Energy Agency (IAEA), as the international community's designated body for verifying compliance with the Nuclear Nonproliferation Treaty, to perform inspections of North Korea's nuclear program.

(9) The United States should encourage strong and expeditious action by the United Nations Security Council inasmuch as North Korea has proved unwilling to comply fully with the following:

(A) North Korea's December 1991 denuclearization agreement with South Korea pledging not to possess, manufacture, or use nuclear weapons, not to possess plutonium reprocessing facilities, and to negotiate the establishment of a nuclear inspection system.

(B) The nuclear safeguards agreement North Korea signed with the IAEA on January 30, 1992.

(C) The agreement on IAEA inspections North Korea accepted on February 15, 1994.

(10) Unless North Korea unequivocally adheres to the Nuclear Nonproliferation Treaty and abides by all provisions of that treaty, the President should seek international consensus to isolate North Korea, including the imposition of sanctions, in an effort to persuade Pyongyang to halt its nuclear weapons program and permit IAEA inspections of all its nuclear facilities.

(11) Recognizing that within the international community China has significant influence over Pyongyang, the nature and extent of Chinese cooperation with the rest of the international community on the North Korean nuclear issue, including Chinese support for international sanctions should such sanctions be proposed and/or adopted, will inevitably be a significant factor in United States-China relations.

(12) If unable to achieve an international consensus to isolate North Korea, the President should employ all unilateral means of leverage over North Korea, including, but not limited to, the prohibition of any transaction involving the commercial sale of any good or technology to North Korea.

(13) The President should consult with United States allies in the region regarding the military posture of North Korea and the ability of the United States and its allies to deter a North Korean attack, or to defeat such an attack should it occur.

(14) Toward these ends, the United States and South Korea should take all steps necessary to ensure that United States and South Korean forces stationed on the Korean peninsula can defend themselves, including the holding of Team Spirit or other joint military exercises, the deployment of Patriot missiles to South Korea, and other appropriate measures.

(15) The problem posed by North Korea's nuclear program is not a bilateral problem between the United States and North Korea, but a problem in which virtually the entire global community is united against North Korea.

(16) The international community must insist upon full compliance by North Korea with all its nonproliferation commitments including acceptance of regular and ad hoc inspections of its declared nuclear facilities on a continuing basis, as well as special inspections of all suspected nuclear sites as the IAEA deems appropriate.

(17) International concerns about North Korea's nuclear intentions and capabilities will not be adequately addressed until North Korea cooperates fully with the IAEA, all North Korea nuclear facilities and materials are placed under fullscope safeguards, and North Korea adheres unequivocally to the Nuclear Nonproliferation Treaty as well as to its 1991 denuclearization agreement with South Korea.

(18) The Administration should work to encourage a productive dialogue between North and South Korea that adequately addresses all security concerns on the Korean peninsula.

SEC. 530. ENFORCEMENT OF NONPROLIFERATION TREATIES. 22 USC 2429a-2.

(a) POLICY.—It is the sense of the Congress that the President should instruct the United States Permanent Representative to the United Nations to enhance the role of that institution in the enforcement of nonproliferation treaties through the passage of a United Nations Security Council resolution which would state that, any non-nuclear weapon state that is found by the United Nations Security Council, in consultation with the International Atomic Energy Agency (IAEA), to have terminated, abrogated, or materially violated an IAEA full-scope safeguards agreement would be subjected to international economic sanctions, the scope of which to be determined by the United Nations Security Council.

(b) PROHIBITION.—Notwithstanding any other provision of law, no United States assistance under the Foreign Assistance Act of 1961 shall be provided to any non-nuclear weapon state that is found by the President to have terminated, abrogated, or materially violated an IAEA full-scope safeguard agreement or materially violated a bilateral United States nuclear cooperation agreement entered into after the date of enactment of the Nuclear Non-Proliferation Act of 1978.

(c) WAIVER.—The President may waive the application of subsection (b) if—

(1) the President determines that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security; and

(2) the President reports such determination to the Congress at least 15 days in advance of any resumption of assistance to that state.

SEC. 531. TAIWAN.

In view of the self-defense needs of Taiwan, the Congress makes the following declarations:

(1) Sections 2 and 3 of the Taiwan Relations Act are reaffirmed.

(2) Section 3 of the Taiwan Relations Act take primacy over statements of United States policy, including communiques, regulations, directives, and policies based thereon.

(3) In assessing the extent to which the People's Republic of China is pursuing its "fundamental policy" to strive peacefully to resolve the Taiwan issue, the United States should take into account both the capabilities and intentions of the People's Republic of China.

(4) The President should on a regular basis assess changes in the capabilities and intentions of the People's Republic of China and consider whether it is appropriate to adjust arms sales to Taiwan accordingly.

SEC. 532. WAIVER OF SANCTIONS WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA TO PROMOTE DEMOCRACY ABROAD.

(a) AUTHORITY.—Notwithstanding any other provision of law, the President is authorized and encouraged to exempt from sanctions imposed against the Federal Republic of Yugoslavia those United States-supported programs, projects, or activities involving reform of the electoral process, or the development of democratic institutions or democratic political parties.

(b) POLICY.—The President, acting through the United States Permanent Representative to the United Nations, should propose that any action, past or future, by the Security Council pursuant to Article 41 of the United Nations Charter, with respect to the Federal Republic of Yugoslavia, should take account of the exemption described in subsection (a).

5 USC 552 note.

SEC. 533. FREEDOM OF INFORMATION EXEMPTION FOR CERTAIN OPEN SKIES TREATY DATA.

(a) IN GENERAL.—Data with respect to a foreign country collected by sensors during observation flights conducted in connection with the Treaty on Open Skies, including flights conducted prior to entry into force of the treaty, shall be exempt from disclosure under the Freedom of Information Act—

(1) if the country has not disclosed the data to the public; and

(2) if the country has not, acting through the Open Skies Consultative Commission or any other diplomatic channel, authorized the United States to disclose the data to the public.

(b) STATUTORY CONSTRUCTION.—This section constitutes a specific exemption within the meaning of section 552(b)(3) of title 5, United States Code.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "Freedom of Information Act" means the provisions of section 552 of title 5, United States Code;

(2) the term "Open Skies Consultative Commission" means the commission established pursuant to Article X of the Treaty on Open Skies; and

(3) the term "Treaty on Open Skies" means the Treaty on Open Skies, signed at Helsinki on March 24, 1992.

SEC. 534. STUDY OF DEMOCRACY EFFECTIVENESS.

President.

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on a streamlined, cost-effective organization of United States democracy assistance. The report shall include a review of all activities funded by the United States Government, including those funded through the National Endowment for Democracy, the United States Information Agency, and the Agency for International Development.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of all United States-sponsored programs to promote democracy, including identification and discussion of those programs that are overlapping.

(2) A clear statement of achievable goals and objectives for all United States-sponsored democracy programs, and an evaluation of the manner in which current democracy activities meet these goals and objectives.

(3) A review of the current United States Government organization for the delivery of democracy assistance and recommended changes to reduce costs and streamline overhead involved in the delivery of democracy assistance.

(4) Recommendations for coordinating programs, policies, and priorities to enhance the United States Government's role in democracy promotion.

(5) A review of all agencies involved in delivering United States Government funds in the form of democracy assistance and a recommended focal point or lead agency within the United States Government for policy oversight of the effort.

(6) A review of the feasibility and desirability of mandating non-United States Government funding, including matching funds and in-kind support, for democracy promotion programs. If it is determined that such non-Government funding is feasible and desirable, recommendations should be made regarding goals and procedures for implementation.

SEC. 535. SENSE OF CONGRESS CONCERNING UNITED STATES CITIZENS VICTIMIZED BY GERMANY DURING WORLD WAR II.

It is the sense of the Congress that United States citizens who were victims of war crimes and crimes against humanity committed by the Government of Germany during the period 1939 to 1945 should be compensated by the Government of Germany.

SEC. 536. REPORTING REQUIREMENTS ON OCCUPIED TIBET.

22 USC 2656 note.

(a) REPORT ON UNITED STATES-TIBET RELATIONS.—Because Congress has determined that Tibet is an occupied sovereign country under international law and that its true representatives are the Dalai Lama and the Tibetan Government in exile—

(1) it is the sense of the Congress that the United States should seek to establish a dialogue with those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, concerning the situation in Tibet and the future of the Tibetan people and to expand and strengthen United States-Tibet cultural and educational relations, including

promoting bilateral exchanges arranged directly with the Tibetan Government in exile; and

(2) not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the Secretary of State shall transmit to the Chairman of the Committee on Foreign Relations and the Speaker of the House of Representatives a report on the state of relations between the United States and those recognized by Congress as the true representatives of the Tibetan people, the Dalai Lama, his representatives and the Tibetan Government in exile, and on conditions in Tibet.

(b) SEPARATE TIBET REPORTS.—

(1) It is the sense of the Congress that whenever a report is transmitted to the Congress on a country-by-country basis there should be included in such report, where applicable, a separate report on Tibet listed alphabetically with its own state heading.

(2) The reports referred to in paragraph (1) include, but are not limited to, reports transmitted under sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights).

Spoils of War Act of 1994.

PART B—SPOILS OF WAR ACT

50 USC 2201 note.

SEC. 551. SHORT TITLE.

This part may be cited as the "Spoils of War Act of 1994".

50 USC 2201.

SEC. 552. TRANSFERS OF SPOILS OF WAR.

(a) ELIGIBILITY FOR TRANSFER.—Spoils of war in the possession, custody, or control of the United States may be transferred to any other party, including any government, group, or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) TERMS AND CONDITIONS.—Any transfer pursuant to subsection (a) shall be subject to all of the terms, conditions, and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

50 USC 2202.

SEC. 553. PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.

Spoils of war in the possession, custody, or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism.

President. 50 USC 2203.

SEC. 554. REPORT ON PREVIOUS TRANSFERS.

Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained subsequent to August 2, 1990 that were transferred to any party, including any government, group, or person, before the date of enactment of this Act. Such report shall be submitted in unclassified form to the extent possible.

50 USC 2204.

SEC. 555. DEFINITIONS.

As used in this part—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, or, where required by law for certain reporting purposes, the Select Committee on Intelligence of the Senate and the Select Committee on Intelligence of the House of Representatives;

(2) the term "enemy" means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term "person" means—

(A) any natural person;

(B) any corporation, partnership, or other legal entity; and

(C) any organization, association, or group; and

(4) the term "spoils of war" means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

SEC. 556. CONSTRUCTION. 50 USC 2205.

Nothing in this part shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

PART C—ANTI-ECONOMIC DISCRIMINATION ACT

Anti-Economic Discrimination Act of 1994.

SEC. 561. SHORT TITLE. 22 USC 2679c note.

This part may be cited as the "Anti-Economic Discrimination Act of 1994".

SEC. 562. ISRAEL'S DIPLOMATIC STATUS.

It is the sense of the Congress that the Secretary of State should make the issue of Israel's diplomatic status a priority and urge countries that receive United States assistance to immediately establish full diplomatic relations with the state of Israel.

SEC. 563. POLICY ON MIDDLE EAST ARMS SALES.

(a) BOYCOTT OF ISRAEL.—Section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138) is amended— 105 Stat. 710.

(1) in paragraph (2), by striking "and" at the end; and

(2) in paragraph (3)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) does not participate in the Arab League primary or secondary boycott of Israel.".

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report concerning steps taken to ensure that the goals of section 322 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 are being met.

President. 22 USC 2751 note.

SEC. 564. PROHIBITION ON CERTAIN SALES AND LEASES.

(a) PROHIBITION.—No defense article or defense service may be sold or leased by the United States Government to any country or international organization that, as a matter of policy or practice, is known to have sent letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League primary or secondary boycott of Israel, unless the President determines, and so certifies to the appropriate congressional committees, that that country or organization does not currently maintain a policy or practice of making such requests or solicitations.

(b) WAIVER.—

(1) 1-YEAR WAIVER.—On or after the effective date of this section, the President may waive, for a period of 1 year, the application of subsection (a) with respect to any country or organization if the President determines, and reports to the appropriate congressional committees, that—

(A) such waiver is in the national interest of the United States, and such waiver will promote the objectives of this section to eliminate the Arab boycott; or

(B) such waiver is in the national security interest of the United States.

(2) EXTENSION OF WAIVER.—If the President determines that the further extension of a waiver will promote the objectives of this section, the President, upon notification of the appropriate congressional committees, may grant further extensions of such waiver for successive 12-month periods.

(3) TERMINATION OF WAIVER.—The President may, at any time, terminate any waiver granted under this subsection.

(c) DEFINITIONS.—As used in this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the terms "defense article" and "defense service" have the meanings given to such terms by paragraphs (3) and (4), respectively, of section 47 of the Arms Export Control Act.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

22 USC 2679c.

SEC. 565. PROHIBITION ON DISCRIMINATORY CONTRACTS.

(a) PROHIBITION.—

(1) Except for real estate leases and as provided in subsection (b), the Department of State may not enter into any contract that expends funds appropriated to the Department of State for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))—

(A) with a foreign person that complies with the Arab League boycott of Israel, or

(B) with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

(2) For purposes of this section—

(A) a foreign person complies with the boycott of Israel by Arab League countries when that foreign person takes or knowingly agrees to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking, except that for purposes of this paragraph, the term "United States person" as used in subparagraphs (B) and (C) of section 8(a)(1) of such Act shall be deemed to mean "person"; and

(B) the term "foreign person" means any person other than a United States person as defined in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415).

(3) For purposes of paragraph (1), a foreign person shall be deemed not to comply with the boycott of Israel by Arab League countries if that person, or the Secretary of State or his designee on the basis of available information, certifies that the person violates or otherwise does not comply with the boycott of Israel by Arab League countries by taking any actions prohibited by section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)). Certification by the Secretary of State or his designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(b) WAIVER BY SECRETARY OF STATE.—The Secretary of State may waive the requirements of this section on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States. Each such certification shall include a detailed justification for the waiver with respect to each such country.

(c) RESPONSES TO CONTRACT SOLICITATIONS.—(1) Except as provided in paragraph (2) of this subsection, the Secretary of State shall ensure that any response to a solicitation for a bid or a request for a proposal, with respect to a contract covered by subsection (a), includes the following clause, in substantially the following form:

"ARAB LEAGUE BOYCOTT OF ISRAEL

"(a) DEFINITIONS.—As used in this clause—

"(1) the term 'foreign person' means any person other than a United States person as defined in paragraph (2); and

"(2) the term 'United States person' means any United States resident or national (other than an individual resident

outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

"(b) CERTIFICATION.—By submitting this offer, the Offeror certifies that it is not—

"(1) taking or knowingly agreeing to take any action, with respect to the boycott of Israel by Arab League countries, which section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) prohibits a United States person from taking; or

"(2) discriminating in the award of subcontracts on the basis of religion.".

(2) An Offeror would not be required to include the certification required by paragraph (1), if the Offeror is deemed not to comply with the Arab League boycott of Israel by the Secretary of State or a designee on the basis of available information. Certification by the Secretary of State or a designee may occur only 30 days after notice has been given to the Congress that this certification procedure will be utilized at a specific overseas mission.

(3) The Secretary of State shall ensure that all State Department contract solicitations include a detailed explanation of the requirements of section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)).

(d) REVIEW AND TERMINATION.—(1) The Department of State shall conduct reviews of the certifications submitted pursuant to this section for the purpose of assessing the accuracy of the certifications.

(2) Upon complaint of any foreign or United States person of a violation of the certification as required by this section, filed with the Secretary of State, the Department of State shall investigate such complaint, and if such complaint is found to be correct and a violation of the certification has been found, all contracts with such violator shall be terminated for default as soon as practicable, and, for a period of two years thereafter, the State Department shall not enter into any contracts with such a violator.

(e) UNITED STATES INFORMATION AGENCY.—The provisions of this section shall apply to the United States Information Agency in the same manner and extent to which such provisions apply to the Department of State. In the application of this section to the United States Information Agency, the Director of the United States Information Agency or a designee shall have the authorities and responsibilities of the Secretary of State.

Cambodian Genocide Justice Act.
22 USC 2656 note.

PART D—THE CAMBODIAN GENOCIDE JUSTICE ACT

SEC. 571. SHORT TITLE.

This part may be cited as the "Cambodian Genocide Justice Act".

SEC. 572. POLICY.

(a) IN GENERAL.—Consistent with international law, it is the policy of the United States to support efforts to bring to justice

members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979.

(b) SPECIFIC ACTIONS URGED.—To that end, the Congress urges the President—

(1) to collect, or assist appropriate organizations and individuals to collect relevant data on crimes of genocide committed in Cambodia;

(2) in circumstances which the President deems appropriate, to encourage the establishment of a national or international criminal tribunal for the prosecution of those accused of genocide in Cambodia; and

(3) as necessary, to provide such national or international tribunal with information collected pursuant to paragraph (1).

SEC. 573. ESTABLISHMENT OF STATE DEPARTMENT OFFICE.

(a) ESTABLISHMENT.—(1) None of the funds authorized to be appropriated by this Act for "Diplomatic and Consular Programs" shall be available for obligation or expenditure during fiscal years 1994 and 1995 unless, not later than 90 days after the date of enactment of this Act, the Secretary of State has established within the Department of State under the Assistant Secretary for East Asia and Pacific Affairs (or any successor Assistant Secretary) the Office of Cambodian Genocide Investigation (hereafter in this part referred to as the "Office").

(2) The Office may carry out its activities inside or outside of Cambodia, except that not less than 75 percent of the funds made available for the Office and its activities shall be used to carry out activities within Cambodia.

(b) PURPOSE.—The purpose of the Office shall be to support, through organizations and individuals with whom the Secretary of State may contract to carry out the operations of the Office, as appropriate, efforts to bring to justice members of the Khmer Rouge for their crimes against humanity committed in Cambodia between April 17, 1975, and January 7, 1979, including—

(1) to investigate crimes against humanity committed by national Khmer Rouge leaders during that period;

(2) to provide the people of Cambodia with access to documents, records, and other evidence held by the Office as a result of such investigation;

(3) to submit the relevant data to a national or international penal tribunal that may be convened to formally hear and judge the genocidal acts committed by the Khmer Rouge; and

(4) to develop the United States proposal for the establishment of an international criminal tribunal for the prosecution of those accused of genocide in Cambodia.

(c) CONTRACTING AUTHORITY.—The Secretary of State shall, subject to the availability of appropriations, contract with appropriate individuals and organizations to carry out the purpose of the Office.

(d) NOTIFICATION TO CONGRESS.—The Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives shall be notified of any exercise of the authority of section 34 of the State Department Basic Authorities Act of 1956 with respect to the Office or any of its

programs, projects, or activities at least 15 days in advance in accordance with procedures applicable to notifications under that section.

President.

SEC. 574. REPORTING REQUIREMENT.

(a) IN GENERAL.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the President shall submit a report to the appropriate congressional committees—

(1) that describes the activities of the Office, and sets forth new facts learned about past Khmer Rouge practices, during the preceding 6-month period; and

(2) that describes the steps the President has taken during the preceding 6-month period to promote human rights, to support efforts to bring to justice the national political and military leadership of the Khmer Rouge, and to prevent the recurrence of human rights abuses in Cambodia through actions which are not related to United Nations activities in Cambodia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

Middle East Peace Facilitation Act of 1994.

PART E—MIDDLE EAST PEACE FACILITATION

SEC. 581. SHORT TITLE.

This part may be cited as the "Middle East Peace Facilitation Act of 1994".

SEC. 582. FINDINGS.

The Congress finds that—

(1) the Palestine Liberation Organization has recognized the State of Israel's right to exist in peace and security; accepted United Nations Security Council Resolutions 242 and 338; committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability; and assumed responsibility over all Palestine Liberation Organization elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the Palestine Liberation Organization as the representative of the Palestinian people;

(3) Israel and the Palestine Liberation Organization signed a Declaration of Principles on Interim Self-Government Arrangements on September 13, 1993, at the White House;

(4) the United States has resumed a bilateral dialogue with the Palestine Liberation Organization; and

(5) in order to implement the Declaration of Principles on Interim Self-Government Arrangements and facilitate the Middle East peace process, the President has requested flexibility to suspend certain provisions of law pertaining to the Palestine Liberation Organization.

President.

SEC. 583. AUTHORITY TO SUSPEND CERTAIN PROVISIONS.

(a) IN GENERAL.—Subject to subsection (b), beginning July 1, 1994, the President may suspend for a period of not more than 6 months any provision of law specified in subsection (c). The President may continue the suspension for a period or periods of not more than 6 months until July 1, 1995, if, before each

such period, the President satisfies the requirements of subsection (b). Any suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1) CONSULTATION.—Prior to each exercise of the authority provided in subsection (a), the President shall consult with the relevant congressional committees. The President may not exercise that authority until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority; and

(B) the Palestine Liberation Organization continues to abide by all the commitments described in paragraph (4).

(3) REQUIREMENT FOR CONTINUING PLO COMPLIANCE.—Any suspension under subsection (a) of a provision of law specified in subsection (c) shall cease to be effective if the President certifies to the relevant congressional committees that the Palestine Liberation Organization has not continued to abide by all the commitments described in paragraph (4).

(4) PLO COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2) and (3) are the commitments made by the Palestine Liberation Organization—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestine National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of, the Declaration of Principles on Interim Self-Government Arrangements signed on September 13, 1993.

(5) EXPECTATION OF CONGRESS REGARDING ANY EXTENSION OF PRESIDENTIAL AUTHORITY.—The Congress expects that any extension of the authority provided to the President in subsection (a) will be conditional on the Palestine Liberation Organization—

(A) renouncing the Arab League boycott of Israel;

(B) urging the nations of the Arab League to end the Arab League boycott of Israel;

(C) cooperating with efforts undertaken by the President of the United States to end the Arab League boycott of Israel; and

(D) condemning individual acts of terrorism and violence.

(6) REPORTING REQUIREMENT.—As part of the President's written policy justification referred to in paragraph (1), the President will report on the PLO's response to individual acts of terrorism and violence, as well as its actions concerning the Arab League boycott of Israel as enumerated in paragraph (5) and on the status of the PLO office in the United States as enumerated in subsection (c)(3).

(c) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, Fiscal years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the Palestine Liberation Organization or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, Fiscal years 1988 and 1989 (22 U.S.C. 5202).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286w) as it applies to the granting to the Palestine Liberation Organization of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(d) RELEVANT CONGRESSIONAL COMMITTEES DEFINED.—As used in this section, the term "relevant congressional committees" means—

(1) the Committee on Foreign Affairs, the Committee on Banking, Finance and Urban Affairs, and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

TITLE VI—PEACE CORPS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $219,745,000 for the fiscal year 1994 and $234,745,000 for the fiscal year 1995 to carry out the Peace Corps Act.

(b) AVAILABILITY OF FUNDS.—Funds made available to the Peace Corps pursuant to the authorization under subsection (a) shall be available for the fiscal year for which appropriated and the subsequent fiscal year.

SEC. 602. AMENDMENTS TO THE PEACE CORPS ACT.

(a) EXTENSION OF CONTRACTING AUTHORITY.—Section 10(c) of the Peace Corps Act (22 U.S.C. 2509(c)) is amended by striking "thirty six months" and inserting "five years".

(b) LIABILITY INSURANCE FOR MEDICAL SERVICES PERSONNEL.—Section 10(j) of the Peace Corps Act (22 U.S.C. 2509(j)) is amended by inserting before the period at the end of the first sentence ", and to individuals employed under personal services contracts to furnish medical services abroad pursuant to subsection (a)(5) of this section.".

TITLE VII—ARMS CONTROL

PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994

Arms Control and Nonproliferation Act of 1994.

SEC. 701. SHORT TITLE; REFERENCES IN PART; TABLE OF CONTENTS.

(a) SHORT TITLE.—This part may be cited as the "Arms Control and Nonproliferation Act of 1994".

(b) REFERENCES IN PART.—Except as specifically provided in this part, whenever in this part an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Arms Control and Disarmament Act.

SEC. 702. CONGRESSIONAL DECLARATIONS; PURPOSE.

(a) CONGRESSIONAL DECLARATIONS.—The Congress declares that—

(1) a fundamental goal of the United States, particularly in the wake of the highly turbulent and uncertain international situation fostered by the end of the Cold War, the disintegration of the Soviet Union and the resulting emergence of fifteen new independent states, and the revolutionary changes in Eastern Europe, is to prevent the proliferation of nuclear weapons and their means of delivery and of advanced conventional armaments, to eliminate chemical and biological weapons, and to reduce and limit the large numbers of nuclear weapons in the former Soviet Union, as well as to prevent regional conflicts and conventional arms races; and

(2) an ultimate goal of the United States continues to be a world in which the use of force is subordinated to the rule of law and international change is achieved peacefully without the danger and burden of destabilizing and costly armaments.

(b) PURPOSE.—The purpose of this part is—

(1) to strengthen the United States Arms Control and Disarmament Agency; and

(2) to improve congressional oversight of the arms control, nonproliferation, and disarmament activities of the United States Arms Control and Disarmament Agency, and of the Agency's operating budget.

SEC. 703. PURPOSES.

Section 2 (22 U.S.C. 2551) is amended in the text following the third undesignated paragraph by striking paragraphs (a), (b), (c), and (d) and by inserting the following new paragraphs:

"(1) The preparation for and management of United States participation in international negotiations and implementation fora in the arms control and disarmament field.

"(2) When directed by the President, the preparation for, and management of, United States participation in international negotiations and implementation fora in the nonproliferation field.

"(3) The conduct, support, and coordination of research for arms control, nonproliferation, and disarmament policy formulation.

"(4) The preparation for, operation of, or, as appropriate, direction of, United States participation in such control systems as may become part of United States arms control, nonproliferation, and disarmament activities.

"(5) The dissemination and coordination of public information concerning arms control, nonproliferation, and disarmament.".

SEC. 704. REPEALS.

The following provisions of law are hereby repealed:

(1) Subsections (b) and (c) of section 36 (22 U.S.C. 2576), relating to arms control impact information and analysis.

(2) Section 38 (22 U.S.C. 2578), relating to reports on Standing Consultative Commission activities.

(3) Section 52 (22 U.S.C. 2592), relating to reports on adherence to and compliance with agreements.

SEC. 705. DIRECTOR.

Section 22 (22 U.S.C. 2562) is amended to read as follows:

"DIRECTOR

President.

"SEC. 22. (a) APPOINTMENT.—The Agency shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director.

"(b) DUTIES.—(1) The Director shall serve as the principal adviser to the Secretary of State, the National Security Council, and the President and other executive branch Government officials on matters relating to arms control, nonproliferation, and disarmament. In carrying out his duties under this Act, the Director, under the direction of the President and the Secretary of State, shall have primary responsibility within the Government for matters relating to arms control and disarmament, and, whenever directed by the President, primary responsibility within the Government for matters relating to nonproliferation.

"(2) The Director shall attend all meetings of the National Security Council involving weapons procurement, arms sales, consideration of the defense budget, and all arms control, nonproliferation, and disarmament matters.".

SEC. 706. BUREAUS, OFFICES, AND DIVISIONS.

Section 25 (22 U.S.C. 2565) is amended to read as follows:

"BUREAUS, OFFICES, AND DIVISIONS

"SEC. 25. The Director may establish within the Agency such bureaus, offices, and divisions as he may determine to be necessary

to discharge his responsibilities pursuant to this Act, including a bureau of intelligence and information support and an office to perform legal services for the Agency.".

SEC. 707. SCIENTIFIC AND POLICY ADVISORY COMMITTEE.

Section 26 (22 U.S.C. 2566) is amended to read as follows:

"SCIENTIFIC AND POLICY ADVISORY COMMITTEE

"SEC. 26. (a) ESTABLISHMENT.—(1) The President may appoint a Scientific and Policy Advisory Committee (in this section referred to as the 'Committee') of not to exceed 15 members, not less than eight of whom shall be scientists.

"(2) The members of the Committee shall be appointed as follows: President.

"(A) One member, who shall be a person of renown and distinction, shall be appointed by the President, by and with the advice and consent of the Senate, as Chairman of the Committee.

"(B) Fourteen other members shall be appointed by the President.

"(3) The Committee shall meet at least twice each year.

"(b) FUNCTION.—It shall be the responsibility of the Committee to advise the President, the Secretary of State, and the Director respecting scientific, technical, and policy matters affecting arms control, nonproliferation, and disarmament.

"(c) REIMBURSEMENT OF EXPENSES.—The members of the Committee may receive reimbursement of expenses only in accordance with the provisions applicable to the reimbursement of experts and consultants under section 41(d) of this Act.

"(d) TERMINATION.—The Committee shall terminate two years after the date of enactment of the Arms Control and Nonproliferation Act of 1994.

"(e) DEFINITION.—As used in this section, the term 'scientist' means an individual who has a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who has distinguished himself or herself in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering.".

SEC. 708. PRESIDENTIAL SPECIAL REPRESENTATIVES.

(a) IN GENERAL.—Section 27 (22 U.S.C. 2567) is amended to read as follows:

"PRESIDENTIAL SPECIAL REPRESENTATIVES

"SEC. 27. The President may appoint, by and with the advice and consent of the Senate, Special Representatives of the President for arms control, nonproliferation, and disarmament matters. Each Presidential Special Representative shall hold the rank of ambassador. One such Representative may serve in the Agency as Chief Science Advisor. Presidential Special Representatives appointed under this section shall perform their duties and exercise their powers under the direction of the President and the Secretary of State, acting through the Director. The Agency shall be the Government agency responsible for providing administrative support, including funding, staff, and office space, to all Presidential Special Representatives.".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking:

"Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2)."

and inserting:

"Special Representatives of the President for arms control, nonproliferation, and disarmament matters, United States Arms Control and Disarmament Agency.".

SEC. 709. POLICY FORMULATION.

Section 33 (22 U.S.C. 2573) is amended to read as follows:

"POLICY FORMULATION

"SEC. 33. (a) FORMULATION.—The Director shall prepare for the President, the Secretary of State, and the heads of such other Government agencies as the President may determine, recommendations and advice concerning United States arms control, nonproliferation, and disarmament policy.

"(b) PROHIBITION.—No action shall be taken pursuant to this or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner, except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.".

SEC. 710. NEGOTIATION MANAGEMENT.

Section 34 (22 U.S.C. 2574) is amended to read as follows:

"NEGOTIATION MANAGEMENT

"SEC. 34. (a) RESPONSIBILITIES.—The Director, under the direction of the President and the Secretary of State, shall have primary responsibility for the preparation, conduct, and management of United States participation in all international negotiations and implementation fora in the field of arms control and disarmament and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of United States participation in international negotiations and implementation fora in the field of nonproliferation. In furtherance of these responsibilities, Special Representatives of the President appointed pursuant to section 27, shall, as directed by the President, serve as the United States Government representatives to international organizations, conferences, and activities relating to the field of nonproliferation, such as the preparations for and conduct of the review relating to the Treaty on the Non-Proliferation of Nuclear Weapons.

"(b) FUNCTIONS WITH RESPECT TO THE UNITED STATES INFORMATION AGENCY.—The Director shall perform functions pursuant to section 2(c) of the Reorganization Plan 8 of 1953 with respect to providing to the United States Information Agency official United States positions and policy on arms control, nonproliferation, and disarmament matters for dissemination abroad.

"(c) AUTHORITY.—The Director is authorized—

"(1) for the purpose of conducting negotiations concerning arms control, nonproliferation, or disarmament or for the purpose of exercising any other authority given him by this Act—

"(A) to consult and communicate with, or to direct the consultation and communication with, representatives of other nations or of international organizations, and

"(B) to communicate in the name of the Secretary of State with diplomatic representatives of the United States in the United States or abroad;

"(2) to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities; and

"(3) as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.".

SEC. 711. REPORT ON MEASURES TO COORDINATE RESEARCH AND DEVELOPMENT.

President.

Not later than December 31, 1994, the President shall submit to the Congress a report prepared by the Director of the United States Arms Control and Disarmament Agency, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, with respect to the procedures established pursuant to section 35 of the Arms Control and Disarmament Act (22 U.S.C. 2575) for the effective coordination of research and development on arms control, nonproliferation, and disarmament among all departments and agencies of the executive branch of Government.

SEC. 712. VERIFICATION OF COMPLIANCE.

Section 37 (22 U.S.C. 2577) is amended to read as follows:

"VERIFICATION OF COMPLIANCE

"SEC. 37. (a) IN GENERAL.—In order to ensure that arms control, nonproliferation, and disarmament agreements can be adequately verified, the Director shall report to Congress, on a timely basis, or upon request by an appropriate committee of the Congress—

Reports.

"(1) in the case of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States, the determination of the Director as to the degree to which the components of such agreement can be verified;

"(2) in the case of any arms control, nonproliferation, or disarmament agreement that has entered into force, any significant degradation or alteration in the capacity of the United States to verify compliance of the components of such agreement;

"(3) the amount and percentage of research funds expended by the Agency for the purpose of analyzing issues relating to arms control, nonproliferation, and disarmament verification; and

"(4) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency.

"(b) STANDARD FOR VERIFICATION OF COMPLIANCE.—In making determinations under paragraphs (1) and (2) of subsection (a), the

Director shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

"(c) RULE OF CONSTRUCTION.—Except as otherwise provided for by law, nothing in this section may be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control, nonproliferation, and disarmament agreements.

"(d) PARTICIPATION OF THE AGENCY.—In order to ensure adherence of the United States to obligations or commitments undertaken in arms control, nonproliferation, and disarmament agreements, and in order for the Director to make the assessment required by section 51(a)(5), the Director, or the Director's designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on United States adherence to obligations undertaken in arms control, nonproliferation, or disarmament agreements.".

SEC. 713. NEGOTIATING RECORDS.

(a) IN GENERAL.—The Arms Control and Disarmament Act is amended by inserting after section 37 the following:

"NEGOTIATING RECORDS

Classified information. Public information. 22 USC 2578.

"SEC. 38. (a) PREPARATION OF RECORDS.—The Director shall establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United States is a party and which was under negotiation or in force on or after January 1, 1990, which shall include classified and unclassified materials such as instructions and guidance, position papers, reporting cables and memoranda of conversation, working papers, draft texts of the agreement, diplomatic notes, notes verbal, and other internal and external correspondence.

"(b) NEGOTIATING AND IMPLEMENTATION RECORDS.—In particular, the Director shall establish and maintain a negotiating and implementation record for each such agreement, which shall be comprehensive and detailed, and shall document all communications between the parties with respect to such agreement. Such records shall be maintained both in hard copy and magnetic media.

"(c) PARTICIPATION OF AGENCY PERSONNEL.—In order to implement effectively this section, the Director shall ensure that Agency personnel participate throughout the negotiation and implementation phases of all arms control, nonproliferation, and disarmament agreements.".

(b) REPORT REQUIRED.—Not later than January 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions he has undertaken to implement section 38 of the Arms Control and Disarmament Act.

SEC. 714. AUTHORITIES WITH RESPECT TO NONPROLIFERATION MATTERS.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—(1) Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778(a)(2)) is amended to read as follows:

"(2) Decisions on issuing export licenses under this section shall be made in coordination with the Director of the United States Arms Control and Disarmament Agency, taking into account the Director's assessment as to whether the export of an article would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that the issuance of an export license under this section would be detrimental to the national security of the United States, to recommend to the President that such export license be disapproved.".

(2) Section 42(a) of such Act (22 U.S.C. 2791(a)) is amended—

(A) in the second sentence, by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(B) by inserting "(1)" immediately after "(a)";

(C) by amending clause (C) (as redesignated) to read as follows: "(C) the assessment of the Director of the United States Arms Control and Disarmament Agency as to whether, and the extent to which, such sale might contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or nonproliferation agreements or other arrangements."; and

(D) by adding at the end the following:

"(2) Any proposed sale made pursuant to this Act shall be approved only after consultation with the Director of the United States Arms Control and Disarmament Agency. The Director of the Arms Control and Disarmament Agency is authorized, whenever the Director determines that a sale under this section would be detrimental to the national security of the United States, to recommend to the President that such sale be disapproved.".

(3) Section 71(a) of such Act (22 U.S.C. 2797(a)) is amended by inserting ", the Director of the Arms Control and Disarmament Agency," after "the Secretary of Defense".

(4) Section 71(b)(1) of such Act (22 U.S.C. 2797(b)(1)) is amended by inserting "and the Director of the United States Arms Control and Disarmament Agency" after "Secretary of Defense".

(5) Section 71(b)(2) of such Act (22 U.S.C. 2797(b)(2)) is amended—

(A) by striking "and the Secretary of Commerce" and inserting ", the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency"; and

(B) by inserting "or the Director" after "relevant Secretary".

(6) Section 71(c) of such Act (22 U.S.C. 2797(c)) is amended by inserting "with the Director of the United States Arms Control and Disarmament Agency," after "Director of Central Intelligence,".

(7) Section 73(d) of such Act (22 U.S.C. 2797(d)) is amended by striking "and the Secretary of Commerce," and inserting ", 22 USC 2797b.

the Secretary of Commerce, and the Director of the United States Arms Control and Disarmament Agency,".

(b) AMENDMENT TO THE NUCLEAR NON-PROLIFERATION ACT.—Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)) is amended in the second sentence by striking out ", as required,".

SEC. 715. APPOINTMENT AND COMPENSATION OF PERSONNEL.

Section 41(b) of the Arms Control and Disarmament Act (22 U.S.C. 2581(b)) is amended by striking "except that during the 2-year" and all that follows through the end thereof and inserting "except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities, appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Director ensures that—

"(1) any employee who is appointed under this exception is not paid at a rate—

"(A) in excess of the rate payable for positions of equivalent difficulty or responsibility, or

"(B) exceeding the maximum rate payable for grade 15 of the General Schedule; and

"(2) the number of employees appointed under this exception shall not exceed 10 percent of the Agency's full-time-equivalent ceiling.".

SEC. 716. SECURITY REQUIREMENTS.

Section 45(a) (22 U.S.C. 2585) is amended in the third sentence—

(1) by inserting "or employed directly from other Government agencies" after "persons detailed from other Government agencies"; and

(2) by striking "by the Department of Defense or the Department of State" and inserting "by such agencies".

SEC. 717. REPORTS.

(a) IN GENERAL.—Title IV of the Arms Control and Disarmament Act is amended—

22 USC 2589, 2590.

(1) by striking sections 49 and 50;

22 USC 2591, 2593.

(2) by redesignating sections 51 and 53 as sections 49 and 50, respectively; and

(3) by inserting after section 50 (as redesignated by paragraph (2)) the following new sections:

"ANNUAL REPORT TO CONGRESS

President. 22 USC 2593a.

"SEC. 51. (a) IN GENERAL.—Not later than January 31 of each year, the President shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Director, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

"(1) a detailed statement concerning the arms control and disarmament objectives of the executive branch of Government for the forthcoming year;

"(2) a detailed statement concerning the nonproliferation objectives of the executive branch of Government for the forthcoming year;

"(3) a detailed assessment of the status of any ongoing arms control or disarmament negotiations, including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

"(4) a detailed assessment of the status of any ongoing nonproliferation negotiations or other activities, including a comprehensive description of the negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

"(5) a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken; and

"(6) a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control, nonproliferation, or disarmament agreements, and shall include, in the case of each agreement about which compliance questions exist—

"(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

"(B) an assessment of damage, if any, to the United States security and other interests; and

"(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems.

"(b) CLASSIFICATION OF THE REPORT.—The report required by this section shall be submitted in unclassified form, with classified annexes, as appropriate.

"PUBLIC ANNUAL REPORT ON WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS

"SEC. 52. Not later than December 31 of each year, the Director shall publish an unclassified report on world military expenditures and arms transfers. Such report shall provide detailed, comprehensive, and statistical information regarding military expenditures, arms transfers, armed forces, and related economic data for each country of the world. In addition, such report shall include pertinent in-depth analyses as well as highlights with respect to arms trans-

Publication.
22 USC 2593b.

fers and proliferation trends and initiatives affecting such developments.".

22 USC 2551 note.

(b) REPORT ON REVITALIZATION OF ACDA.—Not later than December 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions that have been taken and that are underway to revitalize the United States Arms Control and Disarmament Agency pursuant to the provisions of this part and the amendments made by this part.

SEC. 718. FUNDING.

(a) IN GENERAL.—Title IV of the Arms Control and Disarmament Act, as amended by section 717, is further amended by adding at the end the following:

"REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS

22 USC 2593c.

"SEC. 53. (a) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.—Notwithstanding any other provision of law, for the fiscal year 1994 and for each subsequent year, any funds appropriated for the Agency shall not be available for obligation or expenditure—

"(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

"(2) in excess of the authorized level of appropriations.

"(b) SUBSEQUENT AUTHORIZATION.—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

"(c) APPLICATION.—The provisions of this section—

"(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

"(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered by the Agency.

"TRANSFERS AND REPROGRAMMINGS

22 USC 2593d.

"SEC. 54. (a) TRANSFER OF FUNDS.—Funds appropriated for the purpose of carrying out this Act may be allocated or transferred to any agency for such purpose. Such funds shall be available for obligation and expenditure in accordance with the authorities of this Act or in accordance with the authorities governing the activities of the agencies to which such funds are allocated or transferred.

"(b) LIMITATION.—Not more than 12 percent of any appropriation made for the purpose of carrying out this Act shall be obligated or reserved during the last month of the fiscal year.".

"(c) CONGRESSIONAL NOTIFICATION OF CERTAIN REPROGRAMMINGS.—Unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified at least 15 days in advance of the proposed reprogramming, funds appropriated to carry out this Act (other than funds to carry out title V) shall not be available for obligation or expenditure through any reprogramming of funds that—

"(1) would create or eliminate a program, project, or activity;

"(2) would increase funds or personnel by any means for any program, project, or activity for which funds have been denied or restricted by the Congress;

"(3) would relocate an office or employees;

"(4) would reorganize offices, programs, projects, or activities;

"(5) would involve contracting out functions which had been performed by Federal employees; or

"(6) would involve a reprogramming in excess of $1,000,000 or 10 percent (whichever is less) and would—

"(A) augment existing programs, projects, or activities,

"(B) reduce by 10 percent or more the funding for any existing program, project, activity, or personnel approved by the Congress, or

"(C) result from any general savings from a reduction in personnel that would result in a change in existing programs, activities, or projects approved by the Congress.

"(d) LIMITATION ON END-OF-YEAR REPROGRAMMINGS.—Funds appropriated to carry out this Act (other than funds to carry out title V) shall not be available for obligation or expenditure through any reprogramming described in paragraph (1) during the last 15 days in which such funds are available for obligation or expenditure (as the case may be) unless the notification required by that paragraph was submitted before that 15-day period.".

SEC. 719. CONFORMING AMENDMENTS.

(a) Section 2 (22 U.S.C. 2551) is amended—

(1) in the second undesignated paragraph, by inserting ", nonproliferation," after "Arms control"; and

(2) in the second and third undesignated paragraphs, by inserting ", nonproliferation," after "arms control" each place it appears.

(b) Section 28 (22 U.S.C. 2568) is amended—

(1) in the first sentence, by striking "field of arms control and disarmament" and inserting "fields of arms control, nonproliferation, and disarmament"; and

(2) in the second sentence, by inserting ", nonproliferation," after "arms control".

(c) Section 31 (22 U.S.C. 2571) is amended—

(1) in the text above paragraph (a), by striking "field of arms control and disarmament" each of the three places it appears and inserting "fields of arms control, nonproliferation, and disarmament";

(2) in the first sentence, by inserting "and nonproliferation" after disarmament; and

(3) in the fourth sentence, by inserting ", nonproliferation," after "arms control" each of the eight places it appears.

(d) Section 35 (22 U.S.C. 2575) is amended by inserting ", nonproliferation," after "arms control".

(e) Section 36 (22 U.S.C. 2576) is amended—

(1) by amending the section heading to read as follows: "ARMS CONTROL INFORMATION";

(2) by striking "(a)"; and

(3) by inserting ", nonproliferation," after "arms control" each of the two places it appears.

(f) Section 39 (22 U.S.C. 2579) is amended by inserting ", nonproliferation," after "arms control" each of the two places it appears.

22 USC 2591.

(g) Section 49 (as redesignated by section 817(a)(2)) is amended—

(1) by striking "Soviet"; and

(2) by inserting "of the former Soviet Union" after "affairs".

PART B—AMENDMENTS TO THE ARMS EXPORT CONTROL ACT

President.

SEC. 731. LIMITATION ON AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

(a) TRANSFERS TO COUNTRIES ON THE SOUTHERN AND SOUTHEASTERN FLANK OF NATO.—Section 516(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.".

(b) TRANSFERS TO COUNTRIES PARTICIPATING IN A COMPREHENSIVE NATIONAL ANTINARCOTICS PROGRAM.—Section 517(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(f)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.".

(c) TRANSFERS TO COUNTRIES ELIGIBLE TO PARTICIPATE IN A FOREIGN MILITARY FINANCING PROGRAM.—Section 519(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m(b)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.".

(d) SALES FROM STOCK UNDER ARMS EXPORT CONTROL ACT.—Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following new subsection:

"(k) Before entering into the sale under this Act of defense articles that are excess to the stocks of the Department of Defense, the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are sold.".

(e) LEASES UNDER ARMS EXPORT CONTROL ACT.—Section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4);

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) the President first considers the effects of the lease of the articles on the national technology and industrial base, particularly the extent, if any, to which the lease reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the articles are leased; and"; and

(4) in the matter following paragraph (4) (as redesignated by paragraph (2) of this subsection) by striking "paragraph (3)" each place it appears and inserting "paragraph (4)".

SEC. 732. REPORTS UNDER THE ARMS EXPORT CONTROL ACT.

(a) NUMBERED CERTIFICATIONS WITH RESPECT TO GOVERNMENT-TO-GOVERNMENT SALES.—Section 36(b)(1) of the Arms Export Control Act (22 U.S.C. 2776(b)(1)) is amended—

(1) by inserting after the second sentence the following new sentence: "Each such numbered certification shall contain an item indicating whether any offset agreement is proposed to be entered into in connection with such letter of offer to sell (if known on the date of transmittal of such certification)."; and

(2) in subparagraph (C) by inserting "and a description from such contractor of any offset agreements proposed to be entered into in connection with such sale" after "sold".

(b) NUMBERED CERTIFICATIONS WITH RESPECT TO COMMERCIAL EXPORTS.—Section 36(c)(1) of the Arms Export Control Act (22 U.S.C. 2776(c)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: "Each such numbered certification shall also contain an item indicating whether any offset agreement is proposed to be entered into in connection with such export (if known on the date of transmittal of such certification)."; and

(2) in the third sentence by inserting "and a description from the person who has submitted the license application of any offset agreement proposed to be entered into in connection with such export (if known on the date of transmittal of such statement)" after "Secretary of Defense".

(c) DEFINITIONS.—Section 36 of the Arms Export Control Act (22 U.S.C. 2776) is amended by adding at the end the following:

"(e) For purposes of this section—

"(1) the term 'offset agreement' means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense service from the supplier; and

"(2) the term 'United States person' means—

"(A) an individual who is a national or permanent resident alien of the United States; and

"(B) any corporation, business association, partnership, trust, or other juridical entity—

"(i) organized under the laws of the United States or any State, district, territory, or possession thereof; or

"(ii) owned or controlled in fact by individuals described in subparagraph (A).".

SEC. 733. PROHIBITION ON INCENTIVE PAYMENTS UNDER THE ARMS EXPORT CONTROL ACT.

The Arms Export Control Act (22 U.S.C. 2779) is amended by inserting after section 39 the following new section:

22 USC 2779a.

"SEC. 39A. PROHIBITION ON INCENTIVE PAYMENTS.

"(a) No United States supplier of defense articles or services sold under this Act, nor any employee, agent, or subcontractor thereof, shall, with respect to the sale of any such defense article or defense service to a foreign country, make any incentive payments for the purpose of satisfying, in whole or in part, any offset agreement with that country.

"(b) Any person who violates the provisions of this section shall be subject to the imposition of civil penalties as provided for in this section.

"(c) In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement and imposition of civil penalties which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979 and section 12(a) of such Act, subject to the same terms and conditions as are applicable to such powers under that Act, except that notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000 or five times the amount of the prohibited incentive payment, whichever is greater.

"(d) For purposes of this section—

"(1) the term 'offset agreement' means an agreement, arrangement, or understanding between a United States supplier of defense articles or defense services and a foreign country under which the supplier agrees to purchase or acquire, or to promote the purchase or acquisition by other United States persons of, goods or services produced, manufactured, grown, or extracted, in whole or in part, in that foreign country in consideration for the purchase by the foreign country of defense articles or defense services from the supplier;

"(2) the term 'incentive payments' means direct monetary compensation made by a United States supplier of defense

articles or defense services or by any employee, agent or subcontractor thereof to any other United States person to induce or persuade that United States person to purchase or acquire goods or services produced, manufactured, grown, or extracted, in whole or in part, in the foreign country which is purchasing those defense articles or services from the United States supplier; and

"(3) the term 'United States person' means—

"(A) an individual who is a national or permanent resident alien of the United States; and

"(B) any corporation, business association, partnership, trust, or other juridical entity—

"(i) organized under the laws of the United States or any State, the District of Columbia, or any territory or possession of the United States; or

"(ii) owned or controlled in fact by individuals described in subparagraph (A).".

SEC. 734. MISSILE TECHNOLOGY EXPORTS TO CERTAIN MIDDLE EASTERN AND ASIAN COUNTRIES.

(a) EXPORTS BY UNITED STATES PERSONS.—Section 72 of the Arms Export Control Act (22 U.S.C. 2797a) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a United States person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.".

(b) EXPORTS BY FOREIGN PERSONS.—Section 73 of the Arms Export Control Act (22 U.S.C. 2797b) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

"(f) PRESUMPTION.—In determining whether to apply sanctions under subsection (a) to a foreign person involved in the export, transfer, or trade of an item on the MTCR Annex, it should be a rebuttable presumption that such item is designed for use in a missile listed in the MTCR Annex if the President determines that the final destination of the item is a country the government of which the Secretary of State has determined, for purposes of 6(j)(1)(A) of the Export Administration Act of 1979, has repeatedly provided support for acts of international terrorism.".

SEC. 735. NOTIFICATION OF CONGRESS ON CERTAIN EVENTS INVOLVING THE MISSILE TECHNOLOGY CONTROL REGIME (MTCR).

(a) SALE OF DEFENSE ARTICLES OR SERVICES.—Section 36(b)(1) of the Arms Export Control Act is amended by inserting after "sensitivity of such technology." the following new sentence: "In a case in which such articles or services listed on the Missile Technology Control Regime Annex are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving

22 USC 2776.

such export, including the consistency of such export with United States missile nonproliferation policy.".

22 USC 2776

(b) EXPORT OF MAJOR DEFENSE EQUIPMENT.—Section 36(c)(1) of the Arms Export Control Act is amended by inserting after "in consultation with the Secretary of Defense." the following new sentence: "In a case in which such articles or services are listed on the Missile Technology Control Regime Annex and are intended to support the design, development, or production of a Category I space launch vehicle system (as defined in section 74), such report shall include a description of the proposed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy.".

22 USC 2797.

(c) LICENSING.—Section 71 of the Arms Export Control Act is amended by inserting after subsection (c) the following new subsection:

Reports.

"(d) EXPORTS TO SPACE LAUNCH VEHICLE PROGRAMS.—Within 15 days after the issuance of a license for the export of items valued at less than $14,000,000 that are controlled under this Act pursuant to United States obligations under the Missile Technology Control Regime and intended to support the design, development, or production of a space launch vehicle system listed in Category I of the MTCR Annex, the Secretary shall transmit to the Congress a report describing the licensed export and rationale for approving such export, including the consistency of such export with United States missile nonproliferation policy. The requirement contained in the preceding sentence shall not apply to licenses for exports to countries that were members of the MTCR as of April 17, 1987.

(d) NOTIFICATION OF ADMITTANCE ON MTCR ADHERENTS.—The Arms Export Control Act is amended by inserting after section 73 the following new section:

President.
Reports.
22 USC 2797b-1.

"SEC. 73A. NOTIFICATION OF ADMITTANCE OF MTCR ADHERENTS.

"Following any action by the United States that results in a country becoming a MTCR adherent, the President shall transmit promptly to the Congress a report which describes the rationale for such action, together with an assessment of that country's nonproliferation policies, practices, and commitments. Such report shall also include the text of any agreements or understandings between the United States and such country regarding the terms and conditions of the country's adherence to the MTCR.".

SEC. 736. CONTROL OF REEXPORTS TO TERRORIST COUNTRIES.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) is amended by adding at the end the following new paragraph:

"(5) The Secretary and the Secretary of State shall include in the notification required by paragraph (2)—

"(A) a detailed description of the goods or services to be offered, including a brief description of the capabilities of any article for which a license to export is sought;

"(B) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the goods or services which are the subject of such export or transfer and a description of the manner in which such country or organization intends to use such articles, services, or design and construction services;

"(C) the reasons why the proposed export or transfer is in the national interest of the United States;

"(D) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

"(E) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the goods or services which are the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of articles, services, or design and construction services; and

"(F) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the goods or services which are the subject of such export would be delivered.".

TITLE VIII—NUCLEAR PROLIFERATION PREVENTION ACT

Nuclear Proliferation Prevention Act of 1994.

SEC. 801. SHORT TITLE.

22 USC 3201 note.

This title may be cited as the "Nuclear Proliferation Prevention Act of 1994".

PART A—REPORTING ON NUCLEAR EXPORTS

SEC. 811. REPORTS TO CONGRESS.

Section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) in paragraph (5), by striking the period and inserting a semicolon; and

(3) by adding after paragraph (5) the following:

"(6) a description of the implementation of nuclear and nuclear-related dual-use export controls in the preceding calendar year, including a summary by type of commodity and destination of—

"(A) all transactions for which—

"(i) an export license was issued for any good controlled under section 309(c) of this Act;

"(ii) an export license was issued under section 109 b. of the 1954 Act;

"(iii) approvals were issued under the Export Administration Act of 1979, or section 109 b.(3) of the 1954 Act, for the retransfer of any item, technical data, component, or substance; or

"(iv) authorizations were made as required by section 57 b.(2) of the 1954 Act to engage, directly or indirectly, in the production of special nuclear material;

"(B) each instance in which—

"(i) a sanction has been imposed under section 821(a) or section 824 of the Nuclear Proliferation Prevention Act of 1994 or section 102(b)(1) of the Arms Export Control Act;

"(ii) sales or leases have been denied under section 3(f) of the Arms Export Control Act or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 40(d) of that Act;

"(iii) a sanction has not been imposed by reason of section 821(c)(2) of the Nuclear Proliferation Prevention Act of 1994 or the imposition of a sanction has been delayed under section 102(b)(4) of the Arms Export Control Act; or

"(iv) a waiver of a sanction has been made under—

"(I) section 821(f) or section 824 of the Nuclear Proliferation Prevention Act of 1994,

"(II) section 620E(d) of the Foreign Assistance Act of 1961, or paragraph (5) or (6)(B) of section 102(b) of the Arms Export Control Act,

"(III) section 40(g) of the Arms Export Control Act with respect to the last sentence of section 40(d) of that Act, or

"(IV) section 614 of the Foreign Assistance Act of 1961 with respect to section 620E of that Act or section 3(f), the last sentence of section 40(d), or 102(b)(1) of the Arms Export Control Act; and

"(C) the progress of those independent states of the former Soviet Union that are non-nuclear-weapon states and of the Baltic states towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities.

Portions of the information required by paragraph (6) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 shall be submitted as confidential.".

22 USC 3201 note.

PART B—SANCTIONS FOR NUCLEAR PROLIFERATION

SEC. 821. IMPOSITION OF PROCUREMENT SANCTION ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.—The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.—The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence. President.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions. President.

(c) SANCTION.—

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph

(2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) ADVISORY OPINIONS.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.—The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may

be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

SEC. 822. ELIGIBILITY FOR ASSISTANCE.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—

(1) PROHIBITION.—Section 3 of the Arms Export Control Act (22 U.S.C. 2753) is amended by adding at the end the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) and unsafeguarded special nuclear material (as defined in section 830(8) of that Act).".

(2) DEFINITION OF SUPPORT FOR INTERNATIONAL TERRORISM.—Section 40 of such Act (22 U.S.C. 2780) is amended—

(A) in subsection (d), by adding at the end the following new sentence: "For purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material."; and

(B) in subsection (l)—

(i) in paragraph (2), by striking "and" after the semicolon;

(ii) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(4) the term 'nuclear explosive device' has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994; and

"(5) the term 'unsafeguarded special nuclear material' has the meaning given that term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.".

(b) FOREIGN ASSISTANCE ACT OF 1961.—

(1) PRESIDENTIAL DETERMINATION 82–7.—Notwithstanding any other provision of law, Presidential Determination No. 82–7 of February 10, 1982, made pursuant to section 670(a)(2)

of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 102(a)(1) of the Arms Export Control Act arising on or after the effective date of this part.

(2) AMENDMENT.—Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 101 of the Arms Export Control Act with respect to any grounds for the prohibition of assistance under that section arising before the effective date of part B of the Nuclear Proliferation Prevention Act of 1994 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 823. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994) or a nuclear explosive device (as defined in section 830(4) of that Act);

"(B) is not a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 824. PROHIBITION ON ASSISTING NUCLEAR PROLIFERATION THROUGH THE PROVISION OF FINANCING.

(a) PROHIBITED ACTIVITY DEFINED.—For purposes of this section, the term "prohibited activity" means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material; or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.

(b) PROHIBITION.—To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) PRESIDENTIAL DETERMINATION AND ORDER WITH RESPECT TO UNITED STATES AND FOREIGN PERSONS.—If the President determines, in writing after opportunity for a hearing on the record, that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) SANCTIONS.—The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) SERVICE AS DEPOSITARY.—The person may not serve as a depositary for United States Government funds.

(2) RESTRICTIONS ON OPERATIONS.—The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e) JUDICIAL REVIEW.—Any determination of the President under subsection (c) shall be subject to judicial review in accordance with chapter 7 of part I of title 5, United States Code.

(f) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination under subsection (c) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—

(A) SUSPENSION OF PERIOD FOR IMPOSING SANCTIONS.—In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) COORDINATION WITH ACTIVITIES OF FOREIGN GOVERNMENT.—Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) EXTENSION OF PERIOD.—After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) REPORT TO CONGRESS.—Before the end of the 90-day period beginning on the date on which an order is issued

under subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(g) TERMINATION OF THE SANCTIONS.—Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(h) WAIVER.—The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(i) ENFORCEMENT ACTION.—The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

(1) any violation of subsection (b); or

(2) any order issued pursuant to subsection (c).

(j) KNOWINGLY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "knowingly" means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR CIRCUMSTANCE.—If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(k) SCOPE OF APPLICATION.—This section shall apply with respect to prohibited activities which occur on or after the date this part takes effect.

SEC. 825. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended in the first sentence by inserting after "device" the following: "(as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994), or that any country

has willfully aided or abetted any non-nuclear-weapon state (as defined in section 830(5) of that Act) to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 830(8) of that Act).".

SEC. 826. AMENDMENT TO THE ARMS EXPORT CONTROL ACT.

(a) IN GENERAL.—The Arms Export Control Act is amended by adding at the end the following new chapter:

"CHAPTER 10—NUCLEAR NONPROLIFERATION CONTROLS

"SEC. 101. NUCLEAR ENRICHMENT TRANSFERS. 22 USC 2799aa.

"(a) PROHIBITIONS; SAFEGUARDS AND MANAGEMENT.—Except as provided in subsection (b) of this section, no funds made available to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines delivers nuclear enrichment equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977, unless before such delivery—

"(1) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

"(2) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

"(b) CERTIFICATION BY PRESIDENT OF NECESSITY OF CONTINUED ASSISTANCE; DISAPPROVAL BY CONGRESS.—(1) Notwithstanding subsection (a) of this section, the President may furnish assistance which would otherwise be prohibited under such subsection if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that—

"(A) the termination of such assistance would have a serious adverse effect on vital United States interests; and

"(B) he has received reliable assurances that the country in question will not acquire or develop nuclear weapons or assist other nations in doing so.

Such certification shall set forth the reasons supporting such determination in each particular case.

"(2)(A) A certification under paragraph (1) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within thirty calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assistance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and

all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

President.
22 USC
2799aa-1.

"SEC. 102. NUCLEAR REPROCESSING TRANSFERS, ILLEGAL EXPORTS FOR NUCLEAR EXPLOSIVE DEVICES, TRANSFERS OF NUCLEAR EXPLOSIVE DEVICES, AND NUCLEAR DETONATIONS.

"(a) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OF NUCLEAR REPROCESSING EQUIPMENT, MATERIALS, OR TECHNOLOGY; EXCEPTIONS; PROCEDURES APPLICABLE.—(1) Except as provided in paragraph (2) of this subsection, no funds made available to carry out the Foreign Assistance Act of 1961 or this Act may be used for the purpose of providing economic assistance (including assistance under chapter 4 of part II of the Foreign Assistance Act of 1961), providing military assistance or grant military education and training, providing assistance under chapter 6 of part II of that Act, or extending military credits or making guarantees, to any country which the President determines—

"(A) delivers nuclear reprocessing equipment, materials, or technology to any other country on or after August 4, 1977, or receives such equipment, materials, or technology from any other country on or after August 4, 1977 (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing), or

"(B) is a non-nuclear-weapon state which, on or after August 8, 1985, exports illegally (or attempts to export illegally) from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device.

For purposes of clause (B), an export (or attempted export) by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export (or attempted export) by that country.

"(2) Notwithstanding paragraph (1) of this subsection, the President in any fiscal year may furnish assistance which would otherwise be prohibited under that paragraph if he determines and certifies in writing during that fiscal year to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the termination of such assistance would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(3)(A) A certification under paragraph (2) of this subsection shall take effect on the date on which the certification is received by the Congress. However, if, within 30 calendar days after receiving this certification, the Congress enacts a joint resolution stating in substance that the Congress disapproves the furnishing of assist-

ance pursuant to the certification, then upon the enactment of that resolution the certification shall cease to be effective and all deliveries of assistance furnished under the authority of that certification shall be suspended immediately.

"(B) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(b) PROHIBITIONS ON ASSISTANCE TO COUNTRIES INVOLVED IN TRANSFER OR USE OF NUCLEAR EXPLOSIVE DEVICES; EXCEPTIONS; PROCEDURES APPLICABLE.—(1) Except as provided in paragraphs (4), (5), and (6), in the event that the President determines that any country, after the effective date of part B of the Nuclear Proliferation Prevention Act of 1994—

"(A) transfers to a non-nuclear-weapon state a nuclear explosive device,

"(B) is a non-nuclear-weapon state and either—

"(i) receives a nuclear explosive device, or

"(ii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and seeks and receives any design information or component which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

then the President shall forthwith report in writing his determination to the Congress and shall forthwith impose the sanctions described in paragraph (2) against that country.

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for humanitarian assistance or food or other agricultural commodities.

"(B) The United States Government shall terminate—

"(i) sales to that country under this Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) The United States Government shall terminate all foreign military financing for that country under this Act.

"(D) The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, except that the sanction of this subparagraph shall not apply—

"(i) to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities), or

"(ii) to humanitarian assistance.

"(E) The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions

Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by any international financial institution.

"(F) The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of specific goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(3) As used in this subsection—

"(A) the term 'design information' means specific information that relates to the design of a nuclear explosive device and that is not available to the public; and

"(B) the term 'component' means a specific component of a nuclear explosive device.

"(4)(A) Notwithstanding paragraph (1) of this subsection, the President may, for a period of not more than 30 days of continuous session, delay the imposition of sanctions which would otherwise be required under paragraph (1)(A) or (1)(B) of this subsection if the President first transmits to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a certification that he has determined that an immediate imposition of sanctions on that country would be detrimental to the national security of the United States. Not more than one such certification may be transmitted for a country with respect to the same detonation, transfer, or receipt of a nuclear explosive device.

"(B) If the President transmits a certification to the Congress under subparagraph (A), a joint resolution which would permit the President to exercise the waiver authority of paragraph (5) of this subsection shall, if introduced in either House within thirty days of continuous session after the Congress receives this certification, be considered in the Senate in accordance with subparagraph (C) of this paragraph.

"(C) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(D) For purposes of this paragraph, the term "joint resolution" means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress having received on ____ a certification by the President under section 102(b)(4) of the Arms Export Control Act with respect to ____, the Congress hereby authorizes the President to exercise the waiver authority contained in section 102(b)(5) of that Act.", with the date of receipt of the certification inserted in the first blank and the name of the country inserted in the second blank.

"(5) Notwithstanding paragraph (1) of this subsection, if the Congress enacts a joint resolution under paragraph (4) of this subsection, the President may waive any sanction which would otherwise be required under paragraph (1)(A) or (1)(B) if he deter-

mines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the imposition of such sanction would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(6)(A) In the event the President is required to impose sanctions against a country under paragraph (1)(C) or (1)(D), the President shall forthwith so inform such country and shall impose the required sanctions beginning 30 days after submitting to the Congress the report required by paragraph (1) unless, and to the extent that, there is enacted during the 30-day period a law prohibiting the imposition of such sanctions.

"(B) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.

"(7) For purposes of this subsection, continuity of session is broken only by an adjournment of Congress sine die and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(8) The President may not delegate or transfer his power, authority, or discretion to make or modify determinations under this subsection.

"(c) NON-NUCLEAR-WEAPON STATE DEFINED.—As used in this section, the term 'non-nuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

"SEC. 103. DEFINITION OF NUCLEAR EXPLOSIVE DEVICE.

22 USC 2799aa-2.

"As used in this chapter, the term 'nuclear explosive device' has the meaning given that term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994.".

(b) REPEALS.—Sections 669 and 670 of the Foreign Assistance Act of 1961 are hereby repealed.

22 USC 2429, 2429a.

(c) REFERENCES IN LAW.—Any reference in law as of the date of enactment of this Act to section 669 or 670 of the Foreign Assistance Act of 1961 shall, after such date, be deemed to be a reference to section 101 or 102, as the case may be, of the Arms Export Control Act.

SEC. 827. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 830(8) of the Nuclear Proliferation Prevention Act of 1994) or any nuclear explosive device (as defined in section 830(4) of that Act) by an individual, group, or non-nuclear-weapon state (as defined in section 830(5) of that Act).".

SEC. 828. REPORTS.

22 USC 2593a.

(a) CONTENT OF ACDA ANNUAL REPORT.—Section 51(a) of the Arms Control and Disarmament Act, as inserted by this Act, is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and";

(3) by adding after paragraph (6) the following new paragraph:

"(7) a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) by non-nuclear-weapon states (as defined in section 830(5) of that Act) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 830(8) of that Act), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with those commitments."; and

(4) by adding at the end the following new subsection:

President.

"(c) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under this section reports that any designated nation is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 829. TECHNICAL CORRECTION.

Section 133 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking "20 kilograms" and inserting "5 kilograms".

SEC. 830. DEFINITIONS.

For purposes of this part—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term "goods or technology" means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term "special nuclear material" has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

(7) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of

IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

SEC. 831. EFFECTIVE DATE.

The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.

22 USC 3201 note.

PART C—INTERNATIONAL ATOMIC ENERGY AGENCY

SEC. 841. BILATERAL AND MULTILATERAL INITIATIVES.

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible

safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

SEC. 842. IAEA INTERNAL REFORMS.

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

Public information.

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

President.

SEC. 843. REPORTING REQUIREMENT.

(a) REPORT REQUIRED.—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 841 and 842, and

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 841 and 842.

(b) CONTENTS OF REPORT.—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 841 and 842;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 841 and 842;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 841 and 842.

SEC. 844. DEFINITIONS.

As used in this part—

(1) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235;

(2) the term "IAEA" means the International Atomic Energy Agency;

(3) the term "near real time material accountancy" means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term "special fissionable material" has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms "IAEA safeguards", "non-nuclear-weapon state", "nuclear explosive device", and "special nuclear material" have the meanings given those terms in section 830 of this Act.

PART D—TERMINATION

22 USC 3201 note.

SEC. 851. TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT.

On the date of enactment of the first Foreign Relations Authorization Act that is enacted after the enactment of this Act, the provisions of parts A and B of this title shall cease to be effective, the amendments made by those parts shall be repealed, and any provision of law repealed by those parts shall be reenacted.

TITLE IX—COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

Protection and Reduction of Government Secrecy Act. Classified information. 50 USC 401 note.

SEC. 901. SHORT TITLE.

This title may be cited as the "Protection and Reduction of Government Secrecy Act".

SEC. 902. FINDINGS.

The Congress makes the following findings:

(1) During the Cold War an extensive secrecy system developed which limited public access to information and reduced the ability of the public to participate with full knowledge in the process of governmental decisionmaking.

(2) In 1992 alone 6,349,532 documents were classified and approximately three million persons held some form of security clearance.

(3) The burden of managing more than 6 million newly classified documents every year has led to tremendous administrative expense, reduced communication within the government and within the scientific community, reduced communication between the government and the people of the United States, and the selective and unauthorized public disclosure of classified information.

(4) It has been estimated that private businesses spend more than $14 billion each year implementing government mandated regulations for protecting classified information.

(5) If a smaller amount of truly sensitive information were classified the information could be held more securely.

(6) In 1970 a Task Force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that "more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information".

(7) The procedures for granting security clearances have themselves become an expensive and inefficient part of the secrecy system and should be closely examined.

(8) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

SEC. 903. PURPOSE.

It is the purpose of this title to establish for a two-year period a Commission on Protecting and Reducing Government Secrecy—

(1) to examine the implications of the extensive classification of information and to make recommendations to reduce the volume of information classified and thereby to strengthen the protection of legitimately classified information; and

(2) to examine and make recommendations concerning current procedures relating to the granting of security clearances.

SEC. 904. COMPOSITION OF THE COMMISSION.

(a) ESTABLISHMENT.—To carry out the purpose of this title, there is established a Commission on Protecting and Reducing Government Secrecy (in this title referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of twelve members, as follows:

President. (1) Four members appointed by the President, of whom two shall be appointed from the executive branch of the Government and two shall be appointed from private life.

(2) Two members appointed by the Majority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(3) Two members appointed by the Minority Leader of the Senate, of whom one shall be a Member of the Senate and one shall be appointed from private life.

(4) Two members appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(5) Two members appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be appointed from private life.

(c) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(d) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the Chairman or a majority of its members. Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(e) APPOINTMENT OF MEMBERS; INITIAL MEETING.—(1) It is the sense of the Congress that members of the Commission should be appointed not later than 60 days after the date of enactment of this title.

(2) If after 60 days from the date of enactment of this Act seven or more members of the Commission have been appointed, those members who have been appointed may meet and select a Chairman who thereafter shall have authority to begin the operations of the Commission, including the hiring of staff.

SEC. 905. FUNCTIONS OF THE COMMISSION.

The functions of the Commission shall be—

(1) to conduct, for a period of 2 years from the date of its first meeting, an investigation into all matters in any way related to any legislation, executive order, regulation, practice,

or procedure relating to classified information or granting security clearances; and

(2) to submit to the Congress a final report containing such recommendations concerning the classification of national security information and the granting of security clearances as the Commission shall determine, including proposing new procedures, rules, regulations, or legislation. Reports.

SEC. 906. POWERS OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths, and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may deem advisable.

(2) Subpoenas issued under paragraph (1)(B) may be issued under the signature of the Chairman of the Commission, the chairman of any designated subcommittee, or any designated member, and may be served by any person designated by such Chairman, subcommittee chairman, or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—(1) The Secretary of State is authorized on a reimbursable or non-reimbursable basis to provide the Commission with administrative services, funds, facilities, staff, and other support services for the performance of the Commission's functions.

(2) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), departments and agencies of the United States are authorized to provide to the Commission such services, funds, facilities, staff, and other support services as they may deem advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 907. STAFF OF THE COMMISSION.

(a) IN GENERAL.—The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(b) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 908. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 909. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information pursuant to this section who would not otherwise qualify for such security clearance.

SEC. 910. FINAL REPORT OF COMMISSION; TERMINATION.

(a) FINAL REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the Congress its final report, as described in section 905(2).

(b) TERMINATION.—(1) The Commission, and all the authorities of this title, shall terminate on the date which is 60 days after the date on which a final report is required to be transmitted under subsection (a).

(2) The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its final report and disseminating that report.

Approved April 30, 1994.

LEGISLATIVE HISTORY—H.R. 2333 (S. 1281):

HOUSE REPORTS: Nos. 103-126 (Comm on Foreign Affairs) and 103-482 (Comm. of Conference).
SENATE REPORTS: No. 103-107 accompanying S. 1281 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD:
Vol. 139 (1993): June 15, 16, 22, considered and passed House.
Vol. 140 (1994): Jan. 25-28, 31, Feb. 1, 2, S. 1281 considered in Senate; H.R. 2333, amended, passed in lieu.
Apr. 28, House agreed to conference report.
Apr. 29, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Apr. 30, Presidential statement.

Public Law 103-237
103d Congress

An Act

Apr 30, 1994
[H R 4066]

To suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup Soccer Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the 1996 Summer Olympics, and the 1996 Paralympics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION FOR PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"	9902.98.04	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1994 FIFA World Cup Games, the 1994 World Rowing Championships, the 1995 Special Olympics World Games, the XXVI Summer Olympiad, and the 1996 Atlanta Paralympic Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing events by or on behalf of the foregoing persons or the organizing committees of such events; articles to be used in exhibitions depicting the culture of a country participating in any such event; and, if consistent with the foregoing, such other articles as the Secretary of the Treasury may allow	Free	No change	Free	On or before 11/30/96	".

(b) TAXES AND FEES NOT TO APPLY.—The articles described in heading 9902.98.04 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

SEC. 2. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendment made by this Act applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request (which includes sufficient information to identify and locate the entry) filed with the Customs Service on or before the date that is 180 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article described in heading 9902.98.04 of the Harmonized Tariff Schedule of the United States (as added by section 1) that occurred—

(1) after December 31, 1993, and before the date which is 15 days after the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by section 1 applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

Approved April 30, 1994.

LEGISLATIVE HISTORY—H.R. 4066:

HOUSE REPORTS: No. 103-454 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 12, considered and passed House.
Apr. 14, considered and passed Senate.

Public Law 103-238
103d Congress

An Act

Apr. 30, 1994
[S. 1636]

To authorize appropriations for the Marine Mammal Protection Act of 1972 and to improve the program to reduce the incidental taking of marine mammals during the course of commercial fishing operations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marine Mammal Protection Act Amendments of 1994.
16 USC 1361 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marine Mammal Protection Act Amendments of 1994".

SEC. 2. AMENDMENT OF MARINE MAMMAL PROTECTION ACT OF 1972.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

16 USC 1361 note.

(b) RELATIONSHIP TO OTHER LAW.—Except as otherwise expressly provided, nothing in this Act is intended to amend, repeal, or otherwise affect any other provision of law.

SEC. 3. FINDINGS AND DECLARATION OF POLICY.

Section 2 (16 U.S.C. 1361) is amended—

(1) in paragraph (2) by inserting "essential habitats, including" after "made to protect"; and

(2) in paragraph (5) in the matter following subparagraph (B) by inserting "and their habitats" before "is therefore necessary".

SEC. 4. MORATORIUM AND EXCEPTIONS.

(a) IN GENERAL.—Section 101(a) (16 U.S.C. 1371(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking, and importation for purposes of scientific research, public display, photography for educational or commercial purposes, or enhancing the survival or recovery of a species or stock, or for importation of polar bear parts (other than internal organs) taken in sport hunts in Canada. Such permits, except permits issued under section 104(c)(5), may be issued if the taking or importation proposed to be made is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under title II. The Commission

and Committee shall recommend any proposed taking or importation, other than importation under section 104(c)(5), which is consistent with the purposes and policies of section 2 of this Act. If the Secretary issues such a permit for importation, the Secretary shall issue to the importer concerned a certificate to that effect in such form as the Secretary of the Treasury prescribes, and such importation may be made upon presentation of the certificate to the customs officer concerned.";

(2) in paragraph (2) in the first sentence, by inserting before the period at the end the following: ", or in lieu of such permits, authorizations may be granted therefor under section 118, subject to regulations prescribed under that section by the Secretary without regard to section 103";

(3) in paragraph (3)(B)—

(A) by inserting ", photography for educational or commercial purposes," after "purposes"; and

(B) by inserting "or as provided for under paragraph (5) of this subsection," after "subsection,";

(4) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraphs (B) and (C), the provisions of this Act shall not apply to the use of measures—

"(i) by the owner of fishing gear or catch, or an employee or agent of such owner, to deter a marine mammal from damaging the gear or catch;

"(ii) by the owner of other private property, or an agent, bailee, or employee of such owner, to deter a marine mammal from damaging private property;

"(iii) by any person, to deter a marine mammal from endangering personal safety; or

"(iv) by a government employee, to deter a marine mammal from damaging public property,

so long as such measures do not result in the death or serious injury of a marine mammal.

"(B) The Secretary shall, through consultation with appropriate experts, and after notice and opportunity for public comment, publish in the Federal Register a list of guidelines for use in safely deterring marine mammals. In the case of marine mammals listed as endangered species or threatened species under the Endangered Species Act of 1973, the Secretary shall recommend specific measures which may be used to nonlethally deter marine mammals. Actions to deter marine mammals consistent with such guidelines or specific measures shall not be a violation of this Act. Federal Register, publication.

"(C) If the Secretary determines, using the best scientific information available, that certain forms of deterrence have a significant adverse effect on marine mammals, the Secretary may prohibit such deterrent methods, after notice and opportunity for public comment, through regulation under this Act.

"(D) The authority to deter marine mammals pursuant to subparagraph (A) applies to all marine mammals, including all stocks designated as depleted under this Act.";

(5) in paragraph (5) by adding at the end the following new subparagraphs:

"(D)(i) Upon request therefor by citizens of the United States who engage in a specified activity (other than commercial fishing) within a specific geographic region, the Secretary shall

authorize, for periods of not more than 1 year, subject to such conditions as the Secretary may specify, the incidental, but not intentional, taking by harassment of small numbers of marine mammals of a species or population stock by such citizens while engaging in that activity within that region if the Secretary finds that such harassment during each period concerned—

"(I) will have a negligible impact on such species or stock, and

"(II) will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b), or section 109(f) or pursuant to a cooperative agreement under section 119.

"(ii) The authorization for such activity shall prescribe, where applicable—

"(I) permissible methods of taking by harassment pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119,

"(II) the measures that the Secretary determines are necessary to ensure no unmitigable adverse impact on the availability of the species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for the independent peer review of proposed monitoring plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119.

Federal Register, publication. Newspapers. Electronic media.

"(iii) The Secretary shall publish a proposed authorization not later than 45 days after receiving an application under this subparagraph and request public comment through notice in the Federal Register, newspapers of general circulation, and appropriate electronic media and to all locally affected communities for a period of 30 days after publication. Not later than 45 days after the close of the public comment period, if the Secretary makes the findings set forth in clause (i), the Secretary shall issue an authorization with appropriate conditions to meet the requirements of clause (ii).

"(iv) The Secretary shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (ii) are not being met.

"(v) A person conducting an activity for which an authorization has been granted under this subparagraph shall not be subject to the penalties of this Act for taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking by persons using vessels of the United States or vessels

which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)), while engaging in commercial fishing operations, of marine mammals from a species or stock designated as depleted because of its listing as an endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) if the Secretary, after notice and opportunity for public comment, determines that—

"(I) the incidental mortality and serious injury from commercial fisheries will have a negligible impact on such species or stock;

"(II) a recovery plan has been developed or is being developed for such species or stock pursuant to the Endangered Species Act of 1973; and

"(III) where required under section 118, a monitoring program is established under subsection (d) of such section, vessels engaged in such fisheries are registered in accordance with such section, and a take reduction plan has been developed or is being developed for such species or stock.

"(ii) Upon a determination by the Secretary that the requirements of clause (i) have been met, the Secretary shall publish in the Federal Register a list of those fisheries for which such determination was made, and, for vessels required to register under section 118, shall issue an appropriate permit for each authorization granted under such section to vessels to which this paragraph applies. Vessels engaged in a fishery included in the notice published by the Secretary under this clause which are not required to register under section 118 shall not be subject to the penalties of this Act for the incidental taking of marine mammals to which this paragraph applies, so long as the owner or master of such vessel reports any incidental mortality or injury of such marine mammals to the Secretary in accordance with section 118.

Federal Register, publication.

"(iii) If, during the course of the commercial fishing season, the Secretary determines that the level of incidental mortality or serious injury from commercial fisheries for which a determination was made under clause (i) has resulted or is likely to result in an impact that is more than negligible on the endangered or threatened species or stock, the Secretary shall use the emergency authority granted under section 118 to protect such species or stock, and may modify any permit granted under this paragraph as necessary.

"(iv) The Secretary may suspend for a time certain or revoke a permit granted under this subparagraph only if the Secretary determines that the conditions or limitations set forth in such permit are not being complied with. The Secretary may amend or modify, after notice and opportunity for public comment, the list of fisheries published under clause (ii) whenever the Secretary determines there has been a significant change in the information or conditions used to determine such list.

"(v) Sections 103 and 104 shall not apply to the taking of marine mammals under the authority of this subparagraph.

"(vi) This subparagraph shall not govern the incidental taking of California sea otters and shall not be deemed to

amend or repeal the Act of November 7, 1986 (Public Law 99–625; 100 Stat. 3500).''; and

(6) by adding at the end the following new paragraph:

''(6)(A) A marine mammal product may be imported into the United States if the product—

''(i) was legally possessed and exported by any citizen of the United States in conjunction with travel outside the United States, provided that the product is imported into the United States by the same person upon the termination of travel;

''(ii) was acquired outside of the United States as part of a cultural exchange by an Indian, Aleut, or Eskimo residing in Alaska; or

''(iii) is owned by a Native inhabitant of Russia, Canada, or Greenland and is imported for noncommercial purposes in conjunction with travel within the United States or as part of a cultural exchange with an Indian, Aleut, or Eskimo residing in Alaska.

''(B) For the purposes of this paragraph, the term—

''(i) 'Native inhabitant of Russia, Canada, or Greenland' means a person residing in Russia, Canada, or Greenland who is related by blood, is a member of the same clan or ethnological grouping, or shares a common heritage with an Indian, Aleut, or Eskimo residing in Alaska; and

''(ii) 'cultural exchange' means the sharing or exchange of ideas, information, gifts, clothing, or handicrafts between an Indian, Aleut, or Eskimo residing in Alaska and a Native inhabitant of Russia, Canada, or Greenland, including rendering of raw marine mammal parts as part of such exchange into clothing or handicrafts through carving, painting, sewing, or decorating.''.

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentences: ''In promulgating any regulation or making any assessment pursuant to a hearing or proceeding under this subsection or section 117(b)(2), or in making any determination of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) that affects stocks or persons to which this subsection applies, the Secretary shall be responsible for demonstrating that such regulation, assessment, determination, or finding is supported by substantial evidence on the basis of the record as a whole. The preceding sentence shall only be applicable in an action brought by one or more Alaska Native organizations representing persons to which this subsection applies.''.

(c) TAKING IN DEFENSE OF SELF OR OTHERS.—Section 101(c) (16 U.S.C. 1371(c)) is amended to read as follows:

''(c) It shall not be a violation of this Act to take a marine mammal if such taking is imminently necessary in self-defense or to save the life of a person in immediate danger, and such taking is reported to the Secretary within 48 hours. The Secretary may seize and dispose of any carcass.''.

SEC. 5. PERMITS.

(a) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended—

(1) in paragraph (2)(B) by striking "for any purpose in any way connected with the taking or importation of" and inserting "to take or import"; and

(2) in paragraph (4) by—

(A) striking "or offer to purchase or sell" and inserting "export, or offer to purchase, sell, or export";

(B) striking "product; and" and inserting "product—"; and

(C) inserting after and below the text of the paragraph the following:

"(A) that is taken in violation of this Act; or

"(B) for any purpose other than public display, scientific research, or enhancing the survival of a species or stock as provided for under subsection 104(c); and".

(b) PERMITS.—Section 104 (16 U.S.C. 1374) is amended—

(1) in subsection (a) by adding at the end the following: "Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 101(a)(5) or 306, or subsection (h) of this section.";

(2) in subsection (c)—

(A) in paragraph (1) in the first sentence by striking "and after";

(B) by amending paragraph (2) to read as follows:

"(2)(A) A permit may be issued to take or import a marine mammal for the purpose of public display only to a person which the Secretary determines—

"(i) offers a program for education or conservation purposes that is based on professionally recognized standards of the public display community;

"(ii) is registered or holds a license issued under 7 U.S.C. 2131 et seq.; and

"(iii) maintains facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and that access to such facilities is not limited or restricted other than by charging of an admission fee.

"(B) A permit under this paragraph shall grant to the person to which it is issued the right, without obtaining any additional permit or authorization under this Act, to—

"(i) take, import, purchase, offer to purchase, possess, or transport the marine mammal that is the subject of the permit; and

"(ii) sell, export, or otherwise transfer possession of the marine mammal, or offer to sell, export, or otherwise transfer possession of the marine mammal—

"(I) for the purpose of public display, to a person that meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A);

"(II) for the purpose of scientific research, to a person that meets the requirements of paragraph (3); or

"(III) for the purpose of enhancing the survival or recovery of a species or stock, to a person that meets the requirements of paragraph (4).

"(C) A person to which a marine mammal is sold or exported or to which possession of a marine mammal is other-

wise transferred under the authority of subparagraph (B) shall have the rights and responsibilities described in subparagraph (B) with respect to the marine mammal without obtaining any additional permit or authorization under this Act. Such responsibilities shall be limited to—

"(i) for the purpose of public display, the responsibility to meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

"(ii) for the purpose of scientific research, the responsibility to meet the requirements of paragraph (3), and

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, the responsibility to meet the requirements of paragraph (4).

"(D) If the Secretary—

"(i) finds in concurrence with the Secretary of Agriculture, that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A)(ii) and is not reasonably likely to meet those requirements in the near future, or

"(ii) finds that a person that holds a permit under this paragraph for a marine mammal, or a person exercising rights under subparagraph (C), no longer meets the requirements of subparagraph (A) (i) or (iii) and is not reasonably likely to meet those requirements in the near future,

the Secretary may revoke the permit in accordance with section 104(e), seize the marine mammal, or cooperate with other persons authorized to hold marine mammals under this Act for disposition of the marine mammal. The Secretary may recover from the person expenses incurred by the Secretary for that seizure.

"(E) No marine mammal held pursuant to a permit issued under subparagraph (A), or by a person exercising rights under subparagraph (C), may be sold, purchased, exported, or transported unless the Secretary is notified of such action no later than 15 days before such action, and such action is for purposes of public display, scientific research, or enhancing the survival or recovery of a species or stock. The Secretary may only require the notification to include the information required for the inventory established under paragraph (10).";

(C) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary may issue a permit under this paragraph for scientific research purposes to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose. The Secretary may issue a permit under this paragraph before the end of the public review and comment period required under subsection (d)(2) if delaying issuance of the permit could result in injury to a species, stock, or individual, or in loss of unique research opportunities.

"(B) No permit issued for purposes of scientific research shall authorize the lethal taking of a marine mammal unless the applicant demonstrates that a nonlethal method of conducting the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock that is depleted, unless

the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(C) Not later than 120 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary shall issue a general authorization and implementing regulations allowing bona fide scientific research that may result only in taking by Level B harassment of a marine mammal. Such authorization shall apply to persons which submit, by 60 days before commencement of such research, a letter of intent via certified mail to the Secretary containing the following: Regulations

"(i) The species or stocks of marine mammals which may be harassed.

"(ii) The geographic location of the research.

"(iii) The period of time over which the research will be conducted.

"(iv) The purpose of the research, including a description of how the definition of bona fide research as established under this Act would apply.

"(v) Methods to be used to conduct the research.

Not later than 30 days after receipt of a letter of intent to conduct scientific research under the general authorization, the Secretary shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies."; and

(D) by adding at the end the following new paragraphs:

"(5)(A) The Secretary may issue a permit for the importation of polar bear parts (other than internal organs) taken in sport hunts in Canada, including polar bears taken but not imported prior to the date of enactment of the Marine Mammal Protection Act Amendments of 1994, to an applicant which submits with its permit application proof that the polar bear was legally harvested in Canada by the applicant. Such a permit shall be issued if the Secretary, in consultation with the Marine Mammal Commission and after notice and opportunity for public comment, finds that— Canada.

"(i) Canada has a monitored and enforced sport hunting program consistent with the purposes of the Agreement on the Conservation of Polar Bears;

"(ii) Canada has a sport hunting program based on scientifically sound quotas ensuring the maintenance of the affected population stock at a sustainable level;

"(iii) the export and subsequent import are consistent with the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and other international agreements and conventions; and

"(iv) the export and subsequent import are not likely to contribute to illegal trade in bear parts.

"(B) The Secretary shall establish and charge a reasonable fee for permits issued under this paragraph. All fees collected under this paragraph shall be available to the Secretary for use in developing and implementing cooperative research and management programs for the conservation of polar bears in Alaska and Russia pursuant to section 113(d). Fees.

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"(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

"(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

Public information.

"(6) A permit may be issued for photography for educational or commercial purposes involving marine mammals in the wild only to an applicant which submits with its permit application information indicating that the taking will be limited to Level B harassment, and the manner in which the products of such activities will be made available to the public.

"(7) Upon request by a person for a permit under paragraph (2), (3), or (4) for a marine mammal which is in the possession of any person authorized to possess it under this Act and which is determined under guidance under section 402(a) not to be releasable to the wild, the Secretary shall issue the permit to the person requesting the permit if that person—

"(A) meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A), in the case of a request for a permit under paragraph (2);

"(B) meets the requirements of paragraph (3), in the case of a request for a permit under that paragraph; or

"(C) meets the requirements of paragraph (4), in the case of a request for a permit under that paragraph.

"(8)(A) No additional permit or authorization shall be required to possess, sell, purchase, transport, export, or offer to sell or purchase the progeny of marine mammals taken or imported under this subsection, if such possession, sale, purchase, transport, export, or offer to sell or purchase is—

"(i) for the purpose of public display, and by or to, respectively, a person which meets the requirements of clauses (i), (ii), and (iii) of paragraph (2)(A);

"(ii) for the purpose of scientific research, and by or to, respectively, a person which meets the requirements of paragraph (3); or

"(iii) for the purpose of enhancing the survival or recovery of a species or stock, and by or to, respectively, a person which meets the requirements of paragraph (4).

"(B)(i) A person which has a permit under paragraph (2), or a person exercising rights under paragraph (2)(C), which has possession of a marine mammal that gives birth to progeny shall—

"(I) notify the Secretary of the birth of such progeny within 30 days after the date of birth; and

"(II) notify the Secretary of the sale, purchase, or transport of such progeny no later than 15 days before such action.

"(ii) The Secretary may only require notification under clause (i) to include the information required for the inventory established under paragraph (10).

"(C) Any progeny of a marine mammal born in captivity before the date of the enactment of the Marine Mammal Protection Act Amendments of 1994 and held in captivity for the purpose of public display shall be treated as though born after that date of enactment.

"(9) No marine mammal may be exported for the purpose of public display, scientific research, or enhancing the survival or recovery of a species or stock unless the receiving facility meets standards that are comparable to the requirements that a person must meet to receive a permit under this subsection for that purpose.

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"(10) The Secretary shall establish and maintain an inventory of all marine mammals possessed pursuant to permits issued under paragraph (2)(A), by persons exercising rights under paragraph (2)(C), and all progeny of such marine mammals. The inventory shall contain, for each marine mammal, only the following information which shall be provided by a person holding a marine mammal under this Act:

"(A) The name of the marine mammal or other identification.

"(B) The sex of the marine mammal.

"(C) The estimated or actual birth date of the marine mammal.

"(D) The date of acquisition or disposition of the marine mammal by the permit holder.

"(E) The source from whom the marine mammal was acquired including the location of the take from the wild, if applicable.

"(F) If the marine mammal is transferred, the name of the recipient.

"(G) A notation if the animal was acquired as the result of a stranding.

"(H) The date of death of the marine mammal and the cause of death when determined."; and

(3) in subsection (e)(1) by—

(A) striking "or" at the end of subparagraph (A);

(B) striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) adding at the end the following new subparagraph:

"(C) if, in the case of a permit under subsection (c)(5) authorizing importation of polar bear parts, the Secretary, in consultation with the appropriate authority in Canada, determines that the sustainability of Canada's polar bear population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks throughout their range.".

16 USC 1374 note.

(c) EXISTING PERMITS.—Any permit issued under section 104(c)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(2)) before the date of the enactment of this Act is hereby

modified to be consistent with that section as amended by this Act.

SEC. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d), as so redesignated by this Act, is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "and" at the end of clause (i); and

(B) by inserting at the end the following new clause:

"(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and"; and

(2) in subsection (d) by inserting after "For purposes of carrying out this title" the following: "and section 104(c)(2)(D)".

SEC. 7. REGULATIONS AND ADMINISTRATION; APPLICATION TO OTHER TREATIES AND CONVENTIONS.

(a) MEASURES FOR IMPACTS ON STRATEGIC STOCKS.—Section 112 (16 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(e) If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.".

(b) INTERNATIONAL POLAR BEAR CONSERVATION.—Section 113 (16 U.S.C. 1383) is amended by—

(1) designating the existing paragraph as subsection (a); and

(2) adding at the end the following new subsections:

"(b) Not later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior shall, in consultation with the contracting parties, initiate a review of the effectiveness of the Agreement on the Conservation of Polar Bears, as provided for in Article IX of the Agreement, and establish a process by which future reviews shall be conducted.

"(c) The Secretary of the Interior, in consultation with the Secretary of State and the Marine Mammal Commission, shall review the effectiveness of United States implementation of the Agreement on the Conservation of Polar Bears, particularly with respect to the habitat protection mandates contained in Article II. The Secretary shall report the results of this review to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than April 1, 1995.

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Russian Federation.

"(d) Not later than 6 months after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of the Interior, acting through the Secretary of State and in consultation with the Marine Mammal Commission and the State of Alaska, shall consult with the appropriate officials of the Russian Federation on the development and implementation of enhanced cooperative research and management programs for the conservation of polar bears in Alaska and Russia. The Secretary

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shall report the results of this consultation and provide periodic progress reports on the research and management programs to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.".

SEC. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

"(4) If the Secretary determines that a take reduction plan is necessary to reduce the incidental taking of marine mammals in the course of commercial fishing operations from a strategic stock, or for species or stocks which interact with a commercial fishery for which the Secretary has made a determination under section 118(f)(1), any conservation plan prepared under this subsection for such species or stock shall incorporate the take reduction plan required under section 118 for such species or stock.".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENTS OF COMMERCE AND THE INTERIOR.—Section 116 is amended to read as follows: 16 USC 1384.

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this title (other than sections 117 and 118) and title IV, $12,138,000 for fiscal year 1994, $12,623,000 for fiscal year 1995, $13,128,000 for fiscal year 1996, $13,653,000 for fiscal year 1997, $14,200,000 for fiscal year 1998, and $14,768,000 for fiscal year 1999.

"(2) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out sections 117 and 118, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this title, $8,000,000 for fiscal year 1994, $8,600,000 for fiscal year 1995, $9,000,000 for fiscal year 1996, $9,400,000 for fiscal year 1997, $9,900,000 for fiscal year 1998, and $10,296,000 for fiscal year 1999.".

(b) MARINE MAMMAL COMMISSION.—Section 207 is amended to read as follows: 16 USC 1407.

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out this title, $1,500,000 for fiscal year 1994, $1,550,000 for fiscal year 1995, $1,600,000 for fiscal year 1996, $1,650,000 for fiscal year 1997, $1,700,000 for fiscal year 1998, and $1,750,000 for fiscal year 1999.".

(c) REPEAL.—Section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1407), is repealed.

SEC. 10. STOCK ASSESSMENTS.

Title I (16 U.S.C. 1371 et seq.) is amended by adding at the end the following new section:

16 USC 1386.

"SEC. 117. STOCK ASSESSMENTS.

"(a) IN GENERAL.—Not later than August 1, 1994, the Secretary shall, in consultation with the appropriate regional scientific review group established under subsection (d), prepare a draft stock assessment for each marine mammal stock which occurs in waters under the jurisdiction of the United States. Each draft stock assessment, based on the best scientific information available, shall—

"(1) describe the geographic range of the affected stock, including any seasonal or temporal variation in such range;

"(2) provide for such stock the minimum population estimate, current and maximum net productivity rates, and current population trend, including a description of the information upon which these are based;

"(3) estimate the annual human-caused mortality and serious injury of the stock by source and, for a strategic stock, other factors that may be causing a decline or impeding recovery of the stock, including effects on marine mammal habitat and prey;

"(4) describe commercial fisheries that interact with the stock, including—

"(A) the approximate number of vessels actively participating in each such fishery;

"(B) the estimated level of incidental mortality and serious injury of the stock by each such fishery on an annual basis;

"(C) seasonal or area differences in such incidental mortality or serious injury; and

"(D) the rate, based on the appropriate standard unit of fishing effort, of such incidental mortality and serious injury, and an analysis stating whether such level is insignificant and is approaching a zero mortality and serious injury rate;

"(5) categorize the status of the stock as one that either—

"(A) has a level of human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

Federal Register, publication.

"(b) PUBLIC COMMENT.—(1) The Secretary shall publish in the Federal Register a notice of the availability of a draft stock assessment or any revision thereof and provide an opportunity for public review and comment during a period of 90 days. Such notice shall include a summary of the assessment and a list of the sources of information or published reports upon which the assessment is based.

"(2) Subsequent to the notice of availability required under paragraph (1), if requested by a person to which section 101(b) applies, the Secretary shall conduct a proceeding on the record prior to publishing a final stock assessment or any revision thereof for any stock subject to taking under section 101(b).

"(3) After consideration of the best scientific information available, the advice of the appropriate regional scientific review group established under subsection (d), and the comments of the general public, the Secretary shall publish in the Federal Register a notice

of availability and a summary of the final stock assessment or any revision thereof, not later than 90 days after—

"(A) the close of the public comment period on a draft stock assessment or revision thereof; or

"(B) final action on an agency proceeding pursuant to paragraph (2).

"(c) REVIEW AND REVISION.—(1) The Secretary shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks;

"(B) at least annually for stocks for which significant new information is available; and

"(C) at least once every 3 years for all other stocks.

"(2) If the review under paragraph (1) indicates that the status of the stock has changed or can be more accurately determined, the Secretary shall revise the stock assessment in accordance with subsection (b).

"(d) REGIONAL SCIENTIFIC REVIEW GROUPS.—(1) Not later than 60 days after the date of enactment of this section, the Secretary of Commerce shall, in consultation with the Secretary of the Interior (with respect to marine mammals under that Secretary's jurisdiction), the Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), consisting of individuals with expertise in marine mammal biology and ecology, population dynamics and modeling, commercial fishing technology and practices, and stocks taken under section 101(b). The Secretary of Commerce shall, to the maximum extent practicable, attempt to achieve a balanced representation of viewpoints among the individuals on each regional scientific review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

"(D) research needed to identify modifications in fishing gear and practices likely to reduce the incidental mortality and serious injury of marine mammals in commercial fishing operations;

"(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

"(F) any other issue which the Secretary or the groups consider appropriate.

"(2) The scientific review groups established under this subsection shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(3) Members of the scientific review groups shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their obligations.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review groups under paragraph (1) as needed.

"(e) EFFECT ON SECTION 101(b).—This section shall not affect or otherwise modify the provisions of section 101(b).".

SEC. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

16 USC 1387.

"SEC. 118. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Effective date.

"(a) IN GENERAL.—(1) Effective on the date of enactment of this section, and except as provided in section 114 and in paragraphs (2), (3), and (4) of this subsection, the provisions of this section shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States or vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental mortality or serious injury of marine mammals occurring in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) In the case of the incidental taking of marine mammals from species or stocks designated under this Act as depleted on the basis of their listing as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), both this section and section 101(a)(5)(E) of this Act shall apply.

"(3) Sections 104(h) and title III, and not this section, shall govern the taking of marine mammals in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean.

"(4) This section shall not govern the incidental taking of California sea otters and shall not be deemed to amend or repeal the Act of November 7, 1986 (Public Law 99–625; 100 Stat. 3500).

"(5) Except as provided in section 101(c), the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

"(6) Sections 103 and 104 shall not apply to the incidental taking of marine mammals under the authority of this section.

"(b) ZERO MORTALITY RATE GOAL.—(1) Commercial fisheries shall reduce incidental mortality and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate within 7 years after the date of enactment of this section.

"(2) Fisheries which maintain insignificant serious injury and mortality levels approaching a zero rate shall not be required to further reduce their mortality and serious injury rates.

"(3) Three years after such date of enactment, the Secretary shall review the progress of all commercial fisheries, by fishery, toward reducing incidental mortality and serious injury to insignifi-

cant levels approaching a zero rate. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report setting forth the results of such review within 1 year after commencement of the review. The Secretary shall note any commercial fishery for which additional information is required to accurately assess the level of incidental mortality and serious injury of marine mammals in the fishery. Reports.

"(4) If the Secretary determines after review under paragraph (3) that the rate of incidental mortality and serious injury of marine mammals in a commercial fishery is not consistent with paragraph (1), then the Secretary shall take appropriate action under subsection (f).

"(c) REGISTRATION AND AUTHORIZATION.—(1) The Secretary shall, within 90 days after the date of enactment of this section— Federal Register, publications.

"(A) publish in the Federal Register for public comment, for a period of not less than 90 days, any necessary changes to the Secretary's list of commercial fisheries published under section 114(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries that have—

"(i) frequent incidental mortality and serious injury of marine mammals;

"(ii) occasional incidental mortality and serious injury of marine mammals; or

"(iii) a remote likelihood of or no known incidental mortality or serious injury of marine mammals;

"(B) after the close of the period for such public comment, publish in the Federal Register a revised list of commercial fisheries and an update of information required by subparagraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an authorization and otherwise comply with the requirements of this section; and

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered under this Act and other relevant sources and after notice and opportunity for public comment, the classification of commercial fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An authorization shall be granted by the Secretary in accordance with this section for a vessel engaged in a commercial fishery listed under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner and operator, the name and description of the vessel, the fisheries in which it will be engaged, the approximate time, duration, and location of such fishery operations, and the general type and nature of use of the fishing gear and techniques used. Such information shall be in a readily usable format that can be efficiently entered into and utilized by an automated or computerized data processing system. A decal or other physical evidence that the authorization is current and valid shall be issued

by the Secretary at the time an authorization is granted, and so long as the authorization remains current and valid, shall be reissued annually thereafter.

"(B) No authorization may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Except as provided in subsection (a), an authorization granted under this section shall allow the incidental taking of all species and stocks of marine mammals to which this Act applies.

"(3)(A) An owner of a vessel engaged in any fishery listed under paragraph (1)(A) (i) or (ii) shall, in order to engage in the lawful incidental taking of marine mammals in a commercial fishery—

"(i) have registered as required under paragraph (2) with the Secretary in order to obtain for each such vessel owned and used in the fishery an authorization for the purpose of incidentally taking marine mammals in accordance with this section, except that owners of vessels holding valid certificates of exemption under section 114 are deemed to have registered for purposes of this subsection for the period during which such exemption is valid;

"(ii) ensure that a decal or such other physical evidence of a current and valid authorization as the Secretary may require is displayed on or is in the possession of the master of each such vessel;

"(iii) report as required by subsection (e); and

"(iv) comply with any applicable take reduction plan and emergency regulations issued under this section.

"(B) Any owner of a vessel receiving an authorization under this section for any fishery listed under paragraph (1)(A) (i) or (ii) shall, as a condition of that authorization, take on board an observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery listed under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an authorization for such vessel under this section;

"(ii) fails to maintain a current and valid authorization for such vessel; or

"(iii) fails to ensure that a decal or other physical evidence of such authorization issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and for violations of clauses (i) and (ii) shall be subject to the penalties of this title, and for violations of clause (iii) shall be subject to a fine of not more than $100 for each offense.

"(D) If the owner of a vessel has obtained and maintains a current and valid authorization from the Secretary under this section and meets the requirements set forth in this section, including compliance with any regulations to implement a take reduction plan under this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals

while such vessel is engaged in a fishery to which the authorization applies.

"(E) Each owner of a vessel engaged in any fishery not listed under paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in the form and manner required under subsection (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) The Secretary shall suspend or revoke an authorization granted under this section and shall not issue a decal or other physical evidence of the authorization for any vessel until the owner of such vessel complies with the reporting requirements under subsection (e) and such requirements to take on board an observer under paragraph (3)(B) as are applicable to such vessel. Previous failure to comply with the requirements of section 114 shall not bar authorization under this section for an owner who complies with the requirements of this section.

"(B) The Secretary may suspend or revoke an authorization granted under this subsection, and may not issue a decal or other physical evidence of the authorization for any vessel which fails to comply with a take reduction plan or emergency regulations issued under this section.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, affected Regional Fishery Management Councils, and other interested persons, the means by which the granting and administration of authorizations under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements. Newspapers. Trade associations. Electronic media.

"(C) The Secretary is authorized to charge a fee for the granting of an authorization under this section. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an authorization. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of authorizations under this section.

"(d) MONITORING OF INCIDENTAL TAKES.—(1) The Secretary shall establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations. The purposes of the monitoring program shall be to—

"(A) obtain statistically reliable estimates of incidental mortality and serious injury;

"(B) determine the reliability of reports of incidental mortality and serious injury under subsection (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(2) Pursuant to paragraph (1), the Secretary may place observers on board vessels as necessary, subject to the provisions of this section. Observers may, among other tasks—

"(A) record incidental mortality and injury, or by catch of other nontarget species;

"(B) record numbers of marine mammals sighted; and

"(C) perform other scientific investigations.

"(3) In determining the distribution of observers among commercial fisheries and vessels within a fishery, the Secretary shall be guided by the following standards:

"(A) The requirement to obtain statistically reliable information.

"(B) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery.

"(C) The requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage.

"(D) To the extent practicable, the need to minimize costs and avoid duplication.

"(4) To the extent practicable, the Secretary shall allocate observers among commercial fisheries in accordance with the following priority:

"(A) The highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

"(B) The second highest priority for allocation shall be for commercial fisheries that have incidental mortality and serious injury of marine mammals from strategic stocks.

"(C) The third highest priority for allocation shall be for commercial fisheries that have incidental mortality or serious injury of marine mammals from stocks for which the level of incidental mortality and serious injury is uncertain.

"(5) The Secretary may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

"(6) The Secretary is not required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation in which harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities on a vessel for quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(8) Any proprietary information collected under this subsection shall be confidential and shall not be disclosed except— Classified information.

"(A) to Federal employees whose duties require access to such information;

"(B) to State or tribal employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public upon request any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person.

"(e) REPORTING REQUIREMENT.—The owner or operator of a commercial fishing vessel subject to this Act shall report all incidental mortality and injury of marine mammals in the course of commercial fishing operations to the Secretary by mail or other means acceptable to the Secretary within 48 hours after the end of each fishing trip on a standard postage-paid form to be developed by the Secretary under this section. Such form shall be capable of being readily entered into and usable by an automated or computerized data processing system and shall require the vessel owner or operator to provide the following:

"(1) The vessel name, and Federal, State, or tribal registration numbers of the registered vessel.

"(2) The name and address of the vessel owner or operator.

"(3) The name and description of the fishery.

"(4) The species of each marine mammal incidentally killed or injured, and the date, time, and approximate geographic location of such occurrence.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(1)(A)(i) or (ii), and may develop and implement such a plan for any other marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to levels less than the potential biological removal level established for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality or serious injury of marine mammals incidentally taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans.

"(3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under section 117(b) and any substantial new information;

"(B) an estimate of the total number and, if possible, age and gender, of animals from the stock that are being incidentally lethally taken or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;

"(D) recommended dates for achieving the specific objectives of the plan.

"(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.

"(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, the incidental mortality and serious injury by such commercial fisheries from that stock. For purposes of this subparagraph, the term 'maximum extent practicable' means to the lowest level that is feasible for such fisheries within the 6-month period.

"(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 117(b) for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a take reduction team for such stock and appoint the members of such team in accordance with subparagraph (C); and

"(ii) publish in the Federal Register a notice of the team's establishment, the names of the team's appointed members, the full geographic range of such stock, and a list of all commercial fisheries that cause incidental mortality and serious injury of marine mammals from such stock.

"(B) The Secretary may request a take reduction team to address a stock that extends over one or more regions or fisheries, or multiple stocks within a region or fishery, if the Secretary determines that doing so would facilitate the development and implementation of plans required under this subsection.

"(C) Members of take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices

which result in the incidental mortality and serious injury of such species. Members shall include representatives of Federal agencies, each coastal State which has fisheries which interact with the species or stock, appropriate Regional Fishery Management Councils, interstate fisheries commissions, academic and scientific organizations, environmental groups, all commercial and recreational fisheries groups and gear types which incidentally take the species or stock, Alaska Native organizations or Indian tribal organizations, and others as the Secretary deems appropriate. Take reduction teams shall, to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests.

"(D) Take reduction teams shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.). Meetings of take reduction teams shall be open to the public, and prior notice of meetings shall be made public in a timely fashion. Public information.

"(E) Members of take reduction teams shall serve without compensation, but may be reimbursed by the Secretary, upon request, for reasonable travel costs and expenses incurred in performing their duties as members of the team.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

"(A)(i) Not later than 6 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for such stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days. Federal Register, publications.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 6 months, the Secretary shall, not later than 8 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section. Regulations.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic Newspapers. Trade associations. Electronic media.

media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet every 6 months, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(8) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A)(i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

"(A)(i) Not later than 11 months after the date of establishment of a take reduction team for the stock, the team shall submit a draft take reduction plan for the stock to the Secretary, consistent with the other provisions of this section.

"(ii) Such draft take reduction plan shall be developed by consensus. In the event consensus cannot be reached, the team shall advise the Secretary in writing on the range of possibilities considered by the team, and the views of both the majority and minority.

Federal Register, publications.

"(B)(i) The Secretary shall take the draft take reduction plan into consideration and, not later than 60 days after the submission of the draft plan by the team, the Secretary shall publish in the Federal Register the plan proposed by the team, any changes proposed by the Secretary with an explanation of the reasons therefor, and proposed regulations to implement such plan, for public review and comment during a period of not to exceed 90 days.

"(ii) In the event that the take reduction team does not submit a draft plan to the Secretary within 11 months, the Secretary shall, not later than 13 months after the establishment of the team, publish in the Federal Register a proposed take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

Regulations.

"(C) Not later than 60 days after the close of the comment period required under subparagraph (B), the Secretary shall issue a final take reduction plan and implementing regulations, consistent with the other provisions of this section.

Newspapers. Trade associations. Electronic media.

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the take reduction team shall meet on an annual basis, or at such other intervals as the Secretary determines are necessary, to monitor the implementation of the final take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the take reduction plan and implementing regulations as necessary to meet the requirements of this section, in accordance with the procedures in this section for the issuance of such plans and regulations.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such plan, promulgate regulations which include, but are not limited to, measures to—

"(A) establish fishery-specific limits on incidental mortality and serious injury of marine mammals in commercial fisheries or restrict commercial fisheries by time or area;

"(B) require the use of alternative commercial fishing gear or techniques and new technologies, encourage the development of such gear or technology, or convene expert skippers' panels;

"(C) educate commercial fishermen, through workshops and other means, on the importance of reducing the incidental mortality and serious injury of marine mammals in affected commercial fisheries; and

"(D) monitor, in accordance with subsection (d), the effectiveness of measures taken to reduce the level of incidental mortality and serious injury of marine mammals in the course of commercial fishing operations.

"(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) applies for which a final stock assessment has not been published under section 117(b)(3) by April 1, 1995, due to a proceeding under section 117(b)(2), or any Federal court review of such proceeding, the Secretary shall establish a take reduction team under paragraph (6) for such stock as if a final stock assessment had been published.

"(B) The draft stock assessment published for such stock under section 117(b)(1) shall be deemed the final stock assessment for purposes of preparing and implementing a take reduction plan for such stock under this section.

"(C) Upon publication of a final stock assessment for such stock under section 117(b)(3) the Secretary shall immediately reconvene the take reduction team for such stock for the purpose of amending the take reduction plan, and any regulations issued to implement such plan, if necessary, to reflect the final stock assessment or court action. Such amendments shall be made in accordance with paragraph (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a take reduction plan under this paragraph for a period of not to exceed two years, or until a final stock assessment is published, whichever is earlier. If, at the end of the two-year period, a final stock assessment has not been published, the Secretary shall categorize such stock under section 117(a)(5)(A) and shall revoke any regulations to implement a take reduction plan for such stock.

"(E) Subparagraph (D) shall not apply for any period beyond two years during which a final stock assessment for such stock has not been published due to review of a proceeding on such stock assessment by a Federal court. Immediately upon final action by such court, the Secretary shall proceed under subparagraph (C).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species or endangered

species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be consistent with any recovery plan developed for such species or stock under section 4 of such Act.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the incidental mortality and serious injury of marine mammals from commercial fisheries is having, or is likely to have, an immediate and significant adverse impact on a stock or species, the Secretary shall take actions as follows:

"(A) In the case of a stock or species for which a take reduction plan is in effect, the Secretary shall—

"(i) prescribe emergency regulations that, consistent with such plan to the maximum extent practicable, reduce incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, any amendments to such plan that are recommended by the take reduction team to address such adverse impact.

"(B) In the case of a stock or species for which a take reduction plan is being developed, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery; and

"(ii) approve and implement, on an expedited basis, such plan, which shall provide methods to address such adverse impact if still necessary.

"(C) In the case of a stock or species for which a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(1)(A)(iii) which the Secretary believes may be contributing to such adverse impact, the Secretary shall—

"(i) prescribe emergency regulations to reduce such incidental mortality and serious injury in that fishery, to the extent necessary to mitigate such adverse impact;

"(ii) immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine if a take reduction team should be established; and

"(iii) may, where necessary to address such adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the incidental mortality and serious injury to marine mammals from such stock.

"(2) Prior to taking action under paragraph (1) (A), (B), or (C), the Secretary shall consult with the Marine Mammal Commission, all appropriate Regional Fishery Management Councils, State fishery managers, and the appropriate take reduction team (if established).

Federal Register, publications.

"(3) Emergency regulations prescribed under this subsection—

"(A) shall be published in the Federal Register, together with an explanation thereof;

"(B) shall remain in effect for not more than 180 days or until the end of the applicable commercial fishing season, whichever is earlier; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termi-

nation, if the Secretary determines that the reasons for emergency regulations no longer exist.

"(4) If the Secretary finds that incidental mortality and serious injury of marine mammals in a commercial fishery is continuing to have an immediate and significant adverse impact on a stock or species, the Secretary may extend the emergency regulations for an additional period of not more than 90 days or until reasons for the emergency no longer exist, whichever is earlier.

"(h) PENALTIES.—Except as provided in subsection (c), any person who violates this section shall be subject to the provisions of sections 105 and 107, and may be subject to section 106 as the Secretary shall establish by regulations. Regulations.

"(i) ASSISTANCE.—The Secretary shall provide assistance to Regional Fishery Management Councils, States, interstate fishery commissions, and Indian tribal organizations in meeting the goal of reducing incidental mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(l) DEFINITIONS.—As used in this section and section 101(a)(5)(E), each of the terms 'fishery' and 'vessel of the United States' has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

"(B) The term 'Level A harassment' means harassment described in subparagraph (A)(i).

"(C) The term 'Level B harassment' means harassment described in subparagraph (A)(ii).

"(19) The term 'strategic stock' means a marine mammal stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973 within the foreseeable future; or

"(C) which is listed as a threatened species or endangered species under the Endangered Species Act of 1973

(16 U.S.C. 1531 et seq.), or is designated as depleted under this Act.

"(20) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level is the product of the following factors:

"(A) The minimum population estimate of the stock.

"(B) One-half the maximum theoretical or estimated net productivity rate of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(21) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(22) The term 'bona fide research' means scientific research on marine mammals, the results of which—

"(A) likely would be accepted for publication in a referred scientific journal;

"(B) are likely to contribute to the basic knowledge of marine mammal biology or ecology; or

"(C) are likely to identify, evaluate, or resolve conservation problems.

"(23) The term 'Alaska Native organization' means a group designated by law or formally chartered which represents or consists of Indians, Aleuts, or Eskimos residing in Alaska.

"(24) The term 'take reduction plan' means a plan developed under section 118.

"(25) The term 'take reduction team' means a team established under section 118.

"(26) The term 'net productivity rate' means the annual per capita rate of increase in a stock resulting from additions due to reproduction, less losses due to mortality.

"(27) The term 'minimum population estimate' means an estimate of the number of animals in a stock that—

"(A) is based on the best available scientific information on abundance, incorporating the precision and variability associated with such information; and

"(B) provides reasonable assurance that the stock size is equal to or greater than the estimate.".

SEC. 13. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" after "thereunder".

(c) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting "114, and 118 of this title and title IV".

16 USC 1361 note.

SEC. 14. INDIAN TREATY RIGHTS; ALASKA NATIVE SUBSISTENCE.

Nothing in this Act, including any amendments to the Marine Mammal Protection Act of 1972 made by this Act—

(1) alters or is intended to alter any treaty between the United States and one or more Indian tribes; or

(2) affects or otherwise modifies the provisions of section 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(b)), except as specifically provided in the amendment made by section 4(b) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) (16 U.S.C. 1383a(a)(1)) is amended by striking "ending April 1, 1994," and inserting in lieu thereof "until superseded by regulations prescribed under section 118, or until September 1, 1995, whichever is earlier,".

(b) IMPLEMENTING REGULATIONS.—Except as provided otherwise in this Act, or the amendments to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) made by this Act, the Secretary of Commerce or the Secretary of the Interior, as appropriate, shall, after notice and opportunity for public comment, promulgate regulations to implement this Act and the amendments made by this Act by January 1, 1995. 16 USC 1361 note.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this Act, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. HUMAN ACTIVITIES WITHIN PROXIMITY OF WHALES. 16 USC 1538 note.

(a) LAWFUL APPROACHES.—In waters of the United States surrounding the State of Hawaii, it is lawful for a person subject to the jurisdiction of the United States to approach, by any means other than an aircraft, no closer than 100 yards to a humpback whale, regardless of whether the approach is made in waters designated under section 222.31 of title 50, Code of Federal Regulations, as cow/calf waters.

(b) TERMINATION OF LEGAL EFFECT OF CERTAIN REGULATIONS.—Subsection (b) of section 222.31 of title 50, Code of Federal Regulations, shall cease to be in force and effect.

SEC. 18. SCRIMSHAW EXEMPTIONS. 16 USC 1539 note.

Notwithstanding any other provision of law, any valid certificate of exemption renewed by the Secretary (or deemed to be renewed) under section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) for any person holding such a certificate with respect to the possession of pre-Act finished scrimshaw products or raw material for such products shall remain valid for a period not to exceed 5 years beginning on the date of enactment of this Act.

SEC. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

"SEC. 119. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA. 16 USC 1388

"(a) IN GENERAL.—The Secretary may enter into cooperative agreements with Alaska Native organizations to conserve marine

mammals and provide co-management of subsistence use by Alaska Natives.

"(b) GRANTS.—Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes—

"(1) collecting and analyzing data on marine mammal populations;

"(2) monitoring the harvest of marine mammals for subsistence use;

"(3) participating in marine mammal research conducted by the Federal Government, States, academic institutions, and private organizations; and

"(4) developing marine mammal co-management structures with Federal and State agencies.

"(c) EFFECT OF JURISDICTION.—Nothing in this section is intended or shall be construed—

"(1) as authorizing any expansion or change in the respective jurisdiction of Federal, State, or tribal governments over fish and wildlife resources; or

"(2) as altering in any respect the existing political or legal status of Alaska Natives, or the governmental or jurisdictional status of Alaska Native communities or Alaska Native entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,500,000 to the Secretary of Commerce for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999; and

"(2) $1,000,000 to the Secretary of the Interior for each of the fiscal years 1994, 1995, 1996, 1997, 1998, and 1999.

The amounts authorized to be appropriated under this subsection are in addition to the amounts authorized to be appropriated under section 116.".

SEC. 20. MARINE ECOSYSTEM PROTECTION.

Section 110 (16 U.S.C. 1380) is amended by striking subsection (c) and inserting the following:

"(c)(1) No later than 1 year after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, the Secretary of Commerce shall convene a regional workshop for the Gulf of Maine to assess human-caused factors affecting the health and stability of that marine ecosystem, of which marine mammals are a part. The workshop shall be conducted in consultation with the Marine Mammal Commission, the adjacent coastal States, individuals with expertise in marine mammal biology and ecology, representatives from environmental organizations, the fishing industry, and other appropriate persons. The goal of the workshop shall be to identify such factors, and to recommend a program of research and management to restore or maintain that marine ecosystem and its key components that—

"(A) protects and encourages marine mammals to develop to the greatest extent feasible commensurate with sound policies of resource management;

"(B) has as the primary management objective the maintenance of the health and stability of the marine ecosystems;

"(C) ensures the fullest possible range of management options for future generations; and

"(D) permits nonwasteful, environmentally sound development of renewable and nonrenewable resources.

"(2) On or before December 31, 1995, the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report containing the results of the workshop under this subsection, proposed regulatory or research actions, and recommended legislative action. Effective date. Reports.

"(d)(1) The Secretary of Commerce, in consultation with the Secretary of the Interior, the Marine Mammal Commission, the State of Alaska, and Alaska Native organizations, shall, not later than 180 days after the date of enactment of the Marine Mammal Protection Act Amendments of 1994, undertake a scientific research program to monitor the health and stability of the Bering Sea marine ecosystem and to resolve uncertainties concerning the causes of population declines of marine mammals, sea birds, and other living resources of that marine ecosystem. The program shall address the research recommendations developed by previous workshops on Bering Sea living marine resources, and shall include research on subsistence uses of such resources and ways to provide for the continued opportunity for such uses. Alaska.

"(2) To the maximum extent practicable, the research program undertaken pursuant to paragraph (1) shall be conducted in Alaska. The Secretary of Commerce shall utilize, where appropriate, traditional local knowledge and may contract with a qualified Alaska Native organization to conduct such research.

"(3) The Secretary of Commerce, the Secretary of the Interior, and the Commission shall address the status and findings of the research program in their annual reports to Congress required by sections 103(f) and 204 of this Act.".

SEC. 21. INTERJURISDICTIONAL FISHERIES ACT OF 1986.

Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended by striking "$2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995" and inserting in lieu thereof "$65,000,000 for each of the fiscal years 1994 and 1995".

SEC. 22. COASTAL ECOSYSTEM HEALTH. South Carolina.

(a) REQUIREMENT TO CONVEY.—Not later than September 30, 1994, the Secretary of the Navy shall convey, without payment or other consideration, to the Secretary of Commerce, all right, title, and interest to the property comprising that portion of the Naval Base, Charleston, South Carolina, bounded by Hobson Avenue, the Cooper River, the landward extension of the northwest side of Pier R, and the fenceline between the buildings known as 200 and NS–16. Such property shall include Pier R, the buildings known as RTC–1, RTC–4, 200, and 1874, all towers and outbuildings on that property, and all walkways and parking areas associated with such buildings and Pier R.

(b) SURVEY; EFFECT ON LIABILITY OF SECRETARY OF THE NAVY.—The acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey approved by the Secretary of the Navy. Such conveyance shall not release the Secretary of the Navy from any liability arising prior to, during, or after such conveyance as a result of the ownership or occupation of the property by the United States Navy.

(c) USE BY NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—The property conveyed pursuant to this section shall be used by the Secretary of Commerce in support of the operations of the National Oceanic and Atmospheric Administration.

(d) REVERSION RIGHTS.—Conveyance of the property pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately be conveyed to the public entity vested with ownership of the remainder of the Charleston Naval Base, if and when—

(1) continued ownership and occupation of the property by the National Oceanic and Atmospheric Administration no longer is compatible with the comprehensive plan for reuse of the Charleston Naval Base developed by the community reuse committee and approved by the Secretary of the Navy; and

(2) such public entity provides for relocation of the programs and personnel of the National Oceanic and Atmospheric Administration occupying such property, at no further cost to the United States Government, to a comparable facility, including adjacent waterfront and pier, within the Charleston area.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I (16 U.S.C. 1371 et seq.), as amended by this Act, is further amended by adding at the end the following new section:

16 USC 1389.

"SEC. 120. PACIFIC COAST TASK FORCE; GULF OF MAINE.

"(a) PINNIPED REMOVAL AUTHORITY.—Notwithstanding any other provision of this title, the Secretary may permit the intentional lethal taking of pinnipeds in accordance with this section.

"(b) APPLICATION.—(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

"(C) migrate through the Ballard Locks at Seattle, Washington.

"(2) Any such application shall include a means of identifying the individual pinniped or pinnipeds, and shall include a detailed description of the problem interaction and expected benefits of the taking.

"(c) ACTIONS IN RESPONSE TO APPLICATION.—(1) Within 15 days of receiving an application, the Secretary shall determine whether the application has produced sufficient evidence to warrant establishing a Pinniped-Fishery Interaction Task Force to address the situation described in the application. If the Secretary determines sufficient evidence has been provided, the Secretary shall establish a Pinniped-Fishery Interaction Task Force and publish a notice in the Federal Register requesting public comment on the application.

Federal Register, publication.

"(2) A Pinniped-Fishery Interaction Task Force established under paragraph (1) shall consist of designated employees of the Department of Commerce, scientists who are knowledgeable about

the pinniped interaction that the application addresses, representatives of affected conservation and fishing community organizations, Indian Treaty tribes, the States, and such other organizations as the Secretary deems appropriate.

"(3) Within 60 days after establishment, and after reviewing public comments in response to the Federal Register notice under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking of the pinniped or pinnipeds, including along with the recommendation a description of the specific pinniped individual or individuals, the proposed location, time, and method of such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking authority; and

"(B) suggest nonlethal alternatives, if available and practicable, including a recommended course of action.

"(4) Within 30 days after receipt of recommendations from the Pinniped-Fishery Interaction Task Force, the Secretary shall either approve or deny the application. If such application is approved, the Secretary shall immediately take steps to implement the intentional lethal taking, which shall be performed by Federal or State agencies, or qualified individuals under contract to such agencies.

"(5) After implementation of an approved application, the Pinniped-Fishery Interaction Task Force shall evaluate the effectiveness of the permitted intentional lethal taking or alternative actions implemented. If implementation was ineffective in eliminating the problem interaction, the Task Force shall recommend additional actions. If the implementation was effective, the Task Force shall so advise the Secretary, and the Secretary shall disband the Task Force.

"(d) CONSIDERATIONS.—In considering whether an application should be approved or denied, the Pinniped-Fishery Interaction Task Force and the Secretary shall consider—

"(1) population trends, feeding habits, the location of the pinniped interaction, how and when the interaction occurs, and how many individual pinnipeds are involved;

"(2) past efforts to nonlethally deter such pinnipeds, and whether the applicant has demonstrated that no feasible and prudent alternatives exist and that the applicant has taken all reasonable nonlethal steps without success;

"(3) the extent to which such pinnipeds are causing undue injury or impact to, or imbalance with, other species in the ecosystem, including fish populations; and

"(4) the extent to which such pinnipeds are exhibiting behavior that presents an ongoing threat to public safety.

"(e) LIMITATION.—The Secretary shall not approve the intentional lethal taking of any pinniped from a species or stock that is—

"(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(2) depleted under this Act; or

"(3) a strategic stock.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.— Washington. Oregon.

"(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—

"(1) The Secretary may conduct a study, of not less than three high predation areas in anadromous fish migration corridors within the Northwest Region of the National Marine Fisheries Service, on the interaction between fish and pinnipeds. In conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(A) fish behavior in the presence of predators generally;

"(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(D) other issues the Secretary considers relevant.

"(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science,

and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

"(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds interacting in a dangerous or damaging manner with aquaculture resources in the Gulf of Maine. No later than 2 years from the date of enactment of this section, the Secretary shall after notice and opportunity for public comment submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing recommended available alternatives to mitigate such interactions.

"(i) REQUIREMENTS APPLICABLE TO TASK FORCES.—(1) Any task force established under this section—

"(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

"(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion. Public information.

"(j) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.".

SEC 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)— 16 USC 1362 note.

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "in section 118 and title IV". 16 USC 1362

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating title III, as added by Public Law 102–587 (106 Stat. 5060), as title IV; and

16 USC 1421 *et seq.*

(2) by redesignating the sections of that title (16 U.S.C. 1421 through 1421h) as sections 401 through 409, respectively.

(c) FURTHER AMENDMENTS TO TITLE IV.—The Act (16 U.S.C. 1361 et seq.) is amended—

16 USC 1421.

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

16 USC 1421d.

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

16 USC 1421e.

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

16 USC 1421g.

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

16 USC 1421h.

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by subsection (b) of this section and the sections that are redesignated by subsection (b) of this section and inserting the following:

"TITLE IV—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 401. Establishment of program.
"Sec. 402. Determination; data collection and dissemination.
"Sec. 403. Stranding response agreements.
"Sec. 404. Unusual mortality event response.
"Sec. 405. Unusual mortality event activity funding.
"Sec. 406. Liability.
"Sec. 407. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Definitions.".

(d) CLERICAL AMENDMENTS.—The portion of the table of contents in the first section of the Act relating to title I is amended by adding at the end the following new items:

"Sec. 117. Stock assessments.
"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.
"Sec. 119. Marine mammal cooperative agreements in Alaska.
"Sec. 120. Pacific Coast Task Force; Gulf of Maine.".

16 USC 1362 note.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

SEC. 25. TRANSFER.

Of amounts appropriated by Public Law 103–139 to the Department of the Navy for Shipbuilding and Conversion, Navy, the Sec-

retary of the Navy shall transfer $8,000,000 not later than May 15, 1994, to the Administrator of the Maritime Administration for the conversion of the USNS CHAUVENET to a training ship for the Texas Maritime Academy's Training Program.

Approved April 30, 1994.

LEGISLATIVE HISTORY—S. 1636 (H R. 2760):

HOUSE REPORTS: No. 103-439 accompanying H.R. 2760 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 103-220 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 21, considered and passed Senate. H R. 2760 considered and passed House
Mar. 22, S. 1636 considered and passed House, amended.
Mar. 24, Senate concurred in House amendment with an amendment.
Apr. 26, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

Public Law 103-239
103d Congress

An Act

May 4, 1994
[H.R. 2884]

To establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

School-to-Work Opportunities Act of 1994.
20 USC 6101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "School-to-Work Opportunities Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes and congressional intent.
Sec. 4. Definitions.
Sec. 5. Federal administration.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

Sec. 101. General program requirements.
Sec. 102. School-based learning component.
Sec. 103. Work-based learning component.
Sec. 104. Connecting activities component.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

Sec. 201. Purpose.
Sec. 202. Authorization.
Sec. 203. Application.
Sec. 204. Approval of application.
Sec. 205. Use of amounts.
Sec. 206. Maintenance of effort.
Sec. 207. Reports.

Subtitle B—State Implementation Grants

Sec. 211. Purpose.
Sec. 212. Authorization.
Sec. 213. Application.
Sec. 214. Review of application.
Sec. 215. Use of amounts.
Sec. 216. Allocation requirement.
Sec. 217. Limitation on administrative costs.
Sec. 218. Reports.

Subtitle C—Development and Implementation Grants for School-to-Work Programs for Indian Youths

Sec. 221. Authorization.
Sec. 222. Requirements.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

Sec. 301. Purposes.

Sec. 302. Authorization.
Sec. 303. Application.
Sec. 304. Use of amounts.
Sec. 305. Conformity with approved State plan.
Sec. 306. Reports.
Sec. 307. High poverty area defined.

TITLE IV—NATIONAL PROGRAMS

Sec. 401. Research, demonstration, and other projects.
Sec. 402. Performance outcomes and evaluation.
Sec. 403. Training and technical assistance.
Sec. 404. Capacity building and information and dissemination network.
Sec. 405. Reports to Congress.
Sec. 406. Funding.

TITLE V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

Sec. 501. State and local partnership requests and responsibilities for waivers.
Sec. 502. Waiver authority of Secretary of Education.
Sec. 503. Waiver authority of Secretary of Labor.
Sec. 504. Combination of Federal funds for high poverty schools.
Sec. 505. Combination of Federal funds by States for school-to-work activities.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Requirements.
Sec. 602. Sanctions.
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Sec. 604. Prohibition on Federal mandates, direction, and control.
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TITLE VII—OTHER PROGRAMS

Subtitle A—Reauthorization of Job Training for the Homeless Demonstration Program Under the Stewart B. McKinney Homeless Assistance Act

Sec. 701. Reauthorization.

Subtitle B—Tech-Prep Programs

Sec. 711. Tech-prep education.

Subtitle C—Alaska Native Art and Culture

Sec. 721. Short title.
Sec. 722. Alaska Native art and culture.

Subtitle D—Job Training

Sec. 731. Amendment to Job Training Partnership Act to provide allowances for child care costs to certain individuals participating in the Job Corps.

TITLE VIII—TECHNICAL PROVISIONS

Sec. 801. Effective date.
Sec. 802. Sunset.

SEC. 2. FINDINGS. 20 USC 6101.

Congress finds that—

(1) three-fourths of high school students in the United States enter the workforce without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing United States workplace;

(2) a substantial number of youths in the United States, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete high school;

(3) unemployment among youths in the United States is intolerably high, and earnings of high school graduates have been falling relative to earnings of individuals with more education;

(4) the workplace in the United States is changing in response to heightened international competition and new tech-

nologies, and such forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(5) the United States lacks a comprehensive and coherent system to help its youths acquire the knowledge, skills, abilities, and information about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(6) students in the United States can achieve high academic and occupational standards, and many learn better and retain more when the students learn in context, rather than in the abstract;

(7) while many students in the United States have part-time jobs, there is infrequent linkage between—

(A) such jobs; and

(B) the career planning or exploration, or the school-based learning, of such students;

(8) the work-based learning approach, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition, developing positive work attitudes, and preparing youths for high-skill, high-wage careers;

(9) Federal resources currently fund a series of categorical, work-related education and training programs, many of which serve disadvantaged youths, that are not administered as a coherent whole; and

(10) in 1992 approximately 3,400,000 individuals in the United States age 16 through 24 had not completed high school and were not currently enrolled in school, a number representing approximately 11 percent of all individuals in this age group, which indicates that these young persons are particularly unprepared for the demands of a 21st century workforce.

20 USC 6102.

SEC. 3. PURPOSES AND CONGRESSIONAL INTENT.

(a) PURPOSES.—The purposes of this Act are—

(1) to establish a national framework within which all States can create statewide School-to-Work Opportunities systems that—

(A) are a part of comprehensive education reform;

(B) are integrated with the systems developed under the Goals 2000: Educate America Act and the National Skill Standards Act of 1994; and

(C) offer opportunities for all students to participate in a performance-based education and training program that will—

(i) enable the students to earn portable credentials;

(ii) prepare the students for first jobs in high-skill, high-wage careers; and

(iii) increase their opportunities for further education, including education in a 4-year college or university;

(2) to facilitate the creation of a universal, high-quality school-to-work transition system that enables youths in the United States to identify and navigate paths to productive and progressively more rewarding roles in the workplace;

(3) to utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high-quality, work-based learning experiences;

(4) to use Federal funds under this Act as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(5) to promote the formation of local partnerships that are dedicated to linking the worlds of school and work among secondary schools and postsecondary educational institutions, private and public employers, labor organizations, government, community-based organizations, parents, students, State educational agencies, local educational agencies, and training and human service agencies;

(6) to promote the formation of local partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(7) to help all students attain high academic and occupational standards;

(8) to build on and advance a range of promising school-to-work activities, such as tech-prep education, career academies, school-to-apprenticeship programs, cooperative education, youth apprenticeship, school-sponsored enterprises, business-education compacts, and promising strategies that assist school dropouts, that can be developed into programs funded under this Act;

(9) to improve the knowledge and skills of youths by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(10) to encourage the development and implementation of programs that will require paid high-quality, work-based learning experiences;

(11) to motivate all youths, including low-achieving youths, school dropouts, and youths with disabilities, to stay in or return to school or a classroom setting and strive to succeed, by providing enriched learning experiences and assistance in obtaining good jobs and continuing their education in postsecondary educational institutions;

(12) to expose students to a broad array of career opportunities, and facilitate the selection of career majors, based on individual interests, goals, strengths, and abilities;

(13) to increase opportunities for minorities, women, and individuals with disabilities, by enabling individuals to prepare for careers that are not traditional for their race, gender, or disability; and

(14) to further the National Education Goals set forth in title I of the Goals 2000: Educate America Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this Act in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing statewide School-to-Work Opportunities systems and School-to-Work Opportunities programs; and

(2) contributes to reinventing government by—

(A) building on State and local capacity;

(B) eliminating duplication in education and training programs for youths by integrating such programs into 1 comprehensive system;

(C) maximizing the effective use of resources;

(D) supporting locally established initiatives;

(E) requiring measurable goals for performance; and

(F) offering flexibility in meeting such goals.

20 USC 6103.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ALL ASPECTS OF AN INDUSTRY.—The term "all aspects of an industry" means all aspects of the industry or industry sector a student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety issues, and environmental issues, related to such industry or industry sector.

(2) ALL STUDENTS.—The term "all students" means both male and female students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students with disabilities, students with limited-English proficiency, migrant children, school dropouts, and academically talented students.

(3) APPROVED STATE PLAN.—The term "approved State plan" means a statewide School-to-Work Opportunities system plan that is submitted by a State under section 213, is determined by the Secretaries to include the program components described in sections 102 through 104 and otherwise meet the requirements of this Act, and is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act.

(4) CAREER GUIDANCE AND COUNSELING.—The term "career guidance and counseling" means programs—

(A) that pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities;

(B) that assist individuals in making and implementing informed educational and occupational choices; and

(C) that aid students to develop career options with attention to surmounting gender, race, ethnic, disability, language, or socioeconomic impediments to career options and encouraging careers in nontraditional employment.

(5) CAREER MAJOR.—The term "career major" means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates academic and occupational learning, integrates school-based and work-based learning, establishes linkages between secondary schools and postsecondary educational institutions;

(B) prepares the student for employment in a broad occupational cluster or industry sector;

(C) typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education;

(D) provides the students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are planning to enter;

(E) results in the award of—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a certificate or diploma recognizing successful completion of 1 or 2 years of postsecondary education (if appropriate); and

(iii) a skill certificate; and

(F) may lead to further education and training, such as entry into a registered apprenticeship program, or may lead to admission to a 2- or 4-year college or university.

(6) COMMUNITY-BASED ORGANIZATIONS.—The term "community-based organizations" has the meaning given such term in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).

(7) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(8) EMPLOYER.—The term "employer" includes both public and private employers.

(9) GOVERNOR.—The term "Governor" means the chief executive of a State.

(10) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) LOCAL PARTNERSHIP.—The term "local partnership" means a local entity that is responsible for local School-to-Work Opportunities programs and that—

(A) consists of employers, representatives of local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, and students; and

(B) may include other entities, such as—

(i) employer organizations;

(ii) community-based organizations;

(iii) national trade associations working at the local levels;

(iv) industrial extension centers;
(v) rehabilitation agencies and organizations;
(vi) registered apprenticeship agencies;
(vii) local vocational education entities;
(viii) proprietary institutions of higher education (as defined in section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) that continue to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.);
(ix) local government agencies;
(x) parent organizations;
(xi) teacher organizations;
(xii) vocational student organizations;
(xiii) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512);
(xiv) federally recognized Indian tribes, Indian organizations, and Alaska Native villages within the meaning of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and
(xv) Native Hawaiian entities.

(12) POSTSECONDARY EDUCATIONAL INSTITUTION.—The term "postsecondary educational institution" means an institution of higher education (as such term is defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)) which continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq.).

(13) REGISTERED APPRENTICESHIP AGENCY.—The term "registered apprenticeship agency" means the Bureau of Apprenticeship and Training in the Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes.

(14) REGISTERED APPRENTICESHIP PROGRAM.—The term "registered apprenticeship program" means a program registered by a registered apprenticeship agency.

(15) RELATED SERVICES.—The term "related services" includes the types of services described in section 602(17) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(17)).

(16) RURAL COMMUNITY WITH LOW POPULATION DENSITY.—The term "rural community with low population density" means a county, block number area in a nonmetropolitan county, or consortium of counties or of such block number areas, that has a population density of 20 or fewer individuals per square mile.

(17) SCHOOL DROPOUT.—The term "school dropout" means a youth who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(18) SCHOOL SITE MENTOR.—The term "school site mentor" means a professional employed at a school who is designated as the advocate for a particular student, and who works in consultation with classroom teachers, counselors, related services personnel, and the employer of the student to design and

monitor the progress of the School-to-Work Opportunities program of the student.

(19) SCHOOL-TO-WORK OPPORTUNITIES PROGRAM.—The term "School-to-Work Opportunities program" means a program that meets the requirements of this Act, other than a program described in section 401(a).

(20) SECONDARY SCHOOL.—The term "secondary school" means—

(A) a nonprofit day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12; and

(B) a Job Corps center under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).

(21) SECRETARIES.—The term "Secretaries" means the Secretary of Education and the Secretary of Labor.

(22) SKILL CERTIFICATE.—The term "skill certificate" means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved State plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the National Skill Standards Act of 1994, except that until such skill standards are developed, the term "skill certificate" means a credential issued under a process described in the approved State plan.

(23) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(24) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(25) WORKPLACE MENTOR.—The term "workplace mentor" means an employee or other individual, approved by the employer at a workplace, who possesses the skills and knowledge to be mastered by a student, and who instructs the student, critiques the performance of the student, challenges the student to perform well, and works in consultation with classroom teachers and the employer of the student.

SEC. 5. FEDERAL ADMINISTRATION. 20 USC 6104.

(a) JOINT ADMINISTRATION.—

(1) IN GENERAL.—Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled "An Act To Create a Department of Labor", approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 166 of the Job Training Partnership Act (29 U.S.C. 1576), the Secretaries shall jointly provide for, and shall exercise final authority over, the administration of this Act, and shall have final authority to jointly issue whatever procedures, guidelines, and regulations, in accordance with section 553 of title 5, United States

Code, the Secretaries consider necessary and appropriate to administer and enforce the provisions of this Act.

(2) SUBMISSION OF PLAN.—Not later than 120 days after the date of enactment of this Act, the Secretaries shall prepare a plan for the joint administration of this Act and submit such plan to Congress for review and comment.

(b) ACCEPTANCE OF GIFTS.—The Secretaries are authorized, in carrying out this Act, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

(c) USE OF VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretaries are authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

20 USC 6111.

SEC. 101. GENERAL PROGRAM REQUIREMENTS.

A School-to-Work Opportunities program under this Act shall—

(1) integrate school-based learning and work-based learning, as provided for in sections 102 and 103, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education;

(2) provide participating students with the opportunity to complete career majors;

(3) incorporate the program components provided in sections 102 through 104;

(4) provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(5) provide all students with equal access to the full range of such program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities, except that nothing in this Act shall be construed to provide any individual with an entitlement to services under this Act.

20 USC 6112.

SEC. 102. SCHOOL-BASED LEARNING COMPONENT.

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career awareness and career exploration and counseling (beginning at the earliest possible age, but not later than the 7th grade) in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors, including those options that may not be traditional for their gender, race, or ethnicity;

(2) initial selection by interested students of a career major not later than the beginning of the 11th grade;

(3) a program of study designed to meet the same academic content standards the State has established for all students, including, where applicable, standards established under the

Goals 2000: Educate America Act, and to meet the requirements necessary to prepare a student for postsecondary education and the requirements necessary for a student to earn a skill certificate;

(4) a program of instruction and curriculum that integrates academic and vocational learning (including applied methodologies and team-teaching strategies), and incorporates instruction, to the extent practicable, in all aspects of an industry, appropriately tied to the career major of a participant;

(5) regularly scheduled evaluations involving ongoing consultation and problem solving with students and school dropouts to identify their academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills; and

(6) procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

SEC. 103. WORK-BASED LEARNING COMPONENT. 20 USC 6113.

(a) MANDATORY ACTIVITIES.—The work-based learning component of a School-to-Work Opportunities program shall include—

(1) work experience;

(2) a planned program of job training and work experiences (including training related to preemployment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described in section 102 and are relevant to the career majors of students and lead to the award of skill certificates;

(3) workplace mentoring;

(4) instruction in general workplace competencies, including instruction and activities related to developing positive work attitudes, and employability and participative skills; and

(5) broad instruction, to the extent practicable, in all aspects of the industry.

(b) PERMISSIBLE ACTIVITIES.—Such component may include such activities as paid work experience, job shadowing, school-sponsored enterprises, or on-the-job training.

SEC. 104. CONNECTING ACTIVITIES COMPONENT. 20 USC 6114.

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with the work-based learning opportunities of employers;

(2) providing, with respect to each student, a school site mentor to act as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student, and, if appropriate, other community partners;

(3) providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing school-based learning components described in section 102, work-based learning components described in section 103, and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

(4) providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning into the program;

(5) encouraging the active participation of employers, in cooperation with local education officials, in the implementation of local activities described in section 102, section 103, or this section;

(6)(A) providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and

(B) linking the participants with other community services that may be necessary to assure a successful transition from school to work;

(7) collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities program, to the extent practicable, on the basis of socioeconomic status, race, gender, ethnicity, culture, and disability, and on the basis of whether the participants are students with limited-English proficiency, school dropouts, disadvantaged students, or academically talented students; and

(8) linking youth development activities under this Act with employer and industry strategies for upgrading the skills of their workers.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

20 USC 6121.

SEC. 201. PURPOSE.

The purpose of this subtitle is to assist States in planning and developing comprehensive statewide School-to-Work Opportunities systems.

20 USC 6122.

SEC. 202. AUTHORIZATION.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—On the application of the Governor on behalf of a State in accordance with section 203, the Secretaries may provide a development grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to complete planning and development of a comprehensive statewide School-to-Work Opportunities system.

(2) AMOUNT.—The amount of a development grant under this section may not exceed $1,000,000 for any fiscal year.

(3) COMPLETION.—The Secretaries may provide such grant to complete development of a statewide School-to-Work Opportunities systems initiated with funds received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the

Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) GRANTS TO TERRITORIES.—In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 605(b)(1).

SEC. 203. APPLICATION. 20 USC 6123.

(a) IN GENERAL.—The Secretaries may not provide a development grant under section 202 to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(b) CONTENTS.—Such application shall include—

(1) a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive statewide School-to-Work Opportunities system for all students;

(2) a description of how—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned by the State under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.), if the State has established such a council; and

(K) representatives of the private sector;

will collaborate in the planning and development of the statewide School-to-Work Opportunities system;

(3) a description of the manner in which the State has obtained and will continue to obtain the active and continued participation, in the planning and development of the statewide School-to-Work Opportunities system, of employers and other interested parties, such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, Indian tribes, registered apprenticeship agencies,

vocational educational agencies, vocational student organizations, and human service agencies;

(4) a description of the manner in which the State will coordinate planning activities with any local school-to-work programs, including programs funded under title III, if any;

(5) a designation of a fiscal agent to receive and be accountable for funds provided from a grant under section 202; and

(6) a description of how the State will provide opportunities for students from low-income families, low-achieving students, students with limited-English proficiency, students with disabilities, students living in rural communities with low population densities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs.

(c) COORDINATION WITH GOALS 2000: EDUCATE AMERICA ACT.—A State seeking assistance under both this subtitle and the Goals 2000: Educate America Act may—

(1) submit a single application containing plans that meet the requirements of such subtitle and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this subtitle as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this subtitle and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

20 USC 6124.

SEC. 204. APPROVAL OF APPLICATION.

The Secretaries may approve an application submitted by a State under section 203 only if the State demonstrates in such application that the activities proposed to be undertaken by the State to develop a statewide School-to-Work Opportunities system are consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act.

20 USC 6125.

SEC. 205. USE OF AMOUNTS.

The Secretaries may not provide a development grant under section 202 to a State unless the State agrees that the State will use all amounts received from such grant for activities to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the statewide School-to-Work Opportunities system;

(2) identifying secondary and postsecondary school-to-work programs in existence on or after the date of the enactment of this Act that might be incorporated into such system;

(3) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community-based organizations and parent organizations to participate in the design, development, and administration of School-to-Work Opportunities programs;

(4) developing a marketing plan to build consensus and support for such programs;

(5) promoting the active involvement of business (including small- and medium-sized businesses) in planning, developing, and implementing local School-to-Work Opportunities programs, and in establishing partnerships between business and

elementary schools and secondary schools (including middle schools);

(6) identifying ways that local school-to-work programs in existence on or after the date of the enactment of this Act could be coordinated with the statewide School-to-Work Opportunities system;

(7) supporting local planning and development activities to provide guidance, training and technical assistance for teachers, employers, mentors, counselors, administrators, and others in the development of School-to-Work Opportunities programs;

(8) identifying or establishing mechanisms for providing training and technical assistance to enhance the development of the statewide School-to-Work Opportunities system;

(9) developing a training and technical support system for teachers, employers, mentors, counselors, related services personnel, and others that includes specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment;

(10) initiating pilot programs for testing key components of the program design of programs under the statewide School-to-Work Opportunities system;

(11) developing a State process for issuing skill certificates that is, to the extent feasible, consistent with the skill standards certification systems endorsed under the National Skill Standards Act of 1994;

(12) designing challenging curricula, in cooperation with representatives of local partnerships, that take into account the diverse learning needs and abilities of the student population served by the statewide School-to-Work Opportunities system;

(13) developing a system for labor market analysis and strategic planning for local targeting of industry sectors or broad occupational clusters that can provide students with placements in high-skill workplaces;

(14) analyzing the post-high school employment experiences of recent high school graduates and school dropouts;

(15) preparing the plan described in section 213(d);

(16) working with localities to develop strategies to recruit and retain all students in programs under this Act through collaborations with community-based organizations, where appropriate, and other entities with expertise in working with such students;

(17) coordinating recruitment of out-of-school, at-risk, and disadvantaged youths with those organizations and institutions that have a successful history of working with such youths; and

(18) providing technical assistance to rural areas in planning, developing, and implementing local School-to-Work Opportunities programs that meet the needs of rural communities with low population densities.

SEC. 206. MAINTENANCE OF EFFORT. 20 USC 6126.

(a) IN GENERAL.—A State may receive a development grant under section 202 for a fiscal year only if the State provides assurances, satisfactory to the Secretaries, that—

(1) the amount of State funds expended per student by the State for school-to-work activities of the type described in title I for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year; or

(2) the aggregate amount of State funds expended by the State for such activities for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year.

(b) WAIVER.—

(1) DETERMINATION.—The Secretaries may jointly waive the requirements described in subsection (a) for a State that requests such a waiver if the Secretaries determine that such a waiver would be equitable due to—

(A) exceptional or uncontrollable circumstances such as a natural disaster; or

(B) a precipitous decline in the financial resources of the State.

(2) REQUEST.—To be eligible to receive such a waiver, a State shall submit a request at such time, in such form, and containing such information as the Secretaries may require.

20 USC 6127.

SEC. 207. REPORTS.

The Secretaries may not provide a development grant under section 202 to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

Subtitle B—State Implementation Grants

20 USC 6141.

SEC. 211. PURPOSE.

The purpose of this subtitle is to assist States in the implementation of comprehensive statewide School-to-Work Opportunities systems.

20 USC 6142.

SEC. 212. AUTHORIZATION.

(a) GRANTS TO STATES.—On the application of the Governor on behalf of a State in accordance with section 213, the Secretaries may provide an implementation grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to implement a comprehensive statewide School-to-Work Opportunities system.

(b) GRANTS TO TERRITORIES.—In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 605(b)(1).

(c) PERIOD OF GRANT.—The provision of payments under a grant under subsection (a) shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

(d) LIMITATION.—A State shall be eligible to receive only 1 implementation grant under subsection (a).

SEC. 213. APPLICATION. 20 USC 6143.

(a) IN GENERAL.—

(1) SUBMISSION BY GOVERNOR ON BEHALF OF STATE.—Subject to paragraph (2), the Secretaries may not provide an implementation grant under section 212 to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(2) REVIEW AND COMMENT BY CERTAIN INDIVIDUALS AND ENTITIES.—If, after a reasonable effort, the Governor is unable in accordance with subsection (d)(4) to obtain the support of the individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) for the State plan described in subsection (d), then the Governor shall—

(A) provide such individuals and entities with copies of such application;

(B) allow such individuals and entities to submit to the Governor, not later than the end of the 30-day period beginning on the date on which the Governor provides such individuals and entities with copies of such application under subparagraph (A), comments on those portions of the plan that address matters that, under State or other applicable law, are under the jurisdiction of such individuals or entities; and

(C) include any such comments in the application in accordance with subsection (b)(5).

(b) CONTENTS.—Such application shall include—

(1) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the requirements of subsection (d);

(2) a description of the manner in which the State will allocate funds made available through such a grant to local partnerships under section 215(b)(7);

(3) a request, if the State decides to submit such a request, for 1 or more waivers of certain statutory or regulatory requirements, as provided for under title V;

(4) a description of the manner in which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned for the State under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));

(J) other appropriate officials, including the State human resource investment council established in accord-

ance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.), if the State has established such a council; and

(K) representatives of the private sector;

collaborated in the development of the application;

(5) the comments submitted to the Governor under subsection (a)(2), where applicable; and

(6) such other information as the Secretaries may require.

(c) COORDINATION WITH GOALS 2000: EDUCATE AMERICA ACT.—A State seeking assistance under both this subtitle and the Goals 2000: Educate America Act may—

(1) submit a single application containing plans that meet the requirements of such subtitle and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this subtitle as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this subtitle and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

Urban and rural areas.

(d) STATE PLAN.—A State plan referred to in subsection (b)(1) shall—

(1) designate the geographical areas, including urban and rural areas, to be served by local partnerships that receive grants under section 215(b), which geographic areas shall, to the extent feasible, reflect local labor market areas;

(2) describe the manner in which the State will stimulate and support local School-to-Work Opportunities programs and the manner in which the statewide School-to-Work Opportunities system will be expanded over time to cover all geographic areas in the State, including urban and rural areas;

(3) describe the procedure by which the individuals and entities described in subsection (b)(4) will collaborate in the implementation of the School-to-Work Opportunities system;

(4) demonstrate the support of individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) for the plan, except in the case where the Governor is unable to obtain the support of such individuals and entities as provided in subsection (a)(2);

(5) describe the manner in which the State has obtained and will continue to obtain the active and continued involvement, in the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies;

(6) describe the manner in which the statewide School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs in existence on or after the date of the enactment of this Act, including programs financed from

State and private sources, with funds available from such related Federal programs as programs under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.);

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.);

(D) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

(E) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

(F) the Goals 2000: Educate America Act;

(G) the National Skills Standards Act of 1994;

(H) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(I) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(J) the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.);

(K) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(L) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(7) describe the strategy of the State for providing training for teachers, employers, mentors, counselors, related services personnel, and others, including specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment, and provide assurances of coordination with similar training and technical support under other provisions of law;

(8) describe how the State will adopt, develop, or assist local partnerships to adopt or develop model curricula and innovative instructional methodologies, to be used in the secondary, and where possible, the elementary grades, that integrate academic and vocational learning and promote career awareness, and that are consistent with academic and skill standards established pursuant to the Goals 2000: Educate America Act and the National Skill Standards Act of 1994;

(9) describe how the State will expand and improve career and academic counseling in the elementary and secondary grades, which may include linkages to career counseling and labor market information services outside of the school system;

(10) describe the strategy of the State for integrating academic and vocational education;

(11) describe the resources, including private sector resources, the State intends to employ in maintaining the statewide School-to-Work Opportunities system when funds under this Act are no longer available;

(12) describe the extent to which the statewide School-to-Work Opportunities system will include programs that will require paid high-quality, work-based learning experiences, and the steps the State will take to generate such paid experiences;

(13) describe the manner in which the State will ensure effective and meaningful opportunities for all students in the State to participate in School-to-Work Opportunities programs;

(14) describe the goals of the State and the methods the State will use, such as awareness and outreach, to ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including nontraditional employment, and goals to ensure an environment free from racial and sexual harassment;

(15) describe how the State will ensure opportunities for low achieving students, students with disabilities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs;

(16) describe the process of the State for assessing the skills and knowledge required in career majors, and the process for awarding skill certificates that is, to the extent feasible, consistent with the skills standards certification systems endorsed under the National Skill Standards Act of 1994;

(17) describe the manner in which the State will ensure that students participating in the programs are provided, to the greatest extent possible, with flexibility to develop new career goals over time and to change career majors;

(18) describe the manner in which the State will, to the extent feasible, continue programs funded under title III in the statewide School-to-Work Opportunities system;

(19) describe how the State will serve students from rural communities with low population densities;

(20) describe how local School-to-Work Opportunities programs, including those funded under title III, if any, will be integrated into the statewide School-to-Work Opportunities system;

(21) describe the performance standards that the State intends to meet in establishing and carrying out the statewide School-to-Work Opportunities system, including how such standards relate to those performance standards established under other related programs;

(22) designate a fiscal agent to receive and be accountable for funds provided from a grant under section 212; and

(23) describe the procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

20 USC 6144.

SEC. 214. REVIEW OF APPLICATION.

(a) CONSIDERATIONS.—In evaluating applications submitted under section 213, the Secretaries shall—

(1) give priority to applications that describe the highest levels of concurrence by the individuals and entities described in section 213(b)(4) with the State plan for the statewide School-to-Work Opportunities system;

(2) give priority to applications that require paid, high-quality work-based learning experiences as an integral part of such system; and

(3) take into consideration the quality of the application, including the replicability, sustainability, and innovation of School-to-Work Opportunities programs described in the application.

(b) APPROVAL CRITERIA.—The Secretaries—

(1) shall approve only those applications submitted under section 213 that demonstrate the highest levels of collaboration by the individuals and entities described in section 213(b)(4) in the development and implementation of the statewide School-to-Work system;

(2) shall approve an application submitted under section 213 only if the State provides the assurances described in section 206(a) (relating to maintenance of effort) in accordance with such section, except that this requirement may be waived in accordance with section 206(b); and

(3) may approve an application submitted under section 213 only if the State demonstrates in the application—

(A) that other Federal, State, and local resources will be used to implement the proposed State plan;

(B) the extent to which such plan would limit administrative costs and increase amounts spent on delivery of services to students enrolled in programs under this Act;

(C) that the State, where appropriate, will ensure the establishment of a partnership in at least 1 urban and 1 rural area in the State; and

(D) that the State plan contained in such application is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act.

(c) ACTIONS.—

(1) IN GENERAL.—In reviewing each application submitted under section 213, the Secretaries shall determine whether the application and the plan described in such application meet the approval criteria in subsection (b).

(2) ACTIONS AFTER AFFIRMATIVE DETERMINATION.—If the determination under paragraph (1) is affirmative, the Secretaries may take 1 or more of the following actions:

(A) Provide an implementation grant under section 212 to the State submitting the application.

(B) Approve the request of the State, if any, for a waiver in accordance with the procedures set forth in title V.

(3) ACTION AFTER NONAFFIRMATIVE DETERMINATION.—If the determination under paragraph (1) is not affirmative, the Secretaries shall inform the State of the opportunity to apply for development funds under subtitle A in accordance with such subtitle.

(d) USE OF FUNDS FOR REVIEW OF APPLICATIONS.—The Secretaries may use amounts reserved under section 605(b)(4) for the review of applications submitted under section 213.

SEC. 215. USE OF AMOUNTS. 20 USC 6145.

(a) IN GENERAL.—The Secretaries may not provide an implementation grant under section 212 to a State unless the State agrees that the State will use all amounts received from such grant to implement the statewide School-to-Work Opportunities system in accordance with this section.

(b) SUBGRANTS TO LOCAL PARTNERSHIPS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the State shall provide subgrants to local partnerships, according to criteria established by the State, for the pur-

pose of carrying out School-to-Work Opportunities programs.

(B) PROHIBITION.—The State shall not provide subgrants to local partnerships that have received implementation grants under title III, except that this prohibition shall not apply with respect to local partnerships that are located in high poverty areas, as such term is defined in section 307.

(2) APPLICATION.—A local partnership that seeks a subgrant to carry out a local School-to-Work Opportunities program, including a program initiated under section 302, shall submit an application to the State that—

(A) describes how the program will include the program components described in sections 102, 103, and 104 and otherwise meet the requirements of this Act;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables of the local partnership to provide opportunities for all students in the area served to participate in a School-to-Work Opportunities program;

(D) describes the extent to which the program will require paid high-quality, work-based learning experiences, and the steps the local partnerships will take to generate such paid experiences;

(E) describes the process that will be used to ensure employer involvement in the development and implementation of the local School-to-Work Opportunities program;

(F) provides assurances that, to the extent practicable, opportunities provided to students to participate in a School-to-Work Opportunities program will be in industries and occupations offering high-skill, high-wage employment opportunities;

(G) provides such other information as the State may require; and

(H) is submitted at such time and in such form as the State may require.

(3) DISAPPROVAL OF APPLICATION.—If the State determines that an application submitted by a local partnership does not meet the criteria under paragraph (2), or that the application is incomplete or otherwise unsatisfactory, the State shall—

(A) notify the local partnership of the reasons for the failure to approve the application; and

(B) permit the local partnership to resubmit a corrected or amended application.

(4) ALLOWABLE ACTIVITIES.—A local partnership shall expend funds provided through subgrants under this subsection only for activities undertaken to carry out local School-to-Work Opportunities programs, and such activities may include, for each such program—

(A) recruiting and providing assistance to employers, including small- and medium-size businesses, to provide the work-based learning components described in section 103;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to the career majors of students;

(C) supporting or establishing intermediaries (selected from among the members of the local partnership) to perform the activities described in section 104 and to provide assistance to students or school dropouts in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing, in schools participating in the School-to-Work Opportunities program, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

(G) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work;

(H) providing supplementary and support services, including child care and transportation, when such services are necessary for participation in a local School-to-Work Opportunities program;

(I) conducting or obtaining an in-depth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(J) integrating school-based and work-based learning into job training programs that are for school dropouts and that are in existence on or after the date of the enactment of this Act;

(K) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

(L) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components;

(M) promoting the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(N) designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors, including opportunities outside the classroom that are at the worksite;

(O) enhancing linkages between after-school, weekend, and summer jobs, career exploration, and school-based learning; and

(P) obtaining the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the local School-to-Work Opportunities program.

(5) LOCAL PARTNERSHIP COMPACT.—The State may not provide a subgrant under paragraph (1) to a local partnership unless the partnership agrees that the local partnership will establish a process by which the responsibilities and expectations of students, parents, employers, and schools are clearly established and agreed upon at the point of entry of the student into a career major program of study.

(6) ADMINISTRATIVE COSTS.—The local partnership may not use more than 10 percent of amounts received from a subgrant under paragraph (1) for any fiscal year for administrative costs associated with activities in carrying out, but not including, activities under paragraphs (4) and (5) for such fiscal year.

(7) ALLOCATION REQUIREMENTS.—

(A) FIRST YEAR.—In the 1st fiscal year for which a State receives amounts from a grant under section 212, the State shall use not less than 70 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(B) SECOND YEAR.—In the 2d fiscal year for which a State receives amounts from a grant under section 212, the State shall use not less than 80 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(C) THIRD YEAR AND SUCCEEDING YEARS.—In the 3d fiscal year for which a State receives amounts from a grant under section 212, and in each succeeding year, the State shall use not less than 90 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(c) ADDITIONAL STATE ACTIVITIES.—In carrying out the statewide School-to-Work Opportunities system, the State may also—

(1) recruit and provide assistance to employers to provide work-based learning for all students;

(2) conduct outreach activities to promote and support collaboration, in School-to-Work Opportunities programs, by businesses, labor organizations, and other organizations;

(3) provide training for teachers, employers, workplace mentors, school site mentors, counselors, related services personnel, and other parties;

(4) provide labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) design or adapt model curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and post-secondary education, for all students in the State;

(6) design or adapt model work-based learning programs and identify best practices for such programs;

(7) conduct outreach activities and provide technical assistance to other States that are developing or implementing School-to-Work Opportunities systems;

(8) reorganize and streamline school-to-work programs in the State to facilitate the development of a comprehensive statewide School-to-Work Opportunities system;

(9) identify ways that local school-to-work programs in existence on or after the date of the enactment of this Act could be integrated with the statewide School-to-Work Opportunities system;

(10) design career awareness and exploration activities (beginning at the earliest possible age, but not later than the 7th grade), such as job shadowing, job site visits, school visits by individuals in various occupations, and mentoring;

(11) design and implement school-sponsored work experiences, such as school-sponsored enterprises and community development projects;

(12) promote the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(13) obtain the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the statewide School-to-Work Opportunities system;

(14) conduct outreach to all students in a manner that most appropriately meets their needs and the needs of their communities; and

(15) provide career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work.

SEC. 216. ALLOCATION REQUIREMENT. 20 USC 6146.

The Secretaries shall establish the minimum and maximum amounts available for an implementation grant under section 212, and shall determine the actual amount granted to any State under such section, based on such criteria as the scope and quality of the plan described in section 213(d) and the number of projected participants in programs carried out through the system.

SEC. 217. LIMITATION ON ADMINISTRATIVE COSTS. 20 USC 6147.

A State that receives an implementation grant under section 212 may not use more than 10 percent of the amounts received through the grant for any fiscal year for administrative costs associated with implementing the statewide School-to-Work Opportunities system for such fiscal year.

SEC. 218. REPORTS. 20 USC 6148.

The Secretaries may not provide an implementation grant under section 212 to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

Subtitle C—Development and Implementation Grants for School-to-Work Programs for Indian Youths

20 USC 6161.

SEC. 221. AUTHORIZATION.

(a) IN GENERAL.—From amounts reserved under section 605(b)(2), the Secretaries shall provide grants to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3))).

(b) ADDITIONAL AUTHORITIES.—The Secretaries may carry out subsection (a) through such means as the Secretaries find appropriate, including—

(1) the transfer of funds to the Secretary of the Interior; and

(2) the provision of financial assistance to Indian tribes and Indian organizations.

20 USC 6162.

SEC. 222. REQUIREMENTS.

In providing grants under section 221, the Secretaries shall require recipients of such grants to comply with requirements similar to those requirements imposed on States under subtitles A and B of this title.

Urban and rural areas.
Children and youth.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

20 USC 6171.

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to authorize the Secretaries to provide competitive grants directly to local partnerships in order to provide funding for communities that have built a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to provide competitive grants to local partnerships to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youths residing in such areas.

20 USC 6172.

SEC. 302. AUTHORIZATION.

(a) GRANTS TO LOCAL PARTNERSHIPS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretaries may provide implementation grants, in accordance with competitive criteria established by the Secretaries, directly to local partnerships in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs.

(2) RESTRICTIONS.—A local partnership—

(A) shall be eligible to receive only 1 grant under this subsection; and

(B) shall not be eligible to receive a grant under this subsection if such partnership is located in a State that—

(i) has been provided an implementation grant under section 212; and

(ii) has received amounts from such grant for any fiscal year after the 1st fiscal year under such grant.

(b) GRANTS TO LOCAL PARTNERSHIPS IN HIGH POVERTY AREAS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretaries shall, from amounts reserved under section 605(b)(3), provide grants to local partnerships that are located in high poverty areas in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs in such areas.

(2) RESTRICTION.—A local partnership shall be eligible to receive only 1 grant under this subsection.

(3) PRIORITY.—In providing grants under paragraph (1), the Secretaries shall give priority to local partnerships that have a demonstrated effectiveness in the delivery of comprehensive vocational preparation programs with successful rates in job placement through cooperative activities among local educational agencies, local businesses, labor organizations, and other organizations.

(c) PERIOD OF GRANT.—The provision of payments under a grant under subsection (a) or (b) shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

SEC. 303. APPLICATION. 20 USC 6173.

(a) IN GENERAL.—A local partnership that desires to receive a Federal implementation grant under section 302 shall submit an application to the Secretaries at such time and in such form as the Secretaries may require. The local partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries.

(b) TIME LIMIT FOR STATE REVIEW AND COMMENT.—

(1) IN GENERAL.—The State shall provide for review and comment on the application under subsection (a) not later than 30 days after the date on which the State receives the application from the local partnership.

(2) SUBMISSION WITHOUT STATE REVIEW AND COMMENT.—If the State does not provide review and comment within the 30-day time period specified in paragraph (1), the local partnership may submit the application to the Secretaries without first obtaining such review and comment.

(c) CONTENTS.—The application described in subsection (a) shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the local partnership will meet the requirements of this Act;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted as part of a State plan in accordance with paragraphs (5) through (17) and paragraph (23) of section 213(d);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) USE OF FUNDS FOR REVIEW OF APPLICATIONS.—The Secretaries may use amounts reserved under section 605(b)(4) for the review of applications submitted under subsection (a).

20 USC 6174.

SEC. 304. USE OF AMOUNTS.

The Secretaries may not provide an implementation grant under section 302 to a local partnership unless the partnership agrees that it will use all amounts from such grant to carry out activities to implement a School-to-Work Opportunities program, including the activities described in section 215(b)(4).

20 USC 6175.

SEC. 305. CONFORMITY WITH APPROVED STATE PLAN.

The Secretaries shall not provide a grant under section 302 to a local partnership in a State that has an approved State plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with such approved State plan.

20 USC 6176.

SEC. 306. REPORTS.

The Secretaries may not provide an implementation grant under section 302 to a local partnership unless the partnership agrees that the local partnership will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

20 USC 6177.

SEC. 307. HIGH POVERTY AREA DEFINED.

For purposes of this title, the term "high poverty area" means an urban census tract, a contiguous group of urban census tracts, a block number area in a nonmetropolitan county, a contiguous group of block number areas in a nonmetropolitan county, or an Indian reservation (as defined in section 403(9) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(9))), with a poverty rate of 20 percent or more among individuals who have not attained the age of 22, as determined by the Bureau of the Census.

TITLE IV—NATIONAL PROGRAMS

20 USC 6191.

SEC. 401. RESEARCH, DEMONSTRATION, AND OTHER PROJECTS.

(a) IN GENERAL.—The Secretaries shall conduct research and development projects and establish a program of experimental and demonstration projects, to further the purposes of this Act.

(b) ADDITIONAL USE OF FUNDS.—The Secretaries may provide assistance for programs or services authorized under any other provision of this Act that are most appropriately administered at the national level and that will operate in, or benefit, more than 1 State.

Grants.
Contracts.
20 USC 6192.

SEC. 402. PERFORMANCE OUTCOMES AND EVALUATION.

(a) IN GENERAL.—The Secretaries, in collaboration with the States, shall by grant, contract, or otherwise, establish a system

of performance measures for assessing State and local programs regarding—

(1) progress in the development and implementation of State plans described in section 213(d) that include the basic program components described in sections 102, 103, and 104 and otherwise meet the requirements of title I;

(2) participation in School-to-Work Opportunities programs by employers, schools, students, and school dropouts, including information on the gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of all participants and whether the participants are academically talented students;

(3) progress in developing and implementing strategies for addressing the needs of students and school dropouts;

(4) progress in meeting the goals of the State to ensure opportunities for young women to participate in School-to-Work Opportunities programs, including participation in nontraditional employment through such programs;

(5) outcomes for participating students and school dropouts, by gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of the participants, and whether the participants are academically talented students, including information on—

(A) academic learning gains;

(B) staying in school and attaining—

(i) a high school diploma, or a general equivalency diploma, or an alternative diploma or certificate for those students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a skill certificate; and

(iii) a postsecondary degree;

(C) attainment of strong experience in and understanding of all aspects of the industry the students are preparing to enter;

(D) placement and retention in further education or training, particularly in the career major of the student; and

(E) job placement, retention, and earnings, particularly in the career major of the student; and

(6) the extent to which the program has met the needs of employers.

(b) EVALUATION.—Not later than September 30, 1998, the Secretaries shall complete a national evaluation of School-to-Work Opportunities programs funded under this Act by grants, contracts, or otherwise, that will track and assess the progress of implementation of State and local programs and their effectiveness based on measures such as those measures described in subsection (a).

(c) REPORTS TO THE SECRETARIES.—

(1) IN GENERAL.—Each State shall prepare and submit to the Secretaries periodic reports, at such intervals as the Secretaries may determine, containing information regarding the matters described in paragraphs (1) through (6) of subsection (a).

(2) FEDERAL PROGRAMS.—Each State shall prepare and submit reports to the Secretaries, at such intervals as the Secretaries may determine, containing information on the extent to which Federal programs that are in existence on

the date of submission of the report and that are implemented at the State or local level may be duplicative, outdated, overly restrictive, or otherwise counterproductive to the development of comprehensive statewide School-to-Work Opportunities systems.

20 USC 6193.

SEC. 403. TRAINING AND TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretaries shall work in cooperation with the States, the individuals assigned under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1)), employers and their associations, secondary schools and postsecondary educational institutions, student and teacher organizations, labor organizations, and community-based organizations, to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

Grants.
Contracts.

(b) AUTHORIZED ACTIVITIES.—The Secretaries shall provide, through grants, contracts, or otherwise—

(1) training, technical assistance, and other activities that will—

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs, such as training of the personnel to assist students; and

(B) improve the quality of services provided to individuals served under this Act;

(2) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs in order to integrate resources available under this Act with resources available under other Federal, State, and local authorities;

(3) assistance to States and such local partnerships, including local partnerships in rural communities with low population densities or in urban areas, to recruit employers to provide the work-based learning component, described in section 103, of School-to-Work Opportunities programs; and

(4) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs to design and implement school-sponsored enterprises.

20 USC 6194.

SEC. 404. CAPACITY BUILDING AND INFORMATION AND DISSEMINATION NETWORK.

The Secretaries, acting through such mechanisms as the Capacity Building and Information and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)), the Educational Resources Information Center Clearinghouses referred to in the Educational Research, Development, Dissemination, and Improvement Act of 1994, and the National Network for Curriculum Coordination in Vocational and Technical Education under section 402(c) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2402(c)), shall—

(1) collect and disseminate information—

(A) on successful School-to-Work Opportunities programs and innovative school- and work-based curricula;

(B) on research and evaluation conducted concerning school-to-work activities;

(C) that will assist States and local partnerships in undertaking labor market analysis, surveys, or other activities related to economic development;

(D) on skill certificates, skill standards, and related assessment technologies; and

(E) on methods for recruiting and building the capacity of employers to provide work-based learning opportunities; and

(2) facilitate communication and the exchange of information and ideas among States and local partnerships carrying out School-to-Work Opportunities programs.

SEC. 405. REPORTS TO CONGRESS. 20 USC 6195.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, and every 12 months thereafter, the Secretaries shall prepare and submit a report to the Congress on all activities carried out pursuant to this Act.

(b) CONTENTS.—The Secretaries shall, at a minimum, include in each such report—

(1) information concerning the programs that receive assistance under this Act;

(2) a summary of the information contained in the State and local partnership reports submitted under titles II and III and section 402(c); and

(3) information regarding the findings and actions taken as a result of any evaluation conducted by the Secretaries.

SEC. 406. FUNDING. 20 USC 6196.

The Secretaries shall use funds reserved under section 605(b)(4) to carry out activities under this title.

TITLE V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

SEC. 501. STATE AND LOCAL PARTNERSHIP REQUESTS AND RESPONSIBILITIES FOR WAIVERS. 20 USC 6211.

(a) STATE REQUEST FOR WAIVER.—A State may submit to the Secretaries a request for a waiver of 1 or more requirements of the provisions of law referred to in sections 502 and 503, or of the regulations issued under such provisions, in order to carry out the statewide School-to-Work Opportunities system established by such State under subtitle B of title II. The State may submit the request as a part of the application described in section 213 (or as an amendment to the application at any time after submission of the application). Such request may include a request for different waivers with respect to different areas within the State.

(b) LOCAL PARTNERSHIP REQUEST FOR WAIVER.—

(1) IN GENERAL.—A local partnership that seeks a waiver of such a requirement shall submit an application for such waiver to the State, and the State shall determine whether to submit a request for a waiver to the Secretaries, as provided in subsection (a).

(2) TIME LIMIT.—

(A) IN GENERAL.—The State shall make a determination to submit or not submit the request for a waiver under paragraph (1) not later than 30 days after the date on which the State receives the application from the local partnership.

(B) DIRECT SUBMISSION.—

(i) IN GENERAL.—If the State does not make a determination to submit or not submit the request within the 30-day time period specified in subparagraph (A), the local partnership may submit the application to the Secretaries.

(ii) REQUIREMENTS.—In submitting such an application, the local partnership shall obtain the agreement of the State involved to comply with the requirements of section 502(a)(1)(C) or 503(a)(1)(C), as appropriate, and comply with the other requirements of section 502 or 503, as appropriate, and of subsections (c) and (d), that would otherwise apply to a State submitting a request for a waiver. In reviewing such an application, the Secretaries shall comply with the requirements of such section and such subsections that would otherwise apply to the Secretaries with respect to review of such a request.

(c) WAIVER CRITERIA.—Any such request by the State shall meet the criteria contained in section 502 or 503 and shall specify the provisions or regulations referred to in such sections with respect to which the State seeks a waiver.

(d) SUPPORT BY APPROPRIATE STATE AGENCIES.—In requesting such a waiver, the State shall provide evidence of support for the waiver request by the State agencies or officials with jurisdiction over the provisions or regulations that would be waived.

20 USC 6212.

SEC. 502. WAIVER AUTHORITY OF SECRETARY OF EDUCATION.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (c), the Secretary of Education may waive any requirement under any provision of law referred to in subsection (b), or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this Act;

(B) if the State provides the Secretary of Education with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Education may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this Act, and local educational agencies participating in such a local partnership, in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships and local educational agencies to the Secretary of Education.

(2) APPROVAL OR DISAPPROVAL.—The Secretary of Education shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) APPROVAL CRITERIA.—In approving a request under paragraph (2), the Secretary of Education shall consider the amount of State resources that will be used to implement the approved State plan.

(4) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The provisions subject to the waiver authority of this section are—

(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), including the Even Start programs carried out under part B of such chapter (20 U.S.C. 2741 et seq.);

(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.);

(3) part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2981 et seq.);

(4) part D of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3121 et seq.);

(5) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3171 et seq.); and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Education may not waive any requirement of any provision referred to in subsection (b), or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) student and parental participation and involvement;

(6) the distribution of funds to State or local educational agencies;

(7) the eligibility of an individual for participation in a program under such provision;

(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Education shall periodically review the performance of any State, local partnership, or local educational agency, for which the Secretary of Education has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Education determines that the performance of the State, local partnership, or local educational agency that is affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C).

20 USC 6213.

SEC. 503. WAIVER AUTHORITY OF SECRETARY OF LABOR.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Except as provided in subsection (b), the Secretary of Labor may waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this Act;

(B) if the State provides the Secretary of Labor with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Labor may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this Act in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships to the Secretary of Labor.

(2) APPROVAL OR DISAPPROVAL.—The Secretary of Labor shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) APPROVAL CRITERIA.—In approving a request under paragraph (2), the Secretary of Labor shall consider the amount of State resources that will be used to implement the approved State plan.

(4) TERM.—Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this Act.

(b) WAIVERS NOT AUTHORIZED.—The Secretary of Labor may not waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) the distribution of funds;

(4) the eligibility of an individual for participation in a program under such provision;

(5) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(c) TERMINATION OF WAIVERS.—The Secretary of Labor shall periodically review the performance of any State or local partnership for which the Secretary of Labor has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Labor determines that the performance of the State or local partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C).

SEC. 504. COMBINATION OF FEDERAL FUNDS FOR HIGH POVERTY SCHOOLS. 20 USC 6214.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a local partnership that receives assistance under title II or III may carry out schoolwide school-to-work activities in schools that meet the requirements of subparagraphs (A) and (B) of

section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1) (A) and (B)) with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in paragraphs (2) through (6) of section 502(b); and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(b) USE OF FUNDS.—A local partnership may use the Federal funds combined under subsection (a) under the requirements of this Act, except that the provisions relating to the matters specified in paragraphs (1) through (6) and paragraphs (8) and (9) of section 502(c), and paragraphs (1) through (3) and paragraphs (5) and (6) of section 503(b), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A local partnership seeking to combine funds under subsection (a) shall include in the application of the local partnership under title II or III—

(1) a description of the funds the local partnership proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in schoolwide school-to-work activities; and

(4) such other information as the State, or Secretaries, as the case may be, may require.

(d) PROVISION OF INFORMATION.—The local partnership shall, to the extent feasible, provide information on the proposed combination of Federal funds under subsection (a) to educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

20 USC 6215.

SEC. 505. COMBINATION OF FEDERAL FUNDS BY STATES FOR SCHOOL-TO-WORK ACTIVITIES.

(a) IN GENERAL.—

(1) PURPOSES.—The purposes of this section are—

(A) to integrate activities under this Act with State school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) COMBINATION OF FUNDS.—To carry out such purposes, a State that has an approved State plan may carry out activities necessary to develop and implement a statewide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this Act; and

(B) other Federal funds that are made available under—

(i) section 102(a)(3) of the Carl D. Perkins Vocational Education and Applied Technology Education Act (20 U.S.C. 2312(a)(3));

(ii) section 202(c)(1)(C) or section 262(c)(1)(C) of the Job Training Partnership Act (29 U.S.C. 1602(c)(1)(C) or 1642(c)(1)(C));

(iii) section 202(c)(1)(B) of the Job Training Partnership Act that would otherwise be available for the purposes described in section 202(c)(3) of such Act; or

(iv) section 262(c)(1)(B) of the Job Training Partnership Act that would otherwise be available for the purposes described in section 262(c)(3) of such Act.

(b) USE OF FUNDS.—A State may use, under the requirements of this Act, Federal funds that are made available to the State and combined under subsection (a) to carry out school-to-work activities, except that the provisions relating to the matters specified in section 502(c), and section 503(b), that relate to the program through which the funds described in subsection (a)(2)(B) were made available, shall remain in effect with respect to the use of such funds.

(c) ADDITIONAL INFORMATION IN APPLICATION.—A State seeking to combine funds under subsection (a) shall include in the application described in section 213—

(1) a description of the funds the State proposes to combine under the requirements of this Act;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities;

(4) formal evidence of support for the request by the State agencies or officials with jurisdiction over the funds that would be combined; and

(5) such other information as the Secretaries may require.

(d) EXTENSION.—The authority of a State to combine funds under this section shall not exceed 5 years, except that the Secretaries may extend such period if the Secretaries determine that an extension of such authority would further the purposes of this Act.

(e) LIMITATION.—Nothing in this section shall be construed to relieve a State of an obligation to conduct the activities required under section 201(b) of the Carl D. Perkins Vocational Education and Applied Technology Education Act.

TITLE VI—GENERAL PROVISIONS

SEC. 601. REQUIREMENTS. 20 USC 6231.

The following requirements shall apply to programs under this Act:

(1) PROHIBITION ON DISPLACEMENT.—No student participating in such a program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) PROHIBITION ON IMPAIRMENT OF CONTRACTS.—No such program shall impair existing contracts for services or collective bargaining agreements, and no such program that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) PROHIBITION ON REPLACEMENT.—No student participating in such a program shall be employed or fill a job—

(A) when any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the student.

(4) WORKPLACES.—Students participating in such programs shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety requirements of Federal, State, and local law.

(5) EFFECT ON OTHER LAWS.—Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability, or to modify or affect any right to enforcement of this Act that may exist under other Federal laws, except as expressly provided by this Act.

(6) PROHIBITION CONCERNING WAGES.—Funds appropriated under authority of this Act shall not be expended for wages of students or workplace mentors participating in such programs.

(7) OTHER REQUIREMENTS.—The Secretaries shall establish such other requirements as the Secretaries may determine to be appropriate, in order to ensure that participants in programs under this Act are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this Act.

20 USC 6232.

SEC. 602. SANCTIONS.

(a) TERMINATION OR SUSPENSION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretaries may terminate or suspend any financial assistance under this Act, in whole or in part, or not make payments under a grant awarded under this Act, if the Secretaries determine that a recipient has failed to meet any requirements of this Act, including—

(A) reporting requirements under section 402(c);

(B) regulations under this Act; or

(C) requirements of an approved State plan.

(2) NOTICE AND OPPORTUNITY FOR HEARING.—If the Secretaries terminate or suspend such financial assistance, or do not make such payments under paragraph (1), with respect to a recipient, then the Secretaries shall provide—

(A) prompt notice to such recipient; and

(B) the opportunity for a hearing to such recipient not later than 30 days after the date on which such notice is provided.

(b) NONDELEGATION.—The Secretaries shall not delegate any of the functions or authority specified in this section, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

20 USC 6233.

SEC. 603. STATE AUTHORITY.

Nothing in this Act shall be construed to negate or supersede the legal authority, under State law or other applicable law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official. Nothing in this Act shall be construed to interfere with the authority of such agency, entity, or official to enter into a contract under any provision of law.

SEC. 604. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL. 20 USC 6234.

Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State's, local educational agency's, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS. 20 USC 6235.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretaries to carry out this Act $300,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 through 1999.

(b) RESERVATIONS.—From amounts appropriated under subsection (a) for any fiscal year, the Secretaries—

(1) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under sections 202 and 212 to the jurisdictions described in section 202(b);

(2) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under subtitle C of title II to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)));

(3) shall reserve 10 percent of such amounts for such fiscal year to provide grants under section 302(b) to local partnerships located in high poverty areas, which reserved funds may be used in conjunction with funds available under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.); and

(4)(A) shall reserve 2.5 percent of such amounts for such fiscal year to carry out section 404; and

(B) shall reserve not more than an additional 5 percent of such amounts for such fiscal year to carry out other activities under title IV, and activities under sections 214(d) and 303(d).

(c) AVAILABILITY OF FUNDS.—Funds appropriated for any fiscal year for programs authorized under this Act shall remain available until expended.

TITLE VII—OTHER PROGRAMS

Subtitle A—Reauthorization of Job Training for the Homeless Demonstration Program Under the Stewart B. McKinney Homeless Assistance Act

SEC. 701. REAUTHORIZATION.

(a) IN GENERAL.—Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended by striking "the following amounts:" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1994 and 1995.".

(b) CONFORMING AMENDMENT.—Section 741 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11450) is amended by striking "1993" and inserting "1995".

Subtitle B—Tech-Prep Programs

SEC. 711. TECH-PREP EDUCATION.

(a) CONTENTS OF PROGRAM.—Section 344(b)(2) of the Tech-Prep Education Act (20 U.S.C. 2394b(b)(2)) is amended by inserting "or 4 years" before "of secondary school".

(b) SPECIAL CONSIDERATION; PRIORITY.—Section 345(d)(2) of the Tech-Prep Education Act (20 U.S.C. 2394c(d)(2)) is amended to read as follows:

"(2) are developed in consultation with business, industry, labor unions, and institutions of higher education that award baccalaureate degrees; and".

Alaska Native Culture and Arts Development Act.
20 USC 4401 note.

Subtitle C—Alaska Native Art and Culture

SEC. 721. SHORT TITLE.

This title may be cited as the "Alaska Native Culture and Arts Development Act".

SEC. 722. ALASKA NATIVE ART AND CULTURE.

Part B of title XV of the Higher Education Amendments of 1986 (20 U.S.C. 4441 et seq.) is amended—

(1) in the part heading, to read as follows:

"PART B—NATIVE HAWAIIANS AND ALASKA NATIVES";

and

20 USC 4441.

(2) in section 1521, to read as follows:

"SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

"(a) IN GENERAL.—The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

"(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

"(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

"(b) PURPOSE OF GRANTS.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

"(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

"(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

"(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are

similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

"(c) MANAGEMENT OF GRANTS.—

"(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

"(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

"(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

"(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

"(C) include the president of the University of Hawaii,

"(D) include the president of the Bishop Museum, and

"(E) serve for a fixed term of office.

"(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

"(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

"(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

"(C) serve for a fixed term.".

Subtitle D—Job Training

SEC. 731. AMENDMENT TO JOB TRAINING PARTNERSHIP ACT TO PROVIDE ALLOWANCES FOR CHILD CARE COSTS TO CERTAIN INDIVIDUALS PARTICIPATING IN THE JOB CORPS.

Section 429 of the Job Training Partnership Act (29 U.S.C. 1699) is amended by adding at the end the following new subsection:

"(e) In addition to child care assistance provided under section 428(e), the Secretary shall provide enrollees who otherwise could not participate in the Job Corps with allowances to pay for child care costs, such as food, clothing, and health care for the child. Allowances under this subsection may only be provided during the first 2 months of an enrollee's participation in the program and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C)).".

TITLE VIII—TECHNICAL PROVISIONS

SEC. 801. EFFECTIVE DATE.

20 USC 6101 note.

This Act shall take effect on the date of enactment of this Act.

20 USC 6251.

SEC. 802. SUNSET.

The authority provided by this Act shall terminate on October 1, 2001.

Approved May 4, 1994.

LEGISLATIVE HISTORY—H.R. 2884 (S. 1361):

HOUSE REPORTS: Nos. 103-345 (Comm. on Education and Labor) and 103-480 (Comm. of Conference).
SENATE REPORTS: No. 103-179 accompanying S. 1361 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 15, considered and passed House.
Vol. 140 (1994): Feb. 7, 8, considered and passed Senate, amended, in lieu of S. 1361.
Apr. 20, House agreed to conference report.
Apr. 21, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
May 4, Presidential remarks and statement.

Public Law 103-240
103d Congress

An Act

To amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces and to their dependents.

May 4, 1994
[H.R. 821]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY OF CERTAIN RESERVISTS AND DEPENDENTS FOR BURIAL IN NATIONAL CEMETERIES.

(a) RESERVISTS.—Section 2402 of title 38, United States Code, is amended by inserting after paragraph (6) the following new paragraph (7):

"(7) Any person who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) DEPENDENTS.—Paragraph (5) of such section is amended by inserting "and paragraph (7)" after "paragraphs (1) through (4)".

Approved May 4, 1994.

LEGISLATIVE HISTORY—H.R. 821 (S. 1620):

HOUSE REPORTS: No. 103-197 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Aug. 2, considered and passed House.
Nov. 10, considered and passed Senate, amended, in lieu of S. 1620.
Vol. 140 (1994): Apr. 18, House concurred in Senate amendment with amendments.
Apr. 20, Senate concurred in House amendments.

Public Law 103-241
103d Congress

An Act

May 4, 1994
[H.R 3693]

To designate the United States courthouse under construction in Denver, Colorado, as the "Byron White United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse being constructed through renovation of the old post office building in Denver, Colorado, shall be known and designated as the "Byron White United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Byron White United States Courthouse".

Approved May 4, 1994.

LEGISLATIVE HISTORY—H.R. 3693:

HOUSE REPORTS: No. 103-456 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 12, considered and passed House.
Apr. 20, considered and passed Senate.

Public Law 103-242
103d Congress

An Act

To amend the Wild and Scenic Rivers Act by designating a segment of the Rio Grande in New Mexico as a component of the National Wild and Scenic Rivers System, and for other purposes.

May 4, 1994
[S. 375]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rio Grande Designation Act of 1994. 16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Designation Act of 1994".

SEC. 2. DESIGNATION OF SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The main stem from the southern boundary of the segment of the Rio Grande designated pursuant to paragraph (4), downstream approximately 12 miles to the west section line of Section 15, Township 23 North, Range 10 East, to be administered by the Secretary of the Interior as a scenic river.".

SEC. 3. DESIGNATION OF STUDY RIVER.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following new paragraph:

"( ) RIO GRANDE, NEW MEXICO.—The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East.".

(b) STUDY REQUIREMENTS.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.".

SEC. 4. RIO GRANDE CITIZENS ADVISORY BOARD.

16 USC 1274 note.

As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall take appropriate steps to obtain the views of the residents of the village of Pilar and of those persons who are the owners of property adjoining the river segments described in sections 2 and 3 concerning implementa-

tion of this Act, and to assure that those views will be considered in connection with preparation of a comprehensive management plan for the segment designated by section 2 and the study required by section 3.

SEC. 5. WITHDRAWAL OF ORILLA VERDE RECREATION AREA.

(a) IN GENERAL.—Subject to valid existing rights, the lands described in subsection (b) are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) LANDS.—

(1) DESCRIPTION.—The lands referred to in subsection (a) comprise an area known as the "Orilla Verde Recreation Area", including—

(A) approximately 1,349 acres which were conveyed to the United States by the State of New Mexico on July 23, 1980, April 20, 1990, and July 17, 1990; and

(B) an additional 4,339 acres of public lands, all as generally depicted on the map entitled "Orilla Verde Recreation Area, New Mexico", and dated February, 1994.

(2) PUBLIC ACCESS.—The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 6. COMPLETION OF PREHISTORIC TRACKWAYS STUDY.

The Secretary of the Interior is authorized to contract with the Smithsonian Institution for the completion of the prehistoric trackways study required under section 303 of the Act entitled "An Act to conduct certain studies in the State of New Mexico", approved November 15, 1990 (Public Law 101–578).

Approved May 4, 1994.

LEGISLATIVE HISTORY—S. 375:

HOUSE REPORTS: No. 103-431 (Comm. on Natural Resources)
SENATE REPORTS: No. 103-17 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Mar. 17, considered and passed Senate.
Vol. 140 (1994): Mar. 15, considered and passed House, amended.
Apr. 19, Senate concurred in House amendment.

Public Law 103-243
103d Congress

An Act

To authorize appropriations for the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

May 4, 1994
[S. 1574]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of Public Law 100–515 (16 U.S.C. 1244 note) is amended—

(1) by striking "There" and inserting "(a) There"; and

(2) by adding at the end the following:

"(b)(1) Notwithstanding the provisions of subsection (a), there are hereby authorized to be appropriated to the Secretary to carry out the purposes of this Act $1,000,000, which is in addition to any sums appropriated for such purposes for use during fiscal years ending on or before September 30, 1993.

"(2) Funds appropriated pursuant to this subsection to carry out the purposes of this Act shall be used solely for technical assistance and the design and fabrication of interpretive materials, devices and signs. In addition to the limitation on funds contained in subsection (a), no funds made available under this subsection shall be used for operation, maintenance, repair or construction except for construction of interpretive exhibits.

"(3) The Federal share of any project carried out with funds appropriated pursuant to this subsection may not exceed 50 percent of the total cost for that project and shall be provided on a matching basis. The non-Federal share of such cost may be in the form of cash, materials or in-kind services fairly valued by the Secretary.

"(c) The authorities provided to the Secretary under this Act shall terminate five years after the date of enactment of this subsection.".

Termination date.

Approved May 4, 1994.

LEGISLATIVE HISTORY—S. 1574:

HOUSE REPORTS: No. 103-443 (Comm on Natural Resources).
SENATE REPORTS: No. 103-212 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 19, considered and passed Senate.
Vol. 140 (1994): Mar. 21, considered and passed House, amended.
Apr. 19, Senate concurred in House amendment.

Public Law 103-244
103d Congress

Joint Resolution

May 4, 1994
[S.J. Res. 143]

Providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Robert James Woolsey, Jr., of Maryland on April 2, 1993, is filled by the appointment of Frank Anderson Shrontz of Washington. The appointment is for a term of 6 years and shall take effect on the date on which this joint resolution becomes law.

Approved May 4, 1994.

LEGISLATIVE HISTORY—S.J. Res. 143 (H.J. Res. 280):

SENATE REPORTS: No. 103-170 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 10, considered and passed Senate.
Vol. 140 (1994): Apr. 26, H.J. Res. 280 and S.J. Res. 143 considered and passed House.

Public Law 103-245
103d Congress

Joint Resolution

Providing for the appointment of Manuel Luis Ibáñez as a citizen regent of the Board of Regents of the Smithsonian Institution.

May 4, 1994
[S.J. Res. 144]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Anne Legendre Armstrong of Texas, is filled by the appointment of Manuel Luis Ibáñez of Texas. The appointment is for a term of 6 years and shall take effect on the day after the effective date of the resignation of Anne Legendre Armstrong.

Approved May 4, 1994.

LEGISLATIVE HISTORY—S.J. Res. 144 (H.J. Res. 279):

SENATE REPORTS: No. 103-171 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 10, considered and passed Senate.
Vol. 140 (1994): Apr. 26, H.J. Res. 279 and S.J. Res. 144 considered and passed House.

79-194 O—95—21 : QL 3 Part 1

Public Law 103-246
103d Congress

Joint Resolution

May 4, 1994
[S.J. Res. 150]

To designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week".

Whereas public employees at every level of government faithfully serve their fellow Americans;

Whereas there are 9,000,000 employees in local government, 4,000,000 employees in State government, and over 3,000,000 civilian workers and 2,000,000 military employees in the Federal Government;

Whereas Americans are aware of the many contributions public employees have made to the quality of their lives, in occupations that run the gamut from astronauts to zoologists, including scientists, police officers, teachers, doctors, forest rangers, engineers, food inspectors, researchers, and foreign service agents, among others;

Whereas the Nation should value a professional civil service whose highest principle is one of patriotism, whose foremost commitment is to excellence, and whose experience and expertise are a national resource to be used and respected;

Whereas the millions of workers who serve our country are men and women of knowledge, ability, and integrity who deserve to be recognized for their dedicated service; and

Whereas designating a week to honor these employees will provide a dual opportunity to pay tribute to our public employees and to inform the American people about the scope and importance of public service, including the range of employment opportunities available to our young people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 2 through May 8, 1994, is designated as "Public Service

Recognition Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved May 4, 1994.

LEGISLATIVE HISTORY—S.J. Res. 150:

CONGRESSIONAL RECORD, Vol 140 (1994):
Mar. 10, considered and passed Senate.
Apr. 21, considered and passed House.

Public Law 103-247
103d Congress

An Act

May 6, 1994
[S. 2005]

To make certain technical corrections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENTS.

(a) Sections 101B(c)(1)(D)(v)(II) and 103B(c)(1)(D)(v)(II) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)(v)(II) and 1444–2(c)(1)(D)(v)(II)) are each amended by inserting "without regard to clause (ii)" after "clause (iii)".

(b) Section 105B(c)(1)(B)(iii)(IV)(bb) of such Act (7 U.S.C. 1444f(c)(1)(B)(iii)(IV)(bb)) is amended by striking "clause (i)(I)" and inserting "clauses (i) and (ii)".

(c) Section 204(g) of such Act (7 U.S.C. 1446e(g)) is amended—

(1) in paragraph (1), by inserting after "purchase" the following: "(less sales under section 407 for unrestricted use)"; and

(2) in paragraph (2), by inserting after "purchases" each place it appears the following: "(less sales under section 407 for unrestricted use)".

Approved May 6, 1994.

LEGISLATIVE HISTORY—S. 2005:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 25, considered and passed Senate.
Apr. 21, considered and passed House.

Public Law 103-248
103d Congress

An Act

To amend the Consolidated Farm and Rural Development Act to improve the administration of claims and obligations of the Farmers Home Administration, and for other purposes.

May 11, 1994
[S. 1930]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Farmers Home Administration Improvement Act of 1994
7 USC 1921 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmers Home Administration Improvement Act of 1994".

SEC. 2. DELINQUENT FARMERS HOME ADMINISTRATION OBLIGATIONS.

Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(c) The Secretary may use for the prosecution or defense of any claim or obligation described in subsection (b)(5) the Attorney General, the General Counsel of the Department of Agriculture, or a private attorney who has entered into a contract with the Secretary.".

Approved May 11, 1994.

LEGISLATIVE HISTORY—S. 1930:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 24, considered and passed Senate.
Apr. 21, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
May 11, Presidential statement.

Public Law 103-249
103d Congress

An Act

May 16, 1994
[H.R 4204]

To designate the Federal building located at 711 Washington Street in Boston, Massachusetts, as the "Jean Mayer Human Nutrition Research Center on Aging".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 711 Washington Street in Boston, Massachusetts, shall be known and designated as the "Jean Mayer Human Nutrition Research Center on Aging".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Jean Mayer Human Nutrition Research Center on Aging".

Approved May 16, 1994.

LEGISLATIVE HISTORY—H.R. 4204:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 26, considered and passed House.
May 3, considered and passed Senate.

Public Law 103-250
103d Congress

Joint Resolution

To authorize the President to proclaim September 1994 as "Classical Music Month".

May 16, 1994
[H.J. Res. 239]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating September 1994 as "Classical Music Month" and calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.

Approved May 16, 1994.

LEGISLATIVE HISTORY—H.J. Res. 239:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 11, considered and passed House.
May 2, considered and passed Senate.

Public Law 103-251
103d Congress

Joint Resolution

May 16, 1994
[S.J. Res. 146]

Designating May 1, 1994, through May 7, 1994, as "National Walking Week".

Whereas medical authorities have established that walking—

(1) powerfully protects against high blood pressure, cholesterol problems, and other factors that can contribute to heart disease;

(2) protects against adult onset (Type II) diabetes;

(3) builds strong bones and protects against osteoporosis, the weak-bone disease that afflicts millions of older women;

(4) probably offers protection against several forms of cancer that are believed to be preventable through regular and moderate exercise; and

(5) is a safe and dependable way for millions of overweight people to lose weight without stringent dieting;

Whereas the failure to exercise regularly, such as walking, has been identified as the single greatest risk factor for heart disease;

Whereas the designation of "National Walking Week" will help promote the issue of pedestrian access and safety;

Whereas areas of America are becoming inaccessible or unsafe for walkers, so the benefits of this activity are being blocked;

Whereas people should be able to walk anywhere in their community, within reason; and

Whereas walking encourages community spirit and safety: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1, 1994, through May 7, 1994, is designated as "National Walking Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved May 16, 1994.

LEGISLATIVE HISTORY—S.J. Res. 146:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 2, considered and passed Senate.
May 3, considered and passed House

Public Law 103-252
103d Congress

An Act

To authorize appropriations to carry out the Head Start Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes.

May 18, 1994
[S. 2000]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Human Services Amendments of 1994.
Intergovernmental relations.
Grants.
42 USC 9801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Human Services Amendments of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—HEAD START PROGRAMS

Sec. 101. Short title; references in title.
Sec. 102. Definitions.
Sec. 103. Services.
Sec. 104. Authorization of appropriations.
Sec. 105. Allocation of funds.
Sec. 106. Report.
Sec. 107. Designation.
Sec. 108. Monitoring and quality assurance.
Sec. 109. Enhanced parent involvement and transition coordination with schools.
Sec. 110. Facilities and administrative requirements.
Sec. 111. Participation.
Sec. 112. Initiative on families with infants and toddlers.
Sec. 113. Appeals, notice, and hearing.
Sec. 114. Goals and priorities for training and technical assistance.
Sec. 115. Staff qualifications and development.
Sec. 116. Research, demonstrations, evaluation.
Sec. 117. Announcements and evaluations.
Sec. 118. Reports.
Sec. 119. Repeals.
Sec. 120. Study of benefits for Head Start employees.
Sec. 121. Ready to learn program reauthorization.
Sec. 122. State dependent care development programs.
Sec. 123. Consultation with the Corporation for National and Community Service.
Sec. 124. Reauthorization of Child Development Associate Scholarship Assistance Act of 1985.
Sec. 125. Technical and conforming amendments.
Sec. 126. Study of full-day and full-year Head Start programs.
Sec. 127. Effective date and application.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

Sec. 201. Short title and references.
Sec. 202. Authorizations of appropriations.
Sec. 203. Discretionary authority of Secretary.
Sec. 204. Community food and nutrition.

Sec. 205. Instructional activities for low-income youth.
Sec. 206. Amendment to Stewart B. Mckinney Homeless Assistance Act.
Sec. 207. Amendments to the Human Services Reauthorization Act of 1986.
Sec. 208. Effective date.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

Sec. 301. Short title and references.
Sec. 302. Statement of purpose.
Sec. 303. Authorization of appropriations.
Sec. 304. Emergency funds.
Sec. 305. Authorized uses of funds.
Sec. 306. Targeting of assistance to households with high home energy burdens.
Sec. 307. Clarification of audit requirement.
Sec. 308. Use of Department of Energy weatherization rules to achieve program consistency.
Sec. 309. Matters to be described in annual application.
Sec. 310. Report of funds available for obligation.
Sec. 311. Miscellaneous and technical amendments.
Sec. 312. Residential Energy Assistance Challenge Option (R.E.A.Ch.).
Sec. 313. Sense of the Congress regarding appropriations for LIHEAP.
Sec. 314. Effective date.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

Sec. 401. Community-based family resource programs.
Sec. 402. Federal Council on Children, Youth, and Families.
Sec. 403. Family Resource Act.

Head Start Act Amendments of 1994.

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

42 USC 9801 note

(a) SHORT TITLE.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Head Start Act (42 U.S.C. 9831 et seq.).

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by striking paragraph (9) and inserting the following new paragraph:

"(9) The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget)—

"(A) adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; and

"(B) adjusted for family size.";

(3) by adding after paragraph (11) the following new paragraphs:

"(12) The term 'family literacy services' means services and activities that include interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training (including training in English as a second language), and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians,

including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (14), (5), (6), (4), and (10), respectively; and

(5)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated;

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated; and

(D) by inserting after paragraph (10), as so redesignated, the following:

"(11) The term 'local educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.

"(12) The term 'migrant Head Start program' means a Head Start program that serves families who are engaged in agricultural work and who have changed their residence from one geographical location to another in the preceding 2-year period.

"(13) The term 'mobile Head Start program' means the provision of Head Start services utilizing transportable equipment set up in various community-based locations on a routine, weekly schedule, operating in conjunction with home-based Head Start programs, or as a Head Start classroom.".

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal years 1995 through 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998 to—

"(A) carry out the Head Start Transition Project Act; and

"(B) carry out activities authorized under section 642(d); and

"(2) not more than $3,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) ALLOCATION AND USE OF FUNDS FOR QUALITY IMPROVEMENT.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training, including developing skills in working with children with non-English language background, when appropriate.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following new clause:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "geographical areas specified in subsection (a)(2)(B) and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows, through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clauses (ii) and (iii), respectively.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following new paragraphs:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are designed to benefit low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State; and

"(II) agencies (including local educational agencies) and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, and national service activities, family literacy services, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) CONSIDERATIONS FOR ALLOCATION OF FUNDS FOR PROGRAM EXPANSION.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following new paragraphs:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

"(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations and public agencies serving children and families (including organizations serving families in whose homes English is not the language customarily spoken);

"(D) the extent to which the family and community needs assessment of the applicant reflects a need to provide full-working-day or full calendar year services;

"(E) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(F) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) TECHNICAL AMENDMENT.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) COMPENSATION.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following new subsections:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this Act shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

"(k)(1) The Secretary shall allow center-based Head Start programs the flexibility to satisfy the total number of hours of service required by the regulations in effect on the date of enactment of the Human Services Amendments of 1994, to be provided to children in Head Start programs so long as such agencies do not—

"(A) provide less than 3 hours of service per day;

"(B) reduce the number of days of service per week; or

"(C) reduce the number of days of service per year.

"(2) The provisions of this subsection shall not be construed to restrict the authority of the Secretary to fund alternative program variations authorized under section 1306.35 of title 45 of the Code of Federal Regulations in effect on the date of enactment of the Human Services Amendments of 1994.

"(l) With funds made available under section 640(a)(2) to migrant Head Start programs, the Secretary shall give priority to migrant Head Start programs that serve eligible children of migrant families whose work requires them to relocate most frequently.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) INDIAN RESERVATIONS.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including Indians in any area designated by the Bureau of Indian Affairs as near-reservation)".

(b) DESIGNATION OF AGENCIES.—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2) with the margins of paragraph (3).

(c) CONSIDERATIONS IN DESIGNATING NEW HEAD START AGENCIES.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence";

(B) in paragraph (3), by inserting ", including Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)," after "preschool programs"; and

(C) in paragraph (4), to read as follows:

"(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.), public and school libraries, and family support programs) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) training in basic child development;

"(ii) assistance in developing communication skills;

"(iii) opportunities for parents to share experiences with other parents;

"(iv) substance abuse counseling; or

"(v) any other activity designed to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7)—

(A) by striking "non-English language children" and inserting "non-English language background children and their families"; and

(B) by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) CONFORMING AMENDMENT.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following new section:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

Regulations. 42 USC 9836a.

"(a) QUALITY STANDARDS.—

"(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards applicable to Head Start agencies, programs, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, transition activities described in section 642(d), and other services;

"(B) administrative and financial management standards;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects; and

"(D) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically and culturally appropriate services to non-English language background children and their families), administration, and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this Act in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management;

"(iv) projected needs of an expanding Head Start program;

"(v) guidelines and standards currently in effect or under consideration that promote child health serv-

ices, and projected needs of expanding Head Start programs;

"(vi) changes in the population of children who are eligible to participate in Head Start programs, including the language background and family structure of such children; and

"(vii) the need for, and state-of-the-art developments relating to, local policies and activities designed to ensure that children participating in Head Start programs make a successful transition to public schools; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under section 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

"(B) are supervised by such an employee at the site of such Head Start agency; and

"(C) are conducted by review teams that shall include individuals who are knowledgeable about Head Start programs and, to the maximum extent practicable, the diverse (including linguistic and cultural) needs of eligible children and their families.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (a), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corrective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

Reports. "(e) SUMMARIES OF MONITORING OUTCOMES.—Not later than 120 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. ENHANCED PARENT INVOLVEMENT AND TRANSITION COORDINATION WITH SCHOOLS.

Section 642 (42 U.S.C. 9837) is amended—

(1) by amending subsection (b) to read as follows:

"(b) In order to be so designated, a Head Start agency shall also—

"(1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests;

"(2) provide for their regular participation in the implementation of such programs;

"(3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources;

"(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training;

"(6) at the option of such agency, offer (directly or through referral to local entities), to such parents—

"(A) training in basic child development;

"(B) assistance in developing communication skills;

"(C) opportunities to share experiences with other parents;

"(D) substance abuse counseling;

"(E) regular in-home visitation; or

"(F) any other activity designed to help such parents become full partners in the education of their children;

"(7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

"(8) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources; and

"(9) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers.";

(2) in subsection (c)—

(A) by striking "schools that will subsequently serve children in Head Start programs,"; and

(B) by inserting ", including Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)," after "other programs"; and

(3) by adding after subsection (c) the following new subsection:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) The Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children; and

"(D) organizing and participating in joint transition-related training of school staff and Head Start staff.

"(3) A Head Start agency may take steps to coordinate with the local educational agency serving the community involved and

with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) collaborating on the shared use of transportation and facilities; and

"(B) exchanging information on the provision of noneducational services to such children.

"(4) In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to the parents—

"(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable the parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

"(5) The Secretary, in cooperation with the Secretary of Education, shall—

"(A) evaluate the effectiveness of the projects and activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.);

"(B) disseminate to Head Start agencies information (including information from the evaluation required by subparagraph (A)) on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

"(C) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instructions,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following new paragraph:

Native Americans.

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following new subsections:

Native Americans. Urban and rural areas. Disadvantaged persons.

"(g)(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of

suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, and shall promote, to the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

"(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for—

"(A) construction of facilities that are not in existence on the date of the determination;

"(B) major renovation of facilities in existence on such date; and

"(C) purchase of vehicles used for programs conducted at the Head Start facilities.

"(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the 'Davis-Bacon Act').

"(h) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a disabled veteran, as defined in section 2108(3)(C) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended—

(1) in subsection (c)—

(A) in the first sentence, by striking "may provide" and all that follows and inserting "shall be permitted to provide more than 1 year of Head Start services to eligible children (age 3 to compulsory school attendance) in the State."; and

(B) by striking the second sentence; and

(2) by adding at the end the following new subsection:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS.

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following new section:

Disadvantaged persons.
42 USC 9840a.

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with the provisions of this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Com-

prehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and technical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

Urban and rural areas.

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act, and from migrant Head Start programs that serve a large number of infants and toddlers.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—

(1) IN GENERAL.—In recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.) are repealed.

42 USC 9881 note.

(2) REPEALS.—

(A) Part E of title II of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Amendments of 1988 (Public Law 100–297; 102 Stat. 325) is repealed. 42 USC 9801 note, 9881 note.

(B) Subchapter F of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 42 U.S.C. 9801 note, et seq.) is repealed. 42 USC 9881 *et seq*

(c) CONFORMING AMENDMENT.—Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION FOR DISPUTES WITH DELEGATE AGENCIES, AND HEARING.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to— Publication

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing on an adverse action.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is further amended by striking subsection (b) and inserting the following new subsection:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict; and

"(2) a reasonable period for the mediation.

"(c) The Secretary shall also specify—

"(1) a timeline for an administrative hearing, if necessary, on an adverse action; and

"(2) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(d) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(e)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if— Regulations. Native Americans.

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A(a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c);

(5) by inserting after subsection (a) the following new subsections:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement

and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in developing full-working-day and full-calendar-year programs where community need is clearly identified and making the transition to such programs, with particular attention to involving parents and programming for children throughout a longer day;

"(5) assist Head Start agencies in better serving the needs of families with very young children;

"(6) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures;

"(7) assist in efforts to secure and maintain adequate facilities for Head Start programs; and

"(8) assist Head Start agencies in developing innovative program models, including mobile and home-based programs."; and

(6) in subsection (d), by adding at the end the following: "Special consideration shall be given to entities that have demonstrated effectiveness in educational programming for preschool children that includes components for parental involvement, care provider training, and developmentally appropriate related activities.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following new section:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT. 42 USC 9843a

"(a) CLASSROOM TEACHERS.—

"(1) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) MENTOR TEACHERS.—

"(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff, that are experiencing difficulty in meeting applicable education standards, or that lack staff of a similar cultural background to that of the participating children and their families;

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs; and

"(D) promote the development of model curricula, designed to ensure the attainment of appropriate competencies of mentor teachers in Head Start programs.

"(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) HEAD START FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowships', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other

individuals working in the field of child development and family services.

"(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) ASSIGNMENTS OF FELLOWS.—

"(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes

of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services, shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) IN GENERAL.—

"(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities (including demonstrations of innovative noncenter-based program models such as home-based and mobile programs), and otherwise to further the purposes of this subchapter.

"(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head

Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) IN GENERAL.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"SEC. 651. REPORTS.";

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting a semicolon;

(C) by adding after paragraph (12) the following new paragraphs:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities; and

"(14) a study of the delivery of Head Start programs to Indian children living on and near Indian reservations, to children of Alaskan Natives, and to children of migrant and seasonal farmworkers.".

(b) REDESIGNATION.—Section 651 is redesignated as section 650.

42 USC 9846.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

42 USC 9839 note.

SEC. 120. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) REPORT.—

(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals;

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program; and

(C) addresses the feasibility of participation by such individuals in the Federal Employees' Retirement System under chapter 84 of title 5, United States Code.

(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 121. READY TO LEARN PROGRAM REAUTHORIZATION.

(a) TRANSFER.—

(1) IN GENERAL.—Part G of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3161 et seq.)—

(A) is amended by redesignating sections 4701 through 4708 as sections 471 through 478; 20 USC 3161–3161g, 1235–1235g.

(B) is transferred to the General Education Provisions Act (20 U.S.C. 1221 et seq.);

(C) is redesignated as part F of such Act; and

(D) is inserted after part E of such Act.

(2) CONFORMING AMENDMENTS.—

(A) Section 471(a) of the General Education Provisions Act (as transferred and added by paragraph (1)) is amended— 20 USC 1235.

(i) by striking "Secretary" and inserting "Secretary of Education (hereafter referred to in this subchapter as the 'Secretary')"; and

(ii) by striking "4702(b)" and inserting "472(b)".

(B) Section 474 of the General Education Provisions Act (as transferred and added by paragraph (1)) is amended by striking "4701 or 4703" and inserting "471 or 473". 20 USC 1235c.

(C) Section 475 of the General Education Provisions Act (as transferred and added by paragraph (1)) is amended— 20 USC 1235d.

(i) in subsection (a), by striking "4701" and inserting "471"; and

(ii) in subsection (b)—

(I) by striking "4702(a)" in paragraph (1) and inserting "472(a)"; and

(II) by striking "4703(3)" in paragraph (1) and inserting "473(3)".

(D) Section 476(a) of the General Education Provisions Act (as transferred and added by paragraph (1)) is amended in subsection (b), by striking "4703(1)(C)" and inserting "473(1)(C)". 20 USC 1235e

(b) ELIGIBLE ENTITIES.—Section 472(b)(1) of the General Education Provisions Act (as transferred and added by subsection (a)(1)) is amended by striking ", nongovernmental entity" and inserting "entity (including public telecommunications entities)". 20 USC 1235a.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 476(a) of the General Education Provisions Act (as transferred and added by subsection (a)(1)) is amended—

(1) by striking "$25,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1995"; and

(2) by striking "for fiscal year 1994." and inserting "for each of fiscal years 1996 and 1998.".

SEC. 122. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 123. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

The Act is amended by adding at the end the following:

42 USC 9852a.

"SEC. 657A. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"The Secretary shall consult with the Chief Executive Officer of the Corporation for National and Community Service regarding the dissemination of information about the Corporation's programs, to programs that receive funds under this subchapter.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

42 USC 9855a.

(a) HEAD START TRANSITION PROJECT ACT.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) SOCIAL SECURITY ACT.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r–5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

42 USC 9844 note.

SEC. 126. STUDY OF FULL-DAY AND FULL-YEAR HEAD START PROGRAMS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the extent to which Head Start programs are addressing the need for Head Start services during a full working day or full calendar year among eligible low-income families with preschool children.

(b) REPORT.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 31, 1997, containing the results of the study, including—

(1) the number of eligible children in need of full-day or full-year Head Start programs;

(2) the number of full-day, full-year Head Start programs and the number of children served in such program and those provided full-day or full-year services through cooperative arrangements with other funding sources;

(3) a description of promising models currently employed by Head Start programs for meeting such needs both directly and through arrangements with other service providers;

(4) a description of the barriers to meeting the need for full-day, full-year care among such families; and

(5) recommendations on how the barriers could be eliminated in order to meet the needs of children and families served.

SEC. 127. EFFECTIVE DATE AND APPLICATION.

42 USC 9832 note.

(a) EFFECTIVE DATE.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under the Head Start Act until October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

Community Services Block Grant Amendments of 1994.

SEC. 201. SHORT TITLE AND REFERENCES.

42 USC 9901 note.

(a) SHORT TITLE.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATION.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out the provisions of this subtitle.".

(b) STATE ALLOCATIONS.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following new subsection:

"(a)(1) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under this subtitle. Such activities may be carried out by the Secretary through grants, contracts, or cooperative agreements with eligible entities or with organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities.

"(2) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(A) ensure the needs of community action agencies and programs relating to improving program quality, including

financial management practices, are addressed to the maximum extent feasible; and

"(B) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the community action State and national network.

(c) APPLICATIONS AND REQUIREMENTS.—

(1) FORM AND ASSURANCES.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) USE OF FUNDS.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this subtitle" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this subtitle will use such funds".

(3) ASSURED ACTIVITIES.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) STATE RESPONSIBILITIES.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this subtitle, including outposting appropriate State or local public employees into entities funded under this subtitle to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than $55,000 or 5 percent of its allotment under section 674; and

"(v) considering the distribution of funds under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need.".

(5) TRIPARTITE BOARD.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by inserting "selected by the community action agency or nonprofit private organization and" after "board will be";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by striking the comma after "provide assurances that" and inserting "(A)"; and

(D) by inserting before the semicolon at the end thereof ", and (B) in the case of a public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with demo-

cratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(6) REGULATIONS.—The next to last sentence of section 675(c) (42 U.S.C. 9904(c)) is amended to read as follows: "The Secretary may prescribe procedures only for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this subtitle.".

(d) COMMUNITY ACTION PLAN.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (aa) through (cc), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with subparagraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) secure from each eligible entity as a condition to its receipt of funding under this Act a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this subtitle.".

(e) PUBLIC INSPECTIONS OF PLANS.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) AUDITS.—The last sentence of section 675(f) (42 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

(g) EVALUATION INVOLVING WAIVERS.—Section 675(h) (42 U.S.C. 9904(h)) is amended by inserting "(including any State that received a waiver under Public Law 98–139)" after "States" the last place it appears.

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) TRAINING AND ACTIVITIES.—Section 681(a) (42 U.S.C. 9910(a)) is amended by striking "to provide for—" and all that follows through the end thereof and inserting the following: "to provide for ongoing activities of national or regional significance related to the purposes of this subtitle, with special emphasis on—

"(1) a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c);

"(2) grants to support the design, development, and widespread availability of interactive information technology among the nationwide network of Community Service Block Grant eligible entities, State administrators, national associations and organizations, and program recipients to promote electronic communication and access to program information that would enhance the effective delivery of social services; and

"(3) grants to nonprofit private organizations that provide assistance for migrants and seasonal farmworkers.".

(b) COMMUNITY INITIATIVE PROGRAM.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

Disadvantaged persons.

"(b) COMMUNITY INITIATIVE PROGRAM.—

"(1) IN GENERAL.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing, or managing low-income housing or community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(E) RESERVATION.—Of the amounts made available to carry out this section, the Secretary may reserve not

to exceed 1 percent for each fiscal year to make grants to private nonprofit organizations or to enter into contracts with private nonprofit or for profit organizations to provide technical assistance to aid community development corporations in developing or implementing projects funded under this section and to evaluate projects funded under this section.

"(2) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units; and

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.". Appropriation authorization.

SEC. 205. INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

The Act (42 U.S.C. 9901 et seq.) is amended—

(1) by redesignating sections 682 and 683 as sections 683 and 684, respectively; and 42 USC 9911, 9912.

(2) by inserting after section 681 the following:

"SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH. 42 USC 9910c

"(a) GENERAL AUTHORITY.—The Secretary of Health and Human Services is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give a priority to eligible service providers that have a demonstrated ability to operate such a program.

"(b) PROGRAM REQUIREMENTS.—

"(1) Any instructional activity carried out by an eligible service provider receiving a grant under this subsection shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act) and shall include—

"(A) access to the facilities and resources of such an institution;

"(B) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(C) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(D) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher edu-

cation and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(E) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drugs and alcohol abuse, health and nutrition, career opportunities and family and job responsibilities.

"(c) ELIGIBLE PROVIDERS.—A national private nonprofit organization, a coalition of such organizations, or a private nonprofit organization applying jointly with a business concern shall be eligible for a grant under this subsection if—

"(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

"(2) the applicant shall contribute amounts in cash or fairly evaluated in kind of no less than 25 percent of the amount requested;

"(3) the applicant shall use no funds from a grant authorized under this section for administrative expenses; and

"(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary of Health and Human Services for use of funds made available by this grant.

"(d) APPLICATIONS PROCESS.—Eligible service providers may submit to the Secretary of Health and Human Services, for approval, an application in such form at such time as the Secretary deems appropriate.

"(e) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations or program guidelines to ensure funds made available under a grant made under this section are used in accordance with the intentions of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each fiscal year 1995, 1996, 1997, and 1998 for grants to carry out this section.".

SEC. 206. AMENDMENT TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

42 USC 11464.

The last section of subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11646) is amended—

(1) by striking "SEC. 751." and by inserting "SEC. 754.", and

(2) by striking "1991" and all that follows through "1993", and inserting "1995, 1996, 1997, and 1998".

SEC. 207. AMENDMENTS TO THE HUMAN SERVICES REAUTHORIZATION ACT OF 1986.

42 USC 9910b.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9901b) is amended—

(1) in subsection (a) by adding at the end the following:

"(3) Initial and subsequent grant awards may fully fund projects for periods of up to 3 years.";

(2) in subsection (b)(1)(B) by striking "After the first fiscal year" and inserting "After the first funding period";

(3) by amending subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) In addition to the grant programs described in subsection (a), the Secretary may make grants to community action agencies

for the purpose of enabling such agencies to demonstrate new approaches to dealing with the problems caused by entrenched, chronic unemployment and lack of economic opportunities for urban youth. Demonstrations shall include such activities as peer counseling, mentoring, development of job skills, assistance with social skills, community services, family literacy, parenting skills, opportunities for employment or entrepreneurship, and other services designed to assist such at-risk youth to continue their education, to secure meaningful employment, to perform community service, or to pursue other productive alternatives within the community."; and

(B) by amending paragraph (4) to read as follows:

"(4) Such grants made under this subsection on a competitive basis shall be based on an annual competition determined by the Secretary. Grants made under this subsection shall not exceed $500,000."; and

(4) by amending subsection (h) to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this section.

"(2) Of the amounts appropriated for this section, not less than 30 percent and not more than 40 percent shall be used to carry out the programs authorized under subsection (c).

"(3) In addition to sums which are required to carry out the evaluation, reporting, and dissemination of results under subsections (a), (c), (d), and (f), the Secretary is authorized to reserve up to 2 percent of the amounts appropriated pursuant to subparagraphs (1) and (2) for administration of the program as well as for planning and technical assistance.".

SEC. 208. EFFECTIVE DATE.

42 USC 9901 note.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

Low-Income Home Energy Assistance Amendments of 1994.

SECTION 301. SHORT TITLE AND REFERENCES.

42 USC 8621 note.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Subsection (a) of section 2602 (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for each of fiscal years 1995 through 1999."; and

(2) in the last sentence of subsection (c)—

(A) by striking "July 1" and inserting "October 1"; and

(B) by striking "for which" and inserting "following the year in which".

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1996 and 1997, and such sums as may be necessary for each of the fiscal years 1998 and 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621) as amended by section 303, is further amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated in each fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2) (as so redesignated), the following new paragraph:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4) (as so redesignated), the following new paragraph:

"(3) The term 'highest home energy needs' means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.".

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(e) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant. The Secretary shall notify Congress of the allotment pursuant to this subsection prior to releasing the allotted funds.". Notification

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

"(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (9)(B), by inserting before the semicolon the following: "(except for the costs of the activities described in paragraph (16))";

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.".

SEC. 306. TARGETING OF ASSISTANCE TO HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSEHOLD INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority

to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 308. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D)) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 309. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following new subparagraph:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 310. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended— 42 USC 8626.

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.". Notification

SEC. 311. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605(b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) is amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000". 42 USC 8628a

(b) CRITERIA AND REPORT.—Section 2605(b) (42 U.S.C. 8624(b)) is amended by adding at the end the following:

"Not later than 18 months after the date of the enactment of the Low-Income Home Energy Assistance Amendments of 1994, the Secretary shall develop model performance goals and measurements in consultation with State, territorial, tribal, and local grantees, that the States may use to assess the success of the States in achieving the purposes of this title. The model performance goals and measurements shall be made available to States to be incorporated, at the option of the States, into the plans for fiscal year 1997. The Secretary may request data relevant to the development of model performance goals and measurements.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 2602 (42 U.S.C. 8621) is amended—

(A) in subsection (b), as amended by section 303 of this Act—

(i) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(ii) by striking the second period at the end thereof; and

(B) in subsection (c)(1), by striking "Act" and inserting "title".

(2) Section 2603(2) (42 U.S.C. 8622(2)) is amended—

(A) by striking "the" in paragraph (2) and inserting "The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) Section 2604(b)(1) (42 U.S.C. 8623(b)(1)) is amended by inserting "of the United States" after "Virgin Islands".

(4) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(5) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(6) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(7) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

SEC. 312. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.CH.).

The Act is amended by inserting after section 2607A the following:

42 USC 8626b.

"SEC. 2607B. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.CH.).

"(a) PURPOSE.—The purpose of the Residential Energy Assistance Challenge (in this section referred to as 'R.E.A.Ch.') program is to—

"(1) minimize health and safety risks that result from high energy burdens on low-income Americans;

"(2) prevent homelessness as a result of inability to pay energy bills;

"(3) increase the efficiency of energy usage by low-income families; and

"(4) target energy assistance to individuals who are most in need.

"(b) FUNDING.—

"(1) ALLOCATION.—For each of the fiscal years 1996 through 1999, the Secretary may allocate not more than 25 percent of the amount made available pursuant to section 2602(d) for such fiscal year to a R.E.A.Ch. fund for the purpose of making incentive grants to States that submit qualifying plans that are approved by the Secretary as R.E.A.Ch. initiatives. States may use such grants for the costs of planning, implementing, and evaluating the initiative.

"(2) RESERVATION.—The Secretary shall reserve from any funds allocated under this subsection, funds to make additional payments to State R.E.A.Ch. programs that—

"(A) have energy efficiency education services plans that meet quality standards established by the Secretary in consultation with the Secretary of Energy; and

"(B) have the potential for being replicable model designs for other programs.

States shall use such supplemental funds for the implementation and evaluation of the energy efficiency education services.

"(c) CRITERIA.—

"(1) IN GENERAL.—Not later than May 31, 1995, the Secretary shall establish criteria for approving State plans required by subsection (a), for energy efficiency education quality standards described in subsection (b)(2)(A), and for the distribution of funds to States with approved plans.

"(2) DOCUMENTATION.—Notwithstanding the limitations of section 2605(b) regarding the authority of the Secretary with respect to plans, the Secretary may require a State to provide appropriate documentation that its R.E.A.Ch. activities conform to the State plan as approved by the Secretary.

"(d) FOCUS.—The State may designate all or part of the State, or all or part of the client population, as a focus of its R.E.A.Ch. initiative.

"(e) STATE PLANS.—

"(1) IN GENERAL.—Each State plan shall include each of the elements described in paragraph (2), to be met by State and local agencies.

"(2) ELEMENTS OF STATE PLANS.—Each State plan shall include—

"(A) an assurance that such State will deliver services through community-based nonprofit entities in such State, by—

"(i) awarding grants to, or entering into contracts with, such entities for the purpose of providing such services and payments directly to individuals eligible for benefits; or

"(ii) if a State makes payments directly to eligible individuals or energy suppliers, making contracts with such entities to administer such programs, including—

"(I) determining eligibility;

"(II) providing outreach services; and

"(III) providing benefits other than payments;

"(B) an assurance that, in awarding grants or entering into contracts to carry out its R.E.A.Ch. initiative, the State will give priority to organizations that—

"(i) are described in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)), except where significant geographic portions of the State are not served by such entities;

"(ii) the Secretary has determined have a record of successfully providing services under the Low-Income Home Energy Assistance Program; and

"(iii) receive weatherization assistance program funds under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6863 et seq.);

except that a State may not require any such entity to operate a R.E.A.Ch. program;

"(C) an assurance that, subject to subparagraph (D), each entity that receives a grant or enters into a contract under subparagraph (A)(i) will provide a variety of services and benefits, including—

"(i) payments to, or on behalf of, individuals eligible for residential energy assistance services and benefits under section 2605(b) for home energy costs;

"(ii) energy efficiency education;

"(iii) residential energy demand management services, including any other energy related residential repair and energy efficiency improvements in coordination with, or delivered by, Department of Energy weatherization assistance programs at the discretion of the State;

"(iv) family services, such as counseling and needs assessment, related to energy budget management, payment plans, and related services; and

"(v) negotiation with home energy suppliers on behalf of households eligible for R.E.A.Ch. services and benefits;

"(D) a description of the methodology the State and local agencies will use to determine—

"(i) which households will receive one or more forms of benefits under the State R.E.A.Ch. initiative;

"(ii) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than payment benefits alone; and

"(iii) the amount of such benefit required to meet the goals of the program;

"(F) a method for targeting nonmonetary benefits;

"(G) a description of the crisis and emergency assistance activities the State will undertake that are designed to—

"(i) discourage family energy crises;

"(ii) encourage responsible vendor and consumer behavior; and

"(iii) provide only financial incentives that encourage household payment;

"(H) a description of the activities the State will undertake to—

"(i) provide incentives for recipients of assistance to pay home energy costs; and

"(ii) provide incentives for vendors to help reduce the energy burdens of recipients of assistance;

"(I) an assurance that the State will require each entity that receives a grant or enters into a contract under this section to solicit and be responsive to the views of individuals who are financially eligible for benefits and services under this section in establishing its local program;

"(J) a description of performance goals for the State R.E.A.Ch. initiative including—

"(i) a reduction in the energy costs on participating households over one or more fiscal years;

"(ii) an increase in the regularity of home energy bill payments by eligible households; and

"(iii) an increase in energy vendor contributions towards reducing energy burdens of eligible households;

"(K) a description of the indicators that will be used by the State to measure whether the performance goals have been achieved;

"(L) a demonstration that the plan is consistent with section 2603, paragraphs (2), (3), (4), (5), (7), (9), (10), (11), (12), (13), and (14) of section 2605(b), subsections (d), (e), (f), (g), (h), (i), and (j) of section 2605, and section 2606 of this title;

"(M) an assurance that benefits and services will be provided in addition to other benefit payments and services provided under this title and in coordination with such benefit payments and services; and

"(N) an assurance that no regulated utility covered by the plan will be required to act in a manner that is inconsistent with applicable regulatory requirements.

"(g) COST OR FUNCTION.—None of the costs of providing services or benefits under this section shall be considered to be an administrative cost or function for purposes of any limitation on administrative costs or functions contained in this title.".

SEC. 313. SENSE OF THE CONGRESS REGARDING APPROPRIATIONS FOR LIHEAP.

(a) FINDINGS.—Congress finds the following:

(1) Seventy-seven percent of the over 25 million households that were eligible for the Low-Income Home Energy Assistance Program (hereinafter referred to as "LIHEAP") in fiscal year 1992 did not receive assistance due to a lack of funds.

(2) Recent economic distress has caused significant unemployment, which has resulted in a greater need for energy assistance than ever before.

(3) More than 66 percent of LIHEAP household recipients have an annual income that is below the poverty level.

(4) Forty-three percent of all LIHEAP eligible households include children.

(5) LIHEAP eligible households with children spend approximately 16 percent of their annual incomes on home energy costs, which is more than 4 times greater than that paid by the average household in the United States, and far beyond their means.

(6) Approximately 40 percent of LIHEAP household recipients are comprised of elderly or disabled persons.

(7) Congress appropriated $1,475,000,000 for LIHEAP for fiscal year 1995.

(8) The Department of Energy predicts that the costs of residential fuels will increase at a pace greater than inflation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the maintenance of LIHEAP should be a high priority in order to enable low-income households, especially the working poor, the disabled, and the low-income elderly, who all depend on LIHEAP, to meet their energy costs and needs;

(2) all appropriations made for LIHEAP for fiscal year 1995 should be expended; and

(3) expenditures for LIHEAP for fiscal year 1996 should ensure the provision of services at the level provided in fiscal year 1995.

42 USC 8621 note.

SEC. 314. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

(a) IN GENERAL.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq.) is amended to read as follows:

"TITLE II—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

42 USC 5116.

"SEC. 201. COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

"(a) PURPOSE.—The purpose of this title is to assist each State to develop and implement, or expand and enhance, a comprehensive, statewide system of family resource services through innovative funding mechanisms and collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

"(b) AUTHORITY.—The Secretary shall make grants to States on a formula basis for the purpose of—

"(1) establishing and expanding statewide networks of community-based family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family resource programs which are responsive to the unique and diverse strengths of children and families;

"(2) promoting child abuse and neglect prevention activities;

"(3) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family resource programs;

"(4) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

"(5) encouraging public and private partnerships in the establishment and expansion of family resource programs; and

"(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family resource programs.

"(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

"(1) such State has established or maintained in the previous fiscal year—

"(A) a trust fund, including appropriations for such fund; or

"(B) any other mechanism that pools State, Federal, and private funds for integrating child and family service resources; and

"(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family resource programs.

"(d) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted to the designated lead agencies of eligible States in each fiscal year so that—

"(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $100,000; and

"(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

"(2) ALLOCATION.—Funds identified by the State for the purpose of qualifying for incentive funds under paragraph (1)(B) shall be allocated through the mechanism used to determine State eligibility under subsection (c) and shall be controlled by the lead agency described in subsection (f)(1).

"(e) EXISTING GRANTS.—A State or entity that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program or the Emergency Child Abuse Prevention Grants Program shall continue to receive funds under such Programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

"(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary determines to be essential to carry out the purposes and provisions of this section, including—

"(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

"(A) is the trust fund advisory board, or an existing organization created by executive order or State statute that is not an existing State agency, that has interdisciplinary governance, including participants from communities, and that integrates family resource services and leverages

State, Federal, and private funds for family resource programs; or

"(B) with respect to a State without a trust fund mechanism or other organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family resource programs;

"(2) assurances that the agency designated under paragraph (1) can demonstrate the capacity to fulfill the purposes described in subsection (a), and shall have—

"(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

"(B) a commitment to parental participation in the design and implementation of family resource programs;

"(C) the capacity to promote a statewide system of family resource programs throughout the State; and

"(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to, and funding for, family resource services across agencies;

"(3) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

"(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

"(B) provides a written strategic plan for the establishment of a network of family resource programs (publicly available and funded through public and private sources) that identifies specific measurable goals and objectives;

"(C) involves appropriate personnel in the process, including—

"(i) parents (including parents of children with disabilities) and prospective participants in family resource programs, including respite care programs;

"(ii) staff of existing programs providing family resource services, including staff of Head Start programs and community action agencies that provide such services;

"(iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;

"(iv) representatives of the business community;

"(v) representatives of general purpose local governments;

"(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

"(vii) representatives of local communities in which family resource programs are likely to be located;

"(viii) representatives of groups with expertise in providing services to children with disabilities; and

"(ix) other individuals with expertise in the services that the family resource programs of the State intend to offer; and

"(D) coordinates activities funded under this title with—

"(i) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act;

"(ii) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

"(iii) the State Rehabilitation Advisory Council established under the Rehabilitation Act of 1973;

"(iv) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act;

"(v) the Head Start State Collaboration project;

"(vi) the State Advisory group designated in the Juvenile Justice and Delinquency Prevention Act of 1974; and

"(vii) other local or regional family service councils within the State, to the extent that such councils exist;

"(4) an inventory and description of the current family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource services, including respite care, and the intended scope of the State family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

"(5) evidence that Federal assistance received under this section—

"(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family resource network; and

"(B) will be used to supplement and not supplant other State and local public funds expended for family resource programs;

"(6) a description of the core services, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

"(7) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

"(8) an assurance that the State will provide funds for the initial startup costs associated with specific family resource services, including respite services, and a description of the services to be funded;

"(9) assurances that the State program will maintain cultural diversity and be culturally competent;

"(10) a description of the guidelines for requiring parental involvement in State and local program development, policy

design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

"(11) a description of the State and community-based interagency planning processes to be utilized to develop and implement family resource programs;

"(12) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

"(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

"(14) a plan for providing training, technical assistance, and other assistance to local communities in program development and networking activities;

"(15) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource programs within the State;

"(16) a description of proposed actions by the State that will facilitate the changing of laws, regulations, policies, practices, procedures, and organizational structures, that impede the availability or provision of family resource services; and

"(17) an assurance that the State will provide the Secretary with reports, at such time and containing such information as the Secretary may require.

"(g) LOCAL PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family resource programs that—

"(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocational rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

"(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

"(C) identify appropriate community-based organizations to administer such programs locally;

"(D) provide core services, and other services directly or through contracts or agreements with other local agencies;

"(E) involve parents in the development, operation, and governance of the program; and

"(F) participate in the development and maintenance of a statewide network of family resource programs.

Disadvantaged persons. Urban and rural areas.

"(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

"(h) DEFINITIONS.—As used in this section:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' has the meaning given such term in section 602(a)(2) of Individuals With Disabilities Education Act.

"(2) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services to assist families in obtaining community resources, including respite services, health and mental health services, employability development and job training and other social services.

"(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports, or other assistance that is conducted or provided in a manner that—

"(A) is responsive to the beliefs, interpersonal styles, attitudes, languages, and behaviors of those individuals receiving services; and

"(B) has the greatest likelihood of ensuring maximum participation of such individuals.

"(4) FAMILY RESOURCE PROGRAM.—The term 'family resource program' means a program that offers community-based services that provide sustained assistance and support to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

"(A) the provisions of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

"(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

"(C) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

"(5) FAMILY RESOURCE SERVICES.—The term 'family resource services' means—

"(A) core services that must be provided directly by the family resource program under this section, including—

"(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

"(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

"(iii) outreach services;

"(iv) community referral services; and

"(v) follow-up services; and

"(B) other services, which may be provided either directly or through referral, including—

"(i) early care and education (such as child care and Head Start);

"(ii) respite services;

"(iii) job readiness and counseling services (including skill training);

"(iv) education and literacy services;

"(v) nutritional education;

"(vi) life management skills training;

"(vii) peer counseling and crisis intervention, and family violence counseling services;

"(viii) referral for health (including prenatal care) and mental health services;

"(ix) substance abuse treatment; and

"(x) services to support families of children with disabilities that are designed to prevent inappropriate out-of-the-home placement and maintain family unity.

"(6) INTERDISCIPLINARY GOVERNANCE.—The term 'interdisciplinary governance' includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

"(7) OUTREACH SERVICES.—The term 'outreach services' means services provided to ensure (through home visits or other methods) that parents and other caretakers are aware of and able to participate in family resource program activities.

"(8) RESPITE SERVICES.—The term 'respite services' means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

"(A) The children are in danger of abuse or neglect.

"(B) The children have experienced abuse or neglect.

"(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title, $50,000,000 for fiscal year 1995.".

(b) REPEAL OF EXISTING PROGRAMS.—

(1) FAMILY RESOURCE AND SUPPORT GRANTS.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is repealed.

(2) EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANTS.—Section 107A of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a–1) is repealed.

SEC. 402. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

(a) IN GENERAL.—Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(6) identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modifications or elimination; and

"(7) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 934 of such Act (42 U.S.C. 12340) is amended—

(1) in paragraph (1) of subsection (a), to read as follows:

"(1) There are authorized to be appropriated to carry out sections 931 and 932 such sums as may be necessary for each of the fiscal years 1995 through 1998."; and

(2) by striking subsection (d).

SEC. 403. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b)(3) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)(3)) is amended by striking "model".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking "$2,300,000" and all that follows through the end thereof and inserting "$2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

Approved May 18, 1994.

LEGISLATIVE HISTORY—S. 2000 (H.R. 4250):

HOUSE REPORTS: Nos 103-483 accompanying H.R. 4250 (Comm. on Education and Labor) and 103-497 (Comm. of Conference).
SENATE REPORTS: No 103-251 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr 21, considered and passed Senate.
Apr. 26, 28, H.R 4250 considered and passed House, S. 2000, amended, passed in lieu.
May 11, Senate agreed to conference report.
May 12, House agreed to conference report
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 30 (1994).
May 19, Presidential remarks and statement

Public Law 103-253
103d Congress

An Act

May 19, 1994
[H.R. 1134]

To provide for the transfer of certain public lands located in Clear Creek County, Colorado, to the Forest Service, the State of Colorado, and certain local governments in the State of Colorado, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Clear Creek County, Colorado, Public Lands Transfer Act of 1993

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clear Creek County, Colorado, Public Lands Transfer Act of 1993".

SEC. 2. TRANSFER OF PUBLIC LANDS.

The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall transfer in accordance with this Act the approximately 14,000 acres of public lands generally depicted on a map entitled "Clear Creek County, Colorado, Public Lands Transfer—Proposed", and dated May 1993, to the Secretary of Agriculture, the State of Colorado, and certain political subdivisions of the State of Colorado, as indicated in sections 3, 4, and 5. Conveyances made pursuant to this Act shall be made without conducting new surveys.

SEC. 3. LAND TRANSFER TO FOREST SERVICE.

(a) TRANSFER.—Subject to valid existing rights, administrative jurisdiction to the approximately 3,400 acres of the public lands described as "Part I Lands" on the map referred to in section 2 is hereby transferred to the Secretary of Agriculture. Such lands are added to and shall be administered as part of the Arapaho National Forest in accordance with the laws and regulations pertaining to the National Forest System and the Arapaho National Forest.

(b) ADMINISTRATIVE PROVISIONS.—(1) The boundaries of the Arapaho National Forest are hereby modified as shown on the map referred to in section 2. For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 460l–9) the boundaries of the Arapaho National Forest as modified by this section shall be treated as if they were the boundaries of such forest on January 1, 1965.

(2) Nothing in this section shall affect valid existing rights, or interests in existing land use authorizations, except that any such right or authorization shall be administered by the Forest Service in accordance with this section and other applicable laws. Reissuance of any such authorization shall be in accordance with laws applicable to the National Forest System and regulations of the Secretary of Agriculture, except that the change in adminis-

trative jurisdiction shall not constitute in itself a ground to deny renewal or reissuance of any such authorization.

SEC. 4. LAND TRANSFERS TO STATE OF COLORADO AND TO CLEAR CREEK COUNTY AND TOWNS OF SILVER PLUME AND GEORGETOWN, COLORADO.

(a) TRANSFER.—Subject to section 6 and valid existing rights, the Secretary shall transfer, without consideration, all right, title, and interest, both surface and subsurface, of the United States in and to the approximately 3,200 acres of public lands described as "Part II Lands" on the map referred to in section 2, excluding any such lands within the corporate boundaries of the towns of Georgetown or Silver Plume, Colorado, as of January 1, 1993, as follows:

(1) Approximately 600 acres of such lands to the town of Silver Plume, Colorado, as so indicated on such map.

(2) Approximately 800 acres of such lands to the town of Georgetown, Colorado, as so indicated on such map.

(3) Approximately 600 acres of such lands to the County of Clear Creek, Colorado, as so indicated on such map.

(4) Approximately 1,200 acres of such lands to the State of Colorado, as so indicated on such map.

(b) MANAGEMENT AND REVERSION.—

(1) The lands transferred under this section shall be managed in accordance with the cooperative management agreement among the Colorado Division of Wildlife, the Colorado State Historical Society, the town of Silver Plume, the town of Georgetown, and the County of Clear Creek, which is dated January 1989; the stipulations related to the preservation of artifacts contained in the Bureau of Land Management's cultural resource survey pertaining to such lands; and the terms of the applications filed with the Secretary for the disposal of such lands under the Act of June 14, 1926 (43 U.S.C. 869 et seq.; hereafter in this Act referred to as the "Recreation and Public Purposes Act"), except that other uses of the lands may be made with the approval of the Secretary.

(2)(A) Title to lands conveyed by the Secretary under this section may not be transferred by the grantee or its successor except, with the consent of the Secretary, to a transferee which would be a qualified grantee under section 2 (a) or (c) of the Recreation and Public Purposes Act (43 U.S.C. 869–1 (a), (c)).

(B) The provisions of paragraph (3) of this subsection shall apply if at any time after such conveyance—

(i) the grantee or its successor attempts to transfer to any other party title to or control over any portion of the lands conveyed to such grantee under this section, except as provided in subparagraph (A), or

(ii) such lands or any portion thereof are devoted to a use inconsistent with this subsection.

(3) In case of occurrence of an event described in paragraph (2)(B) of this subsection, the grantee of the relevant lands shall be liable to pay to the Secretary of the Interior, on behalf of the United States, the fair market value of all lands conveyed to such grantee under this section, together with any improvements thereon, as of the date of such occurrence. All sums paid to the Secretary of the Interior under this paragraph shall be retained by the Secretary and subject to appro-

priation, used for management of the public lands pursuant to the Federal Land Policy and Management Act of 1976.

SEC. 5. LAND TRANSFER TO CLEAR CREEK COUNTY, COLORADO.

(a) IN GENERAL.—Subject to subsection (b), section 6, and valid existing rights, the Secretary shall transfer, without consideration, all right, title, and interest, both surface and subsurface, of the United States in and to the approximately 7,400 acres of public lands described as "Parts III Lands" on the map referred to in section 2, along with any public lands on that map within the corporate boundaries of the towns of Georgetown or Silver Plume, Colorado as of January 1, 1993 to Clear Creek County, Colorado (hereinafter in this section referred to as the "County").

(b) TERMS AND CONDITIONS.—The lands referred to in subsection (a) may not be transferred to the County until—

(1) it is shown to the satisfaction of the Secretary that the county has adopted comprehensive land use plans and zoning regulations applicable to the area in which the lands are located;

(2) the Secretary finds that such plans and regulations are consistent with proper management of any adjacent lands owned by the United States; and

(3)(A) the Secretary and the County have reached an agreement—

(i) concerning the steps, including but not limited to the use of appraisals (and the methodology thereof) and the use of competitive bids or other sales methods, that the County will take to ensure that so far as possible any sales of the lands by the County will be for fair market value; and

(ii) under which the County will provide the Secretary with an annual accounting of all receipts and expenditures with regard to such lands after their transfer to the County, and that on the date that is 10 years after the date of enactment of this Act, or at such earlier date as the County may elect, the County will pay to the United States an amount the Secretary determines to be equal to the County's total net receipts from the sale of some or all of such lands;

and, in addition,

(B) the Secretary has also agreed that in determining the amounts to be paid by the County pursuant to this paragraph, the Secretary will allow the County to deduct from the gross receipts from the sale of the lands all ordinary and necessary costs incurred by the County, including—

(i) expenses for necessary surveying, mapping, and other site characterization, and appraisals;

(ii) historical preservation and environmental protection; and

(iii) reasonable overhead, including staffing and administrative costs.

(c) UNSOLD LANDS.—(1) The County may transfer some or all of the lands referred to in subsection (a) to an entity that would be a qualified grantee under section 2(a) or 2(c) of the Recreation and Public Purposes Act (43 U.S.C. 869–1 (a), (c)). Any lands so transferred shall be held by the recipient thereof under the same terms and conditions as if transferred by the United

States under such Act, except that such terms and conditions shall also apply to the mineral estate in such lands.

(2) Any of the lands referred to in subsection (a) which remain in County ownership on the date 10 years after the date of enactment of this Act, or regarding which the County has prior to such date notified the Secretary that the County intends to retain ownership, shall be retained by the County under the same terms and conditions as if transferred to the County on such date or on the date of such notification (whichever first occurs) by the United States under the Recreation and Public Purposes Act, except that such terms and conditions shall also apply to the mineral estate in such lands.

SEC. 6. MINERALS.

(a) WITHDRAWAL FROM MINERAL ENTRY.—Subject to valid existing rights, the public lands referred to in sections 4 and 5 are hereby withdrawn from all forms of entry under the general mining laws and mineral leasing laws of the United States and shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following); or

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

(b) LIMITATION ON PATENT ISSUANCE.—Subject to valid existing rights, no patent shall be issued after the date of enactment of this Act for any mining or mill site claim located under the general mining laws within the public lands referred to in sections 4 and 5.

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) INSPECTIONS.—Notwithstanding any other provision of law, neither the Secretary nor any other officer or agent of the United States shall be required to inspect any of the public lands described in this Act or to inform Clear Creek County or any member of the public regarding the condition of such lands with regard to the presence or absence of any hazardous substances or otherwise.

(b) LIABILITY.—Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Act after their transfer to the ownership of another party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party.

(c) ACCOUNTING.—For purposes of the distribution of receipts, any funds paid to the United States by the County pursuant to an agreement described in section 5(b)(3) shall be deemed to be receipts from the sale of public lands, but shall be specifically accounted for in documents submitted to justify proposed appropriations for the Bureau of Land Management.

Approved May 19, 1994.

LEGISLATIVE HISTORY—H.R. 1134:

HOUSE REPORTS: No. 103-141 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-228 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): June 21, considered and passed House.
Vol 140 (1994): Apr. 12, considered and passed Senate, amended.
May 10, House concurred in Senate amendments.

Public Law 103-254
103d Congress

An Act

To establish a program of grants to states for arson research, prevention, and control, and for other purposes.

May 19, 1994
[H.R. 1727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arson Prevention Act of 1994.
15 USC 2201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arson Prevention Act of 1994".

15 USC 2201 note.

SEC. 2. FINDINGS.

Congress finds that—

(1) arson is a serious and costly problem, and is responsible for approximately 25 percent of all fires in the United States;

(2) arson is a leading cause of fire deaths, accounting for approximately 700 deaths annually in the United States, and is the leading cause of property damage due to fire in the United States;

(3) estimates of arson property losses are in the range of $2,000,000,000 annually, or approximately 1 of every 4 dollars lost to fire;

(4) the incidence of arson in the United States is seriously underreported, in part because of the lack of adequate participation by local jurisdictions in the National Fire Incident Reporting System (NFIRS) and the Uniform Crime Reporting (UCR) program;

(5) there is a need for expanded training programs for arson investigators;

(6) there is a need for improved programs designed to enable volunteer firefighters to detect arson crimes and to preserve evidence vital to the investigation and prosecution of arson cases;

(7) according to the National Fire Protection Association, of all the suspicious and incendiary fires estimated to occur, only ⅓ are confirmed as arson; and

(8) improved training of arson investigators will increase the ability of fire departments to identify suspicious and incendiary fires, and will result in increased and more effective prosecution of arson offenses.

SEC. 3. ARSON PREVENTION GRANTS.

The Federal Fire Prevention and Control Act of 1974 is amended by inserting after section 24 (15 U.S.C. 2220) the following new section:

"SEC. 25. ARSON PREVENTION GRANTS.

15 USC 2221.

"(a) DEFINITIONS.—As used in this section:

"(1) ARSON.—The term 'arson' includes all incendiary and suspicious fires.

"(2) OFFICE.—The term 'Office' means the Office of Fire Prevention and Arson Control of the United States Fire Administration.

"(b) GRANTS.—The Administrator, acting through the Office, shall carry out a demonstration program under which not more than 10 grant awards shall be made to States, or consortia of States, for programs relating to arson research, prevention, and control.

"(c) GOALS.—In carrying out this section, the Administrator shall award 2-year grants on a competitive, merit basis to States, or consortia of States, for projects that promote one or more of the following goals:

"(1) To improve the training by States leading to professional certification of arson investigators, in accordance with nationally recognized certification standards.

"(2) To provide resources for the formation of arson task forces or interagency organizational arrangements involving police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

"(3) To combat fraud as a cause of arson and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

"(4) To provide for the management of arson squads, including—

"(A) training courses for fire departments in arson case management, including standardization of investigative techniques and reporting methodology;

"(B) the preparation of arson unit management guides; and

"(C) the development and dissemination of new public education materials relating to the arson problem.

"(5) To combat civil unrest as a cause of arson and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

"(6) To combat juvenile arson, such as juvenile fire-setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

"(7) To combat drug-related arson and to advance research at the State and local levels on the causes and prevention of drug-related arson.

"(8) To combat domestic violence as a cause of arson and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

"(9) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

"(10) To improve the capability of firefighters to identify and combat arson through expanded training programs, including—

"(A) training courses at the State fire academies; and

"(B) innovative courses developed with the Academy and made available to volunteer firefighters through

regional delivery methods, including teleconferencing and satellite delivered television programs.

"(d) STRUCTURING OF APPLICATIONS.—The Administrator shall assist grant applicants in structuring their applications so as to ensure that at least one grant is awarded for each goal described in subsection (c).

"(e) STATE QUALIFICATION CRITERIA.—In order to qualify for a grant under this section, a State, or consortium of States, shall provide assurances adequate to the Administrator that the State or consortium—

"(1) will obtain at least 25 percent of the cost of programs funded by the grant, in cash or in kind, from non-Federal sources;

"(2) will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-Federal sources for arson research, prevention, and control programs;

"(3) will use no more than 10 percent of funds provided under the grant for administrative costs of the programs; and

"(4) is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System or the Uniform Crime Reporting program.

"(f) EXTENSION.—A grant awarded under this section may be extended for one or more additional periods, at the discretion of the Administrator, subject to the availability of appropriations.

"(g) TECHNICAL ASSISTANCE.—The Administrator shall provide technical assistance to States in carrying out programs funded by grants under this section.

"(h) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

"(i) ASSESSMENT.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall submit a report to Congress that— Reports.

"(1) identifies grants made under this section;

"(2) specifies the identity of grantees;

"(3) states the goals of each grant; and

"(4) contains a preliminary assessment of the effectiveness of the grant program under this section.

"(j) REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations to implement this section, including procedures for grant applications.

"(k) ADMINISTRATION.—The Administrator shall directly administer the grant program required by this section, and shall not enter into any contract under which the grant program or any portion of the program will be administered by another party.

"(l) PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this section should purchase,

when available and cost-effective, American made equipment and products when expending grant monies.

"(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this section, the Administrator shall provide to each recipient a notice describing the statement made in paragraph (1) by the Congress.".

SEC. 4. VOLUNTEER FIREFIGHTER TRAINING.

Section 24(a)(2) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(a)(2)) is amended by inserting before the semicolon the following: ", with particular emphasis on the needs of volunteer firefighters for improved and more widely available arson training courses".

SEC. 5. CPR TRAINING.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

15 USC 2228.

"SEC. 32. CPR TRAINING.

"No funds shall be made available to a State or local government under section 25 unless such government has a policy to actively promote the training of its firefighters in cardiopulmonary resuscitation.".

SEC. 6. FEDERAL EMPLOYEE HOUSING EXCEPTIONS.

Section 31(c)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(1)) is amended—

(1) in subparagraph (A), by striking "No Federal" and inserting in lieu thereof "Except as otherwise provided in this paragraph, no Federal"; and

(2) by adding at the end the following new subparagraphs:

"(C) Housing covered by this paragraph that does not have an adequate and reliable electrical system shall not be subject to the requirement under subparagraph (A) for protection by hardwired smoke detectors, but shall be protected by battery operated smoke detectors.

"(D) If funding has been programmed or designated for the demolition of housing covered by this paragraph, such housing shall not be subject to the fire protection requirements of subparagraph (A), but shall be protected by battery operated smoke detectors.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(h) In addition to any other amounts that are authorized to be appropriated to carry out this Act, there are authorized to be appropriated to carry out this Act—

"(1) $500,000 for fiscal year 1995 for basic research on the development of an advanced course on arson prevention;

"(2) $2,000,000 for fiscal year 1996 for the expansion of arson investigator training programs at the Academy under section 24 and at the Federal Law Enforcement Training Center, or through regional delivery sites;

"(3) $4,000,000 for each of fiscal years 1995 and 1996 for carrying out section 25, except for salaries and expenses for carrying out section 25; and

"(4) $250,000 for each of the fiscal years 1995 and 1996 for salaries and expenses for carrying out section 25.".

SEC. 8. SUNSET.

15 USC 2216 note.

Notwithstanding any other provision of this Act, no funds are authorized to be appropriated for any fiscal year after fiscal year 1996 for carrying out the programs for which funds are authorized by this Act, or the amendments made by this Act.

Approved May 19, 1994.

LEGISLATIVE HISTORY—H.R. 1727 (S. 798):

HOUSE REPORTS: No. 103-172 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 103-204 accompanying S. 798 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): July 26, considered and passed House.
Nov. 22, considered and passed Senate, amended, in lieu of S. 798.
Vol. 140 (1994): Apr. 26, House concurred in Senate amendment with an amendment.
May 6, Senate concurred in House amendment.

Public Law 103-255
103d Congress

An Act

May 19, 1994
[S 341]

To provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

National Forest System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Eagle and Pitkin Counties in the State of Colorado (hereinafter in this Act referred to as the "Counties") are offering to convey to the United States approximately one thousand three hundred and seven acres of patented mining claim properties owned by the Counties within or adjacent to the White River National Forest (hereinafter in this Act referred to as the "National Forest inholdings"), including approximately six hundred and sixty nine acres of inholdings within the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas;

(2) the properties identified in paragraph (1) are National Forest inholdings whose acquisition by the United States, would facilitate better management of the White River National Forest and its wilderness resources; and

(3) certain lands owned by the United States within Eagle County comprising approximately two hundred and seventeen acres and known as the Mt. Sopris Tree Nursery (hereinafter in this Act referred to as the "nursery lands") are available for exchange and the Counties desire to acquire portions of the nursery lands for public purposes.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide the opportunity for an exchange whereby the Counties would transfer to the United States the National Forest inholdings in exchange for portions of the nursery lands;

(2) to provide an expedited mechanism under Federal law for resolving any private title claims to the National Forest inholdings if the exchange is consummated; and

(3) after the period of limitations has run for adjudication of all private title claims to the National Forest inholdings, to quiet title in the inholdings in the United States subject to valid existing rights adjudicated pursuant to this Act.

SEC. 2. OFFER OF EXCHANGE.

(a) OFFER BY THE COUNTIES.—The exchange directed by this Act shall be consummated if within ninety days after enactment of this Act, the Counties offer to transfer to the United States,

pursuant to the provisions of this Act, all right, title, and interest of the Counties in and to approximately—

(1) one thousand two hundred and fifty eight acres of lands owned by Pitkin County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 1–53 on maps entitled "Pitkin County Lands to Forest Service", numbered 1–11, and dated April 1990, except for parcels 20 (Twilight), 21 (Little Alma), the Highland Chief, and Alaska portions of parcel 25 depicted on map 7, and parcel 52 (Iron King) on map 11, which shall remain in their current ownership; and

(2) forty-nine acres of land owned by Eagle County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 54–58 on maps entitled "Eagle County Lands to Forest Service", numbered 12–14, and dated April 1990, except for parcel 56 (Manitou) on map 14 which is already in National Forest ownership.

(b) EXCHANGE BY THE SECRETARY.—Subject to the provisions of section 3, within ninety days after receipt by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") of a quitclaim deed from the Counties to the United States of the lands identified in subsection (a) of this section, the Secretary, on behalf of the United States, shall convey by quitclaim deed to the counties, as tenants in common, all right, title, and interest of the United States in and to approximately one hundred and thirty-two acres of land (and water rights as specified in section 7 and the improvements located thereon), as generally depicted as tract A on the map entitled "Mt. Sopris Tree Nursery", dated October 5, 1990.

SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.

(a) RESERVATIONS.—In any conveyance to the Counties pursuant to section 2, the Secretary shall reserve—

(1) all right, title, and interest of the United States in and to approximately eighty-five acres of land (and improvements located thereon), which are generally depicted as tracts B (approximately twenty-nine acres) and C (approximately fifty-six acres) on the map referred to in section 2(b);

(2) water rights as specified in section 7(a); and

(3) any easements, existing utility lines, or other existing access in or across tract A currently serving buildings and facilities on tract B.

(b) REVERSION.—It is the intention of Congress that any lands and water rights conveyed to the Counties pursuant to this Act shall be retained by the Counties and used solely for public recreation and recreational facilities, open space, fairgrounds, and such other public purposes as do not significantly reduce the portion of such lands in open space. In the deed of conveyance to the Counties, the Secretary shall provide that all right, title, and interest in and to any lands and water rights conveyed to the Counties pursuant to this Act shall revert back to the United States in the event that such lands or water rights or any portion thereof are sold or otherwise conveyed by the Counties or are used for other than such public purposes.

(c) EQUALIZATION OF VALUES.—Values of the respective lands exchanged between the United States and the Counties pursuant

to this Act are deemed to be of approximately equal value, without any need for cash equalization, as based on a statement of value prepared by qualified Forest Service appraisers and dated February 12, 1993.

(d) RIGHT OF FIRST REFUSAL.—The Secretary may convey any or all of the nursery lands reserved pursuant to subsection (a) of this section for fair market value under existing authorities, except that the Secretary shall first offer the Counties the opportunity to acquire the lands. This right of first refusal shall commence upon receipt by the Counties of written notice of the intent of the Secretary to convey such property, and the Counties shall have sixty days from the date of such receipt to offer to acquire such properties at fair market value as tenants in common. The Secretary shall have sole discretion as to whether to accept or reject any such offer of the Counties.

SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM LANDS.—The National Forest inholdings acquired by the United States pursuant to this Act shall become a part of the White River National Forest (or in the case of portions of parcels 39, 40, and 41 depicted on map 9, and a portion of parcel 54 of map 12, part of the Gunnison and Arapahoe National Forests, respectively) for administration and management by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System.

16 USC 1132 note.

(b) WILDERNESS.—The National Forest inholdings that are within the boundaries of the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas shall be incorporated in and deemed to be part of their respective wilderness areas and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST INHOLDINGS.

(a) QUIET TITLE ACT.—Notwithstanding any other provisions of law and subject to the provisions of subsection (c) of this section, section 2409a of title 28, United States Code (commonly referred to as the "Quiet Title Act") shall be the sole legal remedy of any party claiming any right, title, or interest in or to any National Forest inholdings conveyed by the Counties to the United States pursuant to this Act.

Publication.

(b) LISTING.—Upon conveyance of the National Forest inholdings to the United States, the Secretary shall cause to be published in a newspaper or newspapers of general circulation in Pitkin and Eagle Counties, Colorado, a listing of all National Forest inholdings acquired pursuant to this Act together with a statement that any party desiring to assert a claim of any right, title, or interest in or to such lands must bring an action against the United States pursuant to such section 2409a within the same period described by subsection (c) of this section.

(c) LIMITATION.—Notwithstanding section 2409a(g) of title 28, United States Code, any civil action against the United States to quiet title to National Forest inholdings conveyed to the United States pursuant to this Act must be filed in the United States District Court for the District of Colorado no later than the date that is six years after the date of publication of the listing required by subsection (b) of this section.

(d) VESTING BY OPERATION OF LAW.—Subject to any easements or other rights of record that may be accepted and expressly disclaimed by the Secretary, and without limiting title to National Forest inholdings conveyed by the Counties pursuant to this Act, all other rights, title, and interest in or to such National Forest inholdings if not otherwise vested by quitclaim deed to the United States, shall vest in the United States on the date that is six years after the date of publication of the listing required by subsection (b) of this section, except for such title as is conveyed by the Counties, no other rights, title, or interest in or to any parcel of the lands conveyed to the United States pursuant to this Act shall vest in the United States under this subsection if title to such parcel—

(1) has been or hereafter is adjudicated as being in a party other than the United States or the Counties; or

(2) is the subject of any action or suit against the United States to vest such title in a party other than the United States or the Counties that is pending on the date six years after the date of publication of a listing required by subsection (b) of this section.

(e) COSTS AND ATTORNEY'S FEES.—(1) At the discretion of the court, any party claiming right, title, or interest in or to any of the National Forest inholdings who files an action against the United States to quiet title and fails to prevail in such action may be required to pay to the Secretary on behalf of the United States, an amount equal to the costs and attorney's fees incurred by the United States in the defense of such action.

(2) As a condition of any transfer of lands to the Counties under this Act, the Counties shall be obligated to reimburse the United States for 50 percent of all costs in excess of $240,000 not reimbursed pursuant to paragraph (1) of this subsection associated with the defense by the United States of any claim or legal action brought against the United States with respect to any rights, title, and interest in or to the National Forest inholdings. Payment shall be made in the same manner as provided in section 6 of this Act.

SEC. 6. REIMBURSEMENT TO THE UNITED STATES.

(a) IN GENERAL.—As a condition of any transfer of lands to the Counties under this Act, in addition to any amounts required to be paid to the United States pursuant to section 5(e), in the event of a final determination adverse to the United States in any action relating to the title to the National Forest inholdings, the United States shall be entitled to receive from the Counties reimbursement equal to the fair market value (appraised as if they had marketable title) of the lands that are the subject of such final determination.

(b) AVAILABILITY OF FUNDS.—Any money received by the United States from the Counties under section 5(e) or subsection (a) of this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (and commonly known as the Sisk Act, 16 U.S.C. 484a).

(c) IN-KIND PAYMENT OF LANDS.—In lieu of monetary payments, any obligation for reimbursement by the Counties to the United States under this Act can be fulfilled by the conveyance to the United States of lands having a current fair market value equal

to or greater than the amount of the obligation. Such lands shall be mutually acceptable to the Secretary and the Counties.

SEC. 7. WATER RIGHTS.

(a) ALLOCATION AND MANAGEMENT.—The water rights in existence on the date of enactment of this Act in the Mt. Sopris Tree Nursery, which comprise well water and irrigation ditch rights adjudicated under the laws of the State of Colorado, together with the right to administer, maintain, access, and further develop such rights, shall be allocated and managed as follows:

(1) The United States shall convey to the Counties as undivided tenants in common all rights associated with the five existing wells on the properties.

(2) If the Secretary determines that water from the five existing wells is necessary to meet culinary, sanitary, or domestic uses of the existing buildings retained by the United States pursuant to section 3(a), the Counties shall make available to the United States, without charge, enough water to reasonably serve such needs and shall additionally, if requested by the United States, make every effort to cooperatively provide to the United States, without charge, commensurate with the Counties own needs on tract A, water to serve reasonable culinary, sanitary, and domestic uses of any new buildings which the United States may construct on its retained lands in the future.

(3) All Federally owned irrigation ditch water rights shall be reserved by the United States.

(b) MODIFICATION OF ALLOCATION.—If the Secretary and the Counties determine the public interest will be better served thereby, they may agree to modify the precise water allocation made pursuant to this section or to enter into cooperative agreements (with or without reimbursement) to use, share, or otherwise administer such water rights and associated facilities as they determine appropriate.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) TIME REQUIREMENT FOR COMPLETING TRANSFER.—If the Counties make a timely offer, pursuant to section 2(a), the transfers of lands authorized and directed by this Act shall be completed no later than one year after the date of enactment of this Act.

(b) BOUNDARY MODIFICATIONS.—The Secretary and the Counties may mutually agree to make modifications of the final boundary between tracts A and B prior to completion of the exchange authorized by this Act if such modifications are determined to better serve mutual objectives than the precise boundaries as set forth in the maps referenced in this Act.

(c) TRACT A EASEMENT.—The transfer of tract A to the Counties shall be subject to the existing highway easement to the State of Colorado and to any other right, title, or interest of record.

(d) VALIDITY.—If any provision of this Act or the application thereof is held invalid, the remainder of the Act and application thereof, except for the precise provision held invalid, shall not be affected thereby.

(e) FOREST HEADQUARTERS AND ADMINISTRATIVE OFFICES.—The White River National Forest headquarters and administrative office in Glenwood Springs, Colorado, are hereby transferred from the jurisdiction of the United States General Services Administration to the jurisdiction of the Secretary, who shall retain such facilities unless and until otherwise provided by subsequent Act of Congress.

Approved May 19, 1994.

LEGISLATIVE HISTORY—S. 341:

HOUSE REPORTS: No. 103-432, Pt. 1 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-61 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol 139 (1993): June 29, considered and passed Senate.
Vol 140 (1994): May 10, considered and passed House.

Public Law 103-256
103d Congress

An Act

May 25, 1994
[H.R. 2868]

To designate the Federal building located at 600 Camp Street in New Orleans, Louisiana, as the "John Minor Wisdom United States Court of Appeals Building", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 600 Camp Street in New Orleans, Louisiana, shall be known and designated as the "John Minor Wisdom United States Court of Appeals Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "John Minor Wisdom United States Court of Appeals Building".

Approved May 25, 1994.

LEGISLATIVE HISTORY—H.R. 2868:

HOUSE REPORTS: No. 103-346 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 15, considered and passed House.
Vol. 140 (1994): Feb. 1, considered and passed Senate, amended.
May 10, House concurred in Senate amendments.

Public Law 103-257
103d Congress

Joint Resolution

To designate June 6, 1994, as "D-Day National Remembrance Day".

May 25, 1994
[H.J. Res. 303]

Whereas June 6, 1994, marks the fiftieth anniversary of D-Day, the day of the beginning of the Allied assault at Normandy, France, during World War II;

Whereas the D-Day assault, known as Operation Overlord, was the most extensive amphibious operation ever to occur, involving on the first day of the operation five thousand ships, over eleven thousand sorties of Allied aircraft, and one hundred and fifty-three thousand American, British, and Canadian troops;

Whereas five separate beaches were assaulted, with American forces commanded by Lieutenant General Omar Bradley attacking Omaha and Utah beaches and British and Canadian forces commanded by General Miles Dempsey attacking Gold, Juno, and Sword beaches;

Whereas American troops suffered significant losses during the assault, including over six thousand five hundred casualties;

Whereas the D-Day assault was among the most critical events of World War II, with the success of the Allied landings in Normandy providing the foothold for the liberation of France and the eventual Allied breakthrough into Germany and leading ultimately to the Allied victory in Europe; and

Whereas June 6, 1944, is one of the most significant dates in the history of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 6, 1994, is designated as "D-Day National Remembrance Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved May 25, 1994.

LEGISLATIVE HISTORY—H.J. Res. 303:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 3, considered and passed House.
May 11, considered and passed Senate.

Public Law 103-258
103d Congress

Joint Resolution

May 25, 1994
[S.J. Res. 168]

Designating May 11, 1994, as "Vietnam Human Rights Day".

Whereas May 11, 1994, is the fourth anniversary of the issuance of the Manifesto of the Non-Violent Movement for Human Rights in Vietnam;

Whereas the Manifesto, which calls upon Hanoi to respect basic human rights, accept a multiparty system, and restore the right of the Vietnamese people to choose their own form of government through free and fair elections, reflects the will and aspirations of the people of Vietnam;

Whereas the author of the Manifesto and thousands of innocent Vietnamese, including religious leaders, are imprisoned by the Socialist Republic of Vietnam because of their nonviolent struggle for freedom and human rights;

Whereas the leaders of the Socialist Republic of Vietnam are seeking to expand diplomatic and trade relations with the rest of the world;

Whereas the United States, as the leader of the free world, has a special responsibility to safeguard freedom and promote the protection of human rights throughout the world; and

Whereas the Congress urges Hanoi to release immediately and unconditionally all political prisoners, with full restoration of their civil and human rights; guarantee equal protection under the law to all Vietnamese, regardless of religious belief, political philosophy, or previous associations; restore all basic human rights, such as freedom of speech, religion, movement, and association; abolish the single party system and permit the functioning of all political organizations without intimidation or harassment and announce a framework and timetable for free and fair election under the sponsorship of the United Nations that will allow the Vietnamese people to choose their own form of government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 11, 1994, is designated as "Vietnam Human Rights Day" in support

of efforts by the Non-Violent Movement for Human Rights in Vietnam to achieve freedom and human rights for the people of Vietnam, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate ceremonies and activities.

Approved May 25, 1994.

LEGISLATIVE HISTORY—S.J. Res. 168:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 4, considered and passed Senate.
May 11, considered and passed House, amended.
May 17, Senate concurred in House amendments.

Public Law 103-259
103d Congress

An Act

May 26, 1994
[S. 636]

To amend title 18, United States Code, to assure freedom of access to reproductive services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Freedom of Access to Clinic Entrances Act of 1994.
18 USC 248 note

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom of Access to Clinic Entrances Act of 1994".

18 USC 248 note.

SEC. 2. PURPOSE.

Pursuant to the affirmative power of Congress to enact this legislation under section 8 of article I of the Constitution, as well as under section 5 of the fourteenth amendment to the Constitution, it is the purpose of this Act to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services.

SEC. 3. FREEDOM OF ACCESS TO CLINIC ENTRANCES.

Chapter 13 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 248 Freedom of Access to Clinic Entrances.

"(a) PROHIBITED ACTIVITIES.—Whoever—

"(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;

"(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

"(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent

or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

"(b) PENALTIES.—Whoever violates this section shall—

"(1) in the case of a first offense, be fined in accordance with this title, or imprisoned not more than one year, or both; and

"(2) in the case of a second or subsequent offense after a prior conviction under this section, be fined in accordance with this title, or imprisoned not more than 3 years, or both;

except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall be not more than $10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall be not more than $25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

"(c) CIVIL REMEDIES.—

"(1) RIGHT OF ACTION.—

"(A) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

"(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

"(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—

"(i) in an amount not exceeding $10,000 for a nonviolent physical obstruction and $15,000 for other first violations; and

"(ii) in an amount not exceeding $15,000 for a nonviolent physical obstruction and $25,000 for any other subsequent violation.

"(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

"(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.

"(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

"(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

"(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference;

"(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this section, or to preempt State or local laws that may provide such penalties or remedies; or

"(4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.

"(e) DEFINITIONS.—As used in this section:

"(1) FACILITY.—The term 'facility' includes a hospital, clinic, physician's office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.

"(2) INTERFERE WITH.—The term 'interfere with' means to restrict a person's freedom of movement.

"(3) INTIMIDATE.—The term 'intimidate' means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.

"(4) PHYSICAL OBSTRUCTION.—The term 'physical obstruction' means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

"(5) REPRODUCTIVE HEALTH SERVICES.—The term 'reproductive health services' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services

relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

"(6) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SEC. 4. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"248. Blocking access to reproductive health services.".

SEC. 5. SEVERABILITY. 18 USC 248 note.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected thereby.

SEC. 6. EFFECTIVE DATE. 18 USC 248 note.

This Act takes effect on the date of the enactment of this Act, and shall apply only with respect to conduct occurring on or after such date.

Approved May 26, 1994.

LEGISLATIVE HISTORY—S 636 (H.R. 796):

HOUSE REPORTS: Nos. 103-306 accompanying H.R. 796 (Comm. on the Judiciary) and 103-488 (Comm. of Conference).
SENATE REPORTS: No. 103-117 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 16, considered and passed Senate.
Nov. 18, H.R. 796 considered and passed House.
Vol. 140 (1994): Mar. 17, S. 636 considered and passed Senate, amended, in lieu of H.R. 796.
May 5, House agreed to conference report.
May 12, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
May 26, Presidential remarks.

Public Law 103-260
103d Congress

An Act

May 26, 1994
[S. 2024]

To provide temporary obligational authority for the airport improvement program and to provide for certain airport fees to be maintained at existing levels for up to 60 days, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airport Improvement Program Temporary Extension Act of 1994.
49 USC app. 2201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airport Improvement Program Temporary Extension Act of 1994".

TITLE I—AIRPORT IMPROVEMENT PROGRAM

SEC. 101. AIRPORT IMPROVEMENT PROGRAM AUTHORIZATION.

(a) AUTHORIZATION.—The second sentence of section 505(a) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(a)) is amended—

(1) by striking "and" after "1992,"; and

(2) by inserting ", and $15,413,157,000 for fiscal years ending before October 1, 1994" before the period at the end.

(b) OBLIGATIONAL AUTHORITY.—Section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is amended by striking "September 30, 1993" and inserting "June 30, 1994".

SEC. 102. APPORTIONMENT OF FUNDS.

Section 507(b)(3)(A) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(b)(3)(A)) is amended—

(1) by striking "or reducing the amount authorized or" and inserting "the amount";

(2) by inserting "to less than $1,900,000,000" after "to be obligated"; and

(3) by striking "limited or reduced".

SEC. 103. MINIMUM AMOUNT FOR PRIMARY AIRPORTS.

Section 507(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2206(b)(1)) is amended by striking "$400,000" and inserting "$500,000".

SEC. 104. DISCRETIONARY FUND.

(a) MINIMUM AMOUNT TO BE CREDITED.—Section 507(c) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C.

2206(c)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE.—(A) In any fiscal year not less than $325,000,000 of the amount made available under section 505(a) shall be credited to the discretionary fund established by paragraph (1), and such $325,000,000 shall be exclusive of amounts that have been apportioned in a prior year under this section and which remain available for obligation.

"(B) In any fiscal year in which the amount credited to the discretionary fund pursuant to paragraph (1) is less than $325,000,000, the total amount calculated under subparagraph (C) of this paragraph shall be reduced by an amount which, when credited to the discretionary fund, will, together with the amount credited pursuant to paragraph (1), equal $325,000,000.

"(C) The total amount, for any fiscal year, that is subject to reduction pursuant to subparagraph (B) shall be the sum of—

"(i) the amount determined under subsection (a)(1);
"(ii) the amount determined under subsection (a)(2);
"(iii) the amount determined under subsection (a)(3);
"(iv) the amount determined under section 508(d)(1);
"(v) the amount determined under section 508(d)(2);
"(vi) the amount determined under section 508(d)(3);
"(vii) the amount determined under section 508(d)(4); and
"(viii) the amount determined under section 508(d)(5).

"(D) To accomplish a reduction pursuant to subparagraph (B), each of the amounts described in subparagraphs (C)(i) through (C)(viii), respectively, shall be reduced by an equal percentage.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1994. 49 USC app. 2206 note.

SEC. 105. USE OF APPORTIONED AND DISCRETIONARY FUNDS.

Section 508(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2207(d)) is amended—

(1) in paragraph (1), by striking "10" and inserting "5";
(2) in paragraph (3), by striking "2.5" wherever it appears and inserting "1.5"; and
(3) in paragraph (4), by striking "½" and inserting "¾".

SEC. 106. REIMBURSEMENT FOR PAST EXPENDITURES.

Section 513(a)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2212(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (A);
(2) by inserting "or" after the semicolon at the end of subparagraph (B); and
(3) by inserting after subparagraph (B) the following:

"(C)(i) it was incurred—

"(I) during fiscal year 1994;

"(II) before execution of a grant agreement with respect to the project but in accordance with an airport layout plan approved by the Secretary and in accordance with all applicable statutory and administrative requirements that would have been applicable to the project if the grant agreement had been executed; and

"(III) for work related to a project for which a grant agreement was previously executed during fiscal year 1994; and

"(ii) its Federal share is only paid with sums apportioned under sections 507(a)(1) and 507(a)(2).".

SEC. 107. TERMINAL DEVELOPMENT.

Section 513(b)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2212(b)(2)) is amended—

(1) in the second sentence—

(A) by inserting after "may be used" the following: ", subject to the approval of the Secretary, (A)"; and

(B) by striking the period at the end and inserting the following: ", and (B) by the sponsor of a reliever airport for the types of project costs allowable under paragraph (1) of this subsection, including project costs allowable for a commercial service airport which annually has .05 percent or less of the total enplanements in the United States."; and

(2) by adding at the end the following: "All or any portion of the sums to be distributed at the discretion of the Secretary under sections 507(c) and 507(d) for any fiscal year may be distributed for use by primary airports each of which annually has .05 percent or less of the total enplanements in the United States for project costs allowable under paragraph (1) of this subsection.".

SEC. 108. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

26 USC 9502.

Section 9502(d)(1)(A) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)" and inserting "or the Airport Improvement Program Temporary Extension Act of 1994 (as such Acts were in effect on the date of the enactment of the Airport Improvement Program Temporary Extension Act of 1994)".

SEC. 109. UPWARD ADJUSTMENTS.

(a) IN GENERAL.—The second sentence of section 505(b)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2204(b)(1)) is further amended by—

(1) inserting "(A)" before "Apportioned"; and

(2) inserting before the period at the end "; and (B) funds which have been recovered by the United States from grants made under this title if such funds are obligated only for increases under sections 512(b)(2) and 512(b)(3) of this title in the maximum obligation of the United States for any other grant made under this title".

49 USC app. 2204 note.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1993.

TITLE II—AIRPORT-AIR CARRIER DISPUTES REGARDING AIRPORT FEES

SEC. 201. EMERGENCY AUTHORITY TO FREEZE CERTAIN AIRPORT FEES.

(a) COMPLAINT BY AIR CARRIER.—

(1) FILING.—An air carrier may file prior to June 30, 1994, with the Secretary a written complaint alleging that any increased fee imposed upon such air carrier by the owner or operator of an airport is not reasonable. The air carrier shall simultaneously file with the Secretary proof that a copy of the complaint has been served on the owner or operator of the airport.

(2) OPPORTUNITY TO RESPOND.—Before issuing an order under subsection (b), the Secretary shall provide the owner or operator of the airport an opportunity to respond to the filed complaint.

(3) FRIVOLOUS COMPLAINT.—If the Secretary determines that a complaint is frivolous, the Secretary may refuse to accept the complaint for filing.

(b) ORDER BY THE SECRETARY.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Secretary shall issue, within 7 days after the filing of a complaint in accordance with subsection (a), an order prohibiting the owner or operator of the airport from collecting the increased portion of the fee that is the subject of the complaint, unless the Secretary makes a preliminary determination that the increased fee is reasonable. Subject to subsection (d), the order shall cease to be effective on June 30, 1994.

(2) LIMITATION.—The Secretary shall not issue an order under this subsection prohibiting the collection of any portion of a fee for which the Secretary's informal mediation assistance was requested on March 21, 1994.

(c) OPPORTUNITY TO COMMENT AND FURNISH RELATED MATERIAL.—Within a period prescribed by the Secretary, the owner or operator of the airport and any affected air carrier may submit comments to the Secretary on a complaint filed under subsection (a) and furnish to the Secretary any related documents or other material.

(d) ACTION ON COMPLAINT.—Based on comments and material provided under subsection (c), the Secretary may take appropriate action on the complaint, including termination or other modification of any order issued under subsection (b).

(e) APPLICABILITY.—This section does not apply to a fee imposed pursuant to a written agreement binding on air carriers using the facilities of an airport.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect any existing written agreement between an air carrier and the owner or operator of an airport.

SEC. 202. DEFINITIONS.

For purposes of this title—

(1) the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities; and

(2) the term "Secretary" means the Secretary of Transportation.

TITLE III—REFORM OF AIR TRAFFIC CONTROL SYSTEM

SEC. 301. AIR TRAFFIC CONTROL SYSTEM.

(a) STUDY.—The Secretary of Transportation shall undertake a study of management, regulatory, and legislative reforms which would enable the air traffic control system of the Federal Aviation Administration to provide better services to users and reduce the costs of providing services, without reducing the safety of the system or the availability of the system to all categories of users and without changing the basic organizational structure under which the system is part of the Federal Aviation Administration.

(b) COMPONENTS.—The study to be conducted under subsection (a) shall include the following:

(1) Evaluation of reforms which would streamline procurement, enhance the ability to attract and retain adequate staff at hard-to-staff facilities, simplify the personnel process, provide funding stability, ensure continuity of leadership, and reduce the incidence of unnecessarily detailed management oversight.

(2) Identification of any existing laws or regulations governing procurement or personnel which are having an adverse effect on the operation or modernization of the air traffic control system.

(3) Evaluation of a range of possible reforms and the advantages and disadvantages of each possible reform.

(4) Comparison of the advantages and disadvantages of each possible reform with the comparable advantages and disadvantages to be achieved under any proposal of the Secretary of Transportation to create a separate Federal corporate entity to operate the air traffic control system.

Reports.

(c) DEADLINE.—The results of the study to be conducted under subsection (a) shall be contained in a report which shall be completed by the Secretary of Transportation on or before the date which is 180 days after the date of the enactment of this Act, or the date on which the Secretary submits to Congress proposed legislation to create a separate corporate entity to operate the air traffic control system, whichever date occurs first.

(d) TRANSMITTAL.—On the date of completion of the report under subsection (c), the Secretary of Transportation shall transmit copies of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

TITLE IV—MISCELLANEOUS PROVISIONS

Wages.
49 USC app 1348 note.

SEC. 401. GRANDFATHER PROVISION FOR FAA DEMONSTRATION PROJECT.

(a) IN GENERAL.—Notwithstanding the termination of the personnel demonstration project for certain Federal Aviation Administration employees on June 17, 1994, pursuant to section

4703 of title 5, United States Code, the Federal Aviation Administration, subject to subsection (d), shall continue to pay quarterly retention allowance payments in accordance with subsection (b) to those employees who are entitled to quarterly retention allowance payments under the demonstration project as of June 16, 1994.

(b) COMPUTATION RULES.—

(1) IN GENERAL.—The amount of each quarterly retention allowance payment to which an employee is entitled under subsection (a) shall be the amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994, reduced by that portion of the amount of any increase in the employee's annual rate of basic pay subsequent to June 17, 1994, from any source, which is allocable to the quarter for which the allowance is to be paid (or, if applicable, to that portion of the quarter for which the allowance is to be paid). For purposes of the preceding sentence, the increase in an employee's annual rate of basic pay includes—

(A) any increase under section 5303 of title 5, United States Code;

(B) any increase in locality-based comparability payments under section 5304 of such title 5 (except if, or to the extent that, such increase is offset by a reduction of an interim geographic adjustment under section 302 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5304 note));

(C) any establishment or increase in a special rate of pay under section 5305 of such title 5;

(D) any increase in basic pay pursuant to a promotion under section 5334 of such title 5;

(E) any periodic step-increase under section 5335 of such title 5;

(F) any additional step-increase under section 5336 of such title 5; and

(G) any other increase in annual rate of basic pay under any other provision of law.

(2) SECTION RULE.—In the case of an employee on leave without pay or other similar status for any part of the quarter prior to June 17, 1994, based on which the amount of the allowance payments for such employee under subsection (a) are computed, the "amount of the last quarterly retention allowance payment paid to such employee under the personnel demonstration project prior to June 17, 1994" shall, for purposes of paragraph (1), be deemed to be the amount of the allowance which would have been payable to such employee for such quarter under such project had such employee been in pay status throughout such quarter.

(c) TERMINATION.—An employee's entitlement to quarterly retention allowance payments under this section shall cease when—

(1) the amount of such allowance is reduced to zero under subsection (b), or

(2) the employee separates or moves to a position in which the employee would not, prior to June 17, 1994, have been entitled to receive an allowance under the demonstration project,

whichever is earlier.

(d) SPECIAL PAYMENT RULE.—The Administrator of the Federal Aviation Administration may make payment for the costs incurred under the program established by subsection (a) for the period between June 18, 1994, and September 30, 1994, following the end of the first full pay period that begins on or after October 1, 1994, subject to appropriations made available in fiscal year 1995.

(e) STUDY OF RECRUITMENT AND RETENTION INCENTIVES.—The Administrator of the Federal Aviation Administration shall conduct a study of impediments that may exist to achieving appropriate air traffic controller staffing levels at hard-to-staff facilities. In conducting such study, the Administrator shall identify and evaluate the extent to which special incentives, of a financial or nonfinancial nature, could be useful in recruiting or retaining air traffic controllers at such facilities. The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 180 days after the date of enactment of this Act a report on (1) the results of such study, (2) planned administrative actions, and (3) any recommended legislation.

Reports.

Approved May 26, 1994.

LEGISLATIVE HISTORY—S. 2024:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 19, considered and passed Senate.
May 3, considered and passed House, amended.
May 12, Senate concurred in House amendment with an amendment.
May 17, House concurred in Senate amendment.

Public Law 103-261
103d Congress

An Act

To extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 8, 1994.

May 26, 1994
[S. 2087]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before August 8, 1994, sections 403(q) and 403(r)(2) of the Federal Food, Drug, and Cosmetic Act and the provision of section 403(i) of such Act added by section 7(2) of the Nutrition Labeling and Education Act of 1990, shall not apply with respect to a food product which is contained in a package for which the label was printed before May 8, 1994 (or before August 8, 1994, in the case of a juice or milk food product if the person responsible for the labeling of such food product exercised due diligence in obtaining before such date labels which are in compliance with such sections 403(q) and 403(r)(2) and such provision of section 403(i)), if, before June 15, 1994, the person who introduces or delivers for introduction such food product into interstate commerce submits to the Secretary of Health and Human Services a certification that such person will comply with this section and will comply with such sections 403(q) and 403(r)(2) and such provision of section 403(i) after August 8, 1994.

21 USC 343 note.

Approved May 26, 1994.

LEGISLATIVE HISTORY—S. 2087:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 17, considered and passed Senate.
May 19, considered and passed House.

Public Law 103-262
103d Congress

An Act

May 31, 1994
[H.R. 2139]

To authorize appropriations for the National Historical Publications and Records Commission for fiscal years 1994, 1995, 1996, and 1997.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 2504(f)(1) of title 44, United States Code, is amended—

(1) in subparagraph (B), by striking out "and" after the semicolon;

(2) in subparagraph (C), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $6,000,000 for fiscal year 1994;

"(E) $7,000,000 for fiscal year 1995;

"(F) $8,000,000 for fiscal year 1996; and

"(G) $10,000,000 for fiscal year 1997.".

Approved May 31, 1994.

LEGISLATIVE HISTORY—H.R. 2139 (S. 314):

HOUSE REPORTS: No. 103-215 (Comm. on Government Operations).
SENATE REPORTS: No. 103-145 accompanying S. 314 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 13, considered and passed House.
Vol. 140 (1994): Mar. 17, considered and passed Senate, amended.
May 18, House concurred in Senate amendments.

Public Law 103-263
103d Congress

An Act

To make certain technical corrections.

May 31, 1994
[S. 1654]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992.

(a) ENVIRONMENTAL COSTS.—Section 7 of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374, 106 Stat. 1186 et seq.) is amended by adding the following new subsections (f) and (g) and redesignating the succeeding subsections accordingly: 106 Stat. 1189.

"(f) ENVIRONMENTAL COSTS.—All costs associated with the Tongue River Dam Project for environmental compliance mandated by Federal law and fish and wildlife mitigation measures adopted by the Secretary are the sole responsibility of the United States. Funds for such compliance shall be appropriated pursuant to the authorization in subsection (e), and shall be in addition to funds appropriated pursuant to section 7(b)(1) of the Act. The Secretary is authorized to expend not to exceed $625,000 of funds appropriated pursuant to subsection (e) for fish and wildlife mitigation costs associated with Tongue River Dam construction authorized by the Act, and shall be in addition to funds appropriated pursuant to section 7(b)(1) of the Act.

"(g) REIMBURSEMENT TO STATE.—The Secretary shall reimburse Montana for expenditures for environmental compliance activities, conducted on behalf of the United States prior to enactment of this subsection (g), which the Secretary determines to have been properly conducted and necessary for completion of the Tongue River Dam Project. Subsequent to enactment of this subsection (g), the Secretary may not reimburse Montana for any such environmental compliance activities undertaken without the Secretary's prior approval.". Montana.

(b) AUTHORIZATIONS.—The first sentence of section 4(c) of the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992 (Public Law 102-374; 106 Stat. 1186 et seq.) is amended to read as follows: "Except for authorizations contained in subsections 7(b)(1)(A), 7(b)(1)(B), and the authorization for environmental compliance activities for the Tongue River Dam Project contained in subsection 7(e), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section.". 106 Stat. 1187.

(c) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on September 30, 1992.

SEC. 2. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

106 Stat. 4743.

(a) AMENDMENT.—Section 3704(d) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (Public Law 102–575) is amended by deleting "reimbursable" and inserting in lieu thereof "nonreimbursable".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be considered to have taken effect on October 30, 1992.

SEC. 3. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

The part of the text contained under the heading "BUREAU OF INDIAN AFFAIRS", and the subheading "OPERATION OF INDIAN PROGRAMS", in title I of the Department of the Interior and Related Agencies Appropriations Act, 1994, which reads "*Provided further*, That any funds provided under this head or previously provided for tribally-controlled community colleges which are distributed prior to September 30, 1994 which have been or are being invested or administered in compliance with section 331 of the Higher Education Act shall be deemed to be in compliance for current and future purposes with title III of the Tribally Controlled Community Colleges Assistance Act." is amended by deleting "section 331 of the Higher Education Act" and inserting in lieu thereof "section 332(c)(2)(A) of the Higher Education Act of 1965".

107 Stat. 1392.

SEC. 4. WHITE EARTH RESERVATION LAND SETTLEMENT ACT OF 1985.

Section 7 of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended by adding at the end thereof the following:

"(f)(1) The Secretary is authorized to make a one-time deletion from the second list published under subsection (c) or any subsequent list published under subsection (e) of any allotments or interests which the Secretary has determined do not fall within the provisions of subsection (a) or (b) of section 4, or subsection (c) of section 5, or which the Secretary has determined were erroneously included in such list by reason of misdescription or typographical error.

Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register notice of deletions made from the second list published under subsection (c) or any subsequent list published under subsection (e).

"(3) The determination made by the Secretary to delete an allotment or interest under paragraph (1) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

Courts. Minnesota.

SEC. 5. AMENDMENTS.

(a) Section 1(c) of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended as follows:

25 USC 713f note.

(1) delete "9,811.32" and insert in lieu thereof "9,879.65"; and

(2) delete everything after "5 8 17 All 640.00" and insert in lieu thereof the following:

"6	8	1	SW¼SW¼,W½SE¼SW¼	53.78
"6	8	1	S½E½,SE¼SW¼	9.00
"6	7	8	Tax lot 800	5.55
			Total	9,879.65".

(b) Section 16 of the Act of June 18, 1934 (25 U.S.C. 476) is amended by adding at the end of the following new subsections:

"(f) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; PROHIBITION ON NEW REGULATIONS.—Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

"(g) PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; EXISTING REGULATIONS.—Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on the date of enactment of this Act and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect.".

Approved May 31, 1994.

LEGISLATIVE HISTORY—S. 1654:

HOUSE REPORTS: No. 103-479, Pt. 1 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-191 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1994): Nov. 24, considered and passed Senate.
Vol. 140 (1994): Apr. 19, considered and passed House, amended
May 19, Senate concurred in House amendment with amendments.
May 23, House concurred in Senate amendments.

Public Law 103-264
103d Congress

Joint Resolution

May 31, 1994
[S.J. Res. 179]

To designate the week of June 12 through 19, 1994, as "National Men's Health Week".

Whereas despite the advances in medical technology and research, men continue to live an average of 7 years less than women;
Whereas the likelihood that a man will develop prostate cancer is 1 in 11;
Whereas the number of men contracting prostate cancer will reach over 120,000 in 1993, with an expected one-third of the cases to die from the disease;
Whereas testicular cancer is one of the most common cancers in men aged 15–34, and when detected early, has an 87 percent survival rate;
Whereas the number of men contracting lung disease will reach over 100,000 in 1993, with an expected 85 percent of the cases to die from the disease;
Whereas the number of cases of colon cancer among men will reach over 80,000 in 1993; with nearly one-third of the cases to die from the disease;
Whereas the death rate for prostate cancer has grown at almost twice the death rate of breast cancer in the last five years;
Whereas African-American men in the United States have the highest incidence in the world of cancer of the prostate;
Whereas men are seven times as likely as women to be arrested for drunk driving and three times as likely to be alcoholics;
Whereas women visit the doctor 150 percent as often as men, enabling them to detect health problems in their early stages;
Whereas significant numbers of male related health problems such as prostate cancer, testicular cancer, infertility, and colon cancer, could be detected and treated if men's awareness of these problems was more pervasive;
Whereas educating both the public and health care providers about the importance of early detection of male health problems will result in reducing rates of mortality for these diseases;
Whereas appropriate use of tests such as Prostate Specific Antigen (PSA) exams, blood pressure screens, cholesterol screens, etc., in conjunction with clinical examination and self-testing for problems such as testicular cancer can result in the detection of many of these problems in their early stages and increases in the survival rates to nearly 100 percent;
Whereas many men are reluctant to visit their health center or physician for regular screening examinations of male related problems for a variety of reasons including fear, lack of information, and cost factors; and

Whereas men who are educated about the value that preventive health can play in prolonging their lifespan and their role as a productive family member will be more likely to participate in health screenings: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 12 through 19, 1994, is designated as National Men's Health Week, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this week with appropriate programs and activities.

Approved May 31, 1994.

LEGISLATIVE HISTORY—S.J. Res. 179:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 25, considered and passed Senate.
May 24, considered and passed House.

Public Law 103-265
103d Congress

An Act

June 10, 1994
[H.R. 3863]

To designate the Post Office building located at 401 E. South Street in Jackson, Mississippi, as the "Medgar Wiley Evers Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Post Office building located at 401 E. South Street in Jackson, Mississippi, shall be known and designated as the "Medgar Wiley Evers Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Medgar Wiley Evers Post Office".

Approved June 10, 1994.

LEGISLATIVE HISTORY—H.R. 3863:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
May 25, considered and passed Senate.

Public Law 103-266
103d Congress

An Act

To amend title 11, District of Columbia Code, and Part C of title IV of the District of Columbia Self-Government and Governmental Reorganization Act to remove gender-specific references.

June 13, 1994
[H.R. 1632]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF GENDER-SPECIFIC REFERENCES IN TITLE 11, D.C. CODE.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of title 11, District of Columbia Code.

(b) REMOVAL OF REFERENCES.—Title 11, District of Columbia Code is amended as follows:

(1) Section 11–703(b) is amended by striking "during his service" and inserting "while serving".

(2) Section 11–705(d) is amended by striking "if he sat" and inserting "if the judge sat".

(3) Section 11–706(a) is amended by striking "his duties" each place it appears and inserting "the chief judge's duties".

(4) Section 11–706(b) is amended by striking "his successor" and inserting "the chief judge's successor".

(5) Section 11–709(2) is amended by striking "he attended" and inserting "the judge attended".

(6) Section 11–709(3) is amended by striking "his attendance" and inserting "the judge's attendance".

(7) Section 11–721(d) is amended by striking "he shall so state" and inserting "the judge shall so state".

(8) Section 11–744 is amended—

(A) in the first sentence, by striking "he" and inserting "the chief judge"; and

(B) in the second sentence, by striking "He" and inserting "The chief judge".

(9) Section 11–904(b) is amended by striking "during his service" and inserting "while serving".

(10) The second sentence of section 11–906(a) is amended to read as follows: "The chief judge shall attend to the discharge of the duties pertaining to the office of chief judge and perform such additional judicial work as the chief judge is able to perform.".

(11) Section 11–906(b) is amended by striking "He" and inserting "The chief judge".

(12) Section 11–907(a) is amended by striking "his duties" each place it appears and inserting "the chief judge's duties".

(13) Section 11–907(b) is amended by striking "his" and inserting "a".

(14) Section 11–908(a) is amended by striking "he is".

(15) Section 11–909(b)(2) is amended by striking "he" and inserting "the judge".

(16) Section 11–909(b)(3) is amended by striking "his" and inserting "the judge's".

(17) The third sentence of section 11–1322 is amended by striking "his salary" and inserting "that person's salary".

(18) Section 11–1501(a) is amended by striking "He" and inserting "The President".

(19) Section 11–1501(b) is amended—

(A) in the matter preceding paragraph (1), by striking "he" and inserting "that person"; and

(B) in paragraphs (2), (3), and (4), and in the last sentence, by striking "his" each place it appears.

(20) Section 11–1502 is amended by striking "his" and inserting "the judge's".

(21) Section 11–1503(a) is amended—

(A) in the first sentence, by striking "his successor" and inserting "a successor";

(B) in the second sentence, by striking "He" and inserting "The chief judge"; and

(C) in the third sentence, by striking "A judge may relinquish his position as chief judge" and inserting "The chief judge may relinquish that position".

(22) Section 11–1503(b) is amended by striking "he" and inserting "that person".

(23) Section 11–1505(a) is amended by striking "his" and inserting "the judge's".

(24) Section 11–1505(b) is amended by striking "judicial manpower in the court under his supervision" and inserting "judicial personnel in the court under the chief judge's supervision".

(25) Section 11–1522(a)(1)(A) is amended by striking "his".

(26) The last sentence of section 11–1522(a) is amended by striking "Chairman of the Commission one of his appointees" and inserting "Chair of the Commission one of the members appointed pursuant to paragraph (1)".

(27) Section 11–1522(b)(1) is amended by striking "his".

(28) Section 11–1523(b) is amended by striking "his predecessor" and inserting "that member's predecessor".

(29) Section 11–1523(c) is amended—

(A) by striking "his term" each place it appears and inserting "that member's term"; and

(B) by striking "his successor" and inserting "that member's successor".

(30) Section 11–1525(d) is amended by striking "Chairman" and inserting "Chair".

(31) Section 11–1526(b) is amended by striking "his" and inserting "the judge's".

(32) Section 11–1526(c)(1)(A) is amended by striking "his".

(33) The last sentence of section 11–1526(c)(1) is amended by striking "recover his salary and all rights and privileges

of his office." and inserting "recover salary and all rights and privileges pertaining to the judge's office.".

(34) Section 11–1526(c)(2) is amended—

(A) in the first sentence, by striking "he" and inserting "the judge"; and

(B) in the third sentence, by striking "his" the first place it appears and inserting "the judge's", and by striking "his" the second place it appears.

(35) Section 11–1526(c)(3) is amended by striking "his" each place it appears.

(36) Section 11–1527(a)(1) is amended by striking "of his court" and inserting "of the court in which the judge serves".

(37) Section 11–1527(a)(2) is amended—

(A) by striking "He" each place it appears and inserting "The judge";

(B) in the second sentence, by striking "his" and inserting "the judge's";

(C) in the third sentence, by striking "his" and inserting "his or her"; and

(D) in the third sentence, by striking "him" and inserting "the judge".

(38) The fourth sentence of section 11–1527(a)(3) is amended by striking "of his court" and inserting "of the court in which the judge serves".

(39) Section 11–1527(c)(2) is amended by striking "his privilege" each place it appears and inserting "the witness's privilege".

(40) Section 11–1527(c)(3) is amended by striking "him" and "he" each place either appears and inserting "that person".

(41) Section 11–1527(e) is amended by striking "his".

(42) Section 11–1528(b) is amended—

(A) by striking "he" and inserting "the judge"; and

(B) by striking "his" and inserting "the judge's".

(43) Section 11–1530(a) is amended by striking "his" and inserting "the judge's".

(44) Section 11–1530(a)(1) is amended by striking "his" each place it appears and inserting "the judge's".

(45) Section 11–1530(a)(2) is amended by striking "he" and inserting "the judge".

(46) Section 11–1530(a)(3) is amended by striking "him or by him and his" and inserting "the judge or by the judge and the judge's".

(47) Section 11–1530(a)(4) is amended—

(A) by striking "him" and inserting "the judge"; and

(B) by striking "his" each place it appears and inserting "the judge's".

(48) Section 11–1530(a)(5) is amended by striking "he" each place it appears and inserting "the judge".

(49) Section 11–1530(a)(6) is amended by striking "he" and inserting "the judge".

(50) Section 11–1530(a)(7) is amended by striking "him" and inserting "the judge".

(51) Section 11–1561(8)(C) is amended by striking "he" each place it appears and inserting "the child".

(52) Section 11–1561(9)(C) is amended by striking "he" and inserting "the judge".

(53) Section 11–1561(10)(C) is amended by striking "he" and inserting "the judge".

(54) Section 11–1562 is amended by striking "he" each place it appears in subsections (a) and (b) and inserting "the judge".

(55) Section 11–1563 is amended—

(A) by striking "his" each place it appears in subsections (a) and (b) and inserting "the judge's"; and

(B) by striking "he" and "him" each place either appears in such subsections and inserting "the judge".

(56) Section 11–1563(c) is amended by striking "he" each place it appears and inserting "the judge".

(57) Section 11–1563(d) is amended—

(A) by striking "bring himself" and inserting "be"; and

(B) by striking "him" and inserting "the judge".

(58) The first sentence of section 11–1564(a) is amended by striking "his" each place it appears and inserting "the judge's".

(59) The second sentence of section 11–1564(a) is amended—

(A) by striking "his" each place it appears; and

(B) by striking "he" and inserting "the judge".

(60) The third sentence of section 11–1564(a) is amended by striking "his" and inserting "the judge's".

(61) Section 11–1564(b) is amended by striking "his" and inserting "the judge's".

(62) Section 11–1564(c) is amended—

(A) by striking "he" and inserting "the judge";

(B) by striking "his" the first two places it appears;

(C) by striking "his" the third place it appears and inserting "the judge's"; and

(D) by striking "his" the fourth place it appears.

(63) Section 11–1564(d)(1) is amended by striking "his" and inserting "the judge's".

(64) Section 11–1564(d)(2)(A) is amended by striking "he" each place it appears and inserting "the judge".

(65) Section 11–1564(d)(2)(C) is amended by striking "his".

(66) Section 11–1564(d)(4) is amended by striking "his" and inserting "the judge's".

(67) Section 11–1564(d)(7) is amended—

(A) by striking "him" and inserting "the judge"; and

(B) by striking "his" each place it appears and inserting "the judge's".

(68) Section 11–1564(e) is amended—

(A) by striking "his"; and

(B) by striking "he" and inserting "the judge".

(69) Section 11–1566(a) is amended—

(A) by striking "he" each place it appears and inserting "the judge"; and

(B) by striking "bring himself" and inserting "elect to be".

(70) Section 11–1566(b) is amended—

(A) in paragraph (1), by striking "his" and inserting "the judge's";

(B) in paragraph (2), by striking "him" and inserting "the judge"; and

(C) in the second sentence, by striking "Commissioner" and inserting "Mayor".

(71) Section 11–1566(c) is amended by striking "he" and inserting "the judge".

(72) Section 11–1567(a) is amended—

(A) by striking "Commissioner" and inserting "Mayor";

(B) by striking "his" and inserting "the judge's"; and

(C) by striking "he or his" and inserting "the judge or the judge's".

(73) Section 11–1567(b) is amended—

(A) by striking "he" and inserting "the judge";

(B) by striking "Commissioner" each place it appears and inserting "Mayor"; and

(C) by striking "his" each place it appears and inserting "the judge's".

(74) Section 11–1568(a) is amended by striking "his" each place it appears and inserting "the judge's".

(75) The third sentence from the end of section 11–1568(c) is amended by striking "his death or marriage or his ceasing" and inserting "the child's death or marriage or ceasing".

(76) Section 11–1568(d) is amended—

(A) by striking "Commissioner" and inserting "Mayor"; and

(B) by striking "he" and inserting "the Mayor".

(77) Section 11–1569 is amended by striking "Commissioner" each place it appears and inserting "Mayor".

(78) Section 11–1569(b) Sixth is amended by striking "his" and inserting "the judge's".

(79) Section 11–1569(e) is amended by striking "his" and inserting "the claimant's".

(80) Section 11–1701(a) is amended by striking "Chairman" and inserting "Chair".

(81) Section 11–1702 is amended by striking "him" in subsections (a) and (b) and inserting "the Chief Judge".

(82) Section 11–1703(a) is amended by striking "He" each place it appears and inserting "The Executive Officer".

(83) Section 11–1704 is amended by striking "his" each place it appears and inserting "that".

(84) Section 11–1721 is amended by striking "him" and inserting "the clerk".

(85) Section 11–1722 is amended by striking "he" each place it appears and inserting "the Director".

(86) Section 11–1723(b) is amended by striking "his" and inserting "that".

(87) Section 11–1724 is amended—

(A) in the second sentence, by striking "his" and inserting "that"; and

(B) in the third sentence, by striking "him" and inserting "the chief judge".

(88) Section 11–1727(b) is amended—

(A) in the third sentence, by striking "he" and inserting "the Executive Officer"; and

(B) in the fourth sentence, by striking "his" and inserting "the judge's".

(89) Section 11–1730(b) is amended by striking "he" and inserting "the Executive Officer".

(90) Section 11–1741 (4) and (7) are amended by striking "his" and inserting "the Executive Officer's".

(91) Section 11–1741(9) is amended by striking "him" and inserting "the Executive Officer".

(92) Section 11–1743(b) is amended by striking "his" and inserting "the President's".

(93) Section 11–1744(5) is amended by striking "him" and inserting "the Executive Officer".

(94) Section 11–1745(b) is amended—

(A) by striking "he" and inserting "the Executive Officer"; and

(B) in paragraph (2), by striking "Commissioner" and inserting "Mayor".

(95) Section 11–1747 is amended by striking "him" and inserting "the Executive Officer".

(96) Section 11–2102(a) is amended—

(A) by striking "his office" each place it appears and inserting "the office"; and

(B) in paragraph (2)(B), by striking "him" and inserting "the Register of Wills".

(97) Section 11–2102(b) is amended—

(A) by striking "he" and inserting "that person"; and

(B) in paragraph (2), by striking "his".

(98) Section 11–2104 is amended by striking "him" in subsections (a)(2) and (b)(2) and inserting "the Register of Wills".

(99) Section 11–2104(b)(6) is amended by striking "his" each place it appears and inserting "the Register's".

(100) Section 11–2104(c)(2) is amended—

(A) by striking "his" the first place it appears; and

(B) by striking "his" the second place it appears and inserting "the".

(101) Section 11–2104(d) is amended by striking "his" and inserting "the Register's".

(102) Section 11–2104(e) is amended by striking "him" and "he" and inserting "the Register of Wills".

(103) Section 11–2303 is amended by striking "his" in subsections (a) and (b) and inserting "those".

(104) Section 11–2306(a) is amended by striking "he" and inserting "the medical examiner".

(105) Section 11–2306(c) is amended by striking "his".

(106) The first sentence of section 11–2307(a) is amended by striking "his".

(107) The second sentence of section 11–2307(a) is amended by striking "his" and inserting "the pathologist's".

(108) Section 11–2308(a) is amended by striking "he" and inserting "the medical examiner".

(109) Section 11–2309(b) is amended—

(A) by striking "Commissioner of the District of Columbia or his" and inserting "the Mayor of the District of Columbia or the Mayor's"; and

(B) by striking "his assistants" and inserting "the United States Attorney's assistants".

(110) Section 11–2309(c) is amended by striking "he" each place it appears and inserting "such person".

(111) Section 11–2311 is amended by striking "his" and inserting "his or her".

(112) Section 11–2502 is amended by striking "his" and inserting "such person's".

(113) Section 11–2503(a) is amended by striking "he" and inserting "such person".

(114) Section 11–2503(b) is amended by striking "him" each place it appears and inserting "that member".

(115) Section 11–2504 is amended by striking "him" and inserting "that attorney".

(116) Section 11–2601(1) is amended by striking "case which he" and inserting "case in which such person".

(117) The second sentence of section 11–2602 is amended—

(A) by striking "he" the first place it appears and inserting "he or she"; and

(B) by striking "him if he is" and inserting "the defendant or respondent if such person is".

(118) The third sentence of section 11–2602 is amended by striking "him" and inserting "that person".

(119) The sixth sentence of section 11–2602 is amended—

(A) by striking "him if he is" and inserting "the defendant or respondent if such person is"; and

(B) by striking "he may" and inserting "such person may".

(120) Section 11–2603 is amended—

(A) by striking "his" and inserting "such person's"; and

(B) by striking "he" and inserting "such person".

(121) Section 11–2604(f) is amended by striking "he" and inserting "such person".

(122) Section 11–2605(c) is amended by striking "him" and inserting "such person".

(123) Section 11–2607 is amended—

(A) by striking "Commissioner" and inserting "Mayor"; and

(B) by striking "his" and inserting "the Mayor's".

SEC. 2. REMOVAL OF GENDER-SPECIFIC REFERENCES IN PROVISIONS OF DISTRICT CHARTER RELATING TO JUDICIARY.

(a) REFERENCES IN SECTION.—Whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) REMOVAL OF REFERENCES.—The District of Columbia Self-Government and Governmental Reorganization Act is amended as follows:

(1) Section 431(b) is amended— 87 Stat 793.

(A) by striking "his successor" and inserting "a successor";

(B) by striking "his term" and inserting "the term"; and

(C) by striking "He" and inserting "An individual".

(2) Section 431(c) is amended by striking "his successor" and inserting "a successor".

(3) Section 431(e) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "he—" and inserting "such person—", and

(ii) in subparagraph (B), by striking "his appointment" and inserting "appointment";

(B) in paragraph (2)—

(i) by striking "is which" and inserting "in which", and

(ii) by striking "his predecessor" and inserting "such person's predecessor"; and

(C) in paragraph (3)(B), by striking "or whom" and inserting "of whom".

87 Stat. 795.

(4) Section 432(b) is amended by striking "his judicial duties" and inserting "judicial duties".

(5) Section 432(c) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)(i), by striking "his conviction" and inserting "conviction", and

(ii) in the matter following subparagraph (B), by striking "his salary" and all that follows and inserting "any salary and all other rights and privileges of office.";

(B) in paragraph (2)—

(i) by striking "as he may be entitled" and inserting "as the judge may be entitled",

(ii) by striking "his judicial salary" and inserting "judicial salary", and

(iii) by striking "his office" and inserting "office"; and

(C) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "his judicial duties" and inserting "the judge's judicial duties", and

(ii) in subparagraph (A), by striking "his suspension" and inserting "such suspension".

(6) Section 433(a) is amended by striking "to him".

(7) Section 433(b) is amended—

(A) in the matter preceding paragraph (1), by striking "he—" and inserting "the person—";

(B) by striking "his nomination" each place it appears and inserting "the nomination"; and

(C) in paragraph (3), by striking "as long as he serves" and inserting "while serving".

(8) Section 433(c) is amended—

(A) by striking "his term" the first place it appears and inserting "the judge's term";

(B) by striking "his term" the second place it appears and inserting "the term";

(C) by striking "his present" and inserting "the present";

(D) by striking "his fitness" and inserting "the candidate's fitness"; and

(E) by striking "he shall nominate" and inserting "the President shall nominate".

87 Stat. 796.

(9) Section 434(b) is amended—

(A) in paragraph (1) in the matter preceding subparagraph (A), by striking "he—" and inserting "the person—";

(B) in paragraph (1)(B), by striking "his appointment" and inserting "appointment"; and

(C) in paragraph (2), by striking "his predecessor" and inserting "such person's predecessor".

(10) Section 434(d) is amended—

(A) in paragraph (1) in the fourth sentence, by striking "to him" and inserting "to the President"; and

(B) in paragraph (2), by striking "his recommendation" and inserting "the recommendation".

Approved June 13, 1994.

LEGISLATIVE HISTORY—H.R. 1632:

HOUSE REPORTS: No. 103-175 (Comm. on the District of Columbia).
SENATE REPORTS. No. 103-262 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): July 19, considered and passed House.
Vol. 140 (1994): May 25, considered and passed Senate.

Public Law 103-267
103d Congress

An Act

June 16, 1994
[H.R. 965]

To provide for toy safety and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Safety Protection Act. 15 USC 1261 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Safety Protection Act".

TITLE I—TOY LABELING REQUIREMENTS

SEC. 101. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

(a) REQUIREMENT UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end the following new section:

15 USC 1278.

"SEC. 24. REQUIREMENTS FOR LABELING CERTAIN TOYS AND GAMES.

"(a) TOYS OR GAMES FOR CHILDREN WHO ARE AT LEAST 3.—

"(1) REQUIREMENT.—The packaging of any toy or game intended for use by children who are at least 3 years old but not older than 6 years (or such other upper age limit as the Commission may determine, which may not be less than 5 years old), any descriptive material which accompanies such toy or game, and, in the case of bulk sales of such toy or game when unpackaged, any bin, container for retail display, or vending machine from which the unpackaged toy or game is dispensed shall bear or contain the cautionary statement described in paragraph (2) if the toy or game—

"(A) is manufactured for sale, offered for sale, or distributed in commerce in the United States, and

"(B) includes a small part, as defined by the Commission.

"(2) LABEL.—The cautionary statement required by paragraph (1) for a toy or game shall be as follows:

" **WARNING:**

CHOKING HAZARD—Small parts.
Not for children under 3 yrs.

"(b) BALLOONS, SMALL BALLS, AND MARBLES.—

"(1) REQUIREMENT.—In the case of any latex balloon, any ball with a diameter of 1.75 inches or less intended for children 3 years of age or older, any marble intended for children 3 years of age or older, or any toy or game which contains such a balloon, ball, or marble, which is manufactured for sale, offered for sale, or distributed in commerce in the United States—

"(A) the packaging of such balloon, ball, marble, toy, or game,

"(B) any descriptive material which accompanies such balloon, ball, marble, toy, or game, and

"(C) in the case of bulk sales of any such product when unpackaged, any bin, container for retail display, or vending machine from which such unpackaged balloon, ball, marble, toy, or game is dispensed,

shall bear or contain the cautionary statement described in paragraph (2).

"(2) LABEL.—The cautionary statement required under paragraph (1) for a balloon, ball, marble, toy, or game shall be as follows:

"(A) BALLOONS.—In the case of balloons, or toys or games that contain latex balloons, the following cautionary statement applies:

" **WARNING:**

CHOKING HAZARD—Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

"(B) BALLS.—In the case of balls, the following cautionary statement applies:

" **WARNING:**

CHOKING HAZARD—This toy is a small ball. Not for children under 3 yrs.

"(C) MARBLES.—In the case of marbles, the following cautionary statement applies:

" WARNING:

CHOKING HAZARD—This toy is a marble.
Not for children under 3 yrs.

"(D) TOYS AND GAMES.—In the case of toys or games containing balls, the following cautionary statement applies:

" WARNING:

CHOKING HAZARD—Toy contains a small ball.
Not for children under 3 yrs.

In the case of toys or games containing marbles, the following cautionary statement applies:

" WARNING:

CHOKING HAZARD—Toy contains a marble.
Not for children under 3 yrs.

"(c) GENERAL LABELING REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any cautionary statement required under subsection (a) or (b) shall be—

"(A) displayed in its entirety on the principal display panel of the product's package, and on any descriptive material which accompanies the product, and, in the case of bulk sales of such product when unpackaged, on the bin, container for retail display of the product, and any vending machine from which the unpackaged product is dispensed, and

"(B) displayed in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such package, descriptive materials, bin, container, and vending machine, and in a manner consistent with part 1500 of title 16, Code of Federal Regulations (or successor regulations thereto).

"(2) EXCEPTION FOR PRODUCTS MANUFACTURED OUTSIDE UNITED STATES.—In the case of a product manufactured outside the United States and directly shipped from the manufacturer to the consumer by United States mail or other delivery service, the accompanying material inside the package of the product

may fail to bear the required statement if other accompanying material shipped with the product bears such statement.

"(3) SPECIAL RULES FOR CERTAIN PACKAGES.—(A) A cautionary statement required by subsection (a) or (b) may, in lieu of display on the principal display panel of the product's package, be displayed on another panel of the package if—

"(i) the package has a principal display panel of 15 square inches or less and the required statement is displayed in three or more languages; and

"(ii) the statement specified in subparagraph (B) is displayed on the principal display panel and is accompanied by an arrow or other indicator pointing toward the place on the package where the statement required by subsection (a) or (b) appears.

"(B)(i) In the case of a product to which subsection (a), subsection (b)(2)(B), subsection (b)(2)(C), or subsection (b)(2)(D) applies, the statement specified by this subparagraph is as follows:

" SAFETY WARNING

"(ii) In the case of a product to which subsection (b)(2)(A) applies, the statement specified by this subparagraph is as follows:

" WARNING—CHOKING HAZARD

"(d) TREATMENT AS MISBRANDED HAZARDOUS SUBSTANCE.—A balloon, ball, marble, toy, or game, that is not in compliance with the requirements of this subsection shall be considered a misbranded hazardous substance under section 2(p).".

(b) OTHER SMALL BALLS.—A small ball— 15 USC 1261 note.

(1) intended for children under the age of 3 years of age, and

(2) with a diameter of 1.75 inches or less,

shall be considered a banned hazardous substance under section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

(c) REGULATIONS.—The Consumer Product Safety Commission (hereinafter referred to as the "Commission") shall promulgate regulations, under section 553 of title 5, United States Code, for the implementation of this section and section 24 of the Federal Hazardous Substances Act by July 1, 1994, or the date that is 6 months after the date of enactment of this Act, whichever occurs first. Subsections (f) through (i) of section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) shall not apply with respect to the issuance of regulations under this subsection. 15 USC 1278 note.

(d) EFFECTIVE DATE; APPLICABILITY.—Subsections (a) and (b) shall take effect January 1, 1995, and section 24 of the Federal Hazardous Substances Act shall apply only to products entered into commerce on or after January 1, 1995. 15 USC 1278 note.

(e) PREEMPTION.— 15 USC 1278 note.

(1) IN GENERAL.—Subject to paragraph (2), a State or political subdivision of a State may not establish or enforce a requirement relating to cautionary labeling of small parts hazards or choking hazards in any toy, game, marble, small ball, or balloon intended or suitable for use by children unless such requirement is identical to a requirement established by amendments made by this section to the Federal Hazardous Substances Act or by regulations promulgated by the Commission.

(2) EXCEPTION.—A State or political subdivision of a State may, until January 1, 1995, enforce a requirement described in paragraph (1) if such requirement was in effect on October 2, 1993.

15 USC 2064 note.

SEC. 102. REPORTING REQUIREMENTS.

(a) REPORTS TO CONSUMER PRODUCT SAFETY COMMISSION.—

(1) REQUIREMENT TO REPORT.—Each manufacturer, distributor, retailer, and importer of a marble, small ball, or latex balloon, or a toy or game that contains a marble, small ball, latex balloon, or other small part, shall report to the Commission any information obtained by such manufacturer, distributor, retailer, or importer which reasonably supports the conclusion that—

(A) an incident occurred in which a child (regardless of age) choked on such a marble, small ball, or latex balloon or on a marble, small ball, latex balloon, or other small part contained in such toy or game; and

(B) as a result of that incident the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

(2) TREATMENT UNDER CPSA.—For purposes of section 19(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(3)), the requirement to report information under this subsection is deemed to be a requirement under such Act.

(3) EFFECT ON LIABILITY.—A report by a manufacturer, distributor, retailer, or importer under paragraph (1) shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

(b) CONFIDENTIALITY PROTECTIONS.—The confidentiality protections of section 6(b) of the Consumer Product Safety Act (15 U.S.C. 2055(b)) apply to any information reported to the Commission under subsection (a) of this section. For purposes of section 6(b)(5) of such Act, information so reported shall be treated as information submitted pursuant to section 15(b) of such Act respecting a consumer product.

Children's Bicycle Helmet Safety Act of 1994.

TITLE II—CHILDREN'S BICYCLE HELMET SAFETY

15 USC 6001 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Children's Bicycle Helmet Safety Act of 1994".

15 USC 6001.

SEC. 202. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 203, make grants to States, political subdivisions of States, and nonprofit

organizations for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

(b) FEDERAL SHARE.—The amount provided by a grant under this section shall not exceed 80 percent of the cost of the program for which the grant is made. In crediting the recipient State, political subdivision, or nonprofit organization for the non-Federal share of the cost of such a program (other than planning and administration), the aggregate of all expenditures made by such State, political subdivision, or nonprofit organization (exclusive of Federal funds) for the purposes described in section 203 (other than expenditures for planning and administration) shall be available for such crediting, without regard to whether such expenditures were actually made in connection with such program.

SEC. 203. PURPOSES FOR GRANTS. 15 USC 6002.

A grant made under section 202 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) provide assistance, to individuals under the age of 16 who may not be able to afford approved bicycle helmets, to enable such individuals to acquire such helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

The Administrator shall review grant applications for compliance with this section prior to awarding grants.

SEC. 204. REPORT TO CONGRESS. 15 USC 6003.

Not later than May 1, 1997, the Administrator of the National Highway Traffic Safety Administration shall report to Congress on the effectiveness of the grant program established by section 202. The report shall include a list of grant recipients, a summary of the types of programs implemented by the grantees, and any recommendation by the Administrator regarding how the program should be changed in the future.

SEC. 205. STANDARDS. 15 USC 6004.

(a) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4–1984".

(2) The Snell Memorial Foundation standard designated as "B–90".

(3) The American Society for Testing and Materials (ASTM) standard designated as "F 1447".

(4) Any other standard that the Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7, 9, and 30(d) of the Consumer Product Safety Act (15 U.S.C. 2056, 2058, 2079(d)) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

Effective date

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an interim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

15 USC 6005

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

For the National Highway Traffic Safety Administration to carry out the grant program authorized by this title, there are authorized to be appropriated $2,000,000 for fiscal year 1995, $3,000,000 for fiscal year 1996, and $4,000,000 for fiscal year 1997.

15 USC 6006.

SEC. 207. DEFINITION.

In this title, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 205(b), pending establishment of a final standard under section 205(c); and

(2) the final standard, once it is established under section 205(c).

Approved June 16, 1994.

LEGISLATIVE HISTORY—H.R. 965 (S. 680):

HOUSE REPORTS: Nos. 103-29 (Comm. on Energy and Commerce) and 103-500 (Comm. of Conference).
SENATE REPORTS: No. 103-195 accompanying S. 680 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Mar. 16, considered and passed House.
Nov. 20, considered and passed Senate, amended, in lieu of S. 680.
Vol. 140 (1994): Mar. 9, House concurred in Senate amendment with an amendment.
May 23, House agreed to conference report.
May 25, Senate agreed to conference report.

Public Law 103-268
103d Congress

An Act

June 28, 1994
[H.R. 3676]

To amend the District of Columbia Spouse Equity Act of 1988 to provide for coverage of the former spouses of judges of the District of Columbia courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF FORMER SPOUSES OF JUDGES OF DISTRICT OF COLUMBIA COURTS UNDER SPOUSE EQUITY ACT.

(a) IN GENERAL.—Section 2 of the District of Columbia Spouse Equity Act of 1988 (sec. 1–3001, D.C. Code) is amended by striking "(A) and (C)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the District of Columbia Spouse Equity Act of 1988.

Approved June 28, 1994.

LEGISLATIVE HISTORY—H.R. 3676.

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 25, considered and passed House
June 14, considered and passed Senate.

Public Law 103-269
103d Congress

An Act

To amend title 11, D.C. Code, to clarify that blind individuals are eligible to serve as jurors in the Superior Court of the District of Columbia.

June 28, 1994
[H.R. 4205]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF ELIGIBILITY OF BLIND INDIVIDUALS TO SERVE AS JURORS IN DISTRICT OF COLUMBIA.

Section 11–1906(b), D.C. Code, is amended by adding at the end the following new paragraph:

"(4) An individual who is blind may not be disqualified from serving as a juror solely on the basis of blindness, but may be disqualified from serving as a juror in a particular case if the individual's blindness makes the individual incapable of rendering satisfactory jury service in that case.".

Approved June 28, 1994.

LEGISLATIVE HISTORY—H.R. 4205:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 25, considered and passed House.
June 14, considered and passed Senate.

Public Law 103-270
103d Congress

An Act

June 30, 1994
[S. 24]

To reauthorize the independent counsel law for an additional 5 years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Independent Counsel Reauthorization Act of 1994.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1994".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1994".

SEC. 3. ADDED CONTROLS.

(a) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—Section 594 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(l) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

"(A) IN GENERAL.—An independent counsel shall—

"(i) conduct all activities with due regard for expense;

"(ii) authorize only reasonable and lawful expenditures; and

"(iii) promptly, upon taking office, assign to a specific employee the duty of certifying that expenditures of the independent counsel are reasonable and made in accordance with law.

"(B) LIABILITY FOR INVALID CERTIFICATION.—An employee making a certification under subparagraph (A)(iii) shall be liable for an invalid certification to the same extent as a certifying official certifying a voucher is liable under section 3528 of title 31.

"(C) DEPARTMENT OF JUSTICE POLICIES.—An independent counsel shall comply with the established policies of the Department of Justice respecting expenditures of funds, except to the extent that compliance would be inconsistent with the purposes of this chapter.

"(2) ADMINISTRATIVE SUPPORT.—The Director of the Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. No officer or employee of the Administrative Office of the United States Courts shall disclose information related

to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

"(3) OFFICE SPACE.—The Administrator of General Services, in consultation with the Director of the Administrative Office of the United States Courts, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the Administrator of General Services determines that other arrangements would cost less. Until such office space is provided, the Administrative Office of the United States Courts shall provide newly appointed independent counsels immediately upon appointment with appropriate, temporary office space, equipment, and supplies.".

(b) INDEPENDENT COUNSEL PER DIEM EXPENSES.—Section 594(b) of title 28, United States Code, is amended—

(1) by striking "(b) COMPENSATION.—An" and inserting the following:

"(b) COMPENSATION.—

"(1) IN GENERAL.—An"; and

(2) by adding at the end the following new paragraphs:

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter I of chapter 57 of title 5, United States Code, including travel, per diem, and subsistence expenses in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—

"(A) IN GENERAL.—After 1 year of service under this chapter, an independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel, per diem, or subsistence expenses under subchapter I of chapter 57 of title 5, United States Code, for the purpose of commuting to or from the city in which the primary office of the independent counsel or person is located. The 1-year period may be extended by 6 months if the employee assigned duties under subsection (l)(1)(A)(iii) certifies that the payment is in the public interest to carry out the purposes of this chapter.

"(B) RELEVANT FACTORS.—In making any certification under this paragraph with respect to travel and subsistence expenses of an independent counsel or person appointed under subsection (c), such employee shall consider, among other relevant factors—

"(i) the cost to the Government of reimbursing such travel and subsistence expenses;

"(ii) the period of time for which the independent counsel anticipates that the activities of the independent counsel or person, as the case may be, will continue;

"(iii) the personal and financial burdens on the independent counsel or person, as the case may be, of relocating so that such travel and subsistence expenses would not be incurred; and

"(iv) the burdens associated with appointing a new independent counsel, or appointing another person under subsection (c), to replace the individual involved who is unable or unwilling to so relocate.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level ES–4 of the Senior Executive Service Schedule under section 5382 of title 5, as adjusted for the District of Columbia under section 5304 of that title regardless of the locality in which an employee is employed.".

(d) ETHICS ENFORCEMENT.—Section 594(j) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) ENFORCEMENT.—The Attorney General and the Director of the Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) of title 28, United States Code, is amended—

(1) by striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply";

(2) by adding at the end the following: "To determine these policies and policies under subsection (l)(1)(B), the independent counsel shall, except to the extent that doing so would be inconsistent with the purposes of this chapter, consult with the Department of Justice.";

(3) by striking "An independent" and inserting the following:

"(1) IN GENERAL.—An independent"; and

(4) by adding at the end the following new paragraph:

Classified information.

"(2) NATIONAL SECURITY.—An independent counsel shall comply with guidelines and procedures used by the Department in the handling and use of classified material.".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended by adding at the end the following new paragraph:

Public information.

"(3) PUBLICATION OF REPORTS.—At the request of an independent counsel, the Public Printer shall cause to be printed any report previously released to the public under paragraph (2). The independent counsel shall certify the number of copies necessary for the public, and the Public Printer shall place the cost of the required number to the debit of such independent counsel. Additional copies shall be made available to the public through the depository library program and Superintendent of Documents sales program pursuant to sections 1702 and 1903 of title 44.".

(g) ANNUAL REPORTS TO CONGRESS.—Section 595(a)(2) of title 28, United States Code, is amended by striking "such statements" and all that follows through "appropriate" and inserting "annually a report on the activities of the independent counsel, including a description of the progress of any investigation or prosecution conducted by the independent counsel. Such report may omit any matter that in the judgment of the independent counsel should be kept confidential, but shall provide information adequate to justify the expenditures that the office of the independent counsel has made".

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.". Courts.

(i) AUDITS BY THE COMPTROLLER GENERAL.—Section 596(c) of title 28, United States Code, is amended to read as follows:

"(c) AUDITS.—(1) On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

"(2) The Comptroller General shall—

"(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

"(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Operations, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each such statement.".

(j) THRESHOLD INQUIRY.—Section 591(d)(2) of title 28, United States Code, is amended by striking "15" each time it appears and inserting "30".

(k) RECUSAL.—Section 591(e) of title 28, United States Code, is amended to read as follows:

"(e) RECUSAL OF ATTORNEY GENERAL.—

"(1) WHEN RECUSAL IS REQUIRED.—(A) If information received under this chapter involves the Attorney General, the next most senior official in the Department of Justice who is not also recused shall perform the duties assigned under this chapter to the Attorney General.

"(B) If information received under this chapter involves a person with whom the Attorney General has a personal or financial relationship, the Attorney General shall recuse himself or herself by designating the next most senior official in the Department of Justice who is not also recused to perform the duties assigned under this chapter to the Attorney General.

"(2) REQUIREMENTS FOR RECUSAL DETERMINATION.—Before personally making any other determination under this chapter with respect to information received under this chapter, the Attorney General shall determine under paragraph (1)(B) whether recusal is necessary. The Attorney General shall set forth this determination in writing, identify the facts considered by the Attorney General, and set forth the reasons for the recusal. The Attorney General shall file this determination with any notification or application submitted to the division

of the court under this chapter with respect to such information.".

(l) DISCLOSURE OF INFORMATION.—Section 592(e) of title 28, United States Code, is amended by inserting after "Except as otherwise provided in this chapter" the following: "or as is deemed necessary for law enforcement purposes".

(m) CLARIFICATION OF AUTHORITY TO USE DEPARTMENT OF JUSTICE PERSONNEL.—Section 594(d)(1) of title 28, United States Code, is amended by adding at the end the following: "At the request of an independent counsel, prosecutors, administrative personnel, and other employees of the Department of Justice may be detailed to the staff of the independent counsel.".

(n) ATTORNEYS' FEES.—Section 593(f) of title 28, United States Code, is amended—

(1) in the last sentence of paragraph (1) by inserting before "Attorney General" the following: "the independent counsel who conducted the investigation and"; and

(2) in paragraph (2)—

(A) by striking "may direct" and inserting "shall direct such independent counsel and"; and

(B) by striking all after "subsection," and inserting the following: "addressing—

"(A) the sufficiency of the documentation;

"(B) the need or justification for the underlying item;

"(C) whether the underlying item would have been incurred but for the requirements of this chapter; and

"(D) the reasonableness of the amount of money requested.".

(o) FINAL REPORT.—Section 594(h)(1)(B) of title 28, United States Code, is amended by striking ", and the reasons" and all that follows through the period and inserting a period.

SEC. 4. MEMBERS OF CONGRESS.

(a) DISCRETIONARY AUTHORITY.—Section 591(c) of title 28, United States Code, is amended to read as follows:

"(c) PRELIMINARY INVESTIGATION WITH RESPECT TO OTHER PERSONS.—

"(1) IN GENERAL.—When the Attorney General determines that an investigation or prosecution of a person by the Department of Justice may result in a personal, financial, or political conflict of interest, the Attorney General may conduct a preliminary investigation of such person in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether that person may have violated Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.

"(2) MEMBERS OF CONGRESS.—When the Attorney General determines that it would be in the public interest, the Attorney General may conduct a preliminary investigation in accordance with section 592 if the Attorney General receives information sufficient to constitute grounds to investigate whether a Member of Congress may have violated any Federal criminal law other than a violation classified as a Class B or C misdemeanor or an infraction.".

(b) POSTEMPLOYMENT COVERAGE.—Section 591(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (6) and (7);

(2) by redesignating paragraph (8) as paragraph (6), and, at the end of that paragraph, striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) any individual who held an office or position described in paragraph (1), (2), (3), (4), or (5) for 1 year after leaving the office or position.".

SEC. 5. GROUNDS FOR REMOVAL.

Section 596(a)(1) of title 28, United States Code, is amended by striking "physical disability, mental incapacity" and inserting "physical or mental disability (if not prohibited by law protecting persons from discrimination on the basis of such a disability),".

SEC. 6. REPORT ON WHITE HOUSE OFFICE PERSONNEL. 3 USC 113 note.

(a) SUBMISSION OF REPORT.—On July 1 of each year, the President shall submit a report described in subsection (b) to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(b) CONTENTS.—A report under subsection (a) shall, except as provided in subsection (c), include—

(1) a list of each individual—

(A) employed by the White House Office; or

(B) detailed to the White House Office; and

(2) with regard to each individual described in paragraph (1), the individual's—

(A) name;

(B) position and title; and

(C) annual rate of pay.

(c) EXCLUSION FROM REPORT.—If the President determines that disclosure of any item of information described in subsection (b) with respect to any particular individual would not be in the interest of the national defense or foreign policy of the United States—

(1) a report under subsection (a) shall—

(A) exclude such information with respect to that individual; and

(B) include a statement of the number of individuals with respect to whom such information has been excluded; and

(2) at the request of the Committee on Governmental Affairs of the Senate or the Committee on Government Operations of the House of Representatives, the information that was excluded from the report shall be made available for inspection by such committee.

SEC. 7. TRANSITION PROVISIONS. Effective dates. 28 USC 591 note.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act shall apply with respect to independent counsels appointed before, on, or after the date of enactment of this Act.

(b) ASSIGNMENT OF EMPLOYEE TO CERTIFY EXPENDITURES.—An independent counsel appointed prior to the date of enactment of this Act shall assign to an employee the duty of certifying expenditures, as required by section 594(l) of title 28, United States Code, as added by section 3(a), by the date that is 30 days after the date of enactment of this Act.

(c) OFFICE SPACE.—The Administrator of General Services, in applying section 594(l)(3) of title 28, United States Code, as added

by section 3(a), to determine whether the office of an independent counsel appointed prior to the date of enactment of this Act should be moved to a Federal building, shall take into account the moving, legal, and other expenses that might arise if the office were moved.

(d) TRAVEL AND SUBSISTENCE EXPENSES.—For purposes of the restrictions on reimbursement of travel and subsistence expenses of an independent counsel and employees of an office of independent counsel contained in paragraph (3) of section 594(b) of title 28, United States Code, as amended by section 3(b), as applied to the office of an independent counsel appointed before the date of enactment of this Act, the 1-year service period shall begin on the date of enactment of this Act.

(e) RATES OF COMPENSATION.—The limitation on rates of compensation of employees of an office of independent counsel contained in the last sentence of section 594(c) of title 28, United States Code, as amended by section 3(c), shall not be applied to cause a reduction in the rate of compensation of an employee appointed before the date of enactment of this Act.

(f) PERIODIC REAPPOINTMENT.—The determinations by the division of the court contained in the last sentence of section 596(b)(2) of title 28, United States Code, as amended by section 3(h), shall, for the office of an independent counsel appointed before the date of enactment of this Act, be required no later than 1 year after the date of enactment of this Act and at the end of each succeeding 1-year period.

(g) REPORTING REQUIREMENTS.—No amendment made by this Act that establishes or modifies a requirement that any person submit a report to any other person with respect to an activity occurring during any time period shall be construed to require that a report submitted prior to the date of enactment of this Act, with respect to that time period be supplemented to include information with respect to such activity.

(h) REGULATORY INDEPENDENT COUNSEL.—Notwithstanding the restriction in section 593(b)(2) of title 28, United States Code, the division of the court described in section 49 of that title may appoint as an independent counsel any individual who, on the date of enactment of this Act, is serving as a regulatory independent counsel under parts 600 and 603 of title 28, Code of Federal Regulations. If such an individual is so appointed, such an independent counsel shall comply with chapter 40 of title 28, United States Code, as amended by this Act, in the same manner and to the same extent as an independent counsel appointed before the date of enactment of this Act is required to comply with that chapter, except that subsection (f) of this section shall not apply to such an independent counsel.

(i) WHITE HOUSE PERSONNEL REPORT.—Section 6 shall take effect on January 1, 1995.

Approved June 30, 1994.

LEGISLATIVE HISTORY—S. 24 (H.R. 811):

HOUSE REPORTS: Nos. 103-224 accompanying H.R 811 (Comm. on the Judiciary) and 103-511 (Comm. of Conference).
SENATE REPORTS: No. 103-101 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 17, 18, considered and passed Senate.
Vol. 140 (1994): Feb. 10, H.R. 811 considered and passed House; S. 24, amended, passed in lieu.
May 25, Senate agreed to conference report.
June 21, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 30 (1994):
June 30, Presidential statement.

Public Law 103-271
103d Congress

An Act

July 1, 1994
[S 1904]

To amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994.
38 USC 101 note

SECTION 1. SHORT TITLE.

This Act may be cited as the "Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994".

SEC. 2. NUMBER OF MEMBERS OF BOARD OF VETERANS' APPEALS.

Section 7101(a) of title 38, United States Code, is amended by striking out "(not more than 65)".

SEC. 3. ETHICAL AND LEGAL LIMITATIONS ON CHAIRMAN.

Section 7101(b)(1) of title 38, United States Code, is amended by inserting after the first sentence the following new sentence: "The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in political activities as apply to judges of the United States Court of Veterans Appeals.".

SEC. 4. ACTING AND TEMPORARY MEMBERS OF BOARD OF VETERANS' APPEALS.

(a) IN GENERAL.—Subsection (c) of section 7101 of title 38, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1)(A) The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman.

"(B) An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C).

"(C) An individual may not serve as an acting member of the Board for more than 270 days during any one-year period.

"(D) At no time may the number of acting members exceed 20 percent of the total of the number of Board members and acting Board members combined.";

(2) by striking out paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) in paragraph (2), as so redesignated, by striking out "the number of temporary Board members" and all that follows through the period at the end and inserting in lieu thereof "the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (e) of such section is amended by striking out "a temporary or" and inserting in lieu thereof "an".

(2) Subsection (d)(3)(B) of such section is amended by striking "section 7103(d)" and inserting in lieu thereof "section 7101(a)".

SEC. 5. CHAIRMAN'S ANNUAL REPORT ON BOARD ACTIVITIES.

Section 7101(d)(2) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the number of employees of the Department designated under subsection (c)(1) to serve as acting members of the Board during that year and the number of cases in which each such member participated during that year.".

SEC. 6. DECISIONS BY THE BOARD.

(a) ACTION BY BVA.—Sections 7102 and 7103 of title 38, United States Code, are amended to read as follows:

"§ 7102. Assignment of members of Board

"(a) A proceeding instituted before the Board may be assigned to an individual member of the Board or to a panel of not less than three members of the Board. A member or panel assigned a proceeding shall make a determination thereon, including any motion filed in connection therewith. The member or panel, as the case may be, shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the final disposition of the proceeding by the member or panel. Reports

"(b) A proceeding may not be assigned to the Chairman as an individual member. The Chairman may participate in a proceeding assigned to a panel or in a reconsideration assigned to a panel of members.

"§ 7103. Reconsideration; correction of obvious errors

"(a) The decision of the Board determining a matter under section 7102 of this title is final unless the Chairman orders reconsideration of the decision in accordance with subsection (b). Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(b)(1) Upon the order of the Chairman for reconsideration of the decision in a case, the case shall be referred—

"(A) in the case of a matter originally heard by a single member of the Board, to a panel of not less than three members of the Board; or

"(B) in the case of a matter originally heard by a panel of members of the Board, to an enlarged panel of the Board.

"(2) A panel referred to in paragraph (1) may not include the member, or any member of the panel, that made the decision subject to reconsideration.

"(3) A panel reconsidering a case under this subsection shall render its decision after reviewing the entire record before the Board. The decision of the panel shall be made by a majority vote of the members of the panel. The decision of the panel shall constitute the final decision of the Board.

"(c) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7103 and inserting in lieu thereof the following:

"7103. Reconsideration; correction of obvious errors.".

SEC. 7. PROCEDURES RELATING TO APPEALS.

(a) IN GENERAL.—(1) Section 7107 of title 38, United States Code, is amended to read as follows:

"§ 7107. Appeals: dockets; hearings

"(a)(1) Each case received pursuant to application for review on appeal shall be considered and decided in regular order according to its place upon the docket.

"(2) A case referred to in paragraph (1) may, for cause shown, be advanced on motion for earlier consideration and determination. Any such motion shall set forth succinctly the grounds upon which it is based and may not be granted unless the case involves interpretation of law of general application affecting other claims or for other sufficient cause shown.

"(b) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(c) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing shall, except in the case of a reconsideration of a decision under section 7103 of this title, participate in making the final determination of the claim.

"(d)(1) An appellant may request that a hearing before the Board be held at its principal location or at a facility of the Department located within the area served by a regional office of the Department.

"(2) A hearing to be held within an area served by a regional office of the Department shall (except as provided in paragraph (3)) be scheduled to be held in the order in which requests for hearings within that area are received by the Department.

"(3) In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided for under paragraph (2).

"(e)(1) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission or through picture and voice trans-

mission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location.

"(2) When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or panel as provided in subsection (d). Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in such subsection (d) shall not be affected.".

(2) The item relating to section 7107 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7107. Appeals: dockets; hearings.".

(b) CONFORMING AMENDMENTS.—(1) Section 7104(a) of such title is amended by striking out the third sentence.

(2) Section 7110 of such title is repealed.

(3) The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7110.

SEC. 8. CROSS-REFERENCE CORRECTION.

Section 7104(a) of title 38, United States Code, is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

SEC. 9. REVISION TO INCOME VERIFICATION REQUIREMENTS.

(a) PARENTS DIC.—Section 1315(e) of title 38, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "shall" and inserting in lieu thereof "may"; and

(B) by striking out "each year" and inserting in lieu thereof "for a calendar year"; and

(2) in the second sentence—

(A) by striking out "file with the Secretary a revised report" and inserting in lieu thereof "notify the Secretary"; and

(B) by striking out "the estimated".

(b) PENSION.—Section 1506 of such title is amended—

(1) in paragraph (2)—

(A) by striking out "shall" and inserting in lieu thereof "may"; and

(B) by striking out "each year" and inserting in lieu thereof "for a calendar year"; and

(2) in paragraph (3)—

(A) by striking out "file a revised report" and inserting in lieu thereof "notify the Secretary";

(B) by striking out "estimated" each place it appears; and

(C) by striking out "such applicant's or recipient's estimate of".

Approved July 1, 1994.

LEGISLATIVE HISTORY—S. 1904:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 21, considered and passed Senate.
June 13, considered and passed House, amended.
June 15, Senate concurred in House amendments.

Public Law 103-272
103d Congress

An Act

To revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

July 5, 1994
[H.R. 1758]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intergovernmental relations.

SUBTITLES II, III, AND V–X OF TITLE 49, UNITED STATES CODE

49 USC prec. 101 note.

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsections (c)–(e) of this section without substantive change as subtitles II, III, and V–X of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. _____".

(b) Title 49, United States Code, is amended by striking the table of subtitles at the beginning of the title and substituting the following new table of subtitles:

"SUBTITLE Sec.
"I. DEPARTMENT OF TRANSPORTATION 101
"II. OTHER GOVERNMENT AGENCIES 1101
"III. GENERAL AND INTERMODAL PROGRAMS 5101
"IV. INTERSTATE COMMERCE 10101
"V. RAIL PROGRAMS 20101
"VI. MOTOR VEHICLE AND DRIVER PROGRAMS 30101
"VII. AVIATION PROGRAMS 40101
"VIII. PIPELINES 60101
"IX. COMMERCIAL SPACE TRANSPORTATION 70101
"X. MISCELLANEOUS ..... 80101".

(c) Title 49, United States Code, is amended by striking subtitle II, except that chapter 31 (comprising sections 3101–3104) of subtitle II is redesignated and restated as chapter 315 (comprising sections 31501–31504) of subtitle VI of title 49, as enacted by subsection (e) of this section.

(d) Title 49, United States Code, is amended by adding the following immediately after subtitle I:

SUBTITLE II—OTHER GOVERNMENT AGENCIES

CHAPTER Sec.
11. NATIONAL TRANSPORTATION SAFETY BOARD 1101

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER I—GENERAL

Sec.
1101. Definitions.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

1111. General organization.
1112. Special boards of inquiry on air transportation safety.
1113. Administrative.
1114. Disclosure, availability, and use of information.
1115. Training.
1116. Reports and studies.
1117. Annual report.
1118. Authorization of appropriations.

SUBCHAPTER III—AUTHORITY

1131. General authority.
1132. Civil aircraft accident investigations.
1133. Review of other agency action.
1134. Inspections and autopsies.
1135. Secretary of Transportation's responses to safety recommendations.

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

1151. Aviation enforcement.
1152. Joinder and intervention in aviation proceedings.
1153. Judicial review.
1154. Discovery and use of cockpit voice and other material.
1155. Aviation penalties.

SUBCHAPTER I—GENERAL

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

SUBCHAPTER II—ORGANIZATION AND ADMINISTRATIVE

§ 1111. General organization

(a) ORGANIZATION.—The National Transportation Safety Board is an independent establishment of the United States Government.

President.

(b) APPOINTMENT OF MEMBERS.—The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) TERMS OF OFFICE AND REMOVAL.—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

President.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and

Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) DUTIES AND POWERS OF CHAIRMAN.—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

(1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;

(2) distribute business among the officers, employees, and administrative units of the Board; and

(3) supervise the expenditures of the Board.

(f) QUORUM.—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) OFFICES, BUREAUS, AND DIVISIONS.—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

(1) aviation.

(2) highway and motor vehicle.

(3) rail and tracked vehicle.

(4) pipeline.

(h) SEAL.—The Board shall have a seal that shall be judicially recognized.

§ 1112. Special boards of inquiry on air transportation safety

(a) ESTABLISHMENT.—If an accident involves a substantial question about public safety in air transportation, the National Transportation Safety Board may establish a special board of inquiry composed of—

(1) one member of the Board acting as chairman; and

(2) 2 members representing the public, appointed by the President on notification of the establishment of the special board of inquiry. President.

(b) QUALIFICATIONS AND CONFLICTS OF INTEREST.—The public members of a special board of inquiry must be qualified by training and experience to participate in the inquiry and may not have a pecuniary interest in an aviation enterprise involved in the accident to be investigated.

(c) AUTHORITY.—A special board of inquiry has the same authority that the Board has under this chapter.

§ 1113. Administrative

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct hearings to carry out this chapter, administer oaths, and require, by subpena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a hearing under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the hearing. A witness summoned under this subsection is entitled

to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpena shall be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpena, order, or notice as a contempt of court.

(b) ADDITIONAL POWERS.—(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board; and

(I) require that the departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries provide appropriate consideration for the reasonable costs of goods and services supplied by the Board.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1)(I) of this subsection to be credited to the appropriation of the Board.

(c) SUBMISSION OF CERTAIN COPIES TO CONGRESS.—When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer, department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress.

(d) LIAISON COMMITTEES.—The Chairman may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumentalities of the Government, State and local governmental authorities, and

independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) INQUIRIES.—The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the inquiry in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

Federal Register, publication.

Reports.

(f) REGULATIONS.—The Board may prescribe regulations to carry out this chapter.

§ 1114. Disclosure, availability, and use of information

(a) GENERAL.—Except as provided in subsections (b) and (c) of this section, a copy of a record, information, or investigation submitted or received by the National Transportation Safety Board, or a member or employee of the Board, shall be made available to the public on identifiable request and at reasonable cost. This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.

(b) TRADE SECRETS.—(1) The Board may disclose information related to a trade secret referred to in section 1905 of title 18 only—

(A) to another department, agency, or instrumentality of the United States Government when requested for official use;

(B) to a committee of Congress having jurisdiction over the subject matter to which the information is related, when requested by that committee;

(C) in a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

(D) to the public to protect health and safety after giving notice to any interested person to whom the information is related and an opportunity for that person to comment in writing, or orally in closed session, on the proposed disclosure, if the delay resulting from notice and opportunity for comment would not be detrimental to health and safety.

(2) Information disclosed under paragraph (1) of this subsection may be disclosed only in a way designed to preserve its confidentiality.

(c) COCKPIT VOICE RECORDINGS AND TRANSCRIPTS.—(1) The Board may not disclose publicly any part of a cockpit voice recorder recording or transcript of oral communications by and between flight crew members and ground stations related to an accident or incident investigated by the Board. However, the Board shall make public any part of a transcript the Board decides is relevant to the accident or incident—

(A) if the Board holds a public hearing on the accident or incident, at the time of the hearing; or

(B) if the Board does not hold a public hearing, at the time a majority of the other factual reports on the accident or incident are placed in the public docket.

(2) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(d) DRUG TESTS.—(1) Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (Public Law 100–71, 101 Stat. 471), the Secretary of Transportation shall provide the following information to the Board when requested in writing by the Board:

Records.

(A) any report of a confirmed positive toxicological test, verified as positive by a medical review officer, conducted on an officer or employee of the Department of Transportation under post-accident, unsafe practice, or reasonable suspicion toxicological testing requirements of the Department, when the officer or employee is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the Board.

(B) any laboratory record documenting that the test is confirmed positive.

Privacy.

(2) Except as provided by paragraph (3) of this subsection, the Board shall maintain the confidentiality of, and exempt from disclosure under section 552(b)(3) of title 5—

(A) a laboratory record provided the Board under paragraph (1) of this subsection that reveals medical use of a drug allowed under applicable regulations; and

(B) medical information provided by the tested officer or employee related to the test or a review of the test.

(3) The Board may use a laboratory record made available under paragraph (1) of this subsection to develop an evidentiary record in an investigation of an accident or incident if—

(A) the fitness of the tested officer or employee is at issue in the investigation; and

(B) the use of that record is necessary to develop the evidentiary record.

§ 1115. Training

(a) DEFINITION.—In this section, "Institute" means the Transportation Safety Institute of the Department of Transportation and any successor organization of the Institute.

(b) USE OF INSTITUTE SERVICES.—The National Transportation Safety Board may use, on a reimbursable basis, the services of the Institute. The Secretary of Transportation shall make the Institute available to—

(1) the Board for safety training of employees of the Board in carrying out their duties and powers; and

(2) other safety personnel of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations the Board designates in consultation with the Secretary.

(c) FEES.—(1) Training at the Institute for safety personnel (except employees of the Government) shall be provided at a reasonable fee established periodically by the Board in consultation with the Secretary. The fee shall be paid directly to the Secretary, and the Secretary shall deposit the fee in the Treasury. The amount of the fee—

(A) shall be credited to the appropriate appropriation (subject to the requirements of any annual appropriation); and

(B) is an offset against any annual reimbursement agreement between the Board and the Secretary to cover all reasonable costs of providing training under this subsection that the Secretary incurs in operating the Institute.

(2) The Board shall maintain an annual record of offsets under paragraph (1)(B) of this subsection. Records.

§ 1116. Reports and studies

(a) PERIODIC REPORTS.—The National Transportation Safety Board shall report periodically to Congress, departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities concerned with transportation safety, and other interested persons. The report shall—

(1) advocate meaningful responses to reduce the likelihood of transportation accidents similar to those investigated by the Board; and

(2) propose corrective action to make the transportation of individuals as safe and free from risk of injury as possible, including action to minimize personal injuries that occur in transportation accidents.

(b) STUDIES, INVESTIGATIONS, AND OTHER REPORTS.—The Board also shall—

(1) carry out special studies and investigations about transportation safety, including avoiding personal injury;

(2) examine techniques and methods of accident investigation and periodically publish recommended procedures for accident investigations;

(3) prescribe requirements for persons reporting accidents and aviation incidents that—

(A) may be investigated by the Board under this chapter; or

(B) involve public aircraft (except aircraft of the armed forces and the intelligence agencies);

(4) evaluate, examine the effectiveness of, and publish the findings of the Board about the transportation safety consciousness of other departments, agencies, and instrumentalities of the Government and their effectiveness in preventing accidents; and

(5) evaluate the adequacy of safeguards and procedures for the transportation of hazardous material and the performance of other departments, agencies, and instrumentalities of the Government responsible for the safe transportation of that material.

§ 1117. Annual report

The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation;

(3) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a State; and

(4) an evaluation conducted every 2 years of transportation safety and recommendations for legislative and administrative action and change.

§ 1118. Authorization of appropriations

(a) GENERAL.—Not more than $38,800,000 may be appropriated to the National Transportation Safety Board for the fiscal year ending September 30, 1993, to carry out this chapter.

(b) EMERGENCY FUND.—The Board has an emergency fund of $1,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. The following amounts may be appropriated to the fund:

(1) $1,000,000 to establish the fund.

(2) amounts equal to amounts expended annually out of the fund.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

SUBCHAPTER III—AUTHORITY

§ 1131. General authority

(a) GENERAL.—(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

(A) an aircraft accident the Board has authority to investigate under section 1132 of this title;

(B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;

(D) a pipeline accident in which there is a fatality, substantial property damage, or significant injury to the environment;

(E) a major marine casualty (except a casualty involving only public vessels) occurring on the navigable waters or territorial sea of the United States, or involving a vessel of the United States, under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2) An investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the

investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(3) This section and sections 1113, 1116(b), 1133, and 1134(a) and (c)–(e) of this title do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b) ACCIDENTS INVOLVING PUBLIC VESSELS.—(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public. Public information.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c) ACCIDENTS NOT INVOLVING GOVERNMENT MISFEASANCE OR NONFEASANCE.—(1) When asked by the Board, the Secretary of Transportation may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) ACCIDENT REPORTS.—The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost. Public information.

§ 1132. Civil aircraft accident investigations

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1113(b)(1) of this title that is conducting an investigation or hearing about an aircraft accident has the same authority to conduct the investigation or hearing as the Board.

(b) NOTIFICATION AND REPORTING.—The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft. Regulations.

(c) PARTICIPATION OF SECRETARY.—The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) ACCIDENTS INVOLVING ONLY MILITARY AIRCRAFT.—If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft, the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

§ 1133. Review of other agency action

The National Transportation Safety Board shall review on appeal—

(1) the denial, amendment, modification, suspension, or revocation of a certificate issued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title;

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under section 6101, 6301, or 7503, chapter 77, or section 9303 of title 46; and

(4) under section 46301(d)(5) of this title, an order imposing a penalty under section 46301.

§ 1134. Inspections and autopsies

(a) ENTRY AND INSPECTION.—An officer or employee of the National Transportation Safety Board—

(1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

(2) during reasonable hours, may inspect any record, process, control, or facility related to an accident investigation under this chapter.

(b) INSPECTION, TESTING, PRESERVATION, AND MOVING OF AIRCRAFT AND PARTS.—(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

(2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, vessel, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

(1) does not interfere unnecessarily with transportation services provided by the owner or operator of the vehicle, vessel, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) EXCLUSIVE AUTHORITY OF BOARD.—Only the Board has the authority to decide on the way in which testing under this section will be conducted, including decisions on the person that will conduct the test, the type of test that will be conducted, and any individual who will witness the test. Those decisions are committed to the discretion of the Board. The Board shall make any of those decisions based on the needs of the investigation being conducted and, when applicable, subsections (a), (c), and (e) of this section.

(e) PROMPTNESS OF TESTS AND AVAILABILITY OF RESULTS.—An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(f) AUTOPSIES.—(1) The Board may order an autopsy to be performed and have other tests made when necessary to investigate an accident under this chapter. However, local law protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation.

(2) With or without reimbursement, the Board may obtain a copy of an autopsy report performed by a State or local official on an individual who died because of a transportation accident investigated by the Board under this chapter.

§ 1135. Secretary of Transportation's responses to safety recommendations

(a) GENERAL.—When the National Transportation Safety Board submits a recommendation about transportation safety to the Secretary of Transportation, the Secretary shall give a formal written response to each recommendation not later than 90 days after receiving the recommendation. The response shall indicate whether the Secretary intends—

(1) to carry out procedures to adopt the complete recommendation;

(2) to carry out procedures to adopt a part of the recommendation; or

(3) to refuse to carry out procedures to adopt the recommendation.

(b) TIMETABLE FOR COMPLETING PROCEDURES AND REASONS FOR REFUSALS.—A response under subsection (a)(1) or (2) of this section shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) of this section shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendation. A response under subsection (a)(3) of this section shall detail the reasons for the refusal to carry out procedures.

(c) PUBLIC AVAILABILITY.—The Board shall make a copy of each recommendation and response available to the public at reasonable cost.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary's response to each recommendation.

SUBCHAPTER IV—ENFORCEMENT AND PENALTIES

§ 1151. Aviation enforcement

(a) CIVIL ACTIONS BY BOARD.—The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS BY ATTORNEY GENERAL.—On request of the Board, the Attorney General may bring a civil action in an appropriate court—

(1) to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) PARTICIPATION OF BOARD.—On request of the Attorney General, the Board may participate in a civil action to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title.

§ 1152. Joinder and intervention in aviation proceedings

A person interested in or affected by a matter under consideration in a proceeding or a civil action to enforce section 1132, 1134(b) or (f)(1)(related to an aircraft accident), or 1155(a) of this title, or a regulation prescribed or order issued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

§ 1153. Judicial review

(a) GENERAL.—The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is issued.

(b) PERSONS SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any

part of the order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists. Findings of fact by the Board, if supported by substantial evidence, are conclusive.

(4) In reviewing an order under this subsection, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(c) ADMINISTRATOR SEEKING JUDICIAL REVIEW OF AVIATION MATTERS.—When the Administrator of the Federal Aviation Administration decides that an order of the Board under section 44709 or 46301(d)(5) of this title will have a significant adverse impact on carrying out this chapter related to an aviation matter, the Administrator may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

§ 1154. Discovery and use of cockpit voice and other material

(a) TRANSCRIPTS AND RECORDINGS.—(1) Except as provided by this subsection, a party in a judicial proceeding may not use discovery to obtain—

(A) any part of a cockpit voice recorder transcript that the National Transportation Safety Board has not made available to the public under section 1114(c) of this title; and

(B) a cockpit voice recorder recording.

(2)(A) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit voice recorder transcript if, after an in camera review of the transcript, the court decides that—

(i) the part of the transcript made available to the public under section 1114(c) of this title does not provide the party with sufficient information for the party to receive a fair trial; and

(ii) discovery of additional parts of the transcript is necessary to provide the party with sufficient information for the party to receive a fair trial.

(B) A court may allow discovery, or require production for an in camera review, of a cockpit voice recorder transcript that the Board has not made available under section 1114(c) of this title only if the cockpit voice recorder recording is not available.

(3) Except as provided in paragraph (4)(A) of this subsection, a court may allow discovery by a party of a cockpit voice recorder recording if, after an in camera review of the recording, the court decides that—

(A) the parts of the transcript made available to the public under section 1114(c) of this title and to the party through discovery under paragraph (2) of this subsection do not provide the party with sufficient information for the party to receive a fair trial; and

(B) discovery of the cockpit voice recorder recording is necessary to provide the party with sufficient information for the party to receive a fair trial.

(4)(A) When a court allows discovery in a judicial proceeding of a part of a cockpit voice recorder transcript not made available to the public under section 1114(c) of this title or a cockpit voice recorder recording, the court shall issue a protective order—

(i) to limit the use of the part of the transcript or the recording to the judicial proceeding; and

(ii) to prohibit dissemination of the part of the transcript or the recording to any person that does not need access to the part of the transcript or the recording for the proceeding.

(B) A court may allow a part of a cockpit voice recorder transcript not made available to the public under section 1114(c) of this title or a cockpit voice recorder recording to be admitted into evidence in a judicial proceeding, only if the court places the part of the transcript or the recording under seal to prevent the use of the part of the transcript or the recording for purposes other than for the proceeding.

(5) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(b) REPORTS.—No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

§ 1155. Aviation penalties

(a) CIVIL PENALTY.—(1) A person violating section 1132 or 1134(b) or (f)(1)(related to an aircraft accident) of this title or a regulation prescribed or order issued under either of those sections is liable to the United States Government for a civil penalty of not more than $1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces of the United States or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(5) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) CRIMINAL PENALTY.—A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

CHAPTER Sec.

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CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

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§ 5101. Purpose

The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation.

§ 5102. Definitions

In this chapter—

(1) "commerce" means trade or transportation in the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State; or

(B) that affects trade or transportation between a place in a State and a place outside of the State.

(2) "hazardous material" means a substance or material the Secretary of Transportation designates under section 5103(a) of this title.

(3) "hazmat employee"—

(A) means an individual—

(i) employed by a hazmat employer; and

(ii) who during the course of employment directly affects hazardous material transportation safety as the Secretary decides by regulation;

(B) includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and

(C) includes an individual, employed by a hazmat employer, who during the course of employment—

(i) loads, unloads, or handles hazardous material;

(ii) manufactures, reconditions, or tests containers, drums, and packages represented as qualified for use in transporting hazardous material;

(iii) prepares hazardous material for transportation;

(iv) is responsible for the safety of transporting hazardous material; or

(v) operates a vehicle used to transport hazardous material.

(4) "hazmat employer"—

(A) means a person using at least one employee of that person in connection with—

(i) transporting hazardous material in commerce;

(ii) causing hazardous material to be transported in commerce; or

(iii) manufacturing, reconditioning, or testing containers, drums, and packages represented as qualified for use in transporting hazardous material;

(B) includes an owner-operator of a motor vehicle transporting hazardous material in commerce; and

(C) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in subclause (A)(i), (ii), or (iii) of this clause (4).

(5) "imminent hazard" means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.

(6) "Indian tribe" has the same meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(7) "motor carrier" means a motor common carrier, motor contract carrier, motor private carrier, and freight forwarder as those terms are defined in section 10102 of this title.

(8) "national response team" means the national response team established under the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605).

(9) "person", in addition to its meaning under section 1 of title 1—

(A) includes a government, Indian tribe, or authority of a government or tribe offering hazardous material for transportation in commerce or transporting hazardous material to further a commercial enterprise; but

(B) does not include—

(i) the United States Postal Service; and

(ii) in sections 5123 and 5124 of this title, a department, agency, or instrumentality of the Government.

(10) "public sector employee"—

(A) means an individual employed by a State, political subdivision of a State, or Indian tribe and who during

the course of employment has responsibilities related to responding to an accident or incident involving the transportation of hazardous material;

(B) includes an individual employed by a State, political subdivision of a State, or Indian tribe as a firefighter or law enforcement officer; and

(C) includes an individual who volunteers to serve as a firefighter for a State, political subdivision of a State, or Indian tribe.

(11) "State" means—

(A) except in section 5119 of this title, a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States designated by the Secretary; and

(B) in section 5119 of this title, a State of the United States and the District of Columbia.

(12) "transports" or "transportation" means the movement of property and loading, unloading, or storage incidental to the movement.

(13) "United States" means all of the States.

§ 5103. General regulatory authority

(a) DESIGNATING MATERIAL AS HAZARDOUS.—The Secretary of Transportation shall designate material (including an explosive, radioactive material, etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material, and compressed gas) or a group or class of material as hazardous when the Secretary decides that transporting the material in commerce in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person—

(i) transporting hazardous material in commerce;

(ii) causing hazardous material to be transported in commerce; or

(iii) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a package or container that is represented, marked, certified, or sold by that person as qualified for use in transporting hazardous material in commerce; and

(B) shall govern safety aspects of the transportation of hazardous material the Secretary considers appropriate.

(2) A proceeding to prescribe the regulations must include an opportunity for informal oral presentations.

§ 5104. Representation and tampering

(a) REPRESENTATION.—A person may represent, by marking or otherwise, that—

(1) a container or package for transporting hazardous material is safe, certified, or complies with this chapter only if the container or package meets the requirements of each regulation prescribed under this chapter; or

(2) hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel only if the material is present.

(b) TAMPERING.—A person may not alter, remove, destroy, or otherwise tamper unlawfully with—

(1) a marking, label, placard, or description on a document required under this chapter or a regulation prescribed under this chapter; or

(2) a package, container, motor vehicle, rail freight car, aircraft, or vessel used to transport hazardous material.

§ 5105. Transporting certain highly radioactive material

(a) DEFINITIONS.—In this section, "high-level radioactive waste" and "spent nuclear fuel" have the same meanings given those terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) TRANSPORTATION SAFETY STUDY.—In consultation with the Secretary of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the rail transportation industry, and shippers of high-level radioactive waste and spent nuclear fuel, the Secretary of Transportation shall conduct a study comparing the safety of using trains operated only to transport high-level radioactive waste and spent nuclear fuel with the safety of using other methods of rail transportation for transporting that waste and fuel. The Secretary of Transportation shall submit to Congress not later than November 16, 1991, a report on the results of the study.

Reports.

(c) SAFE RAIL TRANSPORTATION REGULATIONS.—Not later than November 16, 1992, after considering the results of the study conducted under subsection (b) of this section, the Secretary of Transportation shall prescribe amendments to existing regulations that the Secretary considers appropriate to provide for the safe rail transportation of high-level radioactive waste and spent nuclear fuel, including trains operated only for transporting high-level radioactive waste and spent nuclear fuel.

(d) ROUTES AND MODES STUDY.—Not later than November 16, 1991, the Secretary of Transportation shall conduct a study to decide which factors, if any, shippers and carriers should consider when selecting routes and modes that would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. The study shall include—

(1) notice and opportunity for public comment; and

(2) an assessment of the degree to which at least the following affect the overall public safety of the transportation:

(A) population densities.

(B) types and conditions of modal infrastructures (including highways, railbeds, and waterways).

(C) quantities of high-level radioactive waste and spent nuclear fuel.

(D) emergency response capabilities.

(E) exposure and other risk factors.

(F) terrain considerations.

(G) continuity of routes.

(H) available alternative routes.

(I) environmental impact factors.

Regulations

(e) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary

of Transportation shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

(2) The Secretary of Transportation may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.

§ 5106. Handling criteria

The Secretary of Transportation may prescribe criteria for handling hazardous material, including—

(1) a minimum number of personnel;

(2) minimum levels of training and qualifications for personnel;

(3) the kind and frequency of inspections;

(4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;

(5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and

(6) a system of monitoring safety procedures for transporting the hazardous material.

§ 5107. Hazmat employee training requirements and grants

Regulations.

(a) TRAINING REQUIREMENTS.—The Secretary of Transportation shall prescribe by regulation requirements for training that a hazmat employer must give hazmat employees of the employer on the safe loading, unloading, handling, storing, and transporting of hazardous material and emergency preparedness for responding to an accident or incident involving the transportation of hazardous material. The regulations—

(1) shall establish the date, as provided by subsection (b) of this section, by which the training shall be completed; and

(2) may provide for different training for different classes or categories of hazardous material and hazmat employees.

(b) BEGINNING AND COMPLETING TRAINING.—A hazmat employer shall begin the training of hazmat employees of the employer not later than 6 months after the Secretary of Transportation prescribes the regulations under subsection (a) of this section. The training shall be completed within a reasonable period of time after—

(1) 6 months after the regulations are prescribed; or

(2) the date on which an individual is to begin carrying out a duty or power of a hazmat employee if the individual is employed as a hazmat employee after the 6-month period.

(c) CERTIFICATION OF TRAINING.—After completing the training, each hazmat employer shall certify, with documentation the Secretary of Transportation may require by regulation, that the hazmat

employees of the employer have received training and have been tested on appropriate transportation areas of responsibility, including at least one of the following:

(1) recognizing and understanding the Department of Transportation hazardous material classification system.

(2) the use and limitations of the Department hazardous material placarding, labeling, and marking systems.

(3) general handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transporting hazardous material.

(4) health, safety, and risk factors associated with hazardous material and the transportation of hazardous material.

(5) appropriate emergency response and communication procedures for dealing with an accident or incident involving hazardous material transportation.

(6) the use of the Department Emergency Response Guidebook and recognition of its limitations or the use of equivalent documents and recognition of the limitations of those documents.

(7) applicable hazardous material transportation regulations.

(8) personal protection techniques.

(9) preparing a shipping document for transporting hazardous material.

(d) COORDINATION OF TRAINING REQUIREMENTS.—In consultation with the Administrator of the Environmental Protection Agency and the Secretary of Labor, the Secretary of Transportation shall ensure that the training requirements prescribed under this section do not conflict with—

(1) the requirements of regulations the Secretary of Labor prescribes related to hazardous waste operations and emergency response that are contained in part 1910 of title 29, Code of Federal Regulations; and

(2) the regulations the Agency prescribes related to worker protection standards for hazardous waste operations that are contained in part 311 of title 40, Code of Federal Regulations.

(e) TRAINING GRANTS.—In consultation with the Secretaries of Transportation and Labor and the Administrator, the Director of the National Institute of Environmental Health Sciences may make grants to train hazmat employees under this section. A grant under this subsection shall be made to a nonprofit organization that demonstrates—

(1) expertise in conducting a training program for hazmat employees; and

(2) the ability to reach and involve in a training program a target population of hazmat employees.

(f) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary of Transportation under subsections (a)–(d) of this section.

(2) An action of the Secretary of Transportation under subsections (a)–(d) of this section and sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

§ 5108. Registration

(a) PERSONS REQUIRED TO FILE.—(1) A person shall file a registration statement with the Secretary of Transportation under this subsection if the person is transporting or causing to be transported in commerce any of the following:

(A) a highway-route-controlled quantity of radioactive material.

(B) more than 25 kilograms of a class A or B explosive in a motor vehicle, rail car, or transport container.

(C) more than one liter in each package of a hazardous material the Secretary designates as extremely toxic by inhalation.

(D) hazardous material in a bulk package, container, or tank, as defined by the Secretary, if the package, container, or tank has a capacity of at least 3,500 gallons or more than 468 cubic feet.

(E) a shipment of at least 5,000 pounds (except in a bulk packaging) of a class of hazardous material for which placarding of a vehicle, rail car, or freight container is required under regulations prescribed under this chapter.

(2) The Secretary of Transportation may require any of the following persons to file a registration statement with the Secretary under this subsection:

(A) a person transporting or causing to be transported hazardous material in commerce and not required to file a registration statement under paragraph (1) of this subsection.

(B) a person manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing a package or container the person represents, marks, certifies, or sells for use in transporting in commerce hazardous material the Secretary designates.

(3) A person required to file a registration statement under this subsection may transport or cause to be transported, or manufacture, fabricate, mark, maintain, recondition, repair, or test a package or container for use in transporting, hazardous material, only if the person has a statement on file as required by this subsection.

(b) FORM, CONTENTS, AND LIMITATION ON FILINGS.—(1) A registration statement under subsection (a) of this section shall be in the form and contain information the Secretary of Transportation requires by regulation. The Secretary may use existing forms of the Department of Transportation and the Environmental Protection Agency to carry out this subsection. The statement shall include— Regulations.

(A) the name and principal place of business of the registrant;

(B) a description of each activity the registrant carries out for which filing a statement under subsection (a) of this section is required; and

(C) each State in which the person carries out the activity.

(2) A person carrying out more than one activity, or an activity at more than one location, for which filing is required only has to file one registration statement to comply with subsection (a) of this section.

(c) FILING DEADLINES AND AMENDMENTS.—(1) Each person required to file a registration statement under subsection (a) of this section must file the first statement not later than March

31, 1992. The Secretary of Transportation may extend that date to September 30, 1992, for activities referred to in subsection (a)(1) of this section. A person shall renew the statement periodically consistent with regulations the Secretary prescribes, but not more than once each year and not less than once every 5 years.

(2) The Secretary of Transportation shall decide by regulation when and under what circumstances a registration statement must be amended and the procedures to follow in amending the statement.

(d) SIMPLIFYING THE REGISTRATION PROCESS.—The Secretary of Transportation may take necessary action to simplify the registration process under subsections (a)–(c) of this section and to minimize the number of applications, documents, and other information a person is required to file under this chapter and other laws of the United States.

(e) COOPERATION WITH ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall assist the Secretary of Transportation in carrying out subsections (a)–(g)(1) and (h) of this section by providing the Secretary with information the Secretary requests to carry out the objectives of subsections (a)–(g)(1) and (h).

(f) AVAILABILITY OF STATEMENTS.—The Secretary of Transportation shall make a registration statement filed under subsection (a) of this section available for inspection by any person for a fee the Secretary establishes. However, this subsection does not require the release of information described in section 552(f) of title 5 or otherwise protected by law from disclosure to the public.

(g) FEES.—(1) The Secretary of Transportation may establish, impose, and collect from a person required to file a registration statement under subsection (a) of this section a fee necessary to pay for the costs of the Secretary in processing the statement.

Regulations.

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary of Transportation shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this paragraph, the fee shall be at least $250 but not more than $5,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) gross revenue from transporting hazardous material.

(ii) the type of hazardous material transported or caused to be transported.

(iii) the amount of hazardous material transported or caused to be transported.

(iv) the number of shipments of hazardous material.

(v) the number of activities that the person carries out for which filing a registration statement is required under this section.

(vi) the threat to property, individuals, and the environment from an accident or incident involving the hazardous material transported or caused to be transported.

(vii) the percentage of gross revenue derived from transporting hazardous material.

(viii) the amount to be made available to carry out sections 5107(e), 5108(g)(2), 5115, and 5116 of this title.

(ix) other factors the Secretary considers appropriate.

(B) The Secretary of Transportation shall adjust the amount being collected under this paragraph to reflect any unexpended balance in the account established under section 5116(i) of this title. However, the Secretary is not required to refund any fee collected under this paragraph.

(C) The Secretary of Transportation shall transfer to the Secretary of the Treasury amounts the Secretary of Transportation collects under this paragraph for deposit in the account the Secretary of the Treasury establishes under section 5116(i) of this title.

(h) MAINTAINING PROOF OF FILING AND PAYMENT OF FEES.—The Secretary of Transportation may prescribe regulations requiring a person required to file a registration statement under subsection (a) of this section to maintain proof of the filing and payment of fees imposed under subsection (g) of this section.

(i) RELATIONSHIP TO OTHER LAWS.—(1) Chapter 35 of title 44 does not apply to an activity of the Secretary of Transportation under subsections (a)–(g)(1) and (h) of this section.

(2)(A) This section does not apply to an employee of a hazmat employer.

(B) Subsections (a)–(h) of this section do not apply to a department, agency, or instrumentality of the United States Government, an authority of a State or political subdivision of a State, or an employee of a department, agency, instrumentality, or authority carrying out official duties.

§ 5109. Motor carrier safety permits

(a) REQUIREMENT.—A motor carrier may transport or cause to be transported by motor vehicle in commerce hazardous material only if the carrier holds a safety permit the Secretary of Transportation issues under this section authorizing the transportation and keeps a copy of the permit, or other proof of its existence, in the vehicle. The Secretary shall issue a permit if the Secretary finds the carrier is fit, willing, and able—

(1) to provide the transportation to be authorized by the permit;

(2) to comply with this chapter and regulations the Secretary prescribes to carry out this chapter; and

(3) to comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations.

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a motor carrier, in amounts the Secretary establishes, of— Regulations.

(1) a class A or B explosive;

(2) liquefied natural gas;

(3) hazardous material the Secretary designates as extremely toxic by inhalation; and

(4) a highway-route-controlled quantity of radioactive material, as defined by the Secretary.

(c) APPLICATIONS.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this section. The Secretary may approve any part of the application or deny the application. The application shall be under oath and contain information the Secretary requires by regulation.

(d) AMENDMENTS, SUSPENSIONS, AND REVOCATIONS.—(1) After notice and an opportunity for a hearing, the Secretary may amend, suspend, or revoke a safety permit, as provided by procedures prescribed under subsection (e) of this section, when the Secretary decides the motor carrier is not complying with a requirement of this chapter, a regulation prescribed under this chapter, or an applicable United States motor carrier safety law or regulation or minimum financial responsibility law or regulation.

(2) If the Secretary decides an imminent hazard exists, the Secretary may amend, suspend, or revoke a permit before scheduling a hearing.

Regulations

(e) PROCEDURES.—The Secretary shall prescribe by regulation—

(1) application procedures, including form, content, and fees necessary to recover the complete cost of carrying out this section;

(2) standards for deciding the duration, terms, and limitations of a safety permit;

(3) procedures to amend, suspend, or revoke a permit; and

(4) other procedures the Secretary considers appropriate to carry out this section.

(f) SHIPPER RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

(g) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this section only if the carrier complies with conditions the Secretary finds are required to protect public safety.

(h) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.

§ 5110. Shipping papers and disclosure

(a) PROVIDING SHIPPING PAPERS.—Each person offering for transportation in commerce hazardous material to which the shipping paper requirements of the Secretary of Transportation apply shall provide to the carrier providing the transportation a shipping paper that makes the disclosures the Secretary prescribes under subsection (b) of this section.

(b) CONSIDERATIONS AND REQUIREMENTS.—In carrying out subsection (a) of this section, the Secretary shall consider and may require—

(1) a description of the hazardous material, including the proper shipping name;

(2) the hazard class of the hazardous material;

(3) the identification number (UN/NA) of the hazardous material;

(4) immediate first action emergency response information or a way for appropriate reference to the information (that must be available immediately); and

(5) a telephone number for obtaining more specific handling and mitigation information about the hazardous material at any time during which the material is transported.

(c) KEEPING SHIPPING PAPERS ON THE VEHICLE.—(1) A motor carrier, and the person offering the hazardous material for transpor-

tation if a private motor carrier, shall keep the shipping paper on the vehicle transporting the material.

(2) Except as provided in paragraph (1) of this subsection, the shipping paper shall be kept in a location the Secretary specifies in a motor vehicle, train, vessel, aircraft, or facility until—

(A) the hazardous material no longer is in transportation; or

(B) the documents are made available to a representative of a department, agency, or instrumentality of the United States Government or a State or local authority responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

(d) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—When an incident involving hazardous material being transported in commerce occurs, the person transporting the material, immediately on request of appropriate emergency response authorities, shall disclose to the authorities information about the material.

§ 5111. Rail tank cars

A rail tank car built before January 1, 1971, may be used to transport hazardous material in commerce only if the air brake equipment support attachments of the car comply with the standards for attachments contained in sections 179.100-16 and 179.200-19 of title 49, Code of Federal Regulations, in effect on November 16, 1990.

§ 5112. Highway routing of hazardous material

(a) APPLICATION.—(1) This section applies to a motor vehicle only if the vehicle is transporting hazardous material in commerce for which placarding of the vehicle is required under regulations prescribed under this chapter. However, the Secretary of Transportation by regulation may extend application of this section or a standard prescribed under subsection (b) of this section to—

(A) any use of a vehicle under this paragraph to transport any hazardous material in commerce; and

(B) any motor vehicle used to transport hazardous material in commerce.

(2) Except as provided by subsection (d) of this section and section 5125(c) of this title, each State and Indian tribe may establish, maintain, and enforce—

(A) designations of specific highway routes over which hazardous material may and may not be transported by motor vehicle; and

(B) limitations and requirements related to highway routing.

(b) STANDARDS FOR STATES AND INDIAN TRIBES.—(1) The Secretary, in consultation with the States, shall prescribe by regulation standards for States and Indian tribes to use in carrying out subsection (a) of this section. The standards shall include— Regulations.

(A) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall enhance public safety in the area subject to the jurisdiction of the State or tribe and in areas of the United States not subject to the jurisdiction of the State or tribe and directly affected by the designation, limitation, or requirement;

(B) minimum procedural requirements to ensure public participation when the State or Indian tribe is establishing a highway routing designation, limitation, or requirement;

(C) a requirement that, in establishing a highway routing designation, limitation, or requirement, a State or Indian tribe consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of that State or tribe establishing the designation, limitation, or requirement and with affected industries;

(D) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe shall ensure through highway routing for the transportation of hazardous material between adjacent areas;

(E) a requirement that a highway routing designation, limitation, or requirement of one State or Indian tribe affecting the transportation of hazardous material in another State or tribe may be established, maintained, and enforced by the State or tribe establishing the designation, limitation, or requirement only if—

(i) the designation, limitation, or requirement is agreed to by the other State or tribe within a reasonable period or is approved by the Secretary under subsection (d) of this section; and

(ii) the designation, limitation, or requirement is not an unreasonable burden on commerce;

(F) a requirement that establishing a highway routing designation, limitation, or requirement of a State or Indian tribe be completed in a timely way;

(G) a requirement that a highway routing designation, limitation, or requirement of a State or Indian tribe provide reasonable routes for motor vehicles transporting hazardous material to reach terminals, facilities for food, fuel, repairs, and rest, and places to load and unload hazardous material;

(H) a requirement that a State be responsible—

(i) for ensuring that political subdivisions of the State comply with standards prescribed under this subsection in establishing, maintaining, and enforcing a highway routing designation, limitation, or requirement; and

(ii) for resolving a dispute between political subdivisions; and

(I) a requirement that, in carrying out subsection (a) of this section, a State or Indian tribe shall consider—

(i) population densities;

(ii) the types of highways;

(iii) the types and amounts of hazardous material;

(iv) emergency response capabilities;

(v) the results of consulting with affected persons;

(vi) exposure and other risk factors;

(vii) terrain considerations;

(viii) the continuity of routes;

(ix) alternative routes;

(x) the effects on commerce;

(xi) delays in transportation; and

(xii) other factors the Secretary considers appropriate.

(2) The Secretary may not assign a specific weight that a State or Indian tribe shall use when considering the factors under paragraph (1)(I) of this subsection.

(c) LIST OF ROUTE DESIGNATIONS.—In coordination with the States, the Secretary shall update and publish periodically a list of currently effective hazardous material highway route designations. Records. Publication.

(d) DISPUTE RESOLUTION.—(1) The Secretary shall prescribe regulations for resolving a dispute related to through highway routing or to an agreement with a proposed highway route designation, limitation, or requirement between or among States, political subdivisions of different States, or Indian tribes. Regulations.

(2) A State or Indian tribe involved in a dispute under this subsection may petition the Secretary to resolve the dispute. The Secretary shall resolve the dispute not later than one year after receiving the petition. The resolution shall provide the greatest level of highway safety without being an unreasonable burden on commerce and shall ensure compliance with standards prescribed under subsection (b) of this section.

(3)(A) After a petition is filed under this subsection, a civil action about the subject matter of the dispute may be brought in a court only after the earlier of—

(i) the day the Secretary issues a final decision; or

(ii) the last day of the one-year period beginning on the day the Secretary receives the petition.

(B) A State or Indian tribe adversely affected by a decision of the Secretary under this subsection may bring a civil action for judicial review of the decision in an appropriate district court of the United States not later than 89 days after the day the decision becomes final.

(e) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect sections 31111 and 31113 of this title or section 127 of title 23.

(f) EXISTING RADIOACTIVE MATERIAL ROUTING REGULATIONS.—The Secretary is not required to amend or again prescribe regulations related to highway routing designations over which radioactive material may and may not be transported by motor vehicles, and limitations and requirements related to the routing, that were in effect on November 16, 1990.

§ 5113. Unsatisfactory safety rating

(a) PROHIBITED TRANSPORTATION.—A motor carrier receiving an unsatisfactory safety rating from the Secretary of Transportation has 45 days to improve the rating to conditional or satisfactory. Beginning on the 46th day and until the motor carrier receives a conditional or satisfactory rating, a motor carrier not having received a conditional or satisfactory rating during the 45-day period may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

(1) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

(2) to transport more than 15 individuals.

(b) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier receiving an unsatisfactory rating not later than 30 days after the motor carrier requests a review.

(c) PROHIBITED GOVERNMENT USE.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that has an unsatisfactory rating from the Secretary—

(1) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

(2) to transport more than 15 individuals.

Regulations.

(d) PUBLIC AVAILABILITY AND UPDATING OF RATINGS.—The Secretary, in consultation with the Interstate Commerce Commission, shall prescribe regulations amending the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and update periodically, the safety ratings of motor carriers that have unsatisfactory ratings from the Secretary.

§ 5114. Air transportation of ionizing radiation material

(a) TRANSPORTING IN AIR COMMERCE.—Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is intended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) PROCEDURES.—The Secretary of Transportation shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) NONAPPLICATION.—This section does not apply to material the Secretary decides does not pose a significant hazard to health or safety when transported because of its low order of radioactivity.

§ 5115. Training curriculum for the public sector

(a) DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in coordination with the Director of the Federal Emergency Management Agency, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, Secretaries of Labor, Energy, and Health and Human Services, and Director of the National Institute of Environmental Health Sciences, and using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall develop and update periodically a curriculum consisting of a list of courses necessary to train public sector emergency response and preparedness teams. Only in developing the curriculum, the Secretary of Transportation shall consult with regional response teams established under the national contingency plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), representatives of commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) that provide training for responding to accidents and incidents involving the transportation of hazardous material, and representatives of persons that respond to those accidents and incidents.

(b) REQUIREMENTS.—The curriculum developed under subsection (a) of this section—

(1) shall include—

(A) a recommended course of study to train public sector employees to respond to an accident or incident

involving the transportation of hazardous material and to plan for those responses;

(B) recommended basic courses and minimum number of hours of instruction necessary for public sector employees to be able to respond safely and efficiently to an accident or incident involving the transportation of hazardous material and to plan those responses; and

(C) appropriate emergency response training and planning programs for public sector employees developed under other United States Government grant programs, including those developed with grants made under section 126 of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9660a); and

(2) may include recommendations on material appropriate for use in a recommended basic course described in clause (1)(B) of this subsection.

(c) TRAINING ON COMPLYING WITH LEGAL REQUIREMENTS.—A recommended basic course described in subsection (b)(1)(B) of this section shall provide the training necessary for public sector employees to comply with—

(1) regulations related to hazardous waste operations and emergency response contained in part 1910 of title 29, Code of Federal Regulations, prescribed by the Secretary of Labor;

(2) regulations related to worker protection standards for hazardous waste operations contained in part 311 of title 40, Code of Federal Regulations, prescribed by the Administrator; and

(3) standards related to emergency response training prescribed by the National Fire Protection Association.

(d) DISTRIBUTION AND PUBLICATION.—With the national response team—

(1) the Director of the Federal Emergency Management Agency shall distribute the curriculum and any updates to the curriculum to the regional response teams and all committees and commissions established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001); and

(2) the Secretary of Transportation may publish a list of programs that uses a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.

§ 5116. Planning and training grants, monitoring, and review Indians.

(a) PLANNING GRANTS.—(1) The Secretary of Transportation shall make grants to States—

(A) to develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.), including ascertaining flow patterns of hazardous material in a State and between States; and

(B) to decide on the need for a regional hazardous material emergency response team.

(2) The Secretary of Transportation may make a grant to a State under paragraph (1) of this subsection in a fiscal year only if the State—

(A) certifies that the total amount the State expends (except amounts of the United States Government) to develop, improve,

and carry out emergency plans under the Act will at least equal the average level of expenditure for the last 2 fiscal years; and

(B) agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year to local emergency planning committees established under section 301(c) of the Act (42 U.S.C. 11001(c)) to develop emergency plans under the Act.

(b) TRAINING GRANTS.—(1) The Secretary of Transportation shall make grants to States and Indian tribes to train public sector employees to respond to accidents and incidents involving hazardous material.

(2) The Secretary of Transportation may make a grant under paragraph (1) of this subsection in a fiscal year—

(A) to a State or Indian tribe only if the State or tribe certifies that the total amount the State or tribe expends (except amounts of the Government) to train public sector employees to respond to an accident or incident involving hazardous material will at least equal the average level of expenditure for the last 2 fiscal years;

(B) to a State or Indian tribe only if the State or tribe makes an agreement with the Secretary that the State or tribe will use in that fiscal year, for training public sector employees to respond to an accident or incident involving hazardous material—

(i) a course developed or identified under section 5115 of this title; or

(ii) another course the Secretary decides is consistent with the objectives of this section; and

(C) to a State only if the State agrees to make available at least 75 percent of the amount of the grant under paragraph (1) of this subsection in the fiscal year for training public sector employees a political subdivision of the State employs or uses.

(3) A grant under this subsection may be used—

(A) to pay—

(i) the tuition costs of public sector employees being trained;

(ii) travel expenses of those employees to and from the training facility;

(iii) room and board of those employees when at the training facility; and

(iv) travel expenses of individuals providing the training;

(B) by the State, political subdivision, or Indian tribe to provide the training; and

(C) to make an agreement the Secretary of Transportation approves authorizing a person (including an authority of a State or political subdivision of a State or Indian tribe) to provide the training—

(i) if the agreement allows the Secretary and the State or tribe to conduct random examinations, inspections, and audits of the training without prior notice; and

(ii) if the State or tribe conducts at least one on-site observation of the training each year.

(4) The Secretary of Transportation shall allocate amounts made available for grants under this subsection for a fiscal year

among eligible States and Indian tribes based on the needs of the States and tribes for emergency response training. In making a decision about those needs, the Secretary shall consider—

(A) the number of hazardous material facilities in the State or on land under the jurisdiction of the tribe;

(B) the types and amounts of hazardous material transported in the State or on that land;

(C) whether the State or tribe imposes and collects a fee on transporting hazardous material;

(D) whether the fee is used only to carry out a purpose related to transporting hazardous material; and

(E) other factors the Secretary decides are appropriate to carry out this subsection.

(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary of Transportation may make a grant to a State under this section in a fiscal year only if the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003).

(d) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary of Transportation. The application must be submitted at the time, and contain information, the Secretary requires by regulation to carry out the objectives of this section.

(e) GOVERNMENT'S SHARE OF COSTS.—A grant under this section is for 80 percent of the cost the State or Indian tribe incurs in the fiscal year to carry out the activity for which the grant is made. Amounts of the State or tribe under subsections (a)(2)(A) and (b)(2)(A) of this section are not part of the non-Government share under this subsection.

(f) MONITORING AND TECHNICAL ASSISTANCE.—In coordination with the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the National Institute of Environmental Health Sciences, the Director of the Federal Emergency Management Agency shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretaries, Administrator, and Directors each shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the national response team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.

(g) DELEGATION OF AUTHORITY.—To minimize administrative costs and to coordinate Government grant programs for emergency response training and planning, the Secretary of Transportation may delegate to the Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, Administrator of the Environmental Protection Agency, and Secretaries of Labor and Energy any of the following:

(1) authority to receive applications for grants under this section.

(2) authority to review applications for technical compliance with this section.

(3) authority to review applications to recommend approval or disapproval.

(4) any other ministerial duty associated with grants under this section.

(h) MINIMIZING DUPLICATION OF EFFORT AND EXPENSES.—The Secretaries of Transportation, Labor, and Energy, Directors of the Federal Emergency Management Agency and National Institute of Environmental Health Sciences, Chairman of the Nuclear Regulatory Commission, and Administrator of the Environmental Protection Agency shall review periodically, with the head of each department, agency, or instrumentality of the Government, all emergency response and preparedness training programs of that department, agency, or instrumentality to minimize duplication of effort and expense of the department, agency, or instrumentality in carrying out the programs and shall take necessary action to minimize duplication.

(i) ANNUAL REGISTRATION FEE ACCOUNT AND ITS USES.—The Secretary of the Treasury shall establish an account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation collects under section 5108(g)(2)(A) of this title and transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

(1) to make grants under this section and section 5107(e) of this title;

(2) to monitor and provide technical assistance under subsection (f) of this section; and

(3) to pay administrative costs of carrying out this section and sections 5107(e), 5108(g)(2), and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year may be used to pay those costs.

§ 5117. Exemptions and exclusions

(a) AUTHORITY TO EXEMPT.—(1) As provided under procedures prescribed by regulation, the Secretary of Transportation may issue an exemption from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level—

(A) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) An exemption under this subsection is effective for not more than 2 years and may be renewed on application to the Secretary.

(b) APPLICATIONS.—When applying for an exemption or renewal of an exemption under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the exemption. The Secretary shall publish in the Federal Register notice that an application for an exemption has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. This subsection does not require the release of information protected by law from public disclosure.

Federal Register, publication.

(c) EXCLUSIONS.—(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation of a firearm or ammunition in commerce.

(d) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, an exemption or renewal granted under this section is the only way a person subject to this chapter may be exempt from this chapter.

§ 5118. Inspectors

(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall maintain the employment of 30 hazardous material safety inspectors more than the total number of safety inspectors authorized for the fiscal year that ended September 30, 1990, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration.

(b) ALLOCATION TO PROMOTE SAFETY IN TRANSPORTING RADIOACTIVE MATERIAL.—(1) The Secretary shall ensure that 10 of the 30 additional inspectors focus on promoting safety in transporting radioactive material, as defined by the Secretary, including inspecting—

(A) at the place of origin, shipments of high-level radioactive waste or nuclear spent material (as those terms are defined in section 5105(a) of this title); and

(B) to the maximum extent practicable shipments of radioactive material that are not high-level radioactive waste or nuclear spent material.

(2) In carrying out their duties, those 10 additional inspectors shall cooperate to the greatest extent possible with safety inspectors of the Nuclear Regulatory Commission and appropriate State and local government officials.

(3) Those 10 additional inspectors shall be allocated as follows:

(A) one to the Research and Special Programs Administration.

(B) 3 to the Federal Railroad Administration.

(C) 3 to the Federal Highway Administration.

(D) the other 3 among the administrations referred to in clauses (A)–(C) of this paragraph as the Secretary decides.

(c) ALLOCATION OF OTHER INSPECTORS.—The Secretary shall allocate, as the Secretary decides, the 20 additional inspectors authorized under this section and not allocated under subsection (b) of this section among the administrations referred to in subsection (b)(3)(A)–(C) of this section.

§ 5119. Uniform forms and procedures

(a) WORKING GROUP.—The Secretary of Transportation shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities,

the United States Conference of Mayors, and the National Conference of State Legislatures. The purposes of the working group are—

(1) to establish uniform forms and procedures for a State—

(A) to register persons that transport or cause to be transported hazardous material by motor vehicle in the State; and

(B) to allow the transportation of hazardous material in the State; and

(2) to decide whether to limit the filing of any State registration and permit forms and collection of filing fees to the State in which the person resides or has its principal place of business.

(b) CONSULTATION AND REPORTING.—The working group—

(1) shall consult with persons subject to registration and permit requirements described in subsection (a) of this section; and

(2) not later than November 16, 1993, shall submit to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Public Works and Transportation of the House of Representatives a final report that contains—

(A) a detailed statement of its findings and conclusions; and

(B) its joint recommendations on the matters referred to in subsection (a) of this section.

(c) REGULATIONS ON RECOMMENDATIONS.—(1) The Secretary shall prescribe regulations to carry out the recommendations contained in the report submitted under subsection (b) of this section with which the Secretary agrees. The regulations shall be prescribed by the later of the last day of the 3-year period beginning on the date the working group submitted its report or the last day of the 90-day period beginning on the date on which at least 26 States adopt all of the recommendations of the report. A regulation prescribed under this subsection may not define or limit the amount of a fee a State may impose or collect.

(2) A regulation prescribed under this subsection takes effect one year after it is prescribed. The Secretary may extend the one-year period for an additional year for good cause. After a regulation is effective, a State may establish, maintain, or enforce a requirement related to the same subject matter only if the requirement is the same as the regulation.

(3) In consultation with the working group, the Secretary shall develop a procedure to eliminate differences in how States carry out a regulation prescribed under this subsection.

(d) RELATIONSHIP TO OTHER LAWS.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the working group.

§ 5120. International uniformity of standards and requirements

(a) PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary of Transportation shall participate in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) CONSULTATION.—The Secretary of Transportation may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under sections 5103(b), 5104, 5110, and 5112 of this title are consistent with standards related to transporting hazardous material that international authorities adopt.

(c) DIFFERENCES WITH INTERNATIONAL STANDARDS AND REQUIREMENTS.—This section—

(1) does not require the Secretary of Transportation to prescribe a standard identical to a standard adopted by an international authority if the Secretary decides the standard is unnecessary or unsafe; and

(2) does not prohibit the Secretary from prescribing a safety requirement more stringent than a requirement included in a standard adopted by an international authority if the Secretary decides the requirement is necessary in the public interest.

§ 5121. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c) INSPECTION.—(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a package or container for use by a person in transporting hazardous material in commerce; or

(B) the transportation of hazardous material in commerce.

(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.

(d) FACILITY, STAFF, AND REPORTING SYSTEM ON RISKS, EMERGENCIES, AND ACTIONS.—(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide on and take appropriate actions to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(e) ANNUAL REPORT.—The Secretary shall submit to the President, for submission to Congress, not later than June 15th of each year, a report about the transportation of hazardous material during the prior calendar year. The report shall include—

(1) a statistical compilation of accidents and casualties related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and exemptions;

(3) a summary of the basis for each exemption;

(4) an evaluation of the effectiveness of enforcement activities and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

§ 5122. Enforcement

(a) GENERAL.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.

(b) IMMINENT HAZARDS.—(1) If the Secretary has reason to believe that an imminent hazard exists, the Secretary may bring a civil action in an appropriate district court of the United States—

(A) to suspend or restrict the transportation of the hazardous material responsible for the hazard; or

(B) to eliminate or ameliorate the hazard.

(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.

§ 5123. Civil penalty

(a) PENALTY.—(1) A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $25,000 for each violation. A person acts knowingly when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

(2) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues.

(b) HEARING REQUIREMENT.—The Secretary of Transportation may find that a person has violated this chapter or a regulation prescribed under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty.

(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business; and

(3) other matters that justice requires.

(d) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section.

(e) COMPROMISE.—The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(f) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(g) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

§ 5124. Criminal penalty

A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

§ 5125. Preemption

(a) GENERAL.—Except as provided in subsections (b), (c), and (e) of this section, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter or a regulation prescribed under this chapter is not possible; or

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

(b) SUBSTANTIVE DIFFERENCES.—(1) Except as provided in subsection (c) of this section, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this chapter or a regulation prescribed under this chapter, is preempted:

(A) the designation, description, and classification of hazardous material.

(B) the packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) the preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) the design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a package or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

(2) If the Secretary of Transportation prescribes or has prescribed under section 5103(b), 5104, 5110, or 5112 of this title or prior comparable provision of law a regulation or standard related

to a subject referred to in paragraph (1) of this subsection, a State, political subdivision of a State, or Indian tribe may prescribe, issue, maintain, and enforce only a law, regulation, standard, or order about the subject that is substantively the same as a provision of this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall decide on and publish in the Federal Register the effective date of section 5103(b) of this title for any regulation or standard about any of those subjects that the Secretary prescribes after November 16, 1990. However, the effective date may not be earlier than 90 days after the Secretary prescribes the regulation or standard nor later than the last day of the 2-year period beginning on the date the Secretary prescribes the regulation or standard.

Federal Register, publication.

(3) If a State, political subdivision of a State, or Indian tribe imposes a fine or penalty the Secretary decides is appropriate for a violation related to a subject referred to in paragraph (1) of this subsection, an additional fine or penalty may not be imposed by any other authority.

(c) COMPLIANCE WITH SECTION 5112(b) REGULATIONS.—(1) Except as provided in paragraph (2) of this subsection, after the last day of the 2-year period beginning on the date a regulation is prescribed under section 5112(b) of this title, a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).

(2)(A) A highway routing designation, limitation, or requirement established before the date a regulation is prescribed under section 5112(b) of this title does not have to comply with section 5112(b)(1)(B), (C), and (F).

(B) This subsection and section 5112 of this title do not require a State or Indian tribe to comply with section 5112(b)(1)(I) if the highway routing designation, limitation, or requirement was established before November 16, 1990.

(C) The Secretary may allow a highway routing designation, limitation, or requirement to continue in effect until a dispute related to the designation, limitation, or requirement is resolved under section 5112(d) of this title.

(d) DECISIONS ON PREEMPTION.—(1) A person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision, or tribe may apply to the Secretary, as provided by regulations prescribed by the Secretary, for a decision on whether the requirement is preempted by subsection (a), (b)(1), or (c) of this section. The Secretary shall publish notice of the application in the Federal Register. After notice is published, an applicant may not seek judicial relief on the same or substantially the same issue until the Secretary takes final action on the application or until 180 days after the application is filed, whichever occurs first.

Federal Register, publication.

Regulations.

(2) After consulting with States, political subdivisions of States, and Indian tribes, the Secretary shall prescribe regulations for carrying out paragraph (1) of this subsection.

(3) Subsection (a) of this section does not prevent a State, political subdivision of a State, or Indian tribe, or another person directly affected by a requirement, from seeking a decision on

preemption from a court of competent jurisdiction instead of applying to the Secretary under paragraph (1) of this subsection.

(e) WAIVER OF PREEMPTION.—A State, political subdivision of a State, or Indian tribe may apply to the Secretary for a waiver of preemption of a requirement the State, political subdivision, or tribe acknowledges is preempted by subsection (a), (b)(1), or (c) of this section. Under a procedure the Secretary prescribes by regulation, the Secretary may waive preemption on deciding the requirement—

(1) provides the public at least as much protection as do requirements of this chapter and regulations prescribed under this chapter; and

(2) is not an unreasonable burden on commerce.

(f) JUDICIAL REVIEW.—A party to a proceeding under subsection (d) or (e) of this section may bring a civil action in an appropriate district court of the United States for judicial review of the decision of the Secretary not later than 60 days after the decision becomes final.

(g) FEES.—A State, political subdivision of a State, or Indian tribe may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

§ 5126. Relationship to other laws

(a) CONTRACTS.—A person under contract with a department, agency, or instrumentality of the United States Government that transports or causes to be transported hazardous material, or manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container that the person represents, marks, certifies, or sells as qualified for use in transporting hazardous material must comply with this chapter, regulations prescribed and orders issued under this chapter, and all other requirements of the Government, State and local governments, and Indian tribes (except a requirement preempted by a law of the United States) in the same way and to the same extent that any person engaging in that transportation, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing that is in or affects commerce must comply with the provision, regulation, order, or requirement.

(b) NONAPPLICATION.—This chapter does not apply to—

(1) a pipeline subject to regulation under chapter 601 of this title; or

(2) any matter that is subject to the postal laws and regulations of the United States under this chapter or title 18 or 39.

§ 5127. Authorization of appropriations

(a) GENERAL.—Not more than $18,000,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1993, to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119).

(b) HAZMAT EMPLOYEE TRAINING.—Not more than $250,000 is available to the Director of the National Institute of Environmental Health Sciences from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5107(e) of this title.

(c) TRAINING CURRICULUM.—(1) Not more than $1,000,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5115 of this title.

(2) The Secretary of Transportation may transfer to the Director of the Federal Emergency Management Agency from amounts available under this subsection amounts necessary to carry out section 5115(d)(1) of this title.

(d) PLANNING AND TRAINING.—(1) Not more than $5,000,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5116(a) of this title.

(2) Not more than $7,800,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5116(b) of this title.

(3) Not more than the following amounts are available from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1993–1998, to carry out section 5116(f) of this title:

(A) $750,000 each to the Secretaries of Transportation and Energy, Administrator of the Environmental Protection Agency, and Director of the Federal Emergency Management Agency.

(B) $200,000 to the Director of the National Institute of Environmental Health Sciences.

(e) UNIFORM FORMS AND PROCEDURES.—Not more than $400,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1993, to carry out section 5119 of this title.

(f) CREDITS TO APPROPRIATIONS.—The Secretary of Transportation may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

(g) AVAILABILITY OF AMOUNTS.—Amounts available under subsections (c)–(e) of this section remain available until expended.

Grants.
Urban and rural areas.

CHAPTER 53—MASS TRANSPORTATION

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§ 5301. Policies, findings, and purposes

(a) DEVELOPMENT OF TRANSPORTATION SYSTEMS.—It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and efficiently maximize mobility of individuals and goods in and through urbanized areas and minimize transportation-related fuel consumption and air pollution.

(b) GENERAL FINDINGS.—Congress finds that—

(1) more than 70 percent of the population of the United States is located in rapidly expanding urban areas that generally cross the boundary lines of local jurisdictions and often extend into at least 2 States;

(2) the welfare and vitality of urban areas, the satisfactory movement of people and goods within those areas, and the effectiveness of programs aided by the United States Government are jeopardized by deteriorating or inadequate urban transportation service and facilities, the intensification of traffic congestion, and the lack of coordinated, comprehensive, and continuing development planning;

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economical, and convenient transportation in and between urban areas;

(4) for many years the mass transportation industry capably and profitably satisfied the transportation needs of the urban areas of the United States but in the early 1970's continuing even minimal mass transportation service in urban areas was threatened because maintaining that transportation service was financially burdensome;

(5) ending that transportation, or the continued increase in its cost to the user, is undesirable and may affect seriously and adversely the welfare of a substantial number of lower income individuals;

(6) some urban areas were developing preliminary plans for, or carrying out, projects in the early 1970's to revitalize their mass transportation operations;

(7) significant mass transportation improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economi-

cally disadvantaged individuals in urban and rural areas of the United States;

(8) financial assistance by the Government to develop efficient and coordinated mass transportation systems is essential to solve the urban transportation problems referred to in clause (2) of this subsection; and

(9) immediate substantial assistance by the Government is needed to enable mass transportation systems to continue providing vital transportation service.

(c) RAPID URBANIZATION AND CONTINUING POPULATION DISPERSAL.—Rapid urbanization and continuing dispersal of the population and activities in urban areas have made the ability of all citizens to move quickly and at a reasonable cost an urgent problem of the Government.

(d) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.—It is the policy of the Government that elderly individuals and individuals with disabilities have the same right as other individuals to use mass transportation service and facilities. Special efforts shall be made in planning and designing mass transportation service and facilities to ensure that mass transportation can be used by elderly individuals and individuals with disabilities. All programs of the Government assisting mass transportation shall carry out this policy.

(e) PRESERVING THE ENVIRONMENT.—It is the policy of the Government that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets when planning, designing, and carrying out an urban mass transportation capital project with assistance from the Government under sections 5309 and 5310 of this title.

(f) GENERAL PURPOSES.—The purposes of this chapter are—

(1) to assist in developing improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private mass transportation companies;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development with the cooperation of public and private mass transportation companies;

(3) to assist States and local governments and their authorities in financing areawide urban mass transportation systems that are to be operated by public or private mass transportation companies as decided by local needs;

(4) to provide financial assistance to State and local governments and their authorities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals; and

(5) to establish a partnership that allows a community, with financial assistance from the Government, to satisfy its urban mass transportation requirements.

§ 5302. Definitions

(a) GENERAL.—In this chapter—

(1) "capital project" means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, map-

ping, and acquiring rights of way), relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus that extends the economic life of a bus for at least 5 years;

(C) remanufacturing a bus that extends the economic life of a bus for at least 8 years; or

(D) overhauling rail rolling stock.

(2) "chief executive officer of a State" includes the designee of the chief executive officer.

(3) "emergency regulation" means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(b) of this title; and

(B) prescribed by the Secretary of Transportation as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(4) "fixed guideway" means a mass transportation facility—

(A) using and occupying a separate right of way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

(B) using a fixed catenary system and a right of way usable by other forms of transportation.

(5) "handicapped individual" means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

(6) "local governmental authority" includes—

(A) a political subdivision of a State;

(B) an authority of at least one State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(7) "mass transportation" means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.

(8) "net project cost" means the part of a project that reasonably cannot be financed from revenues.

(9) "new bus model" means a bus model (including a model using alternative fuel)—

(A) that has not been used in mass transportation in the United States before the date of production of the model; or

(B) used in mass transportation in the United States but being produced with a major change in configuration or components.

(10) "regulation" means any part of a statement of general or particular applicability of the Secretary of Transportation designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(11) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(12) "urban area" means an area that includes a municipality or other built-up place that the Secretary of Transportation, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

(13) "urbanized area" means an area—

(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

(B) designated an urbanized area within boundaries fixed by State and local officials and approved by the Secretary of Transportation.

(b) AUTHORITY TO MODIFY "HANDICAPPED INDIVIDUAL".—The Secretary of Transportation by regulation may modify the definition of subsection (a)(5) of this section as it applies to section 5307(d)(1)(D) of this title.

§ 5303. Metropolitan planning

(a) DEVELOPMENT REQUIREMENTS.—To carry out section 5301(a) of this title, metropolitan planning organizations designated under subsection (c) of this section, in cooperation with States, shall develop transportation plans and programs for State urbanized areas. The plans and programs for each area shall provide for developing transportation facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State, metropolitan area, and United States. The development process shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems.

(b) PLAN AND PROGRAM FACTORS.—In developing plans and programs under this section and sections 5304–5306 of this title, each metropolitan planning organization at least shall consider the following factors:

(1) preserving existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

(2) the consistency of transportation planning with United States Government, State, and local energy conservation programs, goals, and objectives.

(3) the need to relieve congestion and prevent congestion from occurring.

(4) the likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with short- and long-term land use and development plans.

(5) programming expenditures on transportation enhancement activities, as required under section 133 of title 23.

(6) the effects of all transportation projects to be undertaken in the metropolitan area, without regard to whether the projects are publicly financed.

(7) international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

(8) the need for connecting roads in the metropolitan area with roads outside the area.

(9) the transportation needs identified by using the management systems required by section 303 of title 23.

(10) preserving rights of way for constructing future transportation projects, including identifying—

(A) unused rights of way that may be needed for future transportation corridors; and

(B) corridors where action is needed most to prevent destruction or loss.

(11) ways to enhance the efficient movement of freight.

(12) using life-cycle costs in designing and engineering bridges, tunnels, and pavement.

(13) the overall social, economic, energy, and environmental effects of transportation decisions.

(14) ways to expand and enhance mass transportation services and to increase usage of those services.

(15) capital investments that will result in increased security in mass transportation systems.

(c) DESIGNATING METROPOLITAN PLANNING ORGANIZATIONS.—(1) To carry out the planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000—

(A) by agreement of the chief executive officer of a State and units of general local government representing at least 75 percent of the affected population (including the central city as defined by the Secretary of Commerce); or

(B) under procedures established by State or local law.

(2) In a metropolitan area designated as a transportation management area, the designated metropolitan planning organization, if redesignated after December 18, 1991, shall include local elected officials, officials of authorities that administer or operate major modes of transportation in the metropolitan area (including all transportation authorities included in the organization on June 1, 1991), and appropriate State officials.

(3) More than one metropolitan planning organization may be designated in an urbanized area (as defined by the Secretary of Commerce) only if the chief executive officer decides that the size and complexity of the urbanized area make designation of more than one organization appropriate.

(4) A designation is effective until—

(A) the organization is redesignated under paragraph (3) of this subsection; or

(B) revoked—

(i) by agreement of the chief executive officer and units of general local government representing at least 75 percent of the affected population; or

(ii) as otherwise provided by State or local procedures.

(5)(A) The chief executive officer and units of general local government representing at least 75 percent of the affected popu-

lation (including the central city as defined by the Secretary of Commerce) may redesignate by agreement a metropolitan planning organization when appropriate to carry out this section.

(B) A metropolitan planning organization shall be redesignated on request of one or more units of general local government representing at least 25 percent of the affected population (including the central city as defined by the Secretary of Commerce) in an urbanized area with a population of more than 5,000,000, but less than 10,000,000 or that is an extreme nonattainment area for ozone or carbon monoxide (as defined in the Clean Air Act (42 U.S.C. 7401 et seq.)).

(C) A metropolitan planning organization shall be redesignated using procedures established to carry out this paragraph.

(6) This subsection does not affect the authority, under State law in effect on December 18, 1991, of a public authority with multimodal transportation responsibilities—

(A) to develop plans and programs for a metropolitan planning organization to adopt; and

(B) to develop long-range capital plans, coordinate mass transportation services and projects, and carry out other activities under State law.

(d) METROPOLITAN AREA BOUNDARIES.—To carry out this section, the metropolitan planning organization and the chief executive officer shall decide by agreement on the boundaries of a metropolitan area. The area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Secretary of Commerce. An area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) shall include at least the boundaries of the nonattainment area, except as the chief executive officer and metropolitan planning organization otherwise agree.

(e) COORDINATION.—(1) The Secretary of Transportation shall establish requirements the Secretary considers appropriate to encourage chief executive officers and metropolitan planning organizations with responsibility for part of a multi-State metropolitan area to provide coordinated transportation planning for the entire area.

(2) Congress consents to at least 2 States making an agreement, not in conflict with a law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreement effective.

(3) If more than one metropolitan planning organization has authority in a metropolitan area or an area designated a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each organization shall consult with the other organizations designated for the area and the State to coordinate plans and projects required by this section and sections 5304–5306 of this title.

(f) DEVELOPING LONG-RANGE PLANS.—(1) Each metropolitan planning organization shall prepare and update periodically, according to a schedule the Secretary of Transportation decides is appropriate, a long-range plan for its metropolitan area under the require-

ments of this section. The plan shall be in the form the Secretary considers appropriate and at least shall—

(A) identify transportation facilities (including major roadways, mass transportation, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, emphasizing transportation facilities that serve important United States and regional transportation functions;

(B) include a financial plan that—

(i) demonstrates how the long-range plan can be carried out;

(ii) indicates resources from public and private sources reasonably expected to be made available to carry out the plan; and

(iii) recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects and programs;

(C) assess capital investment and other measures necessary—

(i) to ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, and operations, maintenance, modernization, and rehabilitation of existing and future mass transportation facilities; and

(ii) to use existing transportation facilities most efficiently to relieve vehicular congestion and maximize the mobility of individuals and goods; and

(D) indicate appropriate proposed transportation enhancement activities.

(2) When formulating a long-range plan, the metropolitan planning organization shall consider the factors described in subsection (e) of this section as they are related to a 20-year forecast period.

(3) In a metropolitan area that is in a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of the long-range plan with the development of the transportation control measures of the State Implementation Plan required by the Act.

(4) Before approving a long-range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of mass transportation authority employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the plan in a way the Secretary of Transportation considers appropriate.

(5) A long-range plan shall be—

(A) made readily available for public review; and

Public information.

(B) submitted for information purposes to the chief executive officer of the State at the time and in the way the Secretary of Transportation establishes.

(g) GRANTS.—Under criteria the Secretary of Transportation establishes, the Secretary may make contracts for, and grants to, States, local governmental authorities, and authorities of the States and governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, to plan, engineer, design, and evaluate a mass transportation project and for other technical studies, including—

(1) studies related to management, operations, capital requirements, and economic feasibility;

(2) evaluating previously financed projects; and

(3) other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

(h) BALANCED AND COMPREHENSIVE PLANNING.—(1) To the extent practicable, the Secretary of Transportation shall ensure that amounts made available under section 5338(g)(1) of this title to carry out this section and sections 5304–5306 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

(2)(A) The Secretary of Transportation shall apportion 80 percent of the amount made available under section 5338(g)(1) of this title to States in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census. A State may not receive less than .5 percent of the amount apportioned under this subparagraph.

(B) Amounts apportioned to a State under subparagraph (A) of this paragraph shall be allocated to metropolitan planning organizations in the State designated under this section under a formula—

(i) the State develops in cooperation with the metropolitan planning organizations;

(ii) the Secretary of Transportation approves; and

(iii) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

(C) A State shall make amounts available promptly to eligible metropolitan planning organizations according to procedures the Secretary of Transportation approves.

(3)(A) The Secretary of Transportation shall apportion 20 percent of the amount made available under section 5338(g)(1) of this title to States to supplement allocations made under paragraph (2)(B) of this subsection for metropolitan planning organizations.

(B) Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under this section and sections 5304–5306 of this title in those areas.

(4) To the maximum extent practicable, the Secretary of Transportation shall ensure that no metropolitan planning organization is allocated less than the amount it received by administrative formula under this section in the fiscal year that ended September 30, 1991. To carry out this subsection, the Secretary may make a proportionate reduction in other amounts made available to carry out section 5338(g)(1) of this title.

(5) Amounts available for an activity under this subsection are for 80 percent of the cost of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

(6) An amount apportioned under this subsection—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned, and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

§ 5304. Transportation improvement program

(a) DEVELOPMENT AND UPDATE.—In cooperation with the State and affected mass transportation operators, a metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area. In developing the program, the organization shall provide citizens, affected public agencies, representatives of transportation authority employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the organization and the chief executive officer of the State.

(b) CONTENTS.—A transportation improvement program for a metropolitan area shall include—

(1) a priority list of projects and parts of projects to be carried out in each 3-year period after the program is adopted; and

(2) a financial plan that—

(A) demonstrates how the program can be carried out;

(B) indicates resources from public and private sources that reasonably are expected to be made available to carry out the plan; and

(C) recommends innovative financing techniques, including value capture, tolls, and congestion pricing, to finance needed projects.

(c) PROJECT SELECTION.—(1) Except as provided in section 5305(d)(1) of this title, the State, in cooperation with the metropolitan planning organization, shall select projects in a metropolitan area that involve United States Government participation. Selection shall comply with the transportation improvement program for the area.

(2) A transportation improvement program for a metropolitan area shall include—

(A) projects within the area that are proposed for financing under this chapter and title 23 and that are consistent with the long-range plan developed under section 5303(f) of this title; and

(B) a project or an identified phase of a project only if full financing reasonably can be anticipated to be available for the project in the period estimated for completion.

(d) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice and an opportunity to comment on the proposed program.

(e) REGULATORY PROCEEDING.—Not later than June 18, 1992, the Secretary of Transportation shall begin a regulatory proceeding to conform review requirements for mass transportation projects under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to comparable requirements under that Act applicable to highway projects. This section and sections 5303, 5305, and 5306 of this title do not affect the applicability of the Act to

mass transportation or highway projects. A mass transportation project that has an approved draft Environmental Impact Statement is exempt from complying with requirements under the Act applicable to highway projects.

§ 5305. Transportation management areas

(a) DESIGNATION.—The Secretary of Transportation shall designate as a transportation management area—

(1) each urbanized area with a population of more than 200,000; and

(2) any other area, including the Lake Tahoe Basin as defined in the Act of December 19, 1980 (Public Law 96–551, 94 Stat. 3233), when requested by the chief executive officer and the metropolitan organization designated for the area or the affected local officials.

(b) TRANSPORTATION PLANS AND PROGRAMS.—Transportation plans and programs in a transportation management area shall be based on a continuing and comprehensive transportation planning process the metropolitan planning organization carries out in cooperation with the State and mass transportation operators.

(c) CONGESTION MANAGEMENT SYSTEM.—The transportation planning process under sections 5303, 5304, and 5306 of this title in a transportation management area shall include a congestion management system providing for effective management, through travel demand reduction and operational management strategies, of new and existing transportation facilities eligible for financing under this chapter and title 23. The Secretary shall establish a phase-in schedule to comply with sections 5303, 5304, and 5306.

(d) PROJECT SELECTION.—(1)(A) In consultation with the State, the metropolitan planning organization designated for a transportation management area shall select the projects to be carried out in the area with United States Government participation under this chapter or title 23, except projects of the National Highway System or under the Bridge and Interstate Maintenance programs.

(B) In cooperation with the metropolitan planning organization designated for a transportation management area, the State shall select the projects to be carried out in the area of the National Highway System or under the Bridge and Interstate Maintenance programs.

(2)(A) A selection under this subsection must comply with the transportation improvement program for the area.

(B) A selection under paragraph (1)(A) of this subsection must comply with priorities established in the program.

(e) CERTIFICATION.—(1) At least once every 3 years, the Secretary shall ensure and certify that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable laws of the United States. The Secretary may make the certification only if the organization is complying with section 134 of title 23 and other applicable requirements of laws of the United States and the organization and chief executive officer have approved a transportation improvement program for the area.

(2) If the Secretary does not certify before October 1, 1993, that a metropolitan planning organization is carrying out its responsibilities, the Secretary may withhold any part of the apportionment under section 104(b)(3) of title 23 attributed to the relevant metropolitan area under section 133(d)(3) of title 23 and capital amounts

apportioned under section 5336 of this title. If an organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of that apportionment and capital amounts shall be withheld. The withheld apportionments shall be restored when the Secretary certifies the organization.

(3) The Secretary may not withhold certification based on the policies and criteria a metropolitan planning organization or mass transportation grant recipient establishes under section 5306(a) of this title for deciding the feasibility of private enterprise participation.

(f) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Government amounts may be made available for a mass transportation project resulting in a significant increase in carrying capacity for single occupant vehicles in a transportation management area classified as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) only if the project is part of an approved congestion management system.

(g) AREAS NOT DESIGNATED TRANSPORTATION MANAGEMENT AREAS.—(1) The Secretary may provide for the development of abbreviated metropolitan transportation plans and programs the Secretary decides are appropriate to carry out this section and sections 5303, 5304, and 5306 of this title for metropolitan areas not designated transportation management areas under this section. The Secretary shall consider the complexity of transportation problems in those areas, including transportation-related air quality problems.

(2) The Secretary may not provide an abbreviated plan or program for a metropolitan area in a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

§ 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

(b) RELATIONSHIP TO OTHER LIMITATIONS.—Sections 5303–5305 of this title do not authorize—

(1) a metropolitan planning organization to impose a legal requirement on a transportation facility, provider, or project not eligible under this chapter or title 23; and

(2) intervention in the management of a transportation authority.

§ 5307. Block grants

(a) DEFINITIONS.—In this section—

(1) "associated capital maintenance items" means equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used.

(2) "designated recipient" means—

(A) a person designated, consistent with the planning process under sections 5303–5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5336 of this title that are attributable to transportation management areas established under section 5305(a) of this title;

(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing mass transportation; or

(C) a recipient designated under section 5(b)(1) of the Federal Transit Act not later than January 5, 1983.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants under this section for capital projects and to finance the planning, improvement, and operating costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment.

(2) In a transportation management area designated under section 5305(a) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) that use is approved by the metropolitan planning organization under section 5303 of this title after appropriate notice and an opportunity for comment and appeal is provided to affected mass transportation providers; and

(B) the Secretary decides the amounts are not needed for investment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(3) A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction.

(4) A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.

(5) Amounts under this section are available for a highway project under title 23 only if amounts used for the State or local share of the project are eligible to finance either a highway or mass transportation project.

(c) PUBLIC PARTICIPATION REQUIREMENTS.—Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section and the program of projects the recipient proposes to undertake;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed

program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of citizens on the proposed program of projects;

(5) ensure that the proposed program of projects provides for the coordination of mass transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(7) make the final program of projects available to the public.

(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that elderly and handicapped individuals, or an individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare;

(E) in carrying out a procurement under this section—

(i) will use competitive procurement (as defined or approved by the Secretary);

(ii) will not use a procurement that uses exclusionary or discriminatory specifications; and

(iii) will comply with applicable Buy-American laws in carrying out a procurement;

(F) has complied with subsection (c) of this section;

(G) has available and will provide the required amounts as provided by subsection (e) of this section;

(H) will comply with sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; and

(J)(i) will expend for each fiscal year for mass transportation security projects, including increased lighting in or adjacent to a mass transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project

intended to increase the security and safety of an existing or planned mass transportation system, at least one percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

(ii) has decided that the expenditure for security projects is not necessary; and

(2) the Secretary accepts the certification.

(e) GOVERNMENT'S SHARE OF COSTS.—A grant of the Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f) STATEWIDE OPERATING ASSISTANCE.—(1) A State authority that is a designated recipient and providing mass transportation in at least 2 urbanized areas may apply for operating assistance in an amount not more than the amount for all urbanized areas in which it provides transportation.

(2) When approving an application under paragraph (1) of this subsection, the Secretary may not reduce the amount of operating assistance approved for another State or a local transportation authority within the affected urbanized areas.

(g) UNDERTAKING PROJECTS IN ADVANCE.—(1) When a recipient obligates all amounts apportioned to it under section 5336 of this title and then carries out a part of a project described in this section (except a project for operating expenses) without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under section 5336 if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest allowed under this paragraph may not be more than the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.

(4) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection.

(h) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall prescribe streamlined administrative procedures for complying with the certification requirement under subsection (d)(1)(B) and (C) of this section for track and signal equipment used in existing operations.

(i) REVIEWS, AUDITS, AND EVALUATIONS.—(1)(A) At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303–5306 of this title.

(3) The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

(j) REPORTS.—A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions.

(k) SUBMISSION OF CERTIFICATIONS.—A certification under subsection (d) of this section and any additional certification required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(e)(2) of this title. Publication.

(l) PROCUREMENT SYSTEM APPROVAL.—A recipient may request the Secretary to approve its procurement system. The Secretary shall approve the system for use for procurements financed under section 5336 of this title if, after consulting with the Administrator

for Federal Procurement Policy, the Secretary decides the system provides for competitive procurement. Approval of a system under this subsection does not relieve a recipient of the duty to certify under subsection (d)(1)(E) of this section.

(m) OPERATING FERRIES OUTSIDE URBANIZED AREAS.—A vessel used in ferryboat operations financed under section 5336 of this title that is part of a State-operated ferry system may be operated occasionally outside the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not reduced significantly by operating outside the area.

(n) RELATIONSHIP TO OTHER LAWS.—(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5336 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

(2) Sections 5302, 5318, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

§ 5308. Mass Transit Account block grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

(b) APPLICATION OF OTHER SECTIONS.—(1) Sections 5307(a)–(d), (h)–(l), and (n) and 5336(a)–(c), (f), (g), and (j) of this title apply to amounts made available under section 5338(a) of this title to carry out this section.

(2) Sections 5307(e) and 5336(d) of this title apply to grants under this section.

§ 5309. Discretionary grants and loans

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants and loans under this section to assist State and local governmental authorities in financing—

(1) capital projects for new fixed guideway systems, and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock for the systems, alternatives analysis related to the development of the systems, and the acquisition of rights of way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

(2) capital projects, including property and improvements (except public highways other than fixed guideway facilities), needed for an efficient and coordinated mass transportation system;

(3) the capital costs of coordinating mass transportation with other transportation;

(4) the introduction of new technology, through innovative and improved products, into mass transportation;

(5) transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

(A) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

(B) establish new or enhanced coordination between mass transportation and other transportation;

(6) mass transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; and

(7) the development of corridors to support fixed guideway systems, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased mass transportation usage in the corridor.

(b) LOANS FOR REAL PROPERTY INTERESTS.—(1) The Secretary of Transportation may make loans under this section to State and local governmental authorities to acquire interests in real property for use on urban mass transportation systems as rights of way, station sites, and related purposes, including reconstruction, renovation, the net cost of property management, and relocation payments made under section 5324(a) of this title.

(2) The Secretary of Transportation may make a loan under paragraph (1) of this subsection for an approved project only after finding that the property reasonably is expected to be required for a mass transportation system and that it will be used for that system within a reasonable time.

(3) An applicant for a loan under this subsection shall provide a copy of the application to the planning agency for the community affected by the project at the same time the application is submitted to the Secretary of Transportation. If the planning agency submits comments to the Secretary not later than 30 days after the application is submitted, or, if the agency requests more time within those 30 days, within a period the Secretary establishes, the Secretary shall consider those comments before taking final action on the application.

(4) A loan agreement under this subsection shall provide that a capital project on the property will be started not later than 10 years after the fiscal year in which the agreement is made. If an interest in property acquired under this subsection is not used for the purpose for which it was acquired, an appraisal of the current value of the property or interest shall be made when a decision is made about the use. The decision shall be made within the 10-year period. Two-thirds of the increase in value shall be paid to the Secretary of Transportation for deposit in the Treasury as miscellaneous receipts.

(5) A loan under this subsection must be repaid not later than 10 years after the date of the loan agreement or on the date a grant agreement for a capital project on the property is made, whichever is earlier. Payments made to repay the loan shall be deposited in the Treasury as miscellaneous receipts.

(c) CONSIDERATION OF DECREASED COMMUTER RAIL TRANSPORTATION.—The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

(1) owned by a rail carrier subject to reorganization under title 11; and

(2) used to provide commuter rail transportation.

(d) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—Except as provided in subsections (b)(2) and (e) of this section, the Secretary of Transportation may approve a grant or loan for a project under this section only after finding that the project is part of the approved program of projects required under sections 5303–5306 of this title and that an applicant—

(1) has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of equipment or facilities, and the capability to maintain the equipment or facilities; and

(2) will maintain the equipment or facilities.

(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—(1) This subsection applies to a project—

(A) for which a letter of intent or contract for the complete amount is issued under subsection (g) of this section after April 1, 1987; or

(B) not in the preliminary engineering, final design, or construction stage on January 1, 1987.

(2) The Secretary of Transportation may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only if the Secretary decides that the proposed project is—

(A) based on the results of an alternatives analysis and preliminary engineering;

(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

(3) In making a decision under paragraph (2) of this subsection, the Secretary of Transportation shall—

(A) consider the direct and indirect costs of relevant alternatives;

(B) account for costs related to factors such as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

(C) identify and consider mass transportation supportive existing land use policies and future patterns;

(D) consider the degree to which the project increases the mobility of the mass transportation dependent population or promotes economic development; and

(E) consider other factors the Secretary considers appropriate to carry out this chapter.

(4)(A) The Secretary of Transportation shall issue guidelines on how the Secretary will evaluate results of alternatives analysis, project justification, and the degree of local financial commitment.

(B) The project justification under paragraph (1)(B) of this subsection shall be adjusted to reflect differences in local land, construction, and operating costs.

(C) The degree of local financial commitment is acceptable only if—

(i) the proposed project plan provides for the availability of contingency amounts the Secretary of Transportation determines to be reasonable to cover unanticipated cost overruns;

(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

(iii) local resources are available to operate the overall proposed mass transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing mass transportation services to operate the proposed project.

(D) In assessing the stability, reliability, and availability of proposed sources of local financing, the Secretary of Transportation shall consider—

(i) existing grant commitments;

(ii) the degree to which financing sources are dedicated to the purposes proposed; and

(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other mass transportation purpose.

(5) A proposed project may advance from alternatives analysis to preliminary engineering only if the Secretary of Transportation finds that the project meets the requirements of this section and there is a reasonable chance that the project will continue to meet the requirements at the end of preliminary engineering.

(6)(A) A new fixed guideway system or extension of an existing fixed guideway system is not subject to the requirements of this subsection, and the simultaneous evaluation of similar projects in at least 2 corridors in a metropolitan area may not be limited, if—

(i) the project is located in an extreme or severe nonattainment area and is a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)) required to carry out an approved State Implementation Plan; or

(ii) assistance provided under this section is less than $25,000,000 or one-third of the total cost of the project or an appropriate program of projects as decided by the Secretary of Transportation.

(B) The simultaneous evaluation of projects in at least 2 corridors in a metropolitan area may not be limited and the Secretary of Transportation shall make decisions under this subsection with expedited procedures that will promote carrying out an approved State Implementation Plan in a timely way if a project is—

(i) located in a nonattainment area that is not an extreme or severe nonattainment area;

(ii) a transportation control measure (as defined by the Clean Air Act (42 U.S.C. 7401 et seq.)); and

(iii) required to carry out the State Implementation Plan.

(C) This subsection does not apply to a part of a project (including a commuter rail transportation project on an existing right of way) financed completely with amounts for highways made available under part A of title I of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1915).

(7) A project financed under this subsection shall be carried out through a full financing grant agreement.

(f) REQUIRED PAYMENTS AND ELIGIBLE COSTS OF PROJECTS THAT ENHANCE URBAN ECONOMIC DEVELOPMENT OR INCORPORATE PRI-

VATE INVESTMENT.—(1) Each grant or loan under subsection (a)(5) of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

(2) Eligible costs for a project under subsection (a)(5) of this section—

(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation.

(g) LETTERS OF INTENT, FULL FINANCING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—(1)(A) The Secretary of Transportation may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. The amount shall be sufficient to complete at least an operable segment when a letter is issued for a fixed guideway project.

Notification.

(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph, the Secretary of Transportation shall notify in writing the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed issuance of the letter.

(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31 or an administrative commitment.

(D) An obligation or administrative commitment may be made only when amounts are appropriated.

(2)(A) The Secretary of Transportation may make a full financing grant agreement with an applicant. The agreement shall—

(i) establish the terms of participation by the United States Government in a project under this section;

(ii) establish the maximum amount of Government financial assistance for the project;

(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

(iv) make timely and efficient management of the project easier according to the law of the United States.

(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full financing grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant

shall certify, in a way satisfactory to the Secretary of Transportation, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

(3)(A) The Secretary of Transportation may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

(i) a full financing grant agreement for the project will be made; and

(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary of Transportation decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

(4) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full financing grant agreements, and early systems work agreements may be not more than the greater of the amount authorized under section 5338(a) of this title to carry out this section or 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund (including amounts received from taxes and interest earned that are more than amounts previously obligated), less an amount the Secretary of Transportation reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full financing grant agreements and early systems work agreements may be not more than a limitation specified in law.

(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary of Transportation shall estimate the net project cost. A grant for the project is for 80 percent of the net project cost, unless the grant recipient requests a lower grant percentage. The remainder shall be provided in cash from a source other than amounts of

the Government. Transit system amounts that make up the remainder must be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. The remainder for a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(i) LOAN TERM REQUIREMENTS.—Except for a loan under subsection (b) of this section, a loan, including a renewal or extension of the loan, may be made, and a security or obligation may be bought, only if it has a maturity date of not more than 40 years. Interest on a loan may not be less than—

(1) a rate the Secretary of the Treasury establishes, considering the current average yield on outstanding marketable obligations of the Government that have remaining periods of maturity comparable to the average maturity of the loan, adjusted to the nearest .125 percent; plus

(2) an allowance the Secretary of Transportation considers adequate to cover administrative costs and probable losses.

(j) LOAN PAYMENT FORGIVENESS.—A grant agreement for a capital project may forgive repaying the loan and interest in place of a cash grant for the amount forgiven. The amount is part of the grant and part of the contribution of the Government to the cost of the project.

(k) LIMITATION ON MAKING LOANS AND GRANTS FOR PROJECTS.—The Secretary of Transportation may not make a loan under this section for a project for which a grant (except a relocation payment grant) is made under this section. However, the Secretary may make a project grant even though real property for the project has been or will be acquired through a loan under subsection (b) of this section.

(l) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary of Transportation gives priority consideration to financing projects that include more than the non-Government share required under subsection (h) of this section, the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

(m) ALLOCATING AMOUNTS.—(1) Of the amounts available for grants and loans under this section for each of the fiscal years ending September 30, 1993–1997—

(A) 40 percent is available for fixed guideway modernization;

(B) 40 percent is available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems; and

(C) 20 percent is available to replace, rehabilitate, and buy buses and related equipment and to construct bus-related facilities.

(2) At least 5.5 percent of the amounts available in each fiscal year under paragraph (1)(C) of this subsection is available for areas other than urbanized areas.

(3) Not later than January 20 of each year, the Secretary of Transportation shall submit to the Committee on Public Works and Transportation of the House of Representatives and the

Committee on Banking, Housing, and Urban Affairs of the Senate a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

(4) A person applying for, or receiving, assistance for a project described in clause (A), (B), or (C) of paragraph (1) of this subsection may receive assistance for a project described in another of those clauses.

(n) UNDERTAKING PROJECTS IN ADVANCE.—(1) The Secretary of Transportation may pay the Government's share of the net project cost to a State or local governmental authority that carries out any part of a project described in this section or a substitute transit project described in section 103(e)(4) of title 23 without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section or section 103(e)(4) of title 23.

(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary of Transportation, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

(3) The Secretary of Transportation shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

(o) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

§ 5310. Grants and loans for special needs of elderly individuals and individuals with disabilities

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants and loans to—

(1) State and local governmental authorities to help them provide mass transportation service planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities; and

(2) the chief executive officer of each State for allocation to—

(A) private nonprofit corporations and associations to help them provide that transportation service when the transportation service provided under clause (1) of this subsection is unavailable, insufficient, or inappropriate; or

(B) governmental authorities—

(i) approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

(ii) that certify to the chief executive officer that no nonprofit corporation or association readily is available in an area to provide service under this subsection.

(b) APPORTIONING AND TRANSFERRING AMOUNTS.—The Secretary shall apportion amounts made available under section 5338(a) of this title under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State. Any State's apportionment remaining available for obligation at the beginning of the 90-day period before the end of the period of availability of the apportionment is available to the chief executive officer of the State for transfer to supplement amounts apportioned to the State under section 5311(c) or 5336(a)(1) of this title.

(c) STATE PROGRAM OF PROJECTS.—Amounts made available for this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects. A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other United States Government sources.

(d) ELIGIBLE CAPITAL EXPENSES.—A recipient of amounts under this section may include acquiring transportation services as an eligible capital expense.

(e) APPLICATION OF SECTION 5309.—(1) A grant or loan under subsection (a)(1) of this section is subject to all requirements of a grant or loan under section 5309 of this title, and is deemed to have been made under section 5309.

(2) A grant or loan under subsection (a)(2) of this section is subject to requirements similar to those under paragraph (1) of this subsection to the extent the Secretary considers appropriate.

Regulations.

(f) MINIMUM REQUIREMENTS AND PROCEDURES FOR RECIPIENTS.—In carrying out section 5301(d) of this title, section 165(b) of the Federal-Aid Highway Act of 1973 (Public Law 93–87, 87 Stat. 282), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (consistent with Government-wide standards to carry out section 504), the Secretary shall prescribe regulations establishing minimum criteria a recipient of Government financial assistance under this chapter or a law referred to in section 165(b) shall comply with in providing mass transportation service to elderly individuals and individuals with disabilities and procedures for the Secretary to monitor compliance with the criteria. The regulations shall include provisions for ensuring that organizations and groups representing elderly individuals and individuals with disabilities are given adequate notice of, and an opportunity to comment on, the proposed activity of a recipient to achieve compliance with the regulations.

(g) LEASING VEHICLES.—The Secretary shall prescribe guidelines allowing vehicles bought under this section to be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

(h) MEAL DELIVERY SERVICE TO HOMEBOUND INDIVIDUALS.—Mass transportation service providers receiving assistance under this section or section 5311(c) of this title may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing mass transportation service or reduce service to mass transportation passengers.

(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(j) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.

§ 5311. Financial assistance for other than urbanized areas

(a) DEFINITION.—In this section, "recipient" includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

(2) The Secretary of Transportation shall carry out a rural transportation assistance program in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas.

(c) APPORTIONING AMOUNTS.—The Secretary of Transportation shall apportion amounts made available under section 5338(a) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent of the following: the latest Government census, the population estimate the Secretary of Commerce prepares after the 4th year after the date the latest census is published, or the population estimate the Secretary of Commerce prepares after the 8th year after the date the latest census is published. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.

(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local

transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

(e) USE FOR ADMINISTRATION AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a recipient, including project planning, program and management development, coordination of mass transportation programs, and research the State considers appropriate to promote effective delivery of mass transportation to an area other than an urbanized area.

(2) Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(f) INTERCITY BUS TRANSPORTATION.—(1) A State shall expend at least 10 percent of the amount made available in the fiscal year ending September 30, 1993, and 15 percent of the amount made available in each fiscal year after September 30, 1993, to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

(A) planning and marketing for intercity bus transportation;

(B) capital grants for intercity bus shelters;

(C) joint-use stops and depots;

(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

(E) coordinating rural connections between small mass transportation operations and intercity bus carriers.

(2) A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the chief executive officer of the State certifies to the Secretary of Transportation that the intercity bus service needs of the State are being met adequately.

(g) GOVERNMENT'S SHARE OF COSTS.—(1) In this subsection, "amounts of the Government or revenues" do not include amounts received under a service agreement with a State or local social service agency or a private social service organization.

(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(h) AMOUNTS FOR OPERATING ASSISTANCE.—An amount made available under this section may be used for operating assistance.

(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Sections 5323(a)(1)(D) and 5333(b) of this title apply to this section but the Secretary of Labor may waive the application of section 5333(b).

(2) This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

§ 5312. Research, development, demonstration, and training projects

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law.

(b) RESEARCH, INVESTIGATIONS, AND TRAINING.—(1) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may make grants to nonprofit institutions of higher learning—

(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

(2) Research and investigations under this subsection include—

(A) the design and use of urban mass transportation systems and urban roads and highways;

(B) the interrelationship between various modes of urban and interurban transportation;

(C) the role of transportation planning in overall urban planning;

(D) public preferences in transportation;

(E) the economic allocation of transportation resources; and

(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

(3) When making a grant under this subsection, the appropriate Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

(c) TRAINING FELLOWSHIPS AND INNOVATIVE TECHNIQUES AND METHODS.—(1) The Secretary of Transportation may make grants to States, local governmental authorities, and operators of mass transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

(2) The Secretary of Transportation may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing mass transportation.

(3) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the mass transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient mass transportation operation. A grant for a fellowship may not be more than the lesser of $24,000 or 75 percent of—

(A) tuition and other charges to the fellowship recipient;

(B) additional costs incurred by the training institution and billed to the grant recipient; and

(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

§ 5313. State planning and research programs

(a) COOPERATIVE RESEARCH PROGRAM.—(1) Fifty percent of the amounts made available under section 5338(g)(3) of this title are available for a mass transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend mass transportation research, development, and technology transfer activities the Secretary considers appropriate.

Establishment.

(2) The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

(b) STATE PLANNING AND RESEARCH.—(1) Fifty percent of the amounts made available under section 5338(g)(3) of this title shall be apportioned to States for grants and contracts consistent with the purposes of sections 5303–5306, 5312, 5315, 5317, and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (a) of this section.

(3) An amount apportioned under this subsection—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(B) that is unobligated at the end of the 3-year period shall be reapportioned among the States for the next fiscal year.

(c) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

§ 5314. National planning and research programs

(a) PROGRAM.—(1) The amounts made available under section 5338(g)(4) of this title are available to the Secretary of Transportation for grants and contracts for the purposes of sections 5303–

5306, 5312, 5315, 5317, and 5322 of this title, as the Secretary considers appropriate.

(2) Of the amounts made available under paragraph (1) of this subsection, the Secretary shall make available at least $2,000,000 to provide mass transportation-related technical assistance, demonstration programs, research, public education, and other activities the Secretary considers appropriate to help mass transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). To the extent practicable, the Secretary shall carry out this paragraph through a contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out the activities.

(3) Not more than 25 percent of the amounts available under paragraph (1) of this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5323(a)(1)(D) of this title applies to an operational grant financed in carrying out section 5312(a) of this title. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.

(4)(A) The Secretary may undertake a program of mass transportation technology development in coordination with affected entities.

(B) The Secretary shall establish an Industry Technical Panel composed of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in identifying priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution. Establishment.

(C) The Secretary shall develop guidelines for cost sharing in technology development projects financed under this paragraph. The guidelines shall be flexible and reflect the extent of technical risk, market risk, and anticipated supplier benefits and payback periods.

(5) The Secretary may use amounts appropriated under this subsection to supplement amounts available under section 5313(a) of this title, as the Secretary considers appropriate.

(b) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant or contract financed under subsection (a) of this section, the Secretary shall establish a United States Government share consistent with the benefit.

§ 5315. National mass transportation institute

(a) ESTABLISHMENT AND DUTIES.—The Secretary of Transportation shall make grants to Rutgers University to establish a national mass transportation institute. In cooperation with the Federal Transit Administration, State transportation departments, public mass transportation authorities, and national and international entities, the institute shall develop and conduct training programs of instruction for United States Government, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid mass transportation work. The programs may include courses in recent developments, techniques, and procedures related to— Rutgers University.

(1) mass transportation planning;
(2) management;
(3) environmental factors;
(4) acquisition and joint use of rights of way;
(5) engineering;
(6) procurement strategies for mass transportation systems;
(7) turnkey approaches to carrying out mass transportation systems;
(8) new technologies;
(9) emission reduction technologies;
(10) ways to make mass transportation accessible to individuals with disabilities;
(11) construction;
(12) maintenance;
(13) contract administration; and
(14) inspection.

(b) RELATED EDUCATIONAL AND TRAINING PROGRAMS.—The Secretary shall delegate to the institute the authority of the Secretary to develop and conduct educational and training programs related to mass transportation.

(c) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this section shall be provided—

(1) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

(2) when the education and training are paid under subsection (d) of this section, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

(d) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public mass transportation authority in the State to carry out sections 5304 and 5306 of this title is available for expenditure by the State and public mass transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this section.

§ 5316. University research institutes

San Jose State University.

(a) INSTITUTE FOR NATIONAL SURFACE TRANSPORTATION POLICY.—The Secretary of Transportation shall make grants to San Jose State University to establish and operate an institute for national surface transportation policy studies. The institute shall—

(1) include male and female students of diverse socioeconomic and ethnic backgrounds who are seeking careers in developing and operating surface transportation programs; and

(2) conduct research and development activities to analyze ways of improving aspects of developing and operating surface transportation programs of the United States.

Northwestern University.

(b) INFRASTRUCTURE TECHNOLOGY INSTITUTE.—The Secretary shall make grants to Northwestern University to establish and operate an institute to study techniques—

(1) to evaluate and monitor infrastructure conditions;

(2) to improve information systems for infrastructure construction and management; and

(3) to study advanced materials and automated processes for constructing and rehabilitating public works facilities.

(c) URBAN TRANSIT INSTITUTE.—The Secretary shall make grants to North Carolina A. and T. State University through the Institute for Transportation Research and Education, the University of South Florida, and a consortium of Florida A. and M., Florida State University, and Florida International University to establish and operate an interdisciplinary institute to study and disseminate techniques on the diverse transportation problems of urban areas experiencing significant and rapid growth.

North Carolina A&T State University. University of South Florida. Florida A&M. Florida State University. Florida International University.

(d) INSTITUTE FOR INTELLIGENT VEHICLE-HIGHWAY CONCEPTS.—The Secretary shall make grants to the University of Minnesota, Center for Transportation Studies, to establish and operate a national institute for intelligent vehicle-highway concepts. The institute shall conduct research and recommend development activities that focus on methods to increase roadway capacity, enhance safety, and reduce negative environmental effects of transportation facilities by using intelligent vehicle-highway systems technologies.

University of Minnesota.

(e) INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION.—The Secretary shall make grants to the University of North Carolina to conduct research and development and to direct technology transfer and training for State and local transportation authorities to improve the overall surface transportation infrastructure.

University of North Carolina.

(f) APPLICABILITY OF TITLE 23.—Amounts authorized by section 5338(d) of this title may be obligated in the same way as amounts are apportioned under chapter 1 of title 23.

§ 5317. Transportation centers

(a) GRANTS FOR REGIONAL TRANSPORTATION CENTERS.—(1) The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to establish and operate regional transportation centers in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

(2) A nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit an application to the Secretary in the way and containing the information the Secretary prescribes. The Secretary shall select each recipient on the basis of the following:

(A) the regional transportation center is located in a State that is representative of the needs of the Government region for improved transportation and facilities.

(B) the demonstrated research and extension resources available to the recipient to carry out this subsection.

(C) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

(D) the recipient has an established transportation program encompassing several modes of transportation.

(E) the recipient has a demonstrated commitment of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research programs.

(F) the recipient has a demonstrated ability to disseminate results of transportation research and educational programs

through a statewide or regionwide continuing educational program.

(G) the projects the recipient proposes to carry out under the grant.

(3)(A) At each regional transportation center, the following shall be carried out:

(i) infrastructure research on transportation.

(ii) research and training on transportation safety and the transportation of passengers and property and the interpretation, publication, and dissemination of the results of the research.

(B) Each transportation center—

(i) should carry out research on more than one mode of transportation; and

(ii) should consider the proportion of amounts for this subsection from amounts available to carry out urban mass transportation projects under this chapter and from the Highway Trust Fund.

(C) At one of the transportation centers, research may be carried out on the testing of new bus models.

(4) Before making a grant under this subsection, the Secretary may require the recipient to make an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a regional transportation center and related research activities at a level at least equal to the average level of those expenditures in its 2 fiscal years prior to April 2, 1987.

(5) A grant under this subsection is for 50 percent of the cost of establishing and operating the regional transportation center and related research activities the recipient carries out.

Minorities.
Women.
Morgan State University.

(b) GRANTS FOR UNIVERSITY TRANSPORTATION CENTERS.—(1) To accelerate the involvement and participation of minority individuals and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants to Morgan State University to establish a national center for transportation management, research, and development. The center shall give special attention to designing, developing, and carrying out research, training, and technology transfer activities to increase the number of highly skilled minority individuals and women entering the transportation workforce.

New Jersey Institute of Technology.

(2) The Secretary shall make grants to the New Jersey Institute of Technology to establish and operate a center for transportation and industrial productivity. The center shall conduct research and development activities that focus on ways to increase surface transportation capacity, reduce congestion, and reduce costs for transportation system users and providers through the use of transportation management systems.

Monmouth College.
Federal buildings and facilities.

(3) The Secretary shall make a grant to Monmouth College, West Long Branch, New Jersey, to modify and rebuild Building Number 500 at Monmouth College. Before making the grant, the Secretary shall receive assurances from Monmouth College that the building will be known and designated as the James and Marlene Howard Transportation Information Center and that transportation-related instruction and research in computer science, electronic engineering, mathematics, and software engineering conducted at the building will be coordinated with the Center for

Transportation and Industrial Productivity at the New Jersey Institute of Technology.

(4) The Secretary shall make grants to the University of Arkansas to establish a national rural transportation center. The center shall conduct research, training, and technology transfer activities in the development, management, and operation of intermodal transportation systems in rural areas. University of Arkansas.

(5)(A) The Secretary shall make grants to the University of Idaho to establish a National Center for Advanced Transportation Technology. The Center shall be established and operated in partnership with private industry and shall conduct industry-driven research and development activities that focus on transportation-related manufacturing and engineering processes, materials, and equipment. University of Idaho. Business and industry.

(B) The Secretary shall make grants to the University of Idaho to plan, design, and construct a building in which to conduct the research and development activities of the Center.

(C) Amounts authorized by section 5338(e)(2) of this title may be obligated in the same way as amounts apportioned under chapter 1 of title 23 (except that the Government share of the cost of the activities conducted under this paragraph is 80 percent and the amounts remain available until expended) and are not subject to an obligational limitation.

(D) A grant made under this paragraph is not subject to the requirements of this section (except this paragraph).

(c) PROGRAM COORDINATION.—The Secretary shall provide for coordinating research, education, training, and technology transfer activities that grant recipients carry out under this section, the dissemination of the results of the research, and the establishment and operation of a clearinghouse between the centers and the transportation industry. At least annually, the Secretary shall review and evaluate programs the grant recipients carry out. The Secretary may use not more than one percent of amounts made available from Government sources to carry out this section to carry out this subsection.

(d) OBLIGATION CEILING.—Amounts authorized to carry out this section (except subsection (b)(3)) are subject to obligational limitations established under section 1002 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1916).

(e) AMOUNTS AVAILABLE FOR TECHNOLOGY TRANSFER ACTIVITIES.—At least 5 percent of the amounts made available to carry out this section in a fiscal year are available to carry out technology transfer activities.

(f) ALLOCATION AMONG GOVERNMENT REGIONS.—The Secretary shall allocate amounts available to carry out this section equitably among the Government regions.

§ 5318. Bus testing facility

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a contract with a qualified person to operate and maintain the Contracts.

facility. The contract may provide for the testing of rail cars and other vehicles at the facility.

(c) FEES.—The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

Contracts.

(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—The Secretary shall make a contract with the operator of the facility under which the Secretary shall pay 80 percent of the cost of testing a vehicle at the facility from amounts available under section 5338(j)(5) of this title. The entity having the vehicle tested shall pay 20 percent of the cost.

(e) REVOLVING LOAN FUND.—The Secretary has a bus testing revolving loan fund consisting of amounts authorized for the fund under section 317(b)(5) of the Surface Transportation and Relocation Assistance Act of 1987. The Secretary shall make available as repayable advances from the fund to the person operating and maintaining the facility amounts to operate and maintain the facility.

§ 5319. Bicycle facilities

A project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install equipment for transporting bicycles on mass transportation vehicles is a capital project eligible for assistance under sections 5307, 5309, and 5311 of this title. Notwithstanding sections 5307(e), 5309(h), and 5311(g) of this title, a grant of the United States Government under this chapter for a project under this section is for 90 percent of the cost of the project.

§ 5320. Suspended light rail system technology pilot project

(a) PURPOSE.—The purpose of this section is to provide for the construction by a public entity of a suspended light rail system technology pilot project—

(1) to assess the state of new technology for a suspended light rail system; and

(2) to establish the feasibility, costs, and benefits of using the system to transport passengers.

(b) GENERAL REQUIREMENTS.—The project shall—

(1) use new rail technology with individual vehicles on a prefabricated elevated steel guideway;

(2) be stability-seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

(3) use vehicles that are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for the wheels and the running rails, to further increase stability, acceleration, and braking performance.

Contracts.

(c) COMPETITION.—(1) The Secretary of Transportation shall conduct a national competition to select a public entity with which to make a full financing grant agreement to construct the project. Not later than April 16, 1992, the Secretary shall select 3 public entities to be finalists in the competition. In conducting the competition and selecting public entities, the Secretary shall consider—

(A) the public entity's demonstrated understanding and knowledge of the project and its technical, managerial, and

financial capacity to construct, manage, and operate the project; and

(B) maximizing potential contributions to the cost of the project by State, local, and private sector entities, including donation of in-kind services and materials.

(2) The Secretary shall award a grant to each finalist to be used to participate in the final phase of the competition under procedures the Secretary prescribes. A grant may not be more than 80 percent of the cost of participating. A finalist may not receive more than one-third of the amount made available under subsection (h)(1)(A) of this section.

(3) Not later than July 15, 1992, the Secretary shall select from among the 3 finalists a public entity with which to make a full financing grant agreement.

(d) ENVIRONMENTAL IMPACT.—Not later than 270 days after a public entity is selected under subsection (c) of this section, the Secretary shall approve and publish in the Federal Register a notice announcing either a finding of no significant impact or a draft environmental impact statement for the project. The alternatives analysis for the project shall include a decision on whether to construct the project. If a draft statement is published, the Secretary, not later than 180 days after publication, shall approve and publish in the Federal Register a notice of completion of a final environmental impact statement.

Federal Register, publication.

(e) FULL FINANCING GRANT AGREEMENT.—Not later than 60 days after carrying out the requirements of subsection (d) of this section, the Secretary shall make a full financing grant agreement under section 5309 of this title with the public entity selected under subsection (c) of this section to construct the project. The agreement shall provide that the system vendor for the project shall finance—

(1) 100 percent of any deficit incurred in operating the project in the first 2 years of revenue operations of the project; and

(2) 50 percent of any deficit incurred in operating the project in the 3d year of revenue operations of the project.

(f) NOTICE TO PROCEED.—Not later than 30 days after making the full financing grant agreement, the Secretary shall issue a notice to proceed with construction.

(g) OPTION NOT TO CONSTRUCT AND REAWARDING THE GRANT.—(1) Not later than 30 days after completing preliminary engineering and design, the selected public entity shall decide whether to proceed to constructing the project. If the entity decides not to proceed—

(A) the Secretary shall not make the full financing grant agreement;

(B) remaining amounts received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

(C) the Secretary shall use the credited amount and other amounts to be provided under this section to award to another entity selected under subsection (c)(1) of this section a grant under section 5309 of this title to construct the project.

(2) Not later than 60 days after a decision is made under paragraph (1) of this subsection, a grant shall be awarded under paragraph (1)(C) of this section after completing a competitive process for selecting the grant recipient.

(h) FINANCING.—(1) The Secretary shall pay from amounts provided under section 5309 of this title the following:

(A) at least $1,000,000 for the fiscal year ending September 30, 1992, for grants under subsection (c)(2) of this section.

(B) at least $4,000,000 for the fiscal year ending September 30, 1993, for the United States Government share of the costs (as determined under section 5309 of this title) if the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project.

(C) at least $30,000,000 for the fiscal year ending September 30, 1994, as provided in the grant agreement under subsection (e) of this section, for the Government share of the construction costs of the project.

(2) The grant agreement under subsection (e) of this section shall provide that for the 3d year of revenue operations of the project, the Secretary shall pay from amounts provided under this section the Government share of operating costs in an amount equal to the lesser of 50 percent of the deficit incurred in operating the project in that year or $300,000.

(3) Amounts not expended under paragraph (1)(A) of this subsection are available for the Government share of costs described in paragraph (1)(B) and (C) of this subsection.

(4) Amounts under paragraph (1)(B) and (C) of this subsection remain available until expended.

(i) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of constructing the project is 80 percent of the net cost of the project.

(j) PROJECT NOT SUBJECT TO MAJOR CAPITAL INVESTMENT POLICY.—The project is not subject to the major capital investment policy of the Federal Transit Administration.

(k) REPORT.—Not later than January 30, 1993, and each year after that date, the Secretary shall submit to Congress a report on the progress and results of the project.

§ 5321. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5338 of this title to mass transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

§ 5322. Human resource programs

The Secretary of Transportation may undertake, or make grants and contracts for, programs that address human resource needs as they apply to mass transportation activities. A program may include—

(1) an employment training program;

(2) an outreach program to increase minority and female employment in mass transportation activities;

(3) research on mass transportation personnel and training needs; and

(4) training and assistance for minority business opportunities.

§ 5323. General provisions on assistance

(a) INTERESTS IN PROPERTY.—(1) Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or buy property of, a private mass transportation company, for a capital project for property acquired from a private mass transportation company after July 9, 1964, or to operate mass transportation equipment or a mass transportation facility in competition with, or in addition to, transportation service provided by an existing mass transportation company, only if—

(A) the Secretary of Transportation finds the assistance is essential to a program of projects required under sections 5303–5306 of this title;

(B) the Secretary of Transportation finds that the program, to the maximum extent feasible, provides for the participation of private mass transportation companies;

(C) just compensation under State or local law will be paid to the company for its franchise or property; and

(D) the Secretary of Labor certifies that the assistance complies with section 5333(b) of this title.

(2) A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in mass transportation from another governmental authority in the same geographic area.

(b) NOTICE AND PUBLIC HEARING.—(1) An application for a grant or loan under this chapter (except section 5307) for a capital project that will affect substantially a community, or the mass transportation service of a community, must include a certificate of the applicant that the applicant has—

(A) provided an adequate opportunity for a public hearing with adequate prior notice;

(B) held that hearing unless no one with a significant economic, social, or environmental interest requested one;

(C) considered the economic, social, and environmental effects of the project; and

(D) found that the project is consistent with official plans for developing the urban area.

(2) Notice of a hearing under this subsection shall include a concise description of the proposed project and shall be published in a newspaper of general circulation in the geographic area the project will serve. If a hearing is held, a copy of the transcript of the hearing shall be submitted with the application.

(c) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter (except section 5307) after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5318 of this title.

(d) BUYING AND OPERATING BUSES.—(1) Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of mass transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled mass transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance

will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.

(e) BUS PASSENGER SEAT FUNCTIONAL SPECIFICATIONS.—The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter (except section 5307) may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.

(f) SCHOOLBUS TRANSPORTATION.—(1) Financial assistance under this chapter may be used for a capital project, or to operate mass transportation equipment or a mass transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system;

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates; and

(C) to a State or local governmental authority if it or a direct predecessor in interest from which it acquired the duty of transporting school children and personnel, and facilities to transport them, provided schoolbus transportation at any time after November 25, 1973, but before November 26, 1974.

(2) An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.

(g) BUYING BUSES UNDER OTHER LAWS.—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 103(e)(4) and 142(a) or (c) of title 23. However, subsection (f)(1)(C) of this section applies to sections 103(e)(4) and 142(a) or (c) only if schoolbus transportation was provided at any time after August 12, 1972, but before August 13, 1973.

(h) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; or

(2) support a procurement that uses an exclusionary or discriminatory specification.

(i) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—A Government grant for a project to be assisted under this chapter

that involves acquiring vehicle-related equipment required by the Clean Air Act (42 U.S.C. 7401 et seq.) or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is for 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, may determine the costs attributable to that equipment.

(j) BUY AMERICAN.—(1) The Secretary of Transportation may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) The Secretary of Transportation may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

(3) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(4) The Secretary of Transportation may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(5) A person is ineligible under subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, to receive a contract or subcontract made with amounts authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914) if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a "Made in America" label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in clause (A) of this paragraph were produced in the United States.

(6) The Secretary of Transportation may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this sub-

section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

Reports.

(7) Not later than January 1, 1995, the Secretary of Transportation shall submit to Congress a report on purchases from foreign entities waived under paragraph (2) of this subsection in the fiscal years ending September 30, 1992, and September 30, 1993. The report shall indicate the dollar value of items for which waivers were granted.

(k) APPLICATION OF SECTION 135 OF TITLE 23.—The planning and programming requirements of section 135 of title 23 apply to a grant made under sections 5307–5311 of this title.

§ 5324. Limitations on discretionary and special needs grants and loans

(a) RELOCATION PROGRAM REQUIREMENTS.—Financial assistance may be provided under section 5309 of this title only if the Secretary of Transportation decides that—

(1) an adequate relocation program is being carried out for families displaced by a project; and

(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

(b) ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—(1) In carrying out section 5301(e) of this title, the Secretary of Transportation shall cooperate and consult with the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, and the Interior and the Council on Environmental Quality on each project that may have a substantial impact on the environment.

(2) In carrying out section 5309 of this title, the Secretary of Transportation shall review each transcript of a hearing submitted under section 5323(b) of this title to establish that an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest and that the project application includes a statement on—

(A) the environmental impact of the proposal;

(B) adverse environmental effects that cannot be avoided;

(C) alternatives to the proposal; and

(D) irreversible and irretrievable impacts on the environment.

(3)(A) The Secretary of Transportation may approve an application for financial assistance under section 5309 of this title only if the Secretary makes written findings, after reviewing the application and any hearings held before a State or local governmental authority under section 5323(b) of this title, that—

(i) an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest;

(ii) the preservation and enhancement of the environment, and the interest of the community in which a project is located, were considered; and

(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

(B) If a hearing has not been conducted or the Secretary of Transportation decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

(C) A finding of the Secretary of Transportation under subparagraph (A) of this paragraph shall be made a matter of public record. Public information.

(c) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5309 of this title and, after a grant is made, may not regulate any charge for the system. However, the Secretary may require the local governmental authority, corporation, or association to comply with any undertaking provided by it related to its grant application.

§ 5325. Contract requirements

(a) NONCOMPETITIVE BIDDING.—A capital project or improvement contract for which a grant or loan is made under this chapter, if the contract is not made through competitive bidding, shall provide that records related to the contract shall be made available to the Secretary of Transportation and the Comptroller General, or an officer or employee of the Secretary or Comptroller General, when conducting an audit and inspection.

(b) ACQUIRING ROLLING STOCK.—A recipient of financial assistance of the United States Government under this chapter may make a contract to expend that assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, life cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(c) PROCURING ASSOCIATED CAPITAL MAINTENANCE ITEMS.—A recipient of a grant under section 5307 of this title procuring an associated capital maintenance item under section 5307(b) may make a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

(1) the manufacturer or supplier is the only source for the item; and

(2) the price of the item is no more than the price similar customers pay for the item.

(d) MANAGEMENT, ARCHITECTURAL, AND ENGINEERING CONTRACTS.—A contract for program management, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which a grant or loan is made under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of

1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

§ 5326. Special procurements

(a) TURNKEY SYSTEM PROJECTS.—(1) In this subsection, "turnkey system project" means a project under which a recipient makes a contract with a seller, firm, or consortium of firms to construct a mass transportation system that meets specific performance criteria and that the seller operates for a period of time.

(2) To advance new technologies and lower the cost of a capital project for a new mass transportation system, the Secretary of Transportation shall allow solicitation for a turnkey system project to be financed under this chapter to be awarded conditionally before United States Government requirements have been met on the project if the award is made without prejudice to carrying out those requirements. Government financial assistance under this chapter may be made available for the project after the recipient complies with Government requirements.

(3) To develop regulations applying generally to turnkey system projects, the Secretary may approve at least 2 projects for an initial demonstration phase. The results of the demonstration projects (and other projects using this procurement method on December 18, 1991) shall be considered in developing guidelines to carry out this subsection.

(b) MULTIYEAR ROLLING STOCK.—(1) A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

(2) The Secretary shall allow at least 2 recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder when the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs. Not later than March 17, 1992, the Secretary shall—

(1) make appropriate changes in existing procedures to make the policy stated in this subsection readily practicable for all mass transportation authorities; and

(2) prescribe guidance that clarifies and carries out the policy.

§ 5327. Project management oversight

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—To receive United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts; and

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

(b) PLAN APPROVAL.—(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—(1) The Secretary may use not more than .5 percent of amounts made available for a fiscal year to carry out section 5307, 5309, or 5311 of this title, an interstate transfer mass transportation project under section 103(e)(4) of title 23 as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320) to make a contract to oversee the construction of a major project under section 5307, 5309, 5311, or 103(e)(4) of that Act. The Secretary may use when necessary not more than an additional .25 percent of amounts made available in a fiscal year to carry out a major project under section 5307 to make a contract to oversee the construction of the project.

(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1). Subsections (a), (b), and (e) of this section do not apply to contracts under this paragraph.

(3) The Government shall pay the entire cost of carrying out a contract under this subsection.

(d) ACCESS TO SITES AND RECORDS.—Each recipient of assistance under this chapter or section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91–143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96–184, 93 Stat. 1320), shall

provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall include—

(1) a definition of "major capital project" for subsection (c) of this section that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle; and

(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin the oversight during another stage of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

§ 5328. Project review

(a) SCHEDULE.—(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparing a draft environmental impact statement and shall approve the draft for circulation not later than 45 days after the applicant submits the draft to the Secretary.

(2) After the draft is circulated and not later than 30 days after the applicant selects a locally preferred alternative, the Secretary shall allow the project to advance to the preliminary engineering stage if the Secretary finds the project is consistent with section 5309(e)(1)–(6) of this title.

Records.

(3) The Secretary shall issue a record of decision and allow a project to advance to the final design stage of construction not later than 120 days after the final environmental impact statement for the project is completed.

(4) The Secretary shall make a full financing grant agreement under section 5309 of this title for a project not later than 120 days after the project enters the final design stage of construction. The agreement shall provide for a United States Government share of the construction cost at least equal to the Government share estimated in the Secretary's most recent report required under section 5309(m)(2) of this title or an update of the report unless the applicant requests otherwise.

(b) ALLOWED DELAYS.—(1) Advancement of a project under the time requirements of subsection (a) of this section may be delayed only—

(A) for the time the applicant may request; or

(B) during the time the Secretary finds, after reasonable notice and an opportunity for comment, that the applicant, for reasons attributable only to the applicant, has not complied substantially with the provisions of this chapter applicable to the project.

(2) Not more than 10 days after imposing a delay under paragraph (1)(B) of this subsection, the Secretary shall give the applicant a written statement explaining the reasons for the delay and describing actions the applicant must take to end the delay.

Reports.

(3) At least once every 6 months, the Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on each situation in which the Secretary has not met a time requirement of subsection (a) of this section

or delayed a time requirement under paragraph (1)(B) of this subsection. The report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review.

(c) PROGRAM OF INTERRELATED PROJECTS.—(1) In this subsection, a program of interrelated projects includes the following:

(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2087)).

(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf, Maryland, and an extension of the Washington Subway system to Largo, Maryland.

(E) the Tri-County Metropolitan Transportation District of Oregon Westside Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101–516, 104 Stat. 2155), and defined in House Report 101–584, and the Hillsboro extension to the Westside Light Rail Project contained in that Act.

(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connector for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

(H) other programs designated by law or the Secretary.

(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.

§ 5329. Investigation of safety hazards

(a) GENERAL.—The Secretary of Transportation may investigate a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate or correct it. If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for correcting it. The Secretary may withhold further financial assistance under this chapter until a plan is approved and carried out.

(b) REPORT.—Not later than June 15, 1992, the Secretary shall submit to Congress a report containing—

(1) a description of actions taken to identify and investigate conditions in a facility, equipment, or way of operating as part of the findings and decisions required of the Secretary in providing a grant or loan under this chapter;

(2) a description of actions of the Secretary to correct or eliminate, as a requirement for making an amount available through a grant or loan under this chapter, a condition found to create a serious hazard of death or injury;

(3) a summary of all passenger-related deaths and injuries resulting from an unsafe condition in a facility, equipment, or way of operating a facility or equipment at least partly financed under this chapter;

(4) a summary of all employee-related deaths and injuries resulting from an unsafe condition in a facility, equipment, or way of operating a facility or equipment at least partly financed under this chapter;

(5) a summary of action of the Secretary to correct or eliminate the unsafe condition to which the deaths and injuries referred to in clauses (3) and (4) of this subsection were attributed;

(6) a summary of actions of the Secretary to alert mass transportation operators of the nature of the unsafe condition found to create a serious hazard of death or injury; and

(7) recommendations of the Secretary to Congress of any legislative or administrative actions necessary to ensure that all recipients of amounts under this chapter will undertake the best way available to correct or eliminate hazards of death or injury, including—

(A) a timetable for undertaking actions;

(B) an estimate of the capital and operating cost to take the actions; and

(C) minimum standards for establishing and carrying out safety plans by recipients of amounts under this chapter.

§ 5330. Withholding amounts for noncompliance with safety requirements

(a) APPLICATION.—This section applies only to States that have rail fixed guideway mass transportation systems not subject to regulation by the Federal Railroad Administration.

(b) GENERAL AUTHORITY.—The Secretary of Transportation may withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title for a fiscal year beginning after September 30, 1994, if the State in the prior fiscal year has not met the requirements of subsection (c) of this section and the Secretary decides the State is not making an adequate effort to comply with subsection (c).

(c) STATE REQUIREMENTS.—A State meets the requirements of this section if the State—

(1) establishes and is carrying out a safety program plan for each fixed guideway mass transportation system in the State that establishes at least safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for the system; and

(2) designates a State authority as having responsibility—

(A) to require, review, approve, and monitor the carrying out of each plan;

(B) to investigate hazardous conditions and accidents on the systems; and

(C) to require corrective action to correct or eliminate those conditions.

(d) MULTISTATE INVOLVEMENT.—When more than one State is subject to this section in connection with a single mass transportation authority, the affected States may designate an entity (except the mass transportation authority) to ensure uniform safety standards and enforcement and to meet the requirements of subsection (c) of this section.

(e) AVAILABILITY OF WITHHELD AMOUNTS.—(1) An amount withheld under subsection (b) of this section remains available for apportionment for use in the State until the end of the 2d fiscal year after the fiscal year for which the amount may be appropriated.

(2) If a State meets the requirements of subsection (c) of this section before the last day of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the Secretary, on the first day on which the State meets the requirements, shall apportion to the State the amount withheld that remains available for apportionment for use in the State. An amount apportioned under this paragraph remains available until the end of the 3d fiscal year after the fiscal year in which the amount is apportioned. An amount not obligated at the end of the 3-year period shall be apportioned for use in other States under section 5336 of this title.

(3) If a State does not meet the requirements of subsection (c) of this section at the end of the period for which an amount withheld under subsection (b) of this section remains available under paragraph (1) of this subsection, the amount shall be apportioned for use in other States under section 5336 of this title.

(f) REGULATIONS.—Not later than December 18, 1992, the Secretary shall prescribe regulations stating the requirements for complying with subsection (c) of this section.

§ 5331. Alcohol and controlled substances testing

(a) DEFINITIONS.—In this section—

(1) "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) whose use the Secretary of Transportation decides has a risk to transportation safety.

(2) "person" includes any entity organized or existing under the laws of the United States, a State, territory, or possession of the United States, or a foreign country.

(3) "mass transportation" means any form of mass transportation, except a form the Secretary decides is covered adequately, for employee alcohol and controlled substances testing purposes, under subchapter III of chapter 201 or section 31306 of this title.

Regulations.

(b) TESTING PROGRAM FOR MASS TRANSPORTATION EMPLOYEES.—(1)(A) In the interest of mass transportation safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring mass transportation operations that receive financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of mass transportation employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of such a mass transportation employee be conducted when loss of human life occurs in an accident involving mass transportation; and

(B) may require that post-accident testing of such a mass transportation employee be conducted when bodily injury or significant property damage occurs in any other serious accident involving mass transportation.

(c) DISQUALIFICATIONS FOR USE.—(1) When the Secretary of Transportation considers it appropriate, the Secretary shall require disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) of this section who is found—

(A) to have used or been impaired by alcohol when on duty; or

(B) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or regulation.

(2) This section does not supersede any penalty applicable to a mass transportation employee under another law.

(d) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later

than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

Regulations.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of any mass transportation employee referred to in subsection (b)(1) of this section who is found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent a mass transportation operation from establishing a program under this section in cooperation with another mass transportation operation.

(f) RELATIONSHIP TO OTHER LAWS, REGULATIONS, STANDARDS, AND ORDERS.—(1) A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(2) In prescribing regulations under this section, the Secretary of Transportation—

(A) shall establish only requirements that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(3) This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by mass transportation employees.

(g) INELIGIBILITY FOR ASSISTANCE.—A person is not eligible for financial assistance under section 5307, 5309, or 5311 of this title or section 103(e)(4) of title 23 if the person is required, under regulations the Secretary of Transportation prescribes under this section, to establish a program of alcohol and controlled substances testing and does not establish the program.

§ 5332. Nondiscrimination

(a) DEFINITION.—In this section, "person" includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) PROHIBITIONS.—A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c) COMPLIANCE.—(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) AUTHORITY OF SECRETARY FOR NONCOMPLIANCE.—If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) APPLICATION AND RELATIONSHIP TO OTHER LAWS.—This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

§ 5333. Labor standards

(a) PREVAILING WAGES REQUIREMENT.—The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307–5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under

sections 5307–5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

§ 5334. Administrative

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5307 and 5309–5311 of this title (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter; and

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter.

(b) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committees on Public Works and Transportation and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

Federal Register, publication.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written

information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued. Termination date.

(4) The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323(a)(2), (c) and (e), 5324(c), and 5325 of this title when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(c) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts the Comptroller General shall audit under chapter 35 of title 31.

(d) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(e) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary of Transportation under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(f) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(g) TRANSFER OF ASSETS NO LONGER NEEDED.—(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than mass transportation only if the Secretary decides—

(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

(2) A decision under paragraph (1) of this section must be in writing and include the reason for the decision.

(3) This subsection is in addition to another law related to using and disposing of a facility or equipment under an assistance agreement.

(h) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a mass transportation project under title 23 shall be transferred to and administered by the Secretary of Transportation under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for mass transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(i) AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development shall—

(1) carry out section 5312(a) and (b)(1) of this title related to—

(A) urban transportation systems and planned development of urban areas; and

(B) the role of transportation planning in overall urban planning; and

(2) advise and assist the Secretary of Transportation in making findings under section 5323(a)(1)(A) of this title.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than $1,000 for services or supplies related to property acquired under this chapter.

§ 5335. Reports and audits

(a) REPORTING SYSTEM AND UNIFORM SYSTEM OF ACCOUNTS AND RECORDS.—(1) To help meet the needs of individual mass transportation systems, the United States Government, State and local governments, and the public for information on which to base mass transportation service planning, the Secretary of Transportation shall maintain a reporting system, by uniform categories, to accumulate mass transportation financial and operating information and a uniform system of accounts and records. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(2) The Secretary may make a grant under section 5307 of this title only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(b) QUARTERLY REPORTS.—Not later than 30 days after the last day of each calendar quarter, the Secretary shall submit to the Committees on Public Works and Transportation and Appropriations of the House of Representatives and the Committees on Bank-

ing, Housing, and Urban Affairs and Appropriations of the Senate a report on—

(1) obligations by State, designated recipient, and applicant made under this chapter during the quarter;

(2) the balance of unobligated apportionments under this chapter on the last day of the quarter;

(3) the balance of unobligated amounts under this chapter on the last day of the quarter that the Secretary may expend;

(4) letters of intent issued during the quarter;

(5) letters of intent outstanding on the last day of the quarter; and

(6) grant contracts executed and reimbursement authority established for amounts obligated for each State, designated recipient, and applicant.

(c) BIENNIAL NEEDS REPORT.—In January 1993 and in January of every 2d year after 1993, the Comptroller General shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing an evaluation of the extent to which current mass transportation needs are addressed adequately and an estimate of the future mass transportation needs of the United States, including mass transportation needs in rural areas (particularly access to health care facilities). The report shall include—

(1) an assessment of needs related to rail modernization, guideway modernization, replacing, rehabilitating, and buying buses and related equipment, constructing bus related facilities, and constructing new fixed guideway systems and extensions to existing fixed guideway systems;

(2) a 5-year projection of maintenance and modernization needs resulting from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems;

(3) a 5-year projection of the need to invest in the expansion of existing mass transportation systems to meet changing economic, commuter, and residential patterns;

(4) an estimate of the level of expenditure needed to satisfy the needs identified in clauses (1)–(3) of this paragraph;

(5) an examination of existing Government, State, local, and private resources that are or reasonably can be expected to be made available to support public mass transportation; and

(6) the gap between the level of expenditure estimated under clause (4) of this paragraph and the level of resources identified under clause (5) of this paragraph that are available to meet the needs.

(d) BIENNIAL TRANSFERABILITY REPORT.—In January 1993 and in January of every 2d year after 1993, the Comptroller General shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on carrying out section 5307(b)(5) of this title. The report shall—

(1) identify, by State, the amount of mass transportation money transferred for non-mass transportation purposes under section 5307(b)(5) of this title during the prior fiscal year;

(2) include an assessment of the impact of the transfers on the mass transportation needs of individuals and communities in the State, including the impact on—

(A) the State's ability to meet the mass transportation needs of elderly individuals and individuals with disabilities;

(B) efforts to meet the objectives of the Clean Air Act (42 U.S.C. 7401 et seq.) and the Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(C) the State's efforts to extend public mass transportation services to unserved rural areas; and

(3) examine the relative levels of Government mass transportation assistance and services in urban and rural areas in the fiscal year that ended September 30, 1991, and the extent to which the assistance and service has changed in later fiscal years because of mass transportation resources made available under this chapter and the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914).

§ 5336. Apportionment of appropriations for block grants

(a) BASED ON URBANIZED AREA POPULATION.—Of the amount made available or appropriated under section 5338(f) of this title—

(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the latest United States Government census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile; and

(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b) BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—(1) In this subsection, "fixed guideway revenue vehicle-miles" and "fixed guideway route-miles" include ferry boat operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway revenue vehicle-miles attributable to the area, as established by the Secretary of Transportation, divided by the total number of all fixed guideway revenue vehicle-miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway route-miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway route-miles attributable to all areas.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger-miles traveled multiplied by the number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger-miles traveled multiplied by the total number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in all areas.

(C) An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subsection.

(D) Under subparagraph (A) of this paragraph, fixed guideway revenue vehicle- or route-miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

(E) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary of Transportation that energy or operating efficiencies would be achieved, reduces revenue vehicle-miles but provides the same frequency of revenue service to the same number of riders.

(c) BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger-miles traveled multiplied by the number of bus passenger-miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger-miles traveled multiplied by the total number of bus passenger-miles traveled for each dollar of operating cost in all areas.

(d) OPERATING ASSISTANCE.—(1) The total amount apportioned under this section that may be used for operating assistance may not be more than—

(A) 80 percent of the total amount apportioned in the fiscal year ending September 30, 1982, under section 5(a)(1)(A), (2)(A), and (3)(A) of the Urban Mass Transportation Act of 1964 to urbanized areas with populations of at least 1,000,000;

(B) 90 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A) to urbanized areas with populations of at least 200,000 but not more than 999,999;

(C) 95 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A) to urbanized areas with populations of less than 200,000; or

(D) two-thirds of the total amount apportioned under this section during the first complete year an urbanized area received amounts under this section if the area first became an urbanized area under the 1980 Government census or later.

(2) Amounts apportioned under paragraph (1) of this subsection shall be increased on October 1 of each year by an amount equal to the amount applicable to each urbanized area under paragraph (1) (except increases under this paragraph), multiplied by the percentage increase in the Consumer Price Index for all-urban

consumers published by the Secretary of Labor during the most recent calendar year. However, the increase may not be more than the percentage increase of amounts made available under section 5338(f) of this title in the current fiscal year and amounts made available under section 5338(f) in the prior fiscal year.

(e) DATE OF APPORTIONMENT.—The Secretary of Transportation shall—

(1) apportion amounts appropriated under section 5338(f) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(f) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The chief executive officer of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient as defined in section 5307(a) of this title.

(g) TRANSFERS OF APPORTIONMENTS.—(1) The chief executive officer of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c) of this title or amounts apportioned to urbanized areas under this subsection. The chief executive officer may make a transfer only after consulting with responsible local officials and publicly owned operators of mass transportation in each area for which the amount originally was apportioned under this section.

(2) The chief executive officer of a State may transfer any part of the State's apportionment under section 5311(c) of this title to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The chief executive officer of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(h) CHANGES OF APPORTIONMENTS.—If sufficient amounts are available, the Secretary of Transportation shall change apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund to ensure that each recipient receives from the general fund at least as much operating assistance made available each fiscal year under this section as the recipient is eligible to receive.

(i) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an

amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(j) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), (d), and (f), 5332, and 5333 of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

(k) CERTAIN URBANIZED AREAS GRANDFATHERED.—An area designated an urbanized area under the 1980 census and not designated an urbanized area under the 1990 census for the fiscal year ending September 30, 1993, is eligible to receive—

(1) 50 percent of the amount the area would have received if the area had been an urbanized area as defined by section 5302(a)(13) of this title; and

(2) an amount equal to 50 percent of the amount that the State in which the area is located would have received if the area had been an area other than an urbanized area.

§ 5337. Apportionment of appropriations for fixed guideway modernization

(a) PERCENTAGE DISTRIBUTION.—The Secretary of Transportation shall apportion amounts made available for fixed guideway modernization under section 5309 of this title for each of the fiscal years ending September 30, 1993–1997, as follows:

(1) The first $455,000,000 shall be apportioned in the following urbanized areas as follows:

(A) Baltimore, 1.84 percent.
(B) Boston, 8.56 percent.
(C) Chicago/Northwestern Indiana, 17.18 percent.
(D) Cleveland, 2.09 percent.
(E) New York, 35.57 percent.
(F) Northeastern New Jersey, 9.04 percent.
(G) Philadelphia/Southern New Jersey, 12.41 percent.
(H) San Francisco, 7.21 percent.
(I) Southwestern Connecticut, 6.10 percent.

(2) The next $42,700,000 shall be apportioned in the following urbanized areas as follows:

(A) New York, 33.2341 percent.
(B) Northeastern New Jersey, 22.1842 percent.
(C) Philadelphia/Southern New Jersey, 5.7594 percent.
(D) San Francisco, 2.7730 percent.
(E) Pittsburgh, 31.9964 percent.
(F) New Orleans, 4.0529 percent.

(3) The next $70,000,000 shall be apportioned as follows:

(A) 50 percent in the urbanized areas listed in paragraphs (1) and (2) as provided in section 5336(b)(2)(A) of this title.

(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) of this title if the areas contain fixed guideway systems placed in revenue service at least 7 years before the fiscal year in which amounts are made available and in any other urbanized area if, before the first day of the fiscal year, the area satisfies the Secretary that the area has modernization needs that cannot be met adequately with amounts received as provided in section 5336(b)(2)(A).

(4) Remaining amounts shall be apportioned in each urbanized area eligible for assistance under paragraphs (1)–(3) of this subsection as provided in section 5336(B)(2)(A).

(b) TOTAL AMOUNTS NOT AVAILABLE.—In a fiscal year in which the total amounts authorized under subsection (a)(1) and (2) of this section are not available, the Secretary shall reduce on a proportionate basis the apportionments of all urbanized areas eligible under subsection (a)(1) or (2) to adjust for the amount not available.

(c) NEW JERSEY TRANSIT CORPORATION.—Rail modernization amounts allocated to the New Jersey Transit Corporation under this section may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail transportation, regardless of which urbanized area generates the financing.

(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(2) that is unobligated at the end of the 3-year period shall be reapportioned for the next fiscal year among urbanized areas eligible under subsection (a)(1)–(3) of this section using the apportionment formula of this section.

§ 5338. Authorizations

(a) FOR SECTIONS 5303–5306, 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5327, AND 5334(a) and (c) AND SECTION 103(e)(4) OF TITLE 23.—(1) Not more than the following amounts are available from the Mass Transit Account of the Highway Trust Fund for the Secretary of Transportation to carry out sections 5303–5306, 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5327, and 5334(a) and (c) of this title:

(A) $1,150,000,000 for the fiscal year ending September 30, 1993.

(B) $1,190,000,000 for the fiscal year ending September 30, 1994.

(C) $1,150,000,000 for the fiscal year ending September 30, 1995.

(D) $1,110,000,000 for the fiscal year ending September 30, 1996.

(E) $1,920,000,000 for the fiscal year ending September 30, 1997.

(2) In addition to amounts made available under paragraph (1) of this subsection, not more than the following amounts may be appropriated to the Secretary to carry out sections 5303–5306, 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5327, and 5334(a) and (c) of this title and substitute transit projects under section 103(e)(4) of title 23:

(A) $2,055,000,000 for the fiscal year ending September 30, 1993.

(B) $1,885,000,000 for the fiscal year ending September 30, 1994.

(C) $1,925,000,000 for the fiscal year ending September 30, 1995.

(D) $1,965,000,000 for the fiscal year ending September 30, 1996.

(E) $2,430,000,000 for the fiscal year ending September 30, 1997.

(b) SECTION 5309.—(1) Not more than the following amounts are available from the Account for the Secretary to carry out section 5309 of this title:

(A) $1,725,000,000 for the fiscal year ending September 30, 1993.

(B) $1,785,000,000 for the fiscal year ending September 30, 1994.

(C) $1,725,000,000 for the fiscal year ending September 30, 1995.

(D) $1,665,000,000 for the fiscal year ending September 30, 1996.

(E) $2,880,000,000 for the fiscal year ending September 30, 1997.

(2) In addition to amounts made available under paragraph (1) of this subsection, not more than the following amounts may be appropriated to the Secretary to carry out section 5309 of this title:

(A) $305,000,000 for the fiscal year ending September 30, 1993.

(B) $265,000,000 for the fiscal year ending September 30, 1994.

(C) $325,000,000 for the fiscal year ending September 30, 1995.

(D) $385,000,000 for the fiscal year ending September 30, 1996.

(E) $20,000,000 for the fiscal year ending September 30, 1997.

(c) SECTION 5315.—The Secretary shall make available in equal amounts from amounts provided under subsections (f) and (g) of this section not more than $3,000,000 for each of the fiscal years ending September 30, 1993–1997, to carry out section 5315 of this title.

(d) SECTION 5316.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for each of the fiscal years ending September 30, 1993–1997:

(1) $250,000 to carry out section 5316(a) of this title.

(2) $3,000,000 to carry out section 5316(b) of this title.

(3) $1,000,000 to carry out section 5316(c) of this title.

(4) $1,000,000 to carry out section 5316(d) of this title.

(5) $1,000,000 to carry out section 5316(e) of this title.

(e) SECTION 5317.—(1) Not more than $6,000,000 is available from the Fund (except the Account) for the Secretary for each of the fiscal years ending September 30, 1993–1997, to carry out section 5317 of this title.

(2) Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for making grants under section 5317(b)(5)(B) of this title:

(A) $3,000,000 for the fiscal year ending September 30, 1993.

(B) $2,500,000 for the fiscal year ending September 30, 1994.

(f) SECTION 5307.—Amounts remaining available each fiscal year under subsection (a)(1) of this section, after allocation under subsections (g)–(i) and (j)(4) of this section, are available under section 5307 of this title.

(g) PLANNING, PROGRAMMING, AND RESEARCH.—Before apportioning in each fiscal year amounts made available or appropriated

under subsection (a) of this section, an amount equal to 3 percent of amounts made available or appropriated under subsections (a) and (b) of this section is available as follows:

(1) 45 percent for metropolitan planning activities under section 5303(g) of this title.

(2) 5 percent to carry out section 5308(b)(2) of this title.

(3) 20 percent to carry out State programs under section 5313 of this title.

(4) 30 percent to carry out the national program under section 5314 of this title.

(h) OTHER SET-ASIDES.—Before apportioning in each fiscal year amounts made available or appropriated under subsection (a) of this section, of amounts made available or appropriated under subsections (a) and (b) of this section—

(1) not more than .96 percent is available for administrative expenses to carry out section 5334(a) and (c)–(f) of this title;

(2) not more than 1.34 percent is available for transportation services to elderly individuals and individuals with disabilities under the formula under section 5310(a) of this title; and

(3) $7,000,000 is available for section 5317 for each of the fiscal years ending September 30, 1993–1997.

(i) COMPLETING INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b) of this section, after allocation under subsections (g) and (h) of this section, not more than $164,843,000 for the fiscal year ending September 30, 1993, is available for substitute transit projects under section 103(e)(4) of title 23.

(j) LIMITATIONS.—Of the amounts available—

(1) under subsection (a)(2) of this section, 3.5 percent is available to finance programs and activities, including administrative costs, under section 5310 of this title;

(2) 1.5 percent of the amounts available to finance research, development, and demonstration projects under section 5312(a) of this title is available to increase the information and technology available to provide improved mass transportation service and facilities planned and designed to meet the special needs of elderly individuals and individuals with disabilities;

(3) not more than 12.5 percent is available for grants to any one State under section 5312(c)(2) of this title;

(4) 5.5 percent of the amount remaining available each year under subsection (a)(1) of this section, after allocation under subsections (g)–(i) of this section, is available under the formula under section 5311 of this title; and

(5) under section 5309(m)(1)(C) of this title—

(A) $2,000,000 is available for the fiscal year ending September 30, 1993;

(B) the lesser of $2,000,000 or an amount the Secretary determines is necessary for each fiscal year is available for each of the fiscal years ending September 30, 1994–1996; and

(C) the lesser of $3,000,000 or an amount the Secretary determines is necessary is available for the fiscal year ending September 30, 1997.

(k) GRANTS AS CONTRACTUAL OBLIGATIONS.—(1) A grant or contract approved by the Secretary, that is financed with amounts made available under subsection (a)(1), (b)(1), (c), or (e) of this

section, is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

(2) A grant or contract, approved by the Secretary, that is financed with amounts made available under subsection (a)(2) or (b)(2) of this section, is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent amounts are provided in advance in an appropriations law.

(l) EARLY APPROPRIATIONS AND AVAILABILITY OF AMOUNTS.—(1) Amounts appropriated under subsection (a)(2) of this section to carry out section 5311 of this title may be appropriated in the fiscal year before the fiscal year in which the appropriation is available for obligation.

(2) Amounts made available or appropriated under subsections (a), (b), (g), (h)(1) and (2), and (j)(4) of this section remain available until expended.

(3) An amount apportioned under section 5308 of this title—

(A) remains available for 3 years after the fiscal year in which the amount is apportioned; and

(B) that is unobligated at the end of the 3-year period shall be added to the amount available for apportionment for the next fiscal year not later than 30 days after the end of the 3-year period.

CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

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SUBCHAPTER I—GENERAL

§ 5501. National Intermodal Transportation System policy

(a) GENERAL.—It is the policy of the United States Government to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the United States to compete in the global economy, and will move individuals and property in an energy efficient way.

(b) SYSTEM CHARACTERISTICS.—(1) The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the United States' preeminent position in international commerce.

(2) The National Intermodal Transportation System shall include a National Highway System consisting of the Dwight D.

Eisenhower System of Interstate and Defense Highways and those principal arterial roads that are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

(3) The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals in urban and rural areas of the United States.

(4) The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to commerce.

(5) The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion, and other aspects of the quality of life in the United States.

(6) The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly costly construction of the Dwight D. Eisenhower System of Interstate and Defense Highways must be confronted and stopped.

(7) The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies, wherever feasible and economical, with benefit cost estimates given special emphasis on safety considerations and techniques for cost allocation.

(8) When appropriate, the National Intermodal Transportation System will be financed, as regards Government apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help carry out national goals related to mobility for elderly individuals, individuals with disabilities, and economically disadvantaged individuals.

(9) The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the United States for the 21st century.

(c) DISTRIBUTION AND POSTING.—The Secretary of Transportation shall distribute copies of the policy in subsections (a) and (b) of this section to each employee of the Department of Transportation and ensure that the policy is posted in all offices of the Department.

§ 5502. Intermodal Transportation Advisory Board

(a) ORGANIZATION.—The Intermodal Transportation Advisory Board is a board in the Office of the Secretary of Transportation.

(b) MEMBERSHIP.—The Board consists of the Secretary, who serves as chairman, and the Administrator, or the Administrator's designee, of—

(1) the Federal Highway Administration;
(2) the Federal Aviation Administration;
(3) the Maritime Administration;
(4) the Federal Railroad Administration; and
(5) the Federal Transit Administration.

(c) DUTIES AND POWERS.—The Board shall provide recommendations for carrying out the duties of the Secretary described in section 301(3) of this title.

§ 5503. Office of Intermodalism

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Office of the Secretary an Office of Intermodalism.

(b) DIRECTOR.—The head of the Office is a Director who shall be appointed by the Secretary.

(c) DUTIES AND POWERS.—The Director shall carry out the duties of the Secretary described in section 301(3) of this title.

(d) INTERMODAL TRANSPORTATION DATA BASE.—(1) The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include information on—

(A) the volume of property and number of individuals carried in intermodal transportation by relevant classification;

(B) patterns of movement of property and individuals in intermodal transportation by relevant classification by origin and destination; and

(C) public and private investment in intermodal transportation facilities and services.

(2) The Director shall make information from the data base available to the public.

(e) RESEARCH.—The Director shall—

(1) coordinate United States Government research on intermodal transportation as provided in the plan developed under section 6009(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2177); and

(2) carry out additional research needs identified by the Director.

(f) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of at least 1,000,000 in collecting data related to intermodal transportation to facilitate the collection of the data by States and metropolitan planning organizations.

(g) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

§ 5504. Model intermodal transportation plans

(a) GRANTS.—The Secretary of Transportation shall make grants to States to develop model State intermodal transportation plans that are consistent with the policy set forth in section 302(e) of this title. The model plans shall include systems for collecting data related to intermodal transportation.

Grants.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section that represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) PLAN SUBMISSION.—As a condition to a State receiving a grant under this section, the Secretary shall require that the State provide assurances that the State will submit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of the grant.

(d) GRANT AMOUNTS.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, $3,000,000 to make grants under this section. The total amount that a State may receive in grants under this section may not be more than $500,000.

SUBCHAPTER II—TERMINALS

§ 5561. Definition

In this chapter, "civic and cultural activities" includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

§ 5562. Assistance projects

(a) REQUIREMENTS TO PROVIDE ASSISTANCE.—The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(1) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(2) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(3) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(4) encourage State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(b) EFFECT ON ELIGIBILITY.—This chapter does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(c) ACQUIRING SPACE.—The Secretary may acquire space under subsection (a)(3) of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

§ 5563. Conversion of certain rail passenger terminals

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 5562(a)(1) of this title only if—

(1) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—

(A) motorbus transportation;

(B) mass transit (rail or rubber tire); and

(C) airline ticket offices and passenger terminals providing direct transportation to area airports;

(2) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;

(3) the architectural integrity of the terminal will be preserved;

(4) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—

(A) the Advisory Council on Historic Preservation;

(B) the Chairman of the National Endowment for the Arts; or

(C) consultants retained under subsection (b) of this section; and

(5) the terminal and the conversion project meet other criteria prescribed by the Secretary of Transportation after consultation with the Council and Chairman.

(b) ARCHITECTURAL INTEGRITY.—The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (a)(3) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Council and Chairman shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (a)(4) of this section.

(c) GOVERNMENT'S SHARE OF COSTS.—The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

§ 5564. Interim preservation of certain rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—Subject to subsection (b) of this section, the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 5562(a)(2) of this title. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further deterioration of) the terminal until plans for its reuse are prepared.

(b) GRANT REQUIREMENTS.—The Secretary of Transportation may make a grant of financial assistance under this section only if—

(1) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(2) planning activity directed toward conversion or reuse has begun and is proceeding in a competent way.

(c) MAXIMIZING PRESERVATION OF TERMINALS.—(1) Amounts appropriated to carry out this section and section 5562(a)(2) of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(A) reasonably capable of conversion to intermodal transportation terminals;

(B) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(C) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

§ 5565. Encouraging the development of plans for converting rail passenger terminals

(a) GENERAL GRANT AUTHORITY.—The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 5562(a)(4) of this title. To receive assistance under this section, the person must—

(1) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

(2) incorporate into the designs and plans proposed for converting the terminal, features that reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(3) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

(b) PREFERENCE.—In making a grant under this section, the Secretary of Transportation shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

(c) MAXIMIZING CONVERSION AND CONTINUED PUBLIC USE.—(1) Amounts appropriated to carry out this section and section 5562(a)(4) of this title shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

(A) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(B) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

§ 5566. Records and audits

(a) RECORD REQUIREMENTS.—Each recipient of financial assistance under this chapter shall keep records required by the Secretary of Transportation. The records shall disclose—

(1) the amount, and disposition by the recipient, of the proceeds of the assistance;

(2) the total cost of the project for which the assistance was given or used;

(3) the amount of that part of the cost of the project supplied by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS AND INSPECTIONS.—For 3 years after a project is completed, the Secretary and the Comptroller General may audit and inspect records of a recipient that the Secretary or Comptroller General decides may be related or pertinent to the financial assistance.

§ 5567. Preference for preserving buildings of historic or architectural significance

Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

§ 5568. Authorization of appropriations

(a) GENERAL.—The following amounts may be appropriated to the Secretary of Transportation:

(1) not more than $15,000,000 to carry out section 5562(a)(1) and (3) of this title.

(2) not more than $2,500,000 to carry out section 5562(a)(2) of this title.

(3) not more than $2,500,000 to carry out section 5562(a)(4) of this title.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated to carry out this chapter remain available until expended.

CHAPTER 57—SANITARY FOOD TRANSPORTATION

Sec.
5701. Findings.
5702. Definitions.
5703. General regulation.
5704. Tank trucks, rail tank cars, and cargo tanks.
5705. Motor and rail transportation of nonfood products.
5706. Dedicated vehicles.
5707. Waiver authority.
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5709. Consultation.
5710. Administrative.
5711. Enforcement and penalties.
5712. Relationship to other laws.
5713. Application of sections 5711 and 5712.
5714. Coordination procedures.

§ 5701. Findings

Congress finds that—

(1) the United States public is entitled to receive food and other consumer products that are not made unsafe because of certain transportation practices;

(2) the United States public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles that are used to transport food and other consumer products; and

(3) the risks to consumers by those transportation practices are unnecessary and those practices must be ended.

§ 5702. Definitions

In this chapter—

(1) "cosmetic", "device", "drug", "food", and "food additive" have the same meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) "nonfood product" means (individually or by class) a material, substance, or product that is not a cosmetic, device, drug, food, or food additive, or is deemed a nonfood product under section 5703(a)(2) of this title, including refuse and solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(3) "refuse" means discarded material that is, or is required by law, to be transported to or disposed of in a landfill or incinerator.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.

(5) "transports" and "transportation" mean any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(6) "United States" means all of the States.

§ 5703. General regulation

(a) GENERAL REQUIREMENTS.—(1) Not later than July 31, 1991, the Secretary of Transportation, after consultation required by section 5709 of this title, shall prescribe regulations on the transportation of cosmetics, devices, drugs, food, and food additives in motor vehicles and rail vehicles that are used to transport nonfood products that would make the cosmetics, devices, drugs, food, or food additives unsafe to humans or animals.

(2) The Secretary shall deem a cosmetic, device, or drug to be a nonfood product if—

(A) the cosmetic, device, or drug is transported in a motor vehicle or rail vehicle before, or at the same time as, a food or food additive; and

(B) transportation of the cosmetic, device, or drug would make the food or food additive unsafe to humans or animals.

(b) SPECIAL REQUIREMENTS.—In prescribing regulations under subsection (a)(1) of this section, the Secretary, after consultation required by section 5709 of this title, shall establish requirements for appropriate—

(1) recordkeeping, identification, marking, certification, or other means of verification to comply with sections 5704–5706 of this title; Records.

(2) decontamination, removal, disposal, and isolation to comply with regulations carrying out sections 5704 and 5705 of this title; and

(3) material for the construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations carrying out section 5704 of this title.

(c) CONSIDERATIONS AND ADDITIONAL REQUIREMENTS.—In prescribing regulations under subsection (a)(1) of this section, the Secretary, after consultation required by section 5709 of this title, shall consider, and may establish requirements related to, each of the following:

(1) the extent to which packaging or similar means of protecting and isolating commodities are adequate to eliminate or ameliorate the potential risks of transporting cosmetics, devices, drugs, food, or food additives in motor vehicles or rail vehicles used to transport nonfood products.

(2) appropriate compliance and enforcement measures to carry out this chapter.

(3) appropriate minimum insurance or other liability requirements for a person to whom this chapter applies.

(d) PACKAGES MEETING PACKAGING STANDARDS.—If the Secretary finds packaging standards to be adequate, regulations under subsection (a)(1) of this section may not apply to cosmetics, devices, drugs, food, food additives, or nonfood products packaged in packages that meet the standards.

§ 5704. Tank trucks, rail tank cars, and cargo tanks

(a) PROHIBITIONS.—The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from—

(1) using, offering for use, or arranging for the use of a tank truck, rail tank car, or cargo tank used in motor vehicle or rail transportation of cosmetics, devices, drugs, food, or food additives if the tank truck, rail tank car, or cargo tank is used to transport a nonfood product, except a nonfood product included in a list published under subsection (b) of this section;

(2) using, offering for use, or arranging for the use of a tank truck or cargo tank to provide motor vehicle transportation of cosmetics, devices, drugs, food, food additives, or nonfood products included in the list published under subsection (b) of this section unless the tank truck or cargo tank is identified, by a permanent marking on the tank truck or cargo tank, as transporting only cosmetics, devices, drugs, food, food additives, or nonfood products included in the list;

(3) using, offering for use, or arranging for the use of a tank truck or cargo tank to provide motor vehicle transportation of a nonfood product that is not included in the list published under subsection (b) of this section if the tank truck or cargo tank is identified, as provided in clause (2) of this subsection, as a tank truck or cargo tank transporting only cosmetics, devices, drugs, food, food additives, or nonfood products included in the list; or

(4) receiving, except for lawful disposal purposes, any cosmetic, device, drug, food, food additive, or nonfood product that has been transported in a tank truck or cargo tank in violation of clause (2) or (3) of this subsection.

Federal Register, publication.

(b) LIST OF NONFOOD PRODUCTS NOT UNSAFE.—After consultation required by section 5709 of this title, the Secretary of Transportation shall publish in the Federal Register a list of nonfood products the Secretary decides do not make cosmetics, devices, drugs, food, or food additives unsafe to humans or animals because of transportation of the nonfood products in a tank truck, rail tank car, or cargo tank used to transport cosmetics, devices, drugs, food, or food additives. The Secretary may amend the list periodically by publication in the Federal Register.

(c) DISCLOSURE.—A person that arranges for the use of a tank truck or cargo tank used in motor vehicle transportation for the transportation of a cosmetic, device, drug, food, food additive, or nonfood product shall disclose to the motor carrier or other appropriate person if the cosmetic, device, drug, food, food additive, or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive; or

(2) as a nonfood product included in the list published under subsection (b) of this section.

§ 5705. Motor and rail transportation of nonfood products

(a) PROHIBITIONS.—The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle (except a tank truck, rail tank car, or cargo tank described in section 5704 of this title) to transport cosmetics, devices, drugs, food, or food additives if the vehicle is used to transport nonfood products included in a list published under subsection (b) of this section.

(b) LIST OF UNSAFE NONFOOD PRODUCTS.—(1) After consultation required by section 5709 of this title, the Secretary of Transportation shall publish in the Federal Register a list of nonfood products the Secretary decides would make cosmetics, devices, drugs, food, or food additives unsafe to humans or animals because of transportation of the nonfood products in a motor vehicle or rail vehicle used to transport cosmetics, devices, drugs, food, or food additives. The Secretary may amend the list periodically by publication in the Federal Register. Federal Register, publication.

(2) The list published under paragraph (1) of this subsection may not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary decides that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle used to transport cosmetics, devices, drugs, food, or food additives would make the cosmetics, devices, drugs, food, or food additives unsafe to humans or animals.

§ 5706. Dedicated vehicles

(a) PROHIBITIONS.—The regulations prescribed under section 5703(a)(1) of this title shall include provisions prohibiting a person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to transport asbestos, in forms or quantities the Secretary of Transportation decides are necessary, or products that present an extreme danger to humans or animals, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless the motor vehicle or rail vehicle is used only to transport one or more of the following: asbestos, those extremely dangerous products, or refuse.

(b) LIST OF APPLICABLE PRODUCTS.—After consultation required by section 5709 of this title, the Secretary shall publish in the Federal Register a list of the products to which this section applies. The Secretary may amend the list periodically by publication in the Federal Register. Federal Register, publication.

§ 5707. Waiver authority

(a) GENERAL AUTHORITY.—After consultation required by section 5709 of this title, the Secretary of Transportation may waive any part of this chapter or regulations prescribed under this chapter for a class of persons, motor vehicles, rail vehicles, cosmetics, devices, drugs, food, food additives, or nonfood products, if the Secretary decides that the waiver—

(1) would not result in the transportation of cosmetics, devices, drugs, food, or food additives that would be unsafe to humans or animals; and

(2) would not be contrary to the public interest and this chapter.

Federal Register, publication.

(b) PUBLICATION OF WAIVERS.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

§ 5708. Food transportation inspections

(a) GENERAL AUTHORITY.—For commercial motor vehicles, the Secretary of Transportation may carry out this chapter and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees that are paid for with money authorized under section 31104 of this title, if the recipient State agrees to assist in the enforcement of this chapter or is enforcing compatible State laws and regulations.

(b) PROVIDING ASSISTANCE.—On the request of the Secretary of Transportation, the Secretaries of Agriculture and Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate departments, agencies, and instrumentalities of the United States Government shall provide assistance, to the extent available, to the Secretary of Transportation to carry out this chapter, including assistance in the training of personnel under a program established under subsection (c) of this section.

(c) TRAINING PROGRAM.—After consultation required by section 5709 of this title and consultation with the heads of appropriate State transportation and food safety authorities, the Secretary of Transportation shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations. As part of the training program, the inspectors, including State inspectors or personnel paid with money authorized under section 31104 of this title, shall be trained in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

§ 5709. Consultation

As provided by sections 5703–5708 of this title, the Secretary of Transportation shall consult with the Secretaries of Agriculture and Health and Human Services and the Administrator of the Environmental Protection Agency.

§ 5710. Administrative

The Secretary of Transportation has the same duties and powers in regulating transportation under this chapter as the Secretary has under section 5121(a)–(c) (except subsection (c)(1)(A)) of this title in regulating transportation under chapter 51 of this title.

§ 5711. Enforcement and penalties

(a) ACTIONS.—The Secretary of Transportation shall request that a civil action be brought and take action to eliminate or ameliorate an imminent hazard related to a violation of a regulation prescribed or order issued under this chapter in the same way and to the same extent as authorized by section 5122 of this title.

(b) APPLICABLE PENALTIES AND PROCEDURES.—The penalties and procedures in sections 5123 and 5124 of this title apply to a violation of a regulation prescribed or order issued under this chapter.

§ 5712. Relationship to other laws

Section 5125 of this title applies to the relationship between this chapter and a requirement of a State, a political subdivision of a State, or an Indian tribe.

§ 5713. Application of sections 5711 and 5712

Sections 5711 and 5712 of this title apply only to transportation occurring on or after the date that regulations prescribed under section 5703(a)(1) of this title are effective.

§ 5714. Coordination procedures

Not later than November 3, 1991, the Secretary of Transportation, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the departments, agencies, and instrumentalities of the United States Government and State authorities with regulatory authority over motor carrier safety and railroad safety in carrying out and enforcing this chapter.

CHAPTER 59—INTERMODAL SAFE CONTAINER TRANSPORTATION

Sec.
5901. Definitions.
5902. Notifications and certifications.
5903. Prohibitions.
5904. State enforcement.
5905. Liens.
5906. Perishable agricultural commodities.
5907. Regulations and effective date.

§ 5901. Definitions

In this chapter—

(1) the definitions in section 10102 of this title apply.

(2) "beneficial owner" means a person not having title to property but having ownership rights in the property, including a trustee of property in transit from an overseas place of origin that is domiciled or doing business in the United States, except that a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is not a beneficial owner only because of providing or arranging for any part of the intermodal transportation of property.

(3) "carrier" means—

(A) a motor carrier, water carrier, and rail carrier providing transportation of property in commerce; and

(B) an ocean common carrier (as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)) providing transportation of property in commerce.

(4) "container" has the meaning given the term "freight container" by the International Standards Organization in Series 1, Freight Containers, 3d Edition (reference number ISO668–1979(E)), including successive revisions, and similar containers that are used in providing transportation in interstate commerce.

(5) "first carrier" means the first carrier transporting a loaded container or trailer in intermodal transportation.

(6) "intermodal transportation" means the successive transportation of a loaded container or trailer from its place of origin to its place of destination by more than one mode of transportation in interstate or foreign commerce, whether under a single bill of lading or under separate bills of lading.

(7) "trailer" means a nonpower, property-carrying, trailing unit that is designed for use in combination with a truck tractor.

§ 5902. Notifications and certifications

(a) PRIOR NOTIFICATION.—Before a person tenders to a first carrier for intermodal transportation a loaded container or trailer having a projected gross cargo weight of more than 10,000 pounds (including packing material and pallets), the person shall give the carrier a written notification of the gross cargo weight and a reasonable description of the contents of the container or trailer. The notification may be transmitted electronically.

(b) CERTIFICATION.—Not later than when a person tenders to a first carrier for intermodal transportation a container or trailer to which subsection (a) of this section applies or a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (including packing material and pallets), the person shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer.

(c) FORWARDING CERTIFICATIONS TO SUBSEQUENT CARRIERS.—A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator shall forward the certification provided under subsection (b) of this section to a subsequent carrier transporting the container or trailer in intermodal transportation. The act of forwarding the certification may not be construed as a verification or affirmation of the accuracy or completeness of the information in the certification.

(d) NONAPPLICATION.—(1) Subsections (a) and (b) of this section and section 5903(c) of this title do not apply to a carrier when the carrier is transferring a loaded container or trailer to another carrier during intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the first carrier.

(2) A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouser, or terminal operator is deemed not to be a person tendering a loaded container or trailer to a first carrier under this section, unless the carrier, agent, broker, customs broker, freight forwarder, warehouser, or terminal operator assumes legal responsibility for loading property into the container or trailer.

§ 5903. Prohibitions

(a) PROVIDING ERRONEOUS INFORMATION.—A person tendering a loaded container or trailer may not provide erroneous information in a certification required by section 5902(b) of this title.

(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—A motor carrier may not transport a loaded container or trailer to which section 5902(b) of this title applies before receiving the certification required by section 5902(b).

(c) UNLAWFUL COERCION.—(1) A person may not coerce or attempt to coerce a person participating in intermodal transpor-

tation to transport a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (including packing materials and pallets) before the certification required by section 5902(b) of this title is provided.

(2) A person, knowing that the weight of a loaded container or trailer or the weight of a tractor-trailer combination carrying the container or trailer is more than the weight allowed by applicable State law, may not coerce or attempt to coerce a carrier to transport the container or trailer or to operate the tractor-trailer combination in violation of that State law.

§ 5904. State enforcement

(a) GENERAL.—A State may enact a law to permit the State or a political subdivision of the State—

(1) to impose a fine or penalty, for a violation of a State highway weight law or regulation by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required by section 5902(b) of this title, against the person tendering the loaded container or trailer to the first carrier if the violation results from the person's having provided erroneous information in the certification in violation of section 5903(a) of this title; and

(2) to impound the container or trailer until the fine or penalty has been paid by the owner or beneficial owner of the contents of the container or trailer or the person tendering the loaded container or trailer to the first carrier.

(b) LIMITATION.—This chapter does not require a person tendering a loaded container or trailer to a first carrier to ensure that the first carrier or any other carrier involved in the intermodal transportation will comply with any State highway weight law or regulation, other than as required by this chapter.

§ 5905. Liens

(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required under State law to post a bond or pay any fine, penalty, cost, or interest resulting from providing erroneous information in the certification to the first carrier in violation of section 5903(a) of this title, the person has a lien against the contents equal to the amount of the bond, fine, penalty, cost, or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents or from the person responsible for making the certification.

(b) LIMITATIONS.—(1) A lien under this section does not authorize a person to dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the first carrier is given a reasonable opportunity to establish responsibility for the bond, fine, penalty, cost, or interest.

(2) In this section, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the first carrier is deemed not to be a person involved in the intermodal transportation of the container or trailer.

§ 5906. Perishable agricultural commodities

Sections 5904(a)(2) and 5905 of this title do not apply to a container or trailer the contents of which are perishable agricultural

commodities (as defined in the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a et seq.)).

§ 5907. Regulations and effective date

(a) REGULATIONS.—Not later than July 25, 1993, the Secretary of Transportation shall prescribe final regulations to enforce this chapter. The Secretary may establish by regulation exemptions to the regulations that are in the public interest and consistent with the purposes of this chapter.

(b) EFFECTIVE DATE.—This chapter is effective on the date final regulations to enforce this chapter are prescribed.

(e) Title 49, United States Code, is amended by adding the following immediately after subtitle IV:

SUBTITLE V—RAIL PROGRAMS

PART A—SAFETY

CHAPTER		Sec.
201.	GENERAL	20101
203.	SAFETY APPLIANCES	20301
205.	SIGNAL SYSTEMS	20501
207.	LOCOMOTIVES	20701
209.	ACCIDENTS AND INCIDENTS	20901
211.	HOURS OF SERVICE	21101
213.	PENALTIES	21301

PART B—ASSISTANCE

221.	LOCAL RAIL FREIGHT ASSISTANCE	22101

PART C—PASSENGER TRANSPORTATION

241.	GENERAL	24101
243.	AMTRAK	24301
245.	AMTRAK COMMUTER	24501
247.	AMTRAK ROUTE SYSTEM	24701
249.	NORTHEAST CORRIDOR IMPROVEMENT PROGRAM	24901

PART D—MISCELLANEOUS

261.	LAW ENFORCEMENT	26101

PART A—SAFETY

CHAPTER 201—GENERAL

SUBCHAPTER I—GENERAL

Sec.
20101. Purpose.
20102. Definitions.
20103. General authority.
20104. Emergency authority.
20105. State participation.
20106. National uniformity of regulation.
20107. Inspection and investigation.
20108. Research, development, testing, and training.
20109. Employee protections.
20110. Effect on employee qualifications and collective bargaining.
20111. Enforcement by the Secretary of Transportation.
20112. Enforcement by the Attorney General.
20113. Enforcement by the States.
20114. Judicial procedures.
20115. User fees.
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20117. Authorization of appropriations.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

20131. Restricted access to rolling equipment.

20132. Visible markers for rear cars.
20133. Passenger equipment.
20134. Grade crossings and railroad rights of way.
20135. Licensing or certification of locomotive operators.
20136. Automatic train control and related systems.
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20139. Maintenance-of-way operations on railroad bridges.
20140. Alcohol and controlled substances testing.
20141. Power brake safety.
20142. Track safety.
20143. Locomotive visibility.
20144. Blue signal protection for on-track vehicles.

SUBCHAPTER I—GENERAL

§ 20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

§ 20102. Definitions

In this part—

(1) "railroad"—

(A) means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(2) "railroad carrier" means a person providing railroad transportation.

§ 20103. General authority

(a) REGULATIONS AND ORDERS.—The Secretary of Transportation, as necessary, shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.

(b) REGULATIONS OF PRACTICE FOR PROCEEDINGS.—The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) CONSIDERATION OF INFORMATION AND STANDARDS.—In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) WAIVERS.—The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad

Public information.

safety. The Secretary shall make public the reasons for granting the waiver.

(e) HEARINGS.—The Secretary shall conduct a hearing as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order establishing, amending, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.

§ 20104. Emergency authority

(a) ORDERING RESTRICTIONS AND PROHIBITIONS.—(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) REVIEW OF ORDERS.—After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which that employing carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

§ 20105. State participation

(a) INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—The Secretary of Transportation may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued by the Secretary that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary an annual certification as provided in subsection (b) of this section.

(b) ANNUAL CERTIFICATION.—(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued by the Secretary, that applies to the equipment, facilities, rolling stock, or operations, as of the date of certification; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary under subsection (a) of this section; and

(B) a report, in the form the Secretary prescribes by regulation, that includes— Reports. Regulations.

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than $750 (or a higher amount prescribed by the Secretary), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary in enforcing railroad safety regulations prescribed and orders issued by the Secretary, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary requires.

(2) An annual certification applies to a safety regulation prescribed or order issued after the date of the certification only if the State authority submits an appropriate certification to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary must give the authority notice and an opportunity for a hearing before taking action under this paragraph. When the Secretary gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary. Notice.

(c) AGREEMENT WHEN CERTIFICATION NOT RECEIVED.—(1) If the Secretary does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary may terminate any part of an agreement made under this subsection on finding that the authority has not

Notice.

Termination date. Federal Register, publication.

provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary must give the authority notice and an opportunity for a hearing before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) AGREEMENT FOR INVESTIGATIVE AND SURVEILLANCE ACTIVITIES.—In addition to providing for State participation under this section, the Secretary may make an agreement with a State to provide investigative and surveillance activities related to the Secretary's duties under chapters 203–213 of this title.

(e) PAYMENT.—On application by a State authority that has submitted a certification under subsections (a) and (b) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary may pay an authority only when the authority assures the Secretary that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) MONITORING.—The Secretary may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter.

§ 20106. National uniformity of regulation

Laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety when the law, regulation, or order—

(1) is necessary to eliminate or reduce an essentially local safety hazard;

(2) is not incompatible with a law, regulation, or order of the United States Government; and

(3) does not unreasonably burden interstate commerce.

§ 20107. Inspection and investigation

(a) GENERAL.—To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

(1) conduct investigations, make reports, issue subpenas, require the production of documents, take depositions, and prescribe recordkeeping and reporting requirements; and

(2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) ENTRY AND INSPECTION.—In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When

requested, the officer, employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

§ 20108. Research, development, testing, and training

(a) GENERAL.—The Secretary of Transportation shall carry out, as necessary, research, development, testing, evaluation, and training for every area of railroad safety.

(b) CONTRACTS.—To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt attention).

(c) AMOUNTS FROM NON-GOVERNMENT SOURCES FOR TRAINING SAFETY EMPLOYEES.—The Secretary may request, receive, and expend amounts received from non-United States Government sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, except State rail safety inspectors participating in training under section 20105 of this title.

§ 20109. Employee protections

(a) FILING COMPLAINTS AND TESTIFYING.—A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has—

(1) filed a complaint or brought or caused to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety, chapter 51 or 57 of this title; or

(2) testified or will testify in that proceeding.

(b) REFUSING TO WORK BECAUSE OF HAZARDOUS CONDITIONS.—(1) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee for refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger through regular statutory means; and

(C) the employee, where possible, has notified the carrier of the hazardous condition and the intention not to perform further work unless the condition is corrected immediately.

(2) This subsection does not apply to security personnel employed by a carrier to protect individuals and property transported by railroad.

(c) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim, the proceeding

shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

(e) DISCLOSURE OF IDENTITY.—(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part or, as applicable to railroad safety, chapter 51 or 57 of this title or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

§ 20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agreements under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to qualifications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

§ 20111. Enforcement by the Secretary of Transportation

(a) EXCLUSIVE AUTHORITY.—The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a railroad safety regulation prescribed or order issued by the Secretary;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a railroad safety regulation prescribed or order issued by the Secretary; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) COMPLIANCE ORDERS.—The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) ORDERS PROHIBITING INDIVIDUALS FROM PERFORMING SAFETY-SENSITIVE FUNCTIONS.—If an individual's violation of a regulation prescribed or order issued by the Secretary under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met.

This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.

(d) REGULATIONS REQUIRING REPORTING OF REMEDIAL ACTIONS.—(1) The Secretary shall prescribe regulations to require that a railroad carrier notified by the Secretary that imposition of a civil penalty will be recommended for a failure to comply with this part, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions, shall report to the Secretary, not later than the 30th day after the end of the month in which the notification is received—

(A) actions taken to remedy the failure; or

(B) if appropriate remedial actions cannot be taken by that 30th day, an explanation of the reasons for the delay.

(2) The Secretary—

(A) not later than June 3, 1993, shall issue a notice of a regulatory proceeding for proposed regulations to carry out this subsection; and Notice.

(B) not later than September 3, 1994, shall prescribe final regulations to carry out this subsection.

§ 20112. Enforcement by the Attorney General

(a) CIVIL ACTIONS.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of, or to enforce, a railroad safety regulation prescribed or order issued by the Secretary;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 21301 of this title; or

(3) to enforce a subpena issued by the Secretary under this chapter.

(b) VENUE.—(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

§ 20113. Enforcement by the States

(a) INJUNCTIVE RELIEF.—If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued by the Secretary not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities under section 20105 of this title that the action be brought, the authority may bring a civil action in a district court of the United States to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) IMPOSITION AND COLLECTION OF CIVIL PENALTIES.—If the Secretary does not impose the applicable civil penalty for a violation

of a railroad safety regulation prescribed or order issued by the Secretary not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the authority may bring a civil action in a district court of the United States to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) VENUE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

§ 20114. Judicial procedures

(a) CRIMINAL CONTEMPT.—In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(b) SUBPENAS FOR WITNESSES.—A subpena for a witness required to attend a district court of the United States in an action brought under this chapter may be served in any judicial district.

(c) REVIEW OF AGENCY ACTION.—Except as provided in section 20104(c) of this title, a proceeding to review a final action of the Secretary of Transportation under this part or, as applicable to railroad safety, chapter 51 or 57 of this title shall be brought in the appropriate court of appeals as provided in chapter 158 of title 28.

Regulations.

§ 20115. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe by regulation a schedule of fees for railroad carriers subject to this chapter. The fees—

(1) shall cover the costs of carrying out this chapter (except section 20108(a));

(2) shall be imposed fairly on the railroad carriers, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors; and

(3) may not be based on that part of industry revenues attributable to a railroad carrier or class of railroad carriers.

(b) COLLECTION PROCEDURES.—The Secretary shall prescribe procedures to collect the fees. The Secretary may use the services of a department, agency, or instrumentality of the United States Government or of a State or local authority to collect the fees, and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(c) COLLECTION, DEPOSIT, AND USE.—(1) The Secretary shall impose and collect fees under this section for each fiscal year before the end of the fiscal year.

(2) Fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts. The fees may be used, to the extent provided in advance in an appropriation law, only to carry out this chapter.

(3) Fees prescribed under this section shall be imposed in an amount sufficient to pay for the costs of activities under this chapter. However, the total fees received for a fiscal year may not be more than 105 percent of the total amount of the appropriations for the fiscal year for activities to be financed by the fees.

(d) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year in which fees are collected under this section, the Secretary shall report to Congress on—

(A) the amount of fees collected during that fiscal year;

(B) the impact of the fees on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

(C) the total cost of Government safety activities for each other competing mode of transportation, including any part of that total cost defrayed by Government user fees.

(2) Not later than 90 days after submitting a report for a fiscal year, the Secretary shall submit to Congress recommendations for corrective legislation if the report includes a finding that—

(A) there has been an impact from the fees on the financial health of the railroad industry or its competitive position relative to each competing mode of transportation; or

(B) there is a significant difference in the burden of Government user fees on the railroad industry and other competing modes of transportation.

(e) EXPIRATION.—This section expires on September 30, 1995.

§ 20116. Annual report

The Secretary of Transportation shall submit to the President for submission to Congress not later than July 1 of each year a report on carrying out this chapter for the prior calendar year. The report shall include the following information about the prior year:

(1) a thorough statistical compilation of railroad accidents, incidents, and casualties by cause.

(2) a list of railroad safety regulations and orders prescribed, issued, or in effect under this chapter.

(3) a summary of the reasons for each waiver granted under section 20103(d) of this title.

(4) an evaluation of the degree of compliance with railroad safety regulations prescribed and orders issued under this chapter.

(5) a summary of outstanding problems in carrying out railroad safety regulations prescribed and orders issued under this chapter, in order of priority.

(6) an analysis and evaluation of research and related activities completed, including their policy implications, and technological progress achieved.

(7) a list, with a brief statement of the issues, of completed or pending civil actions to enforce railroad safety regulations prescribed and orders issued under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 20105(a) of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary, and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 20105(c) of this title that were—

(A) in effect; or

(B) terminated in any part by the Secretary, and a summary of the reasons for each termination.

(11) recommendations for legislation the Secretary considers necessary to strengthen the national railroad safety program.

§ 20117. Authorization of appropriations

(a) GENERAL.—(1) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter:

(A) $68,283,000 for the fiscal year ending September 30, 1993.

(B) $71,690,000 for the fiscal year ending September 30, 1994.

(2) Not more than $5,000,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1993, to carry out section 20105 of this title.

(b) GRADE CROSSING SAFETY.—Not more than $1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section 20134(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) RESEARCH AND DEVELOPMENT, AUTOMATED TRACK INSPECTION, AND STATE PARTICIPATION GRANTS.—Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) MINIMUM AVAILABLE FOR CERTAIN PURPOSES.—At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

Regulations.

§ 20131. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

§ 20132. Visible markers for rear cars

Regulations.

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) PREEMPTION.—Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

§ 20133. Passenger equipment

Regulations.

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to ensure that the construction, maintenance, and operation of railroad equipment used to transport railroad passengers, whether in commuter or intercity service, maximize the safety of those passengers. The Secretary periodically shall review the regulations and orders and make amendments that may be necessary.

(b) CONSIDERATIONS AND AREAS OF CONCENTRATION.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary shall—

(1) consider comparable regulations and procedures of the United States Government that apply to other modes of transportation, especially those regulations and procedures carried out by the Administrator of the Federal Aviation Administration;

(2) consider relevant differences between commuter and intercity passenger service;

(3) concentrate on those areas that the Secretary believes present the greatest opportunity for enhancing the safety of the equipment; and

(4) give significant weight to the expenditures that would be necessary to retrofit existing equipment and to change specifications for equipment on order.

(c) CONSULTATION.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 App. U.S.C.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.

§ 20134. Grade crossings and railroad rights of way

(a) GENERAL.—To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary

may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction.

Regulations.

(b) SIGNAL SYSTEMS AND OTHER DEVICES.—Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c) DEMONSTRATION PROJECTS.—(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

Reports.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

Regulations.

§ 20135. Licensing or certification of locomotive operators

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) PROGRAM REQUIREMENTS.—The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3) (A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the

individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c) WAIVERS.—(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2) (A) or (B) of this subsection only if the individual or class, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual, after the conviction, cancellation, revocation, or suspension, successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) OPPORTUNITY FOR HEARING.—An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a hearing under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) OPPORTUNITY TO EXAMINE AND COMMENT ON INFORMATION.—The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related. Records.

§ 20136. Automatic train control and related systems

Regulations.

The Secretary of Transportation shall prescribe regulations and issue orders to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this subsection shall be maintained in the same way and place as the daily inspection report for the locomotive.

§ 20137. Event recorders

(a) DEFINITION.—In this section, "event recorder" means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary of Transportation considers necessary to record

to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) REGULATIONS AND ORDERS.—Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

Regulations.

§ 20138. Tampering with safety and operational monitoring devices

(a) GENERAL.—The Secretary of Transportation shall prescribe regulations and issue orders to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b) PENALTIES.—(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 21301 of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 21301 of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20135 of this title.

Regulations.

§ 20139. Maintenance-of-way operations on railroad bridges

Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders for the safety of maintenance-of-way employees on railroad bridges. The Secretary at least shall provide in those regulations standards for bridge safety equipment, including nets, walkways, handrails, and safety lines, and requirements for the use of vessels when work is performed on bridges located over bodies of water.

Regulations.

§ 20140. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) GENERAL.—(1) In the interest of safety, the Secretary of Transportation shall prescribe regulations and issue orders, not later than October 28, 1992, related to alcohol and controlled substances use in railroad operations. The regulations shall establish a program requiring—

(A) a railroad carrier to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as decided

by the Secretary) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation; and

(B) when the Secretary considers it appropriate, disqualification for an established period of time or dismissal of any employee found—

(i) to have used or been impaired by alcohol when on duty; or

(ii) to have used a controlled substance, whether or not on duty, except as allowed for medical purposes by law or a regulation or order under this chapter.

(2) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations and issue orders requiring railroad carriers to conduct periodic recurring testing of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out this section, the Secretary of Transportation shall develop requirements that shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in controlled substances testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirma-

tion test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

Confidentiality.

(7) provide for the confidentiality of test results and medical information (other than information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

Regulations.

(d) REHABILITATION.—The Secretary of Transportation shall prescribe regulations or issue orders establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as decided by the Secretary) in need of assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which employees shall be required to participate in a program. Each railroad carrier is encouraged to make such a program available to all of its employees in addition to employees responsible for safety-sensitive functions. This subsection does not prevent a railroad carrier from establishing a program under this subsection in cooperation with another railroad carrier.

(e) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS AND REGULATIONS.—In carrying out this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(f) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed or order issued before October 28, 1991, governing the use of alcohol or a controlled substance in railroad operations.

§ 20141. Power brake safety

(a) REVIEW AND REVISION OF EXISTING REGULATIONS.—The Secretary of Transportation shall review existing regulations on railroad power brakes and, not later than December 31, 1993, revise the regulations based on safety information presented during the review. Where applicable, the Secretary shall prescribe regulations that establish standards on dynamic braking equipment.

Regulations.

(b) 2-WAY END-OF-TRAIN DEVICES.—(1) The Secretary shall require 2-way end-of-train devices (or devices able to perform the same function) on road trains, except locals, road switchers, or work trains, to enable the initiation of emergency braking from the rear of a train. The Secretary shall prescribe regulations as

soon as possible, but not later than December 31, 1993, requiring the 2-way end-of-train devices. The regulations at least shall—

(A) establish standards for the devices based on performance;

(B) prohibit a railroad carrier, on or after the date that is one year after the regulations are prescribed, from acquiring any end-of-train device for use on trains that is not a 2-way device meeting the standards established under clause (A) of this paragraph;

(C) require that the trains be equipped with 2-way end-of-train devices meeting those standards not later than 4 years after the regulations are prescribed; and

(D) provide that any 2-way end-of-train device acquired for use on trains before the regulations are prescribed shall be deemed to meet the standards.

(2) The Secretary may consider petitions to amend the regulations prescribed under paragraph (1) of this subsection to allow the use of alternative technologies that meet the same basic performance requirements established by the regulations.

(3) In developing the regulations required by paragraph (1) of this subsection, the Secretary shall consider information presented under subsection (a) of this section.

(c) EXCLUSIONS.—The Secretary may exclude from regulations prescribed under subsections (a) and (b) of this section any category of trains or rail operations if the Secretary decides that the exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for the exclusion. The Secretary at least shall exclude from the regulations prescribed under subsection (b)— Public information.

(1) trains that have manned cabooses;

(2) passenger trains with emergency brakes;

(3) trains that operate only on track that is not part of the general railroad system;

(4) trains that do not exceed 30 miles an hour and do not operate on heavy grades, except for any categories of trains specifically designated by the Secretary; and

(5) trains that operate in a push mode.

§ 20142. Track safety

(a) REVIEW OF EXISTING REGULATIONS.—Not later than March 3, 1993, the Secretary of Transportation shall begin a review of Department of Transportation regulations related to track safety standards. The review at least shall include an evaluation of—

(1) procedures associated with maintaining and installing continuous welded rail and its attendant structure;

(2) the need for revisions to regulations on track excepted from track safety standards; and

(3) employee safety.

(b) REVISION OF REGULATIONS.—Not later than September 3, 1994, the Secretary shall prescribe regulations and issue orders to revise track safety standards, considering safety information presented during the review under subsection (a) of this section and the report of the Comptroller General submitted under subsection (c) of this section.

(c) COMPTROLLER GENERAL'S STUDY AND REPORT.—The Comptroller General shall study the effectiveness of the Secretary's enforcement of track safety standards, with particular attention

to recent relevant railroad accident experience and information. Not later than September 3, 1993, the Comptroller General shall submit a report to Congress and the Secretary on the results of the study, with recommendations for improving enforcement of those standards.

§ 20143. Locomotive visibility

(a) DEFINITION.—In this section, "locomotive visibility" means the enhancement of day and night visibility of the front end unit of a train, considering in particular the visibility and perspective of a driver of a motor vehicle at a grade crossing.

(b) INTERIM REGULATIONS.—Not later than December 31, 1992, the Secretary of Transportation shall prescribe temporary regulations identifying ditch, crossing, strobe, and oscillating lights as temporary locomotive visibility measures and authorizing and encouraging the installation and use of those lights. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation or to an amendment to a temporary regulation.

(c) REVIEW OF REGULATIONS.—The Secretary shall review the Secretary's regulations on locomotive visibility. Not later than December 31, 1993, the Secretary shall complete the current research of the Department of Transportation on locomotive visibility. In conducting the review, the Secretary shall collect relevant information from operational experience by rail carriers using enhanced visibility measures.

(d) REGULATORY PROCEEDING.—Not later than June 30, 1994, the Secretary shall begin a regulatory proceeding to prescribe final regulations requiring substantially enhanced locomotive visibility measures. In the proceeding, the Secretary shall consider at least—

(1) revisions to the existing locomotive headlight standards, including standards for placement and intensity;

(2) requiring the use of reflective material to enhance locomotive visibility;

(3) requiring the use of additional alerting lights, including ditch, crossing, strobe, and oscillating lights;

(4) requiring the use of auxiliary lights to enhance locomotive visibility when viewed from the side;

(5) the effect of an enhanced visibility measure on the vision, health, and safety of train crew members; and

(6) separate standards for self-propelled, push-pull, and multi-unit passenger operations without a dedicated head end locomotive.

(e) FINAL REGULATIONS.—(1) Not later than June 30, 1995, the Secretary shall prescribe final regulations requiring enhanced locomotive visibility measures. The Secretary shall require that not later than December 31, 1997, a locomotive not excluded from the regulations be equipped with temporary visibility measures under subsection (b) of this section or the visibility measures the final regulations require.

(2) In prescribing regulations under paragraph (1) of this subsection, the Secretary may exclude a category of trains or rail operations from a specific visibility requirement if the Secretary decides the exclusion is in the public interest and is consistent with rail safety, including grade-crossing safety.

(3) A locomotive equipped with temporary visibility measures prescribed under subsection (b) of this section when final regulations are prescribed under paragraph (1) of this subsection is deemed

to be complying with the final regulations for 4 years after the final regulations are prescribed.

§ 20144. Blue signal protection for on-track vehicles

Regulations.

The Secretary of Transportation shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

CHAPTER 203—SAFETY APPLIANCES

Sec.
20301. Definition and nonapplication.
20302. General requirements.
20303. Moving defective and insecure vehicles needing repairs.
20304. Assumption of risk by employees.
20305. Inspection of mail cars.
20306. Exemption for technological improvements.

§ 20301. Definition and nonapplication

(a) DEFINITION.—In this chapter, "vehicle" means a car, locomotive, tender, or similar vehicle.

(b) NONAPPLICATION.—This chapter does not apply to the following:

(1) a train of 4-wheel coal cars.

(2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.

(3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.

§ 20302. General requirements

(a) GENERAL.—Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

(1) a vehicle only if it is equipped with—

(A) couplers coupling automatically by impact, and capable of being uncoupled, without the necessity of individuals going between the ends of the vehicles;

(B) secure sill steps and efficient hand brakes; and

(C) secure ladders and running boards when required by the Secretary of Transportation, and, if ladders are required, secure handholds or grab irons on its roof at the top of each ladder;

(2) except as otherwise ordered by the Secretary, a vehicle only if it is equipped with secure grab irons or handholds on its ends and sides for greater security to individuals in coupling and uncoupling vehicles;

(3) a vehicle only if it complies with the standard height of drawbars required by regulations prescribed by the Secretary;

(4) a locomotive only if it is equipped with a power-driving wheel brake and appliances for operating the train-brake system; and

(5) a train only if—

(A) enough of the vehicles in the train are equipped with power or train brakes so that the engineer on the locomotive hauling the train can control the train's speed without the necessity of brake operators using the common hand brakes for that purpose; and

(B) at least 50 percent of the vehicles in the train are equipped with power or train brakes and the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train.

(b) REFUSAL TO RECEIVE VEHICLES NOT PROPERLY EQUIPPED.—A railroad carrier complying with subsection (a)(5)(A) of this section may refuse to receive from a railroad line of a connecting railroad carrier or a shipper a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier.

(c) COMBINED VEHICLES LOADING AND HAULING LONG COMMODITIES.—Notwithstanding subsection (a)(1)(B) of this section, when vehicles are combined to load and haul long commodities, only one of the vehicles must have hand brakes during the loading and hauling.

(d) AUTHORITY TO CHANGE REQUIREMENTS.—The Secretary may—

(1) change the number, dimensions, locations, and manner of application prescribed by the Secretary for safety appliances required by subsection (a)(1)(B) and (C) and (2) of this section only for good cause and after providing an opportunity for a full hearing;

(2) amend regulations for installing, inspecting, maintaining, and repairing power and train brakes only for the purpose of achieving safety; and

(3) increase, after an opportunity for a full hearing, the minimum percentage of vehicles in a train that are required by subsection (a)(5)(B) of this section to be equipped and used with power or train brakes.

(e) SERVICES OF ASSOCIATION OF AMERICAN RAILROADS.—In carrying out subsection (d)(2) and (3) of this section, the Secretary may use the services of the Association of American Railroads.

§ 20303. Moving defective and insecure vehicles needing repairs

(a) GENERAL.—A vehicle that is equipped in compliance with this chapter whose equipment becomes defective or insecure nevertheless may be moved when necessary to make repairs, without a penalty being imposed under section 21302 of this title, from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made—

(1) on the railroad line on which the defect or insecurity was discovered; or

(2) at the option of a connecting railroad carrier, on the railroad line of the connecting carrier, if not farther than the place of repair described in clause (1) of this subsection.

(b) USE OF CHAINS INSTEAD OF DRAWBARS.—A vehicle in a revenue train or in association with commercially-used vehicles may be moved under this section with chains instead of drawbars only when the vehicle contains livestock or perishable freight.

(c) LIABILITY.—The movement of a vehicle under this section is at the risk only of the railroad carrier doing the moving. This section does not relieve a carrier from liability in a proceeding to recover damages for death or injury of a railroad employee arising from the movement of a vehicle with equipment that is

defective, insecure, or not maintained in compliance with this chapter.

§ 20304. Assumption of risk by employees

An employee of a railroad carrier injured by a vehicle or train used in violation of section 20302(a)(1)(A), (2), (4), or (5)(A) of this title does not assume the risk of injury resulting from the violation, even if the employee continues to be employed by the carrier after learning of the violation.

§ 20305. Inspection of mail cars

The Secretary of Transportation shall inspect the construction, adaptability, design, and condition of mail cars used on railroads in the United States. The Secretary shall make a report on the inspection and submit a copy of the report to the United States Postal Service. Reports.

§ 20306. Exemption for technological improvements

(a) GENERAL.—Subject to subsection (b) of this section, the Secretary of Transportation may exempt from the requirements of this chapter railroad equipment or equipment that will be operated on rails, when those requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law.

(b) CONDITIONS FOR EXEMPTION.—The Secretary may grant an exemption under subsection (a) of this section only on the basis of—

(1) findings based on evidence developed at a hearing; or

(2) an agreement between national railroad labor representatives and the developer of the new equipment or technology.

CHAPTER 205—SIGNAL SYSTEMS

Sec.
20501. Definition.
20502. Requirements for installation and use.
20503. Amending regulations and changing requirements.
20504. Inspection, testing, and investigation.
20505. Reports of malfunctions and accidents.

§ 20501. Definition

In this chapter, "signal system" means a block signal system, an interlocking, automatic train stop, train control, or cab-signal device, or a similar appliance, method, device, or system intended to promote safety in railroad operations.

§ 20502. Requirements for installation and use

(a) INSTALLATION.—(1) When the Secretary of Transportation decides after an investigation that it is necessary in the public interest, the Secretary may order a railroad carrier to install, on any part of its railroad line, a signal system that complies with requirements of the Secretary. The order must allow the carrier a reasonable time to complete the installation. A carrier may discontinue or materially alter a signal system required under this paragraph only with the approval of the Secretary.

(2) A railroad carrier ordered under paragraph (1) of this subsection to install a signal system on one part of its railroad line may not be held negligent for not installing the system on any

part of its line that was not included in the order. If an accident or incident occurs on a part of the line on which the signal system was not required to be installed and was not installed, the use of the system on another part of the line may not be considered in a civil action brought because of the accident or incident.

(b) USE.—A railroad carrier may allow a signal system to be used on its railroad line only when the system, including its controlling and operating appurtenances—

(1) may be operated safely without unnecessary risk of personal injury; and

(2) has been inspected and can meet any test prescribed under this chapter.

§ 20503. Amending regulations and changing requirements

The Secretary of Transportation may amend a regulation or change a requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter—

(1) when the carrier files with the Secretary a request for the amendment or change and the Secretary approves the request; or

(2) on the Secretary's own initiative for good cause shown.

§ 20504. Inspection, testing, and investigation

(a) SYSTEMS IN USE.—(1) The Secretary of Transportation may—

(A) inspect and test a signal system used by a railroad carrier; and

(B) decide whether the system is in safe operating condition.

(2) In carrying out this subsection, the Secretary may employ only an individual who—

(A) has no interest in a patented article required to be used on or with a signal system; and

(B) has no financial interest in a railroad carrier or in a concern dealing in railroad supplies.

(b) SYSTEMS SUBMITTED FOR INVESTIGATION AND TESTING.—The Secretary may investigate, test, and report on the use of and need for a signal system, without cost to the United States Government, when the system is submitted in completed shape for investigation and testing.

§ 20505. Reports of malfunctions and accidents

In the way and to the extent required by the Secretary of Transportation, a railroad carrier shall report to the Secretary a failure of a signal system to function as intended. If the failure results in an accident or incident causing injury to an individual or property that is required to be reported under regulations prescribed by the Secretary, the carrier owning or maintaining the signal system shall report to the Secretary immediately in writing the fact of the accident or incident.

CHAPTER 207—LOCOMOTIVES

Sec.
20701. Requirements for use.
20702. Inspections, repairs, and inspection and repair reports.
20703. Accident reports and investigations.

§ 20701. Requirements for use

A railroad carrier may use or allow to be used a locomotive or tender on its railroad line only when the locomotive or tender and its parts and appurtenances—

(1) are in proper condition and safe to operate without unnecessary danger of personal injury;

(2) have been inspected as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter; and

(3) can withstand every test prescribed by the Secretary under this chapter.

§ 20702. Inspections, repairs, and inspection and repair reports

(a) GENERAL.—The Secretary of Transportation shall—

(1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;

(2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals; and

(3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

(b) NONCOMPLYING LOCOMOTIVES, TENDERS, AND PARTS.—(1) When the Secretary finds that a locomotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may revise or set aside the finding of noncompliance. Notice.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is—

(A) repaired to comply with this chapter and regulations prescribed under this chapter; or

(B) found on reinspection or appeal to be in compliance.

(c) REPORTS.—A railroad carrier shall make and keep, in the way the Secretary prescribes by regulation, a report of every— Regulations.

(1) inspection made under regulations prescribed by the Secretary; and

(2) repair made of a defect disclosed by such an inspection.

(d) CHANGES IN INSPECTION PROCEDURES.—A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

§ 20703. Accident reports and investigations

(a) ACCIDENT REPORTS AND SCENE PRESERVATION.—When the failure of a locomotive, tender, or locomotive or tender part or appurtenance results in an accident or incident causing serious personal injury or death, the railroad carrier owning or operating the locomotive or tender—

(1) immediately shall file with the Secretary of Transportation a written statement of the fact of the accident or incident; and

(2) when the locomotive is disabled to the extent it cannot be operated under its own power, shall preserve intact all parts affected by the accident or incident, if possible without interfering with traffic, until an investigation of the accident or incident is completed.

(b) INVESTIGATIONS.—The Secretary shall—

(1) investigate each accident and incident reported under subsection (a) of this section;

(2) inspect each part affected by the accident or incident; and

(3) make a complete and detailed report on the cause of the accident or incident.

(c) PUBLICATION AND USE OF INVESTIGATION REPORTS.—When the Secretary considers publication to be in the public interest, the Secretary may publish a report of an investigation made under this section, stating the cause of the accident or incident and making appropriate recommendations. No part of a report may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

CHAPTER 209—ACCIDENTS AND INCIDENTS

Sec.
20901. Reports.
20902. Investigations.
20903. Reports not evidence in civil actions for damages.

§ 20901. Reports

(a) GENERAL REQUIREMENTS.—Not later than 30 days after the end of each month, a railroad carrier shall file a report with the Secretary of Transportation on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

(b) MONETARY THRESHOLD FOR REPORTING.—(1) In establishing or changing a monetary threshold for the reporting of a railroad

accident or incident, the Secretary shall base damage cost calculations only on publicly available information obtained from—

(A) the Bureau of Labor Statistics; or

(B) another department, agency, or instrumentality of the United States Government if the information has been collected through objective, statistically sound survey methods or has been previously subject to a public notice and comment process in a proceeding of a Government department, agency, or instrumentality.

(2) If information is not available as provided in paragraph (1)(A) or (B) of this subsection, the Secretary may use any other source to obtain the information. However, use of the information shall be subject to public notice and an opportunity for written comment.

§ 20902. Investigations

(a) GENERAL AUTHORITY.—The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) OTHER DUTIES AND POWERS.—In carrying out an investigation, the Secretary or authorized investigator may subpena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) REPORTS.—When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate. Publication.

§ 20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

CHAPTER 211—HOURS OF SERVICE

Sec.
21101. Definitions.
21102. Nonapplication and exemption.
21103. Limitations on duty hours of train employees.
21104. Limitations on duty hours of signal employees.
21105. Limitations on duty hours of dispatching service employees.
21106. Limitations on employee sleeping quarters.
21107. Maximum duty hours and subjects of collective bargaining.

§ 21101. Definitions

In this chapter—

(1) "designated terminal" means the home or away-from-home terminal for the assignment of a particular crew.

(2) "dispatching service employee" means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) "employee" means a dispatching service employee, a signal employee, or a train employee.

(4) "signal employee" means an individual employed by a railroad carrier who is engaged in installing, repairing, or maintaining signal systems.

(5) "train employee" means an individual engaged in or connected with the movement of a train, including a hostler.

§ 21102. Nonapplication and exemption

(a) GENERAL.—This chapter does not apply to a situation involving any of the following:

(1) a casualty.

(2) an unavoidable accident.

(3) an act of God.

(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) EXEMPTION.—The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

§ 21103. Limitations on duty hours of train employees

(a) GENERAL.—Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is

engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) EMERGENCIES.—A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

§ 21104. Limitations on duty hours of signal employees

(a) GENERAL.—(1) In paragraph (2)(C) of this subsection, "24-hour period" means the period beginning when a signal employee reports for duty immediately after 8 consecutive hours off duty or, when required under paragraph (2)(B) of this subsection, after 10 consecutive hours off duty.

(2) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee to remain or go on duty—

(A) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours;

(B) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty; or

(C) after that employee has been on duty a total of 12 hours during a 24-hour period, or after the end of that 24-hour period, whichever occurs first, until that employee has had at least 8 consecutive hours off duty.

(b) DETERMINING TIME ON DUTY.—In determining under subsection (a) of this section the time a signal employee is on duty or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in installing, repairing, or maintaining signal systems is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (3)–(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) EMERGENCIES.—A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service.

§ 21105. Limitations on duty hours of dispatching service employees

(a) APPLICATION.—This section applies, rather than section 21103 or 21104 of this title, to a train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) GENERAL.—Except as provided in subsection (d) of this section, a dispatching service employee may not be required or allowed to remain or go on duty for more than—

(1) a total of 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; or

(2) a total of 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) DETERMINING TIME ON DUTY.—Under subsection (b) of this section, time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is on duty in a tower, office, station, or other place is time on duty in that tower, office, station, or place.

(d) EMERGENCIES.—When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

§ 21106. Limitations on employee sleeping quarters

A railroad carrier and its officers and agents—

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters are clean, safe, and sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier; and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in an area or in the immediate vicinity of an area, as determined under regulations prescribed by the Secretary of Transportation, in which railroad switching or humping operations are performed.

§ 21107. Maximum duty hours and subjects of collective bargaining

The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

CHAPTER 213—PENALTIES

SUBCHAPTER I—CIVIL PENALTIES

Sec.
21301. Chapter 201 general violations.
21302. Chapter 201 accident and incident violations and chapter 203–209 violations.
21303. Chapter 211 violations.
21304. Willfulness requirement for penalties against individuals.

SUBCHAPTER II—CRIMINAL PENALTIES

21311. Records and reports.

SUBCHAPTER I—CIVIL PENALTIES

§ 21301. Chapter 201 general violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under chapter 201 of this title a civil penalty for a violation. The amount of the penalty shall be at least $500 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) The Secretary may compromise the amount of a civil penalty imposed under this subsection to not less than $500 before referring the matter to the Attorney General for collection. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(b) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) DEPOSIT IN TREASURY.—A civil penalty collected under this section or section 20113(b) of this title shall be deposited in the Treasury as miscellaneous receipts.

§ 21302. Chapter 201 accident and incident violations and chapter 203–209 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, or violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least $500 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

§ 21303. Chapter 211 violations

(a) PENALTY.—(1) Subject to section 21304 of this title, a person violating chapter 211 of this title is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation

of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least $500 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(4) If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

(b) CIVIL ACTIONS TO COLLECT.—(1) The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3711 of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) IMPUTATION OF KNOWLEDGE.—In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

§ 21304. Willfulness requirement for penalties against individuals

A civil penalty under this subchapter may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

SUBCHAPTER II—CRIMINAL PENALTIES

§ 21311. Records and reports

(a) RECORDS AND REPORTS UNDER CHAPTER 201.—A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under chapter 201 of this title;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under chapter 201 of this title; or

(5) files a false record or report with the Secretary of Transportation.

(b) ACCIDENT AND INCIDENT REPORTS.—A railroad carrier not filing the report required by section 20901 of this title shall be fined not more than $500 for each violation and not more than $500 for each day during which the report is overdue.

PART B—ASSISTANCE

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

Sec.
22101. Financial assistance for State projects.
22102. Eligibility.
22103. Applications.
22104. State rail plan financing.
22105. Sharing project costs.
22106. Limitations on financial assistance.
22107. Records, audits, and information.
22108. Authorization of appropriations.

§ 22101. Financial assistance for State projects

(a) GENERAL.—The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to subchapter I of chapter 105 of this title maintains a rail line in the State. The assistance is for the cost of—

(1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Interstate Commerce Commission has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;

(2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) CALCULATING COST-BENEFIT RATIO.—The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different

commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c) CONDITIONS.—(1) Assistance for a project shall be provided under this chapter only if—

(A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and

(B) the ratio of benefits to costs for the project, as calculated using the methodology established under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer in existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) LIMITATIONS ON AMOUNTS.—A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

§ 22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for updating, revising, and modifying the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

§ 22103. Applications

(a) FILING.—A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) CONSIDERATIONS.—In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Interstate Commerce Commission for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

§ 22104. State rail plan financing

(a) ENTITLEMENT AND USES.—On the first day of each fiscal year, each State is entitled to $36,000 of the amounts made available under section 22108 of this title during that fiscal year to be used—

(1) to establish, update, revise, and modify the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) APPLICATIONS.—Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropriations for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) AVAILABILITY OF AMOUNTS.—Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

§ 22105. Sharing project costs

(a) GENERAL.—(1) The United States Government's share of the costs of financial assistance for a project under this chapter is 50 percent, except that for assistance provided under section 22101(a)(2) of this title, the Government's share is 70 percent. The State may pay its share of the costs in cash or through the following benefits, to the extent that the benefits otherwise would not be provided:

(A) forgiveness of taxes imposed on a rail carrier or its property.

(B) real and tangible personal property (provided by the State or a person for the State) necessary for the safe and efficient operation of rail freight transportation.

(C) track rights secured by the State for a rail carrier.

(D) the cash equivalent of State salaries for State employees working on the State project, except overhead and general administrative costs.

(2) A State may pay more than its required percentage share of the costs of a project under this chapter. When a State, or a person acting for a State, pays more than the State share of the costs of its projects during a fiscal year, the excess amount shall be applied to the State share for the costs of the State projects for later fiscal years.

(b) AGREEMENTS TO COMBINE AMOUNTS.—States may agree to combine any part of the amounts made available under this chapter to carry out a project that is eligible for assistance under this chapter when—

(1) the project will benefit each State making the agreement; and

(2) the agreement is not a violation of State law.

§ 22106. Limitations on financial assistance

(a) GRANTS AND LOANS.—A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted. The State shall decide on the financial terms of the grant or loan, except that the time for making grant advances shall comply with regulations of the Secretary of the Treasury.

(b) HOLDING AND USE OF GOVERNMENT'S SHARE.—The State shall place the United States Government's share of money that is repaid in an interest-bearing account. However, the Secretary of Transportation may allow a borrower to place that money, for the benefit of the State, in a bank designated by the Secretary of the Treasury under section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use the money and accumulated interest to make other grants and loans under this chapter.

(c) PAYMENT OF UNUSED MONEY AND ACCUMULATED INTEREST.—The State may pay the Secretary of Transportation the Government's share of unused money and accumulated interest at any time. However, the State must pay the unused money and accumulated interest to the Secretary when the State ends its participation under this chapter.

(d) ENCOURAGING PARTICIPATION.—To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

(e) RETENTION OF CONTINGENT INTEREST.—Each State shall retain a contingent interest (redeemable preference shares) for the Government's share of amounts in a rail line receiving assistance under this chapter. The State may collect its share of the amounts used for the rail line if—

(1) an application for abandonment of the rail line is filed under chapter 109 of this title; or

(2) the rail line is sold or disposed of after it has received assistance under this chapter.

§ 22107. Records, audits, and information

(a) RECORDS.—Each recipient of financial assistance through an arrangement under this chapter shall keep records required by the Secretary of Transportation. The records shall be kept for 3 years after a project is completed and shall disclose—

(1) the amount of, and disposition by the recipient, of the assistance;

(2) the total costs of the project for which the assistance was given or used;

(3) the amount of that part of the costs of the project paid by other sources; and

(4) any other records that will make an effective audit easier.

(b) AUDITS.—The Secretary and the Comptroller General shall make regular financial and performance audits, as provided under chapter 75 of title 31, of activities and transactions assisted under this chapter.

(c) INFORMATION.—The Interstate Commerce Commission shall provide the Secretary with information the Secretary requests to assist in carrying out this chapter. The Commission shall provide the information not later than 30 days after receiving a request from the Secretary.

(d) LIST OF RAIL LINES.—Not later than August 1 of each year, each rail carrier subject to subchapter I of chapter 105 of this title shall submit to the Secretary a list of the rail lines of the carrier that carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

§ 22108. Authorization of appropriations

(a) GENERAL.—(1) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter:

(A) $25,000,000 for the fiscal year ending September 30, 1993.

(B) $30,000,000 for the fiscal year ending September 30, 1994.

(2) Amounts appropriated under paragraph (1) of this subsection remain available until expended.

(3) No amount may be appropriated to the Secretary for any period after September 30, 1994, to carry out this chapter.

(b) DISTRIBUTION OF AMOUNTS.—The Secretary shall establish procedures necessary to ensure that amounts available to the Secretary for projects under this chapter are distributed not later than April 1 of the fiscal year for which the amounts are appropriated. If any amounts are not distributed by April 1, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science,

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and Transportation of the Senate on the status of those amounts and the reasons for the delay in distribution.

(c) AVAILABILITY OF OTHER AMOUNTS.—Amounts appropriated to carry out section 5(i) of the Department of Transportation Act for fiscal year 1990 that are not applied for or that remain unobligated on January 1, 1991, are available to the Secretary for projects under this chapter.

PART C—PASSENGER TRANSPORTATION

CHAPTER 241—GENERAL

Sec.
24101. Findings, purpose, and goals.
24102. Definitions.
24103. Enforcement.
24104. Authorization of appropriations.

§ 24101. Findings, purpose, and goals

(a) FINDINGS.—(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and in other areas of the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to Amtrak to achieve a performance level sufficient to justify expending public money.

(5) Modern and efficient commuter rail passenger transportation is important to the viability and well-being of major urban areas and to the energy conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transportation is required.

(b) PURPOSE.—By using innovative operating and marketing concepts, Amtrak shall provide intercity and commuter rail passenger transportation that completely develops the potential of modern rail transportation to meet the intercity and commuter passenger transportation needs of the United States.

(c) GOALS.—Amtrak shall—

(1) use its best business judgment in acting to minimize United States Government subsidies, including—

(A) increasing fares;

(B) increasing revenue from the transportation of mail and express;

(C) reducing losses on food service;
(D) improving its contracts with operating rail carriers;
(E) reducing management costs; and
(F) increasing employee productivity;

(2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector to share the cost of providing rail passenger transportation, including the cost of operating facilities;

(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) encourage rail carriers to assist in improving intercity rail passenger transportation;

(8) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(9) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(10) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; and

(11) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.

(d) MINIMIZING GOVERNMENT SUBSIDIES.—To carry out subsection (c)(11) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies.

§ 24102. Definitions

In this part—

(1) "auto-ferry transportation" means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and

(B) when space is available, of used unoccupied vehicles.

(2) "avoidable loss" means the avoidable costs of providing rail passenger transportation, less revenue attributable to the transportation, as determined by the Interstate Commerce Commission under section 553 of title 5.

(3) "basic system" means the system of intercity rail passenger transportation designated by the Secretary of Transportation under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a) of this title and section 4(g) of the Act, including changes in the system or transportation that Amtrak makes using the route and service criteria.

(4) "commuter authority" means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

(5) "commuter rail passenger transportation" means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.

(6) "intercity rail passenger transportation" means rail passenger transportation, except commuter rail passenger transportation.

(7) "Northeast Corridor" means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

(8) "rail carrier" means a person providing rail transportation for compensation.

(9) "rate" means a rate, fare, or charge for rail transportation.

(10) "regional transportation authority" means an entity established to provide passenger transportation in a region.

(11) "route and service criteria" means the criteria and procedures for making route and service decisions established under section 404(c)(1)-(3)(A) of the Rail Passenger Service Act.

§ 24103. Enforcement

(a) GENERAL.—(1) Except as provided in paragraph (2) of this subsection, only the Attorney General may bring a civil action for equitable relief in a district court of the United States when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part;

(B) obstructs or interferes with an activity authorized under this part;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part;

(ii) to obstruct or interfere with an activity authorized by this part; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) REVIEW OF DISCONTINUANCE OR REDUCTION.—A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action for equitable relief brought by the Attorney General.

(c) VENUE.—Except as otherwise prohibited by law, a civil action under this section may be brought in the judicial district in which Amtrak or the rail carrier resides or is found.

§ 24104. Authorization of appropriations

(a) CAPITAL ACQUISITION AND CORRIDOR DEVELOPMENT.—(1) Not more than $250,000,000 may be appropriated to the Secretary of Transportation for each of the fiscal years ending September 30, 1993, and September 30, 1994, for the benefit of Amtrak to make capital expenditures under chapters 243–247 of this title.

(2) In addition to amounts that may be appropriated under section 24909 of this title, not more than the following amounts may be appropriated to the Secretary for the benefit of Amtrak to make capital expenditures under chapter 249 of this title:

(A) $220,000,000 for the fiscal year ending September 30, 1993.

(B) $250,000,000 for the fiscal year ending September 30, 1994.

(3)(A) Not more than 15 percent of each of the amounts appropriated under paragraphs (1) and (2) of this subsection is available for transportation described in subparagraphs (B) and (C) of this paragraph.

(B) Amounts made available under subparagraph (A) of this paragraph shall be used to develop new intercity rail passenger transportation on corridors between cities undergoing significant population growth and in which the transportation reasonably can be expected to provide travel times comparable with other surface transportation modes. An amount may be expended for the transportation only if a State requests the transportation and the State and Amtrak agree that—

(i) Amtrak will pay at least 90 percent of the cost of acquiring rolling stock for the transportation; and

(ii) the State will pay at least 90 percent of the cost of improving the right of way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment and facilities.

(C) Amounts made available under subparagraph (A) of this paragraph shall be used to begin new long distance intercity rail passenger transportation. An amount may be expended for the transportation only if a State requests the transportation and the State and Amtrak agree that—

(i) Amtrak will pay at least 75 percent of the cost of acquiring rolling stock for the transportation; and

(ii) the State will pay at least 90 percent of the cost of improving the right of way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment and facilities.

(D) Section 24704 of this title applies to the operating expenses of transportation described in subparagraphs (B) and (C) of this paragraph.

(b) OPERATING EXPENSES.—(1) Not more than $381,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1993, and September 30, 1994, for the benefit of Amtrak for operating expenses. Not more than 5 percent of the amounts appropriated for each fiscal year shall be used to pay operating expenses under section 24704 of this title for transportation in operation on September 30, 1992.

(2)(A) Not more than the following amounts may be appropriated to the Secretary for the benefit of Amtrak for operating losses under section 24704 of this title for transportation beginning after September 30, 1992:

(i) $7,500,000 for the fiscal year ending September 30, 1993.

(ii) $9,500,000 for the fiscal year ending September 30, 1994.

(B) The expenditure by Amtrak of an amount appropriated under subparagraph (A) of this paragraph is deemed not to be an operating expense when calculating the revenue-to-operating expense ratio of Amtrak.

(c) MANDATORY PAYMENTS.—(1) Not more than $150,000,000 for the fiscal year ending September 30, 1993, and amounts that may be necessary for the fiscal year ending September 30, 1994, may be appropriated to the Secretary to pay—

(A) tax liabilities under section 3221 of the Internal Revenue Code of 1986 (26 U.S.C. 3221) due in those fiscal years that are more than the amount needed for benefits for individuals who retire from Amtrak and for their beneficiaries;

(B) obligations of Amtrak under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in those fiscal years that are more than obligations of Amtrak calculated on an experience-related basis; and

(C) obligations of Amtrak due under section 3321 of the Code (26 U.S.C. 3321).

(2) Amounts appropriated under this subsection are not a United States Government subsidy of Amtrak.

(d) PAYMENT TO AMTRAK.—Amounts appropriated under this section shall be paid to Amtrak under the budget request of the Secretary as approved or modified by Congress when the amounts are appropriated. A payment may not be made more frequently than once every 90 days, unless Amtrak, for good cause, requests more frequent payment before a 90-day period ends. In each fiscal year in which amounts are authorized to be appropriated under this section, amounts appropriated shall be paid to Amtrak as follows:

(1) 50 percent on October 1.

(2) 25 percent on January 1.

(3) 25 percent on April 1.

(e) AVAILABILITY OF AMOUNTS AND EARLY APPROPRIATIONS.—(1) Amounts appropriated under this section remain available until expended.

(2) Amounts for capital acquisitions and improvements may be appropriated in a fiscal year before the fiscal year in which the amounts will be obligated.

(f) LIMITATIONS ON USE.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.

CHAPTER 243—AMTRAK

Sec.
24301. Status and applicable laws.
24302. Board of directors.
24303. Officers.
24304. Capitalization.
24305. General authority.
24306. Mail, express, and auto-ferry transportation.
24307. Special transportation.
24308. Use of facilities and providing services to Amtrak.
24309. Retaining and maintaining facilities.
24310. Assistance for upgrading facilities.
24311. Acquiring interests in property by eminent domain.

24312. Labor standards.
24313. Rail safety system program.
24314. Demonstration of new technology.
24315. Reports and audits.

§ 24301. Status and applicable laws

(a) STATUS.—Amtrak—

(1) is a rail carrier under section 10102 of this title;

(2) shall be operated and managed as a for-profit corporation; and

(3) is not a department, agency, or instrumentality of the United States Government.

(b) PRINCIPAL OFFICE AND PLACE OF BUSINESS.—The principal office and place of business of Amtrak are in the District of Columbia. Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(c) APPLICATION OF SUBTITLE IV.—(1) Subtitle IV of this title applies to Amtrak, except for provisions related to the—

(A) regulation of rates;

(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

(C) regulation of routes and service;

(D) discontinuance or change of rail passenger transportation operations; and

(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

(2) Notwithstanding this subsection—

(A) sections 10721–10724 of this title apply to Amtrak; and

(B) on application of an adversely affected motor carrier, the Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105 of this title may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss.

(d) APPLICATION OF SAFETY AND EMPLOYEE RELATIONS LAWS AND REGULATIONS.—Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a common carrier subject to subchapter I of chapter 105 of this title apply to Amtrak.

(e) APPLICATION OF CERTAIN ADDITIONAL LAWS.—Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (D.C. Code § 29–301 et seq.) apply to Amtrak.

(f) LAWS GOVERNING LEASES AND CONTRACTS.—The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed.

(g) NONAPPLICATION OF RATE, ROUTE, AND SERVICE LAWS.—A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(h) NONAPPLICATION OF PAY PERIOD LAWS.—A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(i) PREEMPTION RELATED TO EMPLOYEE WORK REQUIREMENTS.—A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak to employ a specified number of individuals to perform a particular task, function, or operation.

(j) NONAPPLICATION OF LAWS ON JOINT USE OR OPERATION OF FACILITIES AND EQUIPMENT.—Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(k) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

(A) "additional tax" means a tax or fee—

(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak; and

(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak.

(B) "Amtrak" includes a rail carrier subsidiary of Amtrak and a lessor or lessee of Amtrak or one of its rail carrier subsidiaries.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used in providing rail passenger transportation, even if that use is indirect.

(l) EXEMPTION FROM TAXES LEVIED AFTER SEPTEMBER 30, 1981.—(1) Amtrak or a rail carrier subsidiary of Amtrak is exempt from a tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it after September 30, 1981. However, Amtrak is not exempt under this subsection from a tax or fee that it was required to pay as of September 10, 1982.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant equitable or declaratory relief requested by Amtrak.

(m) WASTE DISPOSAL.—(1) An intercity rail passenger car manufactured after October 14, 1990, shall be built to provide for the discharge of human waste only at a servicing facility. Amtrak shall retrofit each of its intercity rail passenger cars that was manufactured after May 1, 1971, and before October 15, 1990, with a human waste disposal system that provides for the discharge of human waste only at a servicing facility. Subject to appropriations—

(A) the retrofit program shall be completed not later than October 15, 1996; and

(B) a car that does not provide for the discharge of human waste only at a servicing facility shall be removed from service after that date.

(2) Section 361 of the Public Health Service Act (42 U.S.C. 264) and other laws of the United States, States, and local governments do not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation. The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this paragraph and may grant equitable or declaratory relief requested by Amtrak.

(n) RAIL TRANSPORTATION TREATED EQUALLY.—When authorizing transportation in the continental United States for an officer, employee, or member of the uniformed services of a department, agency, or instrumentality of the Government, the head of that department, agency, or instrumentality shall consider rail transportation (including transportation by extra-fare trains) the same as transportation by another authorized mode. The Administrator of General Services shall include Amtrak in the contract air program of the Administrator in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times.

§ 24302. Board of directors

(a) COMPOSITION AND TERMS.—(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

(A) the Secretary of Transportation.

(B) the President of Amtrak.

(C) 3 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, as follows:

(i) one individual selected from a list of 3 qualified individuals submitted by the Railway Labor Executives Association.

(ii) one chief executive officer of a State selected from among the chief executive officers of States with an interest in rail transportation. The chief executive officer may select an individual to act as the officer's representative at board meetings.

(iii) one individual selected as a representative of business with an interest in rail transportation.

(D) 2 individuals selected by the President of the United States from a list of names consisting of one individual nominated by each commuter authority for which Amtrak Commuter provides commuter rail passenger transportation under section 24505 of this title and one individual nominated by each commuter authority in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702)) that provides its own commuter rail passenger transportation or makes a contract with an operator (except Amtrak Commuter), except that—

(i) one of the individuals selected must have been nominated by a commuter authority for which Amtrak Commuter provides commuter rail transportation; or

(ii) if Amtrak Commuter does not provide commuter rail passenger transportation for any authority, the 2 individuals shall be selected from a list of 5 individuals submitted by commuter authorities providing transportation over rail property of Amtrak.

(E) 2 individuals selected by the holders of the preferred stock of Amtrak.

(2) An individual appointed under paragraph (1)(C) of this subsection serves for 4 years or until the individual's successor is appointed and qualified. Not more than 2 individuals appointed under paragraph (1)(C) may be members of the same political party.

(3) An individual selected under paragraph (1)(D) of this subsection serves for 2 years or until the individual's successor is selected.

(4) An individual selected under paragraph (1)(E) of this subsection serves for one year or until the individual's successor is selected.

(5) The President of Amtrak serves as Chairman of the board.

(6) The Secretary may be represented at a meeting of the board only by the Deputy Secretary of Transportation, the Administrator of the Federal Railroad Administration, or the General Counsel of the Department of Transportation.

(b) CUMULATIVE VOTING.—The articles of incorporation of Amtrak shall provide for cumulative voting for all stockholders.

(c) CONFLICTS OF INTEREST.—When serving on the board, a director appointed by the President of the United States may not have—

(1) a financial or employment relationship with a rail carrier; and

(2) a significant financial relationship or an employment relationship with a person competing with Amtrak in providing passenger transportation.

(d) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

(e) VACANCIES.—A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(f) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

§ 24303. Officers

(a) APPOINTMENT AND TERMS.—Amtrak has a President and other officers that are named and appointed by the board of directors of Amtrak. An officer of Amtrak must be a citizen of the United States. Officers of Amtrak serve at the pleasure of the board.

(b) PAY.—The board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility.

(c) CONFLICTS OF INTEREST.—When employed by Amtrak, an officer may not have a financial or employment relationship with

another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

§ 24304. Capitalization

(a) STOCK.—Amtrak may have outstanding one issue of common stock and one issue of preferred stock. Each type of stock is eligible for a dividend. The articles of incorporation of Amtrak shall provide that—

(1) each type of stock must be fully paid and nonassessable;

(2) common stock has a par value of $10 a share; and

(3) preferred stock has a par value of $100 a share.

(b) LIMITATIONS ON OWNERSHIP AND VOTING.—(1) A rail carrier or person controlling a rail carrier—

(A) may not hold preferred stock of Amtrak; and

(B) may vote not more than one-third of the total number of shares of outstanding common stock of Amtrak.

(2) Additional common stock owned by a rail carrier or person controlling a rail carrier is deemed to be not outstanding for voting and quorum purposes.

(c) PREFERRED STOCK DIVIDENDS AND LIQUIDATION PREFERENCES.—The articles of incorporation of Amtrak shall provide that—

(1) its preferred stock has a cumulative dividend of at least 6 percent a year;

(2) if a dividend on the preferred stock is not declared and paid or set aside for payment, the deficiency shall be declared and paid or set aside for payment before a dividend or other distribution is made on its common stock;

(3) the preferred stock has a liquidation preference over the common stock entitling holders of preferred stock to receive a liquidation payment of at least par value plus all accrued unpaid dividends before a liquidation payment is made to holders of common stock; and

(4) the preferred stock may be converted to common stock.

(d) ISSUANCE OF PREFERRED STOCK TO SECRETARY.—(1) Not later than 30 days after the close of each fiscal quarter, Amtrak shall issue to the Secretary of Transportation preferred stock equal, to the nearest whole share, to the amount paid to Amtrak under section 24104(d) of this title during the quarter.

(2) Preferred stock issued under this subsection or section 304(c)(1) of the Rail Passenger Service Act is deemed to be issued on the date Amtrak receives the amounts for which the stock is issued.

(3) An amendment to the articles of incorporation of Amtrak is not required for issuing preferred stock under this subsection.

(e) TAXES AND FEES ON PREFERRED STOCK.—A tax or fee applies to preferred stock issued under this section only if specifically prescribed by Congress.

(f) NONVOTING CERTIFICATES OF INDEBTEDNESS.—Amtrak may issue nonvoting certificates of indebtedness, except that an obligation with a liquidation interest superior to preferred stock issued to the Secretary or secured by a lien on property of Amtrak may be incurred when preferred stock issued to the Secretary is outstanding only if the Secretary consents.

(g) INSPECTION RIGHTS.—Stockholders of Amtrak have the rights of inspecting and copying set forth in section 45(b) of the District of Columbia Business Corporation Act (D.C. Code § 29–345(b)) regardless of the amount of stock they hold.

§ 24305. General authority

(a) ACQUISITION AND OPERATION OF EQUIPMENT AND FACILITIES.—(1) Amtrak may acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(b) MAINTENANCE AND REHABILITATION.—Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) MISCELLANEOUS AUTHORITY.—Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d) THROUGH ROUTES AND JOINT FARES.—(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(e) RAIL POLICE.—Amtrak may employ rail police to provide security for rail passengers and property of Amtrak. Rail police employed by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be employed without regard to the law of another State containing those requirements.

(f) DOMESTIC BUYING PREFERENCES.—(1) In this subsection, "United States" means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, material, and supplies mined or produced in the United States; or

(B) manufactured articles, material, and supplies manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, material, or supplies bought is at least $1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, material, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

§ 24306. Mail, express, and auto-ferry transportation

(a) ACTIONS TO INCREASE REVENUES.—Amtrak shall take necessary action to increase its revenues from the transportation of mail and express. To increase its revenues, Amtrak may provide auto-ferry transportation as part of the basic passenger transportation authorized by this part. When requested by Amtrak, a department, agency, or instrumentality of the United States Government shall assist in carrying out this section.

(b) AUTHORITY OF OTHERS TO PROVIDE AUTO-FERRY TRANSPORTATION.—(1) A person primarily providing auto-ferry transportation and any other person not a rail carrier may provide auto-ferry transportation over any route under a certificate issued by the Interstate Commerce Commission if the Commission finds that the auto-ferry transportation—

(A) will not impair the ability of Amtrak to reduce its losses or increase its revenues; and

(B) is required to meet the public demand.

(2) A rail carrier that has not made a contract with Amtrak to provide rail passenger transportation may provide auto-ferry transportation over its own rail lines.

(3) State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.

§ 24307. Special transportation

(a) REDUCED FARE PROGRAM.—Amtrak shall maintain a reduced fare program for the following:

(1) individuals at least 65 years of age.

(2) individuals (except alcoholics and drug abusers) who—

(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

(B) have a record of an impairment; or

(C) are regarded as having an impairment.

(b) ACTIONS TO ENSURE ACCESS.—Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

(1) acquiring special equipment;

(2) conducting special training for employees;

(3) designing and acquiring new equipment and facilities;

(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas.

(c) EMPLOYEE TRANSPORTATION.—(1) In this subsection, "rail carrier employee" means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Amtrak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Interstate Commerce Commission from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

§ 24308. Use of facilities and providing services to Amtrak

(a) GENERAL AUTHORITY.—(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority

under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree and if the Interstate Commerce Commission finds it necessary to carry out this part, the Commission shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Commission shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(C) The Commission shall decide the dispute not later than 90 days after Amtrak submits the dispute to the Commission.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) OPERATING DURING EMERGENCIES.—To facilitate operation by Amtrak during an emergency, the Commission, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Commission then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) PREFERENCE OVER FREIGHT TRANSPORTATION.—Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief. If the Secretary, after an opportunity for a hearing under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Secretary shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) ACCELERATED SPEEDS.—If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a hearing, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e) ADDITIONAL TRAINS.—(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of addi-

tional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains. After a hearing on the record, the Secretary may order the carrier, within 60 days, to provide or allow for the operation of the requested trains on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

Federal Register, publication.

(2) The Secretary shall consider—

(A) when conducting a hearing, whether an order would impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) when establishing scheduled running times, the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliability and passenger comfort.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Commission shall decide the dispute under subsection (a) of this section.

§ 24309. Retaining and maintaining facilities

(a) DEFINITIONS.—In this section—

(1) "facility" means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair tracks, a station building, a platform, and a related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or altering a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) APPROVAL REQUIRED FOR DOWNGRADING OR DISPOSAL.—A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c) NOTIFICATION AND ANALYSIS.—(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system

shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintenance of tracks, structures, and equipment and depreciation).

(d) APPROVAL OF APPLICATION AND PAYMENT OF AVOIDABLE COSTS.—(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) COMPLIANCE WITH OTHER OBLIGATIONS.—Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

§ 24310. Assistance for upgrading facilities

(a) TO CORRECT DANGEROUS CONDITIONS.—(1) Amtrak or the owner of a facility presenting a danger to the employees, passengers, or property of Amtrak may petition the Secretary of Transportation

for assistance to the owner for relocation or other measures undertaken after December 31, 1977, to minimize or eliminate the danger.

(2) The Secretary shall recommend to Congress that Congress authorize amounts for the relocation or other measures if the Secretary decides that—

(A) the facility presents a danger of death or serious injury to an employee or passenger or of serious damage to that property; and

(B) the owner should not be expected to bear the cost of that relocation or other measures.

(b) TO CORRECT STATE AND LOCAL VIOLATIONS.—(1) Amtrak, by itself or jointly with an owner or operator of a rail station Amtrak uses to provide rail passenger transportation, may apply to the Secretary for amounts that may be appropriated under paragraph (2) of this subsection to pay or reimburse expenses incurred after October 1, 1987, related to the station complying with an official notice received before October 1, 1987, from a State or local authority stating that the station violates or allegedly violates the building, construction, fire, electric, sanitation, mechanical, or plumbing code.

(2) Not more than $1,000,000, may be appropriated to the Secretary to carry out paragraph (1) of this subsection. Amounts appropriated under this paragraph remain available until expended.

§ 24311. Acquiring interests in property by eminent domain

(a) GENERAL AUTHORITY.—(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary's duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b) CIVIL ACTIONS.—(1) A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the property sufficient to identify it;

(C) a statement of the interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c) AUTHORITY TO CONDEMN RAIL CARRIER PROPERTY INTERESTS.—(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Interstate Commerce Commission for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Commission, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Commission decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and

(B) the obligations of Amtrak to provide modern, efficient, and economical rail passenger transportation can be met adequately by acquiring an interest in other property, either by sale or by exercising its right of eminent domain under subsection (a) of this section.

(2) If the amount of compensation is not determined by the date of the Commission's order, the order shall require, as part of the compensation, interest at 6 percent a year from the date prescribed for the conveyance until the compensation is paid.

(3) Amtrak subsequently may reconvey to a third party an interest conveyed to Amtrak under this subsection or prior comparable provision of law if the Commission decides that the reconveyance will carry out the purposes of this part, regardless of when the proceeding was brought (including a proceeding pending before a United States court on November 28, 1990).

§ 24312. Labor standards

(a) PREVAILING WAGES AND HEALTH AND SAFETY STANDARDS.—(1) Amtrak shall ensure that laborers and mechanics employed

by contractors and subcontractors in construction work financed under an agreement made under section 24308(a), 24701(a), or 24704(b)(2) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(2) Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5).

(b) CONTRACTING OUT.—(1) Amtrak may not contract out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak or a rail carrier that provided intercity rail passenger transportation on October 30, 1970, if contracting out results in the layoff of an employee in the bargaining unit.

(2) This subsection does not apply to food and beverage services provided on trains of Amtrak.

§ 24313. Rail safety system program

In consultation with rail labor organizations, Amtrak shall maintain a rail safety system program for employees working on property owned by Amtrak. The program shall be a model for other rail carriers to use in developing safety programs. The program shall include—

(1) periodic analyses of accident information, including primary and secondary causes;

(2) periodic evaluations of the activities of the program, particularly specific steps taken in response to an accident;

(3) periodic reports on amounts spent for occupational health and safety activities of the program;

(4) periodic reports on reduced costs and personal injuries because of accident prevention activities of the program;

(5) periodic reports on direct accident costs, including claims related to accidents; and

(6) reports and evaluations of other information Amtrak considers appropriate.

§ 24314. Demonstration of new technology

(a) PLAN.—Amtrak shall develop a plan for demonstrating new technology in rail passenger equipment. The plan shall provide that new equipment that Amtrak procures that may increase train speed significantly over existing rail facilities shall be demonstrated, to the extent practicable, throughout the intercity rail passenger system.

(b) REPORT.—Not later than September 30, 1993, Amtrak shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the plan developed under subsection (a) of this section, including its goals, loca-

tions for technology demonstration, and a schedule for carrying out the plan.

(c) COOPERATION.—To make efforts to increase train speed throughout the intercity rail passenger system easier, Amtrak shall consult and cooperate, to the extent feasible, on request of eligible applicants proposing a technology demonstration authorized and financed under a law of the United States, with those applicants.

§ 24315. Reports and audits

(a) AMTRAK ANNUAL OPERATIONS REPORT.—Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the subsidy not provided by the United States Government; and

(H) on-time performance;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b) AMTRAK GENERAL AND LEGISLATIVE ANNUAL REPORT.—(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal of section 24902(b) of this title; and

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) SECRETARY'S REPORT ON EFFECTIVENESS OF THIS PART.—The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of Amtrak each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally

accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section.

(e) COMPTROLLER GENERAL AUDITS.—The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) AVAILABILITY OF RECORDS AND PROPERTY OF AMTRAK AND RAIL CARRIERS.—Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) COMPTROLLER GENERAL'S REPORT TO CONGRESS.—The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

CHAPTER 245—AMTRAK COMMUTER

Sec.
24501. Status and applicable laws.
24502. Board of directors.
24503. Officers.
24504. General authority.
24505. Commuter rail passenger transportation.
24506. Certain duties and powers unaffected.

§ 24501. Status and applicable laws

(a) STATUS.—Amtrak Commuter—

(1) is a wholly-owned subsidiary of Amtrak;

(2) provides by contract commuter rail passenger transportation for a commuter authority with which Amtrak Commuter makes a contract to provide the transportation under this chapter;

(3) has no common carrier obligations to provide rail passenger or rail freight transportation; and

(4) is not a department, agency, or instrumentality of the United States Government.

(b) APPLICATION OF SAFETY AND EMPLOYEE RELATIONS LAWS AND REGULATIONS.—Chapter 105 of this title does not apply to Amtrak Commuter. However, laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to subchapter I of chapter 105 apply to Amtrak Commuter.

(c) APPLICATION OF CERTAIN ADDITIONAL LAWS.—This part and, to the extent consistent with this part, the District of Columbia Business Corporation Act (D.C. Code §29–301 et seq.) apply to Amtrak Commuter.

(d) NONAPPLICATION OF RATE, ROUTE, AND SERVICE LAWS.—A State or other law related to rates, routes, or service in connection with rail passenger transportation does not apply to Amtrak Commuter.

(e) PREEMPTION RELATED TO EMPLOYEE WORK REQUIREMENTS.—A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak Commuter to employ a specified number of individuals to perform a particular task, function, or operation.

(f) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection, "additional tax" means a tax or fee—

(A) on the acquisition, improvement, ownership, or operation of personal property by Amtrak Commuter; and

(B) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak Commuter.

(2) Amtrak Commuter is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used to provide rail passenger transportation.

(g) TAX EXEMPTION FOR CERTAIN COMMUTER AUTHORITIES.—A commuter authority with which Amtrak Commuter could have made a contract to provide commuter rail passenger transportation under this chapter but which decided to provide its own rail passenger transportation beginning on January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(h) NONAPPLICATION OF AGREEMENTS FOR FINANCIAL SUPPORT AND TRACKAGE RIGHTS.—An agreement under which financial support was provided on January 2, 1974, to a commuter authority to continue rail passenger transportation does not apply to Amtrak Commuter. However, Amtrak and the Consolidated Rail Corporation retain appropriate trackage rights over rail property owned or leased by the authority. Compensation for the rights shall be reasonable.

§24502. Board of directors

(a) COMPOSITION.—The board of directors of Amtrak Commuter is composed of the following directors:

(1) the President of Amtrak Commuter.

(2) one individual from the board of directors of Amtrak selected as a representative of commuter authorities that make contracts with Amtrak Commuter for the operation of commuter rail passenger transportation.

(3) 2 individuals selected by the board of directors of Amtrak.

(4) 2 individuals selected by commuter authorities for which Amtrak Commuter provides commuter rail transportation under this chapter. However, only one individual shall be selected under this clause if Amtrak Commuter provides the transportation for only one authority.

(b) TERMS.—Except as otherwise provided in this section, individuals shall serve for 2 years.

(c) CHAIRMAN.—The board shall select annually one of its members to serve as Chairman.

(d) PAY AND EXPENSES.—Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

(e) VACANCIES.—A vacancy on the board is filled in the same way as the original selection.

(f) BYLAWS.—The board may adopt and amend bylaws governing the operation of Amtrak Commuter. The bylaws shall be consistent with this part and the articles of incorporation.

§ 24503. Officers

(a) APPOINTMENT AND TERMS.—Amtrak Commuter has a President and other officers that are named and appointed by the board of directors of Amtrak Commuter. An officer of Amtrak Commuter must be a citizen of the United States. Officers of Amtrak Commuter serve at the pleasure of the board.

(b) PAY.—The board may fix the pay of the officers of Amtrak Commuter. An officer may be paid not more than the general level of pay for officers of rail carriers with comparable responsibility.

(c) CONFLICTS OF INTEREST.—When employed by Amtrak Commuter, an officer may not have a financial or employment relationship with a rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

§ 24504. General authority

(a) GENERAL.—Amtrak Commuter may—

(1) acquire, operate, maintain, and make contracts for the operation of equipment and facilities necessary for commuter rail passenger transportation;

(2) conduct research and development related to the mission of Amtrak Commuter; and

(3) issue common stock to Amtrak.

(b) OPERATION AND CONTROL.—To the extent consistent with this part and with an agreement with a commuter authority, Amtrak Commuter shall operate and control all aspects of the commuter rail passenger transportation it provides.

(c) AGREEMENT TO AVOID DUPLICATING EMPLOYEE FUNCTIONS.—To the maximum extent practicable, Amtrak Commuter and Amtrak shall make an agreement that avoids duplicating employee functions and voluntarily establishes a consolidated work force.

§ 24505. Commuter rail passenger transportation

(a) GENERAL AUTHORITY.—Amtrak Commuter—

(1) shall provide commuter rail passenger transportation that the Consolidated Rail Corporation was obligated to provide on August 13, 1981, under section 303(b)(2) or 304(e) of the

Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(2), 744(e)); and

(2) may provide other commuter rail passenger transportation if the commuter authority for which the transportation will be provided offers to provide a commuter rail passenger transportation payment equal to the—

(A) avoidable costs of providing the transportation (including the avoidable cost of necessary capital improvements) and a reasonable return on the value; less

(B) revenue attributable to the transportation.

(b) OFFER REQUIREMENTS.—(1) A commuter authority making an offer under subsection (a)(2) of this section shall—

(A) show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation; and

(B) make the offer according to regulations the Rail Services Planning Office prescribes under section 10362(b)(5)(A) and (6) of this title.

(2) The Office may revise and update the regulations when necessary to carry out this section.

(c) ADDITIONAL EMPLOYEE REQUIREMENTS.—Additional employee requirements shall be met through existing seniority arrangements agreed to in the implementing agreement negotiated under section 508 of the Rail Passenger Service Act.

(d) WHEN OBLIGATION DOES NOT APPLY.—Amtrak Commuter is not obligated to provide commuter rail passenger transportation if a commuter authority provides the transportation or makes a contract under which a person, except Amtrak Commuter, will provide the transportation. When appropriate, Amtrak Commuter shall give the authority or person access to the rail property needed to provide the transportation.

(e) DISCONTINUANCE OF COMMUTER RAIL PASSENGER TRANSPORTATION.—(1) Amtrak Commuter may discontinue commuter rail passenger transportation provided under this section on 60 days' notice if—

(A) a commuter authority does not offer a commuter rail passenger transportation payment under subsection (a)(2) of this section; or

(B) a payment is not paid when due.

Regulations.

(2) The Office shall prescribe regulations on the necessary contents of the notice required under this subsection.

(f) COMPENSATION FOR RIGHT-OF-WAY RELATED COSTS.—Compensation by a commuter authority to Amtrak or Amtrak Commuter for right-of-way related costs for transportation over property Amtrak owns shall be determined under a method the Interstate Commerce Commission establishes under section 1163 of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1111) or to which the parties agree.

(g) APPLICATION OF OTHER LAWS.—All laws related to commuter rail passenger transportation apply to a commuter authority providing commuter rail passenger transportation under this section.

§ 24506. Certain duties and powers unaffected

This chapter does not affect a duty or power of the Consolidated Rail Corporation or its successor and any bi-state commuter authority under an agreement, lease, or contract under which property

was conveyed to the Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.
24701. Operation of basic system.
24702. Improving rail passenger transportation.
24703. Route and service criteria.
24704. Transportation requested by States, authorities, and other persons.
24705. Additional qualifying routes.
24706. Discontinuance.
24707. Cost and performance review.
24708. Special commuter transportation.
24709. International transportation.

§ 24701. Operation of basic system

(a) BY AMTRAK.—Amtrak shall provide intercity rail passenger transportation within the basic system unless the transportation is provided by—

(1) a rail carrier with which Amtrak did not make a contract under section 401(a) of the Rail Passenger Service Act; or

(2) a regional transportation authority under contract with Amtrak.

(b) BY OTHERS WITH CONSENT OF AMTRAK.—Except as provided in section 24306 of this title, a person may provide intercity rail passenger transportation over a route over which Amtrak provides scheduled intercity rail passenger transportation under a contract under section 401(a) of the Act only with the consent of Amtrak.

§ 24702. Improving rail passenger transportation

(a) PLAN TO IMPROVE TRANSPORTATION.—Amtrak shall continue to carry out its plan, submitted under section 305(f) of the Rail Passenger Service Act, to improve intercity rail passenger transportation provided in the basic system. The plan shall include—

(1) a zero-based assessment of all operating practices;

(2) changes to achieve the minimum use of employees consistent with safe operations and adequate transportation;

(3) a systematic program for achieving the greatest ratio of train size to passenger demand;

(4) a systematic program to reduce trip time in the basic system;

(5) establishing training programs to achieve on-time departures;

(6) establishing priorities for passenger trains over freight trains;

(7) adjusting the buying and pricing of food and beverages so that food and beverage services ultimately will be profitable;

(8) cooperative marketing opportunities between Amtrak and governmental authorities that have intercity rail passenger transportation; and

(9) cooperative marketing campaigns sponsored by Amtrak and the Secretary of Energy, the Administrator of the Federal Highway Administration, and the Administrator of the Environmental Protection Agency.

(b) STATE AND LOCAL SPEED RESTRICTIONS.—Amtrak shall—

(1) identify any speed restriction a State or local government imposes on a train of Amtrak that Amtrak decides

impedes Amtrak from achieving high-speed intercity rail passenger transportation; and

(2) consult with that State or local government—

(A) to evaluate alternatives to the speed restriction, considering the local safety hazard that is the basis for the restriction; and

(B) to consider modifying or eliminating the restriction to allow safe operation at higher speeds.

(c) HIGH-SPEED RAIL TRANSPORTATION DEVELOPMENT.—On reasonable request by a State, political subdivision of a State, regional partnership, private sector representative, or other qualified person, Amtrak shall consult and cooperate to the extent feasible with that person to assist the efforts of that person to achieve high-speed rail transportation through equipment upgrades, grade-crossing safety improvements, and incremental infrastructure improvements on existing rail facilities that Amtrak uses (except the Northeast Corridor facilities). Not later than September 30, 1993, Amtrak shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on its efforts under this subsection.

(d) ROUTES CONNECTING CORRIDORS.—Amtrak shall begin or improve appropriate rail passenger transportation on a route between corridors that Amtrak decides is justified because it will increase ridership on trains of Amtrak on the route and in the connecting corridors.

§ 24703. Route and service criteria

(a) ROUTE DISCONTINUANCES AND ADDITIONS.—Except as provided in this part, route discontinuances and route additions shall comply with the route and service criteria.

(b) CONGRESSIONAL REVIEW OF CRITERIA AMENDMENTS.—(1) Amtrak shall submit to Congress a draft of an amendment to the route and service criteria when Amtrak decides an amendment is appropriate. The amendment is effective at the end of the first period of 120 calendar days of continuous session of Congress after it is submitted unless there is enacted into law during the period a joint resolution stating Congress does not approve the amendment.

(2) In this subsection—

(A) a continuous session of Congress is broken only by an adjournment sine die; and

(B) the 120-day period does not include days on which either House is not in session because of adjournment of more than 3 days to a day certain.

(c) NONAPPLICATION.—The route and service criteria do not apply to—

(1) increasing or, because of construction schedules or other temporary disruptive facts or seasonal fluctuations in ridership, decreasing the number of trains on an existing route or a part of an existing route or on a route on which additional trains are being tested;

(2) carrying out the recommendations developed under section 4 of the Amtrak Improvement Act of 1978;

(3) rerouting transportation between major population centers on an existing route; or

(4)(A) modifying transportation operations under section 24707(a) of this title; and

(B) modifying the route system or discontinuing transportation under section 24707(b) of this title.

§ 24704. Transportation requested by States, authorities, and other persons

(a) APPLICATIONS TO BEGIN OR KEEP TRANSPORTATION.—(1) A State, a regional or local authority, or another person may apply to Amtrak and request Amtrak to provide rail passenger transportation or keep any part of a train, route, or service that Amtrak intends to discontinue under section 24706(a) or (b) or 24707(a) or (b) of this title. An application shall—

(A) assure Amtrak that the State, authority, or person has sufficient resources to meet its share of the cost of the transportation for the time the transportation will be provided;

(B) contain a market analysis acceptable to Amtrak to ensure that there is adequate demand for the transportation; and

(C) commit the State, authority, or person to provide at least 45 percent of the short term avoidable loss of providing the transportation the first year the transportation is provided and at least 65 percent of the short term avoidable loss each of the following years, and, except as provided in section 24104(a) of this title, at least 50 percent of associated capital costs each year the transportation is provided.

(2) An application submitted by more than one State shall be considered in the same way as an application submitted by one State, without it being necessary for each State to comply with paragraph (1) of this subsection.

(b) ACTIONS ON APPLICATIONS.—(1) Amtrak shall review each application submitted under subsection (a) of this section to decide whether—

(A) the application complies with subsection (a); and

(B) there is a reasonable probability that Amtrak can provide the transportation from available resources.

(2) Amtrak may make an agreement with an applicant under this section to begin or keep the transportation if Amtrak decides that the transportation can be provided with resources available to Amtrak. An agreement may be renewed for additional periods of not more than 2 years each.

(c) SELECTING AMONG COMPETING APPLICATIONS.—If more than one application is made for transportation consistent with the requirements of subsection (a) of this section, but all the transportation applied for cannot be provided with the available resources of Amtrak, the board of directors of Amtrak shall select the transportation that best serves the public interest and can be provided with the available resources of Amtrak.

(d) FARE INCREASES.—(1) Before increasing a fare applicable to transportation provided under subsection (b)(2) of this section by more than 5 percent during a 6-month period, Amtrak shall consult with officials of each State affected by the increase and explain why the increase is necessary.

(2) Except as provided in paragraph (3) of this subsection, a fare increase described in paragraph (1) of this subsection takes effect 90 days after Amtrak first consults with the affected States. However, not later than 30 days after the first consultation, a State may submit proposals to Amtrak for reducing costs and increasing revenues of the transportation. Amtrak shall consider

the proposals in deciding how much of the proposed increase shall go into effect.

(3)(A) Amtrak may increase a fare without regard to the restrictions of this subsection during—

(i) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; or

(ii) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(B) Amtrak shall notify each affected State of an increase under subparagraph (A) of this paragraph as soon as possible after Amtrak decides to increase a fare.

(e) DETERMINING LOSS, COSTS, AND REVENUES.—After consulting with officials of each State contributing to providing transportation under subsection (b)(2) of this section, the board shall establish the basis for determining short term avoidable loss and associated capital costs of, and revenues from, the transportation. Amtrak shall give State officials the basis for determining the loss, cost, and revenue for each route on which transportation is provided under subsection (b)(2).

(f) AVAILABILITY OF AMOUNTS.—Amounts provided by Amtrak under an agreement with an applicant under subsection (b)(2) of this section that are allocated for associated capital costs remain available until expended.

(g) ADVERTISING AND PROMOTION.—At least 2 percent but not more than 5 percent of the revenue generated by transportation provided under subsection (b)(2) of this section shall be used for advertising and promotion at the local level.

§ 24705. Additional qualifying routes

(a) ROUTES RECOMMENDED FOR DISCONTINUANCE.—(1) To maintain a national intercity rail passenger system in the United States and if a reduction in operating expenses can be achieved, Amtrak shall provide rail passenger transportation over each route the Secretary of Transportation recommended be discontinued under section 4 of the Amtrak Improvement Act of 1978 and may restructure a route to serve a major population center as an ending place or principal intermediate place. Transportation over a long distance route shall be maintained if the Amtrak estimate for the fiscal year ending September 30, 1980, was that the short term avoidable loss for each passenger mile on the route was not more than 7 cents. Transportation over a short distance route shall be maintained if the Amtrak estimate for the fiscal year ending September 30, 1980, was that the short term avoidable loss for each passenger mile on the route was not more than 9 cents.

(2) For all routes, Amtrak shall calculate short term avoidable loss for each passenger-mile based on consistently defined factors. Calculations shall be based on the most recent available statistics for a 90-day period, except that Amtrak may use historical information adjusted to reflect the most recent available statistics.

(b) DEFERRAL OF SECRETARY'S RECOMMENDATIONS.—(1) To provide equivalent or improved transportation consistent with the goals of section 4(a) of the Act, Amtrak may defer carrying out a recommendation of the Secretary under section 4 of the Act that requires providing transportation over a rail line not used in inter-

city rail passenger transportation on May 24, 1979, requires using a new facility, or requires making a new labor agreement, until any necessary capital improvements are made in the line or facility or the agreement is made.

(2) Notwithstanding another law and the route and service criteria, during the period a decision of the Secretary under section 4 of the Act is deferred, Amtrak shall provide substitute transportation over existing routes recommended for restructuring and over other existing feasible routes. Except for transportation concentrating on commuter ridership over a short haul route, transportation provided under this paragraph may be provided only if the route complies with subsection (a) of this section, adjusted to reflect constant 1979 dollars.

(c) SHORT HAUL DEMONSTRATION ROUTES.—Notwithstanding this part, Amtrak may provide short haul trains on additional routes totaling not more than 200 miles that link at least 2 major metropolitan areas—

(1) on a demonstration basis to establish the feasibility and benefits of the transportation; and

(2) to the extent available resources allow.

(d) ROUTES DISCONTINUED BY RAIL CARRIERS.—Amtrak may undertake to provide rail passenger transportation between places served by a rail carrier filing a notice of discontinuance under section 10908 or 10909 of this title.

§ 24706. Discontinuance

(a) NOTICE OF DISCONTINUANCE.—(1) Except as provided in subsection (b) of this section, at least 90 days before a discontinuance under section 24704 or 24707(a) or (b) of this title, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share the cost of any part of the train, route, or service to be discontinued.

(2) Notice of the discontinuance under section 24704 or 24707(a) or (b) of this title shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b) DISCONTINUANCE FOR LACK OF APPROPRIATIONS.—(1) Amtrak may discontinue service under section 24704 or 24707(a) or (b) of this title during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the service.

(c) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) Amtrak or a rail carrier (including a terminal company) shall provide fair and equitable arrangements to protect the interests of employees of Amtrak or a rail carrier, as the case may be, affected by a discontinuance of intercity rail passenger service, including a discontinuance of service provided by a rail carrier under a facility or service agreement under section 24308(a) of this title under a modification or ending of the agreement or because Amtrak begins providing that service. Arrangements shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(E) paid training and retraining programs.

(2) With respect to Amtrak's obligations under this subsection and in an agreement to carry out this subsection involving only Amtrak and its employees, a discontinuance of intercity rail passenger service does not include an adjustment in frequency, or seasonal suspension of intercity rail passenger trains that causes a temporary suspension of service, unless the adjustment or suspension reduces passenger train operations on a particular route to fewer than 3 round trips a week at any time during a calendar year.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

(4) A contract under this chapter or section 24308(a) of this title shall specify the terms of protective arrangements.

(5) This subsection does not impose on Amtrak an obligation of a rail carrier related to a right, privilege, or benefit earned by an employee because of previous service performed for the carrier.

(6) This subsection does not apply to Amtrak Commuter.

§ 24707. Cost and performance review

(a) ROUTE REVIEWS.—Amtrak shall review annually each route in the basic system to decide if the route meets the long distance or short distance route criterion, as appropriate, under section 24705(a)(1) of this title, adjusted to reflect constant 1979 dollars. The review shall include an evaluation of the potential market demand for, and the cost of providing transportation on, a part of the route and an alternative route. Amtrak shall submit the results of the review to the House of Representatives, the Senate, and the Secretary of Transportation. If Amtrak decides that a route will not meet the criterion under section 24705(a)(1), as adjusted, Amtrak shall modify or discontinue rail passenger transportation operations on the route so that it will meet the criterion.

(b) FINANCIAL REQUIREMENTS AND PERFORMANCE STANDARDS.—Not later than 30 days after the beginning of each fiscal year, Amtrak shall evaluate the financial requirements for operating the basic system and the progress in achieving the system-wide performance standards prescribed under this part during the fiscal year. If Amtrak decides amounts available for the fiscal year are not enough to meet estimated operating costs, or if Amtrak estimates it cannot meet the performance standards, Amtrak shall act to reduce costs and improve performance. Action under this subsection shall be designed to continue the maximum level of transportation practicable, including—

(1) changing the frequency of transportation;

(2) increasing fares;

(3) reducing the cost of sleeper car and dining car service on certain routes;

(4) increasing the passenger capacity of cars used on certain routes; and

(5) modifying the route system or discontinuing transportation over routes, considering short term avoidable loss and the number of passengers served on those routes.

(c) COST LIMITATIONS AND REVENUE GOALS.—Annual costs of Amtrak may not be more than amounts, including grants made under section 24104 of this title, contributions of States, regional and local authorities, and other persons, and revenues, available to Amtrak in the fiscal year. Amtrak annually shall set a goal of recovering an amount so that its revenues, including contributions, is at least 61 percent of its costs, except capital costs.

(d) CONDUCTOR REPORTS.—To assess the operational performance of trains, the President of Amtrak may direct the conductor on any train of Amtrak to report to Amtrak any inadequacy of train operation. The report shall be signed by the conductor, contain sufficient information to locate equipment or personnel failures, and be submitted promptly to Amtrak.

§ 24708. Special commuter transportation

(a) TRANSPORTATION TO BE CONTINUED IF CRITERION MET.—Amtrak shall continue to provide rail passenger transportation provided under section 403(d) of the Rail Passenger Service Act before October 1, 1981, if, after considering estimated fare increases and State and local contributions to the transportation, the transportation meets the short distance route criterion under section 24705(a)(1) of this title, as adjusted. Transportation continued under this section shall be financed consistent with the method of financing in effect on September 30, 1981. If the transportation is not estimated to meet the criterion, as adjusted, Amtrak may modify or discontinue the transportation so that the criterion is met.

(b) TRANSPORTATION WITH SHORT-TERM AVOIDABLE LOSS.—Notwithstanding subsection (a) of this section, if after September 30, 1993, and before October 1, 1995, transportation provided under subsection (a) on a route during the prior 6 months has a short-term avoidable loss (excluding the cost of providing passenger equipment needed to provide the transportation), Amtrak may choose to consider modifying or discontinuing the transportation. If Amtrak does make such a choice, Amtrak shall solicit public comment for at least 30 days on alternatives to the modification or discontinuance. Not later than 60 days after the comment period ends, Amtrak may modify or discontinue the transportation so that there is no short-term avoidable loss under this section for providing the transportation on the route.

§ 24709. International transportation

Amtrak may develop and operate international intercity rail passenger transportation between the United States and Canada and between the United States and Mexico. The Secretary of the Treasury and the Attorney General, in cooperation with Amtrak, shall maintain, consistent with the effective enforcement of the immigration and customs laws, en route customs inspection and immigration procedures for international intercity rail passenger transportation that will—

(1) be convenient for passengers; and

(2) result in the quickest possible international intercity rail passenger transportation.

CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Sec.
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§ 24901. Definitions

In this chapter—

(1) "final system plan" means the final system plan (including additions) adopted by the United States Railway Association under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(2) "rail carrier" means an express carrier and a rail carrier as defined in section 10102 of this title, including Amtrak.

§ 24902. Goals and requirements

(a) NORTHEAST CORRIDOR IMPROVEMENT PLAN.—To the extent of amounts appropriated under section 24909 of this title, Amtrak shall carry out a Northeast Corridor improvement program to achieve the following goals:

(1) establish not later than September 30, 1985, regularly scheduled and dependable intercity rail passenger transportation between—

(A) Boston, Massachusetts, and New York, New York, in not more than 3 hours and 40 minutes, including intermediate stops; and

(B) New York, New York, and the District of Columbia, in not more than 2 hours and 40 minutes, including intermediate stops;

(2) improve facilities, under route criteria approved by Congress, on routes to Harrisburg, Pennsylvania, Albany, New York, and Atlantic City, New Jersey, from the Northeast Corridor main line, and to Boston, Massachusetts, and New Haven, Connecticut, from Springfield, Massachusetts, to make those facilities more compatible with improved high-speed transportation provided on the Northeast Corridor main line;

(3) improve nonoperational parts of stations, related facilities, and fencing used in intercity rail passenger transportation;

(4) facilitate improvements in, and usage of, commuter rail passenger, rail rapid transit, and local public transportation, to the extent compatible with clauses (1)–(3) of this subsection and subsections (f) and (h) of this section;

(5) maintain and improve rail freight transportation in or adjacent to the Northeast Corridor and through-freight transportation in the Northeast Corridor, to the extent compatible with clauses (1)–(4) of this subsection and subsections (f) and (h) of this section;

(6) continue and improve passenger radio mobile telephone service on high-speed rail passenger transportation between

Boston, Massachusetts, and the District of Columbia, to the extent compatible with clauses (1)–(3) of this subsection and subsections (f) and (h) of this section; and

(7) eliminate to the maximum extent practicable congestion in rail freight and rail passenger transportation at the Baltimore and Potomac Tunnel in Baltimore, Maryland, by rehabilitating and improving the tunnel and the rail lines approaching the tunnel.

(b) MANAGING COSTS AND REVENUES.—Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.

(c) COST SHARING FOR NONOPERATIONAL FACILITIES.—(1) Fifty percent of the cost of improvements under subsection (a)(3) of this section shall be paid by a State, local or regional transportation authority or other responsible party. However, Amtrak may finance entirely a safety-related improvement.

(2) When a part of the cost of improvements under subsection (a)(3) of this section will be paid by a responsible party under paragraph (1) of this subsection, Amtrak may make an agreement with the party under which Amtrak—

(A) shall carry out the improvements with amounts appropriated under section 24909 of this title and the party shall reimburse Amtrak; and

(B) to the extent provided in an appropriation law, may incur obligations for contracts to carry out the improvements in anticipation of reimbursement.

(3) Amounts reimbursed to Amtrak under paragraph (2) of this subsection shall be credited to the appropriation originally charged for the cost of the improvements and are available for further obligation.

(d) PASSENGER RADIO MOBILE TELEPHONE SERVICE.—The President and departments, agencies, and instrumentalities of the United States Government shall assist Amtrak under subsection (a)(6) of this section, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and radio services standards, when the Federal Communications Commission decides the assistance is in the public interest, convenience, and necessity.

(e) PRIORITIES IN SELECTING AND SCHEDULING PROJECTS.—When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:

(1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.

(2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.

(3) Reliability of intercity rail passenger transportation must be emphasized.

(4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)–(3) of this subsection.

(5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.

(6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast Corridor commuter rail passenger and rail freight transportation is optimized.

(7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.

(f) COMPATIBILITY WITH FUTURE IMPROVEMENTS AND PRODUCTION OF MAXIMUM LABOR BENEFITS.—Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.

(g) AUTOMATIC TRAIN CONTROL SYSTEMS.—A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.

(h) HIGH-SPEED TRANSPORTATION.—If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121).

(i) EQUIPMENT DEVELOPMENT.—Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.

(j) AGREEMENTS FOR OFF-CORRIDOR ROUTING OF RAIL FREIGHT TRANSPORTATION.—(1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.

(2) Amtrak shall apply to the Interstate Commerce Commission for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Commission finds that approval is necessary to carry out this chapter, the Commission shall approve the application and related agreements not later than 90 days after receiving the application.

(3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Interstate Commerce Commission. Not later than 90 days after the application, the Commission shall decide on the terms of an agreement if it decides that doing so is necessary

to carry out this chapter. The decision of the Commission is binding on the other parties.

(k) COORDINATION.—(1) The Secretary of Transportation shall coordinate—

(A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and

(B) amounts from departments, agencies, and instrumentalities of the Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.

(2) If the Secretary finds significant noncompliance with this section, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.

(l) COMPLETION.—Amtrak shall give the highest priority to completing the program.

§ 24903. Program master plan for Boston-New York main line

(a) CONTENTS.—Not later than October 27, 1993, in consultation with Amtrak and the commuter and freight rail carriers operating over the Northeast Corridor main line between Boston, Massachusetts, and New York, New York, the Secretary of Transportation shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a program master plan for a coordinated program of improvements to that main line that will allow the establishment of regularly scheduled, safe, and dependable rail passenger transportation between Boston, Massachusetts, and New York, New York, in not more than 3 hours, including intermediate stops. The plan shall include—

(1) a description of the implications of the improvements for the regional transportation system, including the probable effects on general travel trends and on travel volumes in other transportation modes and the implications for State and local governments in achieving compliance with the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) an identification of the coordinated program of improvements and the specific projects of that program, including the estimated costs, schedules, timing, and relationship of those projects with other projects;

(3) an identification of the financial responsibility for the specific projects of that program and the sources of the amounts for the projects;

(4) an operating plan for the construction period of the improvements that shows a coordinated approach to scheduling intercity and commuter trains;

(5) an operating plan for the coordinated scheduling of intercity and commuter trains for the period after the program is completed, including priority scheduling, dispatching, and occupancy of tracks for appropriately frequent, regularly scheduled intercity rail passenger transportation between Boston, Massachusetts, and New York, New York, in not more than 3 hours, including intermediate stops;

(6) a comprehensive plan to control future congestion in the Northeast Corridor attributable to increases in intercity and commuter rail passenger transportation;

(7) an assessment of long-term operational safety needs and a list of specific projects designed to maximize operational safety; and

(8) comments that Amtrak submits to the Secretary on the plan.

(b) SUBMITTING MODIFICATIONS OF PLAN TO CONGRESS.—The Secretary shall submit to Congress any modification made to the program master plan and comments that Amtrak submits on the modification.

§ 24904. General authority

(a) GENERAL.—To carry out this chapter and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may—

(1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;

(2) acquire any interest in real property that Amtrak considers necessary to carry out the goals of section 24902;

(3) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;

(4) improve rail rights of way between Boston, Massachusetts, and the District of Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;

(5) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights of way improved under clause (4) of this subsection;

(6) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over, rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.);

(7) appoint a general manager of the Northeast Corridor improvement program; and

(8) make agreements with telecommunications common carriers, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), to continue existing, and establish new and improved, passenger radio mobile telephone service in the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2).

(b) COMPENSATORY AGREEMENTS.—Rail freight and commuter rail passenger transportation provided under subsection (a)(3) of this section shall be provided under compensatory agreements with the responsible carriers.

(c) COMPENSATION FOR TRANSPORTATION OVER CERTAIN RIGHTS OF WAY AND FACILITIES.—(1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs

but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail freight carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

(3) This subsection does not prevent the parties from making an agreement under subsection (a)(6) of this section after the Commission makes a decision under this subsection.

§ 24905. Coordination board and safety committee

(a) NORTHEAST CORRIDOR COORDINATION BOARD.—(1) The Northeast Corridor Coordination Board is composed of the following members:

(A) one individual from each commuter authority (as defined in section 1135(a) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1104)) that provides or makes a contract to provide commuter rail passenger transportation over the main line of the Northeast Corridor.

(B) 2 individuals selected by Amtrak.

(C) one individual selected by the Consolidated Rail Corporation.

(2) The Board shall recommend to Amtrak—

(A) policies that ensure equitable access to the Northeast Corridor, considering the need for equitable access by commuter and intercity rail passenger transportation and the requirements of section 24308(c) of this title; and

(B) equitable policies for the Northeast Corridor related to—

(i) dispatching;

(ii) public information;

(iii) maintaining equipment and facilities;

(iv) major capital facility investments; and

(v) harmonizing equipment acquisitions, rates, and schedules.

(3) The Board may recommend to the board of directors and President of Amtrak action necessary to resolve differences on providing transportation, except for facilities and transportation matters under section 24308(a) or 24904(a)(5) and (c) of this title.

(b) NORTHEAST CORRIDOR SAFETY COMMITTEE.—(1) The Northeast Corridor Safety Committee is composed of members appointed by the Secretary of Transportation. The members shall be representatives of—

(A) the Secretary;

(B) Amtrak;

(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

(D) commuter agencies;

(E) rail passengers;

(F) rail labor; and

(G) other individuals and organizations the Secretary decides have a significant interest in rail safety.

(2) The Secretary shall consult with the Committee about safety improvements on the Northeast Corridor main line. The Committee shall meet at least once every 2 years to consider safety matters on the main line.

(3) At the beginning of the first session of each Congress, the Secretary shall submit a report to Congress on the status of efforts to improve safety on the Northeast Corridor main line. The report shall include the safety recommendations of the Committee and the comments of the Secretary on those recommendations.

(4) The Committee shall cease to exist on January 1, 1999, or on another date the Secretary decides is appropriate. The Secretary shall notify Congress in writing of a decision to terminate the Committee on another date.

§ 24906. Eliminating highway at-grade crossings

(a) PLAN.—In consultation with the States on the main line of the Northeast Corridor, the Secretary of Transportation shall develop a plan not later than September 30, 1993, to eliminate all highway at-grade crossings of the main line by not later than December 31, 1997. The plan may provide that eliminating a crossing is not required if—

(1) impracticable or unnecessary; and

(2) using the crossing is consistent with conditions the Secretary considers appropriate to ensure safety.

(b) AMTRAK'S SHARE OF COSTS.—Amtrak shall pay 20 percent of the cost of eliminating each highway at-grade crossing under the plan.

§ 24907. Note and mortgage

(a) GENERAL AUTHORITY.—To secure amounts expended by the United States Government to acquire and improve rail property designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary of Transportation may obtain a note of indebtedness from, and make a mortgage agreement with, Amtrak to establish a mortgage lien on the property for the Government. The note and mortgage may not supersede section 24904 of this title.

(b) EXEMPTIONS FROM LAWS AND REGULATIONS.—The note and agreement under subsection (a) of this section, and a transaction related to the note or agreement, are exempt from any United States, State, or local law or regulation that regulates securities or the issuance of securities. The note, agreement, or transaction under this section has the same immunities from other laws that section 601 of the Act (45 U.S.C. 791) gives to transactions that comply with or carry out the final system plan. The transfer of rail property because of the note, agreement, or transaction has the same exemptions, privileges, and immunities that the Act (45 U.S.C. 701 et seq.) gives to a transfer ordered or approved by the special court under section 303(b) of the Act (45 U.S.C. 743(b)).

(c) IMMUNITY FROM LIABILITY AND INDEMNIFICATION.—Amtrak, its board of directors, and its individual directors are not liable because Amtrak has given or issued the note or agreement to the Government under subsection (a) of this section. Immunity granted under this subsection also applies to a transaction related to the note or agreement. The Government shall indemnify Amtrak, its board, and individual directors against costs and expenses actually and reasonably incurred in defending a civil action testing the validity of the note, agreement, or transaction.

§ 24908. Transfer taxes and levies and recording charges

A transfer of an interest in rail property under this chapter is exempt from a tax or levy related to the transfer that is imposed by the United States Government, a State, or a political subdivision of a State. On payment of the appropriate and generally applicable charge for the service performed, a transferee or transferor may record an instrument and, consistent with the final system plan, the release or removal of a pre-existing lien or encumbrance of record related to the interest transferred.

§ 24909. Authorization of appropriations

(a) GENERAL.—(1) Not more than $2,313,000,000 may be appropriated to the Secretary of Transportation to achieve the goals of section 24902(a)(1) of this title. From this amount, the following amounts shall be expended by Amtrak:

(A) at least $27,000,000 for equipment modification and replacement that a State or a local or regional transportation authority must bear because of the electrification conversion system of the Northeast Corridor under this chapter.

(B) $30,000,000—

(i) to improve the main line track between the Northeast Corridor main line and Atlantic City, New Jersey, to ensure that the track, consistent with a plan New Jersey developed in consultation with Amtrak to provide rail passenger transportation between the Northeast Corridor main line and Atlantic City, New Jersey, would be of sufficient quality to allow safe rail passenger transportation at a minimum of 79 miles an hour not later than September 30, 1985; and

(ii) to promote rail passenger use of the track.

(C) necessary amounts to—

(i) develop Union Station in the District of Columbia;

(ii) install 189 track-miles, and renew 133 track-miles, of concrete ties with continuously welded rail between the District of Columbia and New York, New York;

(iii) install reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 track;

(iv) restore ditch drainage in concrete tie locations between the District of Columbia and New York, New York;

(v) undercut 83 track-miles between the District of Columbia and New York, New York;

(vi) rehabilitate bridges between the District of Columbia and New York, New York (including Hi line);

(vii) develop a maintenance of way equipment repair facility between the District of Columbia and New York,

New York, and build maintenance of way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut;

(viii) stabilize the roadbed between the District of Columbia and New York, New York;

(ix) automate the Bush River Drawbridge at milepost 72.14;

(x) improve the New York Service Facility to develop rolling stock repair capability;

(xi) install a rail car washer facility at Philadelphia, Pennsylvania;

(xii) restore storage tracks and buildings at the Washington Service Facility;

(xiii) install centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania;

(xiv) improve track, including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution;

(xv) rehabilitate interlockings between the District of Columbia and New York, New York;

(xvi) paint the Connecticut River, Groton, and Pelham Bay bridges;

(xvii) provide additional catenary renewal and power supply upgrading between the District of Columbia and New York, New York;

(xviii) rehabilitate structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania;

(xix) install evacuation and fire protection facilities in tunnels in New York, New York;

(xx) improve the communication and signal systems between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line, and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line;

(xxi) improve the electric traction systems between Wilmington, Delaware, and Newark, New Jersey;

(xxii) install baggage rack restraints, seat back guards, and seat lock devices on 348 passenger cars operating in the Northeast Corridor;

(xxiii) install 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; and

(xxiv) acquire cab signal test boxes and install 9 wayside loop code transmitters for use within the Northeast Corridor.

(2) The following additional amounts may be appropriated to the Secretary for expenditure by Amtrak:

(A) not more than $150,000,000 to achieve the goal of section 24902(a)(3) of this title.

(B) not more than $120,000,000 to acquire interests in property in the Northeast Corridor.

(C) not more than $650,000 to develop and use mobile radio frequencies for passenger radio mobile telephone service on high-speed rail passenger transportation.

(D) not more than $20,000,000 to acquire and improve interests in rail property designated under section 206(c)(1)(D)

of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

(E) not more than $37,000,000 to carry out section 24902(a)(7) and (j) of this title.

(b) EMERGENCY MAINTENANCE.—Not more than $25,000,000 of the amount appropriated under the Act of February 28, 1975 (Public Law 94–6, 89 Stat. 11), may be used by Amtrak for emergency maintenance on rail property designated under section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C)).

(c) PRIORITY IN USING CERTAIN AMOUNTS.—Amounts appropriated under subsection (a)(2)(B) and (D) of this section shall be used first to repay, with interest, obligations guaranteed under section 602 of the Rail Passenger Service Act, if the proceeds of those obligations were used to pay the expenses of acquiring interests in property referred to in subsection (a)(2)(B) and (D).

(d) PROHIBITION ON SUBSIDIZING COMMUTER AND FREIGHT OPERATING LOSSES.—Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail or rail freight transportation.

(e) SUBSTITUTING AND DEFERRING CERTAIN IMPROVEMENTS.—(1) A project for which amounts are authorized under subsection (a)(1)(C) of this section is a part of the Northeast Corridor improvement program and is not a substitute for improvements specified in the document "Corridor Master Plan II, NECIP Restructured Program" of January, 1982. However, Amtrak may defer the project to carry out the improvement and rehabilitation for which amounts are authorized under subsection (a)(1)(B) of this section. The total cost of the project that Amtrak defers may not be substantially more than the amount Amtrak is required to expend or reserve under subsection (a)(1)(B).

(2) Section 24902 of this title is deemed not to be fulfilled until the projects under subsection (a)(1)(C) of this section are completed.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a)(1) and (2)(A) and (C)–(E) of this section remain available until expended.

(g) AUTHORIZATIONS INCREASED BY PRIOR YEAR DEFICIENCIES.—An amount greater than that authorized for a fiscal year may be appropriated to the extent that the amount appropriated for any prior fiscal year is less than the amount authorized for that year.

PART D—MISCELLANEOUS

CHAPTER 261—LAW ENFORCEMENT

Sec.
26101. Rail police officers.
26102. Limit on certain accident or incident liability.

§ 26101. Rail police officers

Regulations.

Under regulations prescribed by the Secretary of Transportation, a rail police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may enforce the laws of any jurisdiction in which the rail carrier owns property, to the extent of the authority of a

police officer certified or commissioned under the laws of that jurisdiction, to protect—

(1) employees, passengers, or patrons of the rail carrier;

(2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and material moving by rail that are vital to the national defense.

§ 26102. Limit on certain accident or incident liability

(a) GENERAL.—When a publicly financed commuter transportation authority established under Virginia law makes a contract to indemnify Amtrak for liability for operations conducted by or for the authority or to indemnify a rail carrier over whose tracks those operations are conducted, liability against Amtrak, the authority, or the carrier for all claims (including punitive damages) arising from an accident or incident in the District of Columbia related to those operations may not be more than the limits of the liability coverage the authority maintains to indemnify Amtrak or the carrier.

(b) MINIMUM REQUIRED LIABILITY COVERAGE.—A publicly financed commuter transportation authority referred to in subsection (a) of this section must maintain a total minimum liability coverage of at least $200,000,000.

(c) EFFECTIVENESS.—This section is effective only after Amtrak or a rail carrier seeking an indemnification contract under this section makes an operating agreement with a publicly financed commuter transportation authority established under Virginia law to provide access to its property for revenue transportation related to the operations of the authority.

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PART A—GENERAL

CHAPTER 301—MOTOR VEHICLE SAFETY

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SUBCHAPTER I—GENERAL

§ 30101. Purpose and policy

The purpose of this chapter is to reduce traffic accidents and deaths and injuries resulting from traffic accidents. Therefore it is necessary—

(1) to prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and

(2) to carry out needed safety research and development.

§ 30102. Definitions

(a) GENERAL DEFINITIONS.—In this chapter—

(1) "dealer" means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.

(2) "defect" includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.

(3) "distributor" means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.

(4) "interstate commerce" means commerce between a place in a State and a place in another State or between places in the same State through another State.

(5) "manufacturer" means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(7) "motor vehicle equipment" means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

(C) any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

(8) "motor vehicle safety" means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

(9) "motor vehicle safety standard" means a minimum standard for motor vehicle or motor vehicle equipment performance.

(10) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(b) LIMITED DEFINITIONS.—(1) In sections 30117(b), 30118–30121, and 30166(f) of this title—

(A) "adequate repair" does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) "first purchaser" means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) "original equipment" means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) "replacement equipment" means motor vehicle equipment (including a tire) that is not original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

§ 30103. Relationship to other laws

(a) UNIFORMITY OF REGULATIONS.—The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter II of chapter 105 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe, for a motor vehicle operated by a carrier subject to subchapter II of chapter 105, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

(b) PREEMPTION.—(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter.

(c) ANTITRUST LAWS.—This chapter does not—

(1) exempt from the antitrust laws conduct that is unlawful under those laws; or

(2) prohibit under the antitrust laws conduct that is lawful under those laws.

(d) WARRANTY OBLIGATIONS AND ADDITIONAL LEGAL RIGHTS AND REMEDIES.—Sections 30117(b), 30118–30121, 30166(f), and 30167(a) and (b) of this title do not establish or affect a warranty obligation under a law of the United States or a State. A remedy under those sections and sections 30161 and 30162 of this title

is in addition to other rights and remedies under other laws of the United States or a State.

(e) COMMON LAW LIABILITY.—Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.

§ 30104. Authorization of appropriations

The following amounts may be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration to carry out this chapter:

(1) $71,333,436 for the fiscal year ending September 30, 1993.

(2) $74,044,106 for the fiscal year ending September 30, 1994.

(3) $76,857,782 for the fiscal year ending September 30, 1995.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

§ 30111. Standards

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe motor vehicle safety standards. Each standard shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a motor vehicle safety standard under this chapter, the Secretary shall—

(1) consider relevant available motor vehicle safety information;

(2) consult with the agency established under the Act of August 20, 1958 (Public Law 85-684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees);

(3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which the standard will carry out section 30101 of this title.

(c) COOPERATION.—The Secretary may advise, assist, and cooperate with departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies in developing motor vehicle safety standards.

(d) EFFECTIVE DATES OF STANDARDS.—The Secretary shall specify the effective date of a motor vehicle safety standard prescribed under this chapter in the order prescribing the standard. A standard may not become effective before the 180th day after the standard is prescribed or later than one year after it is prescribed. However, the Secretary may prescribe a different effective date after finding, for good cause shown, that a different effective date is in the public interest and publishing the reasons for the finding.

(e) 5-YEAR PLAN FOR TESTING STANDARDS.—The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing motor vehicle safety standards prescribed under this chapter that the Secretary considers capable of being tested. In developing the plan and establishing testing priorities,

the Secretary shall consider factors the Secretary considers appropriate, consistent with section 30101 of this title and the Secretary's other duties and powers under this chapter. The Secretary may change at any time those priorities to address matters the Secretary considers of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on December 18, 1991.

§ 30112. Prohibitions on manufacturing, selling, and importing noncomplying motor vehicles and equipment

(a) GENERAL.—Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30115 of this title.

(b) NONAPPLICATION.—This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter;

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;

(4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;

(5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;

(6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;

(7) a motor vehicle under section 30144 of this title imported on a temporary basis;

(8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing; or

(9) a motor vehicle that is at least 25 years old.

§ 30113. General exemptions

(a) DEFINITION.—In this section, "low-emission motor vehicle" means a motor vehicle meeting the standards for new motor vehicles

applicable to the vehicle under section 202 of the Clean Air Act (42 U.S.C. 7521) when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.

(b) AUTHORITY TO EXEMPT AND PROCEDURES.—(1) The Secretary of Transportation may exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard prescribed under this chapter on terms the Secretary considers appropriate. An exemption may be renewed. A renewal may be granted only on reapplication and must conform to the requirements of this subsection.

(2) The Secretary may begin a proceeding under this subsection when a manufacturer applies for an exemption or a renewal of an exemption. The Secretary shall publish notice of the application and provide an opportunity to comment. An application for an exemption or for a renewal of an exemption shall be filed at a time and in the way, and contain information, this section and the Secretary require.

(3) The Secretary may act under this subsection on finding that—

(A) an exemption is consistent with the public interest and this chapter; and

(B)(i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(c) CONTENTS OF APPLICATIONS.—A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:

(1) if the application is made under subsection (b)(3)(B)(i) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption.

(2) if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.

(3) if the application is made under subsection (b)(3)(B)(iii) of this section, a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.

(4) if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle

provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(d) ELIGIBILITY.—A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

(e) MAXIMUM PERIOD.—An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.

(f) DISCLOSURE.—The Secretary may make public, by the 10th day after an application is filed, information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.

(g) NOTICE OF DECISION.—The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.

Federal Register, publication.

(h) PERMANENT LABEL REQUIREMENT.—The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

§ 30114. Special exemptions

The Secretary of Transportation may exempt a motor vehicle or item of motor vehicle equipment from section 30112(a) of this title on terms the Secretary decides are necessary for research, investigations, demonstrations, training, or competitive racing events.

§ 30115. Certification of compliance

A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

§ 30116. Defects and noncompliance found before sale to purchaser

(a) ACTIONS REQUIRED OF MANUFACTURERS AND DISTRIBUTORS.—If, after a manufacturer or distributor sells a motor vehicle or motor vehicle equipment to a distributor or dealer and before

the distributor or dealer sells the vehicle or equipment, it is decided that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with applicable motor vehicle safety standards prescribed under this chapter—

(1) the manufacturer or distributor immediately shall repurchase the vehicle or equipment at the price paid by the distributor or dealer, plus transportation charges and reasonable reimbursement of at least one percent a month of the price paid prorated from the date of notice of noncompliance or defect to the date of repurchase; or

(2) if a vehicle, the manufacturer or distributor immediately shall give to the distributor or dealer at the manufacturer's or distributor's own expense, the part or equipment needed to make the vehicle comply with the standards or correct the defect.

(b) DISTRIBUTOR OR DEALER INSTALLATION.—The distributor or dealer shall install the part or equipment referred to in subsection (a)(2) of this section. If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer for the reasonable value of the installation and a reasonable reimbursement of at least one percent a month of the manufacturer's or distributor's selling price prorated from the date of notice of noncompliance or defect to the date the motor vehicle complies with applicable motor vehicle safety standards prescribed under this chapter or the defect is corrected.

(c) ESTABLISHING AMOUNT DUE AND CIVIL ACTIONS.—The parties shall establish the value of installation and the amount of reimbursement under this section. If the parties do not agree, or if a manufacturer or distributor refuses to comply with subsection (a) or (b) of this section, the distributor or dealer purchasing the motor vehicle or motor vehicle equipment may bring a civil action. The action may be brought in a United States district court for the judicial district in which the manufacturer or distributor resides, is found, or has an agent, to recover damages, court costs, and a reasonable attorney's fee. An action under this section must be brought not later than 3 years after the claim accrues.

§ 30117. Providing information to, and maintaining records on, purchasers

(a) PROVIDING INFORMATION AND NOTICE.—The Secretary of Transportation may require that each manufacturer of a motor vehicle or motor vehicle equipment provide technical information related to performance and safety required to carry out this chapter. The Secretary may require the manufacturer to give the following notice of that information when the Secretary decides it is necessary:

(1) to each prospective purchaser of a vehicle or equipment before the first sale other than for resale at each location at which the vehicle or equipment is offered for sale by a person having a legal relationship with the manufacturer, in a way the Secretary decides is appropriate.

(2) to the first purchaser of a vehicle or equipment other than for resale when the vehicle or equipment is bought, in printed matter placed in the vehicle or attached to or accompanying the equipment.

(b) MAINTAINING PURCHASER RECORDS AND PROCEDURES.—(1) A manufacturer of a motor vehicle or tire (except a retreaded tire) shall cause to be maintained a record of the name and address of the first purchaser of each vehicle or tire it produces and, to the extent prescribed by regulations of the Secretary, shall cause to be maintained a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. The Secretary may prescribe by regulation the records to be maintained and reasonable procedures for maintaining the records under this subsection, including procedures to be followed by distributors and dealers to assist the manufacturer in obtaining the information required by this subsection. A procedure shall be reasonable for the type of vehicle or tire involved, and shall provide reasonable assurance that a customer list of a distributor or dealer, or similar information, will be made available to a person (except the distributor or dealer) only when necessary to carry out this subsection and sections 30118–30121, 30166(f), and 30167(a) and (b) of this title. Availability of assistance from a distributor or dealer does not affect an obligation of a manufacturer under this subsection.

(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may require a distributor or dealer to maintain a record under paragraph (1) of this subsection only if the business of the distributor or dealer is owned or controlled by a manufacturer of tires.

(B) The Secretary shall require each distributor and dealer whose business is not owned or controlled by a manufacturer of tires to give a registration form (containing the tire identification number) to the first purchaser of a tire. The Secretary shall prescribe the form, which shall be standardized for all tires and designed to allow the purchaser to complete and return it directly to the manufacturer of the tire. The manufacturer shall give sufficient copies of forms to distributors and dealers.

(3)(A) The Secretary shall evaluate from time to time how successful the procedures under paragraph (2) of this subsection have been in helping to maintain records about first purchasers of tires. After each evaluation, the Secretary shall decide—

(i) the extent to which distributors and dealers have complied with the procedures;

(ii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires; and

(iii) whether to prescribe for manufacturers, distributors, or dealers other requirements that the Secretary decides will increase significantly the percentage of first purchasers of tires about whom records are maintained.

(B) The Secretary may prescribe a requirement under subparagraph (A) of this paragraph only if the Secretary decides it is necessary to reduce the risk to motor vehicle safety, after considering—

(i) the cost of the requirement to manufacturers and the burden of the requirement on distributors and dealers, compared to the increase in the percentage of first purchasers of tires about whom records would be maintained as a result of the requirement;

(ii) the extent to which distributors and dealers have complied with the procedures in paragraph (2) of this subsection; and

(iii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires.

(C) A manufacturer of tires shall reimburse distributors and dealers of that manufacturer's tires for all reasonable costs incurred by the distributors and dealers in complying with a requirement prescribed by the Secretary under subparagraph (A) of this paragraph.

(D) After making a decision under subparagraph (A) of this paragraph, the Secretary shall submit to each House of Congress a report containing a detailed statement of the decision and an explanation of the reasons for the decision.

§ 30118. Notification of defects and noncompliance

(a) NOTIFICATION BY SECRETARY.—The Secretary of Transportation shall notify the manufacturer of a motor vehicle or replacement equipment immediately after making an initial decision (through testing, inspection, investigation, or research carried out under this chapter, examining communications under section 30166(f) of this title, or otherwise) that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter. The notification shall include the information on which the decision is based. The Secretary shall publish a notice of each decision under this subsection in the Federal Register. Subject to section 30167(a) of this title, the notification and information are available to any interested person.

Federal Register, publication.

(b) DEFECT AND NONCOMPLIANCE PROCEEDINGS AND ORDERS.—(1) The Secretary may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter only after giving the manufacturer an opportunity to present information, views, and arguments showing that there is no defect or noncompliance or that the defect does not affect motor vehicle safety. Any interested person also shall be given an opportunity to present information, views, and arguments.

(2) If the Secretary decides under paragraph (1) of this subsection that the vehicle or equipment contains the defect or does not comply, the Secretary shall order the manufacturer to—

(A) give notification under section 30119 of this title to the owners, purchasers, and dealers of the vehicle or equipment of the defect or noncompliance; and

(B) remedy the defect or noncompliance under section 30120 of this title.

(c) NOTIFICATION BY MANUFACTURER.—A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail, and the owners, purchasers, and dealers of the vehicle or equipment as provided in section 30119(d) of this section, if the manufacturer—

(1) learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety; or

(2) decides in good faith that the vehicle or equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(d) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Sec-

retary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(e) HEARINGS ABOUT MEETING NOTIFICATION REQUIREMENTS.—On the motion of the Secretary or on petition of any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the notification requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the notification requirements. If the Secretary decides that the manufacturer has not reasonably met the notification requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

§ 30119. Notification procedures

(a) CONTENTS OF NOTIFICATION.—Notification by a manufacturer required under section 30118 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;

(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(3) the measures to be taken to obtain a remedy of the defect or noncompliance;

(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30120 of this title;

(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30120 of this title;

(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30120 of this title; and

(7) other information the Secretary prescribes by regulation.

(b) EARLIEST REMEDY DATE.—The date specified by a manufacturer in a notification under subsection (a)(5) of this section or section 30121(c)(2) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) TIME FOR NOTIFICATION.—Notification required under section 30118 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30118(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30118(c) of this title.

(d) MEANS OF PROVIDING NOTIFICATION.—(1) Notification required under section 30118 of this title about a motor vehicle shall be sent by first class mail—

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable

by the manufacturer through State records or other available sources; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notification required under section 30118 of this title about replacement equipment (except a tire) shall be sent by first class mail to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer.

(3) Notification required under section 30118 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified by certified mail or quicker means if available.

(e) SECOND NOTIFICATION.—If the Secretary decides that a notification sent by a manufacturer under this section has not resulted in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer to send a 2d notification in the way the Secretary prescribes by regulation.

(f) NOTIFICATION BY LESSOR TO LESSEE.—(1) In this subsection, "leased motor vehicle" means a motor vehicle that is leased to a person for at least 4 months by a lessor that has leased at least 5 motor vehicles in the 12 months before the date of the notification.

(2) A lessor that receives a notification required by section 30118 of this title about a leased motor vehicle shall provide a copy of the notification to the lessee in the way the Secretary prescribes by regulation.

§ 30120. Remedies for defects and noncompliance

(a) WAYS TO REMEDY.—(1) Subject to subsections (f) and (g) of this section, when notification of a defect or noncompliance is required under section 30118(b) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle—

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

(B) if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement of a motor vehicle or refund of its price.

(b) TIRE REMEDIES.—(1) A manufacturer of a tire, including an original equipment tire, shall remedy a defective or noncomplying tire if the owner or purchaser presents the tire for remedy not later than 60 days after the later of—

(A) the day the owner or purchaser receives notification under section 30119 of this title; or

(B) if the manufacturer decides to replace the tire, the day the owner or purchaser receives notification that a replacement is available.

(2) If the manufacturer decides to replace the tire and the replacement is not available during the 60-day period, the owner or purchaser must present the tire for remedy during a subsequent 60-day period that begins only after the owner or purchaser receives notification that a replacement will be available during the subsequent period. If tires are available during the subsequent period, only a tire presented for remedy during that period must be remedied.

(c) ADEQUACY OF REPAIRS.—(1) If a manufacturer decides to repair a defective or noncomplying motor vehicle or replacement equipment and the repair is not done adequately within a reasonable time, the manufacturer shall—

(A) replace the vehicle or equipment without charge with an identical or reasonably equivalent vehicle or equipment; or

(B) for a vehicle, refund the purchase price, less a reasonable allowance for depreciation.

(2) Failure to repair a motor vehicle or replacement equipment adequately not later than 60 days after its presentation is prima facie evidence of failure to repair within a reasonable time. However, the Secretary may extend, by order, the 60-day period if good cause for an extension is shown and the reason is published in the Federal Register before the period ends. Presentation of a vehicle or equipment for repair before the date specified by a manufacturer in a notice under section 30119(a)(5) or 30121(c)(2) of this title is not a presentation under this subsection.

(d) FILING MANUFACTURER'S REMEDY PROGRAM.—A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register.

Federal Register, publication.

(e) HEARINGS ABOUT MEETING REMEDY REQUIREMENTS.—On the motion of the Secretary or on application by any interested person, the Secretary may conduct a hearing to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary decides a manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufac-

turer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(f) FAIR REIMBURSEMENT TO DEALERS.—A manufacturer shall pay fair reimbursement to a dealer providing a remedy without charge under this section.

(g) NONAPPLICATION.—(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 8 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 3 calendar years, before notice is given under section 30118(c) of this title or an order is issued under section 30118(b) of this title, whichever is earlier.

(2) This section does not apply during any period in which enforcement of an order under section 30118(b) of this title is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(h) EXEMPTIONS.—On application of a manufacturer, the Secretary shall exempt the manufacturer from this section if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection only after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(i) LIMITATION ON SALE OR LEASE.—(1) If notification is required by an order under section 30118(b) of this title or is required under section 30118(c) of this title and the manufacturer has provided to a dealer notification about a new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification that contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter, the dealer may sell or lease the motor vehicle or item of replacement equipment only if—

(A) the defect or noncompliance is remedied as required by this section before delivery under the sale or lease; or

(B) when the notification is required by an order under section 30118(b) of this title, enforcement of the order is restrained or the order is set aside in a civil action to which section 30121(d) of this title applies.

(2) This subsection does not prohibit a dealer from offering for sale or lease the vehicle or equipment.

§ 30121. Provisional notification and civil actions to enforce

(a) PROVISIONAL NOTIFICATION.—(1) The Secretary of Transportation may order a manufacturer to issue a provisional notification if a civil action about an order issued under section 30118(b) of this title has been brought under section 30163 of this title. The provisional notification shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary's stated basis for the decision;

(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30120 of this title, but that the requirement to remedy without charge is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notification under this subsection does not relieve a manufacturer of liability for not giving notification required by an order under section 30118(b) of this title.

(b) CIVIL ACTIONS FOR NOT NOTIFYING.—(1) A manufacturer that does not notify owners and purchasers under section 30119(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action referred to in subsection (a) of this section or the court in that action enjoins enforcement of the order. Enforcement may be enjoined only if the court decides that the failure to notify is reasonable and that the manufacturer has demonstrated the likelihood of prevailing on the merits. If enforcement is enjoined, the manufacturer is not liable during the time the order is stayed.

(2) A manufacturer that does not notify owners and purchasers as required under subsection (a) of this section is liable for a civil penalty regardless of whether the manufacturer prevails in an action on the validity of the order issued under section 30118(b) of this title.

(c) ORDERS TO MANUFACTURERS.—If the Secretary prevails in a civil action referred to in subsection (a) of this section, the Secretary shall order the manufacturer—

(1) to notify each owner, purchaser, and dealer described in section 30119(d) of this title of the outcome of the action and other information the Secretary requires, and notification under this clause may be combined with notification required under section 30118(b) of this title;

(2) to specify the earliest date under section 30119(b) of this title on which the defect or noncompliance will be remedied without charge under section 30120 of this title; and

(3) if notification was required under subsection (a) of this section, to reimburse an owner or purchaser for reasonable and necessary expenses (in an amount that is not more than the amount specified in the order of the Secretary under subsection (a)) incurred for repairing the defect or noncompliance during the period beginning on the date that notification was required to be issued and ending on the date the owner or purchaser receives the notification under this subsection.

(d) VENUE.—Notwithstanding section 30163(c) of this title, a civil action about an order issued under section 30118(b) of this title must be brought in the United States district court for a judicial district in the State in which the manufacturer is incorporated or the District of Columbia. On motion of a party, the court may transfer the action to another district court if good cause is shown. All actions related to the same order under section 30118(b) shall be consolidated in an action in one judicial district under an order of the court in which the first action was brought. If the first action is transferred to another court, that court shall issue the consolidation order.

§ 30122. Making safety devices and elements inoperative

(a) DEFINITION.—In this section, "motor vehicle repair business" means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) PROHIBITION.—A manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, or repair business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) REGULATIONS.—The Secretary of Transportation may prescribe regulations—

(1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and

(2) to define "make inoperative".

(d) NONAPPLICATION.—This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30124 of this title.

§ 30123. Tires

(a) LABELING REQUIREMENT.—The Secretary of Transportation shall require that a pneumatic tire subject to a motor vehicle safety standard prescribed under this chapter be labeled permanently and conspicuously with safety information the Secretary decides is necessary to carry out section 30101 of this title.

(b) CONTENTS OF LABEL.—Labeling required on a tire under subsection (a) of this section shall include—

(1)(A) identification of the manufacturer;

(B) for a retreaded tire, identification of the retreader; or

(C) for a tire containing a brand name (other than the name of the manufacturer), a code mark allowing a seller to identify the manufacturer to the purchaser;

(2) the composition of material used in the ply of the tire;

(3) the number of plies in the tire;

(4) the maximum allowable load for the tire; and

(5)(A) a statement that the tire complies with minimum safe performance standards prescribed under this chapter; or

(B) a mark or symbol the Secretary prescribes for use by a manufacturer or retreader complying with those standards.

(c) ADDITIONAL INFORMATION.—The Secretary may require that additional safety information be disclosed to a purchaser when a tire is sold.

(d) REGROOVED TIRE LIMITATIONS.—(1) In this subsection, "regrooved tire" means a tire with a new tread produced by cutting into the tread of a worn tire.

(2) The Secretary may authorize the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of a regrooved tire or a motor vehicle equipped with regrooved tires if the Secretary decides the tires are designed and made in a way consistent with section 30101 of this title. A person may not sell, offer for sale, introduce for sale, or deliver for introduc-

tion in interstate commerce, a regrooved tire or a vehicle equipped with regrooved tires unless authorized by the Secretary.

(e) UNIFORM QUALITY GRADING SYSTEM, NOMENCLATURE, AND MARKETING PRACTICES.—The Secretary shall prescribe through standards a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. The Secretary also shall cooperate with industry and the Federal Trade Commission to the greatest extent practicable to eliminate deceptive and confusing tire nomenclature and marketing practices. A tire standard or regulation prescribed under this chapter supersedes an order or administrative interpretation of the Commission.

(f) MAXIMUM LOAD STANDARDS.—The Secretary shall require a motor vehicle to be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry. The vehicle shall be equipped with those tires by the manufacturer or by the first purchaser when the vehicle is first bought in good faith other than for resale.

§ 30124. Buzzers indicating nonuse of safety belts

A motor vehicle safety standard prescribed under this chapter may not require or allow a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt or a buzzer designed to indicate a safety belt is not in use, except a buzzer that operates only during the 8-second period after the ignition is turned to the "start" or "on" position.

§ 30125. Schoolbuses and schoolbus equipment

(a) DEFINITIONS.—In this section—

(1) "schoolbus" means a passenger motor vehicle designed to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school.

(2) "schoolbus equipment" means equipment designed primarily for a schoolbus or manufactured or sold to replace or improve a system, part, or component of a schoolbus or as an accessory or addition to a schoolbus.

(b) STANDARDS.—The Secretary shall prescribe motor vehicle safety standards for schoolbuses and schoolbus equipment manufactured in, or imported into, the United States. Standards shall include minimum performance requirements for—

(1) emergency exits;
(2) interior protection for occupants;
(3) floor strength;
(4) seating systems;
(5) crashworthiness of body and frame (including protection against rollover hazards);
(6) vehicle operating systems;
(7) windows and windshields; and
(8) fuel systems.

(c) TEST DRIVING BY MANUFACTURERS.—The Secretary may require by regulation a schoolbus to be test-driven by a manufacturer before introduction in commerce.

§ 30126. Used motor vehicles

To ensure a continuing and effective national safety program, it is the policy of the United States Government to encourage and strengthen State inspection of used motor vehicles. Therefore, the Secretary of Transportation shall prescribe uniform motor vehicle safety standards applicable to all used motor vehicles. The standards shall be stated in terms of motor vehicle safety performance.

§ 30127. Automatic occupant crash protection and seat belt use

(a) DEFINITIONS.—In this section—

(1) "bus" means a motor vehicle with motive power (except a trailer) designed to carry more than 10 individuals.

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(4) "truck" means a motor vehicle with motive power (except a trailer) designed primarily to transport property or special purpose equipment.

(b) INFLATABLE RESTRAINT REQUIREMENTS.—(1) Not later than September 1, 1993, the Secretary of Transportation shall prescribe under this chapter an amendment to Federal Motor Vehicle Safety Standard 208 issued under the National Traffic and Motor Vehicle Safety Act of 1966. The amendment shall require that the automatic occupant crash protection system for both of the front outboard seating positions for each of the following vehicles be an inflatable restraint (with lap and shoulder belts) complying with the occupant protection requirements under section 4.1.2.1 of Standard 208:

(A) 95 percent of each manufacturer's annual production of passenger cars manufactured after August 31, 1996, and before September 1, 1997.

(B) 80 percent of each manufacturer's annual production of buses, multipurpose passenger vehicles, and trucks (except walk-in van-type trucks and vehicles designed to be sold only to the United States Postal Service) with a gross vehicle weight rating of not more than 8,500 pounds and an unloaded vehicle weight of not more than 5,500 pounds manufactured after August 31, 1997, and before September 1, 1998.

(C) 100 percent of each manufacturer's annual production of passenger cars manufactured after August 31, 1997.

(D) 100 percent of each manufacturer's annual production of vehicles described in clause (B) of this paragraph manufactured after August 31, 1998.

(2) Manufacturers may not use credits and incentives available before September 1, 1998, under the provisions of Standard 208 (as amended by this section) to comply with the requirements of paragraph (1)(D) of this subsection after August 31, 1998.

(c) OWNER MANUAL REQUIREMENTS.—In amending Standard 208, the Secretary of Transportation shall require, to be effective as soon as possible after the amendment is prescribed, that owner manuals for passenger cars, buses, multipurpose passenger vehicles,

and trucks equipped with an inflatable restraint include a statement in an easily understandable format stating that—

(1) either or both of the front outboard seating positions of the vehicle are equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt;

(2) the "airbag" is a supplemental restraint and is not a substitute for lap and shoulder belts;

(3) lap and shoulder belts also must be used correctly by an occupant in a front outboard seating position to provide restraint or protection from frontal crashes as well as other types of crashes or accidents; and

(4) occupants should always wear their lap and shoulder belts, if available, or other safety belts, whether or not there is an inflatable restraint.

(d) SEAT BELT USE LAWS.—Congress finds that it is in the public interest for each State to adopt and enforce mandatory seat belt use laws and for the United States Government to adopt and enforce mandatory seat belt use regulations.

(e) TEMPORARY EXEMPTIONS.—(1) On application of a manufacturer, the Secretary of Transportation may exempt, on a temporary basis, motor vehicles of that manufacturer from any requirement under subsections (b) and (c) of this section on terms the Secretary considers appropriate. An exemption may be renewed.

(2) The Secretary of Transportation may grant an exemption under paragraph (1) of this subsection if the Secretary finds that there has been a disruption in the supply of any component of an inflatable restraint or in the use and installation of that component by the manufacturer because of an unavoidable event not under the control of the manufacturer that will prevent the manufacturer from meeting its anticipated production volume of vehicles with those restraints.

(3) Only an affected manufacturer may apply for an exemption. The Secretary of Transportation shall prescribe in the amendment to Standard 208 required under this section the information an affected manufacturer must include in its application under this subsection. The manufacturer shall specify in the application the models, lines, and types of vehicles affected. The Secretary may consolidate similar applications from different manufacturers.

(4) An exemption or renewal of an exemption is conditioned on the commitment of the manufacturer to recall the exempted vehicles for installation of the omitted inflatable restraints within a reasonable time that the manufacturer proposes and the Secretary of Transportation approves after the components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements.

(5) The Secretary of Transportation shall publish in the Federal Register a notice of each application under this subsection and each decision to grant or deny a temporary exemption and the reasons for the decision. Federal Register, publication.

(6) The Secretary of Transportation shall require a label for each exempted vehicle that can be removed only after recall and installation of the required inflatable restraint. The Secretary shall require that written notice of the exemption be provided to the dealer and the first purchaser of each exempted vehicle other than for resale, with the notice being provided in a way, and containing the information, the Secretary considers appropriate.

(f) APPLICATION.—(1) This section revises, but does not replace, Standard 208 as in effect on December 18, 1991, including the amendment of March 26, 1991 (56 Fed. Reg. 12472), to Standard 208, extending the requirements for automatic crash protection, with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles. This section may not be construed as—

(A) affecting another provision of law carried out by the Secretary of Transportation applicable to passenger cars, buses, multipurpose passenger vehicles, or trucks; or

(B) establishing a precedent related to developing or prescribing a Government motor vehicle safety standard.

(2) This section and amendments to Standard 208 made under this section may not be construed as indicating an intention by Congress to affect any liability of a motor vehicle manufacturer under applicable law related to vehicles with or without inflatable restraints.

(g) REPORT.—(1) On October 1, 1992, and every 6 months after that date through October 1, 2000, the Secretary of Transportation shall submit reports on the effectiveness of occupant restraint systems expressed as a percentage reduction in fatalities or injuries of restrained occupants compared to unrestrained occupants for—

(A) a combination of inflated restraints and lap and shoulder belts;

(B) inflated restraints only; and

(C) lap and shoulder belts only.

(2) In consultation with the Secretaries of Labor and Defense, the Secretary of Transportation also shall provide information and analysis on lap and shoulder belt use, nationally and in each State by—

(A) military personnel;

(B) Government, State, and local law enforcement officers;

(C) other Government and State employees; and

(D) the public.

(h) AIRBAGS FOR GOVERNMENT CARS.—In cooperation with the Administrator of General Services and the heads of appropriate departments, agencies, and instrumentalities of the Government, the Secretary of Transportation shall establish a program, consistent with applicable procurement laws of the Government and available appropriations, requiring that all passenger cars acquired—

(1) after September 30, 1994, for use by the Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints; and

(2) after September 30, 1996, for use by the Government be equipped, to the maximum extent practicable, with inflatable restraints for both front outboard seating positions.

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

§ 30141. Importing motor vehicles capable of complying with standards

(a) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle if—

(1) on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under subsection (c) of this section, the Secretary decides—

(A) the vehicle is—

(i) substantially similar to a motor vehicle originally manufactured for import into and sale in the United States;

(ii) certified under section 30115 of this title;

(iii) the same model year (as defined under regulations of the Secretary of Transportation) as the model of the motor vehicle it is being compared to; and

(iv) capable of being readily altered to comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) if there is no substantially similar United States motor vehicle, the safety features of the vehicle comply with or are capable of being altered to comply with those standards based on destructive test information or other evidence the Secretary of Transportation decides is adequate;

(2) the vehicle is imported by a registered importer; and

(3) the registered importer pays the annual fee the Secretary of Transportation establishes under subsection (e) of this section to pay for the costs of carrying out the registration program for importers under subsection (c) of this section and any other fees the Secretary of Transportation establishes to pay for the costs of—

(A) processing bonds provided to the Secretary of the Treasury under subsection (d) of this section; and

(B) making the decisions under this subchapter.

(b) PROCEDURES ON DECIDING ON MOTOR VEHICLE CAPABILITY.—(1) The Secretary of Transportation shall establish by regulation procedures for making a decision under subsection (a)(1) of this section and the information a petitioner must provide to show clearly that the motor vehicle is capable of being brought into compliance with applicable motor vehicle safety standards prescribed under this chapter. In establishing the procedures, the Secretary shall provide for a minimum period of public notice and written comment consistent with ensuring expeditious, but complete, consideration and avoiding delay by any person. In making a decision under those procedures, the Secretary shall consider test information and other information available to the Secretary, including any information provided by the manufacturer. If the Secretary makes a negative decision, the Secretary may not make another decision for the same model until at least 3 calendar months have elapsed after the negative decision. Regulations.

(2) The Secretary of Transportation shall publish each year in the Federal Register a list of all decisions made under subsection (a)(1) of this section. Each published decision applies to the model of the motor vehicle for which the decision was made. A positive decision permits another importer registered under subsection (c) of this section to import a vehicle of the same model under this section if the importer complies with all the terms of the decision. Federal Register, publication.

(c) REGISTRATION.—(1) The Secretary of Transportation shall establish procedures for registering a person who complies with requirements prescribed by the Secretary by regulation under this subsection, including—

(A) recordkeeping requirements;

(B) inspection of records and facilities related to motor vehicles the person has imported, altered, or both; and

(C) requirements that ensure that the importer (or a successor in interest) will be able technically and financially to carry out responsibilities under sections 30117(b), 30118–30121, and 30166(f) of this title.

(2) The Secretary of Transportation shall deny registration to a person whose registration is revoked under paragraph (4) of this subsection.

(3) The Secretary of Transportation may deny registration to a person that is or was owned or controlled by, or under common ownership or control with, a person whose registration was revoked under paragraph (4) of this subsection.

(4) The Secretary of Transportation shall establish procedures for—

(A) revoking or suspending a registration issued under paragraph (1) of this subsection for not complying with a requirement of this subchapter or section 30112, 30115, 30117–30122, 30125(c), 30127, or 30166 of this title or regulations prescribed under this subchapter or those sections;

(B) automatically suspending a registration for not paying a fee under subsection (a)(3) of this section in a timely manner or for knowingly filing a false or misleading certification under section 30146 of this title; and

(C) reinstating suspended registrations.

(d) BONDS.—(1) A person importing a motor vehicle under this section shall provide a bond to the Secretary of the Treasury (acting for the Secretary of Transportation) and comply with the terms the Secretary of Transportation decides are appropriate to ensure that the vehicle—

(A) will comply with applicable motor vehicle safety standards prescribed under this chapter within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(B) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) The amount of the bond provided under this subsection shall be at least equal to the dutiable value of the motor vehicle (as determined by the Secretary of the Treasury) but not more than 150 percent of that value.

(e) FEE REVIEW, ADJUSTMENT, AND USE.—The Secretary of Transportation shall review and make appropriate adjustments at least every 2 years in the amounts of the fees required to be paid under subsection (a)(3) of this section. The Secretary of Transportation shall establish the fees for each fiscal year before the beginning of that year. All fees collected remain available until expended without fiscal year limit to the extent provided in advance by appropriation laws. The amounts are only for use by the Secretary of Transportation—

(1) in carrying out this section and sections 30146(a)–(c)(1), (d), and (e) and 30147(b) of this title; and

(2) in advancing to the Secretary of the Treasury amounts for costs incurred under this section and section 30146 of this title to reimburse the Secretary of the Treasury for those costs.

§ 30142. Importing motor vehicles for personal use

(a) GENERAL.—Section 30112(a) of this title does not apply to an imported motor vehicle if—

(1) the vehicle is imported for personal use, and not for resale, by an individual (except an individual described in sections 30143 and 30144 of this title);

(2) the vehicle is imported after January 31, 1990; and

(3) the individual takes the actions required under subsection (b) of this section to receive an exemption.

(b) EXEMPTIONS.—(1) To receive an exemption under subsection (a) of this section, an individual must—

(A) provide the Secretary of the Treasury (acting for the Secretary of Transportation) with—

(i) an appropriate bond in an amount determined under section 30141(d) of this title;

(ii) a copy of an agreement with an importer registered under section 30141(c) of this title for bringing the motor vehicle into compliance with applicable motor vehicle safety standards prescribed under this chapter; and

(iii) a certification that the vehicle meets the requirement of section 30141(a)(1)(A) or (B) of this title; and

(B) comply with appropriate terms the Secretary of Transportation imposes to ensure that the vehicle—

(i) will be brought into compliance with those standards within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(ii) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) For good cause shown, the Secretary of Transportation may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for import, to comply with paragraph (1)(A)(ii) of this subsection.

§ 30143. Motor vehicles imported by individuals employed outside the United States

(a) DEFINITION.—In this section, "assigned place of employment" means—

(1) the principal location at which an individual is permanently or indefinitely assigned to work; and

(2) for a member of the uniformed services, the individual's permanent duty station.

(b) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle imported for personal use, and not for resale, by an individual—

(1) whose assigned place of employment was outside the United States as of October 31, 1988, and who has not had an assigned place of employment in the United States from that date through the date the vehicle is imported into the United States;

(2) who previously had not imported a motor vehicle into the United States under this section or section 108(g) of the National Traffic and Motor Vehicle Safety Act of 1966 or, before October 31, 1988, under section 108(b)(3) of that Act;

(3) who acquired, or made a binding contract to acquire, the vehicle before October 31, 1988;

(4) who imported the vehicle into the United States not later than October 31, 1992; and

(5) who satisfies section 108(b)(3) of that Act as in effect on October 30, 1988.

(c) CERTIFICATION.—Subsection (b) of this section is carried out by certification in the form the Secretary of Transportation or the Secretary of the Treasury may prescribe.

§ 30144. Importing motor vehicles on a temporary basis

(a) GENERAL.—Section 30112(a) of this title does not apply to a motor vehicle imported on a temporary basis for personal use by an individual who is a member of—

(1)(A) the personnel of the government of a foreign country on assignment in the United States or a member of the Secretariat of a public international organization designated under the International Organization Immunities Act (22 U.S.C. 288 et seq.); and

(B) the class of individuals for whom the Secretary of State has authorized free importation of motor vehicles; or

(2) the armed forces of a foreign country on assignment in the United States.

(b) VERIFICATION.—The Secretary of Transportation or the Secretary of the Treasury may require verification, that the Secretary of Transportation considers appropriate, that an individual is a member described under subsection (a) of this section. The Secretary of Transportation shall ensure that a motor vehicle imported under this section will be exported (at no cost to the United States Government) or abandoned to the Government when the individual no longer—

(1) resides in the United States; and

(2) is a member described under subsection (a) of this section.

(c) SALE IN THE UNITED STATES.—A motor vehicle imported under this section may not be sold when in the United States.

§ 30145. Importing motor vehicles or equipment requiring further manufacturing

Section 30112(a) of this title does not apply to a motor vehicle or motor vehicle equipment if the vehicle or equipment—

(1) requires further manufacturing to perform its intended function as decided under regulations prescribed by the Secretary of Transportation; and

(2) is accompanied at the time of importation by a written statement issued by the manufacturer indicating the applicable motor vehicle safety standard prescribed under this chapter with which it does not comply.

§ 30146. Release of motor vehicles and bonds

(a) COMPLIANCE CERTIFICATION AND BOND.—(1) Except as provided in subsections (c) and (d) of this section, an importer registered under section 30141(c) of this title may license or register an imported motor vehicle for use on public streets, roads, or highways, or release custody of a motor vehicle imported by the registered importer or imported by an individual under section 30142 of this title and altered by the registered importer to meet applicable motor vehicle safety standards prescribed under this chapter to a person for license or registration for use on public streets, roads, or highways, only after 30 days after the registered importer certifies to the Secretary of Transportation, in the way the Secretary prescribes, that the motor vehicle complies with each standard prescribed in the year the vehicle was manufactured and

that applies in that year to that vehicle. A vehicle may not be released if the Secretary gives written notice before the end of the 30-day period that the Secretary will inspect the vehicle under subsection (c) of this section.

(2) The Secretaries of Transportation and the Treasury shall prescribe regulations— Regulations.

(A) ensuring the release of a motor vehicle and bond required under section 30141(d) of this title at the end of the 30-day period, unless the Secretary of Transportation issues a notice of an inspection under subsection (c) of this section; and

(B) providing that the Secretary of Transportation shall release the vehicle and bond promptly after an inspection under subsection (c) of this section showing compliance with the standards applicable to the vehicle.

(3) Each registered importer shall include on each motor vehicle released under this subsection a label prescribed by the Secretary of Transportation identifying the importer and stating that the vehicle has been altered by the importer to comply with the standards applicable to the vehicle.

(b) RELIANCE ON MANUFACTURER'S CERTIFICATION.—In making a certification under subsection (a)(1) of this section, the registered importer may rely on the manufacturer's certification for the model to which the motor vehicle involved is substantially similar if the importer certifies that any alteration made by the importer did not affect the compliance of the safety features of the vehicle and the importer keeps records verifying the certification for the period the Secretary of Transportation prescribes.

(c) EVIDENCE OF COMPLIANCE.—(1) The Secretary of Transportation may require that the certification under subsection (a)(1) of this section be accompanied by evidence of compliance the Secretary considers appropriate or may inspect the certified motor vehicle, or both. If the Secretary gives notice of an inspection, an importer may release the vehicle only after—

(A) an inspection showing the motor vehicle complies with applicable motor vehicle safety standards prescribed under this chapter for which the inspection was made; and

(B) release of the vehicle by the Secretary.

(2) The Secretary of Transportation shall inspect periodically a representative number of motor vehicles for which certifications have been filed under subsection (a)(1) of this section. In carrying out a motor vehicle testing program under this chapter, the Secretary shall include a representative number of motor vehicles for which certifications have been filed under subsection (a)(1).

(d) CHALLENGING THE CERTIFICATION.—A motor vehicle or bond may not be released under subsection (a) of this section if the Secretary of Transportation, not later than 30 days after receiving a certification under subsection (a)(1) of this section, gives written notice that the Secretary believes or has reason to believe that the certification is false or contains a mispresentation. The vehicle and bond may be released only after the Secretary is satisfied with the certification and any modification of the certification.

(e) BOND RELEASE.—A release of a bond required under section 30141(d) of this title is deemed an acceptance of a certification or completion of an inspection under this section but is not a decision by the Secretary of Transportation under section 30118(a)

or (b) of this title of compliance with applicable motor vehicle safety standards prescribed under this chapter.

§ 30147. Responsibility for defects and noncompliance

(a) DEEMING DEFECT OR NONCOMPLIANCE TO CERTAIN VEHICLES AND IMPORTER AS MANUFACTURER.—(1) In carrying out sections 30117(b), 30118–30121, and 30166(f) of this title—

(A) for a defect or noncompliance with an applicable motor vehicle safety standard prescribed under this chapter for a motor vehicle originally manufactured for import into the United States, an imported motor vehicle having a valid certification under section 30146(a)(1) of this title and decided to be substantially similar to that motor vehicle shall be deemed as having the same defect or as not complying with the same standard unless the manufacturer or importer registered under section 30141(c) of this title demonstrates otherwise to the Secretary of Transportation; and

(B) the registered importer shall be deemed to be the manufacturer of any motor vehicle that the importer imports or brings into compliance with the standards for an individual under section 30142 of this title.

Federal Register, publication.

(2) The Secretary shall publish in the Federal Register notice of any defect or noncompliance under paragraph (1)(A) of this subsection.

(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—The Secretary shall require by regulation each registered importer (including any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under sections 30117(b), 30118–30121, and 30166(f) of this title.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

§ 30161. Judicial review of standards

(a) FILING AND VENUE.—A person adversely affected by an order prescribing a motor vehicle safety standard under this chapter may apply for review of the order by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the order is issued.

(b) NOTIFYING SECRETARY.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the order was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied that the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside the order, and the additional evidence with the court.

(d) CERTIFIED COPIES OF RECORDS OF PROCEEDINGS.—The Secretary shall give any interested person a certified copy of the transcript of the record in a proceeding under this section on request

and payment of costs. A certified copy of the record of the proceeding is admissible in a proceeding arising out of a matter under this chapter, regardless of whether the proceeding under this section has begun or becomes final.

(e) FINALITY OF JUDGMENT AND SUPREME COURT REVIEW.—A judgment of a court under this section is final and may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 30162. Petitions by interested persons for standards and enforcement

(a) FILING.—Any interested person may file a petition with the Secretary of Transportation requesting the Secretary to begin a proceeding—

(1) to prescribe a motor vehicle safety standard under this chapter; or

(2) to decide whether to issue an order under section 30118(b) of this title.

(b) STATEMENT OF FACTS.—The petition must state facts that the person claims establish that a motor vehicle safety standard or order referred to in subsection (a) of this section is necessary and briefly describe the order the Secretary should issue.

(c) PROCEEDINGS.—The Secretary may hold a public hearing or conduct an investigation or proceeding to decide whether to grant the petition.

(d) ACTIONS OF SECRETARY.—The Secretary shall grant or deny a petition not later than 120 days after the petition is filed. If a petition is granted, the Secretary shall begin the proceeding promptly. If a petition is denied, the Secretary shall publish the reasons for the denial in the Federal Register.

Federal Register, publication.

§ 30163. Actions by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE.—The Attorney General may bring a civil action in a United States district court to enjoin—

(1) a violation of this chapter or a regulation prescribed or order issued under this chapter; and

(2) the sale, offer for sale, or introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of a motor vehicle or motor vehicle equipment for which it is decided, before the first purchase in good faith other than for resale, that the vehicle or equipment—

(A) contains a defect related to motor vehicle safety about which notice was given under section 30118(c) of this title or an order was issued under section 30118(b) of this title; or

(B) does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(b) PRIOR NOTICE.—When practicable, the Secretary of Transportation shall notify a person against whom a civil action under subsection (a) of this section is planned, give the person an opportunity to present that person's views, and, except for a knowing and willful violation of this chapter, give the person a reasonable opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter. Failure to give notice and an opportunity to remedy the defect or comply with the applicable motor vehicle safety standard pre-

scribed under this chapter does not prevent a court from granting appropriate relief.

(c) VENUE.—Except as provided in section 30121(d) of this title, a civil action under this section or section 30165(a) of this title may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (a) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

§ 30164. Service of process

(a) DESIGNATING AGENTS.—A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.

(b) SERVICE.—An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.

§ 30165. Civil penalty

(a) PENALTY.—A person that violates section 30112, 30115, 30117–30122, 30123(d), 30125(c), 30127, 30141–30147, or 30166 of this title or a regulation prescribed under those sections is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by those sections. The maximum penalty under this subsection for a related series of violations is $800,000.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) CONSIDERATIONS.—In determining the amount of a civil penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.

(d) SUBPENAS FOR WITNESSES.—In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

§ 30166. Inspections, investigations, and records

(a) DEFINITION.—In this section, "motor vehicle accident" means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b) AUTHORITY TO INSPECT AND INVESTIGATE.—(1) The Secretary of Transportation may conduct an inspection or investigation—

(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or

(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) MATTERS THAT CAN BE INSPECTED AND IMPOUNDMENT.—In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter;

(2) on request, may inspect records of a manufacturer, distributor, or dealer to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter; and

(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—

(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce;

(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;

(C) inspect with reasonable promptness that vehicle or equipment; and

(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident.

(d) REASONABLE COMPENSATION.—When a motor vehicle (except a vehicle subject to subchapter II of chapter 105 of this title) or motor vehicle equipment is inspected or temporarily impounded under subsection (c)(3) of this section, the Secretary of Transportation shall pay reasonable compensation to the owner of the vehicle if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle.

(e) RECORDS AND MAKING REPORTS.—The Secretary of Transportation reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, or dealer to make reports, to enable the Secretary to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter. This subsection does not impose a recordkeeping requirement on a distributor or dealer in addition to those imposed under subsection (f) of this section and section

30117(b) of this title or a regulation prescribed or order issued under subsection (f) or section 30117(b).

(f) PROVIDING COPIES OF COMMUNICATIONS ABOUT DEFECTS AND NONCOMPLIANCE.—A manufacturer shall give the Secretary of Transportation a true or representative copy of each communication to the manufacturer's dealers or to owners or purchasers of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.

(g) ADMINISTRATIVE AUTHORITY ON REPORTS, ANSWERS, AND HEARINGS.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) require, by general or special order, any person to file reports or answers to specific questions, including reports or answers under oath; and

(B) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(h) CIVIL ACTIONS TO ENFORCE AND VENUE.—A civil action to enforce a subpena or order under subsection (g) of this section may be brought in the United States district court for the judicial district in which the proceeding is conducted. The court may punish a failure to obey an order of the court to comply with a subpena or order as a contempt of court.

(i) GOVERNMENTAL COOPERATION.—The Secretary of Transportation may request a department, agency, or instrumentality of the United States Government to provide records the Secretary considers necessary to carry out this chapter. The head of the department, agency, or instrumentality shall provide the record on request, may detail personnel on a reimbursable basis, and otherwise shall cooperate with the Secretary. This subsection does not affect a law limiting the authority of a department, agency, or instrumentality to provide information to another department, agency, or instrumentality.

(j) COOPERATION OF SECRETARY.—The Secretary of Transportation may advise, assist, and cooperate with departments, agencies, and instrumentalities of the Government, States, and other public and private agencies in developing a method for inspecting and testing to determine compliance with a motor vehicle safety standard.

(k) PROVIDING INFORMATION.—The Secretary of Transportation shall provide the Attorney General and, when appropriate, the Secretary of the Treasury, information obtained that indicates a violation of this chapter or a regulation prescribed or order issued under this chapter.

§ 30167. Disclosure of information by the Secretary of Transportation

(a) CONFIDENTIALITY OF INFORMATION.—Information obtained under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only in the following ways:

(1) to other officers and employees carrying out this chapter.

(2) when relevant to a proceeding under this chapter.

(3) to the public if the confidentiality of the information is preserved.

(4) to the public when the Secretary of Transportation decides that disclosure is necessary to carry out section 30101 of this title.

(b) DEFECT AND NONCOMPLIANCE INFORMATION.—Subject to subsection (a) of this section, the Secretary shall disclose information obtained under this chapter related to a defect or noncompliance that the Secretary decides will assist in carrying out sections 30117(b) and 30118–30121 of this title or that is required to be disclosed under section 30118(a) of this title. A requirement to disclose information under this subsection is in addition to the requirements of section 552 of title 5.

(c) INFORMATION ABOUT MANUFACTURER'S INCREASED COSTS.—A manufacturer opposing an action of the Secretary under this chapter because of increased cost shall submit to the Secretary information about the increased cost, including the manufacturer's cost and the cost to retail purchasers, that allows the public and the Secretary to evaluate the manufacturer's statement. The Secretary shall evaluate the information promptly and, subject to subsection (a) of this section, shall make the information and evaluation available to the public. The Secretary shall publish a notice in the Federal Register that the information is available.

Federal Register, publication.

(d) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 30168. Research, testing, development, and training

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation shall conduct research, testing, development, and training necessary to carry out this chapter. The research, development, testing, and training shall include—

(A) collecting information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

(i) accidents involving motor vehicles; and

(ii) the occurrence of death or personal injury resulting from those accidents;

(B) obtaining experimental and other motor vehicles and motor vehicle equipment for research or testing; and

(C) selling or otherwise disposing of test motor vehicles and motor vehicle equipment and crediting the proceeds to current appropriations available to carry out this chapter.

(2) The Secretary may carry out this subsection through grants to States, interstate authorities, and nonprofit institutions.

(b) USE OF PUBLIC AGENCIES.—In carrying out this chapter, the Secretary shall use the services, research, and testing facilities of public agencies to the maximum extent practicable to avoid duplication.

(c) FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than $100,000 for planning, design, or construction may be made only if the planning,

design, or construction is approved by substantially similar resolutions by the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. To obtain that approval, the Secretary shall submit to Congress a prospectus on the proposed facility. The prospectus shall include—

(1) a brief description of the facility being planned, designed, or built;

(2) the location of the facility;

(3) an estimate of the maximum cost of the facility;

(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

(5) a justification of the need for the facility.

(d) INCREASING COSTS OF APPROVED FACILITIES.—The estimated maximum cost of a facility approved under subsection (c) of this section may be increased by an amount equal to the percentage increase in construction costs from the date the prospectus is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the prospectus. The Secretary shall decide what increase in construction costs has occurred.

(e) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. However, the owner of a background patent may not be deprived of a right under the patent.

§ 30169. Annual reports

(a) GENERAL REPORT.—The Secretary of Transportation shall submit to the President to submit to Congress on July 1 of each year a report on the administration of this chapter for the prior calendar year. The report shall include—

(1) a thorough statistical compilation of accidents and injuries;

(2) motor vehicle safety standards in effect or prescribed under this chapter;

(3) the degree of observance of the standards;

(4) a summary of current research grants and contracts and a description of the problems to be considered under those grants and contracts;

(5) an analysis and evaluation of research activities completed and technological progress achieved;

(6) enforcement actions;

(7) the extent to which technical information was given the scientific community and consumer-oriented information was made available to the public; and

(8) recommendations for legislation needed to promote cooperation among the States in improving traffic safety and strengthening the national traffic safety program.

(b) REPORT ON IMPORTING MOTOR VEHICLES.—Not later than 18 months after regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988,

the Secretary shall submit to Congress a report of the actions taken to carry out subchapter III of this chapter and the effectiveness of those actions, including any testing by the Secretary under section 30146(c)(2) of this title. After the first report, the Secretary shall submit a report to Congress under this subsection not later than July 31 of each year.

CHAPTER 303—NATIONAL DRIVER REGISTER

Sec.
30301. Definitions.
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30303. State participation.
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30305. Access to Register information.
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30307. Criminal penalties.
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§ 30301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given that term in regulations prescribed by the Secretary of Transportation.

(2) "chief driver licensing official" means the official in a State who is authorized to—

(A) maintain a record about a motor vehicle operator's license issued by the State; and

(B) issue, deny, revoke, suspend, or cancel a motor vehicle operator's license issued by the State.

(3) "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(4) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle operated only on a rail line.

(5) "motor vehicle operator's license" means a license issued by a State authorizing an individual to operate a motor vehicle on public streets, roads, or highways.

(6) "participating State" means a State that has notified the Secretary under section 30303 of this title of its participation in the National Driver Register.

(7) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) "State of record" means a State that has given the Secretary a report under section 30304 of this title about an individual who is the subject of a request for information made under section 30305 of this title.

§ 30302. National Driver Register

(a) ESTABLISHMENT AND CONTENTS.—The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging information about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section

30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—

(1) to receive information submitted under section 30304 of this title by the chief driver licensing official of a State of record;

(2) to receive a request for information made by the chief driver licensing official of a participating State under section 30305 of this title;

(3) to refer the request to the chief driver licensing official of a State of record; and

(4) in response to the request, to relay information provided by a chief driver licensing official of a State of record to the chief driver licensing official of a participating State, without interception of the information.

(b) ACCURACY OF INFORMATION.—The Secretary is not responsible for the accuracy of information relayed to the chief driver licensing official of a participating State. However, the Secretary shall maintain the Register in a way that ensures against inadvertent alteration of information during a relay.

(c) TRANSITION FROM PRIOR REGISTER.—(1) The Secretary shall provide by regulation for the orderly transition from the register maintained under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), to the Register maintained under this chapter.

(2)(A) The Secretary shall delete from the Register a report or information that was compiled under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and transferred to the Register, after the earlier of—

(i) the date the State of record removes it from the State's file;

(ii) 7 years after the date the report or information is entered in the Register; or

(iii) the date a fully electronic Register system is established.

(B) The report or information shall be disposed of under chapter 33 of title 44.

(3) If the chief driver licensing official of a participating State finds that information provided for inclusion in the Register is erroneous or is related to a conviction of a traffic offense that subsequently is reversed, the official immediately shall notify the Secretary. The Secretary shall provide for the immediate deletion of the information from the Register.

(d) ASSIGNMENT OF PERSONNEL.—In carrying out this chapter, the Secretary shall assign personnel necessary to ensure the effective operation of the Register.

§ 30303. State participation

(a) NOTIFICATION.—A State may become a participating State under this chapter by notifying the Secretary of Transportation of its intention to be bound by section 30304 of this title.

(b) WITHDRAWAL.—A participating State may end its status as a participating State by notifying the Secretary of its withdrawal from participation in the National Driver Register.

(c) FORM AND WAY OF NOTIFICATION.—Notification by a State under this section shall be made in the form and way the Secretary prescribes by regulation.

§ 30304. Reports by chief driver licensing officials

(a) INDIVIDUALS COVERED.—As soon as practicable, the chief driver licensing official of each participating State shall submit to the Secretary of Transportation a report containing the information specified by subsection (b) of this section for each individual—

(1) who is denied a motor vehicle operator's license by that State for cause;

(2) whose motor vehicle operator's license is revoked, suspended, or canceled by that State for cause; or

(3) who is convicted under the laws of that State of any of the following motor vehicle-related offenses or comparable offenses:

(A) operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance.

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

(C) failing to give aid or provide identification when involved in an accident resulting in death or personal injury.

(D) perjury or knowingly making a false affidavit or statement to officials about activities governed by a law or regulation on the operation of a motor vehicle.

(b) CONTENTS.—(1) Except as provided in paragraph (2) of this subsection, a report under subsection (a) of this section shall contain—

(A) the individual's legal name, date of birth, sex, and, at the Secretary's discretion, height, weight, and eye and hair color;

(B) the name of the State providing the information; and

(C) the social security account number if used by the State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number if different from the social security account number.

(2) A report under subsection (a) of this section about an event that occurs during the 2-year period before the State becomes a participating State is sufficient if the report contains all of the information that is available to the chief driver licensing official when the State becomes a participating State.

(c) TIME FOR FILING.—If a report under subsection (a) of this section is about an event that occurs—

(1) during the 2-year period before the State becomes a participating State, the report shall be submitted not later than 6 months after the State becomes a participating State; or

(2) after the State becomes a participating State, the report shall be submitted not later than 31 days after the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report.

(d) EVENTS OCCURRING BEFORE PARTICIPATION.—This section does not require a State to report information about an event

that occurs before the 2-year period before the State becomes a participating State.

§ 30305. Access to Register information

(a) REFERRALS OF INFORMATION REQUESTS.—(1) To carry out duties related to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of a participating State may request the Secretary of Transportation to refer, electronically or by United States mail, a request for information about the motor vehicle driving record of an individual to the chief driver licensing official of a State of record.

(2) The Secretary of Transportation shall relay, electronically or by United States mail, information received from the chief driver licensing official of a State of record in response to a request under paragraph (1) of this subsection to the chief driver licensing official of the participating State requesting the information. However, the Secretary may refuse to relay information to the chief driver licensing official of a participating State that does not comply with section 30304 of this title.

(b) REQUESTS TO OBTAIN INFORMATION.—(1) The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual who is the subject of an accident investigation conducted by the Board or the Administrator. The Chairman and the Administrator may receive the information.

(2) An individual who is employed, or is seeking employment, as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to provide information about the individual under subsection (a) of this section to the individual's employer or prospective employer. An employer or prospective employer may receive the information and shall make the information available to the individual. Information may not be obtained from the National Driver Register under this paragraph if the information was entered in the Register more than 3 years before the request.

(3) An individual who has received, or is applying for, an airman's certificate may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator may receive the information and shall make the information available to the individual for review and written comment. The Administrator may use the information to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards prescribed by the Administrator to be issued an airman medical certificate. The Administrator may not otherwise divulge or use the information. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(4) An individual who is employed, or is seeking employment, by a rail carrier as an operator of a locomotive may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the

individual's employer or prospective employer or to the Secretary of Transportation. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(5) An individual who holds, or is applying for, a license or certificate of registry under section 7101 of title 46, or a merchant mariner's document under section 7302 of title 46, may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Secretary of the department in which the Coast Guard is operating. The Secretary may receive the information and shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate, or document of the individual based on the information and before using the information in an action taken under chapter 77 of title 46. The Secretary may not otherwise divulge or use the information, except for purposes of section 7101, 7302, or 7703 of title 46. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(6) An individual may request the chief driver licensing official of a State to obtain information about the individual under subsection (a) of this section—

(A) to learn whether information about the individual is being provided;

(B) to verify the accuracy of the information; or

(C) to obtain a certified copy of the information.

(7) A request under this subsection shall be made in the form and way the Secretary of Transportation prescribes by regulation.

(c) RELATIONSHIP TO OTHER LAWS.—A request for, or receipt of, information from the Register is subject to sections 552 and 552a of title 5, and other applicable laws of the United States or a State, except that—

(1) the Secretary of Transportation may not relay or otherwise provide information specified in section 30304(b)(1)(A) or (C) of this title to a person not authorized by this section to receive the information;

(2) a request for, or receipt of, information by a chief driver licensing official, or by a person authorized by subsection (b) of this section to request and receive the information, is deemed to be a routine use under section 552a(b) of title 5; and

(3) receipt of information by a person authorized by this section to receive the information is deemed to be a disclosure under section 552a(c) of title 5, except that the Secretary of Transportation is not required to retain the accounting made under section 552a(c)(1) for more than 7 years after the disclosure.

(d) AVAILABILITY OF INFORMATION PROVIDED UNDER PRIOR LAW.—Information provided by a State under the Act of July 14, 1960 (Public Law 86–660, 74 Stat. 526), as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89–563, 80 Stat. 730), and under this chapter, shall

be available under this section during the transition from the register maintained under that Act to the Register maintained under this chapter.

§ 30306. National Driver Register Advisory Committee

(a) ORGANIZATION.—There is a National Driver Register Advisory Committee.

(b) DUTIES.—The Committee shall advise the Secretary of Transportation on—

(1) the efficiency of the maintenance and operation of the National Driver Register; and

(2) the effectiveness of the Register in assisting States in exchanging information about motor vehicle driving records.

(c) COMPOSITION AND APPOINTMENT.—The Committee is composed of 15 members appointed by the Secretary as follows:

(1) 3 members appointed from among individuals who are specially qualified to serve on the Committee because of their education, training, or experience, and who are not officers or employees of the United States Government or a State.

(2) 3 members appointed from among groups outside the Government that represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations.

(3) 9 members, geographically representative of the participating States, appointed from among individuals who are chief driver licensing officials of participating States.

(d) TERMS.—(1) Except as provided in paragraph (2) of this subsection, the term of each member is 3 years.

(2) A vacancy on the Committee shall be filled in the same way as an original appointment. A member appointed to fill a vacancy serves for the remainder of the term of that member's predecessor. After a member's term ends, the member may continue to serve until a successor takes office.

(e) PAY AND EXPENSES.—Members of the Committee serve without pay. However, the Secretary may reimburse a member for reasonable travel expenses incurred by the member in attending meetings of the Committee.

(f) MEETINGS, CHAIRMAN, VICE CHAIRMAN, AND QUORUM.—(1) The Committee shall meet at least once a year.

(2) The Committee shall elect a Chairman and a Vice Chairman from among its members.

(3) Eight members are a quorum.

(4) The Committee shall meet at the call of the Chairman or a majority of the members.

(g) PERSONNEL AND SERVICES.—The Secretary may provide the Committee with personnel, penalty mail privileges, and similar services the Secretary considers necessary to assist the Committee in carrying out its duties and powers under this section.

(h) REPORTS.—At least once a year, the Committee shall submit to the Secretary a report on the matters specified in subsection (b) of this section. The report shall include any recommendations of the Committee for changes in the Register.

(i) RELATIONSHIP TO OTHER LAWS.—The Committee is exempt from sections 10(e) and (f) and 14 of the Federal Advisory Committee Act (5 App. U.S.C.).

§ 30307. Criminal penalties

(a) GENERAL PENALTY.—A person (except an individual described in section 30305(b)(6) of this title) shall be fined under title 18, imprisoned for not more than one year, or both, if—

(1) the person receives under section 30305 of this title information specified in section 30304(b)(1)(A) or (C) of this title;

(2) disclosure of the information is not authorized by section 30305 of this title; and

(3) the person willfully discloses the information knowing that disclosure is not authorized.

(b) INFORMATION PENALTY.—A person knowingly and willfully requesting, or under false pretenses obtaining, information specified in section 30304(b)(1)(A) or (C) of this title from a person receiving the information under section 30305 of this title shall be fined under title 18, imprisoned for not more than one year, or both.

§ 30308. Authorization of appropriations

(a) GENERAL.—The Secretary of Transportation shall make available from amounts made available to carry out section 402 of title 23 $4,000,000 for each of the fiscal years ending September 30, 1993, and September 30, 1994, to carry out this chapter.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

CHAPTER 305—NATIONAL AUTOMOBILE TITLE INFORMATION SYSTEM

Sec.
30501. Definitions.
30502. National Automobile Title Information System.
30503 State participation.
30504. Reporting requirements.
30505. Penalties and enforcement.

§ 30501. Definitions

In this chapter—

(1) "automobile" has the same meaning given that term in section 32901(a) of this title.

(2) "certificate of title" means a document issued by a State showing ownership of an automobile.

(3) "insurance carrier" means an individual or entity engaged in the business of underwriting automobile insurance.

(4) "junk automobile" means an automobile that—

(A) is incapable of operating on public streets, roads, and highways; and

(B) has no value except as a source of parts or scrap.

(5) "junk yard" means an individual or entity engaged in the business of acquiring or owning junk automobiles for—

(A) resale in their entirety or as spare parts; or

(B) rebuilding, restoration, or crushing.

(6) "operator" means the individual or entity authorized or designated as the operator of the National Automobile Title Information System under section 30502(b) of this title, or the Secretary of Transportation, if there is no authorized or designated individual or entity.

(7) "salvage automobile" means an automobile that is damaged by collision, fire, flood, accident, trespass, or other event,

to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on public streets, roads, and highways would be more than the fair market value of the automobile immediately before the event that caused the damage.

(8) "salvage yard" means an individual or entity engaged in the business of acquiring or owning salvage automobiles for—

(A) resale in their entirety or as spare parts; or

(B) rebuilding, restoration, or crushing.

(9) "State" means a State of the United States or the District of Columbia.

§ 30502. National Automobile Title Information System

(a) ESTABLISHMENT OR DESIGNATION.—(1) In cooperation with the States and not later than January 31, 1996, the Secretary of Transportation shall establish a National Automobile Title Information System that will provide individuals and entities referred to in subsection (e) of this section with instant and reliable access to information maintained by the States related to automobile titling described in subsection (d) of this section. However, if the Secretary decides that the existing information system meets the requirements of subsections (d) and (e) of this section and will permit the Secretary to carry out this chapter as early as possible, the Secretary, in consultation with the Attorney General, may designate an existing information system as the National Automobile Title Information System.

(2) In cooperation with the Attorney General and the States, the Secretary shall ascertain the extent to which title and related information to be included in the system established under paragraph (1) of this subsection will be adequate, timely, reliable, uniform, and capable of assisting in efforts to prevent the introduction or reintroduction of stolen vehicles and parts into interstate commerce.

(b) OPERATION.—The Secretary may authorize the operation of the System established or designated under subsection (a)(1) of this section by agreement with one or more States, or by designating, after consulting with the States, a third party that represents the interests of the States.

(c) USER FEES.—Operation of the System established or designated under subsection (a)(1) of this section shall be paid for by user fees and should be self-sufficient and not be dependent on amounts from the United States Government. The amount of fees the operator collects and keeps under this subsection subject to annual appropriation laws, excluding fees the operator collects and pays to an entity providing information to the operator, may be not more than the costs of operating the System.

(d) INFORMATION REQUIREMENTS.—The System established or designated under subsection (a)(1) of this section shall permit a user of the System at least to establish instantly and reliably—

(1) the validity and status of a document purporting to be a certificate of title;

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State;

(3) whether an automobile known to be titled in a particular State is or has been a junk automobile or a salvage automobile;

(4) for an automobile known to be titled in a particular State, the odometer mileage disclosure required under section 32705 of this title for that automobile on the date the certificate of title for that automobile was issued and any later mileage information, if noted by the State; and

(5) whether an automobile bearing a known vehicle identification number has been reported as a junk automobile or a salvage automobile under section 30504 of this title.

(e) AVAILABILITY OF INFORMATION.—(1) The operator shall make available—

(A) to a participating State on request of that State, information in the System about any automobile;

(B) to a Government, State, or local law enforcement official on request of that official, information in the System about a particular automobile, junk yard, or salvage yard;

(C) to a prospective purchaser of an automobile on request of that purchaser, including an auction company or entity engaged in the business of purchasing used automobiles, information in the System about that automobile; and

(D) to a prospective or current insurer of an automobile on request of that insurer, information in the System about that automobile.

(2) The operator may release only the information reasonably necessary to satisfy the requirements of paragraph (1) of this subsection. The operator may not collect an individual's social security account number or permit users of the System to obtain an individual's address or social security account number.

§ 30503. State participation

(a) STATE INFORMATION.—Each State shall make titling information maintained by that State available for use in operating the National Automobile Title Information System established or designated under section 30502 of this title.

(b) VERIFICATION CHECKS.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. The check shall consist of—

(1) communicating to the operator—

(A) the vehicle identification number of the automobile for which the certificate of title is sought;

(B) the name of the State that issued the most recent certificate of title for the automobile; and

(C) the name of the individual or entity to whom the certificate of title was issued; and

(2) giving the operator an opportunity to communicate to the participating State the results of a search of the information.

(c) GRANTS TO STATES.—(1) In cooperation with the States and not later than January 1, 1994, the Secretary of Transportation shall—

(A) conduct a review of systems used by the States to compile and maintain information about the titling of automobiles; and

(B) determine for each State the cost of making titling information maintained by that State available to the operator to meet the requirements of section 30502(d) of this title.

(2) The Secretary may make grants to participating States to be used in making titling information maintained by those States available to the operator if—

(A) the grant to a State is not more than the lesser of—

(i) 25 percent of the cost of making titling information maintained by that State available to the operator as determined by the Secretary under paragraph (1)(B) of this subsection; or

(ii) $300,000; and

(B) the Secretary decides that the grants are reasonable and necessary to establish the System.

(d) REPORT TO CONGRESS.—Not later than January 1, 1997, the Secretary shall report to Congress on which States have met the requirements of this section. If a State has not met the requirements, the Secretary shall describe the impediments that have resulted in the State's failure to meet the requirements.

§ 30504. Reporting requirements

(a) JUNK YARD AND SALVAGE YARD OPERATORS.—(1) Beginning at a time established by the Secretary of Transportation that is not sooner than the 3d month before the establishment or designation of the National Automobile Title Information System under section 30502 of this title, an individual or entity engaged in the business of operating a junk yard or salvage yard shall file a monthly report with the operator of the System. The report shall contain an inventory of all junk automobiles or salvage automobiles obtained by the junk yard or salvage yard during the prior month. The inventory shall contain—

(A) the vehicle identification number of each automobile obtained;

(B) the date on which the automobile was obtained;

(C) the name of the individual or entity from whom the automobile was obtained; and

(D) a statement of whether the automobile was crushed or disposed of for sale or other purposes.

(2) Paragraph (1) of this subsection does not apply to an individual or entity—

(A) required by State law to report the acquisition of junk automobiles or salvage automobiles to State or local authorities if those authorities make that information available to the operator; or

(B) issued a verification under section 33110 of this title stating that the automobile or parts from the automobile are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time established by the Secretary that is not sooner than the 3d month before the establishment or designation of the System, an individual or entity engaged in business as an insurance carrier shall file a monthly report with the operator. The report may be filed directly or through a designated agent. The report shall contain an inventory of all automobiles of the current model year or any of the 4 prior model years that the carrier, during the prior month, has obtained possession of and has decided are junk automobiles or salvage automobiles. The inventory shall contain—

(1) the vehicle identification number of each automobile obtained;

(2) the date on which the automobile was obtained;

(3) the name of the individual or entity from whom the automobile was obtained; and

(4) the name of the owner of the automobile at the time of the filing of the report.

(c) PROCEDURES AND PRACTICES.—The Secretary shall establish by regulation procedures and practices to facilitate reporting in the least burdensome and costly fashion.

§ 30505. Penalties and enforcement

(a) PENALTY.—An individual or entity violating this chapter is liable to the United States Government for a civil penalty of not more than $1,000 for each violation.

(b) COLLECTION AND COMPROMISE.—(1) The Secretary of Transportation shall impose a civil penalty under this section. The Attorney General shall bring a civil action to collect the penalty. The Secretary may compromise the amount of the penalty. In determining the amount of the penalty or compromise, the Secretary shall consider the appropriateness of the penalty to the size of the business of the individual or entity charged and the gravity of the violation.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual or entity liable for the penalty.

PART B—COMMERCIAL

CHAPTER 311—COMMERCIAL MOTOR VEHICLE SAFETY

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SUBCHAPTER I—STATE GRANTS

§ 31101. Definitions

In this subchapter—

(1) "commercial motor vehicle" means (except in section 31106) a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,000 pounds;

(B) is designed to transport more than 10 passengers including the driver; or

(C) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title.

(2) "employee" means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) "employer"—

(A) means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

§ 31102. Grants to States

(a) GENERAL AUTHORITY.—Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety and compatible State regulations, standards, and orders.

(b) STATE PLAN PROCEDURES AND CONTENTS.—(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to adopt and assume responsibility for enforcing regulations, standards, and orders of the Government on commercial motor vehicle safety or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances the agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(C) contains satisfactory assurances the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

(D) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (c) of this section will be maintained at a level at least equal to the average level of that expenditure for its last 3 full fiscal years before December 18, 1991;

(E) provides a right of entry and inspection to carry out the plan;

(F) provides that all reports required under this section be submitted to the agency and that the agency will make the reports available to the Secretary on request;

(G) provides that the agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes;

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State;

(I) provides that the State will grant maximum reciprocity for inspections conducted under the North American Inspection Standard through the use of a nationally accepted system that allows ready identification of previously inspected commercial motor vehicles;

(J) ensures that activities described in subsection (c) of this section, if financed with grants under subsection (a) of this section, will not diminish the effectiveness of the development and implementation of commercial motor vehicle safety programs described in subsection (a);

(K) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and that, to the maximum extent practicable, the State will attempt to implement the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

(L) ensures that the State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23;

(M) ensures participation by the 48 contiguous States in SAFETYNET not later than January 1, 1994;

(N) provides satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations related to commercial motor vehicle safety;

(O) provides satisfactory assurances that the State will promote activities—

(i) to remove impaired commercial motor vehicle drivers from the highways of the United States through adequate enforcement of regulations on the use of alcohol

and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

(ii) to provide an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances;

(iii) to promote enforcement of the requirements related to the licensing of commercial motor vehicle drivers, including checking the status of commercial drivers' licenses; and

(iv) to improve enforcement of hazardous material transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspection of the loads of commercial motor vehicles transporting hazardous material; and

(P) provides satisfactory assurances that the State will promote effective—

(i) interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out those interdiction activities; and

(ii) use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous material transportation safety.

(2) If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation and allow the State to modify and resubmit the plan for approval.

(3) In estimating the average level of State expenditure under paragraph (1)(D) of this subsection, the Secretary—

(A) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

(B) shall require the State to exclude Government amounts and State matching amounts used to receive Government financing under subsection (a) of this section.

(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

(1) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

(2) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

(3) enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles.

(d) CONTINUOUS EVALUATION OF PLANS.—On the basis of reports submitted by a State motor vehicle safety agency of a State with a plan approved under this section and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan. If the Secretary finds, after notice and opportunity for comment, the State plan previously approved is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State. The plan stops being effective when the notice is received. A State adversely affected by the withdrawal may seek judicial review under chapter 7 of title 5. Notwithstanding the withdrawal, the State may retain jurisdiction in administrative or judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

§ 31103. United States Government's share of costs

The Secretary of Transportation shall reimburse a State, from a grant made under this subchapter, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in developing and implementing programs to enforce commercial motor vehicle regulations, standards, or orders adopted under this subchapter or subchapter II of this chapter. In determining those costs, the Secretary shall include in-kind contributions by the State. Amounts of the State and its political subdivisions required to be expended under section 31102(b)(1)(D) of this title may not be included as part of the share not provided by the United States Government The Secretary may allocate among the States whose applications for grants have been approved those amounts appropriated for grants to support those programs, under criteria that may be established.

§ 31104. Availability of amounts

(a) GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), the following amounts are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title:

(1) not more than $76,000,000 for the fiscal year ending September 30, 1993.

(2) not more than $80,000,000 for the fiscal year ending September 30, 1994.

(3) not more than $83,000,000 for the fiscal year ending September 30, 1995.

(4) not more than $85,000,000 for the fiscal year ending September 30, 1996.

(5) not more than $90,000,000 for the fiscal year ending September 30, 1997.

(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—(1) Amounts made available under subsection (a) of this section remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended

by a State during those 2 fiscal years are released to the Secretary for reallocation.

(2) Amounts made available under section 404(a)(2) of the Surface Transportation Assistance Act of 1982 before October 1, 1991, that are not obligated on October 1, 1992, are available for reallocation and obligation under paragraph (1) of this subsection.

(c) REIMBURSEMENT FOR GOVERNMENT'S SHARE OF COSTS.—Amounts made available under subsection (a) of this section shall be used to reimburse States proportionately for the United States Government's share of costs incurred.

(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under section 31102 of this title is a contractual obligation of the Government for payment of the Government's share of costs incurred by the State in developing, implementing, or developing and implementing programs to enforce commercial motor vehicle regulations, standards, and orders.

(e) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under subsection (a) of this section for that fiscal year, not more than 1.25 percent of those amounts for administrative expenses incurred in carrying out section 31102 of this title in that fiscal year. The Secretary shall use at least 75 percent of those deducted amounts to train non-Government employees and to develop related training materials in carrying out section 31102.

(f) ALLOCATION CRITERIA.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate under criteria the Secretary establishes the amounts available for that fiscal year among the States with plans approved under section 31102 of this title. However, the Secretary may designate specific eligible States among which to allocate those amounts in allocating amounts available—

(1) for research, development, and demonstration under subsection (g)(1)(F) of this section; and

(2) for public education under subsection (g)(1)(G) of this section.

(g) SPECIFIC ALLOCATIONS.—(1) Of amounts made available under subsection (a) of this section—

(A) for each fiscal year beginning after September 30, 1992, the Secretary shall obligate at least $1,500,000 to make grants to States for training inspectors to enforce regulations prescribed by the Secretary related to the transportation of hazardous material by commercial motor vehicles;

(B) for each of the fiscal years ending September 30, 1993–1997, the Secretary may obligate not more than $2,000,000 to carry out section 31106 of this title;

(C) for each of the fiscal years ending September 30, 1993–1997, the Secretary may obligate not more than $2,000,000 to carry out section 31107 of this title;

(D) for each of the fiscal years ending September 30, 1993–1995, the Secretary shall obligate at least $4,250,000, and for each of the fiscal years ending September 30, 1996, and 1997, the Secretary shall obligate at least $5,000,000, for traffic enforcement activities related to commercial motor vehicle drivers that are carried out in conjunction with an appropriate

inspection of a commercial motor vehicle for compliance with Government or State commercial motor vehicle safety regulations;

(E) for each of the fiscal years ending September 30, 1993–1995, the Secretary shall obligate at least $1,000,000 to increase enforcement of the licensing requirements of chapter 313 of this title by motor carrier safety assistance program officers and employees, including the cost of purchasing equipment for, and conducting, inspections to check the current status of licenses issued under chapter 313;

(F) for each fiscal year, the Secretary shall obligate at least $500,000 for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to carry out section 31102 of this title and that are beneficial to all jurisdictions; and

(G) for each fiscal year, the Secretary shall obligate at least $350,000 to educate the motoring public on how to share the road safely with commercial motor vehicles.

(2) The Secretary shall announce publicly amounts obligated under paragraph (1)(F) of this subsection and award those amounts competitively, when practicable, to any eligible State for up to 100 percent of the State costs or to other persons as the Secretary decides.

(3) In carrying out educational activities referred to in paragraph (1)(G) of this subsection, the Secretary shall consult with appropriate industry representatives.

(h) PAYMENT TO STATES FOR COSTS.—Each State shall submit vouchers for costs the State incurs under this section and section 31102 of this title. The Secretary shall pay the State an amount not more than the Government share of costs incurred as of the date of the vouchers.

(i) IMPROVED ALLOCATION FORMULA.—The Secretary shall prescribe regulations to develop an improved formula and process for allocating amounts made available for grants under section 31102(a) of this title among States eligible for those amounts. In prescribing those regulations, the Secretary shall— Regulations.

(1) consider ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous material transportation safety;

(2) place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections; and

(3) consider ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous material transportation regulations with Government safety regulations and promote other factors intended to promote effectiveness and efficiency the Secretary decides are appropriate.

(j) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(a) of this title. To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocat- Regulations.

ing amounts or making grants under section 153 of title 23, the Secretary shall ensure that the guidelines and standards are applied uniformly.

§ 31105. Employee protections

(a) PROHIBITIONS.—(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

(A) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety regulation, standard, or order, or has testified or will testify in such a proceeding; or

(B) the employee refuses to operate a vehicle because—

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety or health; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's unsafe condition.

(2) Under paragraph (1)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the unsafe condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

(b) FILING COMPLAINTS AND PROCEDURES.—(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. On receiving the complaint, the Secretary shall notify the person alleged to have committed the violation of the filing of the complaint.

(2)(A) Not later than 60 days after receiving a complaint, the Secretary shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify the complainant and the person alleged to have committed the violation of the findings. If the Secretary decides it is reasonable to believe a violation occurred, the Secretary shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.

(3)(A) If the Secretary decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary shall order the person to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

(iii) pay compensatory damages, including back pay.

(B) If the Secretary issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint. The Secretary shall determine the costs that reasonably were incurred.

(c) JUDICIAL REVIEW AND VENUE.—A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. The review shall be heard and decided expeditiously. An order of the Secretary subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

(d) CIVIL ACTIONS TO ENFORCE.—If a person fails to comply with an order issued under subsection (b) of this section, the Secretary shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

§ 31106. Commercial motor vehicle information system program

(a) DEFINITION.—In this section, "commercial motor vehicle" means a self-propelled or towed vehicle used on highways in intrastate or interstate commerce to transport passengers or property, if the vehicle—

(1) has a gross vehicle weight rating of at least 10,001 pounds;

(2) is designed to transport more than 15 passengers, including the driver; or

(3) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and that material is transported in a quantity requiring placarding under regulations the Secretary prescribes under section 5103.

(b) INFORMATION SYSTEM.—(1) In cooperation with the States, the Secretary may establish as part of the motor carrier safety information network system of the Department of Transportation and similar State systems, an information system to serve as a clearinghouse and depository of information related to State registration and licensing of commercial motor vehicles and the safety fitness of the commercial motor vehicle registrants. The Secretary shall include in the system information on the safety fitness of each of the registrants and other information the Secretary considers appropriate, including information on vehicle inspections and out-of-service orders.

(2) The operation of the information system established under paragraph (1) of this subsection shall be paid for by a schedule of user fees. The Secretary may authorize the operation of the

information system by contract, through an agreement with one or more States, or by designating, after consulting with the States, a third party that represents the interests of the States.

(3) The Secretary shall prescribe standards to ensure—

(A) uniform information collection and reporting by the States necessary to carry out this section; and

(B) the availability and reliability of the information to the States and the Secretary from the information system.

(c) DEMONSTRATION PROJECT.—The Secretary shall make grants to States to carry out a project to demonstrate ways of establishing an information system that will link the motor carrier safety information network system of the Department and similar State systems with the motor vehicle registration and licensing systems of the States. The project shall be designed—

(1) to allow a State when issuing license plates for a commercial motor vehicle to establish through use of the information system the safety fitness of the person seeking to register the vehicle; and

(2) to decide on types of sanctions that may be imposed on the registrant, or the types of conditions or limitations that may be imposed on the operations of the registrant, to ensure the safety fitness of the registrant.

(d) REVIEW OF STATE SYSTEMS.—Not later than December 18, 1992, the Secretary, in cooperation with the States, shall review State motor vehicle registration systems related to license tags for commercial motor vehicles to decide whether those systems can be used in carrying out this section.

(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(f) REPORT TO CONGRESS.—Not later than January 1, 1995, the Secretary shall submit a report to Congress on the cost, benefits, and feasibility of the information system established under subsection (b) of this section. If the Secretary decides that the system would be beneficial on a nationwide basis, the Secretary shall include in the report recommendations on legislation to implement a nationwide system.

(g) AUTHORIZATION OF APPROPRIATIONS.—Amounts necessary to carry out this section may be made available to the Secretary under section 31104(g)(1)(B) of this title.

§ 31107. Truck and bus accident grant program

(a) STATE GRANTS.—The Secretary of Transportation shall make grants to States that agree to adopt or have adopted the recommendations of the National Governors' Association related to police accident reports for truck and bus accidents. The Secretary may make a grant under this section only to assist a State in carrying out those recommendations, including—

(1) assisting the State in designing appropriate forms;

(2) drafting instruction manuals;

(3) training appropriate State and local officers on matters, including training on accident investigation techniques to decide on the probable cause of truck and bus accidents;

(4) analyzing and evaluating safety information to develop recommended changes to existing safety programs necessary to address more effectively the causes of truck and bus accidents; and

(5) other activities the Secretary decides are appropriate to carry out this section.

(b) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate grants made under this section with highway safety programs under section 402 of title 23. The Secretary may require that the information from police reports for truck and bus accidents be included in reports made to the Secretary under the uniform information collection and reporting program under section 402.

(c) AUTHORIZATION OF APPROPRIATIONS.—Amounts necessary to carry out this section may be made available to the Secretary under section 31104(g)(1)(C) of this title.

§ 31108. Authorization of appropriations

Not more than $———— may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19—, to carry out the safety duties and powers of the Federal Highway Administration.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

§ 31111. Length limitations

(a) DEFINITIONS.—In this section—

(1) "maxi-cube vehicle" means a truck tractor combined with a semitrailer and a separable property-carrying unit designed to be loaded and unloaded through the semitrailer, with the length of the separable property-carrying unit being not more than 34 feet and the length of the vehicle combination being not more than 65 feet.

(2) "truck tractor" means—

(A) a non-property-carrying power unit that operates in combination with a semitrailer or trailer; or

(B) a power unit that carries as property only motor vehicles when operating in combination with a semitrailer in transporting motor vehicles.

(b) GENERAL LIMITATIONS.—(1) Except as provided in this section, a State may not prescribe or enforce a regulation of commerce that—

(A) imposes a vehicle length limitation of less than 45 feet on a bus, of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination, or of less than 28 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under subsection (e) of this section;

(B) imposes an overall length limitation on a commercial motor vehicle operating in a truck tractor-semitrailer or truck tractor-semitrailer-trailer combination;

(C) has the effect of prohibiting the use of a semitrailer or trailer of the same dimensions as those that were in actual and lawful use in that State on December 1, 1982; or

(D) has the effect of prohibiting the use of an existing semitrailer or trailer, of not more than 28.5 feet in length, in a truck tractor-semitrailer-trailer combination if the

semitrailer or trailer was operating lawfully on December 1, 1982, within a 65-foot overall length limit in any State.

(2) A length limitation prescribed or enforced by a State under paragraph (1)(A) of this subsection applies only to a semitrailer or trailer and not to a truck tractor.

(c) MAXI-CUBE AND VEHICLE COMBINATION LIMITATIONS.—A State may not prohibit a maxi-cube vehicle or a commercial motor vehicle combination consisting of a truck tractor and 2 trailing units on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary under subsection (e) of this section.

(d) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Length calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle. However, such a device may not have by its design or use the ability to carry cargo.

(e) QUALIFYING HIGHWAYS.—The Secretary by regulation shall designate as qualifying Federal-aid Primary System highways those highways of the Federal-aid Primary System in existence on June 1, 1991, that can accommodate safely the applicable vehicle lengths provided in this section.

(f) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from either or both provisions.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the Secretary shall exempt the segment from either or both of those provisions. Before making a decision under this paragraph,

the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (e) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations. Publication.

(g) ACCOMMODATING SPECIALIZED EQUIPMENT.—In prescribing regulations to carry out this section, the Secretary may make decisions necessary to accommodate specialized equipment, including automobile and vessel transporters and maxi-cube vehicles.

§ 31112. Property-carrying unit limitation

(a) DEFINITIONS.—In this section—

(1) "property-carrying unit" means any part of a commercial motor vehicle combination (except the truck tractor) used to carry property, including a trailer, a semitrailer, or the property-carrying section of a single unit truck.

(2) the length of the property-carrying units of a commercial motor vehicle combination is the length measured from the front of the first property-carrying unit to the rear of the last property-carrying unit.

(b) GENERAL LIMITATIONS.—A State may not allow by any means the operation, on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under section 31111(e) of this title, of any commercial motor vehicle combination (except a vehicle or load that cannot be dismantled easily or divided easily and that has been issued a special permit under applicable State law) with more than one property-carrying unit (not including the truck tractor) whose property-carrying units are more than—

(1) the maximum combination trailer, semitrailer, or other type of length limitation allowed by law or regulation of that State before June 2, 1991; or

(2) the length of the property-carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State before June 2, 1991.

(c) SPECIAL RULES FOR WYOMING, OHIO, AND ALASKA.—In addition to the vehicles allowed under subsection (b) of this section—

(1) Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992,

if the vehicle configurations comply with the single axle, tandem axle, and bridge formula limits in section 127(a) of title 23 and are not more than 117,000 pounds gross vehicle weight;

(2) Ohio may allow the operation of commercial motor vehicle combinations with 3 property-carrying units of 28.5 feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated in Ohio on the 1-mile segment of Ohio State Route 7 that begins at and is south of exit 16 of the Ohio Turnpike; and

(3) Alaska may allow the operation of commercial motor vehicle combinations that were not in actual operation on June 1, 1991, but were in actual operation before July 6, 1991.

(d) ADDITIONAL LIMITATIONS.—(1) A commercial motor vehicle combination whose operation in a State is not prohibited under subsections (b) and (c) of this section may continue to operate in the State on highways described in subsection (b) only if at least in compliance with all State laws, regulations, limitations, and conditions, including routing-specific and configuration-specific designations and all other restrictions in force in the State on June 1, 1991. However, subject to regulations prescribed by the Secretary under subsection (g)(2) of this section, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

(2) This section does not prevent a State from further restricting in any way or prohibiting the operation of any commercial motor vehicle combination subject to this section, except that a restriction or prohibition shall be consistent with this section and sections 31113(a) and (b) and 31114 of this title.

(3) A State making a minor adjustment of a temporary and emergency nature as authorized by paragraph (1) of this subsection or further restricting or prohibiting the operation of a commercial motor vehicle combination as authorized by paragraph (2) of this subsection shall advise the Secretary not later than 30 days after the action. The Secretary shall publish a notice of the action in the Federal Register.

Federal Register, publication.

(e) LIST OF STATE LENGTH LIMITATIONS.—(1) Not later than February 16, 1992, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in the State on the highways described in subsection (b) of this section. The list shall indicate the applicable State laws and regulations associated with the length limitations. If a State does not submit the information as required, the Secretary shall complete and file the information for the State.

Federal Register, publication.

(2) Not later than March 17, 1992, the Secretary shall publish an interim list in the Federal Register consisting of all information submitted under paragraph (1) of this subsection. The Secretary shall review for accuracy all information submitted by a State under paragraph (1) and shall solicit and consider public comment on the accuracy of the information.

(3) A law or regulation may not be included on the list submitted by a State or published by the Secretary merely because it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis before June 2, 1991.

(4) Except as revised under this paragraph or paragraph (5) of this subsection, the list shall be published as final in the Federal Register not later than June 15, 1992. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under paragraph (2) of this subsection. After publication of the final list, commercial motor vehicle combinations prohibited under subsection (b) of this section may not operate on the Dwight D. Eisenhower System of Interstate and Defense Highways and other Federal-aid Primary System highways designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23. Federal Register, publication.

(5) On the Secretary's own motion or on request by any person (including a State), the Secretary shall review the list published under paragraph (4) of this subsection. If the Secretary decides there is reason to believe a mistake was made in the accuracy of the list, the Secretary shall begin a proceeding to decide whether a mistake was made. If the Secretary decides there was a mistake, the Secretary shall publish the correction. Publication.

(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—This section may not be construed—

(1) to allow the operation on any segment of the Dwight D. Eisenhower System of Interstate and Defense Highways of a longer combination vehicle prohibited under section 127(d) of title 23;

(2) to affect in any way the operation of a commercial motor vehicle having only one property-carrying unit; or

(3) to affect in any way the operation in a State of a commercial motor vehicle with more than one property-carrying unit if the vehicle was in actual operation on a regular or periodic basis (including seasonal operation) in that State before June 2, 1991, that was authorized under State law or regulation or lawful State permit.

(g) REGULATIONS.—(1) In carrying out this section only, the Secretary shall define by regulation loads that cannot be dismantled easily or divided easily.

(2) Not later than June 15, 1992, the Secretary shall prescribe regulations establishing criteria for a State to follow in making minor adjustments under subsection (d) of this section.

§ 31113. Width limitations

(a) GENERAL LIMITATIONS.—(1) Except as provided in subsection (e) of this section, a State (except Hawaii) may not prescribe or enforce a regulation of commerce that imposes a vehicle width limitation of more or less than 102 inches on a commercial motor vehicle operating on—

(A) a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section);

(B) a qualifying Federal-aid highway designated by the Secretary of Transportation, with traffic lanes designed to be at least 12 feet wide; or

(C) a qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary decides the designation is consistent with highway safety.

(2) Notwithstanding paragraph (1) of this subsection, a State may continue to enforce a regulation of commerce in effect on

April 6, 1983, that applies to a commercial motor vehicle of more than 102 inches in width, until the date on which the State prescribes a regulation of commerce that complies with this subsection.

(3) A Federal-aid highway (except an interstate highway) not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the chief executive officer of the State in which the highway is located.

(b) EXCLUSION OF SAFETY AND ENERGY CONSERVATION DEVICES.—Width calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle.

(c) SPECIAL USE PERMITS.—A State may grant a special use permit to a commercial motor vehicle that is more than 102 inches in width.

(d) STATE ENFORCEMENT.—Consistent with this section, a State may enforce a commercial motor vehicle width limitation of 102 inches on a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section) or other qualifying Federal-aid highway designated by the Secretary.

(e) EXEMPTIONS.—(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having the width provided in subsection (a) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having the width provided for in subsection (a) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the Dwight D. Eisenhower System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a width provided in subsection (a) of this section, the Secretary shall exempt the segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification

from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (a) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as an amendment to the final regulations. Publication.

§ 31114. Access to the Interstate System

(a) PROHIBITION ON DENYING ACCESS.—A State may not enact or enforce a law denying to a commercial motor vehicle subject to this subchapter or subchapter I of this chapter reasonable access between—

(1) the Dwight D. Eisenhower System of Interstate and Defense Highways (except a segment exempted under section 31111(f) or 31113(e) of this title) and other qualifying Federal-aid Primary System highways designated by the Secretary of Transportation; and

(2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers, motor carriers of passengers, or any truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(b) EXCEPTION.—This section does not prevent a State or local government from imposing reasonable restrictions, based on safety considerations, on a truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

§ 31115. Enforcement

On the request of the Secretary of Transportation, the Attorney General shall bring a civil action for appropriate injunctive relief to ensure compliance with this subchapter or subchapter I of this chapter. The action may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a State or person to comply with this subchapter, subchapter I, or a regulation prescribed under this subchapter or subchapter I.

SUBCHAPTER III—SAFETY REGULATION

§ 31131. Purposes and findings

(a) PURPOSES.—The purposes of this subchapter are—

(1) to promote the safe operation of commercial motor vehicles;

(2) to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety; and

(3) to ensure increased compliance with traffic laws and with the commercial motor vehicle safety and health regulations and standards prescribed and orders issued under this chapter.

(b) FINDINGS.—Congress finds—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the United States Government in ensuring that commercial motor vehicle operations are conducted safely and healthfully.

§ 31132. Definitions

In this subchapter—

(1) "commercial motor vehicle" means a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,001 pounds;

(B) is designed to transport more than 15 passengers including the driver; or

(C) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

(2) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of the employment by the Government, a State, or a political subdivision of a State.

(3) "employer"—

(A) means a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "interstate commerce" means trade, traffic, or transportation in the United States between a place in a State and—

(A) a place outside that State (including a place outside the United States); or

(B) another place in the same State through another State or through a place outside the United States.

(5) "intrastate commerce" means trade, traffic, or transportation in a State that is not interstate commerce.

(6) "regulation" includes a standard or order.

(7) "State" means a State of the United States, the District of Columbia, and, in sections 31136 and 31140–31142 of this title, a political subdivision of a State.

(8) "State law" includes a law enacted by a political subdivision of a State.

(9) "State regulation" includes a regulation prescribed by a political subdivision of a State.

(10) "United States" means the States of the United States and the District of Columbia.

§ 31133. General powers of the Secretary of Transportation

(a) GENERAL.—In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—

(1) conduct inspections and investigations;

(2) compile statistics;

(3) make reports;

(4) issue subpenas;

(5) require production of records and property;

(6) take depositions;

(7) hold hearings;

(8) prescribe recordkeeping and reporting requirements;

(9) conduct or make contracts for studies, development, testing, evaluation, and training; and

(10) perform other acts the Secretary considers appropriate.

(b) CONSULTATION.—In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) DELEGATION.—The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

§ 31134. Commercial Motor Vehicle Safety Regulatory Review Panel

(a) ESTABLISHMENT AND GENERAL DUTY.—The Secretary of Transportation shall establish the Commercial Motor Vehicle Safety Regulatory Review Panel. The Panel shall analyze and review State laws and regulations under sections 31140 and 31141 of this title.

(b) SPECIFIC DUTIES.—The Panel shall—

(1) carry out those duties and powers designated to be carried out by the Panel under sections 31140 and 31141 of this title;

(2) conduct a study to—

(A) evaluate the need, if any, for additional assistance from the United States Government to the States to enable them to enforce the regulations prescribed by the Secretary under section 31136 of this title; and

(B) decide on other methods of furthering the purposes of this subchapter; and

(3) make recommendations to the Secretary based on the results of the study conducted under clause (2) of this subsection.

(c) COMPOSITION, APPOINTMENT, AND TERMS.—(1) The Panel shall be composed of 15 members as follows:

(A) the Secretary or the Secretary's delegate.

(B) 7 individuals appointed by the Secretary from among individuals who represent the interests of States and political subdivisions of States and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(C) 7 individuals appointed by the Secretary from among individuals who represent the interests of business, consumer, labor, and safety groups and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(2) The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience related to commercial motor vehicle safety. Half of the appointments shall be made from names submitted by the Committee on Commerce, Science, and Transportation of the Senate, and the other half from names submitted by the Committee on Public Works and Transportation of the House of Representatives. Each of these committees shall submit to the Secretary the names of 20 individuals qualified to serve on the Panel.

(3) The term of each member of the Panel appointed under paragraph (1)(B) and (C) of this subsection is 7 years.

(4) A vacancy on the Panel shall be filled in the way the original appointment was made. The vacancy does not affect the Panel's powers.

(d) CHAIRMAN, QUORUM, MEETINGS, AND PAY.—(1) The Secretary is the Chairman of the Panel.

(2) Eight members of the Panel are a quorum, but the Panel may establish a lesser number as a quorum to hold hearings, take testimony, and receive evidence.

(3) The Panel shall meet at the call of the Chairman or a majority of its members.

(4) Members of the Panel shall serve without pay, except that they shall receive expenses under section 5703 of title 5.

(e) PERSONNEL, OFFICE SPACE, AND SUPPORT SERVICES.—On request of the Panel, the Secretary shall—

(1) detail personnel of the Department of Transportation to the Panel as necessary to assist the Panel in carrying out its duties and powers; and

(2) provide office space, supplies, equipment, and other support services to the Panel as necessary for the Panel to carry out its duties and powers.

(f) HEARINGS AND OTHER ACTIONS.—To carry out the duties and powers of the Panel under this subchapter, the Panel or any member authorized by the Panel may hold hearings, sit and act at times and places, take testimony, and take other actions the Panel or the member considers advisable. A member of the Panel

may administer oaths to witnesses appearing before the Panel or the member.

(g) TEMPORARY AND INTERMITTENT SERVICES.—Subject to regulations the Panel may prescribe, the Chairman may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5.

§ 31135. Duties of employers and employees

Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer's or employee's conduct.

§ 31136. United States Government regulations

(a) MINIMUM SAFETY STANDARDS.—Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

(b) ELIMINATING AND AMENDING EXISTING REGULATIONS.—The Secretary may not eliminate or amend an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying material found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c) PROCEDURES AND CONSIDERATIONS.—(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) EFFECT OF EXISTING REGULATIONS.—If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) WAIVERS.—After notice and an opportunity for comment, the Secretary may waive any part of a regulation prescribed under this section as it applies to a person or class of persons, if the Secretary decides that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles. Under

this subsection, the Secretary shall waive the regulations prescribed under this section as they apply to schoolbuses (as defined in section 30125(a) of this title) unless the Secretary decides that making the regulations applicable to schoolbuses is necessary for public safety, considering all laws of the United States and States applicable to schoolbuses. A waiver under this subsection shall be published in the Federal Register, with the reasons for the waiver.

Federal Register, publication.

(f) LIMITATIONS ON MUNICIPALITY AND COMMERCIAL ZONE EXEMPTIONS AND WAIVERS.—(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the commercial motor vehicle safety regulations in title 49, Code of Federal Regulations;

(ii) existed on July 1, 1988;

(iii) has not substantially worsened; and

(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

§ 31137. Monitoring device and brake maintenance regulations

(a) USE OF MONITORING DEVICES.—If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators.

(b) BRAKES AND BRAKE SYSTEMS MAINTENANCE REGULATIONS.—Not later than December 31, 1990, the Secretary shall prescribe regulations on improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

§ 31138. Minimum financial responsibility for transporting passengers

(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and— Regulations.

(1) a place in another State;

(2) another place in the same State through a place outside of that State; or

(3) a place outside the United States.

(b) MINIMUM AMOUNTS.—The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

(1) at least 16 passengers shall be at least $5,000,000; and

(2) not more than 15 passengers shall be at least $1,500,000.

(c) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance, including high self-retention.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(d) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(e) NONAPPLICATION.—This section does not apply to a motor vehicle—

(1) transporting only school children and teachers to or from school;

(2) providing taxicab service, having a seating capacity of not more than 6 passengers, and not being operated on a regular route or between specified places; or

(3) carrying not more than 15 individuals in a single, daily round trip to and from work.

§ 31139. Minimum financial responsibility for transporting property

(a) DEFINITIONS.—In this section—

(1) "farm vehicle" means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) "interstate commerce" includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) GENERAL REQUIREMENT AND MINIMUM AMOUNT.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for compensation by motor vehicle in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $750,000.

(c) REQUIREMENTS FOR HAZARDOUS MATTER AND OIL.—(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous material (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2)(A) Except as provided in subparagraph (B) of this paragraph, the level of financial responsibility established under paragraph (1) of this subsection shall be at least $5,000,000 for the transportation—

(i) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(ii) in bulk of class A explosives, poison gas, liquefied gas, or compressed gas; or

(iii) of large quantities of radioactive material.

(B) The Secretary of Transportation by regulation may reduce the minimum level in subparagraph (A) of this paragraph (to an amount not less than $1,000,000) for transportation described in subparagraph (A) in any of the territories of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands if—

(i) the chief executive officer of the territory requests the reduction;

(ii) the reduction will prevent a serious disruption in transportation service and will not adversely affect public safety; and

(iii) insurance of $5,000,000 is not readily available.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least $1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

(A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and

(B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(d) FOREIGN MOTOR CARRIERS AND PRIVATE CARRIERS.—Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States. Regulations

(e) EVIDENCE OF FINANCIAL RESPONSIBILITY.—(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance.

(B) a guarantee.

(C) a surety bond issued by a bonding company authorized to do business in the United States.

(D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(f) CIVIL PENALTY.—(1) If, after notice and an opportunity for a hearing, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil

penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in an appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(g) NONAPPLICATION.—This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

(1) class A or B explosives;

(2) poison gas; or

(3) a large quantity of radioactive material.

§ 31140. Submission of State laws and regulations for review

(a) GENERAL.—A State that enacts a State law or issues a regulation on commercial motor vehicle safety shall submit a copy of the law or regulation to the Secretary of Transportation and the Commercial Motor Vehicle Safety Regulatory Review Panel immediately after the enactment or issuance.

(b) ADDITIONAL INFORMATION.—As soon as practicable but not later than a date the Panel may establish, a State that submits a State law or regulation under this section to the Panel shall—

(1) indicate in writing to the Panel whether the law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

(B) is less stringent than that regulation; or

(C) is additional to or more stringent than that regulation; and

(2) submit to the Panel other information the Panel or the Secretary may require to carry out this subchapter.

§ 31141. Review and preemption of State laws and regulations

(a) PREEMPTION AFTER DECISION.—A State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b) ANALYSIS AND DECISIONS BY THE PANEL.—(1) The Commercial Motor Vehicle Safety Regulatory Review Panel annually shall analyze State laws and regulations and decide which of those laws and regulations are related to commercial motor vehicle safety.

(2) Not later than one year after the date the Secretary prescribes a regulation under section 31136 of this title or one year after the date the Panel decides under paragraph (1) of this subsection that a State law or regulation is related to commercial motor vehicle safety, whichever is later, the Panel shall—

(A) decide whether the State law or regulation—

(i) has the same effect as the regulation prescribed by the Secretary;

(ii) is less stringent than that regulation; or

(iii) is additional to or more stringent than that regulation;

(B) decide, for each State law or regulation that the Panel decides is additional to or more stringent than the regulation prescribed by the Secretary, whether—

(i) the State law or regulation has no safety benefit;

(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce; and

(C) notify the Secretary of the Panel's decisions under this subsection.

(c) REVIEW AND DECISIONS BY SECRETARY.—(1) The Secretary shall review each State law and regulation on commercial motor vehicle safety. Not later than 18 months after the date the Panel notifies the Secretary of a decision under subsection (b) of this section, the Secretary shall—

(A) conduct a regulatory proceeding to decide under this subsection whether the State law or regulation may be enforced; and

(B) prescribe a final regulation. Regulations.

(2) If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced.

(3) If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced.

(4) If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5)(A) In deciding about a State law or regulation under this subsection, the Secretary shall give great weight to the corresponding decision made by the Panel about that law or regulation under subsection (b) of this section.

(B) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.

(d) WAIVERS.—(1) A person (including a State) may petition the Secretary for a waiver of a decision of the Secretary that a State law or regulation may not be enforced under this section. The Secretary shall grant the waiver, as expeditiously as possible, if the person demonstrates to the satisfaction of the Secretary that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

(2) Before deciding whether to grant or deny a petition for a waiver under this subsection, the Secretary shall give the petitioner an opportunity for a hearing on the record.

(e) CONSOLIDATING PROCEEDINGS.—The Secretary may consolidate regulatory proceedings under this section if the Secretary decides that the consolidation will not adversely affect a party to a proceeding.

(f) WRITTEN NOTICE OF DECISIONS.—Not later than 10 days after making a decision under subsection (c) of this section that a State law or regulation may not be enforced, the Secretary shall give written notice to the State of that decision.

(g) JUDICIAL REVIEW AND VENUE.—(1) Not later than 60 days after the Secretary makes a decision under subsection (c) of this section, or grants or denies a petition for a waiver under subsection (d) of this section, a person (including a State) adversely affected by the decision, grant, or denial may file a petition for judicial review. The petition may be filed in the court of appeals of the United States for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) The court has jurisdiction to review the decision, grant, or denial and to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5.

(3) A judgment of a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(4) The remedies provided for in this subsection are in addition to other remedies provided by law.

(h) INITIATING REVIEW PROCEEDINGS.—To review a State law or regulation on commercial motor vehicle safety under this section, the Secretary may initiate a regulatory proceeding on the Secretary's own initiative or on petition of an interested person (including a State).

§ 31142. Inspection of vehicles

(a) INSPECTION OF SAFETY EQUIPMENT.—On the instruction of an authorized enforcement official of a State or of the United States Government, a commercial motor vehicle is required to pass an inspection of all safety equipment required under part 393 of title 49, Code of Federal Regulations.

Regulations.

(b) INSPECTION OF VEHICLES AND RECORD RETENTION.—The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection. The standards shall provide for annual or more frequent inspections of a commercial motor vehicle unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136 of this title.

(c) PREEMPTION.—(1) Except as provided in paragraph (2) of this subsection, this subchapter and section 31102 of this title do not—

(A) prevent a State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs of commercial motor vehicles;

(B) prevent a State from enforcing a program for inspection of commercial motor vehicles that the Secretary decides is as effective as the Government standards prescribed under subsection (b) of this section;

(C) prevent a State from enforcing a program for inspection of commercial motor vehicles that meets the requirements for membership in the Commercial Vehicle Safety Alliance, as those requirements were in effect on October 30, 1984; or

(D) require a State that is enforcing a program described in clause (B) or (C) of this paragraph to enforce a Government standard prescribed under subsection (b) of this section or to adopt a provision on inspection of commercial motor vehicles in addition to that program to comply with the Government standards.

(2) The Government standards prescribed under subsection (b) of this section shall preempt a program of a State described in paragraph (1)(C) of this subsection as the program applies to the inspection of commercial motor vehicles in that State. The State may not enforce the program if the Secretary—

(A) decides, after notice and an opportunity for a hearing, that the State is not enforcing the program in a way that achieves the objectives of this section; and

(B) after making a decision under clause (A) of this paragraph, provides the State with a 6-month period to improve the enforcement of the program to achieve the objectives of this section.

(d) INSPECTION TO BE ACCEPTED AS ADEQUATE IN ALL STATES.—A periodic inspection of a commercial motor vehicle under the Government standards prescribed under subsection (b) of this section or a program described in subsection (c)(1)(B) or (C) of this section that is being enforced shall be recognized as adequate in every State for the period of the inspection. This subsection does not prohibit a State from making random inspections of commercial motor vehicles.

(e) EFFECT OF GOVERNMENT STANDARDS.—The Government standards prescribed under subsection (b) of this section may not be enforced as the standards apply to the inspection of commercial motor vehicles in a State enforcing a program described in subsection (c)(1)(B) or (C) of this section if the Secretary decides that it is in the public interest and consistent with public safety for the Government standards not to be enforced as they apply to that inspection.

(f) APPLICATION OF STATE REGULATIONS TO GOVERNMENT-LEASED VEHICLES AND OPERATORS.—A State receiving financial assistance under section 31102 of this title in a fiscal year may enforce in that fiscal year a regulation on commercial motor vehicle safety adopted by the State as the regulation applies to commercial motor vehicles and operators leased to the Government.

§ 31143. Investigating complaints and protecting complainants

(a) INVESTIGATING COMPLAINTS.—The Secretary of Transportation shall conduct a timely investigation of a nonfrivolous written complaint alleging that a substantial violation of a regulation prescribed under this subchapter is occurring or has occurred within the prior 60 days. The Secretary shall give the complainant timely notice of the findings of the investigation. The Secretary is not required to conduct separate investigations of duplicative complaints.

(b) PROTECTING COMPLAINANTS.—Notwithstanding section 552 of title 5, the Secretary may disclose the identity of a complainant only if disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical means within the Secretary's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss because of the disclosure.

§ 31144. Safety fitness of owners and operators

Regulations.

(a) PROCEDURE.—(1) In cooperation with the Interstate Commerce Commission, the Secretary of Transportation shall prescribe regulations establishing a procedure to decide on the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under sections 10922 and 10923 of this title. The procedure shall include—

(A) specific initial and continuing requirements to be met by the owners, operators, and persons to prove safety fitness;

(B) a means of deciding whether the owners, operators, and persons meet the safety fitness requirements under clause (A) of this paragraph; and

(C) specific time deadlines for action by the Secretary and the Commission in making fitness decisions.

(2) Regulations prescribed under this subsection supersede all regulations of the United States Government on safety fitness and safety rating of motor carriers in effect on October 30, 1984.

(b) FINDINGS AND ACTION ON APPLICATIONS.—The Commission shall—

(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

(2) deny the application.

§ 31145. Coordination of Governmental activities and paperwork

The Secretary of Transportation shall coordinate the activities of departments, agencies, and instrumentalities of the United States Government to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to ensure maximum coordination and to avoid overlap and the imposition of unreasonable burdens on persons subject to regulations under this subchapter.

§ 31146. Relationship to other laws

Except as provided in section 31136(b) of this title, this subchapter and the regulations prescribed under this subchapter do not affect chapter 51 of this title or a regulation prescribed under chapter 51.

§ 31147. Limitations on authority

(a) TRAFFIC REGULATIONS.—This subchapter does not authorize the Secretary of Transportation to prescribe traffic safety regulations or preempt State traffic regulations. However, the Secretary may prescribe traffic regulations to the extent their subject matter was regulated under parts 390–399 of title 49, Code of Federal Regulations, on October 30, 1984.

(b) REGULATING THE MANUFACTURING OF VEHICLES.—This subchapter does not authorize the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

SUBCHAPTER IV—MISCELLANEOUS

§ 31161. Procedures to ensure timely correction of safety violations

(a) DEFINITION.—Section 31132(1) of this title applies to this section.

(b) GENERAL.—Not later than August 3, 1991, the Secretary of Transportation shall prescribe regulations establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with money authorized under section 31104 of this title. Regulations.

(c) VERIFICATION PROGRAM.—The regulations shall establish a verification program for United States Government inspectors and States participating under section 31102 of this title to ensure that commercial motor vehicles and their operators found in violation of safety requirements have been brought into compliance with those requirements. The regulations shall include—

(1) a nationwide system for random reinspection of the commercial motor vehicles and their operators that have been declared out-of-service because of those safety violations, with the main purpose of the system being to verify that the violations have been corrected on a timely basis;

(2) a program of accountability for correcting all safety violations that shall provide that—

(A) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(B) the person making the repairs necessary to correct the violation shall certify on the form the making of repairs and the date, location, and time of the repairs;

(C) the motor carrier responsible for the commercial motor vehicle or operator shall certify on the form that, based on the carrier's knowledge, the repairs necessary to correct the violation have been made; and

(D) appropriate State penalties shall be imposed for a false statement on the form or a failure to return the form to the appropriate State entity; and

(3) a system for ensuring that appropriate State penalties are imposed for failure to correct any of those safety violations.

§ 31162. Compliance review priority

If the Secretary of Transportation identifies a pattern of violations of State or local traffic safety laws or regulations or commercial motor vehicle safety regulations, standards, or orders among drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that the motor carrier receives a high priority for review of that carrier's compliance with applicable United States Government and State commercial motor vehicle safety regulations.

CHAPTER 313—COMMERCIAL MOTOR VEHICLE OPERATORS

Sec.
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§ 31301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given the term "alcoholic beverage" in section 158(c) of title 23.

(2) "commerce" means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) "commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) "commercial motor vehicle" means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating of at least 26,001 pounds or a lesser gross vehicle weight rating the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(B) is designed to transport at least 16 passengers including the driver; or

(C) is used to transport material found by the Secretary to be hazardous under section 5103 of this title, except that a vehicle shall not be included as a commercial motor vehicle under this subclause if—

(i) the vehicle does not satisfy the weight requirements of subclause (A) of this clause;

(ii) the vehicle transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and not otherwise regulated by the Secretary or transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49, Code of Federal Regulations; and

(iii) the Secretary does not deny the application of this exception to the vehicle (individually or as part of a class of motor vehicles) in the interest of safety.

(5) except in section 31306, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(6) "driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle) who is employed by an employer.

(8) "employer" means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

(9) "felony" means an offense under a law of the United States or a State that is punishable by death or imprisonment for more than one year.

(10) "hazardous material" has the same meaning given that term in section 5102 of this title.

(11) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated only on a rail line or custom harvesting farm machinery.

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law on motor vehicle traffic control (except a parking violation) and involving a fatality; and

(D) any other similar violation of a State or local law on motor vehicle traffic control (except a parking violation) that the Secretary designates by regulation as serious.

(13) "State" means a State of the United States and the District of Columbia.

(14) "United States" means the States of the United States and the District of Columbia.

§ 31302. Limitation on the number of driver's licenses

An individual operating a commercial motor vehicle may have only one driver's license at any time, except during the 10-day period beginning on the date the individual is issued a driver's license.

§ 31303. Notification requirements

(a) VIOLATIONS.—An individual operating a commercial motor vehicle, having a driver's license issued by a State, and violating a State or local law on motor vehicle traffic control (except a parking violation) shall notify the individual's employer of the violation. If the violation occurred in a State other than the issuing State, the individual also shall notify a State official designated by the issuing State. The notifications required by this subsection shall be made not later than 30 days after the date the individual is found to have committed the violation.

(b) REVOCATIONS, SUSPENSIONS, AND CANCELLATIONS.—An employee who has a driver's license revoked, suspended, or canceled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify the employee's employer of the action not later than 30 days after the date of the action.

(c) PREVIOUS EMPLOYMENT.—(1) Subject to paragraph (2) of this subsection, an individual applying for employment as an operator of a commercial motor vehicle shall notify the prospective employer, at the time of the application, of any previous employment as an operator of a commercial motor vehicle.

Regulations.

(2) The Secretary of Transportation shall prescribe by regulation the period for which notice of previous employment must be given under paragraph (1) of this subsection. However, the period may not be less than the 10-year period ending on the date of the application.

§ 31304. Employer responsibilities

An employer may not knowingly allow an employee to operate a commercial motor vehicle in the United States during a period in which the employee—

(1) has a driver's license revoked, suspended, or canceled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) has more than one driver's license (except as allowed under section 31302 of this title).

Regulations.

§ 31305. General driver fitness and testing

(a) MINIMUM STANDARDS FOR TESTING AND FITNESS.—The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

(1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;

(2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;

(3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that an individual taking the tests has a working knowledge of—

(A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49, Code of Federal Regulations; and

(B) safety systems of the vehicle;

(5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—

(A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous material prescribed under chapter 51 of this title; and

(B) has a working knowledge of—

(i) those regulations;

(ii) the handling of hazardous material;

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

(iv) appropriate response procedures to follow in those emergencies;

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49, Code of Federal Regulations, to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual's possession when the individual is operating a commercial motor vehicle.

(b) REQUIREMENTS FOR OPERATING VEHICLES.—(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has passed written and driving tests to operate the vehicle that meet the minimum standards prescribed by the Secretary under subsection (a) of this section.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver's license that is not suspended, revoked, or canceled.

§ 31306. Alcohol and controlled substances testing

(a) DEFINITION.—In this section, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Secretary of Transportation.

(b) TESTING PROGRAM FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES.—(1)(A) In the interest of commercial motor vehicle safety, the Secretary of Transportation shall prescribe regulations not later than October 28, 1992, that establish a program requiring motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of operators of commercial motor

vehicles for the use of alcohol or a controlled substance in violation of law or a United States Government regulation.

(B) When the Secretary of Transportation considers it appropriate in the interest of safety, the Secretary may prescribe regulations for conducting periodic recurring testing of operators of commercial motor vehicles for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(2) In prescribing regulations under this subsection, the Secretary of Transportation—

(A) shall require that post-accident testing of an operator of a commercial motor vehicle be conducted when loss of human life occurs in an accident involving a commercial motor vehicle; and

(B) may require that post-accident testing of such an operator be conducted when bodily injury or significant property damage occurs in any other serious accident involving a commercial motor vehicle.

(c) TESTING AND LABORATORY REQUIREMENTS.—In carrying out subsection (b) of this section, the Secretary of Transportation shall develop requirements that shall--

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that a laboratory involved in testing under this section have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that any test indicating the use of alcohol or a controlled substance in violation of law or a Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later

than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(d) TESTING AS PART OF MEDICAL EXAMINATION.—The Secretary of Transportation may provide that testing under subsection (a) of this section for operators subject to subpart E of part 391 of title 49, Code of Federal Regulations, be conducted as part of the medical examination required under that subpart.

(e) REHABILITATION.—The Secretary of Transportation shall prescribe regulations establishing requirements for rehabilitation programs that provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are found to have used alcohol or a controlled substance in violation of law or a Government regulation. The Secretary shall decide on the circumstances under which those operators shall be required to participate in a program. This section does not prevent a motor carrier from establishing a program under this section in cooperation with another motor carrier. Regulations.

(f) SANCTIONS.—The Secretary of Transportation shall decide on appropriate sanctions for a commercial motor vehicle operator who is found, based on tests conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law or a Government regulation but who is not under the influence of alcohol or a controlled substance as provided in this chapter.

(g) EFFECT ON STATE AND LOCAL GOVERNMENT REGULATIONS.—A State or local government may not prescribe or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this section. However, a regulation prescribed under this section may not be construed to preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(h) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—In prescribing regulations under this section, the Secretary of Transportation—

(1) shall establish only requirements that are consistent with international obligations of the United States; and

(2) shall consider applicable laws and regulations of foreign countries.

(i) OTHER REGULATIONS ALLOWED.—This section does not prevent the Secretary of Transportation from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by commercial motor vehicle employees.

(j) APPLICATION OF PENALTIES.—This section does not supersede a penalty applicable to an operator of a commercial motor vehicle under this chapter or another law.

§ 31307. Minimum training requirements for operators of longer combination vehicles

(a) DEFINITION.—In this section, "longer combination vehicle" means a vehicle consisting of a truck tractor and more than one trailer or semitrailer that operates on the Dwight D. Eisenhower System of Interstate and Defense Highways with a gross vehicle weight of more than 80,000 pounds.

(b) REQUIREMENTS.—Not later than December 18, 1994, the Secretary of Transportation shall prescribe regulations establishing minimum training requirements for operators of longer combination vehicles. The training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

§ 31308. Commercial driver's license

Regulations.

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses by the States and for information to be contained on each of the licenses. The standards shall require at a minimum that—

(1) an individual issued a commercial driver's license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(2) the license be tamperproof to the maximum extent practicable; and

(3) the license contain—

(A) the name and address of the individual issued the license and a physical description of the individual;

(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;

(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license;

(D) the name of the State that issued the license; and

(E) the dates between which the license is valid.

§ 31309. Commercial driver's license information system

(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section, an information system that will serve as a clearinghouse and depository of information about the licensing, identification, and disqualification of operators of commercial motor vehicles. The Secretary shall consult with the States in carrying out this section.

(b) STATE AGREEMENTS.—If the Secretary decides that an information system used by a State or States about the driving status of operators of motor vehicles or another State-operated information system could be used to carry out this section, and the State or States agree to the use of the system for carrying out this section, the Secretary may make an agreement with the State or States to use the system as provided in this section and

section 31311(c) of this title. An agreement made under this subsection shall contain terms the Secretary considers necessary to carry out this chapter.

(c) ESTABLISHMENT BY SECRETARY.—If the Secretary does not make an agreement under subsection (b) of this section, the Secretary shall establish an information system about the driving status and licensing of operators of commercial motor vehicles as provided in this section.

(d) CONTENTS.—(1) At a minimum, the information system under this section shall include for each operator of a commercial motor vehicle—

(A) information the Secretary considers appropriate to ensure identification of the operator;

(B) the name, address, and physical description of the operator;

(C) the social security account number of the operator or other number or information the Secretary considers appropriate to identify the operator;

(D) the name of the State that issued the license to the operator;

(E) the dates between which the license is valid; and

(F) whether the operator had a commercial motor vehicle driver's license revoked, suspended, or canceled by a State, lost the right to operate a commercial motor vehicle in a State for any period, or has been disqualified from operating a commercial motor vehicle.

(2) Not later than December 31, 1990, the Secretary shall prescribe regulations on minimum uniform standards for a biometric identification system to ensure the identification of operators of commercial motor vehicles. Regulations.

(e) AVAILABILITY OF INFORMATION.—(1) On request of a State, the Secretary or the operator of the information system, as the case may be, may make available to the State information in the information system under this section.

(2) On request of an employee, the Secretary or the operator of the information system, as the case may be, may make available to the employee information in the information system about the employee.

(3) On request of an employer or prospective employer of an employee and after notification to the employee, the Secretary or the operator of the information system, as the case may be, may make available to the employer or prospective employer information in the information system about the employee.

(4) On the request of the Secretary, the operator of the information system shall make available to the Secretary information about the driving status and licensing of operators of commercial motor vehicles (including information required by subsection (d)(1) of this section).

(f) FEE SYSTEM.—If the Secretary establishes an information system under this section, the Secretary shall establish a fee system for using the information system. Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the information system in that fiscal year. The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (except the Mass Transit Account).

§ 31310. Disqualifications

(a) BLOOD ALCOHOL CONCENTRATION LEVEL.—In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(b) FIRST VIOLATION OR COMMITTING FELONY.—(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Secretary of Transportation shall disqualify from operating a commercial motor vehicle for at least one year an individual—

(A) committing a first violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing a first violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual; or

(C) using a commercial motor vehicle in committing a felony (except a felony described in subsection (d) of this section).

(2) If the vehicle involved in a violation referred to in paragraph (1) of this subsection is transporting hazardous material required to be placarded under section 5103 of this title, the Secretary shall disqualify the individual for at least 3 years.

(c) SECOND AND MULTIPLE VIOLATIONS.—(1) Subject to paragraph (2) of this subsection, the Secretary shall disqualify from operating a commercial motor vehicle for life an individual—

(A) committing more than one violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing more than one felony arising out of different criminal episodes; or

(D) committing any combination of single violations or use described in clauses (A)–(C) of this paragraph.

(2) The Secretary may prescribe regulations establishing guidelines (including conditions) under which a disqualification for life under paragraph (1) of this subsection may be reduced to a period of not less than 10 years.

(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) SERIOUS TRAFFIC VIOLATIONS.—(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) STATE DISQUALIFICATION.—Notwithstanding subsections (b)–(e) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State

that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b)–(e). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

(g) OUT-OF-SERVICE ORDERS.—(1)(A) To enforce section 392.5 of title 49, Code of Federal Regulations, the Secretary shall prescribe regulations establishing and enforcing an out-of-service period of 24 hours for an individual who violates section 392.5. An individual may not violate an out-of-service order issued under those regulations. Regulations.

(B) The Secretary shall prescribe regulations establishing and enforcing requirements for reporting out-of-service orders issued under regulations prescribed under subparagraph (A) of this paragraph. Regulations prescribed under this subparagraph shall require at least that an operator of a commercial motor vehicle who is issued an out-of-service order to report the issuance to the individual's employer and to the State that issued the operator a driver's license.

(2) Not later than December 18, 1992, the Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 90 days and liable for a civil penalty of at least $1,000;

(B) an operator of a commercial motor vehicle found to have committed a 2d violation of an out-of-service order shall be disqualified from operating such a vehicle for at least one year and not more than 5 years and liable for a civil penalty of at least $1,000; and

(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $10,000.

§ 31311. Requirements for State participation

(a) GENERAL.—To avoid having amounts withheld from apportionment under section 31314 of this title, a State shall comply with the following requirements:

(1) The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title.

(2) The State may issue a commercial driver's license to an individual only if the individual passes written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards.

(3) The State shall have in effect and enforce a law providing that an individual with a blood alcohol concentration level at or above the level established by section 31310(a) of this title when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(4) The State shall authorize an individual to operate a commercial motor vehicle only by issuing a commercial driver's license containing the information described in section 31308(3) of this title.

(5) At least 60 days before issuing a commercial driver's license (or a shorter period the Secretary prescribes by regulation), the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, of the proposed issuance of the license and other information the Secretary may require to ensure identification of the individual applying for the license.

(6) Before issuing a commercial driver's license to an individual, the State shall request from any other State that has issued a commercial driver's license to the individual all information about the driving record of the individual.

(7) Not later than 30 days after issuing a commercial driver's license, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, of the issuance.

(8) Not later than 10 days after disqualifying the holder of a commercial driver's license from operating a commercial motor vehicle (or after revoking, suspending, or canceling the license) for at least 60 days, the State shall notify the Secretary or the operator of the information system under section 31309 of this title, as the case may be, and the State that issued the license, of the disqualification, revocation, suspension, or cancellation.

(9) If an individual operating a commercial motor vehicle violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual has a driver's license issued by another State, the State in which the violation occurred shall notify a State official designated by the issuing State of the violation not later than 10 days after the date the individual is found to have committed the violation.

(10) The State may not issue a commercial driver's license to an individual during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or canceled.

(11) The State may issue a commercial driver's license to an individual who has a commercial driver's license issued by another State only if the individual first returns the driver's license issued by the other State.

(12) The State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State, except that, under regulations the Secretary shall prescribe, the State may issue a commercial driver's license to an individual who operates or will operate a commercial motor vehicle and is not domiciled in a State that issues commercial drivers' licenses.

(13) The State shall impose penalties the State considers appropriate and the Secretary approves for an individual operating a commercial motor vehicle when the individual—

(A) does not have a commercial driver's license;

(B) has a driver's license revoked, suspended, or canceled; or

(C) is disqualified from operating a commercial motor vehicle.

(14) The State shall allow an individual to operate a commercial motor vehicle in the State if—

(A) the individual has a commercial driver's license issued by another State under the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(B) the license is not revoked, suspended, or canceled; and

(C) the individual is not disqualified from operating a commercial motor vehicle.

(15) The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under section 31310(b)–(e) of this title.

(16)(A) Before issuing a commercial driver's license to an individual, the State shall request the Secretary for information from the National Driver Register maintained under chapter 303 of this title (after the Secretary decides the Register is operational) on whether the individual—

(i) has been disqualified from operating a motor vehicle (except a commercial motor vehicle);

(ii) has had a license (except a license authorizing the individual to operate a commercial motor vehicle) revoked, suspended, or canceled for cause in the 3-year period ending on the date of application for the commercial driver's license; or

(iii) has been convicted of an offense specified in section 30304(a)(3) of this title.

(B) The State shall give full weight and consideration to that information in deciding whether to issue the individual a commercial driver's license.

(17) The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(g)(1)(A) and (2) of this title.

(b) STATE SATISFACTION OF REQUIREMENTS.—A State may satisfy the requirements of subsection (a) of this section that the State disqualify an individual from operating a commercial motor vehicle by revoking, suspending, or canceling the driver's license issued to the individual.

(c) NOTIFICATION.—Not later than 30 days after being notified by a State of the proposed issuance of a commercial driver's license to an individual, the Secretary or the operator of the information system under section 31309 of this title, as the case may be, shall notify the State whether the individual has a commercial driver's license issued by another State or has been disqualified from operating a commercial motor vehicle by another State or the Secretary.

§ 31312. Grants for testing and ensuring the fitness of operators of commercial motor vehicles

(a) BASIC GRANTS.—(1) The Secretary of Transportation may make a grant to a State under this subsection if the State—

(A) makes an agreement with the Secretary—

(i) to adopt and carry out in the fiscal year in which the grant is made a program for testing and ensuring the fitness of individuals who operate commercial motor

vehicles under the minimum standards prescribed by the Secretary under section 31305(a) of this title; and

(ii) to require that operators of commercial motor vehicles have passed written and driving tests that meet the minimum standards; and

(B) has in effect and enforces in that fiscal year a law providing that an individual with a blood alcohol concentration of at least .10 percent when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(2) A State may—

(A) administer driving tests referred to in paragraph (1) of this subsection and section 31311(a) of this title; or

(B) make an agreement, approved by the Secretary, for the tests to be administered by a person (including a department, agency, or instrumentality of a local government) that meets minimum standards the Secretary prescribes by regulation if—

(i) the agreement allows the Secretary and the State each to conduct random examinations, inspections, and audits of the testing without prior notification; and

(ii) the State annually conducts at least one onsite inspection of the testing.

(3) The Secretary shall decide on the amount of a grant in a fiscal year to be made under this subsection to a State eligible to receive the grant in the fiscal year. However—

(A) a grant to a State under this subsection shall be at least $100,000 in a fiscal year; and

(B) to the extent each State grant under this subsection is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(4) A State receiving a grant under this subsection may use the amounts provided under the grant only to test operators of commercial motor vehicles.

(5) There is available to the Secretary to carry out this subsection $_____ from amounts made available under section 31104 of this title for the fiscal year ending September 30, 19__.

(b) SUPPLEMENTAL GRANTS.—(1) The Secretary may make a grant under this subsection in a fiscal year to a State eligible to receive a grant under subsection (a) of this section in that fiscal year. A grant made under this subsection shall be used for testing operators of commercial motor vehicles.

(2) Amounts of grants under this subsection shall be distributed among the States eligible to receive grants under subsection (a) of this section in the fiscal year on the basis of the number of written and driving tests administered, and the number of drivers' licenses for the operation of commercial motor vehicles issued, in the prior fiscal year.

(3) There is available to the Secretary to carry out this subsection $_____ from amounts made available under section 31104 of this title for the fiscal year ending September 30, 19__.

(c) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for testing operators of commercial motor vehicles will be maintained at a level at least equal to the average level of that expenditure for its last 2 fiscal years before October 27, 1986.

(d) AVAILABILITY OF AMOUNTS.—(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under this section is a contractual obligation of the Government for payment of the amount of the grant.

(f) TESTING AND FITNESS PROGRAM STUDIES.—In this section, development of a program for testing and ensuring the fitness of individuals who operate commercial motor vehicles includes studies of—

(1) the number of vehicles that will need to be tested under the program in a calendar year;

(2) facilities at which testing of those individuals could be conducted; and

(3) additional resources (including personnel) that will be necessary to conduct the testing.

§ 31313. Grants for issuing commercial drivers' licenses and complying with State participation requirements

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant under this section to a State in a fiscal year if the State makes an agreement with the Secretary to participate in that fiscal year in the commercial driver's license program established by this chapter and the information system required by section 31309 of this title and to comply with the requirements of section 31311(a) of this title.

(b) AMOUNTS OF GRANTS.—The Secretary shall decide on the amount of a grant in a fiscal year to be made under this section to a State eligible to receive the grant in the fiscal year. However—

(1) a grant to a State under this section shall be at least $100,000 in a fiscal year; and

(2) to the extent each State grant under this section is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(c) LIMITATION ON USE.—A State receiving a grant under this section may use the amounts provided under the grant only for issuing commercial drivers' licenses and complying with the requirements of section 31311(a) of this title.

(d) AVAILABILITY OF AMOUNTS.—(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant to a State under this section is a contractual obligation of the United States Government for payment of the amount of the grant.

(f) AUTHORIZATION.—There is available to the Secretary to carry out this section $_____ from amounts made available under section 31104 of this title for the fiscal year ending September 30, 19__.

§ 31314. Withholding amounts for State noncompliance

(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

(b) SECOND FISCAL YEAR.—The Secretary shall withhold 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

(c) AVAILABILITY FOR APPORTIONMENT.—(1) Amounts withheld under this section from apportionment to a State before October 1, 1995, remain available for apportionment to the State as follows:

(A) If the amounts would have been apportioned under section 104(b)(5)(B) of title 23 but for this section, the amounts remain available until the end of the 2d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(B) If the amounts would have been apportioned under section 104(b)(1), (2), or (6) of title 23 but for this section, the amounts remain available until the end of the 3d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(2) Amounts withheld under this section from apportionment to a State after September 30, 1995, are not available for apportionment to the State.

(d) APPORTIONMENT AFTER COMPLIANCE.—(1) If, before the last day of the period for which amounts withheld under this section from apportionment are to remain available for apportionment to a State under subsection (c)(1) of this section, the State substantially complies with all of the requirements of section 31311(a) of this title for a period of 365 days, the Secretary, on the day following the last day of that period, shall apportion to the State the withheld amounts remaining available for apportionment to that State.

(2) Amounts apportioned under paragraph (1) of this subsection remain available for expenditure until the end of the 3d fiscal year following the fiscal year in which the amounts are apportioned. Amounts not obligated at the end of that period lapse or, for amounts apportioned under section 104(b)(5) of title 23, lapse and are available for projects under section 118(b) of title 23.

(e) LAPSE.—If, at the end of the period for which amounts withheld under this section from apportionment are available for apportionment to a State under subsection (c)(1) of this section, the State has not substantially complied with all of the requirements of section 31311(a) of this title for a 365-day period, the amounts lapse or, for amounts withheld from apportionment under

section 104(b)(5) of title 23, the amounts lapse and are available for projects under section 118(b) of title 23.

§ 31315. Waiver authority

After notice and an opportunity for comment, the Secretary of Transportation may waive any part of this chapter or a regulation prescribed under this chapter as it applies to a class of individuals or commercial motor vehicles if the Secretary decides the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. A waiver under this section shall be published in the Federal Register with reasons for the waiver.

Federal Register, publication.

§ 31316. Limitation on statutory construction

This chapter does not affect the authority of the Secretary of Transportation to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or a lesser gross vehicle weight rating the Secretary decides is appropriate under section 31301(4)(A) of this title.

§ 31317. Procedure for prescribing regulations

Regulations prescribed by the Secretary of Transportation to carry out this chapter (except section 31307) shall be prescribed under section 553 of title 5 without regard to sections 556 and 557 of title 5.

CHAPTER 315—MOTOR CARRIER SAFETY

Sec.
31501. Definitions.
31502. Requirements for qualifications, hours of service, safety, and equipment standards
31503. Research, investigation, and testing.
31504. Identification of motor vehicles

§ 31501. Definitions

In this chapter—

(1) "migrant worker" means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)) or section 203(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) "motor carrier", "motor common carrier", "motor private carrier", "motor vehicle", and "United States" have the same meanings given those terms in section 10102 of this title.

(3) "motor carrier of migrant workers"—

(A) means a person (except a motor common carrier) providing transportation referred to in section 10521(a) of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

§ 31502. Requirements for qualifications, hours of service, safety, and equipment standards

(a) APPLICATION.—This section applies to transportation—

(1) described in sections 10521 and 10522 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) MOTOR CARRIER AND PRIVATE MOTOR CARRIER REQUIREMENTS.—The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) MIGRANT WORKER MOTOR CARRIER REQUIREMENTS.—The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

(d) CONSIDERATIONS.—Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of the requirement.

§ 31503. Research, investigation, and testing

(a) GENERAL AUTHORITY.—The Secretary of Transportation may investigate and report on the need for regulation by the United States Government of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter II of chapter 105 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) USE OF SERVICES.—In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

§ 31504. Identification of motor vehicles

(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 31502(c) of this title, except a motor contract carrier; and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) LIMITATION.—A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

CHAPTER 317—PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT

Sec
31701. Definitions.
31702. Working group.
31703. Grants.
31704. Vehicle registration.
31705. Fuel use tax
31706. Enforcement.
31707. Limitations on statutory construction.
31708. Authorization of appropriations.

§ 31701. Definitions

In this chapter—

(1) "commercial motor vehicle", with respect to—

(A) the International Registration Plan, has the same meaning given the term "apportionable vehicle" under the Plan; and

(B) the International Fuel Tax Agreement, has the same meaning given the term "qualified motor vehicle" under the Agreement.

(2) "fuel use tax" means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) "International Fuel Tax Agreement" means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) "International Registration Plan" means the interstate agreement on apportioning vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) "Regional Fuel Tax Agreement" means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) "State" means the 48 contiguous States and the District of Columbia.

§ 31702. Working group

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the American Association of Motor Vehicle Administrators, the National Conference of State Legislatures, the Federation of Tax Administrators, and the Board of Directors for the International Fuel Tax Agreement, and a representative of the Regional Fuel Tax Agreement.

(b) PURPOSES.—The purposes of the working group are—

(1) to propose procedures to resolve disputes among States participating in the International Registration Plan and among States participating in the International Fuel Tax Agreement, including designating the Secretary or any other person to resolve the disputes; and

(2) to provide technical assistance to States participating or seeking to participate in the Plan or Agreement.

(c) CONSULTATION REQUIREMENT.—In carrying out subsection (b) of this section, the working group shall consult with members of the motor carrier industry.

(d) REPORT.—(1) Not later than December 18, 1993, the working group shall submit a report to—

(A) the Secretary;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Public Works and Transportation of the House of Representatives;

(D) the Committee on the Judiciary of the House of Representatives;

(E) the States participating in the International Registration Plan; and

(F) the States participating in the International Fuel Tax Agreement.

(2) The report shall contain a detailed statement of the working group's findings and conclusions and its joint recommendations about the matters referred to in subsection (b) of this section. After submitting the report, the working group periodically may review and modify the findings and conclusions and the joint recommendations as appropriate and submit a report containing the modifications to the Secretary and the committees specified in paragraph (1) of this subsection.

(e) RELATIONSHIP TO OTHER LAWS.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the working group.

§ 31703. Grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants to States and appropriate persons to facilitate participation in the International Registration Plan and the International Fuel Tax Agreement and to make administrative improvements in any other base State fuel use tax agreement in existence as of January 1, 1991. A grant may include amounts for technical assistance, personnel training, travel costs, and technology and equipment associated with the participation.

(b) CONTRACTUAL OBLIGATION.—Approval by the Secretary of a grant with amounts made available under this section is a contractual obligation of the United States Government for payment of the Government's share of the grant.

§ 31704. Vehicle registration

After September 30, 1996, a State that is not participating in the International Registration Plan may not establish, maintain, or enforce a commercial motor vehicle registration law, regulation, or agreement that limits the operation in that State of a commercial motor vehicle that is not registered under the laws of the State, if the vehicle is registered under the laws of a State participating in the Plan.

§ 31705. Fuel use tax

(a) REPORTING REQUIREMENTS.—After September 30, 1996, a State may establish, maintain, or enforce a law or regulation that has a fuel use tax reporting requirement (including any tax report-

ing form) only if the requirement conforms with the International Fuel Tax Agreement.

(b) PAYMENT.—After September 30, 1996, a State may establish, maintain, or enforce a law or regulation that provides for the payment of a fuel use tax only if the law or regulation conforms with the International Fuel Tax Agreement as it applies to collection of a fuel use tax by a single base State and proportional sharing of fuel use taxes charged among the States where a commercial motor vehicle is operated.

(c) LIMITATION.—If the International Fuel Tax Agreement is amended, a State not participating in the Agreement when the amendment is made is not subject to the conformity requirements of subsections (a) and (b) of this section in regard to the amendment until after a reasonable time, but not earlier than the expiration of—

(1) the 365-day period beginning on the first day that States participating in the Agreement are required to comply with the amendment; or

(2) the 365-day period beginning on the day the relevant office of the State receives written notice of the amendment from the Secretary of Transportation.

(d) NONAPPLICATION.—This section does not apply to a State that was participating in the Regional Fuel Tax Agreement on January 1, 1991, and that continues to participate in that Agreement after that date.

§ 31706. Enforcement

(a) CIVIL ACTIONS.—On request of the Secretary of Transportation, the Attorney General may bring a civil action in a court of competent jurisdiction to enforce compliance with sections 31704 and 31705 of this title.

(b) VENUE.—An action under this section may be brought only in the State in which an order is required to enforce compliance.

(c) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing—

(1) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(2) may require by the injunction that the State or any person comply with sections 31704 and 31705 of this title.

§ 31707. Limitations on statutory construction

Sections 31704 and 31705 of this title do not limit the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

§ 31708. Authorization of appropriations

(a) GENERAL.—From amounts made available under section 31104 of this title, the Secretary of Transportation shall provide the following amounts for each of the fiscal years ending September 30, 1993-1997:

(1) $1,000,000 for activities of the working group under section 31702 of this title.

(2) $5,000,000 for grants under section 31703 of this title.

(b) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

CHAPTER 321—GENERAL

Sec.
32101. Definitions.
32102 Authorization of appropriations.

§ 32101. Definitions

In this part (except section 32304 and chapter 329)—

(1) "bumper standard" means a minimum performance standard that substantially reduces—

(A) the damage to the front or rear end of a passenger motor vehicle from a low-speed collision (including a collision with a fixed barrier) or from towing the vehicle; or

(B) the cost of repairing the damage.

(2) "insurer" means a person in the business of issuing, or reinsuring any part of, a passenger motor vehicle insurance policy.

(3) "interstate commerce" means commerce between a place in a State and—

(A) a place in another State; or

(B) another place in the same State through another State.

(4) "make", when describing a passenger motor vehicle, means the trade name of the manufacturer of the vehicle.

(5) "manufacturer" means a person—

(A) manufacturing or assembling passenger motor vehicles or passenger motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "model", when describing a passenger motor vehicle, means a category of passenger motor vehicles based on the size, style, and type of a make of vehicle.

(7) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) "motor vehicle accident" means an accident resulting from the maintenance or operation of a passenger motor vehicle or passenger motor vehicle equipment.

(9) "multipurpose passenger vehicle" means a passenger motor vehicle constructed on a truck chassis or with special features for occasional off-road operation.

(10) "passenger motor vehicle" means a motor vehicle with motive power designed to carry not more than 12 individuals, but does not include—

(A) a motorcycle; or

(B) a truck not designed primarily to carry its operator or passengers.

(11) "passenger motor vehicle equipment" means—

(A) a system, part, or component of a passenger motor vehicle as originally made;

(B) a similar part or component made or sold for replacement or improvement of a system, part, or compo-

nent, or as an accessory or addition to a passenger motor vehicle; or

(C) a device made or sold for use in towing a passenger motor vehicle.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

§ 32102. Authorization of appropriations

The following amounts may be appropriated to the Secretary of Transportation for the National Highway Traffic Safety Administration to carry out this part:

(1) $6,731,430 for the fiscal year ending September 30, 1993.

(2) $6,987,224 for the fiscal year ending September 30, 1994.

(3) $7,252,739 for the fiscal year ending September 30, 1995.

CHAPTER 323—CONSUMER INFORMATION

Sec.
32301. Definitions.
32302. Passenger motor vehicle information.
32303 Insurance information
32304. Passenger motor vehicle country of origin labeling.
32305. Information and assistance from other departments, agencies, and instrumentalities.
32306. Personnel.
32307 Investigative powers.
32308 General prohibitions, civil penalty, and enforcement.
32309 Criminal penalty for labeling violations.

§ 32301. Definitions

In this chapter—

(1) "crashworthiness" means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident.

(2) "damage susceptibility" means the susceptibility of a passenger motor vehicle to damage in a motor vehicle accident.

§ 32302. Passenger motor vehicle information

(a) INFORMATION PROGRAM.—The Secretary of Transportation shall maintain a program for developing the following information on passenger motor vehicles:

(1) damage susceptibility.

(2) crashworthiness.

(3) the degree of difficulty of diagnosis and repair of damage to, or failure of, mechanical and electrical systems.

(4) vehicle operating costs dependent on the characteristics referred to in clauses (1)–(3) of this subsection, including insurance information obtained under section 32303 of this title.

(b) MOTOR VEHICLE INFORMATION.—To assist a consumer in buying a passenger motor vehicle, the Secretary shall provide to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form

that allows comparison of the characteristics referred to in subsection (a)(1)–(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger motor vehicle dealers to distribute the information to prospective buyers.

Regulations.

(c) INSURANCE COST INFORMATION.—The Secretary shall prescribe regulations that require passenger motor vehicle dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on damage susceptibility and crashworthiness.

§ 32303. Insurance information

(a) GENERAL REPORTS AND INFORMATION REQUIREMENTS.—(1) In carrying out this chapter, the Secretary of Transportation may require an insurer, or a designated agent of the insurer, to make reports and provide the Secretary with information. The reports and information may include accident claim information by make, model, and model year of passenger motor vehicle about the kind and extent of—

(A) physical damage and repair costs; and

(B) personal injury.

(2) In deciding which reports and information are to be provided under this subsection, the Secretary shall—

(A) consider the cost of preparing and providing the reports and information;

(B) consider the extent to which the reports and information will contribute to carrying out this chapter; and

(C) consult with State authorities and public and private agencies the Secretary considers appropriate.

(3) To the extent possible, the Secretary shall obtain reports and information under this subsection on a voluntary basis.

(b) REQUESTED INFORMATION ON CRASHWORTHINESS, DAMAGE SUSCEPTIBILITY, AND REPAIR AND PERSONAL INJURY COST.—When requested by the Secretary, an insurer shall give the Secretary information—

(1) about the extent to which the insurance premiums charged by the insurer are affected by damage susceptibility, crashworthiness, and the cost of repair and personal injury, for each make and model of passenger motor vehicle; and

(2) available to the insurer about the effect of damage susceptibility, crashworthiness, and the cost of repair and personal injury for each make and model of passenger motor vehicle on the risk incurred by the insurer in insuring that make and model.

(c) DISCLOSURE.—In distributing information received under this section, the Secretary may disclose identifying information about a person that may be an insured, a claimant, a passenger, an owner, a witness, or an individual involved in a motor vehicle accident, only with the consent of the person.

§ 32304. Passenger motor vehicle country of origin labeling

(a) DEFINITIONS.—In this section—

(1) "allied supplier" means a supplier of passenger motor vehicle equipment that is wholly owned by the manufacturer, or if a joint venture vehicle assembly arrangement, a supplier

that is wholly owned by one member of the joint venture arrangement.

(2)(A) "carline"—

(i) means a name given a group of passenger motor vehicles that has a degree of commonality in construction such as body and chassis;

(ii) does not consider a level of decor or opulence; and

(iii) except for light duty trucks, is not generally distinguished by characteristics such as roof line, number of doors, seats, or windows; and

(B) light duty trucks are different carlines than passenger motor vehicles.

(3) "country of origin", when referring to the origin of an engine or transmission, means the country from which the largest share of the dollar value added to an engine or transmission has originated—

(A) with the United States and Canada treated as separate countries; and

(B) the estimate of the percentage of the dollar value shall be based on the purchase price of direct materials, as received at individual engine or transmission plants, of engines of the same displacement and transmissions of the same transmission type.

(4) "dealer" means a person residing or located in the United States, including the District of Columbia or a territory or possession of the United States, and engaged in selling or distributing new passenger motor vehicles to the ultimate purchaser.

(5) "final assembly place" means the plant, factory, or other place at which a new passenger motor vehicle is produced or assembled by a manufacturer, and from which the vehicle is delivered to a dealer or importer with all component parts necessary for the mechanical operation of the vehicle included with the vehicle, whether or not the component parts are permanently installed in or on the vehicle.

(6) "foreign content" means passenger motor vehicle equipment that is not of United States/Canadian origin.

(7) "manufacturer" means a person—

(A) engaged in manufacturing or assembling new passenger motor vehicles;

(B) importing new passenger motor vehicles for resale; or

(C) acting for and under the control of such a manufacturer, assembler, or importer in connection with the distribution of new passenger motor vehicles.

(8) "new passenger motor vehicle" means a passenger motor vehicle for which a manufacturer, distributor, or dealer has never transferred the equitable or legal title to the vehicle to an ultimate purchaser.

(9) "of United States/Canadian origin", when referring to passenger motor vehicle equipment, means—

(A) for an outside supplier, passenger motor vehicle equipment whose purchase price contains at least 70 percent value added in the United States and Canada; and

(B) for an allied supplier, that part of the individual passenger motor vehicle equipment whose purchase price

the manufacturer determines remains after subtracting the total of the purchase prices of all material of foreign content purchased from outside suppliers, with the determination of the United States/Canadian origin or of the foreign content from outside suppliers being consistent with subclause (A) of this clause.

(10) "outside supplier" means a supplier of passenger motor vehicle equipment to a manufacturer's allied supplier, or a person other than an allied supplier, who ships directly to the manufacturer's final assembly place.

(11) "passenger motor vehicle" means a motor vehicle with motive power, manufactured primarily for use on public streets, roads, and highways, and designed to carry not more than 12 individuals—

(A) including a multipurpose vehicle or light duty truck when the vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight; but

(B) not including—

(i) a motorcycle;

(ii) a truck not designed primarily to carry its operator or passengers; or

(iii) a vehicle operated only on a rail line.

(12) "passenger motor vehicle equipment"—

(A) means a system, subassembly, or component received at the final vehicle assembly place for installation on, or attachment to, a passenger motor vehicle at the time of its first shipment by the manufacturer to a dealer for sale to an ultimate purchaser; but

(B) does not include minor parts (including nuts, bolts, clips, screws, pins, braces, and other attachment hardware) and other similar items the Secretary of Transportation may prescribe by regulation after consulting with manufacturers and labor.

(13) "percentage (by value)", when referring to passenger motor vehicle equipment of United States/Canadian origin, means the percentage remaining after subtracting the percentage (by value) of passenger motor vehicle equipment that is not of United States/Canadian origin that will be installed or included on those vehicles produced in a carline, from 100 percent—

(A) with value being expressed in terms of the purchase price; and

(B) for outside suppliers and allied suppliers, the value used is the purchase price of the equipment paid at the final assembly place.

(14) "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Canal Zone, American Samoa, and the Virgin Islands.

(15) "value added in the United States and Canada" means a percentage determined by subtracting the total purchase price of foreign content from the total purchase price, and dividing the remainder by the total purchase price, excluding costs incurred or profits made at the final assembly place and beyond (including advertising, assembly, labor, interest payments, and profits), with the following groupings being used:

(A) engines of same displacement produced at the same plant.

(B) transmissions of the same type produced at the same plant.

(b) MANUFACTURER REQUIREMENT.—(1) Each manufacturer of a new passenger motor vehicle manufactured after September 30, 1994, and distributed in commerce for sale in the United States, shall establish each year for each model year and cause to be attached in a prominent place on each of those vehicles, at least one label. The label shall contain the following information:

(A) the percentage (by value) of passenger motor vehicle equipment of United States/Canadian origin installed on vehicles in the carline to which that vehicle belongs, identified by the words "U.S./Canadian content".

(B) the final assembly place for that vehicle by city, State (where appropriate) and country.

(C) if at least 15 percent (by value) of equipment installed on passenger motor vehicles in a carline originated in any country other than the United States and Canada, the names of at least the 2 countries in which the greatest amount (by value) of that equipment originated and the percentage (by value) of the equipment originating in each country.

(D) the country of origin of the engine and the transmission for each vehicle.

(2) At the beginning of each model year, each manufacturer shall establish the percentages required for each carline to be indicated on the label under this subsection. Those percentages are applicable to that carline for the entire model year. A manufacturer may round those percentages to the nearest 5 percent.

(3) A manufacturer complying with the requirement of paragraph (1)(B) of this subsection satisfies the disclosure requirement of section 3(b) of the Automobile Information Disclosure Act (15 U.S.C. 1232(b)).

(c) DEALER REQUIREMENT.—Each dealer engaged in the sale or distribution of a new passenger motor vehicle manufactured after September 30, 1994, shall cause to be maintained on that vehicle the label required to be attached to that vehicle under subsection (b) of this section.

(d) FORM AND CONTENT OF LABEL.—The Secretary of Transportation shall prescribe by regulation the form and content of the label required under subsection (b) of this section and the manner and location in which the label is attached. The Secretary shall permit a manufacturer to comply with this section by allowing the manufacturer to disclose the information required under subsection (b)(1) on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232), on the label required by section 32908 of this title, or on a separate label that is readily visible. Regulations.

(e) REGULATIONS.—In consultation with the Secretaries of Commerce and the Treasury, the Secretary of Transportation shall prescribe regulations necessary to carry out this section, including regulations establishing a procedure to verify the label information required under subsection (b)(1) of this section. Those regulations shall provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign content and United States/Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. The Secretary of Transportation shall prescribe the regulations promptly to provide adequate lead

time for each manufacturer to comply with this section. The regulations shall include provisions applicable to outside suppliers and allied suppliers to require those suppliers to certify whether passenger motor vehicle equipment provided by those suppliers is of United States origin, of United States/Canadian origin, or of foreign content and to provide other information the Secretary of Transportation decides is necessary to allow each manufacturer to comply reasonably with this section and to rely on that certification and information.

(f) PREEMPTION.—(1) When a label content requirement prescribed under this section is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to the content of vehicles covered by a requirement under this section.

(2) A State or a political subdivision of a State may prescribe requirements related to the content of passenger motor vehicles obtained for its own use.

§ 32305. Information and assistance from other departments, agencies, and instrumentalities

(a) AUTHORITY TO REQUEST.—The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) DETAILING PERSONNEL.—The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

§ 32306. Personnel

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) appoint and fix the pay of employees without regard to the provisions of title 5 governing appointment in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) make contracts with persons for research and preparation of reports.

(b) STATUS OF ADVISORY COMMITTEE MEMBERS.—A member of an advisory committee appointed under section 325 of this title to carry out this chapter is a special United States Government employee under chapter 11 of title 18.

§ 32307. Investigative powers

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) inspect and copy records of any person at reasonable times;

(2) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(3) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(b) WITNESS FEES AND MILEAGE.—A witness summoned under subsection (a) of this section is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(c) CIVIL ACTIONS TO ENFORCE.—A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(d) CONFIDENTIALITY OF INFORMATION.—Information obtained by the Secretary under this section related to a confidential matter referred to in section 1905 of title 18 may be disclosed only to another officer or employee of the United States Government for use in carrying out this chapter. This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 32308. General prohibitions, civil penalty, and enforcement

(a) PROHIBITIONS.—A person may not—

(1) fail to provide the Secretary of Transportation with information requested by the Secretary in carrying out this chapter; or

(2) fail to comply with applicable regulations prescribed by the Secretary in carrying out this chapter.

(b) CIVIL PENALTY.—(1) A person that violates subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to provide information or comply with a regulation in violation of subsection (a) is a separate violation. The maximum penalty under this subsection for a related series of violations is $400,000.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section.

(3) In determining the amount of a penalty or compromise, the appropriateness of the penalty or compromise to the size of the business of the person charged and the gravity of the violation shall be considered.

(4) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Attorney General may bring a civil action in a United States district court to enjoin a violation of subsection (a) of this section.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) VENUE AND SERVICE.—A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which

the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

§ 32309. Criminal penalty for labeling violations

(a) DEFINITIONS.—The definitions in section 32304 of this title apply to this section.

(b) PENALTIES.—A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under section 32304 of this title to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under section 32304, is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

CHAPTER 325—BUMPER STANDARDS

Sec.
32501 Purpose.
32502. Bumper standards.
32503. Judicial review of bumper standards.
32504 Certificates of compliance.
32505. Information and compliance requirements.
32506. Prohibited acts.
32507. Penalties and enforcement.
32508. Civil actions by owners of passenger motor vehicles.
32509. Information and assistance from other departments, agencies, and instrumentalities.
32510. Annual report.
32511. Relationship to other motor vehicle standards.

§ 32501. Purpose

The purpose of this chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the maintenance and enforcement of bumper standards.

§ 32502. Bumper standards

Regulations.

(a) GENERAL REQUIREMENTS AND NONAPPLICATION.—The Secretary of Transportation shall prescribe by regulation bumper standards for passenger motor vehicles and may prescribe by regulation bumper standards for passenger motor vehicle equipment manufactured in, or imported into, the United States. A standard does not apply to a passenger motor vehicle or passenger motor vehicle equipment—

(1) intended only for export;

(2) labeled for export on the vehicle or equipment and the outside of any container of the vehicle or equipment; and

(3) exported.

(b) LIMITATIONS.—A standard under this section—

(1) may not conflict with a motor vehicle safety standard prescribed under chapter 301 of this title;

(2) may not specify a dollar amount for the cost of repairing damage to a passenger motor vehicle; and

(3) to the greatest practicable extent, may not preclude the attachment of a detachable hitch.

(c) EXEMPTIONS.—For good cause, the Secretary may exempt from any part of a standard—

(1) a multipurpose passenger vehicle; or

(2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle.

(d) COST REDUCTION AND CONSIDERATIONS.—When prescribing a standard under this section, the Secretary shall design the standard to obtain the maximum feasible reduction of costs to the public, considering—

(1) the costs and benefits of carrying out the standard;

(2) the effect of the standard on insurance costs and legal fees and costs;

(3) savings in consumer time and inconvenience; and

(4) health and safety, including emission standards.

(e) PROCEDURES.—Section 553 of title 5 applies to a standard prescribed under this section. However, the Secretary shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments. A transcript of each oral presentation shall be kept. Under conditions prescribed by the Secretary, the Secretary may conduct a hearing to resolve an issue of fact material to a standard.

(f) EFFECTIVE DATE.—The Secretary shall prescribe an effective date for a standard under this section. That date may not be earlier than the date the standard is prescribed nor later than 18 months after the date the standard is prescribed. However, the Secretary may prescribe a later date when the Secretary submits to Congress and publishes the reasons for the later date. A standard only applies to a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the effective date.

(g) RESEARCH.—The Secretary shall conduct research necessary to carry out this chapter.

§ 32503. Judicial review of bumper standards

(a) FILING AND VENUE.—A person that may be adversely affected by a standard prescribed under section 32502 of this title may apply for review of the standard by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the standard is prescribed.

(b) NOTIFYING SECRETARY.—The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the standard was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may modify findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a modified or new finding, a recommendation to modify or set aside a standard, and the additional evidence with the court.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by

the Supreme Court under section 1254 of title 28. A remedy under this section is in addition to any other remedies provided by law.

§ 32504. Certificates of compliance

Under regulations prescribed by the Secretary of Transportation, a manufacturer or distributor of a passenger motor vehicle or passenger motor vehicle equipment subject to a standard prescribed under section 32502 of this title shall give the distributor or dealer at the time of delivery a certificate that the vehicle or equipment complies with the standard.

§ 32505. Information and compliance requirements

(a) GENERAL AUTHORITY.—(1) To enable the Secretary of Transportation to decide whether a manufacturer of passenger motor vehicles or passenger motor vehicle equipment is complying with this chapter and standards prescribed under this chapter, the Secretary may require the manufacturer to—

(A) keep records;

(B) make reports;

(C) provide items and information, including vehicles and equipment for testing at a negotiated price not more than the manufacturer's cost; and

(D) allow an officer or employee designated by the Secretary to inspect vehicles and relevant records of the manufacturer.

(2) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which passenger motor vehicles or passenger motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(b) POWERS OF SECRETARY AND CIVIL ACTIONS TO ENFORCE.—(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(c) CONFIDENTIALITY OF INFORMATION.—(1) Information obtained by the Secretary under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(A) to another officer or employee of the United States Government for use in carrying out this chapter; or

(B) in a proceeding under this chapter.

(2) This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Subject to paragraph (1) of this subsection, the Secretary, on request, shall make available to the public at cost information the Secretary submits or receives in carrying out this chapter. Public information.

§ 32506. Prohibited acts

(a) GENERAL.—Except as provided in this section, a person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the date an applicable standard under section 32502 of this title takes effect, unless it conforms to the standard;

(2) fail to comply with an applicable regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter or a regulation prescribed under this chapter; or

(4) fail to provide the certificate required by section 32504 of this title, or provide a certificate that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) NONAPPLICATION.—Subsection (a)(1) of this section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a passenger motor vehicle or passenger motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale (but this clause does not prohibit a standard from requiring that a vehicle or equipment be manufactured to comply with the standard over a specified period of operation or use); or

(2) a person—

(A) establishing that the person had no reason to know, by exercising reasonable care, that the vehicle or equipment does not comply with the standard; or

(B) holding, without knowing about a noncompliance and before that first purchase, a certificate issued under section 32504 of this title stating that the vehicle or equipment complies with the standard.

(c) IMPORTING NONCOMPLYING VEHICLES AND EQUIPMENT.—(1) The Secretaries of Transportation and the Treasury may prescribe joint regulations authorizing a passenger motor vehicle or passenger motor vehicle equipment not complying with a standard prescribed under section 32502 of this title to be imported into the United States subject to conditions (including providing a bond) the Secretaries consider appropriate to ensure that the vehicle or equipment will—

(A) comply, after importation, with the standards prescribed under section 32502 of this title;

(B) be exported; or

(C) be abandoned to the United States Government.

(2) The Secretaries may prescribe joint regulations that allow a passenger motor vehicle or passenger motor vehicle equipment to be imported into the United States after the first purchase in good faith other than for resale.

(d) LIABILITY UNDER OTHER LAW.—Compliance with a standard under this chapter does not exempt a person from liability provided by law.

§ 32507. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates section 32506(a) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of section 32506(a)(1) or (4) of this title—

(A) that does not comply with a standard prescribed under section 32502 of this title; or

(B) for which a certificate is not provided, or for which a false or misleading certificate is provided, under section 32504 of this title.

(2) The maximum civil penalty under this subsection for a related series of violations is $800,000.

(3) The Secretary of Transportation imposes a civil penalty under this subsection. The Attorney General or the Secretary, with the concurrence of the Attorney General, shall bring a civil action in a United States district court to collect the penalty.

(b) CRIMINAL PENALTY.—A person knowingly and willfully violating section 32506(a)(1) of this title after receiving a notice of noncompliance from the Secretary shall be fined under title 18, imprisoned for not more than one year, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of the corporation who, with knowledge of the Secretary's notice, knowingly and willfully authorizes, orders, or performs an act that is any part of the violation.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Secretary or the Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle or passenger motor vehicle equipment that is found, before the first purchase in good faith other than for resale, not to comply with a standard prescribed under section 32502 of this title.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) except for a knowing and willful violation, give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) VENUE.—A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

§ 32508. Civil actions by owners of passenger motor vehicles

When an owner of a passenger motor vehicle sustains damages as a result of a motor vehicle accident because the vehicle did not comply with a standard prescribed under section 32502 of this title, the owner may bring a civil action against the manufacturer to recover the damages. The action may be brought in the United States District Court for the District of Columbia or in the United States district court for the judicial district in which the owner resides. The action must be brought not later than 3 years after the date of the accident. The court shall award costs and a reasonable attorney's fee to the owner when a judgment is entered for the owner.

§ 32509. Information and assistance from other departments, agencies, and instrumentalities

(a) GENERAL AUTHORITY.—The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) DETAILING PERSONNEL.—The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

§ 32510. Annual report

Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress and the President a report on the progress in carrying out section 32501 of this title. The report shall include—

(1) a statement of the cost savings resulting from carrying out this chapter; and

(2) recommendations for legislative or other action the Secretary decides may be appropriate.

§ 32511. Relationship to other motor vehicle standards

(a) PREEMPTION.—Except as provided in this section, a State or a political subdivision of a State may prescribe or enforce a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment only if the standard is identical to a standard prescribed under section 32502 of this title.

(b) ENFORCEMENT.—This chapter and chapter 301 of this title do not affect the authority of a State to enforce a bumper standard about an aspect of performance of a passenger motor vehicle or passenger motor vehicle equipment not covered by a standard pre-

scribed under section 32502 of this title if the State bumper standard—

(1) does not conflict with a standard prescribed under chapter 301 of this title; and

(2) was in effect or prescribed by the State on October 20, 1972.

(c) ADDITIONAL AND HIGHER STANDARDS OF PERFORMANCE.—The United States Government, a State, or a political subdivision of a State may prescribe a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment obtained for its own use that imposes additional or higher standards of performance than a standard prescribed under section 32502 of this title.

CHAPTER 327—ODOMETERS

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§ 32701. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) buyers of motor vehicles rely heavily on the odometer reading as an index of the condition and value of a vehicle;

(2) buyers are entitled to rely on the odometer reading as an accurate indication of the mileage of the vehicle;

(3) an accurate indication of the mileage assists a buyer in deciding on the safety and reliability of the vehicle; and

(4) motor vehicles move in, or affect, interstate and foreign commerce.

(b) PURPOSES.—The purposes of this chapter are—

(1) to prohibit tampering with motor vehicle odometers; and

(2) to provide safeguards to protect purchasers in the sale of motor vehicles with altered or reset odometers.

§ 32702. Definitions

In this chapter—

(1) "auction company" means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) "dealer" means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) "distributor" means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) "leased motor vehicle" means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) "odometer" means an instrument for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) "repair" and "replace" mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) "title" means the certificate of title or other document issued by the State indicating ownership.

(8) "transfer" means to change ownership by sale, gift, or other means.

§ 32703. Preventing tampering

A person may not—

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

(2) disconnect, reset, alter, or have disconnected, reset, or altered, an odometer of a motor vehicle intending to change the mileage registered by the odometer;

(3) with intent to defraud, operate a motor vehicle on a public street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or

(4) conspire to violate this section or section 32704 or 32705 of this title.

§ 32704. Service, repair, and replacement

(a) ADJUSTING MILEAGE.—A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same—

(1) the person shall adjust the odometer to read zero; and

(2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

(b) REMOVING OR ALTERING NOTICE.—A person may not, with intent to defraud, remove or alter a notice attached to a motor vehicle as required by this section.

§ 32705. Disclosure requirements on transfer of motor vehicles

(a) WRITTEN DISCLOSURE REQUIREMENTS.—(1) Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a motor vehicle shall give the transferee a written disclosure— Regulations.

(A) of the cumulative mileage registered by the odometer; or

(B) that the mileage is unknown if the transferor knows that the mileage registered by the odometer is incorrect.

(2) A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

(3) A person acquiring a motor vehicle for resale may accept a disclosure under this section only if it is complete.

(4) The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under this section.

(b) MILEAGE STATEMENT REQUIREMENT FOR LICENSING.—(1) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the transferee, in submitting an application to a State for the title on which the license will be issued, includes with the application the transferor's title and, if that title contains the space referred to in paragraph (3)(A)(iii) of this subsection, a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a) of this section. This paragraph does not apply to a transfer of ownership of a motor vehicle that has not been licensed before the transfer.

Regulations.

(2)(A) Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section. Regulations prescribed under this paragraph—

(i) shall prescribe the form of the power of attorney;

(ii) shall provide that the form be printed by means of a secure printing process (or other secure process);

(iii) shall provide that the State issue the form to the transferee;

(iv) shall provide that the person exercising the power of attorney retain a copy and submit the original to the State with a copy of the title showing the restatement of the mileage;

(v) may require that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with section 32701(b) of this title, after considering the costs to the State;

(vi) shall ensure that the mileage at the time of transfer be disclosed on the power of attorney document;

(vii) shall ensure that the mileage be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (3)(A)(iii) of this subsection;

(viii) may not require that a motor vehicle be titled in the State in which the power of attorney was issued;

(ix) shall consider the need to facilitate normal commercial transactions in the sale or exchange of motor vehicles; and

(x) shall provide other conditions the Secretary considers appropriate.

(B) Section 32709(a) and (b) applies to a person granting or granted a power of attorney under this paragraph.

(3)(A) A motor vehicle the ownership of which is transferred may be licensed for use in a State only if the title issued by the State to the transferee—

(i) is produced by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to be made under subsection (a) of this section; and

(iii) contains a space for the transferee to disclose the mileage at the time of a future transfer and to sign and date the disclosure.

(B) Subparagraph (A) of this paragraph does not require a State to verify, or preclude a State from verifying, the mileage information contained in the title.

(c) LEASED MOTOR VEHICLES.—(1) For a leased motor vehicle, the regulations prescribed under subsection (a) of this section shall require written disclosure about mileage to be made by the lessee to the lessor when the lessor transfers ownership of that vehicle.

(2) Under those regulations, the lessor shall provide written notice to the lessee of—

(A) the mileage disclosure requirements of subsection (a) of this section; and

(B) the penalties for failure to comply with those requirements.

(3) The lessor shall retain the disclosures made by a lessee under paragraph (1) of this subsection for at least 4 years following the date the lessor transfers the leased motor vehicle.

(4) If the lessor transfers ownership of a leased motor vehicle without obtaining possession of the vehicle, the lessor, in making the disclosure required by subsection (a) of this section, may indicate on the title the mileage disclosed by the lessee under paragraph (1) of this subsection unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(d) STATE ALTERNATE VEHICLE MILEAGE DISCLOSURE REQUIREMENTS.—The requirements of subsections (b) and (c)(1) of this section on the disclosure of motor vehicle mileage when motor vehicles are transferred or leased apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary decides that the requirements are not consistent with the purpose of the disclosure required by subsection (b) or (c), as the case may be.

(e) AUCTION SALES.—If a motor vehicle is sold at an auction, the auction company conducting the auction shall maintain the following records for at least 4 years after the date of the sale: Records.

(1) the name of the most recent owner of the motor vehicle (except the auction company) and the name of the buyer of the motor vehicle.

(2) the vehicle identification number required under chapter 301 or 331 of this title.

(3) the odometer reading on the date the auction company took possession of the motor vehicle.

(f) APPLICATION AND REVISION OF STATE LAW.—(1) Except as provided in paragraph (2) of this subsection, subsections (b)–(e) of this section apply to the transfer of a motor vehicle after April 28, 1989.

(2) If a State requests, the Secretary shall assist the State in revising its laws to comply with subsection (b) of this section. If a State requires time beyond April 28, 1989, to revise its laws to achieve compliance, the Secretary, on request of the State, may grant additional time that the Secretary considers reasonable by publishing a notice in the Federal Register. The notice shall include the reasons for granting the additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve compliance. Federal Register, publication.

§ 32706. Inspections, investigations, and records

(a) AUTHORITY TO INSPECT AND INVESTIGATE.—Subject to section 32707 of this title, the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall cooperate with State and local officials to the greatest extent possible in conducting an inspection or investigation. The Secretary may give the Attorney General information about a violation of this chapter or a regulation prescribed or order issued under this chapter.

(b) ENTRY, INSPECTION, AND IMPOUNDMENT.—(1) In carrying out subsection (a) of this section, an officer or employee designated by the Secretary, on display of proper credentials and written notice to the owner, operator, or agent in charge, may—

(A) enter and inspect commercial premises in which a motor vehicle or motor vehicle equipment is manufactured, held for shipment or sale, maintained, or repaired;

(B) enter and inspect noncommercial premises in which the Secretary reasonably believes there is a motor vehicle or motor vehicle equipment that is an object of a violation of this chapter;

(C) inspect that motor vehicle or motor vehicle equipment; and

(D) impound for not more than 72 hours for inspection a motor vehicle or motor vehicle equipment that the Secretary reasonably believes is an object of a violation of this chapter.

(2) An inspection or impoundment under this subsection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness. The written notice may consist of a warrant issued under section 32707 of this title.

(c) REASONABLE COMPENSATION.—When the Secretary impounds for inspection a motor vehicle (except a vehicle subject to subchapter II of chapter 105 of this title) or motor vehicle equipment under subsection (b)(1)(D) of this section, the Secretary shall pay reasonable compensation to the owner of the vehicle or equipment if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle or equipment.

(d) RECORDS AND INFORMATION REQUIREMENTS.—(1) To enable the Secretary to decide whether a dealer or distributor is complying with this chapter and regulations prescribed and orders issued under this chapter, the Secretary may require the dealer or distributor—

(A) to keep records;

(B) to provide information from those records if the Secretary states the purpose for requiring the information and identifies the information to the fullest extent practicable; and

(C) to allow an officer or employee designated by the Secretary to inspect relevant records of the dealer or distributor.

(2) This subsection and subsection (e)(1)(B) of this section do not authorize the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

(e) ADMINISTRATIVE AUTHORITY AND CIVIL ACTIONS TO ENFORCE.—(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary as a contempt of court.

(f) PROHIBITIONS.—A person may not fail to keep records, refuse access to or copying of records, fail to make reports or provide information, fail to allow entry or inspection, or fail to permit impoundment, as required under this section.

§ 32707. Administrative warrants

(a) DEFINITION.—In this section, "probable cause" means a valid public interest in the effective enforcement of this chapter or a regulation prescribed under this chapter sufficient to justify the inspection or impoundment in the circumstances stated in an application for a warrant under this section.

(b) WARRANT REQUIREMENT AND ISSUANCE.—(1) Except as provided in paragraph (4) of this subsection, an inspection or impoundment under section 32706 of this title may be carried out only after a warrant is obtained.

(2) A judge of a court of the United States or a State court of record or a United States magistrate may issue a warrant for an inspection or impoundment under section 32706 of this title within the territorial jurisdiction of the court or magistrate. The warrant must be based on an affidavit that—

(A) establishes probable cause to issue the warrant; and

(B) is sworn to before the judge or magistrate by an officer or employee who knows the facts alleged in the affidavit.

(3) The judge or magistrate shall issue the warrant when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant. The warrant must—

(A) identify the premises, property, or motor vehicle to be inspected and the items or type of property to be impounded;

(B) state the purpose of the inspection, the basis for issuing the warrant, and the name of the affiant;

(C) direct an individual authorized under section 32706 of this title to inspect the premises, property, or vehicle for the purpose stated in the warrant and, when appropriate, to impound the property specified in the warrant;

(D) direct that the warrant be served during the hours specified in the warrant; and

(E) name the judge or magistrate with whom proof of service is to be filed.

(4) A warrant under this section is not required when—

(A) the owner, operator, or agent in charge of the premises consents;

(B) it is reasonable to believe that the mobility of the motor vehicle to be inspected makes it impractical to obtain a warrant;

(C) an application for a warrant cannot be made because of an emergency;

(D) records are to be inspected and copied under section 32706(e)(1)(A) of this title; or

(E) a warrant is not constitutionally required.

(c) SERVICE AND IMPOUNDMENT OF PROPERTY.—(1) A warrant issued under this section must be served and proof of service filed not later than 10 days after its issuance date. The judge or magistrate may allow additional time in the warrant if the Secretary of Transportation demonstrates a need for additional time. Proof of service must be filed promptly with a written inventory of the property impounded under the warrant. The inventory shall be made in the presence of the individual serving the warrant and the individual from whose possession or premises the property was impounded, or if that individual is not present, a credible individual except the individual making the inventory. The individual serving the warrant shall verify the inventory. On request, the judge or magistrate shall send a copy of the inventory to the individual from whose possession or premises the property was impounded and to the applicant for the warrant.

(2) When property is impounded under a warrant, the individual serving the warrant shall—

(A) give the person from whose possession or premises the property was impounded a copy of the warrant and a receipt for the property; or

(B) leave the copy and receipt at the place from which the property was impounded.

(3) The judge or magistrate shall file the warrant, proof of service, and all documents filed about the warrant with the clerk of the United States district court for the judicial district in which the inspection is made.

§ 32708. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 32709. Penalties and enforcement

(a) CIVIL PENALTY.—(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $2,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum penalty under this subsection for a related series of violations is $100,000.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the amount of the penalty. Before compromising the amount of the penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur.

(3) In determining the amount of a civil penalty under this subsection, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) CRIMINAL PENALTY.—A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter without regard to penalties imposed on the corporation.

(c) CIVIL ACTIONS BY ATTORNEY GENERAL.—The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(d) CIVIL ACTIONS BY STATES.—(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate United States district court or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

§ 32710. Civil actions by private persons

(a) VIOLATION AND AMOUNT OF DAMAGES.—A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or $1,500, whichever is greater.

(b) CIVIL ACTIONS.—A person may bring a civil action to enforce a claim under this section in an appropriate United States district court or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the person when a judgment is entered for that person.

§ 32711. Relationship to State law

Except to the extent that State law is inconsistent with this chapter, this chapter does not—

(1) affect a State law on disconnecting, altering, or tampering with an odometer with intent to defraud; or

(2) exempt a person from complying with that law.

CHAPTER 329—AUTOMOBILE FUEL ECONOMY

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§ 32901. Definitions

(a) GENERAL.—In this chapter—

(1) "alternative fuel" means—

(A) methanol;

(B) denatured ethanol;

(C) other alcohols;

(D) except as provided in subsection (b) of this section, a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

(E) natural gas;

(F) liquefied petroleum gas;

(G) hydrogen;

(H) coal derived liquid fuels;

(I) fuels (except alcohol) derived from biological materials;

(J) electricity (including electricity from solar energy); and

(K) any other fuel the Secretary of Transportation prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

(2) "alternative fueled automobile" means an automobile that is a—

(A) dedicated automobile; or

(B) dual fueled automobile.

(3) except as provided in section 32908 of this title, "automobile" means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at—

(A) not more than 6,000 pounds gross vehicle weight; or

(B) more than 6,000, but less than 10,000, pounds gross vehicle weight, if the Secretary decides by regulation that—

(i) an average fuel economy standard under this chapter for the vehicle is feasible; and

(ii) an average fuel economy standard under this chapter for the vehicle will result in significant energy conservation or the vehicle is substantially used for the same purposes as a vehicle rated at not more than 6,000 pounds gross vehicle weight.

(4) "automobile manufactured by a manufacturer" includes every automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person that is exported not later than 30 days after the end of the model year in which the automobile is manufactured.

(5) "average fuel economy" means average fuel economy determined under section 32904 of this title.

(6) "average fuel economy standard" means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) "dedicated automobile" means an automobile that operates only on alternative fuel.

(8) "dual fueled automobile" means an automobile that—

(A) is capable of operating on alternative fuel and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alternative fuel as when operating on gasoline or diesel fuel;

(C) for model years 1993–1995 for an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel and if the Administrator of the Environmental Protection Agency decides to extend the application of this subclause, for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alternative fuel and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

(D) for a passenger automobile, meets or exceeds the minimum driving range prescribed under subsection (c) of this section.

(9) "fuel" means—

(A) gasoline;

(B) diesel oil; or

(C) other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

(10) "fuel economy" means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(11) "import" means to import into the customs territory of the United States.

(12) "manufacture" (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

(13) "manufacturer" means—

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

(14) "model" means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

(15) "model year", when referring to a specific calendar year, means—

(A) the annual production period of a manufacturer, as decided by the Administrator, that includes January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(16) "passenger automobile" means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

(b) AUTHORITY TO CHANGE PERCENTAGE.—The Secretary may prescribe regulations changing the percentage referred to in subsection (a)(1)(D) of this section to not less than 70 percent because of requirements relating to cold start, safety, or vehicle functions.

Regulations.

(c) MINIMUM DRIVING RANGES FOR DUAL FUELED PASSENGER AUTOMOBILES.—(1) The Secretary shall prescribe by regulation the minimum driving range that dual fueled automobiles that are passenger automobiles must meet when operating on alternative fuel to be dual fueled automobiles under sections 32905 and 32906 of this title. A determination whether a dual fueled automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) The minimum driving range prescribed for dual fueled automobiles (except electric automobiles) under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles.

(C) If the Secretary prescribes a minimum driving range of 200 miles for dual fueled automobiles (except electric automobiles) under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual fueled automobiles (except electric automobiles).

(3) In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose set forth in section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100–494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, drivability, performance, and other factors the Secretary considers relevant.

§ 32902. Average fuel economy standards

Regulations.

(a) NON-PASSENGER AUTOMOBILES.—At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles (except passenger automobiles) manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year. The Secretary may prescribe separate standards for different classes of automobiles.

(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year 1984 shall be 27.5 miles a gallon.

(c) AMENDING PASSENGER AUTOMOBILE STANDARDS.—(1) Subject to paragraph (2) of this subsection, the Secretary of Transportation may prescribe regulations amending the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to amend the standard. However, any interested person may make an oral presentation and a transcript shall be taken of that presentation.

(2) If an amendment increases the standard above 27.5 miles a gallon or decreases the standard below 26.0 miles a gallon, the Secretary of Transportation shall submit the amendment to Congress. The procedures of section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) apply to an amendment, except that the 15 calendar days referred to in section 551(c) and (d) of the Act (42 U.S.C. 6421(c), (d)) are deemed to be 60 calendar days, and the 5 calendar days referred to in section 551(f)(4)(A) of the Act (42 U.S.C. 6421(f)(4)(A)) are deemed to be 20 calendar days. If either House of Congress disapproves the amendment under those procedures, the amendment does not take effect.

(d) EXEMPTIONS.—(1) Except as provided in paragraph (3) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles

in the model year. The Secretary may exempt a manufacturer only if the Secretary—

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the passenger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the alternative standard applies.

(2) An alternative average fuel economy standard the Secretary of Transportation prescribes under paragraph (1)(B) of this subsection may apply to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(3) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer—

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

(4) The Secretary of Transportation may prescribe the contents of an application for an exemption.

(e) EMERGENCY VEHICLES.—(1) In this subsection, "emergency vehicle" means an automobile manufactured primarily for use—

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

(C) for other emergency uses prescribed by regulation by the Secretary of Transportation.

(2) A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

(f) CONSIDERATIONS ON DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

(g) REQUIREMENTS FOR OTHER AMENDMENTS.—(1) The Secretary of Transportation may prescribe regulations amending an average fuel economy standard prescribed under subsection (a) or (d) of this section if the amended standard meets the requirements of subsection (a) or (d), as appropriate.

(2) When the Secretary of Transportation prescribes an amendment under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment (and submit the amendment to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the amendment applies.

(h) LIMITATIONS.—In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation—

(1) may not consider the fuel economy of dedicated automobiles; and

(2) shall consider dual fueled automobiles to be operated only on gasoline or diesel fuel.

(i) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

(j) SECRETARY OF ENERGY COMMENTS.—(1) Before issuing a notice proposing to prescribe or amend an average fuel economy standard under subsection (a), (c), or (g) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

(2) Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

§ 32903. Credits for exceeding average fuel economy standards

(a) EARNING AND PERIOD FOR APPLYING CREDITS.—When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under section 32902(b)–(d) of this title (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to—

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under clause (1) of this subsection, any of the 3 consecutive model years immediately after the model year for which the credits are earned.

(b) PERIOD OF AVAILABILITY AND PLAN FOR FUTURE CREDITS.—(1) Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary shall approve the plan. Those credits are available for the model year involved if—

(i) the Secretary approves the plan; and

(ii) the manufacturer earns those credits as provided by the plan.

Notice. (B) If the average fuel economy of a manufacturer is less than the applicable standard under section 32902(b)–(d) of this title after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

(c) DETERMINING NUMBER OF CREDITS.—The number of credits a manufacturer earns under this section equals the product of—

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under section 32902(b)–(d) of this title; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

(d) APPLYING CREDITS FOR PASSENGER AUTOMOBILES.—The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another

Notice. model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

(e) APPLYING CREDITS FOR NON-PASSENGER AUTOMOBILES.—Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

(f) REFUND OF COLLECTED PENALTY.—When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

§ 32904. Calculation of average fuel economy

(a) METHOD OF CALCULATION.—(1) The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to—

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)–(d) of this title by dividing—

(i) the number of passenger automobiles manufactured by the manufacturer in a model year; by

(ii) the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, "electric vehicle" means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

(B) If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and determine and propose necessary revisions based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1) In this subsection—

(A) a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year; and

(B) the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.

(2)(A) Except as provided in paragraphs (4) and (5) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (3) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (3) of this subsection).

(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.

(3)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the deadlines for taking the actions, that will ensure that the model or models referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless—

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

(B) If the plan is approved, the Administrator shall include under paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if—

(i) the model or models involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is attributable to value added in the United States or Canada;

(iii) the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

(iv) the model or models are manufactured domestically before the end of the 4th model year covered by the plan.

(4)(A) A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (2)(A) of this subsection if the manufacturer began automobile production or assembly in the United States—

(i) after December 22, 1975, and before May 1, 1980; or

(ii) after April 30, 1980, if the manufacturer has engaged in the production or assembly in the United States for at least one model year ending before January 1, 1986.

(B) The Secretary of Transportation shall grant the exemption unless the Secretary finds that the exemption would result in reduced employment in the United States related to motor vehicle manufacturing during the period of the exemption. An exemption under this paragraph is effective for 5 model years or, if requested by the manufacturer, a longer period provided by the Secretary in the order granting the exemption. The exemption applies to passenger automobiles manufactured by that manufacturer during the period of the exemption.

Notice.

(C) Before granting an exemption, the Secretary of Transportation shall provide notice of, and reasonable opportunity for, written or oral comment about the petition. The period for comment shall end not later than 60 days after the petition is filed, except that the Secretary may extend the period for not more than another 30 days. The Secretary shall decide whether to grant or deny the exemption, and publish notice of the decision in the Federal Register, not later than 90 days after the petition is filed, except that the Secretary may extend the time for decision to a later date (not later than 150 days after the petition is filed) if the Secretary publishes notice of, and reasons for, the extension in the Federal Register. If the Secretary does not make a decision within the time provided in this subparagraph, the petition is deemed to have been granted. Not later than 30 days after the end of the decision period, the Secretary shall submit a written statement of the reasons for not making a decision to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Federal Register, publication.

(5)(A) A person adversely affected by a decision of the Secretary of Transportation granting or denying an exemption may file, not

later than 30 days after publication of the notice of the decision, a petition for review in the United States Court of Appeals for the District of Columbia Circuit. That court has exclusive jurisdiction to review the decision and to affirm, remand, or set aside the decision under section 706(2)(A)–(D) of title 5.

(B) A judgment of the court under this subparagraph may be reviewed by the Supreme Court under section 1254 of title 28. Application for review by the Supreme Court must be made not later than 30 days after entry of the court's judgment.

(C) A decision of the Secretary of Transportation on a petition for an exemption under this paragraph may be reviewed administratively or judicially only as provided in this paragraph.

(6) Notwithstanding section 32903 of this title, during a model year when an exemption under this paragraph is effective for a manufacturer—

(A) credit may not be earned under section 32903(a) of this title by the manufacturer; and

(B) credit may not be made available under section 32903(b)(2) of this title for the manufacturer.

(c) TESTING AND CALCULATION PROCEDURES.—The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a calculation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, fuel economy tests shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

(d) EFFECTIVE DATE OF PROCEDURE OR AMENDMENT.—The Administrator shall prescribe a procedure under this section, or an amendment (except a technical or clerical amendment) in a procedure, at least 12 months before the beginning of the model year to which the procedure or amendment applies.

(e) REPORTS AND CONSULTATION.—The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

§ 32905. Manufacturing incentives for alternative fuel automobiles

(a) DEDICATED AUTOMOBILES.—Except as provided in subsection (c) of this section or section 32904(a)(2) of this title, for any model of dedicated automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alternative fuel used to operate the automobile. A gallon of a liquid alternative fuel used to operate a dedicated automobile is deemed to contain .15 gallon of fuel.

(b) DUAL FUELED AUTOMOBILES.—Except as provided in subsection (d) of this section or section 32904(a)(2) of this title, for any model of dual fueled automobile manufactured by a manufacturer in model years 1993–2004, the Administrator of the Environ-

mental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (a) of this section when operating the model on alternative fuel.

(c) GASEOUS FUEL DEDICATED AUTOMOBILES.—For any model of gaseous fuel dedicated automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the gaseous fuel used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. The Secretary of Transportation shall determine the appropriate gallon equivalent of other gaseous fuels. A gallon equivalent of gaseous fuel is deemed to have a fuel content of .15 gallon of fuel.

(d) GASEOUS FUEL DUAL FUELED AUTOMOBILES.—For any model of gaseous fuel dual fueled automobile manufactured by a manufacturer in model years 1993–2004, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on gaseous fuel.

(e) FUEL ECONOMY CALCULATIONS.—The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)–(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)–(d).

(f) EXTENDING APPLICATION OF SUBSECTIONS (b) AND (d).—Not later than December 31, 2001, the Secretary of Transportation shall—

Regulations.

(1) extend by regulation the application of subsections (b) and (d) of this section for not more than 4 consecutive model years immediately after model year 2004 and explain the basis on which the extension is granted; or

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(2) publish a notice explaining the reasons for not extending the application of subsections (b) and (d) of this section.

(g) STUDY AND REPORT.—Not later than September 30, 2000, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator, shall complete a study of the success of the policy of subsections (b) and (d) of this title, and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study, including preliminary conclusions on whether the application of subsections (b) and (d) should be extended for up to 4 more model years. The study and conclusions shall consider—

(1) the availability to the public of alternative fueled automobiles and alternative fuel;

(2) energy conservation and security;

(3) environmental considerations; and

(4) other relevant factors.

§ 32906. Maximum fuel economy increase for alternative fuel automobiles

(a) MAXIMUM INCREASES.—(1)(A) For each of the model years 1993–2004 for each category of automobile (except an electric automobile), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is 1.2 miles a gallon.

(B) If the application of section 32905(b) and (d) of this title is extended under section 32905(f) of this title, for each category of automobile (except an electric automobile) the maximum increase in average fuel economy for a manufacturer for each of the model years 2005–2008 attributable to dual fueled automobiles is .9 mile a gallon.

(2) In applying paragraph (1) of this subsection, the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(e) of this title the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 32904(a)(1) of this title by including as the denominator for each model of dual fueled automobile the fuel economy when the automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual fueled automobiles for any model year described—

(A) in paragraph (1)(A) of this subsection is more than 1.2 miles a gallon, the limitation in paragraph (1)(A) applies; and

(B) in paragraph (1)(B) of this subsection is more than .9 mile a gallon, the limitation in paragraph (1)(B) applies.

(b) OFFSETS.—Notwithstanding this section and sections 32901(c) and 32905 of this title, if the Secretary of Transportation reduces the average fuel economy standard for passenger automobiles for any model year below 27.5 miles a gallon, an increase in average fuel economy for passenger automobiles of more than .7 mile a gallon to which a manufacturer of dual fueled automobiles would otherwise be entitled is reduced by an amount equal to the amount of the reduction in the standard. However, the increase may not be reduced to less than .7 mile a gallon.

§ 32907. Reports and tests of manufacturers

(a) MANUFACTURER REPORTS.—(1) A manufacturer shall report to the Secretary of Transportation on—

(A) whether the manufacturer will comply with an applicable average fuel economy standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

(C) other information the Secretary requires by regulation.

(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days—

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

(3) When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure

compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement about whether those actions are sufficient to ensure compliance.

(4) This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

(b) RECORDS, REPORTS, TESTS, INFORMATION, AND INSPECTION.—(1) Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall keep records, make reports, conduct tests, and provide items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

(2) The district courts of the United States may—

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

§ 32908. Fuel economy information

(a) DEFINITIONS.—In this section—

(1) "automobile" includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901(a)(3)(B) of this title.

(2) "dealer" means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

Regulations.

(b) LABELING REQUIREMENTS AND CONTENTS.—(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the information required by clauses (A)–(D) of this paragraph.

(2) The Administrator may allow a manufacturer to comply with this subsection by—

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

(3) For dedicated automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alternative fuel, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for dual fueled automobiles shall—

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual fueled automobile;

(C) clearly identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy. Publication.

(c) FUEL ECONOMY INFORMATION BOOKLET.—(1) The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet—

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

(C) may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual fueled automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on—

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel.

(B) For dual fueled automobiles, the booklet published under paragraph (1) also shall contain—

(i) information on the miles a gallon achieved by the automobiles when operated on alternative fuel; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alternative fuel and gasoline or diesel fuel.

(3) The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers. Publication. Regulations.

(d) DISCLOSURE.—A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

(e) VIOLATIONS.—A violation of subsection (b) of this section is—

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

(f) CONSULTATION.—The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

§ 32909. Judicial review of regulations

(a) FILING AND VENUE.—(1) A person that may be adversely affected by a regulation prescribed in carrying out section 32901–32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(b) TIME FOR FILING AND JUDICIAL PROCEDURES.—The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing an amendment of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional submissions if the court is satisfied the additional submissions are material and there were reasonable grounds for not presenting the submissions in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may amend or set aside the regulation, or prescribe a new regulation because of the additional submissions presented. The Secretary or Administrator shall file an amended or new regulation and the additional submissions with the court. The court shall review a changed or new regulation.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

§ 32910. Administrative

(a) GENERAL POWERS.—(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and subpena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) CIVIL ACTIONS TO ENFORCE.—A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for the judicial district in which the proceeding by the Secretary or Administrator was conducted. The court may punish a failure to obey an order of the court to comply with the subpena or order of the Secretary or Administrator as a contempt of court.

(c) DISCLOSURE OF INFORMATION.—The Secretary and the Administrator each shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) of title 5 only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) REGULATIONS.—The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

§ 32911. Compliance

(a) GENERAL.—A person commits a violation if the person fails to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), and 32917(b) and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has committed a violation. Any interested person may participate in a proceeding under this subsection.

(b) AUTOMOBILE MANUFACTURERS.—A manufacturer of automobiles commits a violation if the manufacturer fails to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a violation has been committed. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates a violation has not been committed. The results of the measurements and

Federal Register, publication.

calculations and the information shall be published in the Federal Register. Any interested person may participate in a proceeding under this subsection.

§ 32912. Civil penalties

(a) GENERAL PENALTY.—A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(b) PENALTY FOR MANUFACTURER VIOLATIONS OF FUEL ECONOMY STANDARDS.—Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of $5 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(1) calculated under section 32904(a)(1)(A) or (B) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(2) multiplied by the number of those automobiles; and

(3) reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

Regulations.

(c) HIGHER PENALTY AMOUNTS.—(1)(A) The Secretary of Transportation shall prescribe by regulation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty—

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than $10 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not—

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

(iii) cause a significant increase in automobile imports.

(D) A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

Federal Register, publication. Regulations.

(2) The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and argu-

ments and to direct questions about disputed issues of material fact to—

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

(C) experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

(3) The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

Records. Public information.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

Federal Register, publication.

(5) An officer or employee of a department, agency, or instrumentality of the Government violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information—

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

(d) WRITTEN NOTICE REQUIREMENT.—The Secretary shall impose a penalty under this section by written notice.

§ 32913. Compromising and remitting civil penalties

(a) GENERAL AUTHORITY AND LIMITATIONS.—The Secretary of Transportation may compromise or remit the amount of a civil penalty imposed under section 32912(a) or (b) of this title. However, the amount of a penalty imposed under section 32912(b) may be compromised or remitted only to the extent—

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

(3) the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

(b) PENALTY REDUCTION BY COMMISSION.—(1) A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that the penalty should be reduced to prevent a substantial lessening of competition in the segment of the motor vehicle industry subject to the standard that was violated. The Commission shall make the certification when it finds that reduction is necessary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

Certification.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer

has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a civil penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

§ 32914. Collecting civil penalties

(a) CIVIL ACTIONS.—If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in an appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

(b) PRIORITY OF CLAIMS.—A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 32912(b) of this title when the creditor's claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

§ 32915. Appealing civil penalties

Any interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission promptly shall file with the court a certified copy of the record of the proceeding in which the decision was made.

§ 32916. Reports to Congress

Federal Register, publication.

(a) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

(b) JOINT EXAMINATIONS AFTER GRANTING EXEMPTIONS.—(1) After an exemption has been granted under section 32904(b)(4) of this title, the Secretaries of Transportation and Labor shall conduct annually a joint examination of the extent to which section 32904(b)(4)—

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

(E) has permitted manufacturers that have assembled passenger automobiles deemed to be manufactured domestically under section 32904(b)(1)(A) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

(2) The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(4) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

§ 32917. Standards for executive agency automobiles

(a) DEFINITION.—In this section, "executive agency" has the same meaning given that term in section 105 of title 5.

(b) FLEET AVERAGE FUEL ECONOMY.—(1) The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of— President. Regulations.

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

(2) Fleet average fuel economy is—

(A) the total number of passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

§ 32918. Preemption

(a) GENERAL.—When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

(b) REQUIREMENTS MUST BE IDENTICAL.—When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement.

(c) STATE AND POLITICAL SUBDIVISION AUTOMOBILES.—A State or a political subdivision of a State may prescribe requirements for fuel economy for automobiles obtained for its own use.

CHAPTER 331—THEFT PREVENTION

Sec.
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§ 33101. Definitions

In this chapter—

(1) "chop shop" means a building, lot, facility, or other structure or premise at which at least one person engages in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing a passenger motor vehicle or passenger motor vehicle part that has been unlawfully obtained—

(A) to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity of the vehicle or part, including the vehicle identification number or a derivative of that number; and

(B) to distribute, sell, or dispose of the vehicle or part in interstate or foreign commerce.

(2) "covered major part" means a major part selected under sections 33102(c)(1) and 33104 of this title for coverage by the vehicle theft prevention standard prescribed under section 33102 or 33103.

(3) "existing line" means a line introduced into commerce before January 1, 1990.

(4) "first purchaser" means the person making the first purchase other than for resale.

(5) "line" means a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.

(6) "major part" means—

(A) the engine;
(B) the transmission;
(C) each door to the passenger compartment;
(D) the hood;
(E) the grille;
(F) each bumper;
(G) each front fender;
(H) the deck lid, tailgate, or hatchback;
(I) each rear quarter panel;

(J) the trunk floor pan;

(K) the frame or, for a unitized body, the supporting structure serving as the frame; and

(L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)–(K) of this clause.

(7) "major replacement part" means a major part that is—

(A) an original major part in or on a completed motor vehicle and customized or modified after manufacture of the vehicle but before the time of its delivery to the first purchaser; or

(B) not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to the vehicle has not been transferred to a first purchaser.

(8) "model year" has the same meaning given that term in section 32901(a) of this title.

(9) "new line" means a line introduced into commerce after December 31, 1989.

(10) "passenger motor vehicle" includes a multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.

(11) "vehicle theft prevention standard" means a minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.

§ 33102. Theft prevention standard for high theft lines

(a) GENERAL.—(1) The Secretary of Transportation by regulation shall prescribe a vehicle theft prevention standard that conforms to the requirements of this chapter. The standard shall apply to— Regulations.

(A) covered major parts that manufacturers install in passenger motor vehicles in lines designated under section 33104 of this title as high theft lines; and

(B) major replacement parts for the major parts described in clause (A) of this paragraph.

(2) The standard may apply only to—

(A) major parts that manufacturers install in passenger motor vehicles having a model year designation later than the calendar year in which the standard takes effect; and

(B) major replacement parts manufactured after the standard takes effect.

(b) STANDARD REQUIREMENTS.—The standard shall be practicable and provide relevant objective criteria.

(c) LIMITATIONS ON MAJOR PART AND REPLACEMENT PART STANDARDS.—(1) For a major part installed by the manufacturer of the motor vehicle, the standard may not require a part to have more than one identification.

(2) For a major replacement part, the standard may not require—

(A) identification of a part not designed as a replacement for a major part required to be identified under the standard; or

(B) the inscribing or affixing of identification except a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

(d) RECORDS AND REPORTS.—This chapter does not authorize the Secretary to require a person to keep records or make reports, except as provided in sections 33104(c), 33106(c), 33108(a), and 33112 of this title.

§ 33103. Theft prevention standard for other lines

(a) GENERAL.—Not later than October 25, 1994, the Secretary of Transportation shall prescribe a vehicle theft standard that conforms to the requirements of this chapter for covered major parts that manufacturers install in passenger motor vehicles (except light duty trucks) in not more than 50 percent of the lines not designated under section 33104 of this title as high theft lines.

(b) EXTENSION OF APPLICATION.—(1) Not later than 3 years after the standard is prescribed under subsection (a) of this section and based on the finding of the Attorney General under subsection (c) of this section to apply the standard, the Secretary shall apply that standard to covered major parts and major replacement parts for covered parts that manufacturers install in the lines of passenger motor vehicles (except light duty trucks)—

(A) not designated under section 33104 of this title as high theft lines; and

(B) not covered by the standard prescribed under subsection (a) of this section.

(2) The Secretary shall include as part of the regulatory proceeding under this subsection the finding of, and the record developed by, the Attorney General under subsection (c) of this section.

(c) INITIAL REVIEW OF EFFECTIVENESS.—Before the Secretary begins a regulatory proceeding under subsection (b) of this section, the Attorney General shall make a finding that the Secretary shall apply the standard prescribed under subsection (a) of this section unless the Attorney General finds, based on information collected and analyzed under section 33112 of this title and other information the Attorney General develops after providing notice and an opportunity for a public hearing, that applying the standard prescribed in subsection (a) to the remaining lines of passenger motor vehicles (except light duty trucks) not covered by that standard would not substantially inhibit chop shop operations and motor vehicle thefts. The Attorney General also shall consider and include in the record additional costs, effectiveness, competition, and available alternative factors. The Attorney General shall submit to the Secretary the finding and record on which the finding is based.

Records.

Notice.

(d) LONG RANGE REVIEW OF EFFECTIVENESS.—(1) Not later than December 31, 1999, the Attorney General shall make separate findings, after notice and an opportunity for a public hearing, on the following:

(A) whether the application of the standard under subsection (a) or (b) of this subsection, or both, have been effective in substantially inhibiting the operation of chop shops and motor vehicle theft.

(B) whether the anti-theft devices for which the Secretary has granted exemptions under section 33106 of this title are an effective substitute for parts marking in substantially inhibiting motor vehicle theft.

(2)(A) In making the finding under paragraph (1)(A) of this subsection, the Attorney General shall—

(i) consider the additional cost, competition, and available alternatives;

(ii) base that finding on information collected and analyzed under section 33112 of this title;

(iii) consider the effectiveness, the extent of use, and the extent to which civil and criminal penalties under section 33115(b) of this title and section 2322 of title 18 on chop shops have been effective in substantially inhibiting operation of chop shops and motor vehicle theft;

(iv) base that finding on the 3-year and 5-year reports issued by the Secretary under section 33113 of this title; and

(v) base that finding on other information the Attorney General develops and includes in the public record.

(B) The Attorney General shall submit a finding under paragraph (1)(A) of this subsection promptly to the Secretary. If the Attorney General finds that the application of the standard under subsection (a) or (b) of this section, or both, has not been effective, the Secretary shall issue, not later than 180 days after receiving that finding, an order terminating the standard the Attorney General found was ineffective. The termination is effective for the model year beginning after the order is issued.

(3) In making a finding under paragraph (1)(B) of this subsection, the Secretary shall consider the additional cost, competition, and available alternatives. If the Attorney General finds that the anti-theft devices are an effective substitute, the Secretary shall continue to grant exemptions under section 33106 of this title for the model years after model year 2000 at one of the following levels that the Attorney General decides: at the level authorized before October 25, 1992, or at the level provided in section 33106(b)(2)(C) of this title for model year 2000.

(e) EFFECTIVE DATE OF STANDARD.—A standard prescribed under this section takes effect at least 6 months after the date the standard is prescribed, except that the Secretary may prescribe an earlier effective date if the Secretary—

(1) decides with good cause that the earlier date is in the public interest; and

(2) publishes the reasons for the decision.

(f) NOTIFICATION OF CONGRESS.—The Secretary and the Attorney General shall inform the appropriate legislative committees of Congress with jurisdiction over this part and section 2322 of title 18 of actions taken or planned under this section.

§ 33104. Designation of high theft vehicle lines and parts

(a) DESIGNATION, NONAPPLICATION, SELECTION, AND PROCEDURES.—(1) For purposes of the standard under section 33102 of this title, the following are high theft lines:

(A) a passenger motor vehicle line determined under subsection (b) of this section to have had a new passenger motor vehicle theft rate in the 2-year period covering calendar years 1990 and 1991 greater than the median theft rate for all new passenger motor vehicle thefts in that 2-year period.

(B) a passenger motor vehicle line initially introduced into commerce in the United States after December 31, 1989, that is selected under paragraph (3) of this subsection as likely

to have a theft rate greater than the median theft rate referred to in clause (A) of this paragraph.

(C) subject to paragraph (2) of this subsection, a passenger motor vehicle line having (for existing lines) or likely to have (for new lines) a theft rate below the median theft rate referred to in clause (A) of this paragraph, if the major parts in the vehicles are selected under paragraph (3) of this subsection as interchangeable with the majority of the major parts that are subject to the standard and are contained in the motor vehicles of a line described in clause (A) or (B) of this paragraph.

(2) The standard may not apply to any major part of a line described in paragraph (1)(C) of this subsection if all the passenger motor vehicles of lines that are, or are likely to be, below the median theft rate, and that contain parts interchangeable with the major parts of the line involved, account (for existing lines), or the Secretary of Transportation determines they are likely to account (for new lines), for more than 90 percent of the total annual production of all lines of that manufacturer containing those interchangeable parts.

(3) The lines, and the major parts of the passenger motor vehicles in those lines, that are to be subject to the standard may be selected by agreement between the manufacturer and the Secretary. If the manufacturer and the Secretary disagree on the selection, the Secretary shall select the lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this chapter.

(4) To the maximum extent practicable, the Secretary shall prescribe reasonable procedures designed to ensure that a selection under paragraph (3) of this subsection is made at least 6 months before the first applicable model year beginning after the selection.

(5) A manufacturer may not be required to comply with the standard under a selection under paragraph (3) of this subsection for a model year beginning earlier than 6 months after the date of the selection.

(6) A passenger motor vehicle line subject on October 25, 1992, to parts marking requirements under sections 602 and 603 of the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, 86 Stat. 947), as added by section 101(a) of the Motor Vehicle Theft Law Enforcement Act of 1984 (Public Law 98–547, 98 Stat. 2756), continues to be subject to the requirements of this section and section 33102 of this title unless the line is exempted under section 33106 of this title.

(b) DETERMINING THEFT RATE FOR PASSENGER VEHICLES.—(1) In this subsection, "new passenger motor vehicle thefts", when used in reference to a calendar year, means thefts in the United States in that year of passenger motor vehicles with the same model-year designation as that calendar year.

(2) Under subsection (a) of this section, the theft rate for passenger motor vehicles of a line shall be determined by a fraction—

(A) the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2-year period referred to in subsection (a)(1)(A) of this section; and

(B) the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Administrator of the Environmental Protection Agency under chapter 329 of this title) that are

of model years 1990 and 1991 and are distributed for sale in commerce in the United States.

(3) Under subsection (a) of this section, the median theft rate for all new passenger motor vehicle thefts during that 2-year period is the theft rate midway between the highest and the lowest theft rates determined under paragraph (2) of this subsection. If there is an even number of theft rates determined under paragraph (2), the median theft rate is the arithmetic average of the 2 adjoining theft rates midway between the highest and the lowest of those theft rates.

(4) In consultation with the Director of the Federal Bureau of Investigation, the Secretary periodically shall obtain from the most reliable source accurate and timely theft and recovery information and publish the information for review and comment. To the greatest extent possible, the Secretary shall use theft information reported by United States Government, State, and local police. After publication and opportunity for comment, the Secretary shall use the theft information to determine the median theft rate under this subsection. The Secretary and the Director shall take any necessary actions to improve the accuracy, reliability, and timeliness of the information, including ensuring that vehicles represented as stolen are really stolen. Publication.

(5) The Secretary periodically (but not more often than once every 2 years) may redetermine and prescribe by regulation the median theft rate under this subsection.

(c) PROVIDING INFORMATION.—The Secretary by regulation shall require each manufacturer to provide information necessary to select under subsection (a)(3) of this section the high theft lines and the major parts to be subject to the standard. Regulations.

(d) APPLICATION.—Except as provided in section 33106 of this title, the Secretary may not make the standard inapplicable to a line that has been subject to the standard.

§ 33105. Cost limitations

(a) MAXIMUM MANUFACTURER COSTS.—A standard under section 33102 or 33103 of this title may not impose—

(1) on a manufacturer of motor vehicles, compliance costs of more than $15 a motor vehicle; or

(2) on a manufacturer of major replacement parts, compliance costs for each part of more than the reasonable amount (but less than $15) that the Secretary of Transportation specifies in the standard.

(b) COSTS INVOLVED IN ENGINES AND TRANSMISSIONS.—For a manufacturer engaged in identifying engines or transmissions on October 25, 1984, in a way that substantially complies with the standard—

(1) the costs of identifying engines and transmissions may not be considered in calculating the manufacturer's costs under subsection (a) of this section; and

(2) the manufacturer may not be required under the standard to conform to any identification system for engines and transmissions that imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on October 25, 1984.

(c) COST ADJUSTMENTS.—(1) In this subsection—

(A) "base period" means calendar year 1984.

(B) "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Secretary of Labor.

Certification. Federal Register, publication.

(2) At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Secretary of Transportation and publish in the Federal Register the percentage difference between the price index for the 12 months before the beginning of the calendar year and the price index for the base period. For model years beginning in that calendar year, the amounts specified in subsection (a) of this section shall be adjusted by the percentage difference.

§ 33106. Exemption for passenger motor vehicles equipped with anti-theft devices

(a) DEFINITIONS.—In this section—

(1) "anti-theft device" means a device to reduce or deter theft that—

(A) is in addition to the theft-deterrent devices required by motor vehicle safety standard numbered 114 in section 571.114 of title 49, Code of Federal Regulations;

(B) the manufacturer believes will be effective in reducing or deterring theft of motor vehicles; and

(C) does not use a signaling device reserved by State law for use on police, emergency, or official vehicles, or on schoolbuses.

(2) "standard equipment" means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser customarily has the option to have installed.

(b) GRANTING EXEMPTIONS AND LIMITATIONS.—(1) A manufacturer may petition the Secretary of Transportation for an exemption from a requirement of a standard prescribed under section 33102 or 33103 of this title for a line of passenger motor vehicles equipped as standard equipment with an anti-theft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the standard.

(2) The Secretary may grant an exemption—

(A) for model year 1987, for not more than 2 lines of a manufacturer;

(B) for each of the model years 1988–1996, for not more than 2 additional lines of a manufacturer;

(C) for each of the model years 1997–2000, for not more than one additional line of a manufacturer; and

(D) for each of the model years after model year 2000, for the number of lines that the Attorney General decides under section 33103(d)(3) of this title.

(3) An additional exemption granted under subparagraph (2)(B) or (C) of this paragraph does not affect an exemption previously granted.

(c) PETITIONING PROCEDURE.—A petition must be filed not later than 8 months before the start of production for the first model year covered by the petition. The petition must include—

(1) a detailed description of the device;

(2) the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring theft of motor vehicles; and

(3) additional information the Secretary reasonably may require to make the decision described in subsection (b)(1) of this section.

(d) DECISIONS AND APPROVALS.—The Secretary shall make a decision about a petition filed under this section not later than 120 days after the date the petition is filed. A decision approving a petition must be based on substantial evidence. The Secretary may approve a petition in whole or in part. If the Secretary does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

(e) RESCISSIONS.—The Secretary may rescind an exemption if the Secretary decides that the anti-theft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the standard. A rescission may be effective only—

(1) for a model year after the model year in which the rescission occurs; and

(2) at least 6 months after the manufacturer receives written notice of the rescission from the Secretary.

§ 33107. Voluntary vehicle identification standards

(a) ELECTION TO INSCRIBE OR AFFIX IDENTIFYING MARKS.—The Secretary of Transportation by regulation may prescribe a vehicle theft prevention standard under which a person may elect to inscribe or affix an identifying number or symbol on major parts of a motor vehicle manufactured or owned by the person for purposes of section 511 of title 18 and related provisions. The standard may include provisions for registration of the identification with the Secretary or a person designated by the Secretary.

(b) STANDARD REQUIREMENTS.—The standard under this section shall be practicable and provide relevant objective criteria.

(c) VOLUNTARY COMPLIANCE.—Compliance with the standard under this section is voluntary. Failure to comply does not subject a person to a penalty or enforcement under this chapter.

(d) COMPLIANCE WITH OTHER STANDARDS.—Compliance with the standard under this section does not relieve a manufacturer from a requirement of a standard prescribed under section 33102 or 33103 of this title.

§ 33108. Monitoring compliance of manufacturers

(a) RECORDS, REPORTS, INFORMATION, AND INSPECTION.—To enable the Secretary of Transportation to decide whether a manufacturer of motor vehicles containing a part subject to a standard prescribed under section 33102 or 33103 of this title, or a manufacturer of major replacement parts subject to the standard, is complying with this chapter and the standard, the Secretary may require the manufacturer to—

(1) keep records;

(2) make reports;

(3) provide items and information; and

(4) allow an officer or employee designated by the Secretary to inspect the vehicles and parts and relevant records of the manufacturer.

(b) ENTRY AND INSPECTION.—To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent

in charge, may inspect a facility in which motor vehicles containing major parts subject to the standard, or major replacement parts subject to the standard, are manufactured, held for introduction into interstate commerce, or held for sale after introduction into interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(c) CERTIFICATION OF COMPLIANCE.—(1) A manufacturer of a motor vehicle subject to the standard, and a manufacturer of a major replacement part subject to the standard, shall provide at the time of delivery of the vehicle or part a certification that the vehicle or part conforms to the applicable motor vehicle theft prevention standard. The certification shall accompany the vehicle or part until its delivery to the first purchaser. The Secretary by regulation may prescribe the type and form of the certification.

(2) This subsection does not apply to a motor vehicle or major replacement part that is—

(A) intended only for export;

(B) labeled only for export on the vehicle or replacement part and the outside of any container until exported; and

(C) exported.

(d) NOTIFICATION OF ERROR.—A manufacturer shall notify the Secretary if the manufacturer discovers that—

(1) there is an error in the identification (required by the standard) applied to a major part installed by the manufacturer in a motor vehicle during its assembly, or to a major replacement part manufactured by the manufacturer; and

(2) the motor vehicle or major replacement part has entered interstate commerce.

§ 33109. National Stolen Passenger Motor Vehicle Information System

(a) GENERAL REQUIREMENTS.—(1) Not later than July 25, 1993, the Attorney General shall establish, and thereafter maintain, a National Stolen Passenger Motor Vehicle Information System containing the vehicle identification numbers of stolen passenger motor vehicles and stolen passenger motor vehicle parts. The System shall be located in the National Crime Information Center and shall include at least the following information on each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

(A) the vehicle identification number.

(B) the make and model year.

(C) the date on which the vehicle was reported as stolen.

(D) the location of the law enforcement authority that received the report of the theft of the vehicle.

(E) the identification numbers of the vehicle parts (or derivatives of those numbers), at the time of the theft, if those numbers are different from the vehicle identification number of the vehicle.

(2) In establishing the System, the Attorney General shall consult with—

(A) State and local law enforcement authorities; and

(B) the National Crime Information Center Policy Advisory Board to ensure the security of the information in the System and that the System will not compromise the security of stolen passenger motor vehicle and passenger motor vehicle parts information in the System.

(3) If the Attorney General decides that the Center is not able to perform the functions of the System, the Attorney General shall make an agreement for the operation of the System separate from the Center.

(4) The Attorney General shall prescribe by regulation the effective date of the System. Regulations.

(b) REQUESTS FOR INFORMATION.—(1) The Attorney General shall prescribe by regulation procedures under which an individual or entity intending to transfer a passenger motor vehicle or passenger motor vehicle part may obtain information on whether the vehicle or part is listed in the System as stolen. Regulations.

(2) On request of an insurance carrier, a person lawfully selling or distributing passenger motor vehicle parts in interstate commerce, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General (or the entity the Attorney General designates) immediately shall inform the insurance carrier, person, individual, or enterprise whether the System has a record of a vehicle or vehicle part with a particular vehicle identification number (or derivative of that number) being reported as stolen. The Attorney General may require appropriate verification to ensure that the request is legitimate and will not compromise the security of the System.

(c) ADVISORY COMMITTEE.—(1) Not later than December 24, 1992, the Attorney General shall establish in the Department of Justice an advisory committee. The Attorney General shall develop the System with the advice and recommendations of the committee.

(2)(A) The committee is composed of the following 10 members:

(i) the Attorney General.

(ii) the Secretary of Transportation.

(iii) one individual who is qualified to represent the interests of the law enforcement community at the State level.

(iv) one individual who is qualified to represent the interests of the law enforcement community at the local level.

(v) one individual who is qualified to represent the interests of the automotive recycling industry.

(vi) one individual who is qualified to represent the interests of the automotive repair industry.

(vii) one individual who is qualified to represent the interests of the automotive rebuilders industry.

(viii) one individual who is qualified to represent the interests of the automotive parts suppliers industry.

(ix) one individual who is qualified to represent the interests of the insurance industry.

(x) one individual who is qualified to represent the interests of consumers.

(B) The Attorney General shall appoint the individuals described in subparagraph (A)(iii)–(x) of this paragraph and shall serve as chairman of the committee.

(3) The committee shall make recommendations on developing and carrying out—

(A) the National Stolen Passenger Motor Vehicle Information System; and

(B) the verification system under section 33110 of this title.

(4) Not later than April 25, 1993, the committee shall submit to the Attorney General, the Secretary, and Congress a report including the recommendations of the committee. Reports.

§ 33110. Verifications involving junk and salvage motor vehicles

(a) DEFINITION.—In this section, "vehicle identification number" means a unique identification number (or derivative of that number) assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations.

(b) GENERAL REQUIREMENTS.—(1) If an insurance carrier selling comprehensive motor vehicle insurance coverage obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle, the carrier shall—

(A) under procedures the Attorney General prescribes by regulation under section 33109 of this title in consultation with the Secretary of Transportation, verify whether the vehicle is reported as stolen; and

(B) provide the purchaser or transferee of the vehicle from the insurance carrier verification identifying the vehicle identification number and verifying that the vehicle has not been reported as stolen or, if reported as stolen, that the carrier has recovered the vehicle and has proper legal title to the vehicle.

(2)(A) This subsection does not prohibit an insurance carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as decided by the Attorney General under section 33109 of this title) using reasonable efforts, the carrier—

(i) has not been informed under the procedures prescribed in section 33109 of this title that the vehicle has not been reported as stolen; or

(ii) has not otherwise established whether the vehicle has been reported as stolen.

(B) When a carrier transfers a motor vehicle for which the carrier has not established whether the vehicle has been reported as stolen, the carrier shall provide written certification to the transferee that the carrier has not established whether the vehicle has been reported as stolen.

(c) REGULATIONS.—In consultation with the Secretary, the Attorney General shall prescribe regulations necessary to ensure that verification performed and provided by an insurance carrier under subsection (b)(1)(B) of this section is uniform, effective, and resistant to fraudulent use.

§ 33111. Verifications involving motor vehicle major parts

(a) GENERAL REQUIREMENTS.—A person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles may not knowingly sell in commerce or transfer or install a major part marked with an identification number without—

(1) first establishing, through a procedure the Attorney General by regulation prescribes in consultation with the Secretary of Transportation under section 33109 of this title, that the major part has not been reported as stolen; and

(2) providing the purchaser or transferee with a verification—

(A) identifying the vehicle identification number (or derivative of that number) of that major part; and

(B) verifying that the major part has not been reported as stolen.

(b) NONAPPLICATION.—(1) Subsection (a) of this section does not apply to a person that—

(A) is the manufacturer of the major part;

(B) has purchased the major part directly from the manufacturer; or

(C) has received a verification from an insurance carrier under section 33110 of this title that the motor vehicle from which the major part is derived has not been reported as stolen, or that the carrier has not established whether that vehicle has been stolen.

(2) A person described under paragraph (1)(C) of this subsection that subsequently transfers or sells in commerce the motor vehicle or a major part of the vehicle shall provide the verification received from the carrier to the person to whom the vehicle or part is transferred or sold.

(c) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this section. The regulations shall include regulations prescribed in consultation with the Secretary that are necessary to ensure that a verification a person provides under subsection (a)(2) of this section is uniform, effective, and resistant to fraudulent use.

§ 33112. Insurance reports and information

(a) PURPOSES.—The purposes of this section are—

(1) to prevent or discourage the theft of motor vehicles, particularly those stolen for the removal of certain parts;

(2) to prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from those vehicles; and

(3) to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

(b) DEFINITIONS.—In this section—

(1) "insurer" includes a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental or lease and are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles.

(2) "motor vehicle" includes a truck, a multipurpose passenger vehicle, and a motorcycle.

(c) ANNUAL INFORMATION REQUIREMENT.—(1) An insurer providing comprehensive coverage for motor vehicles shall provide annually to the Secretary of Transportation information on—

(A) the thefts and recoveries (in any part) of motor vehicles;

(B) the number of vehicles that have been recovered intact;

(C) the rating rules and plans, such as loss information and rating characteristics, used by the insurer to establish premiums for comprehensive coverage, including the basis for the premiums, and premium penalties for motor vehicles considered by the insurer as more likely to be stolen;

(D) the actions taken by the insurer to reduce the premiums, including changing rate levels for comprehensive coverage because of a reduction in thefts of motor vehicles;

(E) the actions taken by the insurer to assist in deterring or reducing thefts of motor vehicles; and

(F) other information the Secretary requires to carry out this chapter and to make the report and findings required by this chapter.

(2) The information on thefts and recoveries shall include an explanation on how the information is obtained, the accuracy and timeliness of the information, and the use made of the information, including the extent and frequency of reporting the information to national, public, and private entities such as the Federal Bureau of Investigation and State and local police.

(d) REPORTS ON REDUCED CLAIMS PAYMENTS.—An insurer shall report promptly in writing to the Secretary if the insurer, in paying a claim under an adjustment or negotiation between the insurer and the insured for a stolen motor vehicle—

(1) reduces the payment to the insured by the amount of the value, salvage or otherwise, of a recovered part subject to a standard prescribed under section 33102 or 33103 of this title; and

(2) the reduction is not made at the express election of the insured.

(e) GENERAL EXEMPTIONS.—The Secretary shall exempt from this section, for one or more years, an insurer that the Secretary decides should be exempted because—

(1) the cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out this chapter.

(f) SMALL INSURER EXEMPTIONS.—(1) In this subsection, "small insurer" means an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including a pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for—

(A) less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers in the United States; and

(B) less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State.

Regulations. (2) The Secretary shall exempt by regulation a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State. However, the Secretary may not exempt an insurer under this paragraph that is considered an insurer only because of subsection (b)(1) of this section.

(3) Regulations under this subsection shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate information is available, and that, once attained, the eligibility shall continue without further demonstration of eligibility for one or more years, as the Secretary considers appropriate.

(g) PRESCRIBED FORM.—Information required by this section shall be provided in the form the Secretary prescribes.

Publication. (h) PERIODIC COMPILATIONS.—Subject to section 552 of title 5, the Secretary periodically shall compile and publish information obtained by the Secretary under this section, in a form that will be helpful to the public, the police, and Congress.

(i) CONSULTATION.—In carrying out this section, the Secretary shall consult with public and private agencies and associations the Secretary considers appropriate.

§ 33113. Theft reports

(a) TRUCK, MULTIPURPOSE PASSENGER VEHICLE, AND MOTORCYCLE REPORT.—Not later than October 25, 1995, the Secretary of Transportation shall submit a report to Congress that includes—

(1) information on the number of trucks, multipurpose passenger vehicles, and motorcycles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by model, make, and line;

(2) information on the extent to which trucks, multipurpose passenger vehicles, and motorcycles stolen annually are dismantled to recover parts or are exported;

(3) a description of the market for the stolen parts;

(4) information on the premiums charged by insurers of comprehensive coverage of trucks, multipurpose passenger vehicles, or motorcycles, including any increase in the premiums charged because any of those motor vehicles is a likely candidate for theft;

(5) an assessment of whether the identification of parts of trucks, multipurpose passenger vehicles, and motorcycles is likely—

(A) to decrease the theft rate of those motor vehicles;

(B) to increase the recovery rate of those motor vehicles;

(C) to decrease the trafficking in stolen parts of those motor vehicles;

(D) to stem the export and import of those stolen motor vehicles or parts; or

(E) to have benefits greater than the costs of the identification; and

(6) recommendations on whether, and to what extent, the identification of trucks, multipurpose passenger vehicles, and motorcycles should be required by law.

(b) MOTOR VEHICLE REPORT.—Not later than October 25, 1997, the Secretary shall submit a report to Congress that includes—

(1) information on—

(A) the methods and procedures used by public and private entities to collect, compile, and disseminate information on the theft and recovery of motor vehicles, including classes of motor vehicles; and

(B) the reliability and timeliness of the information and how the information can be improved;

(2) information on the number of motor vehicles distributed for sale in interstate commerce that are stolen and recovered annually, compiled by class, model, make, and line;

(3) information on the extent to which motor vehicles stolen annually are dismantled to recover parts or are exported;

(4) a description of the market for the stolen parts;

(5) information on—

(A) the costs to manufacturers and purchasers of passenger motor vehicles of compliance with the standards prescribed under this chapter;

(B) the beneficial impacts of the standards and the monetary value of the impacts; and

(C) the extent to which the monetary value is greater than the costs;

(6) information on the experience of officials of the United States Government, States, and localities in—

(A) making arrests and successfully prosecuting persons for violating a law set forth in title II or III of the Motor Vehicle Theft Law Enforcement Act of 1984;

(B) preventing or reducing the number and rate of thefts of motor vehicles that are dismantled for parts subject to this chapter; and

(C) preventing or reducing the availability of used parts that are stolen from motor vehicles subject to this chapter;

(7) information on the premiums charged by insurers of comprehensive coverage of motor vehicles subject to this chapter, including any increase in the premiums charged because a motor vehicle is a likely candidate for theft, and the extent to which the insurers have reduced for the benefit of consumers the premiums, or foregone premium increases, because of this chapter;

(8) information on the adequacy and effectiveness of laws of the United States and the States aimed at preventing the distribution and sale of used parts that have been removed from stolen motor vehicles and the adequacy of systems available to enforcement personnel for tracing parts to determine if they have been stolen from a motor vehicle;

(9) an assessment of whether the identification of parts of other classes of motor vehicles is likely—

(A) to decrease the theft rate of those vehicles;

(B) to increase the recovery rate of those vehicles;

(C) to decrease the trafficking in stolen parts of those vehicles;

(D) to stem the export and import of those stolen vehicles, parts, or components; or

(E) to have benefits greater than the costs of the identification; and

(10) other relevant and reliable information available to the Secretary about the impact, including the beneficial impact, of the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984 on law enforcement, consumers, and manufacturers; and

(11) recommendations (including, as appropriate, legislative and administrative recommendations) for—

(A) continuing without change the standards prescribed under this chapter;

(B) amending this chapter to cover more or fewer lines of passenger motor vehicles;

(C) amending this chapter to cover other classes of motor vehicles; or

(D) ending the standards for all future motor vehicles.

(c) BASES OF REPORTS.—(1) The reports under subsections (a) and (b) of this section each shall be based on—

(A) information reported under this chapter by insurers of motor vehicles and manufacturers of motor vehicles and major replacement parts;

(B) information provided by the Federal Bureau of Investigation;

(C) experience obtained in carrying out this chapter;

(D) experience of the Government under the laws set forth in titles II and III of the Motor Vehicle Theft Law Enforcement Act of 1984; and

(E) other relevant and reliable information available to the Secretary.

(2) In preparing each report, the Secretary shall consult with the Attorney General and State and local law enforcement officials, as appropriate.

(3) The report under subsection (b) of this section shall—

(A) cover a period of at least 4 years after the standards required by this chapter are prescribed; and

(B) reflect any information, as appropriate, from the report under subsection (a) of this section, updated from the date of the report.

(4) At least 90 days before submitting each report to Congress, the Secretary shall publish a proposed report for public review and an opportunity of at least 45 days for written comment. The Secretary shall consider those comments in preparing the report to be submitted and include a summary of the comments with the submitted report. Publication.

§ 33114. Prohibited acts

(a) GENERAL.—A person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a motor vehicle or major replacement part subject to a standard prescribed under section 33102 or 33103 of this title, unless it conforms to the standard;

(2) fail to comply with a regulation prescribed by the Secretary of Transportation or Attorney General under this chapter;

(3) fail to keep specified records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter;

(4) fail to provide the certification required by section 33108(c) of this title, or provide a certification that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect; or

(5) knowingly—

(A) own, operate, maintain, or control a chop shop;

(B) conduct operations in a chop shop; or

(C) transport a passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

(b) NONAPPLICATION.—Subsection (a)(1) of this section does not apply to a person establishing that in the exercise of reasonable care the person did not have reason to know that the motor vehicle or major replacement part was not in conformity with the standard.

§ 33115. Civil penalties and enforcement

(a) GENERAL PENALTY AND CIVIL ACTIONS TO COLLECT.—(1) A person that violates section 33114(a)(1)–(4) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under section 33102 or 33103 of this title is only a single violation. The maximum penalty under this subsection for a related series of violations is $250,000.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The Secretary may compromise the amount of a penalty.

(3) In determining the amount of a civil penalty or compromise under this subsection, the Secretary shall consider the size of the person's business and the gravity of the violation.

(4) The Attorney General shall bring a civil action in a United States district court to collect a civil penalty imposed under this subsection.

(5) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(b) CHOP SHOP PENALTY AND ENFORCEMENT.—(1) A person that violates section 33114(a)(5) of this title is liable to the Government for a civil penalty of not more than $100,000 a day for each violation.

(2) As appropriate and in consultation with the Attorney General, the Secretary shall—

(A) bring a civil action for a temporary or permanent injunction to restrain a person violating section 33114(a)(5) of this section;

(B) impose and recover the penalty described in paragraph (1) of this subsection; or

(C) take both the actions described in clauses (A) and (B) of this paragraph.

(c) CIVIL ACTIONS TO ENFORCE.—(1) The Attorney General may bring a civil action in a United States district court to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle containing a major part, or of a major replacement part, that is subject to the standard and is determined before the sale of the vehicle or part to a first purchaser not to conform to the standard.

(2)(A) When practicable, the Secretary—

(i) shall notify a person against whom an action under this subsection is planned;

(ii) shall give the person an opportunity to present that person's views; and

(iii) except for a knowing and willful violation, shall give the person a reasonable opportunity to comply.

(B) The failure of the Secretary to comply with subparagraph (A) of this paragraph does not prevent a court from granting appropriate relief.

(d) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) VENUE.—A civil action under subsection (a) or (c) of this section may be brought in the judicial district in which the violation occurred or the defendant resides, is found, or transacts business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

§ 33116. Confidentiality of information

(a) GENERAL.—Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter (except a proceeding under section 33104(a)(3)).

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 33117. Judicial review

A person that may be adversely affected by a regulation prescribed under this chapter may obtain judicial review of the regulation under section 32909 of this title. A remedy under this section is in addition to any other remedies provided by law.

§ 33118. Preemption of State and local law

When a motor vehicle theft prevention standard prescribed under section 33102 or 33103 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER		Sec.
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§ 40101. Policy

(a) ECONOMIC REGULATION.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) assigning and maintaining safety as the highest priority in air commerce.

(2) before authorizing new air transportation services, evaluating the safety implications of those services.

(3) preventing deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of Congress to further the highest degree of safety in air transportation and air commerce, and to maintain the safety vigilance that has evolved in air transportation and air commerce and has come to be expected by the traveling and shipping public.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) coordinating transportation by, and improving relations among, air carriers, and encouraging fair wages and working conditions.

(6) placing maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering any material differences between interstate air transportation and foreign air transportation.

(7) developing and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) the national defense.

(8) encouraging air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities, and if endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide, in a specific market, transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) preventing unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation.

(11) maintaining a complete and convenient system of continuous scheduled interstate air transportation for small communities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) encouraging, developing, and maintaining an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low prices; and

(B) to decide on the variety and quality of, and determine prices for, air transportation services.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(15) strengthening the competitive position of air carriers to at least ensure equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(b) ALL-CARGO AIR TRANSPORTATION CONSIDERATIONS.—In carrying out subpart II of this part and those provisions of subpart IV applicable in carrying out subpart II, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) encouraging and developing an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) the national defense.

(2) encouraging and developing an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) GENERAL SAFETY CONSIDERATIONS.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) SAFETY CONSIDERATIONS IN PUBLIC INTEREST.—In carrying out subpart III of this part and those provisions of subpart IV applicable in carrying out subpart III, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) regulating air commerce in a way that best promotes its development and safety and fulfills national defense requirements.

(2) promoting, encouraging, and developing civil aeronautics.

(3) controlling the use of the navigable airspace and regulating civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations.

(4) consolidating research and development for air navigation facilities and the installation and operation of those facilities.

(5) developing and operating a common system of air traffic control and navigation for military and civil aircraft.

(6) providing assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) INTERNATIONAL AIR TRANSPORTATION.—In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) strengthening the competitive position of air carriers to ensure at least equality with foreign air carriers, including the attainment of the opportunity for air carriers to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer prices that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) eliminating operational and marketing restrictions to the greatest extent possible.

(6) integrating domestic and international air transportation.

(7) increasing the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) eliminating discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) promoting, encouraging, and developing civil aeronautics and a viable, privately-owned United States air transport industry.

(f) STRENGTHENING COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants, the Secretary of Transportation shall consider, in addition to the matters specified in subsections (a) and (b) of this section, the strengthening of competition among air carriers operating in the United States to prevent unreasonable concentration in the air carrier industry.

§ 40102. Definitions

(a) GENERAL DEFINITIONS.—In this part—

(1) "aeronautics" means the science and art of flight.

(2) "air carrier" means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.

(3) "air commerce" means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) a light;

(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and

(D) another structure or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft.

(5) "air transportation" means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) "aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) "aircraft engine" means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) "airman" means an individual—

(A) in command, or as pilot, mechanic, or member of the crew, who navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, who is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) who serves as an aircraft dispatcher or air traffic control-tower operator.

(9) "airport" means a landing area used regularly by aircraft for receiving or discharging passengers or cargo.

(10) "all-cargo air transportation" means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) "appliance" means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) "cargo" means property, mail, or both.

(13) "charter air carrier" means an air carrier holding a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(14) "charter air transportation" means charter trips in air transportation authorized under this part.

(15) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is an individual who is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(16) "civil aircraft" means an aircraft except a public aircraft.

(17) "civil aircraft of the United States" means an aircraft registered under chapter 441 of this title.

(18) "conditional sales contract" means a contract—

(A) for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the buyer takes possession of the property but title to the property vests in the buyer at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the bailee or lessee—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(19) "conveyance" means an instrument, including a conditional sales contract, affecting title to, or an interest in, property.

(20) "Federal airway" means a part of the navigable airspace that the Administrator designates as a Federal airway.

(21) "foreign air carrier" means a person, not a citizen of the United States, undertaking by any means, directly or indirectly, to provide foreign air transportation.

(22) "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(23) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(24) "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(25) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(26) "intrastate air carrier" means a citizen of the United States undertaking by any means to provide only intrastate air transportation.

(27) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(28) "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or cargo.

(29) "mail" means United States mail and foreign transit mail.

(30) "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under subparts I and III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(31) "navigate aircraft" and "navigation of aircraft" include piloting aircraft.

(32) "operate aircraft" and "operation of aircraft" mean using aircraft for the purposes of air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft with or without the right of legal control of the aircraft.

(33) "person", in addition to its meaning under section 1 of title 1, includes a governmental authority and a trustee, receiver, assignee, and other similar representative.

(34) "predatory" means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(35) "price" means a rate, fare, or charge for air transportation.

(36) "propeller" includes a part, appurtenance, and accessory of a propeller.

(37) "public aircraft"—

(A) means an aircraft—

(i) used only for the United States Government; or

(ii) owned and operated (except for commercial purposes), or exclusively leased for at least 90 continuous days, by a government (except the United States Government), including a State, the District of Columbia, or a territory or possession of the United States, or political subdivision of that government; but

(B) does not include a government-owned aircraft transporting passengers or property for commercial purposes.

(38) "spare part" means an accessory, appurtenance, or part of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(39) "State authority" means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(40) "ticket agent" means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(41) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including the territorial sea and the overlying airspace.

(b) LIMITED DEFINITION.—In subpart II of this part, "control" means control by any means.

§ 40103. Sovereignty and use of airspace

(a) SOVEREIGNTY AND PUBLIC RIGHT OF TRANSIT.—(1) The United States Government has exclusive sovereignty of airspace of the United States.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b) USE OF AIRSPACE.—(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may modify or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for— Regulations.

(A) navigating, protecting, and identifying aircraft;

(B) protecting individuals and property on the ground;

(C) using the navigable airspace efficiently; and

(D) preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the navigable airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft that the Administrator cannot identify, locate, and control with available facilities in those areas.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) FOREIGN AIRCRAFT.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) AIRCRAFT OF ARMED FORCES OF FOREIGN COUNTRIES.—Aircraft of the armed forces of a foreign country may be navigated in the United States only when authorized by the Secretary of State.

(e) NO EXCLUSIVE RIGHTS AT CERTAIN FACILITIES.—A person does not have an exclusive right to use an air navigation facility on which Government money has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

§ 40104. Promotion of civil aeronautics and air commerce

The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and air commerce in and outside the United States. In carrying out this section, the Administrator shall take action that the Administrator considers necessary to establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, informational material and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

§ 40105. International negotiations, agreements, and obligations

(a) ADVICE AND CONSULTATION.—The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.

(b) ACTIONS OF SECRETARY AND ADMINISTRATOR.—(1) In carrying out this part, the Secretary of Transportation and the Administrator—

(A) shall act consistently with obligations of the United States Government under an international agreement;

(B) shall consider applicable laws and requirements of a foreign country; and

(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement between an air carrier or an officer or representative of an air carrier

and the government of a foreign country, if the Secretary of Transportation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) CONSULTATION ON INTERNATIONAL AIR TRANSPORTATION POLICY.—In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

(1) the Secretaries of Commerce and Defense;
(2) airport operators;
(3) scheduled air carriers;
(4) charter air carriers;
(5) airline labor;
(6) consumer interest groups;
(7) travel agents and tour organizers; and
(8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) CONGRESSIONAL OBSERVERS AT INTERNATIONAL AVIATION NEGOTIATIONS.—The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing. President.

§ 40106. Emergency powers

(a) DEVIATIONS FROM REGULATIONS.—Appropriate military authority may authorize aircraft of the armed forces of the United States to deviate from air traffic regulations prescribed under section 40103(b)(1) and (2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and
(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b) SUSPENSION OF AUTHORITY.—(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;
(B) a person to operate aircraft in foreign air commerce to and from that foreign country;
(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and
(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice or a hearing. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of a suspension of authority under this subsection.

§ 40107. Presidential transfers

(a) GENERAL AUTHORITY.—The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) DURING WAR.—If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

§ 40108. Training schools

(a) AUTHORITY TO OPERATE.—The Administrator of the Federal Aviation Administration may operate schools to train officers and employees of the Administration to carry out duties, powers, and activities of the Administrator.

(b) ATTENDANCE.—The Administrator may authorize officers and employees of other departments, agencies, or instrumentalities of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, or individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

§ 40109. Authority to exempt

(a) AIR CARRIERS AND FOREIGN AIR CARRIERS NOT ENGAGED DIRECTLY IN OPERATING AIRCRAFT.—(1) The Secretary of Transportation may exempt from subpart II of this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods that the Secretary decides are in the public interest.

(b) SAFETY REGULATION.—The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections 40103(b)(1) and (2), 40119, 44901, 44903, 44906, and 44935–44937 of this title when the Administrator decides the exemption is in the public interest.

(c) OTHER ECONOMIC REGULATION.—Except as provided in this section, the Secretary may exempt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) LABOR REQUIREMENTS.—The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) MAXIMUM FLYING HOURS.—The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f) SMALLER AIRCRAFT.—(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of cargo only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may

be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g) EMERGENCY AIR TRANSPORTATION BY FOREIGN AIR CARRIERS.—(1) To the extent that the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers or cargo in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation that the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) NOTICE AND OPPORTUNITY FOR HEARING.—The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a hearing.

§ 40110. General procurement authority

(a) GENERAL.—In carrying out this part, the Administrator of the Federal Aviation Administration may—

(1) acquire, to the extent that amounts are available for obligation, services or an interest in property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator;

(2) dispose of an interest in property for adequate compensation; and

(3) construct and improve laboratories and other test facilities.

(b) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration—

(1) is the senior procurement executive referred to in section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) for approving the justification for using procedures other than competitive procedures, as required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)); and

(2) may—

(A) lease an interest in property for not more than 20 years;

(B) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace;

(C) construct, or acquire an interest in, a public building (as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services;

(D) use procedures other than competitive procedures, as provided under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(E) use procedures other than competitive procedures only when the property or services needed by the Administrator of the Federal Aviation Administration are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the Administrator; and

(F) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

§ 40111. Multiyear procurement contracts for services and related items

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31, the Administrator of the Federal Aviation Administration may make a contract of not more than 5 years for the following types of services and items of supply related to those services for which amounts otherwise would be available for obligation only in the fiscal year for which appropriated:

(1) operation, maintenance, and support of facilities and installations.

(2) operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment.

(3) specialized training requiring high quality instructor skills, including training of pilots and aircrew members and foreign language training.

(4) base services, including ground maintenance, aircraft refueling, bus transportation, and refuse collection and disposal.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section only if the Administrator finds that—

(1) there will be a continuing requirement for the service consistent with current plans for the proposed contract period;

(2) providing the service will require a substantial initial investment in plant or equipment, or will incur a substantial contingent liability for assembling, training, or transporting a specialized workforce; and

(3) the contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

(c) CONSIDERATIONS.—When making a contract under this section, the Administrator shall be guided by the following:

(1) The part of the cost of a plant or equipment amortized as a cost of contract performance may not be more than the ratio between the period of contract performance and the anticipated useful commercial life (instead of physical life) of the plant or equipment, considering the location and specialized nature of the plant or equipment, obsolescence, and other similar factors.

(2) The Administrator shall consider the desirability of—

(A) obtaining an option to renew the contract for a reasonable period of not more than 3 years, at a price that does not include charges for nonrecurring costs already amortized; and

(B) reserving in the Administrator the right, on payment of the unamortized part of the cost of the plant or equipment, to take title to the plant or equipment under appropriate circumstances.

(d) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of service concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

§ 40112. Multiyear procurement contracts for property

(a) GENERAL AUTHORITY.—Notwithstanding section 1341(a)(1)(B) of title 31 and to the extent that amounts otherwise are available for obligation, the Administrator of the Federal Aviation Administration may make a contract of more than one but not more than 5 fiscal years to purchase property, except a contract to construct, alter, or make a major repair or improvement to real property or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

(b) REQUIRED FINDINGS.—The Administrator may make a contract under this section if the Administrator finds that—

(1) the contract will promote the safety or efficiency of the national airspace system and will result in reduced total contract costs;

(2) the minimum need for the property to be purchased is expected to remain substantially unchanged during the pro-

posed contract period in terms of production rate, procurement rate, and total quantities;

(3) there is a reasonable expectation that throughout the proposed contract period the Administrator will request appropriations for the contract at the level required to avoid cancellation;

(4) there is a stable design for the property to be acquired and the technical risks associated with the property are not excessive; and

(5) the estimates of the contract costs and the anticipated savings from the contract are realistic.

(c) REGULATIONS.—The Administrator shall prescribe regulations for acquiring property under this section to promote the use of contracts under this section in a way that will allow the most efficient use of those contracts. The regulations may provide for a cancellation provision in the contract to the extent the provision is necessary and in the best interest of the United States. The provision may include consideration of recurring and nonrecurring costs of the contractor associated with producing the item to be delivered under the contract. The regulations shall provide that, to the extent practicable—

(1) to broaden the aviation industrial base—

(A) a contract under this section shall be used to seek, retain, and promote the use under that contract of subcontractors, vendors, or suppliers; and

(B) on accrual of a payment or other benefit accruing on a contract under this section to a subcontractor, vendor, or supplier participating in the contract, the payment or benefit shall be delivered in the most expeditious way practicable; and

(2) this section and regulations prescribed under this section may not be carried out in a way that precludes or curtails the existing ability of the Administrator to provide for—

(A) competition in producing items to be delivered under a contract under this section; or

(B) ending a prime contract when performance is deficient with respect to cost, quality, or schedule.

(d) CONTRACT PROVISIONS.—(1) A contract under this section may—

(A) be used for the advance procurement of components, parts, and material necessary to manufacture equipment to be used in the national airspace system;

(B) provide that performance under the contract after the first year is subject to amounts being appropriated; and

(C) contain a negotiated priced option for varying the number of end items to be procured over the period of the contract.

(2) If feasible and practicable, an advance procurement contract may be made to achieve economic-lot purchases and more efficient production rates.

(e) CANCELLATION PAYMENT AND NOTICE OF CANCELLATION CEILING.—(1) If a contract under this section provides that performance is subject to an appropriation being made, it also may provide for a cancellation payment to be made to the contractor if the appropriation is not made.

(2) Before awarding a contract under this section containing a cancellation ceiling of more than $100,000,000, the Administrator shall give written notice of the proposed contract and cancellation

ceiling to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The contract may not be awarded until the end of the 30-day period beginning on the date of the notice.

(f) ENDING CONTRACTS.—A contract made under this section shall be ended if amounts are not made available to continue the contract into a subsequent fiscal year. The cost of ending the contract may be paid from—

(1) an appropriation originally available for carrying out the contract;

(2) an appropriation currently available for procuring the type of property concerned and not otherwise obligated; or

(3) amounts appropriated for payments to end the contract.

§ 40113. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may take action the Secretary or Administrator, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) HAZARDOUS MATERIAL.—In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous material by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(c) GOVERNMENTAL ASSISTANCE.—The Secretary (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the United States Government on matters related to aircraft fuel and oil, and to the design, material, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(d) INDEMNIFICATION.—The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

§ 40114. Reports and records

(a) WRITTEN REPORTS.—(1) Except as provided in this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall

make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents. Publication.

(b) PUBLIC RECORDS.—Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in an investigation by the Secretary and in a judicial proceeding.

§ 40115. Withholding information

(a) OBJECTIONS TO DISCLOSURE.—(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation or State or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 40116. State taxation

(a) DEFINITION.—In this section, "State" includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(b) PROHIBITIONS.—Except as provided in subsection (c) of this section and section 40117 of this title, a State or political subdivision of a State may not levy or collect a tax, fee, head charge, or other charge on—

(1) an individual traveling in air commerce;

(2) the transportation of an individual traveling in air commerce;

(3) the sale of air transportation; or

(4) the gross receipts from that air commerce or transportation.

(c) AIRCRAFT TAKING OFF OR LANDING IN STATE.—A State or political subdivision of a State may levy or collect a tax on or related to a flight of a commercial aircraft or an activity or service

on the aircraft only if the aircraft takes off or lands in the State or political subdivision as part of the flight.

(d) UNREASONABLE BURDENS AND DISCRIMINATION AGAINST INTERSTATE COMMERCE.—(1) In this subsection—

(A) "air carrier transportation property" means property (as defined by the Secretary of Transportation) that an air carrier providing air transportation owns or uses.

(B) "assessment" means valuation for a property tax levied by a taxing district.

(C) "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) "commercial and industrial property" means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(2)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assess air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levy or collect a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(e) OTHER ALLOWABLE TAXES AND CHARGES.—Except as provided in subsection (d) of this section, a State or political subdivision of a State may levy or collect—

(1) taxes (except those taxes enumerated in subsection (b) of this section), including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(2) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(f) PAY OF AIR CARRIER EMPLOYEES.—(1) In this subsection—

(A) "pay" means money received by an employee for services.

(B) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

§ 40117. Passenger facility fees

(a) DEFINITIONS.—In this section—

(1) "airport", "commercial service airport", and "public agency" have the same meanings given those terms in section 47102 of this title.

(2) "eligible agency" means a public agency that controls a commercial service airport.

(3) "eligible airport-related project" means a project—

(A) for airport development or airport planning under subchapter I of chapter 471 of this title;

(B) for terminal development described in section 47110(d) of this title;

(C) for airport noise capability planning under section 47505 of this title;

(D) to carry out noise compatibility measures eligible for assistance under section 47504 of this title, whether or not a program for those measures has been approved under section 47504; and

(E) for constructing gates and related areas at which passengers board or exit aircraft.

(4) "passenger facility fee" means a fee imposed under this section.

(5) "passenger facility revenue" means revenue derived from a passenger facility fee.

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may authorize under this section an eligible agency to impose a passenger facility fee of $1, $2, or $3 on each paying passenger of an air carrier or foreign air carrier boarding an aircraft at an airport the agency controls to finance an eligible airport-related project, including making payments for debt service on indebtedness incurred to carry out the project, to be carried out in connection with the airport or any other airport the agency controls.

(2) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible agency may not regulate or prohibit the imposition or collection of a passenger facility fee or the use of the passenger facility revenue.

(3) A passenger facility fee may be imposed on a passenger of an air carrier or foreign air carrier originating or connecting at the commercial service airport that the agency controls.

(c) APPLICATIONS.—(1) An eligible agency must submit to the Secretary an application for authority to impose a passenger facility fee. The application shall contain information and be in the form that the Secretary may require by regulation.

(2) Before submitting an application, the eligible agency must provide reasonable notice to, and an opportunity for consultation with, air carriers and foreign air carriers operating at the airport. The Secretary shall prescribe regulations that define reasonable notice and contain at least the following requirements: Regulations.

(A) The agency must provide written notice of individual projects being considered for financing by a passenger facility fee and the date and location of a meeting to present the projects to air carriers and foreign air carriers operating at the airport.

(B) Not later than 30 days after written notice is provided under subparagraph (A) of this paragraph, each air carrier and foreign air carrier operating at the airport must provide to the agency written notice of receipt of the notice. Failure of a carrier to provide the notice may be deemed certification of agreement with the project by the carrier under subparagraph (D) of this paragraph.

(C) Not later than 45 days after written notice is provided under subparagraph (A) of this paragraph, the agency must conduct a meeting to provide air carriers and foreign air carriers with descriptions of projects and justifications and a detailed financial plan for projects.

(D) Not later than 30 days after the meeting, each air carrier and foreign air carrier must provide to the agency certification of agreement or disagreement with projects (or total plan for the projects). Failure to provide the certification is deemed certification of agreement with the project by the carrier. A certification of disagreement is void if it does not contain the reasons for the disagreement.

Notice. (3) After receiving an application, the Secretary shall provide notice and an opportunity to air carriers, foreign air carriers, and other interested persons to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.

(d) LIMITATIONS ON APPROVING APPLICATIONS.—The Secretary may approve an application that an eligible agency has submitted under subsection (c) of this section to finance a specific project only if the Secretary finds, based on the application, that—

(1) the amount and duration of the proposed passenger facility fee will result in revenue (including interest and other returns on the revenue) that is not more than the amount necessary to finance the specific project; and

(2) each project is an eligible airport-related project that will—

(A) preserve or enhance capacity, safety, or security of the national air transportation system;

(B) reduce noise resulting from an airport that is part of the system; or

(C) provide an opportunity for enhanced competition between or among air carriers and foreign air carriers.

(e) LIMITATIONS ON IMPOSING FEES.—(1) An eligible agency may impose a passenger facility fee only—

(A) if the Secretary approves an application that the agency has submitted under subsection (c) of this section; and

(B) subject to terms the Secretary may prescribe to carry out the objectives of this section.

(2) A passenger facility fee may not be collected from a passenger—

(A) for more than 2 boardings on a one-way trip or a trip in each direction of a round trip;

(B) for the boarding to an eligible place under subchapter II of chapter 417 of this title for which essential air service compensation is paid under subchapter II; and

(C) for a project the Secretary does not approve under this section before October 1, 1993, if, during the fiscal year ending September 30, 1993, the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000, except that this clause—

(i) does not apply if the amount available for obligation under subchapter II of chapter 417 of this title is less than $38,600,000 because of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriation law; and

(ii) does not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues, derived from a fee imposed under an approval made under this section, by a public agency that has received an approval to impose a fee under this section before September 30, 1993, regardless of whether the fee is being imposed on September 30, 1993.

(f) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—(1) A contract between an air carrier or foreign air carrier and an eligible agency made at any time may not impair the authority of the agency to impose a passenger facility fee or to use the passenger facility revenue as provided in this section.

(2) A project financed with a passenger facility fee may not be subject to an exclusive long-term lease or use agreement of an air carrier or foreign air carrier, as defined by regulations of the Secretary.

(3) A lease or use agreement of an air carrier or foreign air carrier related to a project whose construction or expansion was financed with a passenger facility fee may not restrict the eligible agency from financing, developing, or assigning new capacity at the airport with passenger facility revenue.

(g) TREATMENT OF REVENUE.—(1) Passenger facility revenue is not airport revenue for purposes of establishing a price under a contract between an eligible agency and an air carrier or foreign air carrier.

(2) An eligible agency may not include in its price base the part of the capital costs of a project paid for by using passenger facility revenue to establish a price under a contract between the agency and an air carrier or foreign air carrier.

(3) For a project for terminal development, gates and related areas, or a facility occupied or used by at least one air carrier or foreign air carrier on an exclusive or preferential basis, a price payable by an air carrier or foreign air carrier using the facilities must at least equal the price paid by an air carrier or foreign air carrier using a similar facility at the airport that was not financed with passenger facility revenue.

(h) COMPLIANCE.—(1) As necessary to ensure compliance with this section, the Secretary shall prescribe regulations requiring recordkeeping and auditing of accounts maintained by an air carrier or foreign air carrier and its agent collecting a passenger facility fee and by the eligible agency imposing the fee. Regulations. Records.

(2) The Secretary periodically shall audit and review the use by an eligible agency of passenger facility revenue. After review and a public hearing, the Secretary may end any part of the

authority of the agency to impose a passenger facility fee to the extent the Secretary decides that the revenue is not being used as provided in this section.

(3) The Secretary may set off amounts necessary to ensure compliance with this section against amounts otherwise payable to an eligible agency under subchapter I of chapter 471 of this title if the Secretary decides a passenger facility fee is excessive or that passenger facility revenue is not being used as provided in this section.

(i) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section. The regulations—

(1) may prescribe the time and form by which a passenger facility fee takes effect; and

(2) shall—

(A) require an air carrier or foreign air carrier and its agent to collect a passenger facility fee that an eligible agency imposes under this section;

(B) establish procedures for handling and remitting money collected;

(C) ensure that the money, less a uniform amount the Secretary determines reflects the average necessary and reasonable expenses (net of interest accruing to the carrier and agent after collection and before remittance) incurred in collecting and handling the fee, is paid promptly to the eligible agency for which they are collected; and

(D) require that the amount collected for any air transportation be noted on the ticket for that air transportation.

§ 40118. Government-financed air transportation

(a) TRANSPORTATION BY AIR CARRIERS HOLDING CERTIFICATES.—A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) TRANSPORTATION BY FOREIGN AIR CARRIERS.—This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which

the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) PROOF.—The Comptroller General shall allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) TRANSPORTATION BY FOREIGN AIR CARRIERS.—Notwithstanding subsections (a) and (c) of this section, any amount appropriated to the Secretary of State, the Director of the United States Information Agency, the Director of the United States International Development Cooperation Agency, or the Director of the Arms Control and Disarmament Agency may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by a foreign air carrier when the transportation is between 2 places outside the United States.

(e) RELATIONSHIP TO OTHER LAWS.—This section does not affect the application of the antidiscrimination provisions of this part.

§ 40119. Security and research and development activities

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence and aircraft piracy.

(b) DISCLOSURE.—(1) Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting disclosure of information obtained or developed in carrying out security or research and development activities under section 44501(a) or (c), 44502(a)(1) or (3), (b), or (c), 44504, 44505, 44507, 44508, 44511, 44512, 44513, 44901, 44903(a), (b), (c), or (e), 44905, 44912, 44935, 44936, or 44938(a) or (b) of this title if the Administrator decides disclosing the information would— Regulations.

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the safety of passengers in air transportation.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(c) TRANSFERS OF DUTIES AND POWERS PROHIBITED.—Except as otherwise provided by law, the Administrator may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

§ 40120. Relationship to other laws

(a) NONAPPLICATION.—Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) EXTENDING APPLICATION OUTSIDE UNITED STATES.—The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

(c) ADDITIONAL REMEDIES.—A remedy under this part is in addition to any other remedies provided by law.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.
41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
41108. Applications for certificates.
41109. Terms of certificates.
41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates.
41111 Simplified procedure to apply for, amend, modify, suspend, and transfer certificates.
41112 Liability insurance and financial responsibility.

§ 41101. Requirement for a certificate

(a) GENERAL.—Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) THROUGH SERVICE AND JOINT TRANSPORTATION.—A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) PROPRIETARY OR EXCLUSIVE RIGHT NOT CONFERRED.—A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) ISSUANCE.—The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b) FINDINGS REQUIRED FOR ISSUANCE.—(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) TEMPORARY CERTIFICATES.—The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and prices and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) FOREIGN AIR TRANSPORTATION.—The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

§ 41103. All-cargo air transportation certificates of air carriers

(a) APPLICATIONS.—A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-property air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) ISSUANCE.—Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) TERMS.—The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or prices charged by the holder of the certificate.

(d) EXEMPTIONS AND STATUS.—A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

§ 41104. Additional limitations and requirements of charter air carriers

(a) RESTRICTIONS.—The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) ALASKA.—An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing, amending, or modifying the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(c) SUSPENSIONS.—(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or a hearing.

(2) The Secretary shall begin immediately a hearing to decide if the certificate referred to in paragraph (1) of this subsection should be amended, modified, suspended, or revoked. Until the hearing is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

§ 41105. Transfers of certificates

(a) GENERAL.—A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as being consistent with the public interest.

(b) CERTIFICATION TO CONGRESS.—When a certificate is transferred, the Secretary shall certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives that the transfer is consistent with the public interest. The Secretary shall include with the certification a report analyzing the effects of the transfer on—

(1) the viability of each carrier involved in the transfer;

(2) competition in the domestic airline industry; and

(3) the trade position of the United States in the international air transportation market.

§ 41106. Airlift service

(a) GENERAL.—(1) Except as provided in subsection (b) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract of at least 31 days for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of this title.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service.

(b) EXCEPTION.—When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

§ 41108. Applications for certificates

(a) FORM, CONTENTS, AND PROOF OF SERVICE.—To be issued a certificate of public convenience and necessity under section 41102

of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

Regulations.

(1) be in the form and contain information required by regulations of the Secretary; and

(2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b) NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

(A) provide an opportunity for a public hearing on the application;

(B) begin the procedure under section 41111 of this title; or

(C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the period of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed for not more than 30 days in extraordinary circumstances.

(c) PROOF REQUIREMENTS.—(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a prepon-

derance of the evidence, that the transportation is not consistent with the public convenience and necessity.

§ 41109. Terms of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(b) MODIFYING TERMS.—(1) An air carrier may file with the Secretary an application to modify any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall modify each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

§ 41110. Effective periods and amendments, modifications, suspensions, and revocations of certificates

(a) GENERAL.—(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a hearing or, except as provided

in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) amend, modify, or suspend any part of a certificate if the Secretary finds the public convenience and necessity require amendment, modification, or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be amended, modified, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) ALL-CARGO AIR TRANSPORTATION.—The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a hearing, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c) FOREIGN AIR TRANSPORTATION.—(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a hearing, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) TEMPORARY CERTIFICATES.—On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) amend, modify, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) CONTINUING REQUIREMENTS.—After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend,

or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.

(f) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a certificate under subsection (a) of this section.

§ 41111. Simplified procedure to apply for, amend, modify, suspend, and transfer certificates

(a) GENERAL REQUIREMENTS.—(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for— Regulations.

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) amending, modifying, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) WHEN SIMPLIFIED PROCEDURE USED.—The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to amend, modify, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c) CONTENTS.—(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

§ 41112. Liability insurance and financial responsibility

(a) LIABILITY INSURANCE.—The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) FINANCIAL RESPONSIBILITY.—To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.

41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfers of permits.
41304. Effective periods and amendments, modifications, suspensions, and revocations of permits.
41305. Applications for permits.
41306. Simplified procedure to apply for, amend, modify, and suspend permits.
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41309. Cooperative agreements and requests.
41310. Discriminatory practices.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit issued under this chapter authorizing the foreign air transportation.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

§ 41303. Transfers of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

§ 41304. Effective periods and amendments, modifications, suspensions, and revocations of permits

(a) GENERAL.—The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a hearing, the Secretary may amend, modify, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) SUSPENSIONS AND RESTRICTIONS.—Without a hearing, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or amend, modify, or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) ILLEGAL IMPORTATION OF CONTROLLED SUBSTANCES.—The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall amend, modify, suspend, or revoke the permit of the carrier issued under this chapter.

(d) RESPONSES.—An interested person may file a response with the Secretary opposing or supporting the amendment, modification, suspension, or revocation of a permit under subsection (a) of this section.

§ 41305. Applications for permits

(a) FORM, CONTENTS, NOTICE, RESPONSE, AND ACTIONS ON APPLICATIONS.—(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be— Regulations.

(A) verified;

(B) in a certain form and contain certain information;
(C) served on interested persons; and
(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) TERMS.—The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

§ 41306. Simplified procedure to apply for, amend, modify, and suspend permits

(a) REGULATIONS.—The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) amending, modifying, or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) NOTICE AND OPPORTUNITY TO RESPOND.—Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, amend, modify, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for disapproval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

§ 41308. Exemption from the antitrust laws

(a) DEFINITION.—In this section, "antitrust laws" has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) EXEMPTION AUTHORIZED.—When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) EXEMPTION REQUIRED.—In an order under section 41309 of this title approving an agreement, request, modification, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

§ 41309. Cooperative agreements and requests

(a) FILING.—An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any modification or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) APPROVAL.—The Secretary of Transportation shall approve an agreement, request, modification, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, modification, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, modification, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a common carrier subject to subtitle IV of this title; and

(B) governs the compensation the common carrier may receive for the transportation.

(c) NOTICE AND OPPORTUNITY TO RESPOND OR FOR HEARING.—(1) When an agreement, request, modification, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may conduct a hearing to decide whether an agreement, request, modification, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party oppos-

ing an agreement, request, modification, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, modification, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, modification, or cancellation.

§ 41310. Discriminatory practices

(a) PROHIBITION.—An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b) REVIEW AND NEGOTIATION OF DISCRIMINATORY FOREIGN CHARGES.—(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit money collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c) ACTIONS AGAINST DISCRIMINATORY ACTIVITY.—(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, amend, modify, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d) FILING OF, AND ACTING ON, COMPLAINTS.—(1) An air carrier or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a hearing

or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e) REVIEW.—(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report. Reports.

(f) REPORTS.—Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

CHAPTER 415—PRICING

Sec.
41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation.

41502. Establishing joint prices for through routes with other common carriers.
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§ 41501. Establishing reasonable prices, classifications, rules, practices, and divisions of joint prices for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable prices, classifications, rules, and practices related to foreign air transportation; and

(2) for joint prices established for foreign air transportation, reasonable divisions of those prices among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

§ 41502. Establishing joint prices for through routes with other common carriers

(a) JOINT PRICES.—An air carrier may establish reasonable joint prices and through service with another common carrier. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint price for the transportation of property with a common carrier subject to subtitle IV of this title.

(b) PRICES, CLASSIFICATIONS, RULES, AND PRACTICES AND DIVISIONS OF JOINT PRICES.—For through service by an air carrier and a common carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable prices and reasonable classifications, rules, and practices affecting those prices or the value of the transportation provided under those prices; and

(2) for joint prices established for the through service, reasonable divisions of those joint prices among the participating carriers.

(c) STATEMENTS INCLUDED IN TARIFFS.—An air carrier and a common carrier subject to subtitle IV of this title that are participating in through service and joint prices shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint prices.

§ 41503. Establishing joint prices for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint prices for that transportation. The joint prices agreed to must be the lowest of—

(1) the sum of the applicable prices for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint price established and filed under section 41504 of this title; or

(3) a joint price prescribed by the Secretary of Transportation under section 41507 of this title.

§ 41504. Tariffs for foreign air transportation

(a) FILING AND CONTENTS.—In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the prices for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint prices have been established. A tariff— Regulations.

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the prices in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the prices in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b) CHANGES.—(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a price or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger fare or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger fare that is outside of, or not covered by, the range of passenger fares specified under section 41509(e)(2) and (3) of this title, the proposed change may be put into effect only on the expiration of 60 days after the notice is filed under regulations prescribed by the Secretary.

(c) REJECTION OF CHANGES.—The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

§ 41505. Uniform methods for establishing joint prices, and divisions of joint prices, applicable to commuter air carriers

(a) DEFINITION.—In this section, "commuter air carrier" means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) GENERAL.—Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint prices and divisions of joint prices for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint prices and divisions of joint prices for and between air carriers and commuter air carriers.

(c) NOTICE REQUIRED BEFORE MODIFYING, SUSPENDING, OR ENDING TRANSPORTATION.—A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before modifying, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint prices and divisions of joint prices referred to in subsection (b) of this section does not apply to the commuter air carrier.

§ 41506. Price division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint prices for foreign air transportation in which the carrier participates.

§ 41507. Authority of the Secretary of Transportation to change prices, classifications, rules, and practices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a price charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that price or the value of the transportation provided under that price, is or will be unreasonably discriminatory, the Secretary may—

(1) change the price, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory price or carrying out the discriminatory classification, rule, or practice.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

§ 41508. Authority of the Secretary of Transportation to adjust divisions of joint prices for foreign air transportation

(a) GENERAL.—When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint price for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint price among those carriers. The Secretary may order the adjustment in the division of the joint price to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) WHEN SECRETARY MAY ACT.—The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a hearing.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a) CANCELLATION AND REJECTION.—(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a hearing to decide whether a price for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that price, or the value of the transportation provided under that price, is lawful. The Secretary may begin the hearing at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the hearing, the Secretary decides that the price, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the price, classification, rule, or practice.

(2) With or without a hearing, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a price, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the price on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the price will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the price would be in effect; and

(H) other factors.

(b) SUSPENSION.—(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a price contained in the tariff or a classification, rule, or practice affecting that price.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a price, classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the price, classification, rule, or practice to go into effect.

(c) EFFECTIVE TARIFFS AND PRICES WHEN TARIFF IS SUSPENDED, CANCELED, OR REJECTED.—(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal prices, or the classifications, rules, and practices affecting those prices or the value of transportation provided under those prices, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another price provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, canceled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or canceled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a price or another classification, rule, or practice affecting the price, or the value of the

transportation provided under the price, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) RESPONSE TO REFUSAL OF FOREIGN COUNTRY TO ALLOW AIR CARRIER TO CHARGE A PRICE.—When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a price contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without a hearing—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, prices that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the prices designated by the Secretary.

(e) STANDARD FOREIGN FARE LEVEL.—(1)(A) In this subsection, "standard foreign fare level" means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as adjusted under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96–192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall adjust the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In adjusting a standard foreign fare level, the Secretary may not make an adjustment to costs actually incurred. In establishing a standard foreign fare level and making adjustments in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of

transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) SUBMISSION OF ORDERS TO PRESIDENT.—The Secretary shall submit to the President an order made under this section suspending, canceling, or rejecting a price for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) COMPLIANCE AS CONDITION OF CERTIFICATE OR PERMIT.—This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains prices for that transportation that comply with this section and orders of the Secretary under this section.

§ 41510. Required adherence to foreign air transportation tariffs

(a) PROHIBITED ACTIONS BY AIR CARRIERS, FOREIGN AIR CARRIERS, AND TICKET AGENTS.—An air carrier, foreign air carrier, or ticket agent may not—

(1) charge or receive compensation for foreign air transportation that is different from the price specified in the tariff of the carrier that is in effect for that transportation;

(2) refund or remit any part of the price specified in the tariff; or

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) PROHIBITED ACTIONS BY ANY PERSON.—A person may not knowingly—

(1) pay compensation for foreign air transportation of property that is different from the price specified in the tariff in effect for that transportation; or

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the price specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign

air transportation of property, except as specified in the tariff.

§ 41511. Special prices for foreign air transportation

(a) FREE AND REDUCED PRICING.—This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-price foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) SPACE-AVAILABLE BASIS.—Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-price foreign air transportation on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

CHAPTER 417—OPERATIONS OF CARRIERS

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SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

§ 41703. Navigation of foreign civil aircraft

(a) PERMITTED NAVIGATION.—A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) REQUIREMENTS FOR AUTHORIZING NAVIGATION.—The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) PROVIDING AIR COMMERCE.—The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers or cargo destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) PERMIT REQUIREMENTS NOT AFFECTED.—This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need

to obtain additional authorization under this section for an operation authorized by the permit.

§ 41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

§ 41705. Discrimination against handicapped individuals

In providing air transportation, an air carrier may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

§ 41706. Prohibitions against smoking on scheduled flights

(a) GENERAL.—An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

(3)(A) scheduled for not more than 6 hours' duration; and

(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

(ii) between Alaska and Hawaii.

(b) REGULATIONS.—The Secretary of Transportation shall prescribe regulations necessary to carry out this section.

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

§ 41708. Reports

(a) APPLICATION.—To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) REQUIREMENTS.—The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

§ 41709. Records of air carriers

(a) REQUIREMENTS.—The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b) INSPECTION.—(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)–(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

§ 41711. Air carrier management inquiry and cooperation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint hearing with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

§ 41712. Unfair and deceptive practices and unfair methods of competition

On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a hearing, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

§ 41713. Preemption of authority over prices, routes, and service

(a) DEFINITION.—In this section, "State" means a State, the District of Columbia, and a territory or possession of the United States.

(b) PREEMPTION.—(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraph (1) of this subsection does not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) "eligible place" means a place in the United States that—

(A) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(B) received scheduled air transportation at any time after January 1, 1990; and

(C) is not listed in Department of Transportation Orders 89–9–37 and 89–12–52 as a place ineligible for compensation under this subchapter.

(2) "enhanced essential air service" means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(3) "hub airport" means an airport that each year has at least .25 percent of the total annual boardings in the United States.

(4) "nonhub airport" means an airport that each year has less than .05 percent of the total annual boardings in the United States.

(5) "small hub airport" means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.—The Secretary of Transportation may not decide that a place described in subsection (a)(1) of this section is not an eligible place on the basis of a passenger subsidy at that place or on another basis that is not specifically stated in this subchapter.

§ 41732. Basic essential air service

(a) GENERAL.—Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and cargo—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) MINIMUM REQUIREMENTS.—Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

§ 41733. Level of basic essential air service

(a) DECISIONS MADE BEFORE OCTOBER 1, 1988.—For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b) DECISIONS NOT MADE BEFORE OCTOBER 1, 1988.—(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c) AVAILABILITY OF COMPENSATION.—(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and cargo of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) COMPENSATION PAYMENTS.—The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) REVIEW.—The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service.

§ 41734. Ending, suspending, and reducing basic essential air service

(a) NOTICE REQUIRED.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days' notice before ending, suspending, or reducing that transportation.

(b) CONTINUATION OF SERVICE FOR 30 DAYS AFTER NOTICE PERIOD.—If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) CONTINUATION OF SERVICE FOR ADDITIONAL 30-DAY PERIODS.—If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) CONTINUATION OF COMPENSATION AFTER NOTICE PERIOD.—If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to pro-

vide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) COMPENSATION TO AIR CARRIERS ORIGINALLY PROVIDING SERVICE WITHOUT COMPENSATION.—If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) FINDING REPLACEMENT CARRIERS.—When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) TRANSFER OF AUTHORITY.—If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used only to provide air service to the eligible place.

§ 41735. Enhanced essential air service

(a) PROPOSALS.—(1) A State or local government may submit a proposal to the Secretary of Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

Regulations.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(d) REVIEW.—(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Government pays 50 percent of the compensation, based on the review and consultation with the affected community and the State or local government or person paying the remaining 50 percent of the compensation, the Secretary shall make appropriate adjustments in the type and level of service to the place.

(3) For service for which the Government pays 100 percent of the compensation, based on the review and consultation with the State or local government submitting the proposal, the Secretary shall decide whether the service has succeeded for at least a 2-year period under the criteria prescribed under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(e) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of enhanced essential air service established for that place by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation for that service at least 30 days' notice before ending, suspending, or reducing the service. This subsection does not relieve the carrier of an obligation under section 41734 of this title.

§ 41736. Air transportation to noneligible places

(a) PROPOSALS AND DECISIONS.—(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section; and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) APPROVAL FOR CERTAIN AIR TRANSPORTATION.—Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

(c) LEVEL OF AIR TRANSPORTATION.—(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d) COMPENSATION PAYMENTS.—(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) REVIEW.—The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) WITHDRAWAL OF ELIGIBILITY DESIGNATIONS.—After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation

under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section. Regulations.

(g) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

§ 41737. Compensation guidelines, limitations, and claims

(a) COMPENSATION GUIDELINES.—(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) REQUIRED FINDING.—The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) CLAIMS.—Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government's share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

(d) AUTHORITY TO MAKE AGREEMENTS AND INCUR OBLIGATIONS.—(1) The Secretary may make agreements and incur obligations from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to pay compensation under this subchapter. An agreement by the Secretary under this subsection is a contractual obligation of the Government to pay the Government's share of the compensation.

(2) Not more than $38,600,000 is available to the Secretary out of the Fund for each of the fiscal years ending September 30, 1993–1998, to incur obligations under this section. Amounts made available under this section remain available until expended.

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)–(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

§ 41742. Ending effective date

This subchapter is not effective after September 30, 1998.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
41902. Schedules for certain transportation of mail.
41903. Duty to provide certain transportation of mail.
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41905. Regulating air carrier transportation of foreign mail.
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§ 41901. General authority

(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(d) and (f) of title 39.

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish— Publication.

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft in foreign air transportation or between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

(c) OTHER TRANSPORTATION.—In prescribing prices under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) AUTHORITY TO PRESCRIBE DIFFERENT PRICES.—Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different prices under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a price for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) STATEMENTS ON PRICES.—A petition for prescribing a reasonable price under this section must include a statement of the price the petitioner believes is reasonable.

(f) STATEMENTS ON REQUIRED SERVICES.—The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to the proceeding.

(g) EXPIRATION DATE.—The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.

§ 41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft in foreign air transportation or between places in Alaska only under a schedule designated or required to be

established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to provide foreign air transportation;

(2) the places between which the carrier is authorized to transport mail in Alaska;

(3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and

(4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.

(c) DESIGNATING AND ADDITIONAL SCHEDULES.—The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(3) of this section for the transportation of mail between the places between which the carrier is authorized by its certificate to transport mail; and

(2) require the carrier to establish additional schedules for the transportation of mail between those places.

(d) CHANGING SCHEDULES.—A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(3) of this section. The Postal Service may disapprove a proposed change in a schedule or amend or modify the schedule or proposed change.

(e) ORDERS.—An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may amend, modify, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

(f) PROCEEDINGS PREFERENCES.—The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.

§ 41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft in foreign air transportation or between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft in foreign air transportation or between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under

section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

§ 41904. Noncitizens transporting mail to or in foreign countries

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft to or in a foreign country, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation.

§ 41905. Regulating air carrier transportation of foreign mail

An air carrier holding a certificate that authorizes foreign air transportation and transporting mail of a foreign country shall transport that mail under the control of, and subject to regulation by, the United States Government.

§ 41906. Emergency mail transportation

(a) CONTRACT AUTHORITY.—In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at prices provided in the contract.

(b) TRANSPORTATION NOT AIR TRANSPORTATION.—Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

§ 41907. Prices for foreign transportation of mail

(a) LIMITATIONS.—When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a price for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a price for transporting the mail that is higher than the price—

(1) the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the price the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country

and an intermediate country on the route of the air carrier between the foreign country and the United States.

(b) CHANGES.—The Secretary of Transportation shall act expeditiously on proposed changes in prices for transporting mail by aircraft in foreign air transportation. When prescribing those prices, the Secretary shall consider—

(1) the prices paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

(2) the price-making elements used by the Universal Postal Union in prescribing its airmail prices; and

(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union prices for transporting United States mail and national origin mail of their own countries.

§ 41908. Prices for transporting mail of foreign countries

(a) PRICE DETERMINATIONS.—The United States Postal Service shall determine the prices that an air carrier holding a certificate that authorizes foreign air transportation must charge a government of a foreign country or foreign postal administration for transporting mail of the foreign country. The Postal Service shall put those prices into effect under the postal convention regulating postal relations between the United States and the foreign country or as provided under this section.

(b) CHANGES.—The Postal Service may authorize an air carrier holding a certificate that authorizes foreign air transportation, under limitations the Postal Service prescribes, to change the prices the carrier charges a government of a foreign country or foreign postal administration for transporting mail of the foreign country in the foreign country or between the foreign country and another foreign country.

(c) COLLECTING COMPENSATION.—(1) When an air carrier holding a certificate that authorizes foreign air transportation transports mail of a foreign country—

(A) under an arrangement with a government of a foreign country or foreign postal administration made or approved under this section, the carrier must collect its compensation for the transportation from the foreign country under the arrangement; and

(B) without having an arrangement with a government of a foreign country or foreign postal administration consistent with this section, the compensation collected by the United States Government for the transportation shall be for the account of the air carrier.

(2) An air carrier holding a certificate that authorizes foreign air transportation is not entitled to receive compensation from both a government of a foreign country or foreign postal administration and the United States Government for transporting the same mail of the foreign country.

§ 41909. Duty to oppose unreasonable prices under the Universal Postal Union Convention

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the prices paid for transporting mail under the Universal Postal Union Conven-

tion are not higher than reasonable prices for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union price that is higher than a reasonable price for transporting mail.

§ 41910. Weighing mail

The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

§ 41911. Evidence of providing mail service

When and in the form required by the United States Postal Service, an air carrier transporting or handling—

(1) United States mail shall submit evidence, signed by an authorized official, that the transportation or handling has been provided; and

(2) mail of a foreign country shall submit evidence, signed by an authorized official, of the amount of mail transported or handled and the compensation payable and received for that transportation or handling.

§ 41912. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

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SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

§ 42101. Definitions

(a) GENERAL.—In this subchapter—

(1) "eligible protected employee" means a protected employee who is deprived of employment, or who is adversely affected related to compensation, because of a qualifying dislocation.

(2) "major contraction" means a reduction (except as provided in subsection (b) of this section) of at least 7.5 percent

in the number of full-time employees of an air carrier within a 12-month period, except for employees deprived of employment because of a strike or whose employment is ended for cause.

(3) "protected employee" means an individual who on October 24, 1978, had been employed for at least 4 years by an air carrier that held a certificate under section 401 of the Federal Aviation Act of 1958, but does not include a director or officer of a corporation.

(4) "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 41102 of this title when the Secretary of Transportation finds the bankruptcy or contraction occurred after December 31, 1978, and before January 1, 1989, the major cause of which was the change in regulatory structure provided by the Airline Deregulation Act of 1978.

(b) MAJOR CONTRACTION.—The Secretary may find a reduction of less than 7.5 percent of the number of full-time employees is part of a major contraction if the Secretary decides another reduction is likely to occur within the 12-month period in which the first reduction occurs that, when included with the first reduction, will result in a total reduction of more than 7.5 percent.

§ 42102. Payments to eligible protected employees

(a) AUTHORITY TO PAY AND APPLICATIONS FOR PAYMENTS.—Subject to amounts provided in an appropriation law, the Secretary of Labor shall make monthly assistance payments, moving expense payments, and reimbursement payments as provided under this section to an eligible protected employee whose employment is not ended for cause. The employee must apply to receive the payments and cooperate with the Secretary in finding other employment.

(b) NUMBER AND AMOUNT OF PAYMENTS.—(1) Subject to amounts provided in an appropriation law, an eligible protected employee shall receive 72 monthly assistance payments. However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment. For each class or craft of protected employees, the Secretary of Labor, after consulting with the Secretary of Transportation, shall prescribe by regulation guidelines for computing the amount of each monthly assistance payment to be made to a member of the class or craft and what percentage of salary that payment represents.

Regulations.

(2) The amount of a monthly payment payable under paragraph (1) of this subsection to an eligible protected employee shall be reduced—

(A) by unemployment compensation the employee receives; or

(B) if the employee does not accept reasonably comparable employment, to an amount the employee would be entitled to receive if the employee had accepted the employment.

(3) If accepting comparable employment to avoid a reduction in the monthly assistance payment under paragraph (2) of this subsection would force an eligible protected employee to relocate, the employee may decide not to relocate. Instead of the payments provided under this section, the employee may receive the lesser of 3 payments or the maximum number of payments that remain to be paid under paragraph (1) of this subsection.

(c) MOVING EXPENSES AND REIMBURSEMENTS.—(1) Subject to amounts provided in an appropriation law, an eligible protected employee who relocates shall receive—

(A) reasonable moving expense payments to move the employee and the employee's immediate family; and

(B) reimbursement payments for a loss incurred in selling the employee's principal place of residence for less than fair market value or in cancelling a lease on, or contract to buy, the residence.

(2) The Secretary of Labor shall decide on the amount of the moving expenses and the fair market value of the residence.

§ 42103. Duty to hire protected employees

(a) REHIRING PROTECTED EMPLOYEES.—A protected employee of an air carrier regulated by the Secretary of Transportation who was furloughed or whose employment was ended by the carrier (except for cause) before October 23, 1988, is entitled to be the first employed in the occupational specialty of the employee, regardless of the employee's age, by any other air carrier holding a certificate under section 41102 of this title before October 24, 1978. However, the air carrier may recall its furloughed employees before hiring a protected employee of another air carrier regulated by the Secretary who was furloughed or whose employment was ended by the other carrier (except for cause) before October 23, 1988. An employee hired by an air carrier under this section retains seniority and recall rights with the air carrier that furloughed or ended the employment of the employee.

(b) DUTIES OF SECRETARY OF LABOR.—The Secretary of Labor—

(1) shall establish and publish periodically a list of jobs available with an air carrier holding a certificate under section 41102 of this title that includes necessary information and detail; Publication.

(2) shall assist eligible protected employees to find other employment;

(3) shall encourage negotiations between air carriers and representatives of employees on rehiring practices and seniority; and

(4) may require an air carrier to file with the Secretary information necessary to carry out this section.

§ 42104. Congressional review of regulations

(a) DEFINITION.—In this section, "legislative day" means a calendar day on which both Houses of Congress are in session.

(b) SUBMISSION TO CONGRESS.—The Secretary of Labor may not prescribe a regulation under this subchapter until 30 legislative days after the regulation is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) EFFECTIVENESS OF REGULATIONS.—A proposed regulation under this subchapter shall be submitted to Congress and becomes effective only if, during the period of 60 legislative days after the regulation is submitted to Congress, either House does not pass a resolution disapproving the regulation. However, if Congress adopts a resolution approving the regulation during the 60-day period, the regulation is effective on that date.

§ 42105. Airline Employees Protective Account

The Department of Labor has an Airline Employees Protective Account consisting of amounts appropriated to it. An amount necessary to carry out this subchapter, including administrative expenses, may be appropriated to the Account annually.

§ 42106. Ending effective date

This subchapter is not effective after the last day the Secretary of Labor must make a payment under this subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

§ 42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) "copilot" means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) "pilot" means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) MINIMUM ANNUAL RATE OF COMPENSATION.—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) COLLECTIVE BARGAINING.—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.
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44102. Registration requirements.
44103. Registration of aircraft.
44104. Registration of aircraft components and dealers' certificates of registration.
44105. Suspension and revocation of aircraft certificates.
44106. Revocation of aircraft certificates for controlled substance violations.
44107. Recordation of conveyances, leases, and security instruments.
44108. Validity of conveyances, leases, and security instruments.
44109. Reporting transfer of ownership.
44110. Information about aircraft ownership and rights.
44111. Modifications in registration and recordation system for aircraft not providing air transportation.
44112 Limitation of liability.

§ 44101. Operation of aircraft

(a) REGISTRATION REQUIREMENT.—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) EXCEPTIONS.—A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the national defense forces of the United States and is identified in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

§ 44102. Registration requirements

(a) ELIGIBILITY.—An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) DUTY TO DEFINE CERTAIN TERM.—In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define "based and primarily used in the United States".

§ 44103. Registration of aircraft

(a) GENERAL.—(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b) CONTROLLED SUBSTANCE VIOLATIONS.—(1) The Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 of this title during the 5-year period beginning on the date of the revocation, except—

(A) as provided in section 44106(e)(2) of this title; or

(B) that the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(i) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(ii) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1)(B)(i) or (ii) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to administrative or judicial review.

(c) CERTIFICATES AS EVIDENCE.—A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) CERTIFICATES AVAILABLE FOR INSPECTION.—An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

§ 44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may prescribe regulations—

(1) in the interest of safety for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest for issuing, suspending, and revoking a dealer's certificate of registration under this chapter

and for its use by a person manufacturing, distributing, or selling aircraft.

§ 44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

§ 44106. Revocation of aircraft certificates for controlled substance violations

(a) DEFINITION.—In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATIONS.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, or facilitate, an activity that is punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance); and

(B) the owner of the aircraft permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control the owner of the aircraft or who are involved in forming the major policy of the owner permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A).

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d) APPEALS.—(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

§ 44107. Recordation of conveyances, leases, and security instruments

(a) ESTABLISHMENT OF SYSTEM.—The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including conditional sales contracts, assignments, and amendments, that affect an interest in—

(A) a specifically identified aircraft engine having at least 750 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, lease, or instrument recorded under clause (1) or (2) of this subsection.

(b) GENERAL DESCRIPTION REQUIRED.—A lease or instrument recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) ACKNOWLEDGMENT.—Except as the Administrator otherwise may provide, a conveyance, lease, or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States to acknowledge deeds.

(d) RECORDS AND INDEXES.—The Administrator shall—

(1) keep a record of the time and date that each conveyance, lease, and instrument is filed and recorded with the Administrator; and

(2) record each conveyance, lease, and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the identifying description of the aircraft, aircraft engine, or propeller, or location specified in a lease or instrument recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance, lease, and instrument.

§ 44108. Validity of conveyances, leases, and security instruments

(a) VALIDITY BEFORE FILING.—Until a conveyance, lease, or instrument executed for security purposes that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance, lease, or instrument is valid only against—

(1) the person making the conveyance, lease, or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance, lease, or instrument.

(b) PERIOD OF VALIDITY.—When a conveyance, lease, or instrument is recorded under section 44107 of this title, the conveyance, lease, or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) a lease or instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to a lease or instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) a lease or instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the lease or instrument.

(c) APPLICABLE LAWS.—(1) The validity of a conveyance, lease, or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance, lease, or instrument is delivered, regardless of the place at which the subject of the conveyance, lease, or instrument is located or delivered. If the conveyance, lease, or instrument specifies the place at which delivery is intended, it is presumed that the conveyance, lease, or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

(d) NONAPPLICATION.—This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) a lease or instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

§ 44109. Reporting transfer of ownership

(a) FILING NOTICES.—A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) EXEMPTIONS.—The Secretary—

Regulations.

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

§ 44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

§ 44111. Modifications in registration and recordation system for aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) AUTHORITY TO MAKE MODIFICATIONS.—The Administrator of the Federal Aviation Administration shall make modifications in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) NATURE OF MODIFICATIONS.—Modifications made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or "mail drop" as a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of "reserved" registration markings on aircraft.

(I) the large number of aircraft classified as being in "self-reported status".

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d) REGULATIONS.—(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

§ 44112. Limitation of liability

(a) DEFINITIONS.—In this section—

(1) "lessor" means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) "owner" means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) "secured party" means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) LIABILITY.—A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

CHAPTER 443—INSURANCE

Sec.
44301. Definitions.
44302. General authority.

44303. Coverage.
44304. Reinsurance.
44305. Insuring United States Government property.
44306. Premiums and limitations on coverage and claims.
44307. Revolving fund.
44308. Administrative.
44309. Civil actions.
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§ 44301. Definitions

In this chapter—

(1) "American aircraft" means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(2) "insurance carrier" means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

§ 44302. General authority

(a) INSURANCE AND REINSURANCE.—(1) Subject to subsection (b) of this section and section 44305(a) of this title, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft—

(A) in foreign air commerce; or

(B) between at least 2 places, all of which are outside the United States.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) PRESIDENTIAL APPROVAL.—The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President. The President may approve the insurance or reinsurance only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) CONSULTATION.—The President may require the Secretary to consult with interested departments, agencies, and instrumentalities of the Government before providing insurance or reinsurance under this chapter.

(d) ADDITIONAL INSURANCE.—With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount that is more than the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsec tion does not prevent the Secretary from making contracts of coinsurance.

§ 44303. Coverage

The Secretary of Transportation may provide insurance and reinsurance authorized under section 44302 of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

(i) a place in a State or the District of Columbia and a place in a territory or possession of the United States;

(ii) a place in a territory or possession of the United States and a place in another territory or possession of the United States; or

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft referred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

§ 44304. Reinsurance

(a) GENERAL AUTHORITY.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, the carrier any insurance or reinsurance provided by the Secretary under this chapter.

(b) PREMIUM LEVELS.—The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business

practice, except for payments by the carrier for the stimulation or solicitation of insurance business.

§ 44305. Insuring United States Government property

(a) GENERAL.—With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain—

(1) insurance under this chapter, including insurance for risks from operating an aircraft in intrastate or interstate air commerce, but not including insurance on valuables subject to sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722); and

(2) insurance for risks arising from providing goods or services directly related to and necessary for operating an aircraft covered by insurance obtained under clause (1) of this subsection if the aircraft is operated—

(A) in carrying out a contract of the department, agency, or instrumentality; or

(B) to transport military forces or materiel on behalf of the United States under an agreement between the Government and the government of a foreign country.

(b) PREMIUM WAIVERS AND INDEMNIFICATION.—With the approval required under subsection (a) of this section, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section.

§ 44306. Premiums and limitations on coverage and claims

(a) PREMIUMS BASED ON RISK.—To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) TIME LIMITS.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 60 days. The period may be extended for additional periods of not more than 60 days each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) MAXIMUM INSURED AMOUNT.—The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as determined by the Secretary. A claim under the policy may not be paid for more than that stated amount.

§ 44307. Revolving fund

(a) EXISTENCE, DISBURSEMENTS, APPROPRIATIONS, AND DEPOSITS.—(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts

received in carrying out this chapter shall be deposited in the fund.

(b) INVESTMENT.—On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) EXCESS AMOUNTS.—The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) EXPENSES.—The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The deposited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

§ 44308. Administrative

(a) COMMERCIAL PRACTICES.—The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b) ISSUANCE OF POLICIES AND DISPOSITION OF CLAIMS.—(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government; and

(B) pay the amount of a judgment entered against the Government.

(c) UNDERWRITING AGENT.—(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reasonable expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) BUDGET.—The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) ACCOUNTS.—The Secretary shall maintain a set of accounts. The Comptroller General shall audit those accounts under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

§ 44309. Civil actions

(a) DISPUTED LOSSES.—A person may bring a civil action in a district court of the United States against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.

(b) VENUE AND JOINDER.—(1) A civil action under subsection (a) of this section may be brought in the judicial district for the District of Columbia or in the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the judicial district for the District of Columbia or in the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) TIME REQUIREMENTS.—When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d) INTERPLEADER.—(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader in a district court of the United States against the persons that may be entitled to payment. The action may be brought in the judicial district for the District of Columbia or in the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

§ 44310. Ending effective date

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after September 30, 1997.

CHAPTER 445—FACILITIES, PERSONNEL, AND RESEARCH

Sec.
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§ 44501. Plans and policy

(a) LONG RANGE PLANS AND POLICY REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development and location of air navigation facilities, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) AIRWAY CAPITAL INVESTMENT PLAN.—The Administrator of the Federal Aviation Administration shall review, revise, and publish a national airways system plan, known as the Airway Capital Investment Plan, before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, and development programs and the facilities and equipment that the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements that the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and 2d years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subclauses (A) and (B) of this clause;

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period,

and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; and

(4) a 10-year investment plan that considers long range objectives that the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national defense.

(c) NATIONAL AVIATION RESEARCH PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The plan shall be submitted not later than the date of submission of the President's budget to Congress.

(2)(A) The plan shall describe, for a 15-year period, the research, engineering, and development that the Administrator of the Federal Aviation Administration considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall cover all research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title and shall identify complementary and coordinated research efforts that the Administrator of the National Aeronautics and Space Administration conducts with amounts specifically appropriated to the Administration. For projects for which the Administrator of the Federal Aviation Administration anticipates requesting an appropriation, the plan shall include—

(i) for the first 2 years of the plan, detailed annual estimates of the schedule, cost, and work-force levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

(ii) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project and any additional major research projects that may be required to meet long-term objectives and that may have significant impact on future appropriations requirements;

(iii) for the 6th and subsequent years of the plan, the long-term objectives the Administrator of the Federal Aviation Administration considers necessary to ensure that aviation safety will be given the highest priority; and

(iv) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator of the Federal Aviation Administration, including any new technologies developed.

Reports.

(3) Subject to section 40119(b) of this title and regulations prescribed under section 40119(b), the Administrator of the Federal Aviation Administration shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year. The report shall be submitted with the plan required under para-

graph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year.

§ 44502. General facilities and personnel authority

(a) GENERAL AUTHORITY.—(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 48101(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section 47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary of Transportation may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(b) CERTIFICATION OF NECESSITY.—Except for Government money expended under this part or for a military purpose, money may be expended to acquire, establish, construct, operate, repair, alter, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, constructed, operated, repaired, altered, or maintained by or for the person.

(c) ENSURING CONFORMITY WITH PLANS AND POLICIES.—(1) To ensure that conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator of the Federal Aviation Administration may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, construction, or alteration on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure conformity, an airport or landing area not involving the expenditure of Government money may be established or constructed, or a runway may be altered substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, construction, or alteration on the use of airspace by aircraft.

(d) PUBLIC USE AND EMERGENCY ASSISTANCE.—(1) The head of a department, agency, or instrumentality of the Government

having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. An amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) CONSENT OF CONGRESS.—Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(f) TRANSFERS OF INSTRUMENT LANDING SYSTEMS.—An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) that conforms to performance specifications of the Administrator if a Government airport aid program, airport development aid program, or airport improvement project grant was used to assist in purchasing the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.

§ 44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

§ 44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) DEVELOPMENTAL WORK AND SERVICE TESTING.—The Administrator of the Federal Aviation Administration may conduct or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) RESEARCH.—The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft material;

(4) to develop improved fire and smoke resistant material for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires;

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize post-crash fire hazards; and

(7) to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft.

(c) AUTHORITY TO BUY ITEMS OFFERING SPECIAL ADVANTAGES.—In carrying out this section, the Administrator, by negotiation or otherwise, may buy or exchange experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

§ 44505. Systems, procedures, facilities, and devices

(a) GENERAL REQUIREMENTS.—(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, alter, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) RESEARCH ON HUMAN FACTORS AND SIMULATION MODELS.—The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety; and

(5) to develop dynamic simulation models of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs.

(c) RESEARCH ON DEVELOPING AND MAINTAINING A SAFE AND EFFICIENT SYSTEM.—The Administrator shall conduct or supervise research on—

(1) airspace and airport planning and design;

(2) airport capacity enhancement techniques;

(3) human performance in the air transportation environment;

(4) aviation safety and security;

(5) the supply of trained air transportation personnel, including pilots and mechanics; and

(6) other aviation issues related to developing and maintaining a safe and efficient air transportation system.

§ 44506. Air traffic controllers

(a) RESEARCH ON EFFECT OF AUTOMATION ON PERFORMANCE.—To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) RESEARCH ON HUMAN FACTOR ASPECTS OF AUTOMATION.—The Administrators of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of

air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

(c) COLLEGIATE TRAINING INITIATIVE.—(1) The Administrator of the Federal Aviation Administration may maintain the Collegiate Training Initiative program by making new agreements and continuing existing agreements with institutions of higher education (as defined by the Administrator) under which the institutions prepare students for the position of air traffic controller with the Department of Transportation (as defined in section 2109 of title 5). The Administrator may establish standards for the entry of institutions into the program and for their continued participation.

(2)(A) The Administrator of the Federal Aviation Administration may appoint an individual who has successfully completed a course of training in a program described in paragraph (1) of this subsection to the position of air traffic controller noncompetitively in the excepted service (as defined in section 2103 of title 5). An individual appointed under this paragraph serves at the pleasure of the Administrator, subject to section 7511 of title 5. However, an appointment under this paragraph may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service (as defined in section 2102 of title 5) when the individual achieves full performance level air traffic controller status, as decided by the Administrator.

(B) The authority under subparagraph (A) of this paragraph to make appointments in the excepted service expires on October 6, 1997, except that the Administrator of the Federal Aviation Administration may extend the authority for one or more successive one-year periods.

(d) STAFFING REPORT.—The Administrator of the Federal Aviation Administration shall submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States;

(2) a 3-year projection of the number of controllers needed to be employed to operate the system to meet the standards; and

(3) a detailed plan for employing the controllers, including projected budget requests.

§ 44507. Civil aeromedical research

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other individuals involved in operating and maintaining aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

(3) make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between the Administration and the National Aeronautics and Space Administration, other departments, agencies, and instrumentalities of the United States Government, industry, and governments of foreign countries; and

(5) provide medical consultation services to the Administrator about medical certification of airmen.

§ 44508. Research advisory committee

(a) ESTABLISHMENT AND DUTIES.—(1) There is a research advisory committee in the Federal Aviation Administration. The committee shall—

(A) provide advice and recommendations to the Administrator of the Federal Aviation Administration about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title;

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration; and

(C) review the operations of the regional centers of air transportation excellence established under section 44513 of this title.

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title.

(b) MEMBERS, CHAIRMAN, PAY, AND EXPENSES.—(1) The committee is composed of not more than 30 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that the regional centers of air transportation excellence, universities, corporations, associations, consumers, and other departments, agencies, and instrumentalities of the United States Government are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, expenses as authorized under section 5703 of title 5.

(c) SUPPORT STAFF, INFORMATION, AND SERVICES.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.

(d) NONAPPLICATION.—Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the committee.

(e) USE AND LIMITATION OF AMOUNTS.—(1) Not more than .1 percent of the amounts made available to conduct research under sections 40119, 44504, 44505, 44507, 44511–44513, and 44912 of this title may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

§ 44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects that the Secretary considers necessary for research and development activities under this chapter.

§ 44510. Airway science curriculum grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make competitive grant agreements with institutions of higher education having airway science curricula for the United States Government's share of the allowable direct costs of the following categories of items to the extent that the items are in support of airway science curricula:

(1) the construction, purchase, or lease with an option to purchase, of buildings and associated facilities.

(2) instructional material and equipment.

(b) COST GUIDELINES.—The Administrator shall establish guidelines to determine the direct costs allowable under a grant to be made under this section. The Government's share of the allowable cost of a project assisted by a grant under this section may not be more than 65 percent.

§ 44511. Aviation research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations to conduct aviation research in areas the Administrator considers necessary for the long-term growth of civil aviation.

(b) APPLICATIONS.—An institution of higher education or nonprofit research organization interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information the Administrator requires.

(c) SOLICITATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, review, and evaluation process that ensures—

(1) providing grants under this section for proposals having adequate merit and relevancy to the mission of the Administration;

(2) a fair geographical distribution of grants under this section; and

Minorities.

(3) the inclusion of historically black institutions of higher education and other minority nonprofit research organizations for grant consideration under this section.

(d) RECORDS.—Each person receiving a grant under this section shall maintain records that the Administrator requires as being necessary to facilitate an effective audit and evaluation of the use of money provided under the grant.

(e) ANNUAL REPORT.—The Administrator shall submit an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on carrying out this section.

§ 44512. Catastrophic failure prevention research grants

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education and nonprofit research organizations—

(1) to conduct aviation research related to the development of technologies and methods to assess the risk of, and prevent, defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances that could result in a catastrophic failure of an aircraft; and

(2) to establish centers of excellence for continuing the research.

(b) SOLICITATION, APPLICATION, REVIEW, AND EVALUATION PROCESS.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures providing grants under this section for proposals having adequate merit and relevancy to the research described in subsection (a) of this section.

§ 44513. Regional centers of air transportation excellence

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to institutions of higher education to establish and operate regional centers of air transportation excellence. The locations shall be distributed in a geographically fair way.

(b) RESPONSIBILITIES.—(1) The responsibilities of each center established under this section shall include—

(A) conducting research on—

(i) airspace and airport planning and design;

(ii) airport capacity enhancement techniques;

(iii) human performance in the air transportation environment;

(iv) aviation safety and security;

(v) the supply of trained air transportation personnel, including pilots and mechanics; and

(vi) other aviation issues related to developing and maintaining a safe and efficient air transportation system; and

(B) interpreting, publishing, and disseminating the results of the research.

(2) In conducting research described in paragraph (1)(A) of this subsection, each center may make contracts with nonprofit research organizations and other appropriate persons.

(c) APPLICATIONS.—An institution of higher education interested in receiving a grant under this section may submit an application to the Administrator. The application must be in the form and contain the information that the Administrator requires by regulation.

(d) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this section on the basis of the following criteria:

(1) the extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

(2) the demonstrated research and extension resources available to the applicant to carry out this section.

(3) the ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(4) the extent to which the applicant has an established air transportation program.

(5) the demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(6) the projects the applicant proposes to carry out under the grant.

(e) EXPENDITURE AGREEMENTS.—A grant may be made under this section in a fiscal year only if the recipient makes an agreement with the Administrator that the Administrator requires to ensure that the recipient will maintain its total expenditures from all other sources for establishing and operating the center and related research activities at a level at least equal to the average level of those expenditures in the 2 fiscal years of the recipient occurring immediately before November 5, 1990.

(f) GOVERNMENT'S SHARE OF COSTS.—The United States Government's share of a grant under this section is 50 percent of the costs of establishing and operating the center and related research activities that the grant recipient carries out.

(g) ALLOCATING AMOUNTS.—The Administrator shall allocate amounts made available to carry out this section in a geographically fair way.

§ 44514. Flight service stations

(a) HOURS OF OPERATION.—(1) The Secretary of Transportation may close, or reduce the hours of operation of, a flight service station in an area only if the service provided in the area after the closing or during the hours the station is not in operation is provided by an automated flight service station with at least model 1 equipment.

(2) The Secretary shall reopen a flight service station closed after March 24, 1987, but before July 15, 1987, as soon as practicable if the service in the area in which the station is located has not been provided since the closing by an automatic flight service station with at least model 1 equipment. The hours of operation for the reopened station shall be the same as were the hours of operation for the station on March 25, 1987. After reopening the station, the Secretary may close, or reduce the hours of operation of, the station only as provided in paragraph (1) of this subsection.

(b) MANNED AUXILIARY STATIONS.—The Secretary and the Administrator of the Federal Aviation Administration shall establish a system of manned auxiliary flight service stations. The manned auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. A manned auxiliary flight service station shall be located in an area of unique weather or operational conditions that are critical to the safety of flight.

§ 44515. Advanced training facilities for maintenance technicians for air carrier aircraft

(a) GENERAL AUTHORITY.—The Administrator of the Federal Aviation Administration may make grants to not more than 4 vocational technical educational institutions to acquire or construct facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY.—The Administrator may make a grant under this section to a vocational technical educational institution only if the institution has a training curriculum that prepares aircraft maintenance technicians who hold airframe and power plant certificates under subpart D of part 65 of title 14, Code of Federal Regulations, to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION.—A vocational technical educational institution may not receive more than a total of $5,000,000 in grants under this section.

CHAPTER 447—SAFETY REGULATION

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§ 44701. General requirements

Regulations.

(a) PROMOTING SAFETY.—The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards required in the interest of safety for appliances and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers;

(2) regulations and minimum standards in the interest of safety for—

(A) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(B) equipment and facilities for, and the timing and manner of, the inspecting, servicing, and overhauling; and

(C) a qualified private person, instead of an officer or employee of the Administration, to examine and report on the inspecting, servicing, and overhauling;

(3) regulations required in the interest of safety for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers; and

(5) regulations and minimum standards for other practices, methods, and procedure the Administrator finds necessary for safety in air commerce and national security.

(b) PRESCRIBING MINIMUM SAFETY STANDARDS.—The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) operating an airport serving any passenger operation of air carrier aircraft designed for at least 31 passenger seats.

(c) REDUCING AND ELIMINATING ACCIDENTS.—The Administrator shall carry out this chapter in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference either to air transportation or to other air commerce in carrying out this chapter.

(d) CONSIDERATIONS AND CLASSIFICATION OF REGULATIONS AND STANDARDS.—When prescribing a regulation or standard under subsection (a) or (b) of this section or section 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a regulation or standard appropriate to the differences between air transportation and other air commerce.

(e) EXEMPTIONS.—The Administrator may grant an exemption from a requirement of a regulation prescribed under subsection (a) or (b) of this section or section 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

§ 44702. Issuance of certificates

(a) GENERAL AUTHORITY AND APPLICATIONS.—The Administrator of the Federal Aviation Administration may issue airman certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) CONSIDERATIONS.—When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and other air commerce; and

(2) classify a certificate according to the differences between air transportation and other air commerce.

(c) PRIOR CERTIFICATION.—The Administrator may authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(d) DELEGATION.—(1) Subject to regulations, supervision, and review the Administrator may prescribe, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. On the Administrator's own initiative, the Administrator may reconsider the action of a private person at any time. If the Administrator decides on reconsideration that the action is unreasonable or unwarranted, the Administrator shall change, modify, or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

§ 44703. Airman certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.

(b) CONTENTS.—(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce, including terms on the dura-

tion of the certificate, periodic or special examinations, and tests of physical fitness;

(D) specify the capacity in which the holder of the certificate may serve as an airman with respect to an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation "airline transport pilot" of the appropriate class.

(c) APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) is suspended at the time of denial; or

(B) was revoked within one year from the date of the denial.

(2) The Board shall conduct a hearing on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(d) RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit issuing an airman certificate to an alien; or

(2) make issuing the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(e) CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) when the Administrator decides that issuing the certificate will facilitate law enforcement efforts; and

(2) as provided in section 44710(e)(2) of this title.

(f) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificates.

(C) the use by an applicant of a post office box or "mail drop" as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

Regulations.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

§ 44704. Type certificates, production certificates, and airworthiness certificates

(a) TYPE CERTIFICATES.—(1) The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(b) PRODUCTION CERTIFICATES.—The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator finds the duplicate will conform to the certificate. On receiving an application, the Administrator shall inspect, and may require testing of, a duplicate to ensure that it conforms to the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(c) AIRWORTHINESS CERTIFICATES.—(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator finds that the aircraft conforms to its type certificate and, after inspection, is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. The certificate number or other individual designation the Administrator requires shall be displayed on the aircraft. The

Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having a property interest in the aircraft and the kind and extent of the interest.

§ 44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places to and from which, and the airways of the United States over which, a person may operate as an air carrier.

§ 44706. Airport operating certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that the Administrator requires to have a certificate; and

(3) when the Administrator finds, after investigation, that the person properly and adequately is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) TERMS.—An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) EXEMPTIONS.—The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section having less than .25 percent of the total number of passenger boardings each year at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing, altering, and maintaining aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility available for the use of civil aircraft on the suitability of the facility for that use.

§ 44709. Amendments, modifications, suspensions, and revocations of certificates

(a) REINSPECTION AND REEXAMINATION.—The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or reexamine an airman holding a certificate issued under section 44703 of this title.

(b) ACTIONS OF THE ADMINISTRATOR.—The Administrator may issue an order amending, modifying, suspending, or revoking—

(1) any part of a certificate issued under this chapter if—

(A) the Administrator decides after conducting a reinspection, reexamination, or other investigation that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(a)).

(c) ADVICE TO CERTIFICATE HOLDERS AND OPPORTUNITY TO ANSWER.—Before acting under subsection (b) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator relies for the proposed action. Except in an emergency, the Administrator shall provide the holder an opportunity to answer the charges and be heard why the certificate should not be amended, modified, suspended, or revoked.

(d) APPEALS.—(1) A person adversely affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a hearing, the Board may amend, modify, or reverse the order when the Board finds—

(A) if the order was issued under subsection (b)(1)(A) of this section, that safety in air commerce or air transportation and the public interest do not require affirmation of the order; or

(B) if the order was issued under subsection (b)(1)(B) of this section—

(i) that control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(ii) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) The Board may modify a suspension or revocation of a certificate to imposition of a civil penalty.

(3) When conducting a hearing under this subsection, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(e) EFFECTIVENESS OF ORDERS PENDING APPEAL.—When a person files an appeal with the Board under subsection (d) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires the order to be effective immediately—

(1) the order is effective; and

(2) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(f) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this section, or the Administrator when the Administrator decides that an order of the Board under this section will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) DEFINITION.—In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b) REVOCATION.—(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) ADVICE TO HOLDERS AND OPPORTUNITY TO ANSWER.—Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator relies for the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and be heard why the certificate should not be revoked.

(d) APPEALS.—(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. When conducting the hearing, the Board is not bound by findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall make a final disposition of the appeal not later than 60 days after the Administrator so advises the Board.

(3) An individual substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse effect on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(e) ACQUITTAL.—(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the conviction on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) WAIVERS.—The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

§ 44711. Prohibitions and exemption

(a) PROHIBITIONS.—A person may not—

(1) operate a civil aircraft in air commerce without an airworthiness certificate in effect or in violation of a term of the certificate;

(2) serve in any capacity as an airman with respect to a civil aircraft, aircraft engine, propeller, or appliance used, or intended for use, in air commerce—

(A) without an airman certificate authorizing the airman to serve in the capacity for which the certificate was issued; or

(B) in violation of a term of the certificate or a regulation prescribed or order issued under section 44701(a) or (b) or 44702–44716 of this title;

(3) employ for service related to civil aircraft used in air commerce an airman who does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(4) operate as an air carrier without an air carrier operating certificate or in violation of a term of the certificate;

(5) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or 44702–44716 of this title;

(6) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(7) violate a term of an air agency or production certificate or a regulation prescribed or order issued under section 44701(a) or (b) or 44702–44716 of this title related to the holder of the certificate;

(8) operate an airport without an airport operating certificate required under section 44706 of this title or in violation of a term of the certificate; or

(9) manufacture, deliver, sell, or offer for sale any aviation fuel or additive in violation of a regulation prescribed under section 44714 of this title.

(b) EXEMPTION.—On terms the Administrator of the Federal Aviation Administration prescribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

§ 44712. Emergency locator transmitters

(a) INSTALLATION.—An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation under subpart II of this part;

(3) aircraft when used in training operations conducted entirely within a 50 mile radius of the airport from which the training operations begin;

(4) aircraft when used in flight operations related to design and testing, the manufacture, preparation, and delivery of the aircraft, or the aerial application of a substance for an agricultural purpose;

(5) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(6) aircraft when used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(7) aircraft equipped to carry only one individual.

Regulations.

(c) REMOVAL.—The Administrator shall prescribe regulations specifying the conditions under which an aircraft subject to subsection (a) of this section may operate when its emergency locator transmitter has been removed for inspection, repair, alteration, or replacement.

§ 44713. Inspection and maintenance

(a) GENERAL EQUIPMENT REQUIREMENTS.—An air carrier shall make, or cause to be made, any inspection, repair, or maintenance of equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, repairing, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) DUTIES OF INSPECTORS.—The Administrator of the Federal Aviation Administration shall employ inspectors who shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft,

aircraft engines, propellers, or appliances are in safe condition and maintained properly; and

(2) advise and cooperate with the air carrier during that inspection and maintenance.

(c) UNSAFE AIRCRAFT, ENGINES, PROPELLERS, AND APPLIANCES.—When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not in condition for safe operation, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is in condition for safe operation.

(d) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for processing forms for major repairs or alterations to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The modifications shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and alteration forms.

(B) the excessive period of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons. Regulations.

§ 44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration shall prescribe—

(1) standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571) endanger the public health or welfare; and

(2) regulations providing for carrying out and enforcing those standards.

§ 44715. Controlling aircraft noise and sonic boom

(a) STANDARDS AND REGULATIONS.—(1) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

(A) standards to measure aircraft noise and sonic boom; and

(B) regulations to control and abate aircraft noise and sonic boom.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, amending, modifying, suspending, or revoking a certificate authorized under this chapter.

(3) An original type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) CONSIDERATIONS AND CONSULTATION.—When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider relevant information related to aircraft noise and sonic boom;

(2) consult with appropriate departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out the purposes of this section.

(c) PROPOSED REGULATIONS OF ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed regulations not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a hearing at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the hearing is completed and after consult-

Publication.

ing with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that amend the proposed regulations; or

(2) publish in the Federal Register— Federal Register, publication.

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d) CONSULTATION AND REPORTS.—(1) If the Administrator of the Environmental Protection Agency believes that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, consistent with the considerations in subsection (b) of this section, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register. Federal Register, publication.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time, if any, specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall— Reports.

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify whether and where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken. Federal Register, publication.

(e) SUPPLEMENTAL REPORTS.—The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the Act (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain

a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) EXEMPTIONS.—An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration finds that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the Environmental Protection Agency as soon as practicable after the exemption is granted.

§ 44716. Collision avoidance systems

(a) DEVELOPMENT AND CERTIFICATION.—The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS–II so that TCAS–II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS–III;

(2) develop and carry out a schedule for developing and certifying TCAS–II that will result in certification not later than June 30, 1989; and

Reports.

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS–II.

Regulations.

(b) INSTALLATION AND OPERATION.—The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS–II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator finds the extension is necessary to promote—

(1) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS–II; or

(2) other safety objectives.

(c) OPERATIONAL EVALUATION.—Not later than December 30, 1990, the Administrator shall establish a one-year program to collect and assess safety and operational information from civil aircraft equipped with TCAS–II for the operational evaluation of TCAS–II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS–II to participate in the program.

(d) AMENDING SCHEDULE FOR WINDSHEAR EQUIPMENT.—The Administrator shall consider the feasibility and desirability of amending the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS–II.

(e) DEADLINE FOR DEVELOPMENT AND CERTIFICATION.—(1) The Administrator shall complete developing and certifying TCAS–III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) INSTALLING AND USING TRANSPONDERS.—The Administrator shall prescribe regulations requiring that, not later than December 30, 1990, operating transponders with automatic altitude reporting capability be installed and used for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. The Administrator may provide for access to that airspace (except terminal control areas and airport radar service areas) by nonequipped aircraft if the Administrator finds the access will not interfere with the normal traffic flow. Regulations.

§ 44717. Aging aircraft

(a) INSPECTIONS AND REVIEWS.—The Administrator of the Federal Aviation Administration shall prescribe regulations that ensure the continuing airworthiness of aging aircraft. The regulations prescribed under subsection (a) of this section— Regulations.

(1) at least shall require the Administrator to make inspections, and review the maintenance and other records, of each aircraft an air carrier uses to provide air transportation that the Administrator decides may be necessary to enable the Administrator to decide whether the aircraft is in safe condition and maintained properly for operation in air transportation;

(2) at least shall require an air carrier to demonstrate to the Administrator, as part of the inspection, that maintenance of the aircraft's age-sensitive parts and components has been adequate and timely enough to ensure the highest degree of safety;

(3) shall require the air carrier to make available to the Administrator the aircraft and any records about the aircraft that the Administrator requires to carry out a review; and

(4) shall establish procedures to be followed in carrying out an inspection.

(b) WHEN AND HOW INSPECTIONS AND REVIEWS SHALL BE CARRIED OUT.—(1) Inspections and reviews required under subsection (a)(1) of this section shall be carried out as part of each heavy maintenance check of the aircraft conducted after the 14th year in which the aircraft has been in service.

(2) Inspections under subsection (a)(1) of this section shall be carried out as provided under section 44701(a)(2)(B) and (C) of this title.

(c) AIRCRAFT MAINTENANCE SAFETY PROGRAMS.—The Administrator shall establish—

(1) a program to verify that air carriers are maintaining their aircraft according to maintenance programs approved by the Administrator;

(2) a program—

(A) to provide inspectors and engineers of the Administration with training necessary to conduct auditing inspections of aircraft operated by air carriers for corrosion and metal fatigue; and

(B) to enhance participation of those inspectors and engineers in those inspections; and

(3) a program to ensure that air carriers demonstrate to the Administrator their commitment and technical competence to ensure the airworthiness of aircraft that the carriers operate.

(d) FOREIGN AIR TRANSPORTATION.—(1) The Administrator shall take all possible steps to encourage governments of foreign countries and relevant international organizations to develop standards and requirements for inspections and reviews that—

(A) will ensure the continuing airworthiness of aging aircraft used by foreign air carriers to provide foreign air transportation to and from the United States; and

(B) will provide passengers of those foreign air carriers with the same level of safety that will be provided passengers of air carriers by carrying out this section.

(2) Not later than September 30, 1994, the Administrator shall report to Congress on carrying out this subsection.

§ 44718. Structures interfering with air commerce

(a) NOTICE.—By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, of the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b) STUDIES.—(1) Under regulations prescribed by the Secretary, if the Secretary decides that constructing or altering a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

Reports. (2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from constructing or altering the structure.

(c) BROADCAST APPLICATIONS AND TOWER STUDIES.—In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communica-

tions Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

§ 44719. Standards for navigational aids

Regulations.

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

§ 44720. Meteorological services

(a) RECOMMENDATIONS.—The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) PROMOTING SAFETY AND EFFICIENCY.—To promote safety and efficiency in air navigation to the highest possible degree, the Secretary shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide

for publishing the results of the projects unless publication would not be in the public interest.

§ 44721. Aeronautical maps and charts

(a) PUBLICATION.—(1) The Administrator of the Federal Aviation Administration may arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(2) In carrying out paragraph (1) of this subsection, the Administrator shall update and arrange for the publication of clearly defined routes for navigating through a complex terminal airspace area and to and from an airport located in such an area, if the Administrator decides that publication of the routes would promote safety in air navigation. The routes shall be developed in consultation with pilots and other users of affected airports and shall be for the optional use of pilots operating under visual flight rules.

(b) INDEMNIFICATION.—The Government shall make an agreement to indemnify any person that publishes a map or chart for use in aeronautics from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;
(2) depicted accurately on the map or chart; and
(3) not obviously defective or deficient.

§ 44722. Aircraft operations in winter conditions

Regulations.

The Administrator of the Federal Aviation Administration shall prescribe regulations requiring procedures to improve safety of aircraft operations during winter conditions. In deciding on the procedures to be required, the Administrator shall consider at least aircraft and air traffic control modifications, the availability of different types of deicing fluids (considering their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

§ 44723. Annual report

Not later than January 1 of each year, the Secretary of Transportation shall submit to Congress a comprehensive report on the safety enforcement activities of the Federal Aviation Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory amendments;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

CHAPTER 449—SECURITY

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SUBCHAPTER I—REQUIREMENTS

§ 44901. Screening passengers and property

Regulations.

(a) GENERAL REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

(b) AMENDING REGULATIONS.—Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.

(c) EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.—The Administrator—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

§ 44902. Refusal to transport passengers and property

Regulations.

(a) MANDATORY REFUSAL.—The Administrator of the Federal Aviation Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Administrator, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

§ 44903. Air transportation security

(a) DEFINITION.—In this section, "law enforcement personnel" means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Administrator of the Federal Aviation Administration considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall— Regulations.

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator Regulations.

decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave

the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

§ 44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Administrator and the Director jointly shall decide on and carry out the most effective method for continuous analysis and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Administrator shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) IMPROVING SECURITY.—The Administrator shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the assessments, analyses, and monitoring carried out under this section.

§ 44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Secretary of Transportation prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Secretary.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Administrator of the Federal Aviation Administration shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for— President.

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Administrator considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Administrator shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Administrator shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

§ 44906. Foreign air carrier security programs

The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.

Regulations.

§ 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register; Federal Register, publication.

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

Reports.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) CONDITION OF CARRIER AUTHORITY.—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

§ 44908. Travel advisory and suspension of foreign assistance

(a) TRAVEL ADVISORIES.—On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport;

(2) shall publish the advisory in the Federal Register; and

(3) shall publicize the advisory widely.

Federal Register, publication.

(b) SUSPENDING ASSISTANCE.—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

President.

(c) ACTIONS NO LONGER REQUIRED.—An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44907(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

§ 44909. Passenger manifests

(a) AIR CARRIER REQUIREMENTS.—(1) Not later than March 16, 1991, the Secretary of Transportation shall require each air carrier to provide a passenger manifest for a flight to an appropriate representative of the Secretary of State—

(A) not later than one hour after that carrier is notified of an aviation disaster outside the United States involving that flight; or

(B) if it is not technologically feasible or reasonable to comply with clause (A) of this paragraph, then as expeditiously as possible, but not later than 3 hours after the carrier is so notified.

(2) The passenger manifest shall include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

(3) In carrying out this subsection, the Secretary of Transportation shall consider the necessity and feasibility of requiring air carriers to collect passenger manifest information as a condition for passengers boarding a flight of the carrier.

(b) FOREIGN AIR CARRIER REQUIREMENTS.—The Secretary of Transportation shall consider imposing a requirement on foreign air carriers comparable to that imposed on air carriers under subsection (a)(1) and (2) of this section.

§ 44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

§ 44911. Intelligence

(a) DEFINITION.—In this section, "intelligence community" means the intelligence and intelligence-related activities of the following units of the United States Government:

(1) the Department of State.
(2) the Department of Defense.
(3) the Department of the Treasury.
(4) the Department of Energy.
(5) the Departments of the Army, Navy, and Air Force.
(6) the Central Intelligence Agency.
(7) the National Security Agency.
(8) the Defense Intelligence Agency.
(9) the Federal Bureau of Investigation.
(10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about international terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall consider placing greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary, and the Administrator shall review and, as appropriate, revise written working agreements between the intelligence community and the Administrator.

§ 44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Administrator of the Federal Aviation Administration shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation. The program shall provide for developing and having in place, not later than November 16, 1993, new

equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Administrator shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Administrator shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4) The Administrator may—

(A) make grants to institutions of higher learning and other appropriate research facilities with demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Administrator decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

(A) explosive material that presents the most significant threat to civil aircraft;

(B) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;

(C) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(D) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(F) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Administrator shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft

by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

(1) the development and testing of effective explosive detection systems;

(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

(4) other scientific and technical areas the Administrator considers appropriate.

§ 44913. Explosive detection

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Administrator of the Federal Aviation Administration certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Administration. Those tests shall be completed not later than April 16, 1992.

(2) Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Administrator may require deployment of explosive detection equipment described in paragraph (1) if the Administrator decides that deployment will enhance aviation security significantly. In making that decision, the Administrator shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a deployment decision made under this paragraph.

(3) This subsection does not prohibit the Administrator from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

§ 44914. Airport construction guidelines

In consultation with air carriers, airport authorities, and others the Administrator of the Federal Aviation Administration considers appropriate, the Administrator shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Administrator shall consider the results of the assessment carried out under section 44904(a) of this title.

§ 44915. Exemptions

The Administrator of the Federal Aviation Administration may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

§ 44931. Director of Intelligence and Security

(a) ORGANIZATION.—There is in the Office of the Secretary of Transportation a Director of Intelligence and Security. The Director reports directly to the Secretary.

(b) DUTIES AND POWERS.—The Director shall—

(1) receive, assess, and distribute intelligence information related to long-term transportation security;

(2) develop policies, strategies, and plans for dealing with threats to transportation security;

(3) make other plans related to transportation security, including coordinating countermeasures with appropriate departments, agencies, and instrumentalities of the United States Government;

(4) serve as the primary liaison of the Secretary to the intelligence and law enforcement communities; and

(5) carry out other duties and powers the Secretary decides are necessary to ensure, to the extent possible, the security of the traveling public.

§ 44932. Assistant Administrator for Civil Aviation Security

(a) ORGANIZATION.—There is an Assistant Administrator for Civil Aviation Security. The Assistant Administrator reports directly to the Administrator of the Federal Aviation Administration and is subject to the authority of the Administrator.

(b) DUTIES AND POWERS.—The Assistant Administrator shall—

(1) on a day-to-day basis, manage and provide operational guidance to the field security resources of the Administration, including Federal Security Managers as provided by section 44933 of this title;

(2) enforce security-related requirements;

(3) identify the research and development requirements of security-related activities;

(4) inspect security systems;

(5) report information to the Director of Intelligence and Security that may be necessary to allow the Director to carry out assigned duties and powers;

(6) assess threats to civil aviation; and

(7) carry out other duties and powers the Administrator considers appropriate.

(c) REVIEW AND DEVELOPMENT OF WAYS TO STRENGTHEN SECURITY.—The Assistant Administrator shall review and, as necessary, develop ways to strengthen air transportation security, including ways—

(1) to strengthen controls over checked baggage in air transportation, including ways to ensure baggage reconciliation and inspection of items in passenger baggage that could potentially contain explosive devices;

(2) to strengthen control over individuals having access to aircraft;

(3) to improve testing of security systems;

(4) to ensure the use of the best available x-ray equipment for air transportation security purposes; and

(5) to strengthen preflight screening of passengers.

§ 44933. Federal Security Managers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Federal Security Manager at each airport in the United States at which the Administrator decides a Manager is necessary for air transportation security. The Administrator shall designate individuals as Managers for, and station those Managers at, those airports. The Administrator may designate a current field employee of the Administration as a Manager. A Manager reports directly to the Assistant Administrator for Civil Aviation Security. The Administrator shall station an individual as Manager at each airport in the United States that the Secretary of Transportation designates as a category X airport.

(b) DUTIES AND POWERS.—The Manager at each airport shall—

(1) receive intelligence information related to aviation security;

(2) ensure, and assist in, the development of a comprehensive security plan for the airport that—

(A) establishes the responsibilities of each air carrier and airport operator for air transportation security at the airport; and

(B) includes measures to be taken during periods of normal airport operations and during periods when the Manager decides that there is a need for additional airport security, and identifies the individuals responsible for carrying out those measures;

(3) oversee and enforce the carrying out by air carriers and airport operators of United States Government security requirements, including the security plan under clause (2) of this subsection;

(4) serve as the on-site coordinator of the Administrator's response to terrorist incidents and threats at the airport;

(5) coordinate the day-to-day Government aviation security activities at the airport;

(6) coordinate efforts related to aviation security with local law enforcement; and

(7) coordinate activities with other Managers.

(c) LIMITATION.—A Civil Aviation Security Field Officer may not be assigned security duties and powers at an airport having a Manager.

§ 44934. Foreign Security Liaison Officers

(a) ESTABLISHMENT, DESIGNATION, AND STATIONING.—The Administrator of the Federal Aviation Administration shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator decides an Officer is necessary for air transportation security. In coordination with the Secretary of State, the Administrator shall designate an Officer for each of those airports. In coordination with the Secretary, the Administrator shall designate an Officer for each of those airports where extraordinary security measures are in place. The Secretary shall give high priority to stationing those Officers.

(b) DUTIES AND POWERS.—An Officer reports directly to the Assistant Administrator for Civil Aviation Security. The Officer at each airport shall—

(1) serve as the liaison of the Assistant Administrator to foreign security authorities (including governments of foreign countries and foreign airport authorities) in carrying out United States Government security requirements at that airport; and

(2) to the extent practicable, carry out duties and powers referred to in section 44933(b) of this title.

(c) COORDINATION OF ACTIVITIES.—The activities of each Officer shall be coordinated with the chief of the diplomatic mission of the United States to which the Officer is assigned. Activities of an Officer under this section shall be consistent with the duties and powers of the Secretary and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802) and section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

§ 44935. Employment standards and training

(a) EMPLOYMENT STANDARDS.—The Administrator of the Federal Aviation Administration shall prescribe standards for the employment and continued employment of, and contracting for, air carrier personnel and, as appropriate, airport security personnel. The standards shall include—

(1) minimum training requirements for new employees;

(2) retraining requirements;

(3) minimum staffing levels;

(4) minimum language skills; and

(5) minimum education levels for employees, when appropriate.

(b) REVIEW AND RECOMMENDATIONS.—In coordination with air carriers, airport operators, and other interested persons, the Administrator shall review issues related to human performance in the aviation security system to maximize that performance. When the review is completed, the Administrator shall recommend guidelines and prescribe appropriate changes in existing procedures to improve that performance.

(c) SECURITY PROGRAM TRAINING, STANDARDS, AND QUALIFICATIONS.—(1) The Administrator—

(A) may train individuals employed to carry out a security program under section 44903(c) of this title; and

(B) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(2) The Administrator may authorize reimbursement for travel, transportation, and subsistence expenses for security training of

non-United States Government domestic and foreign individuals whose services will contribute significantly to carrying out civil aviation security programs. To the extent practicable, air travel reimbursed under this paragraph shall be on air carriers.

(d) EDUCATION AND TRAINING STANDARDS FOR SECURITY COORDINATORS, SUPERVISORY PERSONNEL, AND PILOTS.—(1) The Administrator shall prescribe standards for educating and training—

(A) ground security coordinators;

(B) security supervisory personnel; and

(C) airline pilots as in-flight security coordinators.

(2) The standards shall include initial training, retraining, and continuing education requirements and methods. Those requirements and methods shall be used annually to measure the performance of ground security coordinators and security supervisory personnel.

§ 44936. Employment investigations and restrictions

Regulations.

(a) EMPLOYMENT INVESTIGATION REQUIREMENT.—(1) The Administrator of the Federal Aviation Administration shall require by regulation that an employment investigation, including a criminal history record check, shall be conducted, as the Administrator decides is necessary to ensure air transportation security, of each individual employed in, or applying for, a position in which the individual has unescorted access, or may permit other individuals to have unescorted access, to—

(A) aircraft of an air carrier or foreign air carrier; or

(B) a secured area of an airport in the United States the Administrator designates that serves an air carrier or foreign air carrier.

(2) An air carrier, foreign air carrier, or airport operator that employs, or authorizes or makes a contract for the services of, an individual in a position described in paragraph (1) of this subsection shall ensure that the investigation the Administrator requires is conducted.

(b) PROHIBITED EMPLOYMENT.—(1) Except as provided in paragraph (3) of this subsection, an air carrier, foreign air carrier, or airport operator may not employ, or authorize or make a contract for the services of, an individual in a position described in subsection (a)(1) of this section if—

(A) the investigation of the individual required under this section has not been conducted; or

(B) the results of that investigation establish that, in the 10-year period ending on the date of the investigation, the individual was convicted of—

(i) a crime referred to in section 46306, 46308, 46312, 46314, or 46315 or chapter 465 of this title or section 32 of title 18;

(ii) murder;

(iii) assault with intent to murder;

(iv) espionage;

(v) sedition;

(vi) treason;

(vii) rape;

(viii) kidnapping;

(ix) unlawful possession, sale, distribution, or manufacture of an explosive or weapon;

(x) extortion;
(xi) armed robbery;
(xii) distribution of, or intent to distribute, a controlled substance; or
(xiii) conspiracy to commit any of the acts referred to in clauses (i)–(xii) of this paragraph.

(2) The Administrator may specify other factors that are sufficient to prohibit the employment of an individual in a position described in subsection (a)(1) of this section.

(3) An air carrier, foreign air carrier, or airport operator may employ, or authorize or contract for the services of, an individual in a position described in subsection (a)(1) of this section without carrying out the investigation required under this section, if the Administrator approves a plan to employ the individual that provides alternate security arrangements.

(c) FINGERPRINTING AND RECORD CHECK INFORMATION.—(1) If the Administrator requires an identification and criminal history record check, to be conducted by the Attorney General, as part of an investigation under this section, the Administrator shall designate an individual to obtain fingerprints and submit those fingerprints to the Attorney General. The Attorney General may make the results of a check available to an individual the Administrator designates. Before designating an individual to obtain and submit fingerprints or receive results of a check, the Administrator shall consult with the Attorney General.

(2) The Administrator shall prescribe regulations on— Regulations.

(A) procedures for taking fingerprints; and

(B) requirements for using information received from the Attorney General under paragraph (1) of this subsection—

(i) to limit the dissemination of the information; and

(ii) to ensure that the information is used only to carry out this section.

(3) If an identification and criminal history record check is conducted as part of an investigation of an individual under this section, the individual—

(A) shall receive a copy of any record received from the Attorney General; and

(B) may complete and correct the information contained in the check before a final employment decision is made based on the check.

(d) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to pay expenses incurred in carrying out this section. The employer of the individual being investigated shall pay the costs of a record check of the individual. Money collected under this section shall be credited to the account in the Treasury from which the expenses were incurred and are available to the Administrator and the Attorney General for those expenses.

(e) WHEN INVESTIGATION OR RECORD CHECK NOT REQUIRED.—This section does not require an investigation or record check when the investigation or record check is prohibited by a law of a foreign country.

§ 44937. Prohibition on transferring duties and powers

Except as specifically provided by law, the Administrator of the Federal Aviation Administration may not transfer a duty or power under section 44903(a), (b), (c), or (e), 44906(a)(1) or (b),

44912, 44935, 44936, or 44938(b)(3) of this title to another department, agency, or instrumentality of the United States Government.

§ 44938. Reports

(a) TRANSPORTATION SECURITY.—Not later than December 31 of each year, the Secretary of Transportation shall submit to Congress a report on transportation security with recommendations the Secretary considers appropriate. The report shall be prepared in conjunction with the annual report the Administrator of the Federal Aviation Administration submits under subsection (b) of this section, but may not duplicate the information submitted under subsection (b) or section 44907(a)(3) of this title. The Secretary may submit the report in classified and unclassified parts. The report shall include—

(1) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

(2) an evaluation of deployment of explosive detection devices;

(3) recommendations for research, engineering, and development activities related to transportation security, except research engineering and development activities related to aviation security to the extent those activities are covered by the national aviation research plan required under section 44501(c) of this title;

(4) identification and evaluation of cooperative efforts with other departments, agencies, and instrumentalities of the United States Government;

(5) an evaluation of cooperation with foreign transportation and security authorities;

(6) the status of the extent to which the recommendations of the President's Commission on Aviation Security and Terrorism have been carried out and the reasons for any delay in carrying out those recommendations;

(7) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of the report;

(8) financial and staffing requirements of the Director;

(9) an assessment of financial and staffing requirements, and attainment of existing staffing goals, for carrying out duties and powers of the Administrator related to security; and

(10) appropriate legislative and regulatory recommendations.

(b) SCREENING AND FOREIGN AIR CARRIER AND AIRPORT SECURITY.—The Administrator shall submit annually to Congress a report—

(1) on the effectiveness of procedures under section 44901 of this title;

(2) that includes a summary of the assessments conducted under section 44907(a)(1) and (2) of this title; and

(3) that includes an assessment of the steps being taken, and the progress being made, in ensuring compliance with section 44906 of this title for each foreign air carrier security program at airports outside the United States—

(A) at which the Administrator decides that Foreign Security Liaison Officers are necessary for air transportation security; and

(B) for which extraordinary security measures are in place.

(c) DOMESTIC AIR TRANSPORTATION SYSTEM SECURITY.—The Administrator shall submit to Congress an annual report for each of the calendar years 1991 and 1992 on the progress being made, and the problems occurring, in carrying out section 44904 of this title. The report shall include recommendations for improving domestic air transportation security.

CHAPTER 451—ALCOHOL AND CONTROLLED SUBSTANCES TESTING

Sec.
45101. Definition.
45102. Alcohol and controlled substances testing programs.
45103. Prohibited service.
45104. Testing and laboratory requirements.
45105. Rehabilitation.
45106. Relationship to other laws, regulations, standards, and orders.

§ 45101. Definition

In this chapter, "controlled substance" means any substance under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) specified by the Administrator of the Federal Aviation Administration.

§ 45102. Alcohol and controlled substances testing programs

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—(1) In the interest of aviation safety, the Administrator of the Federal Aviation Administration shall prescribe regulations not later than October 28, 1992, that establish a program requiring air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as decided by the Administrator) for the use of alcohol or a controlled substance in violation of law or a United States Government regulation. Regulations.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions for the use of alcohol or a controlled substance in violation of law or a Government regulation.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—(1) The Administrator shall establish a program of preemployment, reasonable suspicion, random, and post-accident testing for the use of alcohol or a controlled substance in violation of law or a Government regulation for employees of the Administration whose duties include responsibility for safety-sensitive functions.

(2) When the Administrator considers it appropriate in the interest of safety, the Administrator may prescribe regulations for conducting periodic recurring testing of employees of the Administration responsible for safety-sensitive functions for use of alcohol or a controlled substance in violation of law or a Government regulation.

(c) SANCTIONS.—In prescribing regulations under the programs required by this section, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to an individual referred to in this section, or the disqualification or dismissal of the individual, under this chapter when a test conducted and confirmed under this chapter indicates the individual has used alcohol or a controlled substance in violation of law or a Government regulation.

§ 45103. Prohibited service

(a) USE OF ALCOHOL OR A CONTROLLED SUBSTANCE.—An individual may not use alcohol or a controlled substance after October 28, 1991, in violation of law or a United States Government regulation and serve as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator of the Federal Aviation Administration), or employee of the Administration with responsibility for safety-sensitive functions.

(b) REHABILITATION REQUIRED TO RESUME SERVICE.—Notwithstanding subsection (a) of this section, an individual found to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may serve as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions only if the individual completes a rehabilitation program described in section 45105 of this title.

(c) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—An individual who served as an airman, crewmember, airport security screening contract employee, air carrier employee responsible for safety-sensitive functions (as decided by the Administrator), or employee of the Administration with responsibility for safety-sensitive functions and who was found by the Administrator to have used alcohol or a controlled substance after October 28, 1991, in violation of law or a Government regulation may not carry out the duties related to air transportation that the individual carried out before the finding of the Administrator if the individual—

(1) used the alcohol or controlled substance when on duty;

(2) began or completed a rehabilitation program described in section 45105 of this title before using the alcohol or controlled substance; or

(3) refuses to begin or complete a rehabilitation program described in section 45105 of this title after a finding by the Administrator under this section.

§ 45104. Testing and laboratory requirements

In carrying out section 45102 of this title, the Administrator of the Federal Aviation Administration shall develop requirements that—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimens;

(2) for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any amendments to those guidelines, including mandatory guidelines establishing—

(A) comprehensive standards for every aspect of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this chapter, including standards requiring the use of the best available technology to ensure the complete reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimens collected for controlled substances testing;

(B) the minimum list of controlled substances for which individuals may be tested; and

(C) appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this chapter;

(3) require that a laboratory involved in controlled substances testing under this chapter have the capability and facility, at the laboratory, of performing screening and confirmation tests;

(4) provide that all tests indicating the use of alcohol or a controlled substance in violation of law or a United States Government regulation be confirmed by a scientifically recognized method of testing capable of providing quantitative information about alcohol or a controlled substance;

(5) provide that each specimen be subdivided, secured, and labeled in the presence of the tested individual and that a part of the specimen be retained in a secure manner to prevent the possibility of tampering, so that if the individual's confirmation test results are positive the individual has an opportunity to have the retained part tested by a 2d confirmation test done independently at another certified laboratory if the individual requests the 2d confirmation test not later than 3 days after being advised of the results of the first confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations that may be necessary and in consultation with the Secretary of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (except information about alcohol or a controlled substance) of employees, except that this clause does not prevent the use of test results for the orderly imposition of appropriate sanctions under this chapter; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

§ 45105. Rehabilitation

(a) PROGRAM FOR EMPLOYEES OF AIR CARRIERS AND FOREIGN AIR CARRIERS.—The Administrator of the Federal Aviation Administration shall prescribe regulations establishing requirements for rehabilitation programs that at least provide for the identification and opportunity for treatment of employees of air carriers and foreign air carriers referred to in section 45102(a)(1) of this title who need assistance in resolving problems with the use of alcohol or a controlled substance in violation of law or a United States

Regulations.

Government regulation. Each air carrier and foreign air carrier is encouraged to make such a program available to all its employees in addition to the employees referred to in section 45102(a)(1)(A). The Administrator shall decide on the circumstances under which employees shall be required to participate in a program. This subsection does not prevent an air carrier or foreign air carrier from establishing a program under this subsection in cooperation with another air carrier or foreign air carrier.

(b) PROGRAM FOR EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION.—The Administrator shall establish and maintain a rehabilitation program that at least provides for the identification and opportunity for treatment of employees of the Administration whose duties include responsibility for safety-sensitive functions who need assistance in resolving problems with the use of alcohol or a controlled substance.

§ 45106. Relationship to other laws, regulations, standards, and orders

(a) EFFECT ON STATE AND LOCAL GOVERNMENT LAWS, REGULATIONS, STANDARDS, OR ORDERS.—A State or local government may not prescribe, issue, or continue in effect a law, regulation, standard, or order that is inconsistent with regulations prescribed under this chapter. However, a regulation prescribed under this chapter does not preempt a State criminal law that imposes sanctions for reckless conduct leading to loss of life, injury, or damage to property.

(b) INTERNATIONAL OBLIGATIONS AND FOREIGN LAWS.—(1) In prescribing regulations under this chapter, the Administrator of the Federal Aviation Administration—

(A) shall establish only requirements applicable to foreign air carriers that are consistent with international obligations of the United States; and

(B) shall consider applicable laws and regulations of foreign countries.

(2) The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit crewmembers in international civil aviation from using alcohol or a controlled substance in violation of law or a United States Government regulation.

(c) OTHER REGULATIONS ALLOWED.—This section does not prevent the Administrator from continuing in effect, amending, or further supplementing a regulation prescribed before October 28, 1991, governing the use of alcohol or a controlled substance by airmen, crewmembers, airport security screening contract employees, air carrier employees responsible for safety-sensitive functions (as decided by the Administrator), or employees of the Administration with responsibility for safety-sensitive functions.

CHAPTER 453—FEES

Sec.

45301. Authority to impose fees.

45302. Fees involving aircraft not providing air transportation.

45303. Maximum fees for private person services.

§ 45301. Authority to impose fees

(a) GENERAL AUTHORITY.—The Secretary of Transportation may impose a fee for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when the fee—

(1)(A) was in effect on January 1, 1973; and

(B) is not more than the fee in effect on January 1, 1973, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor between January 1, 1973, and the date the fee is imposed; or

(2) is imposed under section 45302 of this title.

(b) NONAPPLICATION.—This section does not apply to a fee for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside the United States.

§ 45302. Fees involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL AUTHORITY AND MAXIMUM FEES.—The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates to pilots and certificates of registration of aircraft and processing forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate to a pilot.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or alteration of a fuel tank or fuel system of an aircraft.

(c) ADJUSTMENTS.—The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) CREDIT TO ACCOUNT AND AVAILABILITY.—Money collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701–44716 of this title (except sections 44701(c), 44703(f)(2), and 44713(d)(2)). The money is available to the Administrator to pay expenses for which the fees are collected.

§ 45303. Maximum fees for private person services

The Administrator of the Federal Aviation Administration may establish maximum fees that private persons may charge for services performed under a delegation to the person under section 44702(d) of this title.

SUBPART IV—ENFORCEMENT AND PENALTIES

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.
46101. Complaints and investigations.

46102. Proceedings.
46103. Service of notice, process, and actions.
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46105. Regulations and orders.
46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.
46109. Joinder and intervention.
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§ 46101. Complaints and investigations

(a) GENERAL.—(1) A person may file a complaint in writing with the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) about a person violating this part or a requirement prescribed under this part. Except as provided in subsection (b) of this section, the Secretary or Administrator shall investigate the complaint if a reasonable ground appears to the Secretary or Administrator for the investigation.

(2) On the initiative of the Secretary of Transportation or the Administrator, as appropriate, the Secretary or Administrator may conduct an investigation, if a reasonable ground appears to the Secretary or Administrator for the investigation, about—

(A) a person violating this part or a requirement prescribed under this part; or

(B) any question that may arise under this part.

(3) The Secretary of Transportation or Administrator may dismiss a complaint without a hearing when the Secretary or Administrator is of the opinion that the complaint does not state facts that warrant an investigation or action.

(4) After notice and an opportunity for a hearing and subject to section 40105(b) of this title, the Secretary of Transportation or Administrator shall issue an order to compel compliance with this part if the Secretary or Administrator finds in an investigation under this subsection that a person is violating this part.

(b) COMPLAINTS AGAINST MEMBERS OF ARMED FORCES.—The Secretary of Transportation or Administrator shall refer a complaint against a member of the armed forces of the United States performing official duties to the Secretary of the department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation or Administrator of the action taken on the complaint, including any corrective or disciplinary action taken.

§ 46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary and the Administrator in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary and Administrator under this part shall be recorded.

Proceedings before the Secretary and Administrator shall be open to the public on the request of an interested party unless the Secretary or Administrator decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Administrator, or an officer or employee of the Administration may not participate in a proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

§ 46103. Service of notice, process, and actions

(a) DESIGNATING AGENTS.—(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary or Administrator; and

(B) may be changed in the same way as originally made.

(b) SERVICE.—(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified or registered mail to the person to be served or the designated agent of the person.

(2) The date of service made by certified or registered mail is the date of mailing.

(c) SERVING AGENTS.—Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary or Administrator.

§ 46104. Evidence

(a) GENERAL.—In conducting a hearing or investigation under this part, the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may—

(1) subpena witnesses and records related to a matter involved in the hearing or investigation from any place in the United States to the designated place of the hearing or investigation;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence at a place in the United States the Secretary or Administrator designates.

(b) COMPLIANCE WITH SUBPENAS.—If a person disobeys a subpena, the Secretary, the Administrator, or a party to a proceeding before the Secretary or Administrator may petition a court of the United States to enforce the subpena. A judicial proceeding to enforce a subpena under this section may be brought in the jurisdiction in which the proceeding or investigation is conducted. The court may punish a failure to obey an order of the court to comply with the subpena as a contempt of court.

(c) DEPOSITIONS.—(1) In a proceeding or investigation, the Secretary or Administrator may order a person to give testimony

by deposition and to produce records. If a person fails to be deposed or to produce records, the order may be enforced in the same way a subpena may be enforced under subsection (b) of this section.

(2) A deposition may be taken before an individual designated by the Secretary or Administrator and having the power to administer oaths.

(3) Before taking a deposition, the party or the attorney of the party proposing to take the deposition must give reasonable notice in writing to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Secretary or Administrator.

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken by deposition—

(A) by a consular officer or an individual commissioned by the Secretary or Administrator or agreed on by the parties by written stipulation filed with the Secretary or Administrator; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary or Administrator.

(d) WITNESS FEES AND MILEAGE AND CERTAIN FOREIGN COUNTRY EXPENSES.—A witness summoned before the Secretary or Administrator or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary or Administrator, the Secretary or Administrator shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary or Administrator.

(e) DESIGNATING EMPLOYEES TO CONDUCT HEARINGS.—When designated by the Secretary or Administrator, an employee appointed under section 3105 of title 5 may conduct a hearing, subpena witnesses, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary or Administrator designates. On request of a party, the Secretary or Administrator shall hear or receive argument.

§ 46105. Regulations and orders

(a) EFFECTIVENESS OF ORDERS.—Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) takes effect within a reasonable time prescribed by the Secretary or Administrator. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary or Administrator may amend, modify, or suspend an order in the way, and by giving the notice, the Secretary or Administrator decides.

(b) CONTENTS AND SERVICE OF ORDERS.—An order of the Secretary or Administrator shall include the findings of fact on which

the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) EMERGENCIES.—When the Administrator is of the opinion that an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency, with or without notice and without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

§ 46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration

The Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may bring a civil action against a person in a district court of the United States to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part. The action may be brought in the judicial district in which the person does business or the violation occurred.

§ 46107. Enforcement by the Attorney General

(a) CIVIL ACTIONS TO ENFORCE SECTION 40106(b).—The Attorney General may bring a civil action in a district court of the United States against a person to enforce section 40106(b) of this title. The action may be brought in the judicial district in which the person does business or the violation occurred.

(b) CIVIL ACTIONS TO ENFORCE THIS PART.—(1) On request of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator), the Attorney General may bring a civil action in an appropriate court—

(A) to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) PARTICIPATION OF SECRETARY OR ADMINISTRATOR.—On request of the Attorney General, the Secretary or Administrator, as appropriate, may participate in a civil action under this part.

§ 46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action in a district court of the United States against a person to enforce section 41101(a)(1) of this title. The action may be brought in the judicial district in which the defendant does business or the violation occurred.

§ 46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation or civil action to enforce this part or a requirement or regulation prescribed, or an order or any term of a certificate or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

§ 46110. Judicial review

(a) FILING AND VENUE.—Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or Administrator, as appropriate. The Secretary or Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or Administrator to conduct further proceedings. After reasonable notice to the Secretary or Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or Administrator, if supported by substantial evidence, are conclusive.

(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing an order under this section, the court may consider an objection to an order of the Secretary or Administrator only if the objection was made in the proceeding conducted by the Secretary or Administrator or if there was a reasonable ground for not making the objection in the proceeding.

(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

CHAPTER 463—PENALTIES

Sec.
46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties
46306. Registration violations involving aircraft not providing air transportation.

46307. Violation of national defense airspace.
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46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.

§ 46301. Civil penalties

(a) GENERAL PENALTY.—(1) A person is liable to the United States Government for a civil penalty of not more than $1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 411, section 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, subchapter II of chapter 421, chapter 441 (except section 44109), or section 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44909(a), 44912–44915, 44932–44938, 46302, or 46303 of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117) or section 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44912–44915, or 44932–44938 of this title; or

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(3) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; or

(B) the registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation.

(4) A separate violation occurs under this subsection for each day the violation continues or, if applicable, for each flight involving the violation.

(b) SMOKE ALARM DEVICE PENALTY.—(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) PROCEDURAL REQUIREMENTS.—(1) The Secretary of Transportation may impose a civil penalty for the following violations only after notice and an opportunity for a hearing:

(A) a violation of subsection (b) of this section or chapter 411, section 41301–41306, 41308–41310(a), 41501, 41503,

41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, or subchapter II of chapter 421 of this title.

(B) a violation of a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(C) a violation of any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title.

(D) a violation under subsection (a)(1) of this section related to the transportation of hazardous material.

(2) The Secretary shall give written notice of the finding of a violation and the civil penalty under paragraph (1) of this subsection.

(d) ADMINISTRATIVE IMPOSITION OF PENALTIES.—(1) In this subsection—

(A) "flight engineer" means an individual who holds a flight engineer certificate issued under part 63 of title 14, Code of Federal Regulations.

(B) "mechanic" means an individual who holds a mechanic certificate issued under part 65 of title 14, Code of Federal Regulations.

(C) "pilot" means an individual who holds a pilot certificate issued under part 61 of title 14, Code of Federal Regulations.

(D) "repairman" means an individual who holds a repairman certificate issued under part 65 of title 14, Code of Federal Regulations.

(2) The Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), 40116, and 40117), chapter 441 (except section 44109), or section 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, 44932–44938, 46302, or 46303 of this title or a regulation prescribed or order issued under any of those provisions. The Administrator shall give written notice of the finding of a violation and the penalty.

(3) In a civil action to collect a civil penalty imposed by the Administrator under this subsection, the issues of liability and the amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (2) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action involving a penalty the Administrator initiates if—

(A) the amount in controversy is more than $50,000;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5)(A) The Administrator may issue an order imposing a penalty under this subsection against an individual acting as a pilot, flight engineer, mechanic, or repairman only after advising the individual of the charges or any reason the Administrator relied on for the proposed penalty and providing the individual an opportunity to answer the charges and be heard about why the order shall not be issued.

(B) An individual acting as a pilot, flight engineer, mechanic, or repairman may appeal an order imposing a penalty under this

subsection to the National Transportation Safety Board. After notice and an opportunity for a hearing on the record, the Board shall affirm, modify, or reverse the order. The Board may modify a civil penalty imposed to a suspension or revocation of a certificate.

(C) When conducting a hearing under this paragraph, the Board is not bound by findings of fact of the Administrator but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

(D) When an individual files an appeal with the Board under this paragraph, the order of the Administrator is stayed.

(6) An individual substantially affected by an order of the Board under paragraph (5) of this subsection, or the Administrator when the Administrator decides that an order of the Board under paragraph (5) will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. Findings of fact of the Board are conclusive if supported by substantial evidence.

(7)(A) The Administrator may impose a penalty on an individual (except an individual acting as a pilot, flight engineer, mechanic, or repairman) only after notice and an opportunity for a hearing on the record.

(B) In an appeal from a decision of an administrative law judge as the result of a hearing under subparagraph (A) of this paragraph, the Administrator shall consider only whether—

(i) each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence;

(ii) each conclusion of law is made according to applicable law, precedent, and public policy; and

(iii) the judge committed a prejudicial error that supports the appeal.

(C) Except for good cause, a civil action involving a penalty under this paragraph may not be initiated later than 2 years after the violation occurs.

(8) The maximum civil penalty the Administrator or Board may impose under this subsection is $50,000.

(9) This subsection applies only to a violation occurring after August 25, 1992.

(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under subsection (a)(3) of this section related to transportation of hazardous material, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f) COMPROMISE AND SETOFF.—(1)(A) The Secretary may compromise the amount of a civil penalty imposed for violating—

(i) chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), or section 44701(a) or (b), 44702–44716, 44901, 44903(b) or (c), 44905, 44906, 44907(d)(1)(B), 44912–44915, or 44932–44938 of this title; or

(ii) a regulation prescribed or order issued under any provision to which clause (i) of this subparagraph applies.

(B) The Postal Service may compromise the amount of a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

(g) JUDICIAL REVIEW.—An order of the Secretary imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h) NONAPPLICATION.—(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces of the United States.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

§ 46302. False information

(a) CIVIL PENALTY.—A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

§ 46303. Carrying a weapon

(a) CIVIL PENALTY.—An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) COMPROMISE AND SETOFF.—(1) The Secretary of Transportation may compromise the amount of a civil penalty imposed under subsection (a) of this section.

(2) The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the individual liable for the penalty.

(c) NONAPPLICATION.—This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry arms in an official capacity.

§ 46304. Liens on aircraft

(a) AIRCRAFT SUBJECT TO LIENS.—When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C), (2), or (3) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) SEIZURE.—An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought. Reports.

(c) RELEASE.—An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes), conditioned on payment of the penalty or compromise, is deposited with the Secretary or Administrator.

§ 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this chapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

§ 46306. Registration violations involving aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) GENERAL CRIMINAL PENALTY.—Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or alters a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 of this title and knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 of this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve in that capacity;

(8) knowingly and willfully employs for service or uses in any capacity as an airman an individual who does not have an airman's certificate authorizing the individual to serve in that capacity; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c) CONTROLLED SUBSTANCE CRIMINAL PENALTY.—(1) In this subsection, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d) SEIZURE AND FORFEITURE.—(1) The Administrator of Drug Enforcement or the Commissioner of Customs may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

(A) subsection (b)(1) of this section if the aircraft certificate of registration has been forged or altered;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft certificate of registration contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or altered—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or alteration is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Commissioner shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) RELATIONSHIP TO STATE LAWS.—This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or alters an aircraft certificate of registration;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft certificate of registration;

(3) knowingly and willfully displays or causes to be displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft certificate of registration from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

§ 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

§ 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

§ 46309. Concession and price violations

(a) CRIMINAL PENALTY FOR OFFERING, GRANTING, GIVING, OR HELPING TO OBTAIN CONCESSIONS AND LOWER PRICES.—An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or causes to be offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the price lawfully in effect.

(b) CRIMINAL PENALTY FOR RECEIVING REBATES, PRIVILEGES, AND FACILITIES.—A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a price lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

§ 46310. Reporting and recordkeeping violations

(a) GENERAL CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or altering a report or record under this part; or

(3) filing a false report or record under this part.

(b) SAFETY REGULATION CRIMINAL PENALTY.—An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or 44702–44716 of this title.

§ 46311. Unlawful disclosure of information

(a) CRIMINAL PENALTY.—The Secretary of Transportation, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40115 of this title.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary or Administrator to disclose information that the Secretary or Administrator had ordered withheld; or

(2) the Secretary, Administrator, officer, or employee is directed by a court of competent jurisdiction to disclose the information.

(c) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or Administrator to withhold information from a committee of Congress authorized to have the information.

§ 46312. Transporting hazardous material

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary of Transportation under this part—

(1) willfully delivers, or causes to be delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

§ 46313. Refusing to appear or produce records

A person not obeying a subpena or requirement of the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

§ 46314. Entering aircraft or airport area in violation of security requirements

(a) PROHIBITION.—A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901, 44903(b) or (c), or 44906 of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b) CRIMINAL PENALTY.—(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

§ 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) APPLICATION.—This section applies only to aircraft not used to provide air transportation.

(b) CRIMINAL PENALTY.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

§ 46316. General criminal penalty when specific penalty not provided

(a) CRIMINAL PENALTY.—Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) NONAPPLICATION.—Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, 40116, and 40117), chapter 441 (except section 44109), chapter 445, and sections 44701(a) and (b), 44702–44716, 44901, 44903(b) and (c), 44905, 44906, 44912–44915, and 44932–44938 of this title.

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.
46501. Definitions.
46502. Aircraft piracy.
46503. Death penalty sentencing procedure for aircraft piracy.
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

§ 46501. Definitions

In this chapter—

(1) "aircraft in flight" means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, competent authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) "special aircraft jurisdiction of the United States" includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces of the United States.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

§ 46502. Aircraft piracy

(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) In this subsection—

(A) "aircraft piracy" means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting to commit aircraft piracy—

(A) shall be imprisoned for at least 20 years; or

(B) if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) An individual committing an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States and later found in the United States—

(A) shall be imprisoned for at least 20 years; or

(B) if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft.

§ 46503. Death penalty sentencing procedure for aircraft piracy

(a) GOVERNMENT STIPULATIONS.—An individual convicted of violating section 46502 of this title may not be sentenced to death if the United States Government stipulates that at least one of the mitigating factors specified in subsection (c)(1) of this section exists or none of the aggravating factors specified in subsection (c)(2) of this section exists. If the Government does not stipulate, the judge presiding at the trial or accepting the guilty plea of the individual shall hold a separate hearing to decide on the punishment to be imposed.

(b) PUNISHMENT HEARINGS.—(1) The hearing under this section shall be conducted—

(A) before the jury that found the defendant guilty;

(B) before a jury impaneled for the hearing when—

(i) the defendant was convicted by a guilty plea;

(ii) the defendant was convicted by a judge without a jury; or

(iii) the jury finding the defendant guilty was discharged by the judge for good cause; or

(C) before the judge, on motion of the defendant and with the approval of the judge and the Government.

(2) At the hearing, the judge shall disclose to the defendant or counsel for the defendant all material contained in any presentence report, except material the judge decides is required to be withheld to protect human life or national security. Presentence information withheld from the defendant may not be considered in deciding whether the factors specified in subsection (c) of this section exist.

(3) Information relevant to the mitigating factors specified in subsection (c)(1) of this section may be presented by the Government or the defendant without regard to the rules governing the admissibility of evidence at criminal trials. The burden of establishing the existence of a mitigating factor specified in subsection (c)(1) is on the defendant.

(4) Information relevant to the aggravating factors specified in subsection (c)(2) of this section is admissible only under rules governing the admissibility of evidence at criminal trials. The burden of establishing the existence of an aggravating factor specified in subsection (c)(2) is on the Government.

(5) The Government and the defendant may rebut information presented at the hearing. They shall be given an opportunity to

present arguments on the adequacy of the information to establish the existence of the factors specified in subsection (c) of this section.

(c) MITIGATING AND AGGRAVATING FACTORS.—(1) The judge may not impose the death penalty on a defendant if the jury or, if there is no jury, the judge finds under this section that at the time of the violation of section 46502 of this title—

(A) the defendant was not yet 18 years of age;

(B) the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired significantly, but the capacity was not impaired sufficiently to be a defense to prosecution;

(C) the defendant was under unusual and substantial duress, but the duress was not sufficient to be a defense to prosecution;

(D) the defendant was a principal (as defined in section 2(a) of title 18) in a violation committed by another individual, but the participation of the defendant was relatively minor, although not sufficiently minor to be a defense to prosecution; or

(E) the defendant reasonably could not have foreseen that the conduct of the defendant in the violation would cause or create a grave risk of causing death to another individual.

(2) If none of the factors specified in paragraph (1) of this subsection exists, the judge shall impose the death penalty on the defendant if the jury or, if there is no jury, the judge finds under this section that—

(A) the death of another individual resulted from the violation after the defendant had seized or exercised control of the aircraft; or

(B) the death of another individual resulted from the violation and—

(i) the defendant has been convicted of another United States or State offense (committed before or at the time of the violation) for which punishment of life imprisonment or death could be imposed;

(ii) the defendant has been convicted of at least 2 United States or State offenses with a penalty of more than one year of imprisonment (committed on different occasions before the time of the violation) that involved inflicting serious bodily injury on another individual;

(iii) in committing the violation, the defendant knowingly created a grave risk of death to an individual in addition to the individual whose death resulted from the violation; or

(iv) the defendant committed the violation in an especially heinous, cruel, or depraved manner.

(d) DEATH PENALTY REQUIREMENTS.—(1) If the jury or, if there is no jury, the judge finds by a preponderance of the information that none of the mitigating factors specified in subsection (c)(1) of this section exists and that at least one of the aggravating factors specified in subsection (c)(2) of this section exists, the judge shall impose the death penalty on the defendant. If the jury or judge finds that at least one of the mitigating factors specified in subsection (c)(1) exists, or that none of the aggravating factors specified in subsection (c)(2) exists, the judge may not impose the

death penalty on the defendant but shall impose another penalty provided for the defendant's violation of section 46502 of this title.

(2) The jury or, if there is no jury, the judge shall return a special verdict containing findings on whether each of the factors specified in subsection (c) of this section exists.

§ 46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

§ 46505. Carrying a weapon or explosive on an aircraft

(a) DEFINITION.—In this section, "loaded firearm" means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) GENERAL CRIMINAL PENALTY.—An individual shall be fined under title 18, imprisoned for not more than one year, or both, if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 5 years, or both.

(d) NONAPPLICATION.—Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

§ 46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code §22-1112), shall be fined under title 18, imprisoned under section 9 of the Act, or both.

§ 46507. False information and threats

An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual—

(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

(B) has the apparent determination and will to carry out the threat.

PART B—AIRPORT DEVELOPMENT AND NOISE

CHAPTER 471—AIRPORT DEVELOPMENT

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SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) GENERAL.—It is the policy of the United States—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(3) to give special emphasis to developing reliever airports;

(4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(5) to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;

(6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and cargo traffic be undertaken to the maximum feasible extent so that safety and efficiency increase and delays decrease;

(8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system;

(9) that artificial restrictions on airport capacity—

(A) are not in the public interest;

(B) should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried; and

(C) should not discriminate unjustly between categories and classes of aircraft; and

(10) that special emphasis should be placed on converting appropriate former military air bases to civil use and identifying and improving additional joint-use facilities.

(b) NATIONAL TRANSPORTATION POLICY.—(1) It is a goal of the United States to develop a national intermodal transportation system that transports passengers and property in an efficient manner. The future economic direction of the United States depends on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the infrastructure of the United States.

(2) United States leadership in the world economy, the expanding wealth of the United States, the competitiveness of the industry of the United States, the standard of living, and the quality of life are at stake.

(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation that transports passengers and property in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance the ability of the industry of the United States to compete in the global marketplace.

(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

(5) An intermodal transportation system consists of transportation hubs that connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the vast rural areas of the United States, as well as providing links to other forms of transportation and to intercity connections.

(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the United States to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The future economic prosperity of the United States depends on its ability to compete in an international marketplace that is teeming with competitors but in which a full one-quarter of the economic activity of the United States takes place.

(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will transport passengers and property in an efficient manner.

(c) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.

(d) CONSISTENCY WITH AIR COMMERCE AND SAFETY POLICIES.—Each airport and airway program should be carried out consistently with section 40101(a), (b), (d), and (f) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices, including as the practices may be applied between categories and classes of aircraft.

(e) ADEQUACY OF NAVIGATION AIDS AND AIRPORT FACILITIES.—This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting

aircraft passengers from fixed-wing aircraft to helicopter carriers.

(f) MAXIMUM USE OF SAFETY FACILITIES.—This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities, including installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) distance-to-go signs for each primary and secondary runway;

(4) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(5) a nonprecision instrument approach for each secondary runway;

(6) runway end identifier lights on each runway that does not have an approach light system;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system;

(9) runway edge lighting and marking; and

(10) radar approach coverage for each airport terminal area.

(g) COOPERATION.—To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and considering comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate to the complexity of the transportation problems.

(h) CONSULTATION.—To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving the location of an airport or runway, or a major runway extension, that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

§ 47102. Definitions

In this subchapter—

(1) "air carrier airport" means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

(i) operating under an exemption from section 41101(a)(1) of this title that the Secretary grants; and

(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) "airport"—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, lowering, relocating, marking, and lighting an airport hazard; and

(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting;

(iv) firefighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats;

(v) aircraft deicing equipment and structures (except aircraft deicing fluids and storage facilities for the equipment and fluids); and

(vi) interactive training systems.

(C) acquiring an interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(D) acquiring land for, or constructing, a burn area training structure on or off the airport to provide live fire drill training for aircraft rescue and firefighting personnel required to receive the training under regulations the Secretary prescribes, including basic equipment and minimum structures to support the training under standards the Administrator of the Federal Aviation Administration prescribes.

(E) relocating after December 31, 1991, an air traffic control tower and any navigational aid (including radar) if the relocation is necessary to carry out a project approved by the Secretary under this subchapter.

(F) constructing, reconstructing, repairing, or improving an airport, or purchasing capital equipment for an airport, if paid for by a grant under this subchapter and necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), except constructing or purchasing capital equipment that would benefit primarily a revenue-producing area of the airport used by a nonaeronautical business.

(G) acquiring land for, or work necessary to construct, a pad suitable for deicing aircraft before takeoff at a commercial service airport, including constructing or reconstructing paved areas, drainage collection structures, treatment and discharge systems, appropriate lighting, paved access for deicing vehicles and aircraft, but not including acquiring aircraft deicing fluids or constructing or reconstructing storage facilities for aircraft deicing equipment or fluids.

(4) "airport hazard" means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or otherwise is hazardous to the landing or taking off of aircraft at or from the airport.

(5) "airport planning" means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.

(6) "amount made available under section 48103 of this title" means the amount authorized for grants under section 48103 of this title as reduced by any law enacted after September 3, 1982.

(7) "commercial service airport" means a public airport in a State that the Secretary determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) standards prescribed by a State, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(9) "landed weight" means the weight of aircraft transporting only cargo in intrastate, interstate, and foreign air transpor-

tation, as the Secretary determines under regulations the Secretary prescribes.

(10) "passenger boardings"—

(A) means revenue passenger boardings on an aircraft in service in air commerce as the Secretary determines under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight that stops at an airport in the 48 contiguous States, Alaska, or Hawaii for a nontraffic purpose.

(11) "primary airport" means a commercial service airport the Secretary determines to have more than 10,000 passenger boardings each year.

(12) "project" means a project, separate projects included in one project grant application, or all projects to be undertaken at an airport in a fiscal year, to achieve airport development or airport planning.

(13) "project cost" means a cost involved in carrying out a project.

(14) "project grant" means a grant of money the Secretary makes to a sponsor to carry out at least one project.

(15) "public agency" means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(16) "public airport" means an airport used or intended to be used for public purposes—

(A) that is under the control of a public agency; and

(B) of which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(17) "public-use airport" means—

(A) a public airport; or

(B) a privately-owned airport used or intended to be used for public purposes that is—

(i) a reliever airport; or

(ii) determined by the Secretary to have at least 2,500 passenger boardings each year and to receive scheduled passenger aircraft service.

(18) "reliever airport" means an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(19) "sponsor" means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(20) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

§ 47103. National plan of integrated airport systems

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—The Secretary of Transportation shall maintain the plan for developing

public-use airports in the United States, named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of each airport to—

(1) the rest of the transportation system in the particular area;

(2) forecasted technological developments in aeronautics; and

(3) forecasted developments in other modes of intercity transportation.

(b) SPECIFIC REQUIREMENTS.—In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community;

(2) consider tall structures that reduce safety or airport capacity; and

(3) make every reasonable effort to address the needs of air cargo operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations, and rotary wing aircraft operations.

(c) AVAILABILITY OF DOMESTIC MILITARY AIRPORTS AND AIRPORT FACILITIES.—To the extent possible, the Secretary of Defense shall make domestic military airports and airport facilities available for civil use. In advising the Secretary of Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities are available for civil use.

(d) PUBLICATION.—The Secretary of Transportation shall publish the status of the plan every 2 years.

§ 47104. Project grant authority

(a) GENERAL AUTHORITY.—To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) EXPIRATION OF AUTHORITY.—After September 30, 1993, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47117(b) of this title.

§ 47105. Project grant applications

(a) SUBMISSION AND CONSULTATION.—(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a sponsor; or

(B) a State, as the only sponsor, for an airport development project benefitting at least 2 airports in the State or for airport planning for similar projects for at least 2 airports in the State if—

(i) the sponsor of each airport gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the sponsor; and

(iii) an acceptable agreement exists that ensures that the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a sponsor shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) CONTENTS AND FORM.—An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards the Secretary prescribes or approves, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) STATE STANDARDS FOR AIRPORT DEVELOPMENT.—The Secretary may approve standards (except standards for safety of approaches) that a State prescribes for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary, or the State with the approval of the Secretary, may revise standards approved under this subsection.

(d) CERTIFICATION OF COMPLIANCE.—The Secretary may require a sponsor to certify that the sponsor will comply with this subchapter in carrying out the project. The Secretary may rescind the acceptance of a certification at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) NOTIFICATION.—The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall notify the Secretary of the fiscal year in which the sponsor intends to submit a project grant application for the apportioned amount. The notification shall be given by the time and contain the information the Secretary prescribes.

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) PROJECT GRANT APPLICATION APPROVAL.—The Secretary of Transportation may approve an application under this subchapter for a project grant only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay; and

(5) the sponsor has authority to carry out the project as proposed.

(b) AIRPORT DEVELOPMENT PROJECT GRANT APPLICATION APPROVAL.—The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—

(1) the sponsor, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) ENVIRONMENTAL REQUIREMENTS.—(1) The Secretary may approve an application under this subchapter for an airport development project involving the location of an airport or runway or a major runway extension—

(A) only if the sponsor certifies to the Secretary that—

(i) an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and the location's consistency with the objectives of any planning that the community has carried out; and

(ii) the airport management board has voting representation from the communities in which the project is located or has advised the communities that they have the right to petition the Secretary about a proposed project;

(B) only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards, except that the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

(i) the State has not approved any applicable State or local standards; and

(ii) the Administrator has prescribed applicable standards; and

(C) if the application is found to have a significant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after finding that no possible and prudent alternative to the project exists and that every reasonable step has been taken to minimize the adverse effect.

(2) The Secretary may approve an application under this subchapter for an airport development project that does not involve the location of an airport or runway, or a major runway extension, at an existing airport without requiring an environmental impact statement related to noise for the project if—

(A) completing the project would allow operations at the airport involving aircraft complying with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace existing operations involving aircraft that do not comply with those standards; and

(B) the project meets the other requirements under this subchapter.

(3) At the Secretary's request, the sponsor shall give the Secretary a copy of the transcript of any hearing held under paragraph (1)(A) of this subsection.

(4)(A) Notice of certification or of refusal to certify under paragraph (1)(B) of this subsection shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

(B) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.

(5) The Secretary may make a finding under paragraph (1)(C) of this subsection only after completely reviewing the matter. The review and finding must be a matter of public record.

(d) GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.—(1) In this subsection, "general aviation airport" means a public airport that is not an air carrier airport.

(2) The Secretary may approve an application under this subchapter for an airport development project included in a project grant application involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the nearest boundary of the airport.

(e) WITHHOLDING APPROVAL.—(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the sponsor an opportunity for a hearing; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may obtain review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) GENERAL WRITTEN ASSURANCES.—The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unjust discrimination;

(2) air carriers making similar use of the airport will be subject to substantially comparable charges—

(A) for facilities directly and substantially related to providing air transportation; and

(B) regulations and conditions, except for differences based on reasonable classifications, such as between—

(i) tenants and nontenants; and

(ii) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, with a right given to only one fixed-base operator to provide services at an airport deemed not to be an exclusive right if—

(A) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(B) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator;

(5) fixed-base operators similarly using the airport will be subject to the same charges;

(6) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service any carrier at the airport;

(7) the airport and facilities on or connected with the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including operations at established minimum flight altitudes) will be cleared and protected by mitigating existing, and preventing future, airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to the extent reasonable to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft in common with other aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility used;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the sponsor in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control or navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter or was made under the Federal Airport Act or the Airport and Airway Development Act of 1970;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual or special airport financial and operations reports to the Secretary that the Secretary reasonably requests; Reports.

(16) the airport owner or operator will maintain a current layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any revision or modification before the plan, revision, or modification takes effect;

(C) the owner or operator will not make or allow any alteration in the airport or any of its facilities if the alteration does not comply with the plan the Secretary approves, and the Secretary is of the opinion that the alteration may affect adversely the safety, utility, or efficiency of the airport; and

(D) when an alteration in the airport or its facility is made that does not conform to the approved plan and that the Secretary decides adversely affects the safety, utility, or efficiency of any property on or off the airport

that is owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made;

(17) each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement prescribed for or by the sponsor; and

Public information.

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request, and a report of the airport budget will be available to the public at reasonable times and places.

(b) WRITTEN ASSURANCES ON USE OF REVENUE.—(1) The Secretary of Transportation may approve a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c) WRITTEN ASSURANCES ON ACQUIRING LAND.—(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of

Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or will be acquired for a noise compatibility purpose—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project; or

(B) if the land was or will be acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportional share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportional to the Government's share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist.

(3) Proceeds referred to in paragraph (2)(A)(iii) and (B)(iii) of this subsection and deposited in the Airport and Airway Trust Fund are available as provided in subsection (f) of this section.

(d) ASSURANCES OF CONTINUATION AS PUBLIC-USE AIRPORT.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) WRITTEN ASSURANCES OF OPPORTUNITIES FOR SMALL BUSINESS CONCERNS.—(1) The Secretary of Transportation may approve

a project grant application under this subchapter for an airport development project only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products or providing consumer services to the public are small business concerns (as defined by regulations of the Secretary) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title).

(2) An airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including any business operated through a management contract or subcontract. The dollar amount of a management contract or subcontract with a disadvantaged business enterprise shall be added to the total participation by disadvantaged business enterprises in airport concessions and to the base from which the airport's percentage goal is calculated. The dollar amount of a management contract or subcontract with a non-disadvantaged business enterprise and the gross revenue of business activities to which the management contract or subcontract pertains may not be added to this base.

(3) Except as provided in paragraph (4) of this subsection, an airport owner or operator may meet the percentage goal of paragraph (1) of this subsection by including the purchase from disadvantaged business enterprises of goods and services used in businesses conducted at the airport, but the owner or operator and the businesses conducted at the airport shall make good faith efforts to explore all available options to achieve, to the maximum extent practicable, compliance with the goal through direct ownership arrangements, including joint ventures and franchises.

(4)(A) In complying with paragraph (1) of this subsection, an airport owner or operator shall include the revenues of car rental firms at the airport in the base from which the percentage goal in paragraph (1) is calculated.

(B) An airport owner or operator may require a car rental firm to meet a requirement under paragraph (1) of this subsection by purchasing or leasing goods or services from a disadvantaged business enterprise. If an owner or operator requires such a purchase or lease, a car rental firm shall be permitted to meet the requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual.

(C) This subsection does not require a car rental firm to change its corporate structure to provide for direct ownership arrangements to meet the requirements of this subsection.

(5) This subsection does not preempt—

(A) a State or local law, regulation, or policy enacted by the governing body of an airport owner or operator; or

(B) the authority of a State or local government or airport owner or operator to adopt or enforce a law, regulation, or policy related to disadvantaged business enterprises.

(6) An airport owner or operator may provide opportunities for a small business concern owned and controlled by a socially and economically disadvantaged individual to participate through direct contractual agreement with that concern.

(7) An air carrier that provides passenger or property-carrying services or another business that conducts aeronautical activities

at an airport may not be included in the percentage goal of paragraph (1) of this subsection for participation of small business concerns at the airport.

(8) Not later than April 29, 1993, the Secretary of Transportation shall prescribe regulations to carry out this subsection. Regulations.

(f) AVAILABILITY OF AMOUNTS.—An amount deposited in the Airport and Airway Trust Fund under—

(1) subsection (c)(2)(A)(iii) of this section is available to the Secretary of Transportation to make a grant for airport development or airport planning under section 47104 of this title;

(2) subsection (c)(2)(B)(iii) of this section is available to the Secretary—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(B)(ii) of this section; and

(3) subsection (c)(2)(B)(iii) of this section is in addition to an amount made available to the Secretary under section 48103 of this title and not subject to apportionment under section 47114 of this title.

(g) ENSURING COMPLIANCE.—(1) To ensure compliance with this section, the Secretary of Transportation—

(A) shall prescribe requirements for sponsors that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection have been or will be met.

(h) MODIFYING ASSURANCES AND REQUIRING COMPLIANCE WITH ADDITIONAL ASSURANCES.—Before modifying an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(1) publish notice of the proposed modification in the Federal Register; and Federal Register, publication.

(2) provide an opportunity for comment on the proposal.

(i) RELIEF FROM OBLIGATION TO PROVIDE FREE SPACE.—When a sponsor provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the sponsor from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building, to the extent the Secretary finds that the free space no longer is needed to carry out activities related to air traffic control or navigation.

(j) USE OF REVENUE IN HAWAII.—(1) In this subsection—

(A) "duty-free merchandise" and "duty-free sales enterprise" have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) "highway" and "Federal-aid system" have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway

on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport operated by Hawaii is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

§ 47108. Project grant agreements

(a) OFFER AND ACCEPTANCE.—On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the sponsor a grant to pay the United States Government's share of the project costs allowable under section 47110 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and

regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the sponsor and the maximum amount the Government will pay for the project from the amounts authorized under chapter 481 of this title (except sections 48102(e), 48106, 48107, and 48110). At the request of the sponsor, an offer of a grant for a project that will not be completed in one fiscal year shall provide for the obligation of amounts apportioned or to be apportioned to a sponsor under section 47114(c) of this title for the fiscal years necessary to pay the Government's share of the cost of the project. An offer that is accepted in writing by the sponsor is an agreement binding on the Government and the sponsor. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b) INCREASING GOVERNMENT'S SHARE UNDER THIS SUBCHAPTER OR CHAPTER 475.—(1) When an offer has been accepted in writing, the amount stated in the offer as the maximum amount the Government will pay may be increased only as provided in paragraphs (2) and (3) of this subsection.

(2)(A) For a project receiving assistance under a grant approved under the Airport and Airway Improvement Act of 1982 before October 1, 1987, the amount may be increased by not more than—

(i) 10 percent for an airport development project, except a project for acquiring an interest in land; and

(ii) 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(3) For a project receiving assistance under a grant approved under the Act, this subchapter, or chapter 475 of this title after September 30, 1987, the amount may be increased—

(A) for an airport development project, by not more than 15 percent; and

(B) for a grant after September 30, 1992, to acquire an interest in land for an airport (except a primary airport), by not more than the greater of the following, based on current creditable appraisals or a court award in a condemnation proceeding:

(i) 15 percent; or

(ii) 25 percent of the total increase in allowable project costs attributable to acquiring an interest in land.

(c) INCREASING GOVERNMENT'S SHARE UNDER AIRPORT AND AIRWAY DEVELOPMENT ACT OF 1970.—For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under the Act.

(d) CHANGING WORKSCOPE.—With the consent of the sponsor, the Secretary may amend a grant agreement made under this subchapter to change the workscope of a project financed under the grant if the amendment does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

§ 47109. United States Government's share of project costs

(a) GENERAL.—Except as provided in subsections (b) and (c) of this section, the United States Government's share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports; and

(2) 90 percent for a project at any other airport.

(b) INCREASED GOVERNMENT SHARE.—If, under subsection (a) of this section, the Government's share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government's share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government's share to the percentage that applied on June 30, 1975, under section 17(b) of the Act.

(c) LIMITATION.—Notwithstanding subsections (a) and (b) of this section, the Government's share of project costs allowable under section 47110(d) of this title may not be more than 75 percent, except that the Government's share shall be 85 percent for a project at a commercial service airport that does not have more than .05 percent of the total annual passenger boardings in the United States.

§ 47110. Allowable project costs

(a) GENERAL AUTHORITY.—Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b) ALLOWABLE COST STANDARDS.—A project cost is allowable—

(1) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter, including any cost a sponsor incurs related to an audit the Secretary requires under section 47121(b) or (d) of this title;

(2) if the cost is incurred—

(A) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

(B) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements;

(3) to the extent the cost is reasonable in amount;

(4) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted; and

(5) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title).

(c) CERTAIN PRIOR COSTS AS ALLOWABLE COSTS.—The Secretary may decide that a project cost under subsection (b)(2)(A) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including costs incurred for field surveys, plans and specifications, property interests in land or airspace, and administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) TERMINAL DEVELOPMENT COSTS.—(1) The Secretary may decide that the cost of terminal development (including multi-modal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

(A) if the sponsor certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(i) all the safety equipment required for certification of the airport under section 44706 of this title;

(ii) all the security equipment required by regulation; and

(iii) provided for access, to the area of the airport for passengers for boarding or exiting aircraft, to those passengers boarding or exiting aircraft, except air carrier aircraft;

(B) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving passengers between terminal facilities and between terminal facilities and aircraft; and

(C) under terms necessary to protect the interests of the Government.

(2) In making a decision under paragraph (1) of this subsection, the Secretary may approve as allowable costs the expenses of terminal development in a revenue-producing area and construction, reconstruction, repair, and improvement in a nonrevenue-producing parking lot if—

(A) the airport does not have more than .05 percent of the total annual passenger boardings in the United States; and

(B) the sponsor certifies that any needed airport development project affecting safety, security, or capacity will not be deferred because of the Secretary's approval.

(e) LETTERS OF INTENT.—(1) The Secretary may issue a letter of intent to the sponsor stating an intention to obligate from future budget authority an amount, not more than the Government's share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary will reimburse the sponsor for the Government's share of allowable project costs, as amounts become available, if the sponsor, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the sponsor notifies the Secretary, before the project begins, of the sponsor's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(d) of this title.

(3) A letter of intent issued under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 48103 of this title, less an amount reasonably estimated by the Secretary to be needed for grants under section 48103 that are not covered by a letter.

(5) A letter of intent issued under paragraph (1) of this subsection may not condition the obligation of amounts on the imposition of a passenger facility fee.

(f) NONALLOWABLE COSTS.—Except as provided in subsection (d) of this section and section 47118(f) of this title, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

§ 47111. Payments under project grant agreements

(a) GENERAL AUTHORITY.—After making a project grant agreement under this subchapter and consulting with the sponsor, the Secretary of Transportation may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government's share of the project's estimated allowable costs may be made before the project is completed if the sponsor certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) RECOVERING PAYMENTS.—If the Secretary determines that the total amount of payments made under a grant agreement under this subchapter is more than the Government's share of the total allowable project costs, the Government may recover the excess amount. If the Secretary finds that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) PAYMENT DEPOSITS.—A payment under a project grant agreement under this subchapter may be made only to an official or depository designated by the sponsor and authorized by law to receive public money.

(d) WITHHOLDING PAYMENTS.—(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) notifies the sponsor and provides an opportunity for a hearing; and

(B) finds that the sponsor has violated the agreement.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the sponsor; or

(B) the hearing officer if the officer decides an extension is necessary because the sponsor did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

§ 47112. Carrying out airport development projects

(a) CONSTRUCTION WORK.—The Secretary of Transportation may inspect and approve construction work for an airport development project carried out under a grant agreement under this subchapter. The construction work must be carried out in compliance with regulations the Secretary prescribes. The regulations shall require the sponsor to make necessary cost and progress reports on the project. The regulations may amend or modify a contract related to the project only if the contract was made with actual notice of the regulations. Regulations.

(b) PREVAILING WAGES.—A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a–5). The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c) VETERANS' PREFERENCE.—(1) In this subsection—

(A) "disabled veteran" has the same meaning given that term in section 2108 of title 5.

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days, any part of which occurred after August 4, 1964, and before May 8, 1975, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans and disabled veterans when they are available and qualified for the employment.

§ 47113. Minority and disadvantaged business participation

(a) DEFINITIONS.—In this section—

(1) "small business concern"—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than $16,015,000, as adjusted by the Secretary of Transportation for inflation.

(2) "socially and economically disadvantaged individual" has the same meaning given that term in section 8(c) of the Act (15 U.S.C. 637(c)) and relevant subcontracting regulations prescribed under section 8(c), except that women are presumed to be socially and economically disadvantaged.

(b) GENERAL REQUIREMENT.—Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 48103 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) UNIFORM CRITERIA.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include on-site visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) SURVEYS AND LISTS.—Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern in the State.

§ 47114. Apportionments

(a) DEFINITION.—In this section, "amount subject to apportionment" means the amount newly made available under section 48103 of this title for a fiscal year.

(b) APPORTIONMENT DATE.—On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c) AMOUNTS APPORTIONED TO SPONSORS.—(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year; and

(iv) $.65 for each additional passenger boarding at the airport during the prior calendar year.

(B) Not less than $400,000 nor more than $22,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only cargo with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3.5 percent of the amount

subject to apportionment each year, allocated among those airports in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of aircraft landing at each of those airports and all those airports during the prior calendar year.

(3) The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for a fiscal year. If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.

(d) AMOUNTS APPORTIONED TO STATES.—(1) In this subsection—

(A) "area" includes land and water.

(B) "population" means the population stated in the latest decennial census of the United States.

(2) The Secretary shall apportion to the States 12 percent of the amount subject to apportionment for each fiscal year as follows:

(A) one percent of the apportioned amount to Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount for airports, except primary airports and airports described in section 47117(e)(1)(C) of this title, in States not named in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount for airports, except primary airports and airports described in section 47117(e)(1)(C) of this title, in States not named in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

(3) An amount apportioned under paragraph (2) of this subsection for an airport in—

(A) Alaska may be made available by the Secretary for a public airport described in section 47117(e)(1)(C)(ii) of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and

(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47117(e)(1)(C) of this title.

(e) ALTERNATIVE APPORTIONMENT FOR ALASKA.—(1) Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section, the Secretary may apportion amounts for those airports in the way in which amounts were apportioned in the fiscal year ending September 30, 1980, under section 15(a) of the Act. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in the fiscal year ending September 30, 1980, under section 15(a)(3)(A) of the Act.

(2) This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

(3) Airports referred to in this subsection include those public airports that received scheduled service as of September 3, 1982, but were not apportioned amounts in the fiscal year ending September 30, 1980, under section 15(a) of the Act because the airports were not under the control of a State or local public agency.

(f) REDUCING APPORTIONMENTS.—An amount that would be apportioned under this section (except subsection (c)(2)) in a fiscal year to the sponsor of an airport having at least .25 percent of the total number of boardings each year in the United States and for which a fee is imposed in the fiscal year under section 40117 of this title shall be reduced by an amount equal to 50 percent of the projected revenues from the fee in the fiscal year but not by more than 50 percent of the amount that otherwise would be apportioned under this section.

§ 47115. Discretionary fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a discretionary fund. The fund consists of—

(1) amounts subject to apportionment for a fiscal year that are not apportioned under section 47114(c)–(e) of this title; and

(2) 25 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) AVAILABILITY OF AMOUNTS.—Subject to subsection (c) of this section and section 47117(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 48103 of this title that the Secretary considers most appropriate to carry out this subchapter. However, 50 percent of amounts not apportioned under section 47114 of this title because of section 47114(f) and added to the fund is available for making grants for projects at small hub airports (as defined in section 41731 of this title).

(c) MINIMUM PERCENTAGE FOR PRIMARY AND RELIEVER AIRPORTS.—At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(d) CONSIDERATIONS.—In selecting a project for a grant to preserve and enhance capacity as described in subsection (c)(1) of this section, the Secretary shall consider—

(1) the effect the project will have on the overall national air transportation system capacity;

(2) the project benefit and cost; and

(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity.

(e) WAIVING PERCENTAGE REQUIREMENT.—If the Secretary decides the Secretary cannot comply with the percentage requirement of subsection (c) of this section in a fiscal year because there are insufficient qualified grant applications to meet that percentage, the amount the Secretary determines will not be distributed as required by subsection (c) is available for obligation during the fiscal year without regard to the requirement.

§ 47116. Small airport fund

(a) EXISTENCE AND AMOUNTS IN FUND.—The Secretary of Transportation has a small airport fund. The fund consists of 75 percent of amounts not apportioned under section 47114 of this title because of section 47114(f).

(b) DISTRIBUTION OF AMOUNTS.—The Secretary may distribute amounts in the fund in each fiscal year for any purpose for which amounts are made available under section 48103 of this title as follows:

(1) one-third for grants to sponsors of public-use airports (except commercial service airports).

(2) two-thirds for grants to sponsors of each commercial service airport that each year has less than .05 percent of the total boardings in the United States in that year.

(c) AUTHORITY TO RECEIVE GRANT NOT DEPENDENT ON PARTICIPATION IN BLOCK GRANT PILOT PROGRAM.—An airport in a State participating in the State block grant pilot program under section 47128 of this title may receive a grant under this section to the same extent the airport may receive a grant if the State were not participating in the program.

§ 47117. Use of apportioned amounts

(a) GRANT PURPOSE.—Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 48103 of this title.

(b) PERIOD OF AVAILABILITY.—An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was apportioned and the 2 fiscal years immediately after that year. If the amount is not obligated under the apportionment within that time, it shall be added to the discretionary fund.

(c) PRIMARY AIRPORTS.—(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving any part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for a grant for another public-use airport in the same State or geographical area as the primary airport.

(d) STATE USE.—An amount apportioned to a State under—

(1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports described in section 47114(d)(2)(B) or (C) and located in the State.

(e) SPECIAL APPORTIONMENT CATEGORIES.—(1) The Secretary shall use amounts made available under section 48103 of this title for each fiscal year as follows:

(A) at least 10 percent for grants for reliever airports.

(B) at least 12.5 percent for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title.

(C) at least 2.5 percent for grants for—

(i) nonprimary commercial service airports; and

(ii) public airports (except commercial service airports) that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of the Act applied during the fiscal year that ended September 30, 1981.

(D) at least .5 percent for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.

(E) at least 2.25 percent for the fiscal year ending September 30, 1993, and at least 2.5 percent for each of the fiscal years ending September 30, 1994, and 1995, to sponsors of current or former military airports designated by the Secretary under section 47118(a) of this title for grants for developing current and former military airports to improve the capacity of the national air transportation system.

(2) A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 2.5 percent required to be used for grants under paragraph (1)(C) of this subsection.

(3) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are insufficient qualified grant applications, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 48103 of this title.

(f) LIMITATION FOR COMMERCIAL SERVICE AIRPORT IN ALASKA.—The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.

(g) DISCRETIONARY USE OF APPORTIONMENTS.—(1) Subject to paragraph (2) of this subsection, if the Secretary finds, based on the notices the Secretary receives under section 47105(e) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during that fiscal year for any of the purposes for which amounts are authorized for grants under section 48103 of this title.

(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

(A) the total amount used for grants for the fiscal year under section 48103 of this title will not be more than the amount made available under section 48103 for that fiscal year; and

(B) the amounts authorized for grants under section 48103 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants under the apportionment during the fiscal year and that remain available under subsection (b) of this section.

(h) LIMITING AUTHORITY OF SECRETARY.—The authority of the Secretary to make grants during a fiscal year from amounts tha. were apportioned for a prior fiscal year and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

§ 47118. Designating current and former military airports

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall designate not more than 12 current or former military airports for which grants may be made under section 47117(e)(1)(E) of this title.

(b) SURVEY.—Not later than September 30, 1991, the Secretary shall complete a survey of current and former military airports to identify which airports have the greatest potential to improve the capacity of the national air transportation system. The survey shall identify the capital development needs of those airports to make them part of the system and which of those qualify for grants under section 47104 of this title.

(c) CONSIDERATIONS.—In carrying out this section, the Secretary shall consider only current or former military airports that, when at least partly converted to civilian commercial or reliever airports as part of the national air transportation system, will enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

(d) GRANTS.—Grants under section 47117(e)(1)(E) of this title may be made for an airport designated under subsection (a) of this section for the 5 fiscal years following the designation. If an airport does not have a level of passengers getting on aircraft during that 5-year period that qualifies the airport as a small hub airport (as defined on January 1, 1990) or reliever airport, the Secretary may redesignate the airport for grants for additional fiscal years that the Secretary decides.

(e) TERMINAL BUILDING FACILITIES.—Notwithstanding section 47109(c) of this title, not more than $5,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for a fiscal year is available to the sponsor of a current or former military airport the Secretary designates under this section to construct, improve, or repair a terminal building facility, including terminal gates used for revenue passengers getting on or off aircraft. A gate constructed, improved, or repaired under this subsection—

(1) may not be leased for more than 10 years; and

(2) is not subject to majority in interest clauses.

(f) PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not more than a total of $4,000,000 for each airport from amounts the Secretary distributes under section 47115 of this title for the fiscal years ending September 30, 1993–1995, is available to the sponsor of

a current or former military airport the Secretary designates under this section to construct, improve, or repair airport surface parking lots, fuel farms, and utilities.

§ 47119. Terminal development costs

(a) REPAYING BORROWED MONEY.—An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47110(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the sponsor submits the certification required under section 47110(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer an airport development project outside the terminal area at that airport; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

(2) subject to the limitations in subsection (b)(1) and (2) of this section.

(b) AVAILABILITY OF AMOUNTS.—In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under section 47110(d) of this title;

(2) to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47110(d) of this title; or

(3) not more than $25,000,000 to pay project costs allowable for the fiscal year under section 47110(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

§ 47120. Grant priority

In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

§ 47121. Records and audits

(a) RECORDS.—A sponsor shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the sponsor of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) AUDITS AND EXAMINATIONS.—The Secretary and the Comptroller General may audit and examine records of a sponsor that are related to a grant made under this subchapter.

(c) AUTHORITY OF COMPTROLLER GENERAL.—When an independent audit is made of the accounts of a sponsor under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the sponsor shall submit a certified copy of the audit to the Comptroller General not more than 6 months after the end of the fiscal year for which the audit was made. Not later than April 15 of each year, the Comptroller General shall report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year. The Comptroller General shall prescribe regulations necessary to carry out this subsection. Reports.

(d) AUDIT REQUIREMENT.—The Secretary may require a sponsor to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) ANNUAL REVIEW.—The Secretary shall review annually the recordkeeping and reporting requirements under this subchapter to ensure that they are the minimum necessary to carry out this subchapter.

(f) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

§ 47122. Administrative

(a) GENERAL.—The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

(b) CONDUCTING INVESTIGATIONS AND PUBLIC HEARINGS.—In conducting an investigation or public hearing under this subchapter, the Secretary has the same authority the Secretary has under section 46104 of this title. An action of the Secretary in exercising that authority is governed by the procedures specified in section 46104 and shall be enforced as provided in section 46104.

§ 47123. Nondiscrimination

The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act. Regulations.

§ 47124. Agreements for State and local operation of airport facilities

(a) GOVERNMENT RELIEF FROM LIABILITY.—The Secretary of Transportation shall ensure that an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.

(b) AIR TRAFFIC CONTROL CONTRACT PROGRAM.—(1) The Secretary shall continue the low activity (Visual Flight Rules) level I air traffic control tower contract program established under subsection (a) of this section for towers existing on December 30, 1987, and extend the program to other towers as practicable.

(2) The Secretary may make a contract, on a sole source basis, with a State or a political subdivision of a State to allow the State or subdivision to operate an airport traffic control tower classified as a level I (Visual Flight Rules) tower if the Secretary decides that the State or subdivision has the capability to comply with the requirements of this paragraph. The contract shall require that the State or subdivision comply with applicable safety regulations in operating the facility and with applicable competition requirements in making a subcontract to perform work to carry out the contract.

§ 47125. Conveyances of United States Government land

(a) CONVEYANCES TO PUBLIC AGENCIES.—Except as provided in subsection (b) of this section, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey a property interest in the land or airspace to the public agency sponsoring the project or owning or controlling the airport when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems. The head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision not later than 4 months after receiving the request. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interest conveyed reverts to the Government, at the option of the Secretary, to the extent it is not developed for an airport purpose or used consistently with the conveyance.

(b) NONAPPLICATION.—Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

§ 47126. Criminal penalties for false statements

A person (including an officer, agent, or employee of the United States Government or a public agency) shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or material for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

§ 47127. Ground transportation demonstration projects

(a) GENERAL AUTHORITY.—To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier airport terminals. The Secretary may carry out a demonstration project independently or by grant or contract, including an agreement with another department, agency, or instrumentality of the United States Government.

(b) PRIORITY.—In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

§ 47128. State block grant pilot program

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations to carry out a State block grant pilot program. The regulations shall provide that the Secretary may designate not more than 7 qualified States to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports. Regulations.

(b) APPLICATIONS AND SELECTION.—(1) A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State on the basis of its application only after—

(A) deciding the State has an organization capable of effectively administering a block grant made under this section;

(B) deciding the State uses a satisfactory airport system planning process;

(C) deciding the State uses a programming process acceptable to the Secretary;

(D) finding that the State has agreed to comply with United States Government standard requirements for administering the block grant; and

(E) finding that the State has agreed to provide the Secretary with program information the Secretary requires.

(2) For the fiscal years ending September 30, 1993–1996, the States selected shall include Illinois, Missouri, and North Carolina.

(c) SAFETY AND SECURITY NEEDS AND NEEDS OF SYSTEM.—Before deciding whether a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government.

(d) ENDING EFFECTIVE DATE AND REPORT.—This section is effective only through September 30, 1996.

§ 47129. Annual report

Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

(1) a detailed statement of airport development completed;

(2) the status of each project undertaken;

(3) the allocation of appropriations; and

(4) an itemized statement of expenditures and receipts.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47151. Authority to transfer an interest in surplus property

(a) GENERAL AUTHORITY.—Subject to sections 47152 and 47153 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may give a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the gift and decides the interest is not best suited for industrial use.

(b) ENSURING COMPLIANCE.—Only the Secretary may ensure compliance with an instrument giving an interest in surplus property under this subchapter. The Secretary may amend the instrument to correct the instrument or to make the gift comply with law.

(c) DISPOSING OF INTERESTS NOT GIVEN UNDER THIS SUBCHAPTER.—An interest in surplus property that could be used at a public airport but that is not given under this subchapter shall be disposed of under other applicable law.

§ 47152. Terms of gifts

Except as provided in section 47153 of this title, the following terms apply to a gift of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for public use and benefit without unreasonable discrimination.

(3) A right may not be vested in a person, excluding others in the same class from using the airport at which the property is located—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to engage in selling or supplying aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances)..

(4) The State, political subdivision, or tax-supported organization accepting the interest shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the emergency;

(B) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining the property it uses nonexclusively, or over which the Government has nonexclusive control or possession, during the emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without Government assistance.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located. The Secretary may limit the use of

the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government shall—

(A) contribute a reasonable share, consistent with the Government's use, of the cost of maintaining and operating the landing area; and

(B) pay for damages caused by its use of the landing area if its use of the landing area is substantial.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of any part of an airport owned, controlled, or operated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located.

(8) When a term under this section is not satisfied, any part of the interest in the property reverts to the Government, at the option of the Government, as the property then exists.

§ 47153. Waiving and adding terms

(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may waive, without charge, a term of a gift of an interest in property under this subchapter if the Secretary decides that—

(A) the property no longer serves the purpose for which it was given; or

(B) the waiver will not prevent carrying out the purpose for which the gift was made and is necessary to advance the civil aviation interests of the United States.

(2) The Secretary of Transportation shall waive a term under paragraph (1) of this subsection on terms the Secretary considers necessary to protect or advance the civil aviation interests of the United States.

(b) WAIVERS AND INCLUSION OF ADDITIONAL TERMS ON REQUEST.—On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may waive a term required by section 47152 of this title or add another term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
47306. Criminal penalty

§ 47301. Definitions

In this chapter—

(1) "airport property" means an interest in property used or useful in operating and maintaining an airport.

(2) "airway property" means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe oper-

ation of air traffic, including air navigation, air traffic control, airway communication, and meteorological facilities.

(3) "foreign territory" means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the Government or a government of a foreign country under an international agreement.

(4) "territory outside the continental United States" means territory outside the 48 contiguous States and the District of Columbia.

§ 47302. Providing airport and airway property in foreign territories

(a) GENERAL AUTHORITY.—Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) SPECIFIC APPROPRIATIONS REQUIRED.—Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) ACCEPTING FOREIGN PAYMENTS.—The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

§ 47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

§ 47304. Transfer of airport and airway property

(a) GENERAL AUTHORITY.—When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the appropriate

Secretary in foreign territory. The transfer shall be on terms the appropriate Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) PROPERTY INSTALLED OR CONTROLLED BY MILITARY.—Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c) REPUBLIC OF PANAMA.—(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a) and (b) of this title do not apply in carrying out this subsection.

(d) RETAKING PROPERTY FOR MILITARY REQUIREMENT.—(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

§ 47305. Administrative

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;

(2) lease the property or facility for not more than 20 years;

(3) make a contract, or provide directly, for facilities and services;

(4) make reasonable charges for aeronautical services; and

(5) acquire an interest in property.

(b) CREDITING APPROPRIATIONS.—Money received from the direct sale or charge that the Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilities and services sold or provided under subsection (a)(3) and (4) of this section is credited to the appropriation from which the cost was paid. The balance shall be deposited in the Treasury as miscellaneous receipts.

(c) USING OTHER GOVERNMENT FACILITIES AND SERVICES.—To carry out this chapter and to use personnel and facilities of the United States Government most advantageously and without unnecessary duplication, the Secretary of Transportation or Commerce, as appropriate, shall request, when practicable, to use a facility or service of an appropriate department, agency, or instrumentality of the Government on a reimbursable basis. A department, agency, or instrumentality receiving a request under this section may provide the facility or service.

(d) ADVERTISING NOT REQUIRED.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a lease or contract made by the Secretary of Transportation or Commerce under this chapter.

§ 47306. Criminal penalty

A person that knowingly and willfully violates a regulation prescribed by the Secretary of Transportation to carry out this chapter shall be fined under title 18, imprisoned for not more than 6 months, or both.

CHAPTER 475—NOISE

SUBCHAPTER I—NOISE ABATEMENT

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47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure.
47503. Noise exposure maps.
47504. Noise compatibility programs.
47505. Airport noise compatibility planning grants.
47506. Limitations on recovering damages for noise.
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SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

47521. Findings.
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47531. Penalties for violating sections 47528–47530.
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47533. Relationship to other laws.

SUBCHAPTER I—NOISE ABATEMENT

§ 47501. Definitions

In this subchapter—

(1) "airport" means a public-use airport as defined in section 47102 of this title.

(2) "airport operator" means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, any person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

§ 47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

Regulations.

After consultation with the Administrator of the Environmental Protection Agency and United States Government, State, and interstate agencies that the Secretary of Transportation considers appropriate, the Secretary shall by regulation—

(1) establish a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) establish a single system for determining the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses normally compatible with various exposures of individuals to noise.

§ 47503. Noise exposure maps

(a) SUBMISSION AND PREPARATION.—An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during 1985, and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) REVISED MAPS.—If a change in the operation of an airport will establish a substantial new noncompatible use in an area surrounding the airport, the airport operator shall submit a revised noise exposure map to the Secretary showing the new noncompatible use.

§ 47504. Noise compatibility programs

(a) SUBMISSIONS.—(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding the airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under paragraph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map. The measures may include—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b) APPROVALS.—(1) The Secretary shall approve or disapprove a program submitted under subsection (a) of this section (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) not later than 180 days after receiving it. The Secretary shall approve the program (except as the program is related to flight procedures referred to in subsection (a)(2)(D)) if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program (except as the program is related to flight procedures referred to in subsection (a)(2)(D) of this section) is deemed to be approved if the Secretary does not act within the 180-day period.

(3) The Secretary shall submit any part of a program related to flight procedures referred to in subsection (a)(2)(D) of this section to the Administrator of the Federal Aviation Administration. The Administrator shall approve or disapprove that part of the program.

(c) GRANTS.—(1) The Secretary may incur obligations to make grants from amounts available under section 48103 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program;

(B) a unit of local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project;

(C) an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph to carry out any part of a program developed before February 18, 1980, or before implementing regulations were prescribed, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program; and

(D) an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph to soundproof a building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise.

(2) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(3) The Government's share of a project for which a grant is made under paragraph (1) of this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government's share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(4) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47109(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(d) GOVERNMENT RELIEF FROM LIABILITY.—The Government is not liable for damages from aviation noise because of action taken under this section.

§ 47505. Airport noise compatibility planning grants

(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503 of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) AVAILABILITY OF AMOUNTS AND GOVERNMENT'S SHARE OF COSTS.—A grant under subsection (a) of this section may be made from amounts available under section 48103 of this title. The United States Government's share of the grant is the percent for which a project for airport development at an airport would be eligible under section 47109(a) and (b) of this title.

§ 47506. Limitations on recovering damages for noise

(a) GENERAL LIMITATIONS.—A person acquiring an interest in property after February 18, 1980, in an area surrounding an airport for which a noise exposure map has been submitted under section 47503 of this title and having actual or constructive knowledge of the existence of the map may recover damages for noise attrib-

utable to the airport only if, in addition to any other elements for recovery of damages, the person shows that—

(1) after acquiring the interest, there was a significant—

(A) change in the type or frequency of aircraft operations at the airport;

(B) change in the airport layout;

(C) change in flight patterns; or

(D) increase in nighttime operations; and

(2) the damages resulted from the change or increase.

(b) CONSTRUCTIVE KNOWLEDGE.—Constructive knowledge of the existence of a map under subsection (a) of this section shall be imputed, at a minimum, to a person if—

(1) before the person acquired the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(2) the person is given a copy of the map when acquiring the interest.

§ 47507. Nonadmissibility of noise exposure map and related information as evidence

No part of a noise exposure map or related information described in section 47503 of this title that is submitted to, or prepared by, the Secretary of Transportation and no part of a list of land uses the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used for any other purpose in a civil action asking for relief for noise resulting from the operation of an airport.

§ 47508. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a) GENERAL REQUIREMENTS.—The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(1) the Secretary prescribed for new subsonic aircraft in regulations of the Secretary in effect on January 1, 1977; or

(2) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft in regulations of the Secretary at parts 36 and 91 of title 14, Code of Federal Regulations, prescribed between January 2, 1977, and January 1, 1982.

(b) COMPLIANCE AT PHASED RATE.—The Secretary shall require each air carrier and foreign air carrier providing foreign air transportation to comply with the noise standards at a phased rate similar to the rate for aircraft registered in the United States.

(c) NONDISCRIMINATION.—The requirement for air carriers providing foreign air transportation may not be more stringent than the requirement for foreign air carriers.

SUBCHAPTER II—NATIONAL AVIATION NOISE POLICY

§ 47521. Findings

Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation that could impede the national air transportation system;

(3) a noise policy must be carried out at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the use of new technology aircraft and the use of revenues, including those available from passenger facility fees, for noise management;

(6) revenues controlled by the United States Government can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility fee may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of a passenger facility fee is the prescribing by the Secretary of Transportation of a regulation establishing procedures for reviewing airport noise and access restrictions on operations of stage 2 and stage 3 aircraft.

§ 47522. Definitions

In this subchapter—

(1) "air carrier", "air transportation", and "United States" have the same meanings given those terms in section 40102(a) of this title.

(2) "stage 3 noise levels" means the stage 3 noise levels in part 36 of title 14, Code of Federal Regulations, in effect on November 5, 1990.

§ 47523. National aviation noise policy

Regulations.

(a) GENERAL REQUIREMENTS.—Not later than July 1, 1991, the Secretary of Transportation shall establish by regulation a national aviation noise policy that considers this subchapter, including the phaseout and nonaddition of stage 2 aircraft as provided in this subchapter and dates for carrying out that policy and reporting requirements consistent with this subchapter and law existing as of November 5, 1990.

(b) DETAILED ECONOMIC ANALYSIS.—The policy shall be based on a detailed economic analysis of the impact of the phaseout date for stage 2 aircraft on competition in the airline industry, including—

(1) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(2) the impact of competition in the airline and air cargo industries;

(3) the impact on nonhub and small community air service; and

(4) the impact on new entry into the airline industry.

§ 47524. Airport noise and access restriction review program

Regulations.

(a) GENERAL REQUIREMENTS.—The national aviation noise policy established under section 47523 of this title shall provide for establishing by regulation a national program for reviewing airport

noise and access restrictions on the operation of stage 2 and stage 3 aircraft. The program shall provide for adequate public notice and opportunity for comment on the restrictions.

(b) STAGE 2 AIRCRAFT.—Except as provided in subsection (d) of this section, an airport noise or access restriction may include a restriction on the operation of stage 2 aircraft proposed after October 1, 1990, only if the airport operator publishes the proposed restriction and prepares and makes available for public comment at least 180 days before the effective date of the proposed restriction—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed restriction;

(2) a description of alternative restrictions;

(3) a description of the alternative measures considered that do not involve aircraft restrictions; and

(4) a comparison of the costs and benefits of the alternative measures to the costs and benefits of the proposed restriction.

(c) STAGE 3 AIRCRAFT.—(1) Except as provided in subsection (d) of this section, an airport noise or access restriction on the operation of stage 3 aircraft not in effect on October 1, 1990, may become effective only if the restriction has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and approved by the Secretary of Transportation after an airport or aircraft operator's request for approval as provided by the program established under this section. Restrictions to which this paragraph applies include—

(A) a restriction on noise levels generated on either a single event or cumulative basis;

(B) a restriction on the total number of stage 3 aircraft operations;

(C) a noise budget or noise allocation program that would include stage 3 aircraft;

(D) a restriction on hours of operations; and

(E) any other restriction on stage 3 aircraft.

(2) Not later than 180 days after the Secretary receives an airport or aircraft operator's request for approval of an airport noise or access restriction on the operation of a stage 3 aircraft, the Secretary shall approve or disapprove the restriction. The Secretary may approve the restriction only if the Secretary finds on the basis of substantial evidence that—

(A) the restriction is reasonable, nonarbitrary, and nondiscriminatory;

(B) the restriction does not create an unreasonable burden on interstate or foreign commerce;

(C) the restriction is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(D) the restriction does not conflict with a law or regulation of the United States;

(E) an adequate opportunity has been provided for public comment on the restriction; and

(F) the restriction does not create an unreasonable burden on the national aviation system.

(3) Paragraphs (1) and (2) of this subsection do not apply if the Administrator of the Federal Aviation Administration, before November 5, 1990, has formed a working group (outside the process established by part 150 of title 14, Code of Federal Regulations) with a local airport operator to examine the noise impact of air

traffic control procedure changes at the airport. However, if an agreement on noise reductions at that airport is made between the airport proprietor and one or more air carriers or foreign air carriers that constitute a majority of the carrier use of the airport, this paragraph applies only to a local action to enforce the agreement.

(4) The Secretary may reevaluate an airport noise or access restriction previously agreed to or approved under this subsection on request of an aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport that justifies a reevaluation. The Secretary shall establish by regulation procedures for conducting a reevaluation. A reevaluation— Regulations.

(A) shall be based on the criteria in paragraph (2) of this subsection; and

(B) may be conducted only after 2 years after a decision under paragraph (2) of this subsection has been made.

(d) NONAPPLICATION.—Subsections (b) and (c) of this section do not apply to—

(1) a local action to enforce a negotiated or executed airport noise or access agreement between the airport operator and the aircraft operators in effect on November 5, 1990;

(2) a local action to enforce a negotiated or executed airport noise or access restriction agreed to by the airport operator and the aircraft operators before November 5, 1990;

(3) an intergovernmental agreement including an airport noise or access restriction in effect on November 5, 1990;

(4) a subsequent amendment to an airport noise or access agreement or restriction in effect on November 5, 1990, that does not reduce or limit aircraft operations or affect aircraft safety;

(5)(A) an airport noise or access restriction adopted by an airport operator not later than October 1, 1990, and stayed as of October 1, 1990, by a court order or as a result of litigation, if any part of the restriction is subsequently allowed by a court to take effect; or

(B) a new restriction imposed by an airport operator to replace any part of a restriction described in subclause (A) of this clause that is disallowed by a court, if the new restriction would not prohibit aircraft operations in effect on November 5, 1990; or

(6) a local action that represents the adoption of the final part of a program of a staged airport noise or access restriction if the initial part of the program was adopted during 1988 and was in effect on November 5, 1990.

(e) GRANT LIMITATIONS.—Beginning on the 91st day after the Secretary prescribes a regulation under subsection (a) of this section, a sponsor of a facility operating under an airport noise or access restriction on the operation of stage 3 aircraft that first became effective after October 1, 1990, is eligible for a grant under section 47104 of this title and is eligible to impose a passenger facility fee under section 40117 of this title only if the restriction has been—

(1) agreed to by the airport proprietor and aircraft operators;

(2) approved by the Secretary as required by subsection (c)(1) of this section; or

(3) rescinded.

§ 47525. Decision about airport noise and access restrictions on certain stage 2 aircraft

The Secretary of Transportation shall conduct a study and decide on the application of section 47524(a)–(d) of this title to airport noise and access restrictions on the operation of stage 2 aircraft with a maximum weight of not more than 75,000 pounds. In making the decision, the Secretary shall consider—

(1) noise levels produced by those aircraft relative to other aircraft;

(2) the benefits to general aviation and the need for efficiency in the national air transportation system;

(3) the differences in the nature of operations at airports and the areas immediately surrounding the airports;

(4) international standards and agreements on aircraft noise; and

(5) other factors the Secretary considers necessary.

§ 47526. Limitations for noncomplying airport noise and access restrictions

Unless the Secretary of Transportation is satisfied that an airport is not imposing an airport noise or access restriction not in compliance with this subchapter, the airport may not—

(1) receive money under subchapter I of chapter 471 of this title; or

(2) impose a passenger facility fee under section 40117 of this title.

§ 47527. Liability of the United States Government for noise damages

When a proposed airport noise or access restriction is disapproved under this subchapter, the United States Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of the disapproval. The United States Court of Federal Claims has exclusive jurisdiction of a civil action under this section.

§ 47528. Prohibition on operating certain aircraft not complying with stage 3 noise levels

(a) PROHIBITION.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may operate after December 31, 1999, a civil subsonic turbojet with a maximum weight of more than 75,000 pounds to or from an airport in the United States only if the Secretary of Transportation finds that the aircraft complies with the stage 3 noise levels.

(b) WAIVERS.—(1) If, not later than July 1, 1999, at least 85 percent of the aircraft used by an air carrier to provide air transportation comply with the stage 3 noise levels, the carrier may apply for a waiver of subsection (a) of this section for the remaining aircraft used by the carrier to provide air transportation. The application must be filed with the Secretary not later than January 1, 1999, and must include a plan with firm orders for making all aircraft used by the carrier to provide air transportation comply with the noise levels not later than December 31, 2003.

(2) The Secretary may grant a waiver under this subsection if the Secretary finds it would be in the public interest. In making

the finding, the Secretary shall consider the effect of granting the waiver on competition in the air carrier industry and on small community air service.

(3) A waiver granted under this subsection may not permit the operation of stage 2 aircraft in the United States after December 31, 2003.

Regulations.

(c) SCHEDULE FOR PHASED-IN COMPLIANCE.—The Secretary shall establish by regulation a schedule for phased-in compliance with subsection (a) of this section. The phase-in period shall begin on November 5, 1990, and end before December 31, 1999. The regulations shall establish interim compliance dates. The schedule for phased-in compliance shall be based on—

(1) a detailed economic analysis of the impact of the phase-out date for stage 2 aircraft on competition in the airline industry, including—

(A) the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry;

(B) the impact of competition in the airline and air cargo industries;

(C) the impact on nonhub and small community air service; and

(D) the impact on new entry into the airline industry; and

(2) an analysis of the impact of aircraft noise on individuals residing near airports.

(d) ANNUAL REPORT.—Beginning with calendar year 1992—

(1) each air carrier shall submit to the Secretary an annual report on the progress the carrier is making toward complying with the requirements of this section and regulations prescribed under this section; and

(2) the Secretary shall submit to Congress an annual report on the progress being made toward that compliance.

(e) HAWAIIAN OPERATIONS.—(1) In this subsection, "turnaround service" means a flight between places only in Hawaii.

(2)(A) An air carrier or foreign air carrier may not operate in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, a greater number of stage 2 aircraft with a maximum weight of more than 75,000 pounds than it operated in Hawaii, or between a place in Hawaii and a place outside the 48 contiguous States, on November 5, 1990.

(B) An air carrier that provided turnaround service in Hawaii on November 5, 1990, using stage 2 aircraft with a maximum weight of more than 75,000 pounds may include in the number of aircraft authorized under subparagraph (A) of this paragraph all stage 2 aircraft with a maximum weight of more than 75,000 pounds that were owned or leased by that carrier on that date, whether or not the aircraft were operated by the carrier on that date.

(3) An air carrier may provide turnaround service in Hawaii using stage 2 aircraft with a maximum weight of more than 75,000 pounds only if the carrier provided the service on November 5, 1990.

§ 47529. Nonaddition rule

(a) GENERAL LIMITATIONS.—Except as provided in subsection (b) of this section and section 47530 of this title, a person may

operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into the United States after November 4, 1990, only if the aircraft—

(1) complies with the stage 3 noise levels; or

(2) was purchased by the person importing the aircraft into the United States under a legally binding contract made before November 5, 1990.

(b) EXEMPTIONS.—The Secretary of Transportation may provide an exemption from subsection (a) of this section to permit a person to obtain modifications to an aircraft to meet the stage 3 noise levels.

(c) AIRCRAFT DEEMED NOT IMPORTED.—In this section, an aircraft is deemed not to have been imported into the United States if the aircraft—

(1) was owned on November 5, 1990, by—

(A) a corporation, trust, or partnership organized under the laws of the United States or a State (including the District of Columbia);

(B) an individual who is a citizen of the United States; or

(C) an entity that is owned or controlled by a corporation, trust, partnership, or individual described in subclause (A) or (B) of this clause; and

(2) enters the United States not later than 6 months after the expiration of a lease agreement (including any extension) between an owner described in clause (1) of this subsection and a foreign carrier.

§ 47530. Nonapplication of sections 47528(a)–(d) and 47529 to aircraft outside the 48 contiguous States

Sections 47528(a)–(d) and 47529 of this title do not apply to aircraft used only to provide air transportation outside the 48 contiguous States. A civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds that is imported into a noncontiguous State or a territory or possession of the United States after November 4, 1990, may be used to provide air transportation in the 48 contiguous States only if the aircraft complies with the stage 3 noise levels.

§ 47531. Penalties for violating sections 47528–47530

A person violating sections 47528, 47529, or 47530 of this title or a regulation prescribed under those sections is subject to the same civil penalties and procedures under chapter 463 of this title as a person violating section 44701(a) or (b) or 44702–44716 of this title.

§ 47532. Judicial review

An action taken by the Secretary of Transportation under sections 47528–47531 of this title is subject to judicial review as provided under section 46110 of this title.

§ 47533. Relationship to other laws

Except as provided by section 47524 of this title, this subchapter does not affect—

(1) law in effect on November 5, 1990, on airport noise or access restrictions by local authorities;

(2) any proposed airport noise or access restriction at a general aviation airport if the airport proprietor has formally initiated a regulatory or legislative process before October 2, 1990; or

(3) the authority of the Secretary of Transportation to seek and obtain legal remedies the Secretary considers appropriate, including injunctive relief.

PART C—FINANCING

CHAPTER 481—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
48101. Air navigation facilities.
48102. Research and development.
48103. Airport planning and development and noise compatibility planning and programs.
48104. Certain direct costs and joint air navigation services.
48105. Weather reporting services.
48106. Airway science curriculum grants.
48107. Civil aviation security research and development.
48108. Availability and uses of amounts.
48109. Submission of budget information and legislative recommendations and comments.
48110. Facilities for advanced training of maintenance technicians for air carrier aircraft.

§ 48101. Air navigation facilities

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Not more than a total of the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title:

(1) for the fiscal years ending September 30, 1991–1993, $8,200,000,000.

(2) for the fiscal years ending September 30, 1991–1994, $11,100,000,000.

(3) for the fiscal years ending September 30, 1991–1995, $14,000,000,000.

(b) MAJOR AIRWAY CAPITAL INVESTMENT PLAN CHANGES.—If the Secretary decides that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan referred to in section 44501(b) of this title (including a decision that it is necessary to establish more than 23 area control facilities), not more than $100,000,000 may be appropriated to the Secretary out of the Fund for the fiscal year ending September 30, 1994, to carry out the augmentation or modification.

(c) AVAILABILITY OF AMOUNTS.—Amounts appropriated under this section remain available until expended.

§ 48102. Research and development

(a) AUTHORIZATION OF APPROPRIATIONS.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out sections 44504, 44505, 44507, 44509, and 44511–44513 of this title:

(1) for the fiscal year ending September 30, 1993—

(A) $14,700,000 only for management and analysis projects and activities.

(B) $87,000,000 only for capacity and air traffic management technology projects and activities.

(C) $28,000,000 only for communications, navigation, and surveillance projects and activities.

(D) $7,700,000 only for weather projects and activities.

(E) $6,800,000 only for airport technology projects and activities.

(F) $44,000,000 only for aircraft safety technology projects and activities.

(G) $41,100,000 only for system security technology projects and activities.

(H) $31,000,000 only for human factors and aviation medicine projects and activities.

(I) $4,500,000 for environment and energy projects and activities.

(J) $5,200,000 for innovative and cooperative research projects and activities.

(2) for the fiscal year ending September 30, 1994, $297,000,000.

(b) AVAILABILITY FOR RESEARCH.—(1) At least 15 percent of the amount appropriated under subsection (a) of this section shall be for long-term research projects.

(2) At least 3 percent of the amount appropriated under subsection (a) of this section shall be available to the Administrator of the Federal Aviation Administration to make grants under section 44511 of this title.

(c) TRANSFERS BETWEEN CATEGORIES.—(1) Not more than 10 percent of the net amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the proposed transfer to the Committees on Science, Space, and Technology and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the proposed transfer.

(d) AIRPORT CAPACITY RESEARCH AND DEVELOPMENT.—(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under section 44505(a) and (c) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Administrator shall submit to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made under paragraph (1) of this subsection for each fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year. Reports.

(e) AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.—Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506(a) and (b) of this title.

(f) AVAILABILITY OF AMOUNTS.—Amounts appropriated under subsection (a) of this section remain available until expended.

§ 48103. Airport planning and development and noise compatibility planning and programs

Not more than a total of $15,966,700,000 is available to the Secretary of Transportation for the fiscal years ending September 30, 1982–1993, out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c) of this title.

§ 48104. Certain direct costs and joint air navigation services

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in this section, the balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated to the Secretary of Transportation out of the Fund for—

(1) direct costs the Secretary incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

(b) LIMITATION.—The amount that may be appropriated out of the Fund for each of the fiscal years ending September 30, 1993–1995, may not be more than an amount equal to—

(1) 75 percent of the amount made available under sections 106(k) and 48101–48103 of this title for that fiscal year; less

(2) the amount made available under sections 48101–48103 of this title for that fiscal year.

§ 48105. Weather reporting services

To reimburse the Secretary of Commerce for the cost incurred by the National Oceanic and Atmospheric Administration of providing weather reporting services to the Federal Aviation Administration, the Secretary of Transportation may expend from amounts available under section 48104 of this title not more than the following amounts:

(1) for the fiscal year ending September 30, 1993, $35,596,000.

(2) for the fiscal year ending September 30, 1994, $37,800,000.

(3) for the fiscal year ending September 30, 1995, $39,000,000.

§ 48106. Airway science curriculum grants

Amounts are available from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code

of 1986 (26 U.S.C. 9502) to carry out section 44510 of this title. The amounts remain available until expended.

§ 48107. Civil aviation security research and development

After the review under section 44912(b) of this title is completed, necessary amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants under section 44912(a)(4)(A).

§ 48108. Availability and uses of amounts

(a) AVAILABILITY OF AMOUNTS.—Amounts equal to the amounts authorized under sections 48101–48105 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated for the purposes of sections 48101–48105.

(b) LIMITATIONS ON USES.—(1) Amounts in the Fund may be appropriated only to carry out a program or activity referred to in this chapter.

(2) Amounts in the Fund may be appropriated for administrative expenses of the Department of Transportation or a component of the Department only to the extent authorized by section 48104 of this title.

(c) LIMITATION ON OBLIGATING OR EXPENDING AMOUNTS.—In a fiscal year beginning after September 30, 1995, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 48104 of this title only if a law expressly amends section 48104.

§ 48109. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 48101 or 48102 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

§ 48110. Facilities for advanced training of maintenance technicians for air carrier aircraft

For the fiscal years ending September 30, 1993–1995, amounts necessary to carry out section 44515 of this title may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502). The amounts remain available until expended.

PART D—MISCELLANEOUS

CHAPTER 491—BUY-AMERICAN PREFERENCES

Sec.
49101. Buying goods produced in the United States.

49102. Restricting contract awards because of discrimination against United States goods or services.
49103. Contract preference for domestic firms.
49104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities.
49105. Fraudulent use of "Made in America" label.

§ 49101. Buying goods produced in the United States

(a) PREFERENCE.—The Secretary of Transportation may obligate an amount that may be appropriated to carry out section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except sections 47106(d) and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title for a project only if steel and manufactured goods used in the project are produced in the United States.

(b) WAIVER.—The Secretary may waive subsection (a) of this section if the Secretary finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) the steel and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(3) when procuring a facility or equipment under section 44502(a)(2) or 44509, subchapter I of chapter 471 (except sections 47106(d) and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title—

(A) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the facility or equipment; and

(B) final assembly of the facility or equipment has occurred in the United States; or

(4) including domestic material will increase the cost of the overall project by more than 25 percent.

(c) LABOR COSTS.—In this section, labor costs involved in final assembly are not included in calculating the cost of components.

§ 49102. Restricting contract awards because of discrimination against United States goods or services

A person or enterprise domiciled or operating under the laws of a foreign country may not make a contract or subcontract under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except sections 47106(d) and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388–353) if the government of that country unfairly maintains, in government procurement, a significant and persistent pattern of discrimination against United States goods or services that results in identifiable harm to United States businesses, that the President identifies under section 305(g)(1)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)).

§ 49103. Contract preference for domestic firms

(a) DEFINITIONS.—In this section—

(1) "domestic firm" means a business entity incorporated, and conducting business, in the United States.

(2) "foreign firm" means a business entity not described in clause (1) of this subsection.

(b) PREFERENCE.—Subject to subsections (c) and (d) of this section, the Administrator of the Federal Aviation Administration may make, with a domestic firm, a contract related to a grant made under section 44511, 44512, or 44513 of this title that, under competitive procedures, would be made with a foreign firm, if—

(1) the Administrator decides, and the Secretary of Commerce and the United States Trade Representative concur, that the public interest requires making the contract with the domestic firm, considering United States international obligations and trade relations;

(2) the difference between the bids submitted by the foreign firm and the domestic firm is not more than 6 percent;

(3) the final product of the domestic firm will be assembled completely in the United States; and

(4) at least 51 percent of the final product of the domestic firm will be produced in the United States.

(c) NONAPPLICATION.—Subsection (b) of this section does not apply if—

(1) compelling national security considerations require that subsection (b) of this section not apply; or

(2) the Trade Representative decides that making the contract would violate the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(d) APPLICATION TO CERTAIN GRANTS.—This section applies only to a contract related to a grant made under section 44511, 44512, or 44513 of this title for which—

(1) an amount is authorized by section 48102(a), (b), or (d) of this title to be made available for the fiscal years ending September 30, 1991, and September 30, 1992; and

(2) a solicitation for bid is issued after November 5, 1990.

(e) REPORT.—The Administrator shall submit a report to Congress on—

(1) contracts to which this section applies that are made with foreign firms in the fiscal years ending September 30, 1991, and September 30, 1992;

(2) the number of contracts that meet the requirements of subsection (b) of this section, but that the Trade Representative decides would violate the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party; and

(3) the number of contracts made under this section.

§ 49104. Restriction on airport projects using products or services of foreign countries denying fair market opportunities

(a) DEFINITION AND RULES FOR CONSTRUING SECTION.—In this section—

(1) "project" has the same meaning given that term in section 47102 of this title.

(2) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(3) an article substantially produced or manufactured in a foreign country is a product of the country.

(4) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b) LIMITATION ON USE OF AVAILABLE AMOUNTS.—(1) An amount made available under subchapter I of chapter 471 of this title (except sections 47106(d) and 47127) may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the project cost will increase by more than 20 percent if the product or service is excluded.

(c) DECISIONS ON DENIAL OF FAIR MARKET OPPORTUNITIES.—Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d) LIST OF COUNTRIES DENYING FAIR MARKET OPPORTUNITIES.—(1) The Trade Representative shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

Federal Register, publication.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any modification of the list made before the next list is published.

§ 49105. Fraudulent use of "Made in America" label

If the Secretary of Transportation decides that a person intentionally affixed a "Made in America" label to goods sold in or shipped to the United States that are not made in the United States, the Secretary shall declare the person ineligible, for not less than 3 nor more than 5 years, to receive a contract or grant from the United States Government related to a contract made under section 106(k), 44502(a)(2), or 44509, subchapter I of chapter 471 (except sections 47106(d) and 47127), or chapter 481 (except sections 48102(e), 48106, 48107, and 48110) of this title or subtitle B of title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388-353). The Secretary may

bring a civil action to enforce this section in any district court of the United States.

SUBTITLE VIII—PIPELINES

CHAPTER		Sec.
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CHAPTER 601—SAFETY

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§ 60101. Definitions

(a) In this chapter—

(1) "existing liquefied natural gas facility"—

(A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with—

(i) the Federal Energy Regulatory Commission (or any predecessor); or

(ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a facility on which construction is begun after November 29, 1979, without the approval.

(2) "gas" means natural gas, flammable gas, or toxic or corrosive gas.

(3) "gas pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation.

(4) "hazardous liquid" means—

(A) petroleum or a petroleum product; and

(B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas).

(5) "hazardous liquid pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid.

(6) "interstate gas pipeline facility"—

(A) means a gas pipeline facility—

(i) used to transport gas; and

(ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption.

(7) "interstate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce.

(8) "interstate or foreign commerce"—

(A) related to gas, means commerce—

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause (A)(i) of this clause; and

(B) related to hazardous liquid, means commerce between—

(i) a place in a State and a place outside that State; or

(ii) places in the same State through a place outside the State.

(9) "intrastate gas pipeline facility" means—

(A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); and

(B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption.

(10) "intrastate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility.

(11) "liquefied natural gas" means natural gas in a liquid or semisolid state.

(12) "liquefied natural gas accident" means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment.

(13) "liquefied natural gas conversion" means conversion of natural gas into liquefied natural gas or conversion of liquefied natural gas into natural gas.

(14) "liquefied natural gas pipeline facility"—

(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but

(B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)).

(15) "municipality" means a political subdivision of a State.

(16) "new liquefied natural gas pipeline facility" means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility.

(17) "person", in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person.

(18) "pipeline facility" means a gas pipeline facility and a hazardous liquid pipeline facility.

(19) "pipeline transportation" means transporting gas and transporting hazardous liquid.

(20) "State" means a State of the United States, the District of Columbia, and Puerto Rico.

(21) "transporting gas"—

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but

(B) does not include gathering gas in a rural area outside a populated area designated by the Secretary as a nonrural area.

(22) "transporting hazardous liquid"—

(A) means the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; but

(B) does not include moving hazardous liquid through—

(i) gathering lines in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities.

(b) GATHERING LINES.—(1)(A) Not later than October 24, 1994, the Secretary shall define by regulation the term "gathering line". Regulations.

(B) In defining "gathering line" for gas, the Secretary—

(i) shall consider functional and operational characteristics of the lines to be included in the definition; and

(ii) is not bound by a classification the Commission establishes under the Natural Gas Act (15 U.S.C. 717 et seq.).

(2)(A) Not later than October 24, 1995, the Secretary shall define by regulation the term "regulated gathering line". In defining the term, the Secretary shall consider factors such as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas or hazardous liquid, as appropriate, in deciding on the types of lines that functionally are gathering but should be regulated under this chapter because of specific physical characteristics.

(B)(i) The Secretary also shall consider diameter when defining "regulated gathering line" for hazardous liquid.

(ii) The definition of "regulated gathering line" for hazardous liquid may not include a crude oil gathering line that has a nominal diameter of not more than 6 inches, is operated at low pressure, and is located in a rural area that is not unusually sensitive to environmental damage.

§ 60102. General authority

(a)(1) MINIMUM SAFETY STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(A) apply to transporters of gas and hazardous liquid and to owners and operators of pipeline facilities;

(B) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

(C) shall include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.

(2) As the Secretary considers appropriate, the operator of a pipeline facility may make the certification under paragraph (1)(C) of this subsection. Testing and certification under paragraph (1)(C) shall address the ability to recognize and react appropriately to abnormal operating conditions that may indicate a dangerous situation or a condition exceeding design limits.

(b) PRACTICABILITY AND SAFETY NEEDS STANDARDS.—A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety, for safely transporting hazardous liquid, and for protecting the environment. Except as provided in section 60103 of this title, when prescribing the standard the Secretary shall consider—

(1) relevant available—

(A) gas pipeline safety information; or

(B) hazardous liquid pipeline information;

(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(3) the reasonableness of the standard; and

(4) the extent to which the standard will contribute to public safety and the protection of the environment.

(c) PUBLIC SAFETY PROGRAM REQUIREMENTS.—(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program

that provides services comparable to services that would be available under a public safety program.

(d) FACILITY OPERATION INFORMATION STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter to maintain, to the extent practicable, information related to operating the facility and, when requested, to provide the information to the Secretary and an appropriate State official. The information shall include—

(1) the business name, address, and telephone number, including an operations emergency telephone number, of the operator;

(2) accurate maps and a supplementary geographic description, including an identification of areas described in regulations prescribed under section 60109 of this title, that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) PIPE INVENTORY STANDARDS.—The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility subject to this chapter and, to the extent the Secretary considers necessary, an operator of a gathering line that is not a regulated gathering line (as defined under section 60101(b)(2) of this title), to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transmission of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—

(1) for a gas pipeline facility, shall include an identification of each facility passing through an area described in regulations prescribed under section 60109 of this title but shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall include an identification of each facility and gathering line passing through an area described in regulations prescribed under sec-

tion 60109 of this title, whether the facility or gathering line otherwise is subject to this chapter, but shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) STANDARDS AS ACCOMMODATING "SMART PIGS".—(1) The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a "smart pig"). The Secretary may apply the standard to an existing gas or hazardous liquid transmission facility and require the facility to be changed to allow the facility to be inspected with an instrumented internal inspection device if the basic construction of the facility will accommodate the device.

Regulations.

(2) Not later than October 24, 1995, the Secretary shall prescribe regulations requiring the periodic inspection of each pipeline the operator of the pipeline identifies under section 60109 of this title. The regulations shall include any circumstances under which an inspection shall be conducted with an instrumented internal inspection device and, if the device is not required, use of an inspection method that is at least as effective as using the device in providing for the safety of the pipeline.

(g) EFFECTIVE DATES.—A standard prescribed under this section and section 60110 of this title is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

Regulations.

(h) SAFETY CONDITION REPORTS.—(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life, property, or the environment; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) CARBON DIOXIDE REGULATION.—The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe regulations related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

(j) EMERGENCY FLOW RESTRICTING DEVICES.—(1) Not later than October 24, 1994, the Secretary shall survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate hazardous liquid pipeline ruptures and minimize product releases from hazardous liquid pipeline facilities.

(2) Not later than 2 years after the survey and assessment are completed, the Secretary shall prescribe regulations on the circumstances under which an operator of a hazardous liquid pipeline facility must use an emergency flow restricting device or other procedure, system, or equipment described in paragraph (1) of this subsection on the facility. Regulations.

(k) PROHIBITION AGAINST LOW INTERNAL STRESS EXCEPTION.—The Secretary may not provide an exception to this chapter for a hazardous liquid pipeline facility only because the facility operates at low internal stress.

§ 60103. Standards for liquefied natural gas pipeline facilities

(a) LOCATION STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

(1) kind and use of the facility;

(2) existing and projected population and demographic characteristics of the location;

(3) existing and proposed land use near the location;

(4) natural physical aspects of the location;

(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and

(6) need to encourage remote siting.

(b) DESIGN, INSTALLATION, CONSTRUCTION, INSPECTION, AND TESTING STANDARDS.—The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—

(1) the characteristics of material to be used in constructing the facility and of alternative material;

(2) design factors;

(3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and

(4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c) NONAPPLICATION.—(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—

(A) under this chapter; or

(B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—

(i) does not make the component or part incompatible with other components or parts; or

(ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) OPERATION AND MAINTENANCE STANDARDS.—The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—

(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;

(2) the fire prevention and containment equipment at the facility;

(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;

(4) maintenance procedures and equipment;

(5) the training of personnel in matters specified by this subsection; and

(6) other factors and conditions related to the safe handling of liquefied natural gas.

(e) EFFECTIVE DATES.—A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) CONTINGENCY PLANS.—A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) EFFECT ON OTHER STANDARDS.—This section does not preclude applying a standard prescribed under section 60102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

§ 60104. Requirements and limitations

(a) OPPORTUNITY TO PRESENT VIEWS.—The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) NONAPPLICATION.—A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) PREEMPTION.—A State authority that has submitted a current certification under section 60105(a) of this title may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation.

(d) CONSULTATION.—(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and plans for inspection and maintenance under section 60108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) LOCATION AND ROUTING OF FACILITIES.—This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

§ 60105. State certifications

(a) GENERAL REQUIREMENTS AND SUBMISSION.—Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) CONTENTS.—Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;

(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;

(6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)–(f) of this title.

(c) REPORTS.—(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) APPLICATION.—A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) REJECTIONS OF CERTIFICATION.—If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

§ 60106. State agreements

(a) GENERAL AUTHORITY.—If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) NOTIFICATION.—Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(c) MONITORING.—The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(d) ENDING AGREEMENTS.—The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a hearing before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

Federal Register, publication. Effective date.

§ 60107. State grants

(a) GENERAL AUTHORITY.—If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 50 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 60105 of this title or an agreement under section 60106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline facilities or interstate hazardous liquid pipeline facilities.

(b) PAYMENTS.—After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent—

(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979.

(c) APPORTIONMENT AND METHOD OF PAYMENT.—The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d) ADDITIONAL AUTHORITY AND CONSIDERATIONS.—(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 60105 or 60106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

§ 60108. Inspection and maintenance

(a) PLANS.—(1) Each person transporting gas or hazardous liquid or owning or operating an intrastate gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person transporting gas or hazardous liquid or owning or operating a pipeline facility subject to this chapter to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an opportunity for a hearing. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 60102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

(A) relevant available pipeline safety information;

(B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;

(C) the reasonableness of the plan; and

(D) the extent to which the plan will contribute to public safety and the protection of the environment.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 60117 of this title.

(b) INSPECTION AND TESTING.—(1) The Secretary shall inspect and require appropriate testing of a pipeline facility subject to this chapter that is not covered by a certification under section 60105 of this title or an agreement under section 60106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

(A) the location of the pipeline facility.

(B) the type, size, age, manufacturer, method of construction, and condition of the pipeline facility.

(C) the nature and volume of material transported through the pipeline facility.

(D) the pressure at which that material is transported.

(E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the pipeline facility is located.

(F) existing and projected population and demographic characteristics of the area in which the pipeline facility is located.

(G) for a hazardous liquid pipeline facility, the proximity of the area in which the facility is located to an area that is unusually sensitive to environmental damage.

(H) the frequency of leaks.

(I) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. However, an inspection must occur at least once every 2 years. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

(c) PIPELINE FACILITIES OFFSHORE AND IN NAVIGABLE WATERS.—(1) In this subsection—

(A) "abandoned" means permanently removed from service.

(B) "pipeline facility" includes an underwater abandoned pipeline facility.

(C) if a pipeline facility has no operator, the most recent operator of the facility is deemed to be the operator of the facility.

(2)(A) Not later than May 16, 1993, on the basis of experience with the inspections under section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(*l*)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and, where appropriate, periodic inspection program of—

(i) all offshore pipeline facilities; and

(ii) any other pipeline facility crossing under, over, or through navigable waters (as defined by the Secretary) if the Secretary decides that the location of the facility in those navigable waters could pose a hazard to navigation or public safety.

(B) In prescribing regulations to carry out subparagraph (A) of this paragraph—

(i) the Secretary shall identify what is a hazard to navigation with respect to an underwater abandoned pipeline facility; and

(ii) for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(3)(A) The Secretary shall establish by regulation a program requiring an operator of a pipeline facility described in paragraph (2) of this subsection to report a potential or existing navigational

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hazard involving that pipeline facility to the Secretary through the appropriate Coast Guard office.

(B) The operator of a pipeline facility described in paragraph (2) of this subsection that discovers any part of the pipeline facility that is a hazard to navigation shall mark the location of the hazardous part with a Coast-Guard-approved marine buoy or marker and immediately shall notify the Secretary as provided by the Secretary under subparagraph (A) of this paragraph. A marine buoy or marker used under this subparagraph is deemed a pipeline sign or right-of-way marker under section 60123(c) of this title.

Regulations.

(4)(A) The Secretary shall require by regulation that each pipeline facility described in paragraph (2) of this subsection that is a hazard to navigation is buried not later than 6 months after the date the condition of the facility is reported to the Secretary. The Secretary may extend that 6-month period for a reasonable period to ensure compliance with this paragraph.

(B) In prescribing regulations for subparagraph (A) of this paragraph for an underwater pipeline facility abandoned after October 24, 1992, the Secretary shall include requirements that will lessen the potential that the facility will pose a hazard to navigation and shall consider the relationship between water depth and navigational safety and factors relevant to the local marine environment.

(5)(A) Not later than October 24, 1994, the Secretary shall establish standards on what is an exposed offshore pipeline facility and what is a hazard to navigation under this subsection.

(B) Not later than 6 months after the Secretary establishes standards under subparagraph (A) of this paragraph, or October 24, 1995, whichever occurs first, the operator of each offshore pipeline facility not described in section 3(h)(1)(A) of the Natural Gas Pipeline Safety Act of 1968 or section 203(*l*)(1)(A) of the Hazardous Liquid Pipeline Safety Act of 1979, as appropriate, shall inspect the facility and report to the Secretary on any part of the facility that is exposed or is a hazard to navigation. This subparagraph applies only to a facility that is between the high water mark and the point at which the subsurface is under 15 feet of water, as measured from mean low water. An inspection that occurred after October 3, 1989, may be used for compliance with this subparagraph if the inspection conforms to the requirements of this subparagraph.

(C) The Secretary may extend the time period specified in subparagraph (B) of this paragraph for not more than 6 months if the operator of a facility satisfies the Secretary that the operator has made a good faith effort, with reasonable diligence, but has been unable to comply by the end of that period.

(6)(A) The operator of a pipeline facility abandoned after October 24, 1992, shall report the abandonment to the Secretary in a way that specifies whether the facility has been abandoned properly according to applicable United States Government and State requirements.

(B) Not later than October 24, 1995, the operator of a pipeline facility abandoned before October 24, 1992, shall report to the Secretary reasonably available information related to the facility, including information that a third party possesses. The information shall include the location, size, date, and method of abandonment, whether the facility has been abandoned properly under applicable law, and other relevant information the Secretary may require. Not later than April 24, 1994, the Secretary shall specify how

the information shall be reported. The Secretary shall ensure that the Government maintains the information in a way accessible to appropriate Government agencies and State authorities.

(C) The Secretary shall request that a State authority having information on a collision between a vessel and an underwater pipeline facility report the information to the Secretary in a timely way and make a reasonable effort to specify the location, date, and severity of the collision. Chapter 35 of title 44 does not apply to this subparagraph.

(7) The Secretary may not exempt from this chapter an offshore hazardous liquid pipeline facility only because the pipeline facility transfers hazardous liquid in an underwater pipeline between a vessel and an onshore facility.

(d) REPLACING CAST IRON GAS PIPELINES.—(1) The Secretary shall publish a notice on the availability of industry guidelines, developed by the Gas Piping Technology Committee, for replacing cast iron pipelines. Not later than 2 years after the guidelines become available, the Secretary shall conduct a survey of gas pipeline operators with cast iron pipe in their systems to establish— Publication.

(A) the extent to which each operator has adopted a plan for the safe management and replacement of cast iron;

(B) the elements of the plan, including the anticipated rate of replacement; and

(C) the progress that has been made.

(2) Chapter 35 of title 44 does not apply to the conduct of the survey.

(3) This subsection does not prevent the Secretary from developing Government guidelines or regulations for cast iron gas pipelines as the Secretary considers appropriate.

§ 60109. High-density population areas and environmentally sensitive areas

(a) IDENTIFICATION REQUIREMENTS.—Not later than October 24, 1994, the Secretary of Transportation shall prescribe regulations that— Regulations.

(1) establish criteria for identifying—

(A) by operators of gas pipeline facilities, each gas pipeline facility (except a natural gas distribution line) located in a high-density population area; and

(B) by operators of hazardous liquid pipeline facilities and gathering lines—

(i) each hazardous liquid pipeline facility, whether otherwise subject to this chapter, that crosses a navigable waterway (as the Secretary defines by regulation) or that is located in an area described in the criteria as a high-density population area; and

(ii) each hazardous liquid pipeline facility and gathering line, whether otherwise subject to this chapter, located in an area that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, describes as unusually sensitive to environmental damage if there is a hazardous liquid pipeline accident; and

(2) provide that the identification be carried out through the inventory required under section 60102(c) of this title.

(b) AREAS TO BE INCLUDED AS UNUSUALLY SENSITIVE.—When describing an area that is unusually sensitive to environmental

damage if there is a hazardous liquid pipeline accident, the Secretary shall consider including—

(1) earthquake zones and areas subject to landslides and other substantial ground movements;

(2) areas of likely ground water contamination if a hazardous liquid pipeline facility ruptures;

(3) freshwater lakes, rivers, and waterways; and

(4) river deltas and other areas subject to soil erosion or subsidence from flooding or other water action where a hazardous liquid pipeline facility is likely to become exposed or undermined.

§ 60110. Excess flow valves

(a) APPLICATION.—This section applies only to—

(1) a natural gas distribution system installed after the effective date of regulations prescribed under this section; and

(2) any other natural gas distribution system when repair to the system requires replacing a part to accommodate installing excess flow valves.

Regulations.

(b) INSTALLATION REQUIREMENTS AND CONSIDERATIONS.—Not later than April 24, 1994, the Secretary of Transportation shall prescribe regulations on the circumstances under which an operator of a natural gas distribution system must install excess flow valves in the system. The Secretary shall consider—

(1) the system design pressure;

(2) the system operating pressure;

(3) the types of customers to which the distribution system supplies gas, including hospitals, schools, and commercial enterprises;

(4) the technical feasibility and cost of installing the valve;

(5) the public safety benefits of installing the valve;

(6) the location of customer meters; and

(7) other factors the Secretary considers relevant.

Regulations.

(c) NOTIFICATION OF AVAILABILITY.—(1) Not later than October 24, 1994, the Secretary shall prescribe regulations requiring an operator of a natural gas distribution system to notify in writing its customers having lines in which excess flow valves are not required by law but can be installed according to the standards prescribed under subsection (e) of this section, of—

(A) the availability of excess flow valves for installation in the system;

(B) safety benefits to be derived from installation; and

(C) costs associated with installation.

(2) The regulations shall provide that, except when installation is required under subsection (b) of this section, excess flow valves shall be installed at the request of the customer if the customer will pay all costs associated with installation.

(d) REPORT.—If the Secretary decides under subsection (b) of this section that there are no circumstances under which an operator must install excess flow valves, the Secretary shall submit to Congress a report on the reasons for the decision not later than 30 days after the decision is made.

(e) PERFORMANCE STANDARDS.—Not later than April 24, 1994, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in a natural gas distribution system. The standards shall be incorporated into regulations the

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Secretary prescribes under this section. All excess flow valves shall be installed according to the standards.

§ 60111. Financial responsibility for liquefied natural gas facilities

(a) NOTICE.—When the Secretary of Transportation believes that an operator of a liquefied natural gas facility does not have adequate financial responsibility for the facility, the Secretary may issue a notice to the operator about the inadequacy and the amount of financial responsibility the Secretary considers adequate.

(b) HEARINGS.—An operator receiving a notice under subsection (a) of this section may have a hearing on the record not later than 30 days after receiving the notice. The operator may show why the Secretary should not issue an order requiring the operator to demonstrate and maintain financial responsibility in at least the amount the Secretary considers adequate.

(c) ORDERS.—After an opportunity for a hearing on the record, the Secretary may issue the order if the Secretary decides it is justified in the public interest.

§ 60112. Pipeline facilities hazardous to life and property

(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides the facility is—

(1) hazardous to life, property, or the environment; or

(2) constructed or operated, or a component of the facility is constructed or operated, with equipment, material, or a technique the Secretary decides is hazardous to life, property, or the environment.

(b) CONSIDERATIONS.—In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of the pipe and other equipment used in the pipeline facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the material the pipeline facility transports, the corrosive and deteriorative qualities of the material, the sequence in which the material are transported, and the pressure required for transporting the material;

(3) the aspects of the area in which the pipeline facility is located, including climatic and geologic conditions and soil characteristics;

(4) the proximity of the area in which the hazardous liquid pipeline facility is located to environmentally sensitive areas;

(5) the population density and population and growth patterns of the area in which the pipeline facility is located;

(6) any recommendation of the National Transportation Safety Board made under another law; and

(7) other factors the Secretary considers appropriate.

(c) OPPORTUNITY FOR STATE COMMENT.—The Secretary shall provide, to any appropriate official of a State in which a pipeline facility is located and about which a proceeding has begun under this section, notice and an opportunity to comment on an agreement the Secretary proposes to make to resolve the proceeding. State comment shall incorporate comments of affected local officials.

(d) CORRECTIVE ACTION ORDERS.—If the Secretary decides under subsection (a) of this section that a pipeline facility is hazard-

ous, the Secretary shall order the operator of the facility to take necessary corrective action.

(e) WAIVER OF NOTICE AND HEARING IN EMERGENCY.—The Secretary may waive the requirements for notice and an opportunity for a hearing under this section and issue expeditiously an order under this section if the Secretary decides failure to issue the order expeditiously will result in likely serious harm to life, property, or the environment. An order under this subsection shall provide an opportunity for a hearing as soon as practicable after the order is issued.

§ 60113. Customer-owned natural gas service lines

Regulations.

(a) MAINTENANCE INFORMATION.—Not later than October 24, 1993, the Secretary of Transportation shall prescribe regulations requiring an operator of a natural gas distribution pipeline that does not maintain customer-owned natural gas service lines up to building walls to advise its customers of—

(1) the requirements for maintaining those lines;

(2) any resources known to the operator that could assist customers in carrying out the maintenance;

(3) information the operator has on operating and maintaining its lines that could assist customers; and

(4) the potential hazards of not maintaining the lines.

(b) ACTIONS TO PROMOTE SAFETY.—Not later than one year after submitting the report required under section 115(b) of the Pipeline Safety Act of 1992 (Public Law 102-508, 106 Stat. 3296), the Secretary, considering the report and in cooperation and coordination with appropriate State and local authorities, shall take appropriate action to promote the adoption of measures to improve the safety of customer-owned natural gas service lines.

§ 60114. One-call notification systems

Regulations.

(a) MINIMUM REQUIREMENTS.—The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

(1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.

(2) a requirement that a person intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) procedures for advertisement and notice of the availability of a system.

(6) a requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections 60120, 60122, and 60123 of this title.

(b) GRANTS.—The Secretary may make a grant to a State under this section to develop and establish a one-call notification system consistent with subsection (a) of this section.

(c) MARKING FACILITIES.—On notification by an operator of a damage prevention program or by a person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a pipeline facility, the operator of the facility shall mark accurately, in a reasonable and timely way, the location of the pipeline facilities in the vicinity of the demolition, excavation, tunneling, or construction.

(d) APPORTIONMENT.—When apportioning the amount appropriated to carry out section 60107 of this title among the States, the Secretary—

(1) shall consider whether a State has adopted or is seeking adoption of a one-call notification system under this section; and

(2) shall withhold part of a payment under section 60107 of this title when the Secretary decides a State has not adopted, or is not seeking adoption of, a one-call notification system.

(e) RELATIONSHIP TO OTHER LAWS.—This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a)(2) of this section.

§ 60115. Technical safety standards committees

(a) ORGANIZATION.—The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation.

(b) COMPOSITION AND APPOINTMENT.—(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards.

(3) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 4 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives.

(C) 6 individuals selected from the general public.

(4)(A) Two of the individuals selected for each committee under paragraph (3)(A) of this subsection must be State commissioners. The Secretary shall consult with the national organization of State commissions (referred to in section 10344(f) of this title) before selecting those 2 individuals.

(B) At least 3 of the individuals selected for each committee under paragraph (3)(B) of this subsection must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate.

(C) Two of the individuals selected for each committee under paragraph (3)(C) of this subsection must have education, background, or experience in environmental protection or public safety. At least one individual selected for each committee under paragraph (3)(C) may not have a financial interest in the pipeline, petroleum, or natural gas industries.

(c) COMMITTEE REPORTS ON PROPOSED STANDARDS.—(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities.

Reports.

(2) Not later than 90 days after receiving the proposed standard, the appropriate committee shall prepare a report on the technical feasibility, reasonableness, and practicability of the proposed standard. The Secretary shall publish each report, including minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

Publication.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(d) PROPOSED COMMITTEE STANDARDS AND POLICY DEVELOPMENT RECOMMENDATIONS.—(1) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) If requested by the Secretary, a committee shall make policy development recommendations to the Secretary.

(e) MEETINGS.—Each committee shall meet with the Secretary at least twice annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(f) PAY AND EXPENSES.—The Secretary may establish the pay for each member of a committee for each day (including travel

time) when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of title 5. A member is entitled to expenses under section 5703 of title 5. A payment under this subsection does not make a member an officer or employee of the Government. This subsection does not apply to members regularly employed by the Government.

§ 60116. Public education programs

Regulations.

Under regulations the Secretary of Transportation prescribes, each person transporting gas shall carry out a program to educate the public on the possible hazards associated with gas leaks and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop material suitable for use in the program.

§ 60117. Administrative

(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpenas, conduct hearings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) RECORDS, REPORTS, AND INFORMATION.—To enable the Secretary to decide whether a person transporting gas or hazardous liquid or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c) ENTRY AND INSPECTION.—An officer, employee, or agent of the Department of Transportation designated by the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(d) CONFIDENTIALITY OF INFORMATION.—Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(e) USE OF ACCIDENT REPORTS.—(1) Each accident report made by an officer, employee, or agent of the Department may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) TESTING FACILITIES INVOLVED IN ACCIDENTS.—The Secretary may require testing of a part of a pipeline facility subject to this

chapter that has been involved in or affected by an accident only after—

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) PROVIDING SAFETY INFORMATION.—On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of material, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) COOPERATION.—The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) PROMOTING COORDINATION.—After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(j) WITHHOLDING INFORMATION FROM CONGRESS.—This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 60118. Compliance and waivers

(a) GENERAL REQUIREMENTS.—A person transporting gas or hazardous liquid or owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section;

(2) prepare and carry out a plan for inspection and maintenance required under section 60108(a) and (b) of this title; and

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 60117(a)–(d) of this title.

(b) COMPLIANCE ORDERS.—The Secretary of Transportation may issue orders directing compliance with this chapter or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) WAIVERS BY SECRETARY.—On application of a person transporting gas or hazardous liquid or operating a pipeline facility,

the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a hearing.

(d) WAIVERS BY STATE AUTHORITIES.—If a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a hearing. The Secretary shall make the final decision on granting the waiver.

§ 60119. Judicial review

(a) REVIEW OF REGULATIONS AND WAIVER ORDERS.—(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued about an application for a waiver under section 60118(c) or (d) of this title may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(b) REVIEW OF FINANCIAL RESPONSIBILITY ORDERS.—(1) A person adversely affected by an order issued under section 60111 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

§ 60120. Enforcement

(a) CIVIL ACTIONS.—(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.

(2) At the request of the Secretary, the Attorney General may bring a civil action in a district court of the United States to require a person to comply immediately with a subpena or to

allow an officer, employee, or agent authorized by the Secretary to enter the premises, and inspect the records and property, of the person to decide whether the person is complying with this chapter. The action may be brought in the judicial district in which the defendant resides, is found, or does business. The court may punish a failure to obey the order as a contempt of court.

(b) JURY TRIAL DEMAND.—In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) EFFECT ON TORT LIABILITY.—This chapter does not affect the tort liability of any person.

§ 60121. Actions by private persons

(a) GENERAL AUTHORITY.—(1) A person may bring a civil action in an appropriate district court of the United States for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person—

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 60105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) COSTS AND FEES.—The court may award costs, reasonable expert witness fees, and a reasonable attorney's fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney's fee is a fee—

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) STATE VIOLATIONS AS VIOLATIONS OF THIS CHAPTER.—In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard

or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) ADDITIONAL REMEDIES.—A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of persons may have under another law or at common law.

§ 60122. Civil penalties

(a) GENERAL PENALTIES.—(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated section 60114(c) or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $25,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is $500,000.

(2) A person violating a standard or order under section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than $50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business;

(3) good faith in attempting to comply; and

(4) other matters that justice requires.

(c) COLLECTION AND COMPROMISE.—(1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section.

(2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General.

(d) SETOFF.—The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(e) DEPOSIT IN TREASURY.—Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT.—Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act.

§ 60123. Criminal penalties

(a) GENERAL PENALTY.—A person knowingly and willfully violating section 60114(c) or 60118(a) of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) PENALTY FOR DAMAGING OR DESTROYING FACILITY.—A person knowingly and willfully damaging or destroying, or attempting to damage or destroy, an interstate gas pipeline facility or interstate hazardous liquid pipeline facility shall be fined under title 18, imprisoned for not more than 15 years, or both.

(c) PENALTY FOR DAMAGING OR DESTROYING SIGN.—A person knowingly and willfully defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

(d) PENALTY FOR NOT USING ONE-CALL NOTIFICATION SYSTEM OR NOT HEEDING LOCATION INFORMATION OR MARKINGS.—A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person knowingly and willfully—

(1) engages in an excavation activity—

(A) without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or

(B) without paying attention to appropriate location information or markings the operator of a pipeline facility establishes; and

(2) subsequently damages—

(A) a pipeline facility that results in death, serious bodily harm, or actual damage to property of more than $50,000; or

(B) a hazardous liquid pipeline facility that results in the release of more than 50 barrels of product.

§ 60124. Annual reports

(a) SUBMISSION AND CONTENTS.—The Secretary of Transportation shall submit to Congress not later than August 15 of each year a report on carrying out this chapter for the prior calendar year for gas and a report on carrying out this chapter for the prior calendar year for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 60118(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; and

(B) technological progress in safety achieved.

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 60105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 60106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 60105 of this title or an agreement under section 60106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

(i) gas pipeline safety; or

(ii) hazardous liquid pipeline safety programs; and

(B) to strengthen the national gas pipeline safety program.

(b) SUBMISSION OF ONE REPORT.—The Secretary may submit one report to carry out subsection (a) of this section.

§ 60125. Authorization of appropriations

(a) GAS.—Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter (except sections 60107 and 60114(b)) related to gas:

(1) $6,857,000 for the fiscal year ending September 30, 1993.

(2) $7,000,000 for the fiscal year ending September 30, 1994.

(3) $7,500,000 for the fiscal year ending September 30, 1995.

(b) HAZARDOUS LIQUID.—Not more than the following amounts may be appropriated to the Secretary to carry out this chapter (except sections 60107 and 60114(b)) related to hazardous liquid:

(1) $1,728,500 for the fiscal year ending September 30, 1993.

(2) $1,866,800 for the fiscal year ending September 30, 1994.

(3) $2,000,000 for the fiscal year ending September 30, 1995.

(c) STATE GRANTS.—(1) Not more than the following amounts may be appropriated to the Secretary to carry out section 60107 of this title:

(A) $7,750,000 for the fiscal year ending September 30, 1993.

(B) $9,000,000 for the fiscal year ending September 30, 1994.

(C) $10,000,000 for the fiscal year ending September 30, 1995.

(2) At least 5 percent of amounts appropriated to carry out United States Government grants-in-aid programs for a fiscal year are available only to carry out section 60107 of this title related to hazardous liquid.

(3) Not more than 20 percent of a pipeline safety program grant under section 60107 of this title may be allocated to indirect expenses.

(d) GRANTS FOR ONE-CALL NOTIFICATION SYSTEMS.—Not more than $_____ may be appropriated to the Secretary for the fiscal year ending September 30, 19__, to carry out section 60114(b) of this title. Amounts under this subsection remain available until expended.

(e) CREDITING APPROPRIATIONS FOR EXPENDITURES FOR TRAINING.—The Secretary may credit to an appropriation authorized under subsection (a) or (b) of this section amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(f) AVAILABILITY OF UNUSED AMOUNTS FOR GRANTS.—(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 60107 of this title.

(2) A grant under this subsection is available to a State that after December 31, 1987—

(A) undertakes a new responsibility under section 60105 of this title; or

(B) implements a one-call damage prevention program established under State law.

(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter.

(4) A State may receive not more than $75,000 under this subsection.

(5) Amounts under this subsection remain available until expended.

CHAPTER 603—USER FEES

Sec.
60301. User fees.

§ 60301. User fees

(a) SCHEDULE OF FEES.—The Secretary of Transportation shall prescribe a schedule of fees for all natural gas and hazardous liquids transported by pipelines subject to chapter 601 of this title. The fees shall be based on usage (in reasonable relationship to volume-miles, miles, revenues, or a combination of volume-miles, miles, and revenues) of the pipelines. The Secretary shall consider the allocation of resources of the Department of Transportation when establishing the schedule.

(b) IMPOSITION AND TIME OF COLLECTION.—A fee shall be imposed on each person operating a gas pipeline transmission facility, a liquefied natural gas pipeline facility, or a hazardous liquid pipeline facility to which chapter 601 of this title applies. The fee shall be collected before the end of the fiscal year to which it applies.

(c) MEANS OF COLLECTION.—The Secretary shall prescribe procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(d) USE OF FEES.—A fee collected under this section—

(1)(A) related to a gas pipeline facility may be used only for an activity related to gas under chapter 601 of this title; and

(B) related to a hazardous liquid pipeline facility may be used only for an activity related to hazardous liquid under chapter 601 of this title; and

(2) may be used only to the extent provided in advance in an appropriation law.

(e) LIMITATIONS.—Fees prescribed under subsection (a) of this section shall be sufficient to pay for the costs of activities described in subsection (d) of this section. However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

CHAPTER 605—INTERSTATE COMMERCE REGULATION

Sec.
60501. Secretary of Energy.
60502. Federal Energy Regulatory Commission.
60503. Effect of enactment.

§ 60501. Secretary of Energy

Except as provided in section 60502 of this title, the Secretary of Energy has the duties and powers related to the transportation of oil by pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or the chairman or a member of the Commission.

§ 60502. Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission has the duties and powers related to the establishment of a rate or charge for the transportation of oil by pipeline or the valuation of that pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or an officer or component of the Interstate Commerce Commission.

§ 60503. Effect of enactment

The enactment of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1337), the Act of January 12, 1983 (Public Law 97–449, 96 Stat. 2413), and the Act enacting this section does not repeal, and has no substantive effect on, any right, obligation, liability, or remedy of an oil pipeline, including a right, obligation, liability, or remedy arising under the Interstate Commerce Act or the Act of August 29, 1916 (known as the Pomerene Bills of Lading Act), before any department, agency, or instrumentality of the United States Government, an officer or employee of the Government, or a court of competent jurisdiction.

SUBTITLE IX—COMMERCIAL SPACE TRANSPORTATION

CHAPTER Sec.
701. COMMERCIAL SPACE LAUNCH ACTIVITIES 70101
703. SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS. 70301

CHAPTER 701—COMMERCIAL SPACE LAUNCH ACTIVITIES

Sec.
70101 Findings and purposes.
70102. Definitions.
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70104. Restrictions on launches and operations.
70105. License applications and requirements.
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70108. Prohibition, suspension, and end of launches and operation of launch sites.
70109. Preemption of scheduled launches.
70110. Administrative hearings and judicial review.
70111. Acquiring United States Government property and services.
70112. Liability insurance and financial responsibility requirements.
70113. Paying claims exceeding liability insurance and financial responsibility requirements.
70114. Disclosing information.
70115. Enforcement and penalty.
70116. Consultation.
70117. Relationship to other executive agencies, laws, and international obligations.
70118. User fees.
70119. Authorization of appropriations.

§ 70101. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) the peaceful uses of outer space continue to be of great value and to offer benefits to all mankind;

(2) private applications of space technology have achieved a significant level of commercial and economic activity and offer the potential for growth in the future, particularly in the United States;

(3) new and innovative equipment and services are being sought, produced, and offered by entrepreneurs in telecommunications, information services, and remote sensing technologies;

(4) the private sector in the United States has the capability of developing and providing private satellite launching and associated services that would complement the launching and associated services now available from the United States Government;

(5) the development of commercial launch vehicles and associated services would enable the United States to retain its competitive position internationally, contributing to the national interest and economic well-being of the United States;

(6) providing launch services by the private sector is consistent with the national security and foreign policy interests of the United States and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied;

(7) the United States should encourage private sector launches and associated services and, only to the extent necessary, regulate those launches and services to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States;

(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the providing of launch services, the establishment of support facilities, and the providing of support services, is an important element of the transportation system of the United States,

and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of a space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.

(b) PURPOSES.—The purposes of this chapter are—

(1) to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes;

(2) to encourage the United States private sector to provide launch vehicles and associated services by—

(A) simplifying and expediting the issuance and transfer of commercial launch licenses; and

(B) facilitating and encouraging the use of Government-developed space technology;

(3) to provide that the Secretary of Transportation is to oversee and coordinate the conduct of commercial launch operations, issue and transfer commercial launch licenses authorizing those operations, and protect the public health and safety, safety of property, and national security and foreign policy interests of the United States; and

(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites and launch-site support facilities, with Government, State, and private sector involvement, to support the full range of United States space-related activities.

§ 70102. Definitions

In this chapter—

(1) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) an entity organized or existing under the laws of the United States or a State; or

(C) an entity organized or existing under the laws of a foreign country if the controlling interest (as defined by the Secretary of Transportation) is held by an individual or entity described in subclause (A) or (B) of this clause.

(2) "executive agency" has the same meaning given that term in section 105 of title 5.

(3) "launch" means to place or try to place a launch vehicle and any payload—

(A) in a suborbital trajectory;

(B) in Earth orbit in outer space; or

(C) otherwise in outer space.

(4) "launch property" means an item built for, or used in, the launch preparation or launch of a launch vehicle.

(5) "launch services" means—

(A) activities involved in the preparation of a launch vehicle and payload for launch; and

(B) the conduct of a launch.

(6) "launch site" means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities.

(7) "launch vehicle" means—

(A) a vehicle built to operate in, or place a payload in, outer space; and

(B) a suborbital rocket.

(8) "payload" means an object that a person undertakes to place in outer space by means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

(9) "person" means an individual and an entity organized or existing under the laws of a State or country.

(10) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(11) "third party" means a person except—

(A) the United States Government or the Government's contractors or subcontractors involved in launch services;

(B) a licensee or transferee under this chapter;

(C) a licensee's or transferee's contractors, subcontractors, or customers involved in launch services; or

(D) the customer's contractors or subcontractors involved in launch services.

(12) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States.

§ 70103. General authority

(a) GENERAL.—The Secretary of Transportation shall carry out this chapter.

(b) FACILITATING COMMERCIAL LAUNCHES.—In carrying out this chapter, the Secretary shall—

(1) encourage, facilitate, and promote commercial space launches by the private sector; and

(2) take actions to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the United States Government, State governments, and the private sector to build, expand, modernize, or operate a space launch infrastructure.

(c) EXECUTIVE AGENCY ASSISTANCE.—When necessary, the head of an executive agency shall assist the Secretary in carrying out this chapter.

§ 70104. Restrictions on launches and operations

(a) LICENSE REQUIREMENT.—A license issued or transferred under this chapter is required for the following:

(1) for a person to launch a launch vehicle or to operate a launch site in the United States.

(2) for a citizen of the United States (as defined in section 70102(1)(A) or (B) of this title) to launch a launch vehicle or to operate a launch site outside the United States.

(3) for a citizen of the United States (as defined in section 70102(1)(C) of this title) to launch a launch vehicle or to operate a launch site outside the United States and outside the territory of a foreign country unless there is an agreement between the United States Government and the government of the foreign country providing that the government of the foreign country has jurisdiction over the launch or operation.

(4) for a citizen of the United States (as defined in section 70102(1)(C) of this title) to launch a launch vehicle or to operate

a launch site in the territory of a foreign country if there is an agreement between the United States Government and the government of the foreign country providing that the United States Government has jurisdiction over the launch or operation.

(b) COMPLIANCE WITH PAYLOAD REQUIREMENTS.—The holder of a launch license under this chapter may launch a payload only if the payload complies with all requirements of the laws of the United States related to launching a payload.

(c) PREVENTING LAUNCHES.—The Secretary of Transportation shall establish whether all required licenses, authorizations, and permits required for a payload have been obtained. If no license, authorization, or permit is required, the Secretary may prevent the launch if the Secretary decides the launch would jeopardize the public health and safety, safety of property, or national security or foreign policy interest of the United States.

§ 70105. License applications and requirements

(a) APPLICATIONS.—A person may apply to the Secretary of Transportation for a license or transfer of a license under this chapter in the form and way the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 180 days after receiving an application, shall issue or transfer a license if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 120 days after receiving an application.

(b) REQUIREMENTS.—(1) Except as provided in this subsection, all requirements of the laws of the United States applicable to the launch of a launch vehicle or the operation of a launch site are requirements for a license under this chapter.

(2) The Secretary may prescribe—

(A) any term necessary to ensure compliance with this chapter, including on-site verification that a launch or operation complies with representations stated in the application;

(B) an additional requirement necessary to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States; and

(C) by regulation that a requirement of a law of the United States not be a requirement for a license if the Secretary, after consulting with the head of the appropriate executive agency, decides that the requirement is not necessary to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States. Regulations.

(3) The Secretary may waive a requirement for an individual applicant if the Secretary decides that the waiver is in the public interest and will not jeopardize the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(c) PROCEDURES AND TIMETABLES.—The Secretary shall establish procedures and timetables that expedite review of a license application and reduce the regulatory burden for an applicant.

§ 70106. Monitoring activities

(a) GENERAL REQUIREMENTS.—A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle, or at a site at which a payload is integrated with a launch vehicle. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under section 70104(c) of this title. A licensee must cooperate with an observer carrying out this subsection.

(b) CONTRACTS.—To the extent provided in advance in an appropriation law, the Secretary may make a contract with a person to carry out subsection (a) of this section.

§ 70107. Effective periods, and modifications, suspensions, and revocations, of licenses

(a) EFFECTIVE PERIODS OF LICENSES.—The Secretary of Transportation shall specify the period for which a license issued or transferred under this chapter is in effect.

(b) MODIFICATIONS.—On the initiative of the Secretary or on application of the licensee, the Secretary may modify a license issued or transferred under this chapter if the Secretary decides the modification will comply with this chapter.

(c) SUSPENSIONS AND REVOCATIONS.—The Secretary may suspend or revoke a license if the Secretary decides that—

(1) the licensee has not complied substantially with a requirement of this chapter or a regulation prescribed under this chapter; or

(2) the suspension or revocation is necessary to protect the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(d) EFFECTIVE PERIODS OF MODIFICATIONS, SUSPENSIONS, AND REVOCATIONS.—Unless the Secretary specifies otherwise, a modification, suspension, or revocation under this section takes effect immediately and remains in effect during a review under section 70110 of this title.

(e) NOTIFICATION.—The Secretary shall notify the licensee in writing of the decision of the Secretary under this section and any action the Secretary takes or proposes to take based on the decision.

§ 70108. Prohibition, suspension, and end of launches and operation of launch sites

(a) GENERAL AUTHORITY.—The Secretary of Transportation may prohibit, suspend, or end immediately the launch of a launch vehicle or the operation of a launch site licensed under this chapter if the Secretary decides the launch or operation is detrimental to the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(b) EFFECTIVE PERIODS OF ORDERS.—An order under this section takes effect immediately and remains in effect during a review under section 70110 of this title.

§ 70109. Preemption of scheduled launches

(a) GENERAL.—With the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation shall act to ensure that a launch of a payload is not preempted from access to a United States Government launch site or launch property, except for imperative national need, when a launch date commitment from the Government has been obtained for a launch licensed under this chapter. A licensee or transferee preempted from access to a launch site or launch property does not have to pay the Government any amount for launch services attributable only to the scheduled launch prevented by the preemption.

(b) IMPERATIVE NATIONAL NEED DECISIONS.—In consultation with the Secretary of Transportation, the Secretary of Defense or the Administrator shall decide when an imperative national need requires preemption under subsection (a) of this section. That decision may not be delegated.

(c) REPORTS.—In cooperation with the Secretary of Transportation, the Secretary of Defense or the Administrator, as appropriate, shall submit to Congress not later than 7 days after a decision to preempt under subsection (a) of this section, a report that includes an explanation of the circumstances justifying the decision and a schedule for ensuring the prompt launching of a preempted payload.

§ 70110. Administrative hearings and judicial review

(a) ADMINISTRATIVE HEARINGS.—The Secretary of Transportation shall provide an opportunity for a hearing on the record to—

(1) an applicant under this chapter, for a decision of the Secretary under section 70105(a) of this title to issue or transfer a license with terms or deny the issuance or transfer of a license;

(2) an owner or operator of a payload under this chapter, for a decision of the Secretary under section 70104(c) of this title to prevent the launch of the payload; and

(3) a licensee under this chapter, for a decision of the Secretary under—

(A) section 70107 (b) or (c) of this title to modify, suspend, or revoke a license; or

(B) section 70108(a) of this title to prohibit, suspend, or end a launch or operation of a launch site licensed by the Secretary.

(b) JUDICIAL REVIEW.—A final action of the Secretary under this chapter is subject to judicial review as provided in chapter 7 of title 5.

§ 70111. Acquiring United States Government property and services

(a) GENERAL REQUIREMENTS AND CONSIDERATIONS.—(1) The Secretary of Transportation shall facilitate and encourage the acquisition by the private sector and State governments of—

(A) launch property of the United States Government that is excess or otherwise is not needed for public use; and

(B) launch services, including utilities, of the Government otherwise not needed for public use.

(2) In acting under paragraph (1) of this subsection, the Secretary shall consider the commercial availability on reasonable terms of substantially equivalent launch property or launch services from a domestic source.

(b) PRICE.—(1) In this subsection, "direct costs" means the actual costs that—

(A) can be associated unambiguously with a commercial launch effort; and

(B) the Government would not incur if there were no commercial launch effort.

(2) In consultation with the Secretary, the head of the executive agency providing the property or service under subsection (a) of this section shall establish the price for the property or service. The price for—

(A) acquiring launch property by sale or transaction instead of sale is the fair market value;

(B) acquiring launch property (except by sale or transaction instead of sale) is an amount equal to the direct costs, including specific wear and tear and property damage, the Government incurred because of acquisition of the property; and

(C) launch services is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.

(c) COLLECTION BY SECRETARY.—The Secretary may collect a payment under this section with the consent of the head of the executive agency establishing the price. Amounts collected under this subsection shall be deposited in the Treasury. Amounts (except for excess launch property) shall be credited to the appropriation from which the cost of providing the property or services was paid.

(d) COLLECTION BY OTHER GOVERNMENTAL HEADS.—The head of a department, agency, or instrumentality of the Government may collect a payment for an activity involved in producing a launch vehicle or its payload for launch if the activity was agreed to by the owner or manufacturer of the launch vehicle or payload.

§ 70112. Liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) When a license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and

(B) the United States Government against a person for damage or loss to Government property resulting from an activity carried out under the license.

(2) The Secretary of Transportation shall determine the amounts required under paragraph (1)(A) and (B) of this subsection, after consulting with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate executive agencies.

(3) For the total claims related to one launch, a licensee or transferee is not required to obtain insurance or demonstrate financial responsibility of more than—

(A)(i) $500,000,000 under paragraph (1)(A) of this subsection; or

(ii) $100,000,000 under paragraph (1)(B) of this subsection; or

(B) the maximum liability insurance available on the world market at reasonable cost if the amount is less than the applicable amount in clause (A) of this paragraph.

(4) An insurance policy or demonstration of financial responsibility under this subsection shall protect the following, to the extent of their potential liability for involvement in launch services, at no cost to the Government:

(A) the Government.

(B) executive agencies and personnel, contractors, and subcontractors of the Government.

(C) contractors, subcontractors, and customers of the licensee or transferee.

(D) contractors and subcontractors of the customer.

(b) RECIPROCAL WAIVER OF CLAIMS.—(1) A license issued or transferred under this chapter shall contain a provision requiring the licensee or transferee to make a reciprocal waiver of claims with its contractors, subcontractors, and customers, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license.

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services, and contractors and subcontractors involved in launch services, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, and customers of the licensee or transferee, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection (a)(1)(B) of this section. After consulting with the Administrator and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

(c) DETERMINATION OF MAXIMUM PROBABLE LOSSES.—The Secretary of Transportation shall determine the maximum probable losses under subsection (a)(1)(A) and (B) of this section associated with an activity under a license not later than 90 days after a licensee or transferee requires a determination and submits all information the Secretary requires. The Secretary shall amend the determination as warranted by new information.

(d) ANNUAL REPORT.—(1) Not later than November 15 of each year, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on current determinations made under subsection (c) of this section related to all issued licenses and the reasons for the determinations.

(2) Not later than May 15 of each year, the Secretary of Transportation shall review the amounts specified in subsection (a)(3)(A) of this section and submit a report to Congress that contains proposed adjustments in the amounts to conform with changed liability expectations and availability of insurance on the world market. The proposed adjustment takes effect 30 days after a report is submitted.

(e) LAUNCHES INVOLVING GOVERNMENT FACILITIES AND PERSONNEL.—The Secretary of Transportation shall establish requirements consistent with this chapter for proof of financial responsibility and other assurances necessary to protect the Government and its executive agencies and personnel from liability, death, bodily injury, or property damage or loss as a result of a launch or operation of a launch site involving a facility or personnel of the Government. The Secretary may not relieve the Government of liability under this subsection for death, bodily injury, or property damage or loss resulting from the willful misconduct of the Government or its agents.

(f) COLLECTION AND CREDITING PAYMENTS.—The head of a department, agency, or instrumentality of the Government shall collect a payment owed for damage or loss to Government property under its jurisdiction or control resulting from an activity carried out under a license issued or transferred under this chapter. The payment shall be credited to the current applicable appropriation, fund, or account of the department, agency, or instrumentality.

§ 70113. Paying claims exceeding liability insurance and financial responsibility requirements

(a) GENERAL REQUIREMENTS.—(1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch—

(A) is more than the amount of insurance or demonstration of financial responsibility required under section 70112(a)(1)(A) of this title; and

(B) is not more than $1,500,000,000 (plus additional amounts necessary to reflect inflation occurring after January 1, 1989) above that insurance or financial responsibility amount.

(2) The Secretary may not provide for paying a part of a claim for which death, bodily injury, or property damage or loss results from willful misconduct by the licensee or transferee. To the extent insurance required under section 70112(a)(1)(A) of this title is not available to cover a successful third party liability claim because of an insurance policy exclusion the Secretary decides is usual for the type of insurance involved, the Secretary may provide for paying the excluded claims without regard to the limitation contained in section 70112(a)(1).

(b) NOTICE, PARTICIPATION, AND APPROVAL.—Before a payment under subsection (a) of this section is made—

(1) notice must be given to the Government of a claim, or a civil action related to the claim, against a party described in subsection (a)(1) of this section for death, bodily injury, or property damage or loss;

(2) the Government must be given an opportunity to participate or assist in the defense of the claim or action; and

(3) the Secretary must approve any part of a settlement to be paid out of appropriations of the Government.

(c) WITHHOLDING PAYMENTS.—The Secretary may withhold a payment under subsection (a) of this section if the Secretary certifies that the amount is not reasonable. However, the Secretary shall deem to be reasonable the amount of a claim finally decided by a court of competent jurisdiction.

(d) SURVEYS, REPORTS, AND COMPENSATION PLANS.—(1) If as a result of an activity carried out under a license issued or transferred under this chapter the total of claims related to one launch is likely to be more than the amount of required insurance or demonstration of financial responsibility, the Secretary shall—

(A) survey the causes and extent of damage; and

(B) submit expeditiously to Congress a report on the results of the survey.

(2) Not later than 90 days after a court determination indicates that the liability for the total of claims related to one launch may be more than the required amount of insurance or demonstration of financial responsibility, the President, on the recommendation of the Secretary, shall submit to Congress a compensation plan that— President.

(A) outlines the total dollar value of the claims;

(B) recommends sources of amounts to pay for the claims;

(C) includes legislative language required to carry out the plan if additional legislative authority is required; and

(D) for a single event or incident, may not be for more than $1,500,000,000.

(3) A compensation plan submitted to Congress under paragraph (2) of this subsection shall—

(A) have an identification number; and

(B) be submitted to the Senate and the House of Representatives on the same day and when the Senate and House are in session.

(e) CONGRESSIONAL RESOLUTIONS.—(1) In this subsection, "resolution"—

(A) means a joint resolution of Congress the matter after the resolving clause of which is as follows: "That the Congress approves the compensation plan numbered _____ submitted to the Congress on _____ ____, 19____.", with the blank spaces being filled appropriately; but

(B) does not include a resolution that includes more than one compensation plan.

(2) The Senate shall consider under this subsection a compensation plan requiring additional appropriations or legislative authority not later than 60 calendar days of continuous session of Congress after the date on which the plan is submitted to Congress.

(3) A resolution introduced in the Senate shall be referred immediately to a committee by the President of the Senate. All resolutions related to the same plan shall be referred to the same committee.

(4)(A) If the committee of the Senate to which a resolution has been referred does not report the resolution within 20 calendar days after it is referred, a motion is in order to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of the plan.

(B) A motion to discharge may be made only by an individual favoring the resolution and is highly privileged (except that the motion may not be made after the committee has reported a resolution on the plan). Debate on the motion is limited to one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed and another motion to discharge the committee from another resolution on the same plan may not be made.

(5)(A) After a committee of the Senate reports, or is discharged from further consideration of, a resolution, a motion to proceed to the consideration of the resolution is in order at any time, even though a similar previous motion has been disagreed to. The motion is highly privileged and is not debatable. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph is limited to not more than 10 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(6) The following shall be decided in the Senate without debate:

(A) a motion to postpone related to the discharge from committee.

(B) a motion to postpone consideration of a resolution.

(C) a motion to proceed to the consideration of other business.

(D) an appeal from a decision of the chair related to the application of the rules of the Senate to the procedures related to resolution.

(f) APPLICATION.—This section applies to a license issued or transferred under this chapter for which the Secretary receives a complete and valid application not later than December 31, 1999.

§ 70114. Disclosing information

The Secretary of Transportation, an officer or employee of the United States Government, or a person making a contract with

the Secretary under section 70106(b) of this title may disclose information under this chapter that qualifies for an exemption under section 552(b)(4) of title 5 or is designated as confidential by the person or head of the executive agency providing the information only if the Secretary decides withholding the information is contrary to the public or national interest.

§ 70115. Enforcement and penalty

(a) PROHIBITIONS.—A person may not violate this chapter, a regulation prescribed under this chapter, or any term of a license issued or transferred under this chapter.

(b) GENERAL AUTHORITY.—(1) In carrying out this chapter, the Secretary of Transportation may—

(A) conduct investigations and inquiries;

(B) administer oaths;

(C) take affidavits; and

(D) under lawful process—

(i) enter at a reasonable time a launch site, production facility, assembly site of a launch vehicle, or site at which a payload is integrated with a launch vehicle to inspect an object to which this chapter applies or a record or report the Secretary requires be made or kept under this chapter; and

(ii) seize the object, record, or report when there is probable cause to believe the object, record, or report was used, is being used, or likely will be used in violation of this chapter.

(2) The Secretary may delegate a duty or power under this chapter related to enforcement to an officer or employee of another executive agency with the consent of the head of the agency.

(c) CIVIL PENALTY.—(1) After notice and an opportunity for a hearing on the record, a person the Secretary finds to have violated subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $100,000. A separate violation occurs for each day the violation continues.

(2) In conducting a hearing under paragraph (1) of this subsection, the Secretary may—

(A) subpena witnesses and records; and

(B) enforce a subpena in an appropriate district court of the United States.

(3) The Secretary shall impose the civil penalty by written notice. The Secretary may compromise or remit a penalty imposed, or that may be imposed, under this section.

(4) The Secretary shall recover a civil penalty not paid after the penalty is final or after a court enters a final judgment for the Secretary.

§ 70116. Consultation

(a) MATTERS AFFECTING NATIONAL SECURITY.—The Secretary of Transportation shall consult with the Secretary of Defense on a matter under this chapter affecting national security. The Secretary of Defense shall identify and notify the Secretary of Transportation of a national security interest relevant to an activity under this chapter.

(b) MATTERS AFFECTING FOREIGN POLICY.—The Secretary of Transportation shall consult with the Secretary of State on a matter under this chapter affecting foreign policy. The Secretary of State

shall identify and notify the Secretary of Transportation of a foreign policy interest or obligation relevant to an activity under this chapter.

(c) OTHER MATTERS.—In carrying out this chapter, the Secretary of Transportation shall consult with the head of another executive agency—

(1) to provide consistent application of licensing requirements under this chapter;

(2) to ensure fair treatment for all license applicants; and

(3) when appropriate.

§ 70117. Relationship to other executive agencies, laws, and international obligations

(a) EXECUTIVE AGENCIES.—Except as provided in this chapter, a person is not required to obtain from an executive agency a license, approval, waiver, or exemption to launch a launch vehicle or operate a launch site.

(b) FEDERAL COMMUNICATIONS COMMISSION AND SECRETARY OF COMMERCE.—This chapter does not affect the authority of—

(1) the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) the Secretary of Commerce under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.).

(c) STATES AND POLITICAL SUBDIVISIONS.—A State or political subdivision of a State—

(1) may not adopt or have in effect a law, regulation, standard, or order inconsistent with this chapter; but

(2) may adopt or have in effect a law, regulation, standard, or order consistent with this chapter that is in addition to or more stringent than a requirement of, or regulation prescribed under, this chapter.

(d) CONSULTATION.—The Secretary of Transportation is encouraged to consult with a State to simplify and expedite the approval of a space launch activity.

(e) FOREIGN COUNTRIES.—The Secretary of Transportation shall—

(1) carry out this chapter consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country; and

(2) consider applicable laws and requirements of a foreign country when carrying out this chapter.

(f) LAUNCH NOT AN EXPORT.—A launch vehicle or payload that is launched is not, because of the launch, an export for purposes of a law controlling exports.

(g) NONAPPLICATION.—This chapter does not apply to—

(1) a launch, operation of a launch vehicle or launch site, or other space activity the Government carries out for the Government; or

(2) planning or policies related to the launch, operation, or activity.

§ 70118. User fees

The Secretary of Transportation may collect a user fee for a regulatory or other service conducted under this chapter only if specifically authorized by this chapter.

§ 70119. Authorization of appropriations

The following amounts may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1993:

(1) $4,900,000 to carry out this chapter.

(2) $20,000,000 for a program to ensure the resiliency of the space launch infrastructure of the United States if a law is enacted to establish that program in the Department of Transportation.

CHAPTER 703—SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS

Sec.
70301. Definitions.
70302. Grant authority.
70303. Grant applications.
70304. Environmental requirements.
70305. Authorization of appropriations.

§ 70301. Definitions

In this chapter—

(1) the definitions in section 502 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 (15 U.S.C. 5802) apply.

(2) "commercial space transportation infrastructure development" includes—

(A) construction, improvement, design, and engineering of space transportation infrastructure in the United States; and

(B) technical studies to define how new or enhanced space transportation infrastructure can best meet the needs of the United States commercial space transportation industry.

(3) "project" means a project (or separate projects submitted together) to carry out commercial space transportation infrastructure development, including the combined submission of all projects to be undertaken at a particular site in a fiscal year.

(4) "project grant" means a grant of an amount by the Secretary of Transportation to a sponsor for one or more projects.

(5) "public agency" means a State or an agency of a State, a political subdivision of a State, or a tax-supported organization.

(6) "sponsor" means a public agency that, individually or jointly with one or more other public agencies, submits to the Secretary under this chapter an application for a project grant.

§ 70302. Grant authority

(a) GENERAL AUTHORITY.—To ensure the resiliency of the space transportation infrastructure of the United States, the Secretary of Transportation may make project grants to sponsors as provided in this chapter.

(b) LIMITATIONS.—The Secretary may make a project grant under this chapter only if—

(1) at least 10 percent of the total cost of the project will be paid by the private sector; and

(2) the grant will not be for more than 50 percent of the total cost of the project.

§ 70303. Grant applications

(a) GENERAL.—A sponsor may submit to the Secretary of Transportation an application for a project grant. The application must state the project to be undertaken and be in the form and contain the information the Secretary requires.

(b) CONSIDERATIONS AND CONSULTATION.—(1) In selecting proposed projects for grants under this section, the Secretary of Transportation shall consider—

(A) the contribution of the project to industry capabilities that serve the United States Government's space transportation needs;

(B) the extent of industry's financial contribution to the project;

(C) the extent of industry's participation in the project;

(D) the positive impact of the project on the international competitiveness of the United States space transportation industry;

(E) the extent of State contributions to the project; and

(F) the impact of the project on launch operations and other activities at Government launch ranges.

(2) The Secretary of Transportation shall consult with the Secretary of Defense, the Administrator of the National Space and Aeronautics Administration, and the heads of other appropriate agencies of the Government about paragraph (1)(A) and (F) of this subsection.

(c) REQUIREMENTS.—The Secretary of Transportation may approve an application only if the Secretary is satisfied that—

(1) the project will contribute to the purposes of this chapter;

(2) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies that are—

(A) authorized by the State in which the project is located; and

(B) responsible for the development of the area surrounding the project site;

(3) if the application proposes to use Government property, the specific consent of the head of the appropriate agency has been obtained;

(4) the project will be completed without unreasonable delay;

(5) the sponsor submitting the application has the legal authority to engage in the project; and

(6) any additional requirements prescribed by the Secretary have been met.

(d) PREFERENCE FOR INDUSTRY CONTRIBUTIONS.—The Secretary of Transportation shall give preference to applications for projects for which there will be greater industry financial contributions, all other factors being equal.

§ 70304. Environmental requirements

(a) POLICY.—It is the policy of the United States that projects selected under this chapter shall provide for the protection and enhancement of the natural resources and the quality of the

environment of the United States. In carrying out this policy, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about a project that may have a significant effect on natural resources, including fish and wildlife, natural, scenic, and recreational assets, water and air quality, and other factors affecting the environment. If the Secretary of Transportation finds that a project will have a significant adverse effect, the Secretary may approve the application for the project only if, after a complete review that is a matter of public record, the Secretary makes a written finding that no feasible and prudent alternative to the project exists and that all reasonable steps have been taken to minimize the adverse effect.

(b) PUBLIC HEARING REQUIREMENT.—The Secretary of Transportation may approve an application only if the sponsor of the project certifies to the Secretary that an opportunity for a public hearing has been provided to consider the economic, social, and environmental effects of the project and its consistency with the goals of any planning carried out by the community. When a hearing is held under this paragraph, the sponsor shall submit a copy of the transcript of the hearing to the Secretary.

(c) COMPLIANCE WITH AIR AND WATER QUALITY STANDARDS.—(1) The Secretary of Transportation may approve an application only if the chief executive officer of the State in which the project is located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated to comply with applicable air and water quality standards. If the Administrator has not prescribed those standards, certification shall be obtained from the Administrator. Notice of certification or refusal to certify shall be provided not later than 60 days after the Secretary receives the application.

(2) The Secretary of Transportation shall condition the approval of an application on compliance with applicable air and water quality standards during construction and operation.

(d) COMPLIANCE WITH LAWS AND REGULATIONS.—The Secretary of Transportation may require a certification from a sponsor that the sponsor will comply with all applicable laws and regulations. The Secretary may rescind at any time acceptance of a certification from a sponsor under this subsection. This subsection does not affect any responsibility of the Secretary under another law, including—

(1) section 303 of this title;

(2) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(3) title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.);

(4) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(5) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

§ 70305. Authorization of appropriations

Not more than $10,000,000 may be appropriated to the Secretary of Transportation to make grants under this chapter. Amounts appropriated under this section remain available until expended.

SUBTITLE X—MISCELLANEOUS

CHAPTER		Sec.
801.	BILLS OF LADING	80101
803.	CONTRABAND	80301
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CHAPTER 801—BILLS OF LADING

Sec.
80101. Definitions.
80102. Application.
80103. Negotiable and nonnegotiable bills.
80104. Form and requirements for negotiation.
80105. Title and rights affected by negotiation.
80106. Transfer without negotiation.
80107. Warranties and liability.
80108. Alterations and additions.
80109. Liens under negotiable bills.
80110. Duty to deliver goods.
80111. Liability for delivery of goods.
80112. Liability under negotiable bills issued in parts, sets, or duplicates.
80113. Liability for nonreceipt, misdescription, and improper loading.
80114. Lost, stolen, and destroyed negotiable bills.
80115. Limitation on use of judicial process to obtain possession of goods from common carriers.
80116. Criminal penalty.

§ 80101. Definitions

In this chapter—

(1) "consignee" means the person named in a bill of lading as the person to whom the goods are to be delivered.

(2) "consignor" means the person named in a bill of lading as the person from whom the goods have been received for shipment.

(3) "goods" means merchandise or personal property that has been, is being, or will be transported.

(4) "holder" means a person having possession of, and a property right in, a bill of lading.

(5) "order" means an order by indorsement on a bill of lading.

(6) "purchase" includes taking by mortgage or pledge.

(7) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

§ 80102. Application

This chapter applies to a bill of lading when the bill is issued by a common carrier for the transportation of goods—

(1) between a place in the District of Columbia and another place in the District of Columbia;

(2) between a place in a territory or possession of the United States and another place in the same territory or possession;

(3) between a place in a State and a place in another State;

(4) between a place in a State and a place in the same State through another State or a foreign country; or

(5) from a place in a State to a place in a foreign country.

§ 80103. Negotiable and nonnegotiable bills

(a) NEGOTIABLE BILLS.—(1) A bill of lading is negotiable if the bill—

(A) states that the goods are to be delivered to the order of a consignee; and

(B) does not contain on its face an agreement with the shipper that the bill is not negotiable.

(2) Inserting in a negotiable bill of lading the name of a person to be notified of the arrival of the goods—

(A) does not limit its negotiability; and

(B) is not notice to the purchaser of the goods of a right the named person has to the goods.

(b) NONNEGOTIABLE BILLS.—(1) A bill of lading is nonnegotiable if the bill states that the goods are to be delivered to a consignee. The indorsement of a nonnegotiable bill does not—

(A) make the bill negotiable; or

(B) give the transferee any additional right.

(2) A common carrier issuing a nonnegotiable bill of lading must put "nonnegotiable" or "not negotiable" on the bill. This paragraph does not apply to an informal memorandum or acknowledgment.

§ 80104. Form and requirements for negotiation

(a) GENERAL RULES.—(1) A negotiable bill of lading may be negotiated by indorsement. An indorsement may be made in blank or to a specified person. If the goods are deliverable to the order of a specified person, then the bill must be indorsed by that person.

(2) A negotiable bill of lading may be negotiated by delivery when the common carrier, under the terms of the bill, undertakes to deliver the goods to the order of a specified person and that person or a subsequent indorsee has indorsed the bill in blank.

(3) A negotiable bill of lading may be negotiated by a person possessing the bill, regardless of the way in which the person got possession, if—

(A) a common carrier, under the terms of the bill, undertakes to deliver the goods to that person; or

(B) when the bill is negotiated, it is in a form that allows it to be negotiated by delivery.

(b) VALIDITY NOT AFFECTED.—The validity of a negotiation of a bill of lading is not affected by the negotiation having been a breach of duty by the person making the negotiation, or by the owner of the bill having been deprived of possession by fraud, accident, mistake, duress, loss, theft, or conversion, if the person to whom the bill is negotiated, or a person to whom the bill is subsequently negotiated, gives value for the bill in good faith and without notice of the breach of duty, fraud, accident, mistake, duress, loss, theft, or conversion.

(c) NEGOTIATION BY SELLER, MORTGAGOR, OR PLEDGOR TO PERSON WITHOUT NOTICE.—When goods for which a negotiable bill of lading has been issued are in a common carrier's possession, and the person to whom the bill has been issued retains possession of the bill after selling, mortgaging, or pledging the goods or bill, the subsequent negotiation of the bill by that person to another person receiving the bill for value, in good faith, and without notice of the prior sale, mortgage, or pledge has the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

§ 80105. Title and rights affected by negotiation

(a) TITLE.—When a negotiable bill of lading is negotiated—

(1) the person to whom it is negotiated acquires the title to the goods that—

(A) the person negotiating the bill had the ability to convey to a purchaser in good faith for value; and

(B) the consignor and consignee had the ability to convey to such a purchaser; and

(2) the common carrier issuing the bill becomes obligated directly to the person to whom the bill is negotiated to hold possession of the goods under the terms of the bill the same as if the carrier had issued the bill to that person.

(b) SUPERIORITY OF RIGHTS.—When a negotiable bill of lading is negotiated to a person for value in good faith, that person's right to the goods for which the bill was issued is superior to a seller's lien or to a right to stop the transportation of the goods. This subsection applies whether the negotiation is made before or after the common carrier issuing the bill receives notice of the seller's claim. The carrier may deliver the goods to an unpaid seller only if the bill first is surrendered for cancellation.

(c) MORTGAGEE AND LIEN HOLDER RIGHTS NOT AFFECTED.—Except as provided in subsection (b) of this section, this chapter does not limit a right of a mortgagee or lien holder having a mortgage or lien on goods against a person that purchased for value in good faith from the owner, and got possession of the goods immediately before delivery to the common carrier.

§ 80106. Transfer without negotiation

(a) DELIVERY AND AGREEMENT.—The holder of a bill of lading may transfer the bill without negotiating it by delivery and agreement to transfer title to the bill or to the goods represented by it. Subject to the agreement, the person to whom the bill is transferred has title to the goods against the transferor.

(b) COMPELLING INDORSEMENT.—When a negotiable bill of lading is transferred for value by delivery without being negotiated and indorsement of the transferor is essential for negotiation, the transferee may compel the transferor to indorse the bill unless a contrary intention appears. The negotiation is effective when the indorsement is made.

(c) EFFECT OF NOTIFICATION.—(1) When a transferee notifies the common carrier that a nonnegotiable bill of lading has been transferred under subsection (a) of this section, the carrier is obligated directly to the transferee for any obligations the carrier owed to the transferor immediately before the notification. However, before the carrier is notified, the transferee's title to the goods and right to acquire the obligations of the carrier may be defeated by—

(A) garnishment, attachment, or execution on the goods by a creditor of the transferor; or

(B) notice to the carrier by the transferor or a purchaser from the transferor of a later purchase of the goods from the transferor.

(2) A common carrier has been notified under this subsection only if—

(A) an officer or agent of the carrier, whose actual or apparent authority includes acting on the notification, has been notified; and

(B) the officer or agent has had time, exercising reasonable diligence, to communicate with the agent having possession or control of the goods.

§ 80107. Warranties and liability

(a) GENERAL RULE.—Unless a contrary intention appears, a person negotiating or transferring a bill of lading for value warrants that—

(1) the bill is genuine;

(2) the person has the right to transfer the bill and the title to the goods described in the bill;

(3) the person does not know of a fact that would affect the validity or worth of the bill; and

(4) the goods are merchantable or fit for a particular purpose when merchantability or fitness would have been implied if the agreement of the parties had been to transfer the goods without a bill of lading.

(b) SECURITY FOR DEBT.—A person holding a bill of lading as security for a debt and in good faith demanding or receiving payment of the debt from another person does not warrant by the demand or receipt—

(1) the genuineness of the bill; or

(2) the quantity or quality of the goods described in the bill.

(c) DUPLICATES.—A common carrier issuing a bill of lading, on the face of which is the word "duplicate" or another word indicating that the bill is not an original bill, is liable the same as a person that represents and warrants that the bill is an accurate copy of an original bill properly issued. The carrier is not otherwise liable under the bill.

(d) INDORSER LIABILITY.—Indorsement of a bill of lading does not make the indorser liable for failure of the common carrier or a previous indorser to fulfill its obligations.

§ 80108. Alterations and additions

An alteration or addition to a bill of lading after its issuance by a common carrier, without authorization from the carrier in writing or noted on the bill, is void. However, the original terms of the bill are enforceable.

§ 80109. Liens under negotiable bills

A common carrier issuing a negotiable bill of lading has a lien on the goods covered by the bill for—

(1) charges for storage, transportation, and delivery (including demurrage and terminal charges), and expenses necessary to preserve the goods or incidental to transporting the goods after the date of the bill; and

(2) other charges for which the bill expressly specifies a lien is claimed to the extent the charges are allowed by law and the agreement between the consignor and carrier.

§ 80110. Duty to deliver goods

(a) GENERAL RULES.—Except to the extent a common carrier establishes an excuse provided by law, the carrier must deliver goods covered by a bill of lading on demand of the consignee named in a nonnegotiable bill or the holder of a negotiable bill for the goods when the consignee or holder—

(1) offers in good faith to satisfy the lien of the carrier on the goods;

(2) has possession of the bill and, if a negotiable bill, offers to indorse and give the bill to the carrier; and

(3) agrees to sign, on delivery of the goods, a receipt for delivery if requested by the carrier.

(b) PERSONS TO WHOM GOODS MAY BE DELIVERED.—Subject to section 80111 of this title, a common carrier may deliver the goods covered by a bill of lading to—

(1) a person entitled to their possession;

(2) the consignee named in a nonnegotiable bill; or

(3) a person in possession of a negotiable bill if—

(A) the goods are deliverable to the order of that person; or

(B) the bill has been indorsed to that person or in blank by the consignee or another indorsee.

(c) COMMON CARRIER CLAIMS OF TITLE AND POSSESSION.—A claim by a common carrier that the carrier has title to goods or right to their possession is an excuse for nondelivery of the goods only if the title or right is derived from—

(1) a transfer made by the consignor or consignee after the shipment; or

(2) the carrier's lien.

(d) ADVERSE CLAIMS.—If a person other than the consignee or the person in possession of a bill of lading claims title to or possession of goods and the common carrier knows of the claim, the carrier is not required to deliver the goods to any claimant until the carrier has had a reasonable time to decide the validity of the adverse claim or to bring a civil action to require all claimants to interplead.

(e) INTERPLEADER.—If at least 2 persons claim title to or possession of the goods, the common carrier may—

(1) bring a civil action to interplead all known claimants to the goods; or

(2) require those claimants to interplead as a defense in an action brought against the carrier for nondelivery.

(f) THIRD PERSON CLAIMS NOT A DEFENSE.—Except as provided in subsections (b), (d), and (e) of this section, title or a right of a third person is not a defense to an action brought by the consignee of a nonnegotiable bill of lading or by the holder of a negotiable bill against the common carrier for failure to deliver the goods on demand unless enforced by legal process.

§ 80111. Liability for delivery of goods

(a) GENERAL RULES.—A common carrier is liable for damages to a person having title to, or right to possession of, goods when—

(1) the carrier delivers the goods to a person not entitled to their possession unless the delivery is authorized under section 80110(b)(2) or (3) of this title;

(2) the carrier makes a delivery under section 80110(b)(2) or (3) of this title after being requested by or for a person having title to, or right to possession of, the goods not to make the delivery; or

(3) at the time of delivery under section 80110(b)(2) or (3) of this title, the carrier has information it is delivering the goods to a person not entitled to their possession.

(b) EFFECTIVENESS OF REQUEST OR INFORMATION.—A request or information is effective under subsection (a)(2) or (3) of this section only if—

(1) an officer or agent of the carrier, whose actual or apparent authority includes acting on the request or information, has been given the request or information; and

(2) the officer or agent has had time, exercising reasonable diligence, to stop delivery of the goods.

(c) FAILURE TO TAKE AND CANCEL BILLS.—Except as provided in subsection (d) of this section, if a common carrier delivers goods for which a negotiable bill of lading has been issued without taking and canceling the bill, the carrier is liable for damages for failure to deliver the goods to a person purchasing the bill for value in good faith whether the purchase was before or after delivery and even when delivery was made to the person entitled to the goods. The carrier also is liable under this paragraph if part of the goods are delivered without taking and canceling the bill or plainly noting on the bill that a partial delivery was made and generally describing the goods or the remaining goods kept by the carrier.

(d) EXCEPTIONS TO LIABILITY.—A common carrier is not liable for failure to deliver goods to the consignee or owner of the goods or a holder of the bill if—

(1) a delivery described in subsection (c) of this section was compelled by legal process;

(2) the goods have been sold lawfully to satisfy the carrier's lien;

(3) the goods have not been claimed; or

(4) the goods are perishable or hazardous.

§ 80112. Liability under negotiable bills issued in parts, sets, or duplicates

(a) PARTS AND SETS.—A negotiable bill of lading issued in a State for the transportation of goods to a place in the 48 contiguous States or the District of Columbia may not be issued in parts or sets. A common carrier issuing a bill in violation of this subsection is liable for damages for failure to deliver the goods to a purchaser of one part for value in good faith even though the purchase occurred after the carrier delivered the goods to a holder of one of the other parts.

(b) DUPLICATES.—When at least 2 negotiable bills of lading are issued in a State for the same goods to be transported to a place in the 48 contiguous States or the District of Columbia, the word "duplicate" or another word indicating that the bill is not an original must be put plainly on the face of each bill except the original. A common carrier violating this subsection is liable for damages caused by the violation to a purchaser of the bill for value in good faith as an original bill even though the purchase occurred after the carrier delivered the goods to the holder of the original bill.

§ 80113. Liability for nonreceipt, misdescription, and improper loading

(a) LIABILITY FOR NONRECEIPT AND MISDESCRIPTION.—Except as provided in this section, a common carrier issuing a bill of lading is liable for damages caused by nonreceipt by the carrier of any part of the goods by the date shown in the bill or by failure of the goods to correspond with the description contained in the bill. The carrier is liable to the owner of goods transported under a nonnegotiable bill (subject to the right of stoppage in

transit) or to the holder of a negotiable bill if the owner or holder gave value in good faith relying on the description of the goods in the bill or on the shipment being made on the date shown in the bill.

(b) NONLIABILITY OF CARRIERS.—A common carrier issuing a bill of lading is not liable under subsection (a) of this section—

(1) when the goods are loaded by the shipper;

(2) when the bill—

(A) describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition; or

(B) is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count", or words of the same meaning; and

(3) to the extent the carrier does not know whether any part of the goods were received or conform to the description.

(c) LIABILITY FOR IMPROPER LOADING.—A common carrier issuing a bill of lading is not liable for damages caused by improper loading if—

(1) the shipper loads the goods; and

(2) the bill contains the words "shipper's weight, load, and count", or words of the same meaning indicating the shipper loaded the goods.

(d) CARRIER'S DUTY TO DETERMINE KIND, QUANTITY, AND NUMBER.—(1) When bulk freight is loaded by a shipper that makes available to the common carrier adequate facilities for weighing the freight, the carrier must determine the kind and quantity of the freight within a reasonable time after receiving the written request of the shipper to make the determination. In that situation, inserting the words "shipper's weight" or words of the same meaning in the bill of lading has no effect.

(2) When goods are loaded by a common carrier, the carrier must count the packages of goods, if package freight, and determine the kind and quantity, if bulk freight. In that situation, inserting in the bill of lading or in a notice, receipt, contract, rule, or tariff, the words "shipper's weight, load, and count" or words indicating that the shipper described and loaded the goods, has no effect except for freight concealed by packages.

§ 80114. Lost, stolen, and destroyed negotiable bills

(a) DELIVERY ON COURT ORDER AND SURETY BOND.—If a negotiable bill of lading is lost, stolen, or destroyed, a court of competent jurisdiction may order the common carrier to deliver the goods if the person claiming the goods gives a surety bond, in an amount approved by the court, to indemnify the carrier or a person injured by delivery against liability under the outstanding original bill. The court also may order payment of reasonable costs and attorney's fees to the carrier. A voluntary surety bond, without court order, is binding on the parties to the bond.

(b) LIABILITY TO HOLDER.—Delivery of goods under a court order under subsection (a) of this section does not relieve a common carrier from liability to a person to whom the negotiable bill has been or is negotiated for value without notice of the court proceeding or of the delivery of the goods.

§ 80115. Limitation on use of judicial process to obtain possession of goods from common carriers

(a) ATTACHMENT AND LEVY.—Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods in the possession of a common carrier for which a negotiable bill has been issued may be attached through judicial process or levied on in execution of a judgment only if the bill is surrendered to the carrier or its negotiation is enjoined.

(b) DELIVERY.—A common carrier may be compelled by judicial process to deliver goods under subsection (a) of this section only when the bill is surrendered to the carrier or impounded by the court.

§ 80116. Criminal penalty

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) violates this chapter with intent to defraud; or

(2) knowingly or with intent to defraud—

(A) falsely makes, alters, or copies a bill of lading subject to this chapter;

(B) utters, publishes, or issues a falsely made, altered, or copied bill subject to this chapter; or

(C) negotiates or transfers for value a bill containing a false statement.

CHAPTER 803—CONTRABAND

Sec.
80301. Definitions.
80302. Prohibitions.
80303. Seizure and forfeiture.
80304. Administrative.
80305. Availability of certain appropriations.
80306. Relationship to other laws.

§ 80301. Definitions

In this chapter—

(1) "aircraft" means a contrivance used, or capable of being used, for transportation in the air.

(2) "vehicle" means a contrivance used, or capable of being used, for transportation on, below, or above land, but does not include aircraft.

(3) "vessel" means a contrivance used, or capable of being used, for transportation in water, but does not include aircraft.

§ 80302. Prohibitions

(a) DEFINITION.—In this section, "contraband" means—

(1) a narcotic drug (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)), including marihuana (as defined in section 102 of that Act (21 U.S.C. 802)), that—

(A) is possessed with intent to sell or offer for sale in violation of the laws and regulations of the United States;

(B) is acquired, possessed, sold, transferred, or offered for sale in violation of those laws;

(C) is acquired by theft, robbery, or burglary and transported—

(i) in the District of Columbia or a territory or possession of the United States; or

(ii) from a place in a State, the District of Columbia, or a territory or possession of the United States, to a place in another State, the District of Columbia, or a territory or possession; or

(D) does not bear tax-paid internal revenue stamps required by those laws or regulations;

(2) a firearm involved in a violation of chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.);

(3) a forged, altered, or counterfeit—

(A) coin or an obligation or other security of the United States Government (as defined in section 8 of title 18); or

(B) coin, obligation, or other security of the government of a foreign country;

(4) material or equipment used, or intended to be used, in making a coin, obligation, or other security referred to in clause (3) of this subsection; or

(5) a cigarette involved in a violation of chapter 114 of title 18 or a regulation prescribed under chapter 114.

(b) PROHIBITIONS.—A person may not—

(1) transport contraband in an aircraft, vehicle, or vessel;

(2) conceal or possess contraband on an aircraft, vehicle, or vessel; or

(3) use an aircraft, vehicle, or vessel to facilitate the transportation, concealment, receipt, possession, purchase, sale, exchange, or giving away of contraband.

§ 80303. Seizure and forfeiture

Guam. Northern Mariana Islands.

The Secretary of the Treasury or the Governor of Guam or of the Northern Mariana Islands as provided in section 80304 of this title, or a person authorized by another law to enforce section 80302 of this title, shall seize an aircraft, vehicle, or vessel involved in a violation of section 80302 and place it in the custody of a person designated by the Secretary or appropriate Governor, as the case may be. The seized aircraft, vehicle, or vessel shall be forfeited, except when the owner establishes that a person except the owner committed the violation when the aircraft, vehicle, or vessel was in the possession of a person who got possession by violating a criminal law of the United States or a State. However, an aircraft, vehicle, or vessel used by a common carrier to provide transportation for compensation may be forfeited only when—

(1) the owner, conductor, driver, pilot, or other individual in charge of the aircraft or vehicle (except a rail car or engine) consents to, or knows of, the alleged violation when the violation occurs;

(2) the owner of the rail car or engine consents to, or knows of, the alleged violation when the violation occurs; or

(3) the master or owner of the vessel consents to, or knows of, the alleged violation when the violation occurs.

§ 80304. Administrative

(a) GENERAL.—Except as provided in subsections (b) and (c) of this section, the Secretary of the Treasury—

(1) may designate officers, employees, agents, or other persons to carry out this chapter; and

(2) shall prescribe regulations to carry out this chapter. Regulations.

(b) IN GUAM.—The Governor of Guam—

(1) or officers of the government of Guam designated by the Governor shall carry out this chapter in Guam;

(2) may carry out laws referred to in section 80306(b) of this title with modifications the Governor decides are necessary to meet conditions in Guam; and

(3) may prescribe regulations to carry out this chapter in Guam.

(c) IN NORTHERN MARIANA ISLANDS.—The Governor of the Northern Mariana Islands—

(1) or officers of the government of the Northern Mariana Islands designated by the Governor shall carry out this chapter in the Northern Mariana Islands;

(2) may carry out laws referred to in section 80306(b) of this title with modifications the Governor decides are necessary to meet conditions in the Northern Mariana Islands; and

(3) may prescribe regulations to carry out this chapter in the Northern Mariana Islands.

(d) CUSTOMS LAWS ON SEIZURE AND FORFEITURE.—The Secretary, or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section, shall carry out the customs laws on the seizure and forfeiture of aircraft, vehicles, and vessels under this chapter. Guam. Northern Mariana Islands.

§ 80305. Availability of certain appropriations

Appropriations for enforcing customs, narcotics, counterfeiting, or internal revenue laws are available to carry out this chapter.

§ 80306. Relationship to other laws

(a) CHAPTER AS ADDITIONAL LAW.—This chapter is in addition to another law—

(1) imposing, or authorizing the compromise of, fines, penalties, or forfeitures; or

(2) providing for seizure, condemnation, or disposition of forfeited property, or the proceeds from the property.

(b) LAWS APPLICABLE TO SEIZURES AND FORFEITURES.—To the extent applicable and consistent with this chapter, the following apply to a seizure or forfeiture under this chapter:

(1) provisions of law related to the seizure, forfeiture, and condemnation of vehicles and vessels violating the customs laws.

(2) provisions of law related to the disposition of those vehicles or vessels or the proceeds from the sale of those vehicles or vessels.

(3) provisions of law related to the compromise of those forfeitures or claims related to those forfeitures.

(4) provisions of law related to the award of compensation to an informer about those forfeitures.

CHAPTER 805—MISCELLANEOUS

Sec.
80501. Damage to transported property.
80502. Transportation of animals.
80503. Payments for inspection and quarantine services.
80504. Medals of honor.

§ 80501. Damage to transported property

(a) CRIMINAL PENALTY.—A person willfully damaging, or attempting to damage, property in the possession of an air carrier, motor carrier, or rail carrier and being transported in interstate or foreign commerce, shall be fined under title 18, imprisoned for not more than 10 years, or both. In a criminal proceeding under this section, a shipping document for the property is prima facie evidence of the places to which and from which the property was being transported.

(b) PROHIBITION AGAINST MULTIPLE PROSECUTIONS FOR SAME ACT.—A person may not be prosecuted for an act under this section when the person has been convicted or acquitted on the merits for the same act under the laws of a State, the District of Columbia, or a territory or possession of the United States.

§ 80502. Transportation of animals

(a) CONFINEMENT.—(1) Except as provided in this section, a rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession, may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.

(2) Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night. Animals may be confined for—

(A) more than 28 hours when the animals cannot be unloaded because of accidental or unavoidable causes that could not have been anticipated or avoided when being careful; and

(B) 36 consecutive hours when the owner or person having custody of animals being transported requests, in writing and separate from a bill of lading or other rail form, that the 28-hour period be extended to 36 hours.

(3) Time spent in loading and unloading animals is not included as part of a period of confinement under this subsection.

(b) UNLOADING, FEEDING, WATERING, AND REST.—Animals being transported shall be unloaded in a humane way into pens equipped for feeding, water, and rest for at least 5 consecutive hours. The owner or person having custody of the animals shall feed and water the animals. When the animals are not fed and watered by the owner or person having custody, the rail carrier, express carrier, or common carrier (except by air or water), the receiver, trustee, or lessee of one of those carriers, or the owner or master of a vessel transporting the animals—

(1) shall feed and water the animals at the reasonable expense of the owner or person having custody, except that the owner or shipper may provide food;

(2) has a lien on the animals for providing food, care, and custody that may be collected at the destination in the same way that a transportation charge is collected; and

(3) is not liable for detaining the animals for a reasonable period to comply with subsection (a) of this section.

(c) NONAPPLICATION.—This section does not apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) CIVIL PENALTY.—A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates this section is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court of the United States for the judicial district in which the violation occurred or the defendant resides or does business.

§ 80503. Payments for inspection and quarantine services

(a) GENERAL.—(1) In this subsection—

(A) "private aircraft" means a civilian aircraft not being used to transport passengers or property for compensation.

(B) "private vessel" means a civilian vessel not being used—

(i) to transport passengers or property for compensation; or

(ii) in fishing or fish processing operations.

(2) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the owner, operator, or agent of a private aircraft or private vessel may pay not more than $25 for the services of an officer or employee of the Department of Agriculture, the Customs Service, the Immigration and Naturalization Service, or the Public Health Service (including an independent contractor performing an inspection service for the Public Health Service) when the services are performed on a Sunday, holiday, or from 5 p.m. through 8 a.m. on a weekday, and are related to the aircraft's or vessel's arrival in, or departure from, the United States. However, the owner, operator, or agent does not have to pay for the services from 5 p.m. through 8 a.m. on a weekday when an officer or employee on regular duty is available at the place of arrival or departure to perform services.

(3) The head of a department, agency, or instrumentality of the United States Government providing services under paragraph (2) of this subsection shall collect the amount paid for the services and deposit the amount in the Treasury. The amount shall be credited to the appropriation of the department, agency, or instrumentality against which the expense of those services was charged.

(b) LIMITATIONS ON REIMBURSEMENT.—(1) An owner or operator of an aircraft is required to reimburse the head of a department, agency, or instrumentality of the Government for the expenses of performing an inspection or quarantine service related to the aircraft at a place of inspection during regular service hours on a Sunday or holiday only to the same extent that an owner or operator makes reimbursement for the service during regular service hours on a weekday. The head of the department, agency, or instrumentality may not assess an owner or operator of an aircraft for administrative overhead expenses for inspection or quarantine service provided by the department, agency, or instrumentality at an entry airport.

(2) This subsection does not require reimbursement for costs incurred by the Secretary of the Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)).

§ 80504. Medals of honor

(a) MEDALS.—The President may prepare and give a bronze medal of honor with emblematic devices to an individual who by extreme daring endangers that individual's life in trying to prevent, or save the life of another in, a grave accident in the United States involving a rail carrier providing transportation in interstate commerce or involving a motor vehicle on the public streets, roads, or highways. The President may give a medal only when sufficient evidence that the individual deserves the medal has been filed under regulations prescribed by the President.

(b) RIBBONS, KNOTS, AND ROSETTES.—The President may give an individual who receives a medal a ribbon to be worn with the medal and a knot or rosette to be worn in place of the medal. The President shall prescribe the design for the ribbon, knot, and rosette. If the ribbon is lost, destroyed, or made unfit for use and the individual receiving the medal is not negligent, the President shall issue a new ribbon without charge to the individual.

President.

(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations made to the Secretary of Transportation are available to carry out this section.

PORTS OF ENTRY

19 USC 1644a.

SEC. 2. (a) The definitions in section 40102(a) of title 49, United States Code, apply to this section.

(b)(1) The Secretary of the Treasury may—

(A) designate ports of entry in the United States for civil aircraft arriving in the United States from a place outside the United States and property transported on that aircraft;

(B) detail to ports of entry officers and employees of the United States Customs Service the Secretary considers necessary;

(C) give an officer or employee of the United States Government stationed at a port of entry (with the consent of the head of the department, agency, or instrumentality of the Government with jurisdiction over the officer or employee) duties and powers of officers or employees of the Customs Service;

(D) by regulation, apply to civil air navigation the laws and regulations on carrying out the customs laws, to the extent and under conditions the Secretary considers necessary; and

(E) by regulation, apply to civil aircraft the laws and regulations on entry and clearance of vessels, to the extent and under conditions the Secretary considers necessary.

(2) A person violating a customs regulation prescribed under paragraph (1)(A)–(D) of this subsection or a public health or customs law or regulation made applicable to aircraft by a regulation under paragraph (1)(A)–(D) is liable to the Government for a civil penalty of $5,000 for each violation. An aircraft involved in the violation may be seized and forfeited under the customs laws. The Secretary of the Treasury may remit or mitigate a penalty and forfeiture under this paragraph.

(3) A person violating a regulation made applicable under paragraph (1)(E) of this subsection or an immigration regulation prescribed under paragraph (1)(E) is liable to the Government for a civil penalty of $5,000 for each violation. The Secretary of the

Treasury or the Attorney General may remit or mitigate a penalty under this paragraph.

(4) In addition to any other penalty, when a controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on, or to have been unloaded from, an aircraft to which this subsection applies, the owner of, or individual commanding, the aircraft is liable to the Government for the penalties provided in section 584 for each violation unless the owner or individual, by a preponderance of the evidence, demonstrates that the owner or individual did not know, and by exercising the highest degree of care and diligence, could not have known, that a controlled substance was on the aircraft.

(5) If a violation under this subsection is by the owner or operator of, or individual commanding, the aircraft, the aircraft is subject to a lien for the penalty.

(c)(1) The Secretary of Agriculture by regulation may apply laws and regulations on animal and plant quarantine (including laws and regulations on importing, exporting, transporting, and quarantining animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums) to civil air navigation to the extent and under conditions the Secretary considers necessary.

(2) A person violating a law or regulation made applicable under paragraph (1) of this subsection is liable for the penalties provided under that law or regulation.

(d) A decision to remit or mitigate a civil penalty under this section is final. When libel proceedings are pending during a proceeding to remit or mitigate a penalty, the appropriate Secretary shall notify the Attorney General of the remission or mitigation proceeding.

(e)(1) An aircraft subject to a lien under this section may be seized summarily by and placed in the custody of a person authorized by regulations of the appropriate Secretary or the Attorney General. A report of the case shall be sent to the Attorney General. The Attorney General shall bring promptly a civil action in rem to enforce the lien or notify the appropriate Secretary that the action will not be brought.

(2) An aircraft seized under this section shall be released from custody when—

(A) the civil penalty or amount not remitted or mitigated is paid;

(B) the aircraft is seized under process of a court in a civil action in rem to enforce the lien;

(C) the Attorney General gives notice that a civil action will not be brought under paragraph (1) of this subsection; or

(D) a bond is deposited with the appropriate Secretary or the Attorney General in an amount and with a surety the appropriate Secretary or the Attorney General prescribes, conditioned on payment of the penalty or amount not remitted or mitigated.

(f) A civil penalty under this section may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand

a trial by jury of an issue of fact if the value of the matter in controversy is more than $20. An issue of fact tried by jury may be reexamined only under common law rules.

(g) Necessary amounts may be appropriated to allow the head of a department, agency, or instrumentality of the Government to acquire space at a public airport (as defined in section 47102 of title 49) when the head decides the space is necessary to carry out inspections, clearance, collection of taxes or duties, or a similar responsibility of the head, related to transporting passengers or property in air commerce. The head must consult with the Secretary of Transportation before making a decision on space.

MASS TRANSPORTATION EXEMPTION

SEC. 3. Chapter 105 of title 49, United States Code, is amended as follows:

(1) Insert immediately after section 10530 the following new section:

"§ 10531. Mass transportation exemption

"(a) DEFINITIONS.—The definitions in section 5302(a) of this title apply to this section.

"(b) PETITION FOR GRANTING EXEMPTIONS.—A State or local governmental authority may petition the Interstate Commerce Commission for an exemption from the jurisdiction of the Commission under this subchapter for mass transportation the authority provides or has provided to it by contract. Not later than 180 days after the Commission receives a petition and after notice and a reasonable opportunity for a proceeding, the Commission shall exempt the State, local governmental authority, or contractor unless the Commission finds that—

"(1) the public interest would not be served by an exemption;

"(2) the exemption would result in an unreasonable burden on interstate or foreign commerce; or

"(3) a State or local governmental authority may not regulate the mass transportation to be exempt under this section.

"(c) APPLICATION OF OTHER LAWS.—All applicable laws of the United States related to safety and to representation of employees for collective bargaining purposes, retirement, annuities, and unemployment systems, and all other laws related to employee–employer relations, apply to a State or local governmental authority that was granted, or whose contractor was granted, an exemption under this section.

"(d) CHANGING AND REVOKING EXEMPTIONS.—The Commission may change or revoke an exemption if it finds that new evidence, material error, or changed circumstances exist that materially affect the original order. The Commission may act on its own initiative or on application of an interested party."

(2) Insert immediately below item 10530 in the analysis of the chapter the following new item:

"10531. Mass transportation exemption.".

CONFORMING PROVISIONS

SEC. 4. (a) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by striking "Civil Aeronautics

Board" and "Board or Commission" and substituting "Secretary of Transportation" and "Secretary under subpart II of part A of subtitle VII of title 49, United States Code, or such Commission,", respectively.

(b) Title 5, United States Code, is amended as follows:

(1) In section 5109, add at the end of the section the following new subsection:

"(c)(1) The position held by a fully experienced and qualified railroad safety inspector of the Department of Transportation shall be classified in accordance with this chapter, but not lower than GS–12.

"(2) The position held by a railroad safety specialist of the Department shall be classified in accordance with this chapter, but not lower than GS–13.".

(2) In section 5315, strike—

"Administrator of the St. Lawrence Seaway Development Corporation."

and substitute—

"Administrator of the Saint Lawrence Seaway Development Corporation.".

(3) In section 8172, strike "Secretary of the Treasury" and substitute "Secretary of Transportation".

(c) Section 511(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(e)) is amended to read as follows:

"(e) For purposes of this section—

"(1) 'retrofit device' means any component, equipment, or other device—

"(A) which is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(B) which any manufacturer, dealer, or distributor of such device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under rules of the Administrator. Such term also includes a fuel additive for use in an automobile.

"(2) the definitions in section 32901(a) of title 49, United States Code, apply.".

(d) Section 6001(1) of title 18, United States Code, is amended by striking "the Civil Aeronautics Board,".

(e) Chapter 33 of title 28, United States Code, is amended as follows:

(1) Insert immediately after section 537 the following new section:

"§ 538. Investigation of aircraft piracy and related violations

"The Federal Bureau of Investigation shall investigate any violation of section 46314 or chapter 465 of title 49."

(2) In the analysis of chapter 33, insert immediately after item 537 the following new item:

"538. Investigation of aircraft piracy and related violations.".

(f)(1) Title 31, United States Code, is amended as follows:

(A) In section 309, strike "section 2A(a)" and substitute "section 3(a)".

(B) In section 503(b)(9), strike "perform" and substitute "Perform".

(C) In the analysis of chapter 7, immediately above item 781, strike—

"Sec.".

(D) In section 782, strike "612a)." and substitute "612a))."

(E) In section 1105(a), strike—

"(26) a separate"

and substitute—

"(27) a separate".

(F) Section 1352 is amended as follows:

(i) Immediately below subsection (b)(7), strike—

"(C)(1) Any"

and substitute—

"(c)(1) Any".

(ii) In subsection (e)(1)(C), strike "appropirated" and "law" and substitute "appropriated" and "law.", respectively.

(iii) In subsection (h)(7), strike "agency" and "guaranty" and substitute "agency." and "guaranty.", respectively.

(G) The analysis of chapter 33 is amended by inserting below item 3333 the following new item:

"3334. Cancellation and proceeds distribution of Treasury checks."

(H) In section 3302(c)(1), strike the comma at the end and substitute a period.

(I) In section 3330(d)(1)(B), strike "Administrator" and substitute "Secretary of Veterans Affairs".

(J)(i) In section 3512(c)(1), strike "subsection (a)(3)" and substitute "subsection (b)(3)".

(ii) In section 3512(d)(1) and (2), strike "subsection (b)" wherever it appears and substitute "subsection (c)".

(K) In section 3551(1), strike "an Federal" and substitute "a Federal".

(L) In section 3552, strike "section 111(h)" and "(40 U.S.C. 759(h))" and substitute "section 111(f)" and "(40 U.S.C. 759(f))", respectively.

(M) In section 3718(b)(3)(A), strike "15 U.S.C. 6376(d)(3)(C)(i)" and substitute "15 U.S.C. 637(d)(3)(C)(i)".

(N) In section 3726(d), strike "miscellaneous receipt" and substitute "miscellaneous receipts".

(O) In section 3729(e), strike "1954" and substitute "1986".

(P) In section 3730(e)(2)(B), strike "section paragraphs (1)" and substitute "paragraphs (1)".

(Q) In section 3801(a)(7)(B)(ii), strike "section 3803 of such title" and substitute "section 3803 of this title".

(R) In section 5112(h), strike "title 31, United States Code" and substitute "this title".

(S) In section 6101(4)(B), strike "agency" and substitute "agency.".

(T) In the catchline of section 6202, strike "**form**" and substitute "**form,**".

(U)(i) At the end of the analysis of chapter 69, add the following new item:

"6907. State legislation requiring reallocation or redistribution of payments to smaller units of general purpose government.".

(ii) Section 6907 is amended by adding before subsection (a) the following:

"§ 6907. State legislation requiring reallocation or redistribution of payments to smaller units of general purpose government".

(V) In section 7102(3), strike "politicial" and substitute "political".

(W) Section 7502 is amended as follows:

(i) In subsection (b)(2)(A), strike "the date of enactment of this chapter" and substitute "October 19, 1984".

(ii) In subsection (b)(2)(B), strike "such date" and substitute "October 19, 1984".

(iii) In subsection (d), strike paragraph (5) and redesignate paragraph (6) as paragraph (5).

(iv) In subsection (g), strike "section 3512(b)" and substitute "section 3512(c)".

(X) In section 7503(a), strike "To the extend" and substitute "To the extent".

(Y)(i) Subtitle V is amended by adding at the end of the subtitle the following new chapter:

"CHAPTER 77—LOAN REQUIREMENTS

"Sec.
"7701. Taxpayer identifying number.

"§ 7701. Taxpayer identifying number

"(a) In this section—

"(1) 'included Federal loan program' has the same meaning given that term in section 6103(*l*)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(*l*)(3)(C)).

"(2) 'taxpayer identifying number' means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

"(b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person's taxpayer identifying number.".

(ii) The analysis of subtitle V is amended by adding immediately after item 75 the following new item:

"77. Loan Requirements ..... 7701".

(Z) In section 9101(2)(K), strike "The" and substitute "the".

(AA) In section 9110(e)(1), strike "subparagraph" and substitute "section".

(2) Effective December 22, 1987, section 407 of The Judiciary Appropriation Act, 1988 (Public Law 100-202, 101 Stat. 1329-26), is amended to read as follows: Effective date. 31 USC 1344.

"Sec. 407. Section 1344 of title 31, United States Code, is amended as follows:

"(1) In subsection (b)—

"(A) redesignate clauses (2)-(8) as clauses (3)-(9), respectively;

"(B) insert below clause (1) the following:

"'(2) the Chief Justice and the Associate Justices of the Supreme Court;';

"(C) in clause (3)(B), as redesignated by clause (A) of this paragraph, strike 'subparagraph (A) of this paragraph' and substitute 'subclause (A) of this clause'; and

"(D) in the last sentence, strike 'paragraph (8)' and substitute 'clause (9)'.

"(2) In subsection (d)—

"(A) in paragraphs (1) and (2), strike 'paragraph (8) of subsection (b)' wherever it appears and substitute 'subsection (b)(9) of this section';

"(B) in paragraph (3), strike 'subsections (a)(2), (b)(2)(B), and (b)(8)' and 'subsection (b)(8)' and substitute 'subsections (a)(2) and (b)(3)(B) and (9)' and 'subsection (b)(9)', respectively; and

"(C) in paragraph (4), strike 'paragraphs (1), (2)(B), and (8) of subsection (b)' and 'paragraph (8) of subsection (b), and the expected duration of any authorization under such paragraph' and substitute 'subsection (b)(1), (3)(B), and (9) of this section' and 'subsection (b)(9), and the expected duration of any authorization under subsection (b)(9)', respectively.

"(3) In subsection (e)(1), strike '(b)(8)' and substitute '(b)(9)'.".

Effective date.

(3) Effective September 27, 1988, the last sentence of the paragraph headed "PAYMENTS IN LIEU OF TAXES" in title I of the Act of September 27, 1988 (Public Law 100–446, 102 Stat. 1775), is amended to read as follows: "Section 6901(2)(A) of title 31, United States Code, is amended by striking 'existing in Alaska on October 20, 1976'.".

31 USC 6901.

(g) Title 39, United States Code, is amended as follows:

(1) In section 5007—

(A) insert the subsection designation "(a)" at the beginning of the text of the section; and

(B) add at the end of the section the following new subsection:

"(b)(1) In this subsection, 'air carrier' and 'aircraft' have the same meanings given those terms in section 40102(a) of title 49.

"(2) An air carrier engaged in transporting mail shall carry without charge on any plane it operates those agents and officers of the Postal Service traveling on official business related to transporting mail by aircraft, as prescribed by regulations of the Secretary of Transportation, on exhibiting credentials.".

(2) Amend section 5402 as follows:

(A) In subsection (a), strike "section 1302" and substitute "section 40101(a)".

(B) In subsection (b), strike "sections 1371(k) and 1386(b)", "sections 1301–1542", and "sections 1371–1386" and substitute "sections 40109(a) and (c)–(h) and 42112", "part A of subtitle VII", and "chapters 411 and 413", respectively.

(C) In subsection (d)—

(i) insert "determine rates and" after "may"; and

(ii) strike "and overseas".

(D) In subsection (e)—

(i) strike "'overseas air transportation',"; and

(ii) strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 40102(a) of title 49".

(h) Section 382 of the Energy Policy and Conservation Act (42 U.S.C. 6362) is amended as follows:

(1) Strike subsection (a) and substitute the following:

"(a) In this section, 'agency' means—

"(1) the Department of Transportation with respect to part A of subtitle VII of title 49, United States Code;

"(2) the Interstate Commerce Commission;

"(3) the Federal Maritime Commission; and

"(4) the Federal Power Commission.".

(2) In subsection (b), strike "subsection (a)(1)" and substitute "subsection (a)".

(i) The Act of April 22, 1908 (45 U.S.C. 51 et seq.), is amended by inserting immediately after section 4 the following new section:

"SEC. 4A. A regulation, standard, or requirement in force, or prescribed by the Secretary of Transportation under chapter 201 of title 49, United States Code, or by a State agency that is participating in investigative and surveillance activities under section 20105 of title 49, is deemed to be a statute under sections 3 and 4 of this Act.". 45 USC 54a.

(j) Title 49, United States Code, is amended as follows:

(1) In section 102, redesignate subsection (e), as enacted by section 1(b) of the Act of January 12, 1983 (Public Law 97–449, 96 Stat. 2414), as subsection (f).

(2) In section 104(b)(1), strike "Admininstrator" and substitute "Administrator".

(3) Amend section 106 as follows:

(A) In subsection (f), strike "Secretary shall" and substitute "Secretary of Transportation shall".

(B) Subsection (g) is amended to read as follows:

"(g) DUTIES AND POWERS OF ADMINISTRATOR.—(1) Except as provided in paragraph (2) of this subsection, the Administrator shall carry out—

"(A) duties and powers of the Secretary of Transportation under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous material) and stated in sections 308(b), 1132(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40113(a), (c), and (d), 40114(a), 40119, 44501(a) and (c), 44502(a)(1), (b), and (c), 44504, 44505, 44507, 44508, 44511–44513, 44701–44716, 44718(c), 44721(a), 44901, 44902, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, and 44938(a) and (b), chapter 451, sections 45302, 45303, 46104, 46301(d) and (h)(2), 46303(c), 46304–46308, 46310, 46311, and 46313–46316, chapter 465, and sections 47504(b)(related to flight procedures), 47508(a), and 48107 of this title; and

"(B) additional duties and powers prescribed by the Secretary of Transportation.

"(2) In carrying out sections 40119, 44901, 44903(a)–(c) and (e), 44906, 44912, 44935–44937, 44938(a) and (b), and 48107 of this title, paragraph (1)(A) of this subsection does not apply to duties and powers vested in the Director of Intelligence and Security by section 44931 of this title.".

(C) In subsection (k), insert "to the Secretary of Transportation" immediately after "appropriated".

(4) In section 108(a)—

(A) strike—

"(a) Except when operating as a service in the Navy, the" and substitute—

"(a)(1) The"; and

(B) add at the end of subsection (a) the following new paragraph:

"(2) Notwithstanding paragraph (1) of this subsection, the Coast Guard, together with the duties and powers of the Coast Guard, shall operate as a service in the Navy as provided under section 3 of title 14.".

(5)(A) In section 110(a), strike "St. Lawrence" and substitute "Saint Lawrence".

(B) In the analysis of chapter 1, strike—

"110. St. Lawrence Seaway Development Corporation.
"110. Saint Lawrence Seaway Development Corporation.
"111. Bureau of Transportation Statistics.".

and substitute—

"110. Saint Lawrence Seaway Development Corporation.
"111. Bureau of Transportation Statistics.".

(6)(A) Chapter 3 is amended by inserting immediately after section 303 the following new section:

"§ 303a. Development of water transportation

"(a) POLICY.—It is the policy of Congress—

"(1) to promote, encourage, and develop water transportation, service, and facilities for the commerce of the United States; and

"(2) to foster and preserve rail and water transportation.

"(b) DEFINITION.—In this section, 'inland waterway' includes the Great Lakes.

"(c) REQUIREMENTS.—The Secretary of Transportation shall—

"(1) investigate the types of vessels suitable for different classes of inland waterways to promote, encourage, and develop inland waterway transportation facilities for the commerce of the United States;

"(2) investigate water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, and equipment, and investigate railroad spurs and switches connecting with those water terminals, to develop the types most appropriate for different locations and for transferring passengers or property between water carriers and rail carriers more expeditiously and economically;

"(3) consult with communities, cities, and towns about the location of water terminals, and cooperate with them in preparing plans for terminal facilities;

"(4) investigate the existing status of water transportation on the different inland waterways of the United States to learn the extent to which—

"(A) the waterways are being used to their capacity and are meeting the demands of traffic; and

"(B) water carriers using those waterways are interchanging traffic with rail carriers;

"(5) investigate other matters that may promote and encourage inland water transportation; and

"(6) compile, publish, and distribute information about transportation on inland waterways that the Secretary considers useful to the commercial interests of the United States.".

(B) The analysis of chapter 3 is amended by inserting immediately after item 303 the following new item:

"303a. Development of water transportation.".

(7) Amend section 329 as follows:

(A) In subsection (b)(1)—

(i) strike "title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)" and substitute "chapter 11 of this title";

(ii) strike "and overseas" and "or overseas" wherever it appears; and

(iii) strike "section 419 of the Federal Aviation Act of 1958" and substitute "subchapter II of chapter 417 of this title".

(B) In subsection (d), strike "the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and substitute "part A of subtitle VII of this title".

(8) In section 331(b), strike "services, supplies, and facilities provided under subsection (a)(1), (2), and (3) of this section" and substitute "medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section".

(9)(A) Sections 334 and 335 are repealed.

(B) Items 334 and 335 in the analysis of chapter 3 are repealed.

(10)(A) Chapter 3 is amended by adding immediately after section 336 the following:

"§ 337. Budget request for the Director of Intelligence and Security

"The annual budget the Secretary of Transportation submits shall include a specific request for the Office of the Director of Intelligence and Security. In deciding on the budget request for the Office, the Secretary shall consider recommendations in the annual report submitted under section 44938(a) of this title.

"SUBCHAPTER III—MISCELLANEOUS

"§ 351. Judicial review of actions in carrying out certain transferred duties and powers

"(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal Highway Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

"(b) APPLICATION OF PROCEDURAL REQUIREMENTS.—A statutory requirement related to notice, an opportunity for a hearing, action on the record, or administrative review that applied to a duty or power transferred by the Act applies to the Secretary or Administrator when carrying out the duty or power.

"(c) NONAPPLICATION.—This section does not apply to a duty or power transferred from the Interstate Commerce Commission to the Secretary under section 6(e)(1)–(4) and (6)(A) of the Act.

"§ 352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Highway Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.

"§ 353. Toxicological testing of officers and employees

"(a) COLLECTING SPECIMENS.—When the Secretary of Transportation or the head of a component of the Department of Transportation conducts post-accident or post-incident toxicological testing of an officer or employee of the Department, the Secretary or head shall collect the specimen from the officer or employee as soon as practicable after the accident or incident. The Secretary or head shall try to collect the specimen not later than 4 hours after the accident or incident.

"(b) REPORTS.—The head of each component shall submit a report to the Secretary on the circumstances about the amount of time required to collect the specimen for a toxicological test conducted on an officer or employee who is reasonably associated with the circumstances of an accident or incident under the investigative jurisdiction of the National Transportation Safety Board.

"(c) NONCOMPLIANCE NOT A DEFENSE.—An officer or employee required to submit to toxicological testing may not assert failure to comply with this section as a claim, cause of action, or defense in an administrative or judicial proceeding.".

(B) The analysis of chapter 3 is amended by adding immediately after item 336 the following:

"337 Budget request for the Director of Intelligence and Security.

"SUBCHAPTER III—MISCELLANEOUS

"351. Judicial review of actions in carrying out certain transferred duties and powers.
"352. Authority to carry out certain transferred duties and powers.
"353. Toxicological testing of officers and employees.".

(11)(A) In section 501(a), strike clauses (4)–(9).

(B) Strike section 508.

(C) In the analysis of chapter 105, strike the item related to section 508.

(D) In section 521(b)(2)(A), strike "section 508" and substitute "chapter 59".

(12) In sections 502(e)(2) and 10321(d)(3), insert "judge" after "United States magistrate".

(13) Section 10362(b)(5) is amended to read as follows:

"(5) prescribe regulations that contain standards for the computation of subsidies for rail passenger transportation (except passenger transportation compensation disputes subject to the jurisdiction of the Commission under sections 24308(a) and 24903(c)(2) of this title) that are consistent with the compensation principles described in the final system plan estab-

lished under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and that avoid cross-subsidization among commuter, intercity, and freight rail transportation;".

(14) In sections 10363(c) and 10383(c), strike "rate for GS–18" and substitute "maximum rate payable under section 5376 of title 5".

(15) In section 10501(d)—

(A) strike "procedures of this title" and substitute "procedures of this subtitle"; and

(B) strike "provided in this title" and substitute "provided in this subtitle".

(16) In section 10504—

(A) strike "local public body" wherever it appears and substitute "local governmental authority";

(B) strike "rail mass transportation" wherever it appears and substitute "mass transportation";

(C) in subsection (a)(1)(A), strike "section 1608(c)(2)" and substitute "section 5302(a)"; and

(D) in subsection (a)(2), strike "section 1608(c)(5)" and substitute "section 5302(a)".

(17) In section 10526(a)—

(A) in clause (8)(B), strike "Civil Aeronautics Board or its successor agency" and substitute "Secretary of Transportation";

(B) in clause (10), strike "work." and substitute "work;";

(C) in clause (13), strike "or"; and

(D) in clause (14), strike "title." and substitute "title; or".

(18) In section 10530(i)(3), strike "notifed" and substitute "notified".

(19) In section 10701a(b)(3), strike "policy of this title" and substitute "policy of this subtitle".

(20) In section 10705a(g)(3)—

(A) before clause (A), strike "provision of this title" and substitute "provision of this subtitle"; and

(B) in clause (A), strike "service over any rate" and substitute "service over any route".

(21) In section 10707(d)—

(A) in paragraph (2), strike "under this title" and substitute "under this subtitle"; and

(B) in paragraph (3), strike "title" wherever it appears and substitute "subtitle".

(22) In section 10707a(b)(1), strike "paragraph (2)" and substitute "paragraph (3)".

(23) In section 10731(e), strike "provision of this title" and substitute "provision of this subtitle".

(24) In section 10749(b)(2), strike "Civil Aeronautics Board under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and substitute "Secretary of Transportation under part A of subtitle VII of this title".

(25) In section 10751(b), strike "purposes of this title" and substitute "purposes of this subtitle".

(26) In section 10905(d)(1) and (e), strike "government authority" and substitute "governmental authority".

(27) In section 10910—

(A) in subsection (a)(1), strike "government authority" and substitute "governmental authority"; and

(B) in subsection (g)(1), strike "provisions of this title" and substitute "provisions of this subtitle".

(28) In section 10924(e), insert "of" after "protection".

(29) In the analysis of chapter 111—

(A) in item 11128, strike "Water" and substitute "War"; and

(B) in item 11142, strike "systems" and substitute "system".

(30) In section 11162(a), strike "proceedings under this title" and substitute "proceedings under this subtitle".

(31) In section 11163, strike "purposes of this title" and substitute "purposes of this subtitle".

(32) In section 11166(a), strike "pursuant to this title" and substitute "under this subtitle".

(33) In section 11167, strike "under this title" and substitute "under this subtitle".

(34) In section 11501(b)(3)(A), strike "title" and substitute "subtitle".

(35) In section 11909(b), strike "1966,," and substitute "1966,".

Effective date.

(k) Effective January 1, 1999, the following sections of title 49, United States Code, as enacted by section 1 of this Act, are amended as follows:

(1) In sections 41107, 41901(b)(1), 41902(a), and 41903, strike "transportation or between places in Alaska" wherever it appears and substitute "transportation".

(2) Strike section 41901(g).

(3) In section 41902(b)—

(A) strike clause (3); and

(B) in clause (4), strike "clauses (1)–(3)" and substitute "clauses (1) and (2)".

(l) The Act of June 29, 1940 (ch. 444, 54 Stat. 686), is amended as follows:

49 USC app. 2402–2404, 2406, 2407.

(1) Except as provided in paragraphs (2) and (3) of this subsection, strike "Administrator" wherever it appears and substitute "Secretary".

49 USC app. 2401.

(2) In subsection (a) of the first section, strike "'Administrator' means the Administrator of the Federal Aviation Agency" and substitute "'Secretary' means the Secretary of Transportation".

49 USC app. 2404.

(3) In section 4(a), strike "Administrator, and any Federal Aviation Agency" and substitute "Secretary, and any Department of Transportation".

49 USC app. 2406.

(4) In section 6, strike "United States commissioner" wherever it appears and substitute "United States magistrate judge".

(m) The Act of September 7, 1950 (ch. 905, 64 Stat. 770), is amended as follows:

49 USC app. 2422–2430.

(1) Except as provided in paragraph (2) of this subsection, strike "Administrator" wherever it appears and substitute "Secretary".

49 USC app. 2421.

(2) In the first section, strike "Administrator of the Federal Aviation Agency" and "'Administrator'" and substitute "Secretary of Transportation" and "'Secretary'", respectively.

49 USC app. 2424, 2428.

(3) In sections 4 and 8(a), strike "Federal Aviation Agency" and substitute "Department of Transportation".

(4) In section 8(d), strike "United States Commissioner" wherever it appears and substitute "United States magistrate judge". 49 USC app. 2428.

(n) Section 101(1st complete par. on p. 646) of the Act of August 30, 1964 (Public Law 88–507, 78 Stat. 646), is amended by striking "Administrator of the Federal Aviation Agency" and substituting "Secretary of Transportation". 49 USC app. 2433.

(o) Section 9111 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690, 102 Stat. 4531) is amended as follows: 49 USC 10530.

(1) In the introductory language of subsection (b)(1), strike "Subsection (b) of section 10530 of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:" and substitute "Subsection (b)(1) of section 10530 of title 49 is amended to read as follows:".

(2) In subsection (b)(2), strike "Such subsection" and substitute "Subsection (b) of section 10530".

(3) In the introductory language of subsection (f)(1), strike "Subsection (g) of such section is amended by striking out paragraph (1) and inserting in lieu thereof the following:" and substitute "Subsection (g)(1) of section 10530 of title 49 is amended to read as follows:".

(4) In subsection (f)(2), strike "Such subsection" and substitute "Subsection (g) of section 10530".

(p) Section 4007(e) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2153) is amended by inserting "and section 31307 of title 49, United States Code" immediately after "this section". 49 USC app. 2302 note.

(q) The revision of regulations, referred to in section 32705(b)(2)(A) of title 49, United States Code, as enacted by section 1 of this Act, that is required by section 7 of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4657) shall be prescribed not later than May 28, 1991. 49 USC 32705 note.

(r) Section 165 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424, 96 Stat. 2136) is amended as follows: 23 USC 101 note.

(1) In subsections (a) and (d), strike "the Urban Mass Transportation Act of 1964,".

(2) In subsection (b)—

(A) after the semicolon at the end of clause (2), add "or"; and

(B) strike clause (3).

(s) Effective on the date the regulations required under section 60101(b) of title 49, United States Code, as enacted by section 1 of this Act, are effective, section 60101(a)(21) and (22) of title 49, as enacted by section 1, is amended to read as follows: Effective date.

"(21) 'transporting gas'—

"(A) means—

"(i) the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; and

"(ii) the movement of gas through regulated gathering lines; but

"(B) does not include gathering gas (except through regulated gathering lines) in a rural area outside a populated area designated by the Secretary as a nonrural area.

"(22) 'transporting hazardous liquid'—

"(A) means—

"(i) the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; and

"(ii) the movement of hazardous liquid through regulated gathering lines; but

"(B) does not include moving hazardous liquid through—

"(i) gathering lines (except regulated gathering lines) in a rural area;

"(ii) onshore production, refining, or manufacturing facilities; or

"(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities.".

49 USC 20103 note.

(t)(1) Not later than March 3, 1995, the Secretary of Transportation shall complete a regulatory proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. The proceeding shall assess—

(A) the adequacy of Locomotive Crashworthiness Requirements Standard S–580, or any successor standard, adopted by the Association of American Railroads in 1989 in improving the safety of locomotive cabs; and

(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

(2) SUPPORTING RESEARCH AND ANALYSIS.—In support of the proceeding required under paragraph (1) of this subsection, the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

(A) the costs and benefits associated with equipping locomotives with—

(i) braced collision posts;

(ii) rollover protection devices;

(iii) deflection plates;

(iv) shatterproof windows;

(v) readily accessible crash refuges;

(vi) uniform sill heights;

(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

(x) functioning and regularly maintained sanitary facilities; and

(B) the effects on train crews of the presence of asbestos in locomotive components.

(3) REPORT.—If, on the basis of the proceeding required under paragraph (1) of this subsection, the Secretary decides not to prescribe regulations, the Secretary shall report to Congress on the reasons for that decision.

Regulations.

(u) Not later than April 25, 1993, the Attorney General shall prescribe the regulations required under section 33110(c) of title 49, United States Code, as enacted by section 1 of this Act. Section 33110(b) of title 49 is effective not later than 3 months after those regulations are prescribed but not before the date on which

Effective date.

the National Stolen Passenger Motor Vehicle Information System established under section 33109 of title 49 is operational.

(v) Section 33111 of title 49, United States Code, as enacted by section 1 of this Act, is effective on the date on which the National Stolen Passenger Motor Vehicle Information System is established under section 33109 of title 49. Effective date. 49 USC 33111 note.

CONFORMING CROSS-REFERENCES

SEC. 5. (a) Sections 551(1)(H) and 701(b)(1)(H) of title 5, United States Code, are amended by striking "or sections 1622," and substituting "subchapter II of chapter 471 of title 49; or sections".

(b) Title 10, United States Code, is amended as follows:

(1) In section 2640—

(A) in subsections (a)(1)(A) and (d)(1)(B)(i), strike "title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.)" and substitute "chapter 447 of title 49"; and

(B) in subsection (i), strike "sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15))" and substitute "section 40102(a) of title 49".

(2) In section 9511(1), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 40102(a) of title 49".

(3) In section 9512(b)(4), strike "section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401)" and substitute "section 44103 of title 49".

(c) Section 1110(a) of title 11, United States Code, is amended by striking "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)", "subsection B(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4))", and "Civil Aeronautics Board" and substituting "section 40102(a) of title 49", "section 30101 of title 46", and "Secretary of Transportation", respectively.

(d) The last sentence of section 82 of title 14, United States Code, is amended to read as follows: "Nothing in this title shall be deemed to limit the authority granted by chapter 167 of title 10 or part A of subtitle VII of title 49.".

(e) Title 18, United States Code, is amended as follows:

(1) In section 31, strike "the Federal Aviation Act of 1958, as amended" and substitute "sections 40102(a) and 46501 of title 49".

(2) In the last sentence of sections 112(e), 878(d), 1116(c), and 1201(e), strike "section" and all that follows and substitute "section 46501(2) of title 49.".

(3) In section 511(c)—

(A) in clause (1), strike "the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act" and substitute "chapter 301 and part C of subtitle VI of title 49"; and

(B) in clause (2), strike "section 2 of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32101 of title 49".

(4) In section 512(a)(2)(A), strike "the National Traffic and Motor Vehicle Safety Act of 1966" and substitute "chapter 301 of title 49".

(5) In section 553(c)—

(A) in clause (1), strike "section 2 of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32101 of title 49"; and

(B) in clause (4), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)" and substitute "section 40102(a) of title 49".

(6) In section 831(c)(1), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 46501 of title 49".

(7) In section 844(g)(2)(B), strike "the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.)" and substitute "chapter 51 of title 49".

(8) In section 1201(a)(3), strike "section" and all that follows and substitute "section 46501 of title 49;".

(9) In section 1366(c), strike "interstate transmission facilities, as defined in section 2 of the Natural Gas Pipeline Safety Act of 1968" and substitute "an interstate gas pipeline facility as defined in section 60101 of title 49".

(10) In section 2318(c)(1), strike "section 101 of the Federal Aviation Act of 1958" and substitute "section 46501 of title 49".

(11) In section 2516(1)(j), strike "section" and all that follows and substitute "section 60123(b) (relating to destruction of a natural gas pipeline) or 46502 (relating to aircraft piracy) of title 49;".

(12) In section 3663(a)(1), strike "under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472)" and substitute "section 46312, 46502, or 46504 of title 49".

(f) Title 23, United State Code, is amended as follows:

(1) In section 103(e)(4)(L)—

(A) in clause (i), strike "the Urban Mass Transportation Act of 1964" and substitute "chapter 53 of title 49"; and

(B) in clause (ii), strike "section 3(e)(4) of the Urban Mass Transportation Act of 1964" and substitute "section 5323(a)(1)(D) of title 49".

(2) In section 142—

(A) in subsection (a)(2), strike "the Federal Transit Act" and substitute "chapter 53 of title 49";

(B) in subsection (h), strike "the Urban Mass Transportation Act of 1964, as amended" and substitute "chapter 53 of title 49"; and

(C) in subsection (i), strike "section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended," and substitute "section 5323(a)(1)(D) of title 49".

(3) In section 157(a)(2) and (3)(A), strike "section 404 of the Surface Transportation Assistance Act of 1982" and substitute "section 31104 of title 49".

(g) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 4064(b)(1)(B), strike "section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001)" and substitute "section 32901 of title 49, United States Code,".

(2) In section 4261(e) and (f)(2), strike "the Airport and Airway Improvement Act of 1982" and substitute "section 44509

or 44913(b) or subchapter I of chapter 471 of title 49, United States Code,".

(3) In section 9502(d)(1)(B), strike "the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)," and substitute "part A of subtitle VII of title 49, United States Code,".

(h) Section 2342(7) of title 28, United States Code, is amended by striking "section 202(f) of the Federal Railroad Safety Act of 1970" and substituting "section 20114(c) of title 49".

(i) Title 31, United States Code, is amended as follows:

(1) In section 3711(c)(2), strike "section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))" and substitute "section 21302 of title 49 for a violation of chapter 203, 205, or 207 of title 49 or a regulation or requirement prescribed or order issued under any of those chapters".

(2) In section 3726(b)(1), strike "the Federal Aviation Act of 1958" and substitute "section 40102(a) of title 49".

(j) Section 210(a)(4) of title 35, United States Code, is amended by striking "section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721)" and substituting "section 30168(e) of title 49".

(k) Title 39, United States Code, is amended as follows:

(1) In section 3401(b) and (c), strike "section 1376" and substitute "section 41901".

(2) In section 5005(b)(3), strike "section 101 of the Federal Aviation Act of 1958" and substitute "section 40102(a) of title 49".

(3) In section 5401(b), strike "sections 1301–1542" and substitute "part A of subtitle VII".

(l) Section 2101(14)(C) of title 46, United States Code, is amended by striking "section 104 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1803)" and substituting "section 5103(a) of title 49".

(m) Title 49, United States Code, is amended as follows:

(1) In section 103(c)(1), strike "section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 App. U.S.C. 1655(e)(1), (2), and (6)(A))" and substitute "section 20134(c) and chapters 203–211 of this title, and chapter 213 of this title in carrying out chapters 203–211".

(2) In section 104(c)(2), strike "31" and substitute "315".

(3) In section 105(d), strike "the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.)" and substitute "chapter 301 of this title".

(4) In section 106—

(A) in subsection (h), strike "Section 103 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1303)" and substitute "Section 40101(d) of this title"; and

(B) in subsection (j), strike "section 312(e) of the Federal Aviation Act of 1958" and substitute "section 44507 of this title".

(5) In section 109(a) and (b), insert "App." immediately after "(46".

(6) In section 302(b), strike "Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation

Act (49 App. U.S.C. 1651 et seq.)" and substitute "This subtitle and chapters 221 and 315 of this title".

(7) In section 306(b), strike "section 332 or 333 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 App. U.S.C. 1653(i), 1654)" and substitute "section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)".

(8) In section 321, strike "section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))" and substitute "section 40102(a) of this title".

(9) In section 501—

(A) in subsection (a)(2), strike "section 3101" and substitute "section 31501";

(B) in subsection (a)(3), strike "section 3102(c)" and substitute "section 31502(c)"; and

(C) strike subsection (b) and substitute the following: "(b) APPLICATION.—This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1) and 20303 and chapters 205 (except section 20504(b)), 211, 213 (in carrying out those sections and chapters), and 315 of this title.".

(10) In section 507(c), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984" and "such section or Act" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" and "any of those provisions", respectively.

(11) In section 521(b)—

(A) in paragraph (1)(A), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "such sections or Act" and substitute "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title" and "any of those provisions", respectively;

(B) in paragraph (2)(A), strike "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984" and substitute "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title";

(C) in paragraph (2)(B), strike "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "section 31302, 31303, 31304, 31305(b), or 31310(g)(1)(A) of this title";

(D) in paragraph (3), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title";

(E) in paragraph (5)(A), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section

12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "such sections or Act" and substitute "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" and "any of those provisions", respectively;

(F) in paragraph (6)(A), strike "section 3102 of this title, the Motor Carrier Safety Act of 1984", "such section or Act", and "liable" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title", "any of those provisions", and "subject", respectively;

(G) in paragraph (6)(B)(i), strike "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "section 31302, 31303(b) or (c), 31304, 31305(b), or 31310(g)(1)(A) of this title";

(H) in paragraph (6)(B)(ii), strike "section 12019 of such Act", "section 12003(a) of such Act", and "such section 12003(a)" and substitute "section 31301 of this title", "section 31303(a) of this title", and "section 31303(a)", respectively;

(I) in paragraph (12), strike "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812)" and "such Act" and substitute "chapter 51 of this title" and "chapter 51", respectively; and

(J) in paragraph (13), strike "section 204 of the Motor Carrier Safety Act of 1984" and substitute "section 31132 of this title".

(12) In section 526, strike "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and willfully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act" and substitute "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions".

(13) In section 10102(9), strike "the Federal Aviation Act of 1958" and substitute "part A of subtitle VII of this title".

(14) In section 10322(a), strike "subtitle" wherever it appears and substitute "title".

(15) In sections 10364(a) and 10385(a), strike "section 5 of title 41" and substitute "section 3709 of the Revised Statutes (41 U.S.C. 5)".

(16) In sections 10527(a), strike "subchapter" and substitute "title".

(17) In section 10528, strike "subchapter" and "subtitle" wherever either word appears and substitute "title".

(18) In section 10529(a), strike "(12 U.S.C. 1141j(a))" and substitute "(12 U.S.C. 1141j(a)))".

(19) In sections 10542(a)(2) and 10544(d)(1)(B), insert "App." immediately after "(46" wherever it appears.

(20) In section 10561(b)(1), strike "chapter 20" and substitute "part A of subtitle VII".

(21) In section 10703(a)(4)—

(A) in paragraph (D)(ii), insert "App." immediately after "(46" wherever it appears; and

(B) in paragraph (E), strike "(46 U.S.C. 801 et seq.)" and "(46 U.S.C. 843–848)" and substitute "(46 App. U.S.C. 801 et seq.)" and "(46 App. U.S.C. 843 et seq.)", respectively.

(22) In section 10721(a)(1), strike "Section 5 of title 41" and substitute "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

(23) In section 10735(b)(1), strike "under this title" and substitute "under this subtitle".

(24) In section 10903(b)(2), strike "section 11347 of this title and section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b))" and substitute "sections 11347 and 24706(c) of this title".

(25) In section 10922—

(A) in subsection (c)(1)(E), strike "provisions of section 12(f) of the Urban Mass Transportation Act of 1964" and substitute "section 10531 of this title";

(B) in subsection (c)(2)(D), strike "subtitle" wherever it appears and substitute "title";

(C) in subsection (c)(4)(C) and (j)(1), strike "subchapter" wherever it appears and substitute "title"; and

(D) in subsection (j)(2)(C), strike "subtitle" and substitute "title".

(26) In section 10927(a)(1), insert "section" before "10923".

(27) In section 10935(a) and (e)(3), strike "subchapter" and substitute "title".

(28) In section 11125(b)(2)(A), strike "the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)" and substitute "chapter 201 of this title".

(29) In section 11126(a), strike "11501(c)" and substitute "11501(f)".

(30) In section 11303(a), strike "the Ship Mortgage Act, 1920" wherever it appears and substitute "chapter 313 of title 46".

(31) In section 11347, strike "section 405 of the Rail Passenger Service Act (45 U.S.C. 565)" and substitute "sections 24307(c), 24312, and 24706(c) of this title".

(32) In section 11348(a), strike "section 504(f)," and substitute "sections 504(f) and".

(33) In section 11504(b)(2), strike "section 204 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503)" and substitute "section 31132 of this title".

(34) In section 11701(a), strike "section 10530 of this subtitle" and substitute "section 10530 of this title".

LEGISLATIVE PURPOSE AND CONSTRUCTION

49 USC prec. 101 note.

SEC. 6. (a) Sections 1–4 of this Act restate, without substantive change, laws enacted before July 1, 1993, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after June 30, 1993, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 7. (a) The repeal of a law by this Act may not be construed as a legislative implication that the provision was or was not in effect before its repeal. 49 USC prec. 101 note.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act: 49 USC prec. 101 note.

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1864						
July 2	216	15	13	362	45	83
1873						
Mar. 3	226	2(words after 2d semicolon).	17	508	. .	
1874						
June 20	331		18	111	45	83
June 22	414		18	200	45	89
1879						
Mar. 3	183	1(4th par. on p. 420)	20	420	45	90
1887						
Feb. 4	104	25	24	379	49	26
Mar. 3	345		24	488	App. 45	94, 95
1893						
Mar. 2	196		27	531	45	1–7
1896						
Apr. 1	87		29	85	45	6
1897						
Mar. 3	386	(proviso under heading "Transportation and Recruiting, Marine Corps").	29	663	45	91

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1901 Mar. 3	831	(last proviso of last par. under heading "Pay Department").	31	1023	45	92
1903 Mar. 2	976		32	943	45	10
1905 Feb. 23	744		33	743	49 App.	1201–1203
1906 June 29	3594		34	607	45	71–74
June 30	P.R. 46		34	838	45	35
1907 Mar 4	2939		34	1415	45	61–64b
1908 May 27	200	1(6th par. last sentence under heading "Interstate Commerce Commission", 1st complete par. on p. 325)	35	325	45	36, 37
1909 Mar 4	299	1(6th par. last sentence under heading "Interstate Commerce Commission").	35	965	45	37
1910 Apr. 14	160		36	298	45	11–16
May 6	208		36	350	45	38–43
1911 Feb 17	103		36	913	45	22–29, 31–34
1915 Mar 4	169		38	1192	45	23, 30
1916 May 4	109		39	61	45	63
Aug. 29	415		39	538	49 App.	81–124
1920 Feb. 28	91	441, 500	41	498, 499	49 App.	26, 142
1921 Mar. 4	161	1(last proviso in par. under heading "Transportation Facilities on Inland and Coastal Waterways").	41	1392	49 App.	141
Dec. 15	1	1(last par. under heading "Board of Mediation and Conciliation")	42	328	45	126
1924 June 7	355		43	659	45	22, 23, 25, 27
1927 Mar. 4	510		44	1446	49 App.	102
1929 Feb. 28	369		45	1404	49 App.	173

Schedule of Laws Repealed—Continued

Statutes at Large

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1931						
Feb. 14	189		46	1162	49 App.	231
1934						
June 13	498		48	954	49 App.	264
June 19	654		48	1113	49 App	171–173a, 175, 179–184
	656	2	48	1116	49 App.	181
1935						
Aug. 7	455		49	540	49 App.	231
1937						
Aug. 26	818		50	835	49 App.	26
1939						
June 27	244		53	855	49 App.	751–757
Aug. 9	618		53	1291	49 App.	781–789
	633	1(1st. par. under heading "Civil Aeronautics Authority.").	53	1302	49 App.	682
1940						
Apr. 22	124		54	148	45	24–34
July 2	526		54	735	49 App.	485
Sept 18	722	14(b)	54	919	49 App.	26
1941						
June 28	258	201(last par under heading "Civil Aeronautics Board")	55	282	49 App.	422a
1942						
July 24	522		56	704	49 App.	752
1943						
May 7	94	(par. under heading "Office of Administrator of Civil Aeronautics").	57	80	49 App	758
June 10	121		57	150	49 App.	752
1944						
June 30	333		58	648	49 App.	757
July 1	373	813(5th, 6th complete pars. on p. 718).	58	718	49 App.	177, 181
Oct. 3	479	13(g)			50 App.	1622
1946						
Aug. 8	911		60	944	49 App.	603
1947						
May 27	85		61	120	45	24–26
July 30	404	2	61	678	50 App.	1622
Aug. 4	471		61	743	49 App.	643

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
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1948						
Apr 17	192		62	173	49 App.	1101, 1102, 1106, 1108, 1109
June 16	473		62	450	49 App.	1151, 1151(note), 1152–1159a, 1160
	482		62	470	49 App.	524
June 19	523		62	493	49 App.	401, 523
June 25	646	4	62	986	45	87
June 29	713		62	1093	49 App.	452
	738		62	1111	49 App.	1116
July 1	792		62	1216	49 App.	452, 459, 551
1949						
July 25	359		63	478	49 App.	1111
July 26	362		63	480	49 App.	622
	363		63	480	49 App.	1114
Aug. 12	423		63	603	49 App.	1113
Aug. 15	426		63	605	49 App.	1109
Aug 30	520		63	678	49 App.	427
Oct. 1	589		63	700	50 App.	1622–1622c
Oct. 25	724		63	903	49 App.	1105
Oct. 26	751		63	925	49 App.	1104
1950						
Feb. 9	5		64	4	49 App.	1107
Mar 18	72	6, 7	64	28	49 App.	1102, 1108
Aug. 3	517		64	395	49 App.	622
Aug. 5	591		64	414	49 App.	177, 181
Aug. 8	643		64	417	49 App.	457
Aug. 9	655		64	427	49 App.	781
Sept. 9	938		64	825	49 App.	701–705
Sept. 27	1055		64	1071	49 App.	1104
Sept. 29	1107		64	1079	49 App.	460
Sept. 30	1117		64	1090	49 App.	1181–1185
1951						
Jan. 9	1214		64	1237	49 App.	1109
June 14	123		65	65	49 App.	401, 711–722
Oct. 11	495	3, 4	65	407	49 App.	177, 560
Oct. 31	655	55(b)	65	729	49 App.	787

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1952						
June 28	485	1(5)	66	286	49 App.	485
July 14	740		66	628	49 App.	401, 491, 622
1953						
July 8	181		67	140	49 App.	1116
Aug. 8	379		67	489	49 App.	176
1955						
May 19	41		69	49	49 App.	481
Aug. 3	494		69	441	49 App.	1101–1103, 1104, 1105, 1107, 1108, 1111
1956						
July 20	650		70	591	49 App.	481
	655		70	594	49 App.	722
Aug. 1	816		70	784	49 App.	483
	852	22	70	911	49 App.	789
1957						
June 13	85–50		71	69	49 App.	1201–1203
Aug. 14	85–135		71	352	45	6, 13, 34, 63
Aug. 26	85–166		71	415	49 App.	481
Sept. 7	85–307		71	629	49 App.	1324(note)
1958						
Apr 9	85–373		72	84	49 App.	486
Apr. 11	85–375		72	86	45	9
July 7	85–507	21(b)(3), (c)	72	337, 338	49 App.	457, 603
Aug. 23	85–726	(less 613(a), (b), 1402(a), (e)–(g), 1404, 1406, 1411)	72	731	49 App.	1301–1308, 1321–1325, 1341–1346, 1347–1356, 1357–1359, 1371, 1372–1376, 1377–1389, 1401–1406, 1421–1434, 1441–1443, 1461–1463, 1471–1474, 1481, 1482, 1483–1490, 1501–1515, 1516–1518, 1531–1542, 1551
1959						
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July 10	87–528		76	143	49 App.	1301, 1371, 1371(note), 1376, 1387, 1471, 1472
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June 28	90-34		81	81	49 App.	1604
Dec 1	90-169		81	526	49 App.	1604
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Apr 10	90-283		82	72	15	1410
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1971						
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Oct. 27	99–570	3401, 12001–12011, 12013–12020.	100	3207–99, 3207–170, 3207–186.	49 App.	1401, 1401(note), 1472, 1474, 1509, 1509(note), 2304, 2701, 2701(note), 2702–2718
Oct. 28	99–579		100	3309	15	1901(note), 1982, 1988, 1988(note), 1990b, 1990c
Oct. 30	99–591	101(*l*)[H.R. 5205, § 324]	100	3341–308	49 App.	2311
Nov. 10	99–646	87(d)(8)	100	3624	49 App.	1472
Nov. 14	99–654	3(b)(8)	100	3664	49 App.	1472
1987 Apr. 2	100–17	133(a)(7), (c)(2), 135(h), 205, 209, 301–328	101	171, 172, 174, 220, 222.	49 App	1601(note), 1602, 1602(note), 1603, 1604, 1607a, 1607a–1, 1607c, 1608, 1608(note), 1612–1614, 1617, 1619–1621, 1655, 2204(note), 2311, 2314, 2716
July 11	100–71	(last proviso under heading "Grants to the National Railroad Passenger Corporation").	101	447	45	562(note)
Sept. 30	100–121		101	792	49 App.	1472
Oct. 30	100–147	120	101	868	49 App.	2623
	100–148		101	878	49 App.	1542
Dec. 22	100–202	317(a), 328, 106	101	1329–380, 1329–382, 1329–433.	49	308(note)
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Dec. 30	100–223	101, 102(a)–(c), 103–105(g), 106–116, 201–207, 301–306, 308–311, 315.	101	1487, 1488, 1494, 1526, 1532.	23	401(note)
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1988 June 22	100–342	. . . .	102	624	23	401(note)
	....	. . . .	.....	.....	45	1–14, 16, 22–24, 28, 29, 32, 34, 38–40, 43, 43a, 61, 62, 62(note), 63, 64, 64a, 421(note), 431, 431(note), 437, 438, 438(note), 440, 441, 444, 445, 541, 543, 543, 543(note), 548, 602, 650a, 650a(note), 854
	....	. . . .	.....	. . ..	49 App.	26
July 19	100–372 .	. . . .	102	876	49 App.	1901(note), 1903, 1906, 1907
Aug 23	100–418	10011–10013	102	1573	49 App.	1159b
Sept. 30	100–457	317(a), 336, 346	102	2148, 2153, 2155.	45	581
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Oct. 14	100–494	6–8	102	2448	15	2001, 2002, 2006, 2006(note), 2013, 2512(note)
Oct. 31	100–561	1, 101–108(b), 109, 110, 201–211, 301–306, 308, 401.	102	2805, 2809, 2817.	15	1988
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	100–562	(less 2(e)(3))	102	2818	15	1381(note), 1397, 1397(notes)
Nov. 3	100–591	.....	102	3011	49	106
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Nov. 15	100–657	.....	102	3900	49 App.	2601(note), 2603, 2603(note), 2614, 2615, 2615(note)
Nov 17	100–685	213, 601–604	102	4093, 4102	49 App.	1353(note), 2623
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1989 June 30	101–45	501(proviso in par. under heading "Payments to Air Carriers").	103	109	49 App	1389(note)
Aug. 4	101–71	.....	103	181	49 App.	2201(note), 2212, 2212(note)
Nov. 21	101–164	331, 334(c), 335, 340	103	1097, 1098, 1099.	49 App.	1374, 1374(note), 1607a(note), 1619, 2205(note)
Dec. 11	101–213	.....	103	1843	45	1321
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July 6	101–322	2, 3	104	295	45	601, 649

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Nov. 3	101–500 .	2–14, 15(b), (d), (g)(1) . . .	104	1213, 1218, 1219, 1221.	49 App.	1814, 2501(note), 2801, 2801(note), 2802–2812
Nov. 5	101–508 . .	9102–9105, 9107–9112(b), 9113–9115, 9118, 9121–9123, 9124 "Sec. 613(c)", 9125, 9127, 9129–9131, 9202–9205, 9207–9209, 9301–9309, 10501.	104	1388–354, 1388–355, 1388–363, 1388–365, 1388–370, 1388–371, 1388–372, 1388–375, 1388–399.	45	444, 447
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	101–516 ...	101(1st sentence last proviso, 2d–last sentences in par. under heading "Facilities and Equipment"), 324, 327(a), 330(a).	104	2160, 2182, 2184.	49 App.	1348(note), 1354a, 2205(note), 2311
Nov. 16	101–599	1	104	3038	49 App.	1672, 2002
	101–604	101(a), (b), 102–111, 203(a)–(c).	104	3067, 3068, 3082.	49 App.	1356, 1357, 1357(notes), 1358a–1358d, 1358d(note), 1380, 1380(note), 1432, 1515, 1652b, 1652b(note)
	101–610	601(a)	104	3185	45	546
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Nov. 28	101–641	2–7, 9	104	4654, 4658 ..	15	1988, 1988(note)
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Aug. 26	102–345	2(a), (b), 3, 4	106	923, 925	49 App.	1422, 1429, 1471, 1475
Sept. 3	102–365	2–4(a)(3), (c), 5(a), (b), 7–9(a), 10, 12, 14, 15, 18.	106	972, 974, 975, 976, 978, 980, 982.	45	6, 10, 13, 34, 38(note), 39, 43, 64a, 431, 431(note), 437(note), 438, 441, 444
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Sept. 23	102–368	801	106	1131	49 App.	1607c
Oct. 6	102–388	(last proviso of 1st sentence, 2d–last sentences, in par. under heading "Facilities and Equipment"), 324, 355, 362, 501, 502(a), (c)–(r), 503(2).	106	1525, 1547, 1556, 1560, 1566, 1567.	15	1950
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Oct. 24	102–486 ...	403	106	2876	15	2001, 2002, 2006, 2013

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Oct. 27	102–533	2–10, 14	106	3515, 3522 ..	45	431, 502, 544, 546, 563, 601, 602, 650, 650b, 650c, 856
Oct. 28	102–548	2(a), (c)–(e)	106	3646, 3648 ..	49	501, 508, 508(note)
Oct. 31	102–581	101–103(d), 105–107(c), 108–112(b), 113–120, 124, 125, 136, 201–203(a), 205, 208, 302, 401, 402.	106	4875, 4877, 4879, 4881, 4885, 4889, 4894, 4895, 4897.	49 App.	1302, 1344, 1348, 1348(note), 1354(note), 1357, 1421(note), 1471, 1501, 1513, 1532, 1534, 1542, 2153, 2158, 2201–2208, 2210, 2210(note), 2211, 2212, 2226b, 2226c, 2227
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Approved July 5, 1994.

LEGISLATIVE HISTORY—H.R. 1758:

HOUSE REPORTS: No. 103-180 (Comm. on the Judiciary).
SENATE REPORTS: No. 103-265 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 139 (1993): July 27, considered and passed House.
Vol. 140 (1994): June 10, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
July 5, Presidential statement.

Public Law 103-273
103d Congress

An Act

July 5, 1994
[H.R 2559]

To designate the Federal building located at 601 East 12th Street in Kansas City, Missouri, as the "Richard Bolling Federal Building" and the United States Courthouse located at Ninth and Locust Streets, in Kansas City, Missouri, as the "Charles Evans Whittaker United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 601 East 12th Street in Kansas City, Missouri, shall be known and designated as the "Richard Bolling Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Richard Bolling Federal Building".

SEC. 3. DESIGNATION.

The United States Courthouse located at Ninth and Locust Streets in Kansas City, Missouri, shall be known and designated as the "Charles Evans Whittaker United States Courthouse".

SEC. 4. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Charles Evans Whittaker United States Courthouse".

Approved July 5, 1994.

LEGISLATIVE HISTORY—H R. 2559·

HOUSE REPORTS: No. 103-230 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov 15, considered and passed House.
Vol. 140 (1994): Mar. 24, considered and passed Senate, amended.
June 27, House concurred in Senate amendments.

Public Law 103-274
103d Congress

An Act

To designate the United States courthouse located in Bridgeport, Connecticut, as the "Brien McMahon Federal Building".

July 5, 1994
[H.R. 3724]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 915 Lafayette Boulevard in Bridgeport, Connecticut, shall be known and designated as the "Brien McMahon Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Brien McMahon Federal Building".

Approved July 5, 1994.

LEGISLATIVE HISTORY—H.R. 3724 (S. 1314):

HOUSE REPORTS: No. 103-513 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Feb. 1, S. 1314 considered and passed Senate.
May 23, H.R. 3724 considered and passed House.
June 22, considered and passed Senate.

Public Law 103-275
103d Congress

An Act

July 5, 1994
[H.R. 4568]

Making supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the Department of Housing and Urban Development for the fiscal year ending September 30, 1994, and for other purposes, namely:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

During fiscal year 1994, additional commitments to guarantee loans to carry out section 203(b) of the National Housing Act, as amended, shall not exceed an additional loan principal of $35,000,000,000.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for the cost of guaranteed loans, not to exceed $18,080,000, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), of which $8,080,000 shall become available upon enactment: *Provided,* That such costs, including the cost of modifying loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That notwithstanding any limitation for fiscal year 1994 in section 531(b) of the National Housing Act, these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $3,000,000,000: *Provided further,* That during fiscal year 1994, the Secretary shall sell without recourse assigned mortgage notes having an unpaid principal balance of up to $180,000,000, which notes were originally insured under section 221(g)(4) or title X of the National Housing Act: *Provided further,* That of the amount appropriated herein, an amount equal to the lesser of $10,000,000 or the excess of the net proceeds from the sale of mortgage notes above $88,900,000 shall become available only after such sale has been completed.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

During fiscal year 1994, additional commitments to issue guarantees to carry out section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $55,000,000,000.

Approved July 5, 1994.

LEGISLATIVE HISTORY—H.R. 4568:

HOUSE REPORTS: No. 103-550 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 21, considered and passed House.
June 22, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
July 5, Presidential statement.

Public Law 103-276
103d Congress

An Act

July 5, 1994
[H.R. 4581]

To provide for the imposition of temporary fees in connection with the handling of complaints of violations of the Perishable Agricultural Commodities Act, 1930.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

7 USC 499f note.

SECTION 1. FILING AND HANDLING FEES FOR COMPLAINTS OF VIOLATIONS OF PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930.

(a) TEMPORARY FILING FEE REQUIRED.—During fiscal years 1995 and 1996, the Secretary of Agriculture shall require persons who submit petitions to the Secretary under section 6(a) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(a)), alleging a violation of section 2 of such Act (7 U.S.C. 499b), to include a filing fee of $60 per petition.

(b) TEMPORARY HANDLING FEE REQUIRED.—During fiscal years 1995 and 1996, if the Secretary determines under section 6(a) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(a)), that the facts contained in a petition described in such section warrant further action, the person or persons submitting the petition shall submit to the Secretary a handling fee of $300. The Secretary may not forward a copy of the complaint to the commission merchant, dealer, or broker involved until after the Secretary receives the required handling fee. In determining the amount of damages incurred by an injured person or persons preparatory to issuing a reparation order under section 7 of such Act (7 U.S.C. 499g), the Secretary shall include the amount of any handling fee paid by the injured person or persons under this subsection.

(c) DEPOSIT OF FEES.—The Secretary shall deposit fees submitted under this section into the Perishable Agricultural Commodities Act Fund.

Approved July 5, 1994.

LEGISLATIVE HISTORY—H.R. 4581:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 16, considered and passed House.
June 28, considered and passed Senate.

Public Law 103-277
103d Congress

An Act

To extend the Export Administration Act of 1979.

July 5, 1994
[H.R. 4635]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "June 30, 1994" and inserting "August 20, 1994".

Approved July 5, 1994.

LEGISLATIVE HISTORY—H.R. 4635:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 27, considered and passed House.
June 30, considered and passed Senate.

Public Law 103-278
103d Congress

Joint Resolution

July 20, 1994
[S.J. Res. 187]

Designating July 16 through July 24, 1994, as "National Apollo Anniversary Observance".

Whereas President Kennedy in 1961 called upon the United States to face the challenge of those extraordinary times by sending a mission to the Moon;

Whereas the United States Government, the National Aeronautics and Space Administration, and the American people committed great resources, time, and human labor within one decade to span the 238,700 miles between the Earth and the Moon;

Whereas the United States rose to the challenge and formulated the Apollo missions culminating in the liftoff on July 16, 1969, of the Apollo 11 Mission to the Moon;

Whereas 25 years ago astronaut Neil Armstrong, with the help of Colonel Edwin (Buzz) Aldrin, Jr. (USAF) and Lieutenant Colonel Michael Collins (USAF), took that first significant step and became the first human to set foot on the surface of another world;

Whereas that small step furthered the development of space technology for the lasting benefit of all mankind; and

Whereas such an event united the world and our many cultures for a brief moment under the flag of peaceful exploration: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 16, 1994, through July 24, 1994, is designated as "National Apollo Anniversary Observance", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

Approved July 20, 1994.

LEGISLATIVE HISTORY—S.J. Res. 187:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 24, considered and passed Senate.
July 12, considered and passed House.

Public Law 103-279
103d Congress

An Act

To amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, and for other purposes.

July 21, 1994
[H.R. 3567]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

John F. Kennedy Center Act Amendments of 1994.
20 USC 76h note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "John F. Kennedy Center Act Amendments of 1994".

SEC. 2. FINDINGS, BUREAU, BOARD OF TRUSTEES, AND ADVISORY COMMITTEE.

(a) FINDINGS.—Section 1 of the John F. Kennedy Center Act (20 U.S.C. 76h note) is amended—

(1) by striking "SECTION 1." and inserting the following:

"SECTION 1. SHORT TITLE AND FINDINGS.

"(a) SHORT TITLE.—"; and

(2) by adding at the end the following new subsection:

"(b) FINDINGS.—Congress finds that—

"(1) the late John Fitzgerald Kennedy served with distinction as President of the United States and as a Member of the Senate and the House of Representatives;

"(2) by the untimely death of John Fitzgerald Kennedy the United States and the world have suffered a great loss;

"(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

"(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the District of Columbia and its environs;

"(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of the United States and other countries by producing and presenting music, opera, theater, dance, and other performing arts; and

"(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia.".

(b) EX OFFICIO TRUSTEES.—

(1) IN GENERAL.—Section 2 of such Act (20 U.S.C. 76h) is amended—

(A) by striking the section heading and all that follows before "There is hereby" and inserting the following:

"SEC. 2. BOARD OF TRUSTEES.

"(a) ESTABLISHMENT.—";

(B) in the first sentence, by inserting "as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy," after "thereof"; and

(C) in the second sentence—

(i) by striking "Chairman of the District of Columbia Recreation Board" and inserting "Superintendent of Schools of the District of Columbia"; and

(ii) by striking "three Members of the Senate" and all that follows before "ex officio" and inserting "the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate".

20 USC 76h note.

(2) EFFECTIVE DATES.—

(A) SUPERINTENDENT OF SCHOOLS OF THE DISTRICT OF COLUMBIA.—The amendment made by paragraph (1)(C)(i) shall take effect on the date of expiration of the term of the Chairman of the District of Columbia Recreation Board serving as a trustee of the John F. Kennedy Center for the Performing Arts on the date of enactment of this Act.

(B) MEMBERS OF CONGRESS.—The amendment made by paragraph (1)(C)(ii) shall take effect on the date of enactment of this Act.

(c) GENERAL TRUSTEES.—Subsection (b) of section 2 of such Act is amended to read as follows:

20 USC 76h.

President.

"(b) GENERAL TRUSTEES.—The general trustees shall be appointed by the President of the United States. Each trustee shall hold office as a member of the Board for a term of 6 years, except that—

"(1) any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term;

"(2) a member shall continue to serve until the successor of the member has been appointed; and

"(3) the term of office of a member appointed before the date of enactment of the John F. Kennedy Center Act Amendments of 1994 shall expire as designated at the time of appointment.".

(d) ADVISORY COMMITTEE ON THE ARTS.—Section 2(c) of such Act is amended—

(1) by inserting "ADVISORY COMMITTEE ON THE ARTS.—" before "There shall be";

(2) in the first sentence, by inserting "of the United States" after "President" the first place it appears;

(3) in the fifth sentence, by striking "cultural activities to be carried on in" and inserting "cultural activities to be carried out by"; and

(4) in the last sentence, by striking all that follows "compensation" and inserting a period.

SEC. 3. DUTIES OF THE BOARD.

Section 4 of the John F. Kennedy Center Act (20 U.S.C. 76j) is amended by striking the section heading and all that follows through the period at the end of subsection (a) and inserting the following:

"SEC. 4. DUTIES OF THE BOARD.

"(a) PROGRAMS, ACTIVITIES, AND GOALS.—

"(1) IN GENERAL.—The Board shall—

"(A) present classical and contemporary music, opera, drama, dance, and other performing arts from the United States and other countries;

"(B) promote and maintain the John F. Kennedy Center for the Performing Arts as the National Center for the Performing Arts—

"(i) by developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults, and educators designed specifically to foster an appreciation and understanding of the performing arts;

"(ii) by developing and maintaining a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

"(iii) by conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development, and implementation of model programs and projects in the arts for disabled individuals;

"(C) strive to ensure that the education and outreach programs and policies of the John F. Kennedy Center for the Performing Arts meet the highest level of excellence and reflect the cultural diversity of the United States;

"(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

"(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President;

"(F) develop, and update annually, a comprehensive building needs plan for the features of the John F. Kennedy Center for the Performing Arts in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994;

"(G) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (includ-

ing a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature; and

"(H) provide—

"(i) information and interpretation; and

"(ii) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations.

"(2) ADMINISTRATIVE POWERS AND DUTIES.—

"(A) AUTHORITY TO ENTER INTO CONTRACTS.—The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or other private persons in order to carry out the functions of the Board under this Act. The authority described in the preceding sentence includes utilizing the services and facilities of other agencies, including the Department of the Interior, the General Services Administration, and the Smithsonian Institution.

"(B) PREPARATION OF BUDGET.—The Board shall prepare a budget pursuant to sections 1104, 1105(a), and 1513(b) of title 31, United States Code.

"(C) USE OF AGENCY PERSONNEL.—The Board may utilize or employ the services of the personnel of any agency or instrumentality of the Federal Government or the District of Columbia, with the consent of the agency or the instrumentality concerned, on a reimbursable basis, and utilize voluntary and uncompensated personnel.

"(D) SELECTION OF CONTRACTORS.—In carrying out the duties of the Board under this Act, the Board may negotiate any contract for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price.

"(E) MAINTENANCE OF HALLS.—The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer of the John F. Kennedy Center for the Performing Arts in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial and in a manner consistent with other national Presidential memorials.

"(F) MAINTENANCE OF GROUNDS.—The Board shall manage and operate the grounds of the John F. Kennedy Center for the Performing Arts in a manner consistent with National Park Service regulations and agreements in effect on the date of enactment of the John F. Kennedy Center Act Amendments of 1994. No change in the management and operation of the grounds may be made without

the express approval of Congress and of the Secretary of the Interior.".

SEC. 4. OFFICERS AND EMPLOYEES; REVIEW OF BOARD ACTIONS.

(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—Section 5 of the John F. Kennedy Center Act (20 U.S.C. 76k) is amended—

(1) by striking the section heading and all that follows through "(a)" and inserting the following:

"SEC. 5. POWERS OF THE BOARD.

"(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—"; and

(2) in subsection (a), by striking "Smithsonian Institution" and inserting "John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution,".

(b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—Subsection (b) of section 5 of such Act is amended to read as follows:

"(b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—

"(1) CHAIRPERSON AND SECRETARY.—The Board shall appoint and fix the compensation and duties of a Chairperson of the John F. Kennedy Center for the Performing Arts, who shall serve as the chief executive officer of the Center, and a Secretary of the John F. Kennedy Center for the Performing Arts. The Chairperson and Secretary shall be well qualified by experience and training to perform the duties of their respective offices.

"(2) SENIOR LEVEL EXECUTIVE AND OTHER EMPLOYEES.—The Chairperson of the John F. Kennedy Center for the Performing Arts may appoint—

"(A) a senior level executive who, by virtue of the background of the individual, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of title 5, United States Code, be appointed and compensated with appropriated funds, except that the compensation may not exceed the maximum rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

"(B) such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board.".

(c) TRANSFERS; REVIEW OF BOARD ACTIONS.—Section 5 of such Act is amended by striking subsection (c) and inserting the following new subsections:

"(c) TRANSFER OF PROPERTY.—Not later than October 1, 1995, the property, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred from the Secretary of the Interior pursuant to the amendments made by the John F. Kennedy Center Act Amendments of 1994 shall be transferred, subject to section 1531 of title 31, United States Code, to the Board as the Board and the Secretary of the Interior may determine appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which, and subject to the terms under which, the funds were originally authorized and appropriated.

"(d) TRANSFER OF PERSONNEL.—

"(1) IN GENERAL.—Employees of the National Park Service assigned to duties related to the functions being undertaken by the Board shall be transferred with their functions to the Board not later than October 1, 1995.

"(2) RIGHTS AND BENEFITS.—Transferred employees shall remain in the Federal competitive service and retain all rights and benefits provided under title 5, United States Code. For a period of not less than 3 years after the date of transfer of an employee under paragraph (1), the transferred employee shall retain the right of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior.

"(3) PARK POLICE.—All United States Park Police and Park Police guard force employees assigned to the John F. Kennedy Center for the Performing Arts shall remain employees of the National Park Service.

"(4) COSTS.—All usual and customary costs associated with any adverse action or grievance proceeding resulting from the transfer of functions under this section that are incurred before October 1, 1995, shall be paid from funds appropriated to the John F. Kennedy Center for the Performing Arts.

"(5) REORGANIZATION AUTHORITY.—Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Performing Arts in accordance with laws governing reorganizations.

"(e) REVIEW OF BOARD ACTIONS.—The actions of the Board relating to performing arts and to payments made or directed to be made by the Board from any trust funds shall not be subject to review by any officer or agency other than a court of law.

"(f) COLLECTIVE BARGAINING.—

"(1) DEFINITION.—As used in this subsection, the term 'theatrical employee' means a nonappropriated fund employee of the Board, who is engaged in a box office, performing, or theatrical trade that is the subject of a collective bargaining agreement as of January 1, 1994, including any change in the trade as a result of a technological advance.

"(2) COLLECTIVE BARGAINING.—

"(A) IN GENERAL.—For the purposes of the National Labor Relations Act (29 U.S.C. 151 et seq.) and the Labor-Management Relations Act, 1947 (29 U.S.C. 141 et seq.)—

"(i) each theatrical employee shall be considered to be an 'employee' within the meaning of section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)); and

"(ii) with respect to a theatrical employee, the Board shall be considered to be an 'employer' within the meaning of section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)).

"(B) RIGHTS AND OBLIGATIONS.—With respect to each theatrical employee, the theatrical employee and the Board shall have all of the rights and obligations specified in such Acts.".

SEC. 5. REVIEWS, AUDITS, AND CLAIMS.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended—

(1) in subsection (c), by striking "its operations" and inserting "the operations of the Board"; and

(2) by striking subsections (e) and (f) and inserting the following new subsections:

"(d) AUDIT OF ACCOUNTS.—Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this Act.

"(e) INSPECTOR GENERAL.—The functions of the Board funded by funds appropriated pursuant to section 12 shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App. 3). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

"(f) PROPERTY AND PERSONNEL COMPENSATION.—

"(1) IN GENERAL.—The Board may procure insurance against any loss in connection with the property of the Board and other assets administered by the Board. Each employee and volunteer of the Board shall be considered to be a civil employee of the United States (within the meaning of the term 'employee' as defined in section 8101(1) of title 5, United States Code), except that the Board shall continue to provide benefits with respect to any disability or death resulting from a personal injury to a nonappropriated fund employee of the Board sustained while in the performance of the duties of the employee for the Board pursuant to the workers compensation statute of the jurisdiction in which the John F. Kennedy Center for the Performing Arts is located. The disability or death benefits referred to in the preceding sentence, whether under the workers compensation statute referred to in the preceding sentence or under chapter 81 of title 5, United States Code, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers of the Board.

"(2) FEDERAL TORT CLAIMS.—For the purposes of chapter 171 of title 28, United States Code, an employee of the Board shall be considered to be an 'employee of the government' and the Board shall be considered to be a 'Federal agency'. No employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28, United States Code, for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.".

SEC. 6. TECHNICAL AMENDMENTS.

Section 10 of the John F. Kennedy Center Act (20 U.S.C. 76p) is amended—

(1) by striking "he" and inserting "the Secretary"; and

(2) by striking "his judgment" and inserting "the judgment of the Secretary".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended by adding at the end the following new section:

20 USC 76r.

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H) $12,000,000 for each of fiscal years 1995 through 1999.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1) $9,000,000 for each of fiscal years 1995 through 1999.

"(c) LIMITATION ON USE OF FUNDS.—No funds appropriated pursuant to this section may be used for any direct expense incurred in the production of a performing arts attraction, for personnel who are involved in performing arts administration (including any supply or equipment used by the personnel), or for production, staging, public relations, marketing, fundraising, ticket sales, or education. Funds appropriated directly to the Board shall not affect nor diminish other Federal funds sought for any performing arts function and may be used to reimburse the Board for that portion of costs that are Federal costs reasonably allocated to building services and theater maintenance and repair.".

SEC. 8. DEFINITIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) (as amended by section 7) is further amended by adding at the end the following new section:

20 USC 76s.

"SEC. 13. DEFINITIONS.

"As used in this Act, the terms 'building and site of the John F. Kennedy Center for the Performing Arts' and 'grounds of the John F. Kennedy Center for the Performing Arts' refer to the site in the District of Columbia on which the John F. Kennedy Center building is constructed and that extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563, and dated April 20, 1994, which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior.".

SEC. 9. RULES AND REGULATIONS.

(a) AUTHORITY TO PRESCRIBE.—Section 5(a) of the Act of October 24, 1951 (65 Stat. 634; chapter 559; 40 U.S.C. 193r(a)), is amended—

(1) by striking "Institution and" and inserting "Institution,"; and

(2) by inserting ", and the Trustees of the John F. Kennedy Center for the Performing Arts," after "National Gallery of Art".

(b) AUTHORITY TO SUSPEND.—Section 8 of such Act (40 U.S.C. 193u) is amended by striking "the Secretary of the Smithsonian Institution or the Trustees of the National Gallery of Art or" each place it appears and inserting "the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, the Trustees of the John F. Kennedy Center for the Performing Arts, or".

(c) BUILDINGS AND GROUNDS DEFINED.—Section 9 of such Act (40 U.S.C. 193v) is amended by adding at the end the following new paragraph:

"(3) The site of the John F. Kennedy Center for the Performing Arts, which shall be held to extend to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563, and dated April 20, 1994, which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior.".

Approved July 21, 1994.

LEGISLATIVE HISTORY—H.R. 3567:

HOUSE REPORTS: No. 103-453, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 10, considered and passed House.
June 27, considered and passed Senate, amended.
June 28, House concurred in Senate amendment.

Public Law 103-280
103d Congress

An Act

July 22, 1994
[S. 273]

To remove certain restrictions from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF DEED RESTRICTIONS.

(a) IN GENERAL.—Subject to the terms and conditions set forth in subsection (b), the Secretary of the Interior (hereinafter referred to as the "Secretary") shall execute such instruments as are necessary to remove the deed restrictions described in subsection (c), in order to allow the city of North Charleston, South Carolina (hereinafter referred to as the "city") to enter into a land exchange.

(b) TERMS AND CONDITIONS.—The Secretary shall remove the deed restrictions described in subsection (c) on the condition that—

(1) the city exchange the parcel of land described in subsection (d) for another parcel of land to be subject to the same restrictions, exceptions, reservations, conditions, and covenants described in subsection (c), and encumbered by a reversionary interest to be held by the United States to be exercised, at its option, should all or any portion of such parcel cease to be used for public park or recreational purposes;

(2) the city convey all mineral interests to the United States in the parcel received by the city pursuant to the land exchange referred to in paragraph (1); and

(3) the city receive such sums as are necessary to equalize the values of the parcels exchanged: *Provided,* That any sums received by the city pursuant to this paragraph shall be used by the city only for public park or recreation purposes.

(c) DEED RESTRICTIONS.—The deed restrictions referred to in paragraphs (a) and (b) are those restrictions, exceptions, reservations, conditions, and covenants described in the Quitclaim Deed of the United States to the city of North Charleston, South Carolina, dated August 9, 1978 (Deed Books of Charleston County, South Carolina, on page 318 of book T116).

(d) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) consists of approximately 21.6 acres in Charleston County, South Carolina, as described on page 318 of book T116 of the Deed Books of Charleston County, South Carolina.

Approved July 22, 1994.

LEGISLATIVE HISTORY—S. 273:

HOUSE REPORTS: No. 103-591 (Comm on Natural Resources).
SENATE REPORTS: No 103-89 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): July 21, considered and passed Senate.
Vol. 140 (1994): July 12, considered and passed House.

Public Law 103-281
103d Congress

An Act

July 22, 1994
[S. 1402]

To convey a certain parcel of public land to the County of Twin Falls, Idaho, for use as a landfill, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Twin Falls County Landfill Act of 1994.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Twin Falls County Landfill Act of 1994".

SEC. 2. CONVEYANCE.

Effective date.

(a) Effective on the tender by the County of Twin Falls, Idaho, of the fair market value for the lands described in subsection (b) to the Secretary of the Interior, all right, title, and interest in and to such lands, except for subsurface minerals which are reserved to the United States, is transferred by operation of law to the County of Twin Falls. The Secretary shall evidence such conveyance as soon as possible thereafter by appropriate quitclaim deed.

(b) DESCRIPTION OF LAND.—The lands to be conveyed pursuant to section 2 of this Act comprise approximately 1083.77 acres of Federal lands described as the SE¼SW¼SE¼, S½SE¼SE¼ of section 31; W½, SW¼SW¼SE¼ of section 32; Township 11 South, Range 17 East, Boise Meridian and the West Half of Lot 2, Lot 3, Lot 4, W½SW¼NE¼, S½NW¼, SW¼ and the W½W½SE¼ of section 5; Lot 1, East Half of Lot 2, E½SW¼NE¼, SE¼NE¼, E½W½SE¼, and the E½SE¼ of section 6; N½NE¼NE¼, NE¼NW¼NE¼ of section 7; NW¼NW¼NE¼, N½N½NW¼ of section 8; of Township 12 South, Range 17 East, Boise Meridian.

(c) Subject to valid existing rights, the lands referred to in subsection (b) are withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

Approved July 22, 1994.

LEGISLATIVE HISTORY—S. 1402:

HOUSE REPORTS: No. 103-589 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 25, considered and passed Senate.
July 12, considered and passed House

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Public Law 103-282
103d Congress

An Act

July 22, 1994
[H.R. 4322]

To amend the Small Business Act to increase the authorization for the development company program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEVELOPMENT COMPANY LOANS.

Section 20(i)(2) of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking "$8,458,000,000" and inserting "$8,758,000,000"; and

(2) by striking "$1,200,000,000" and inserting "$1,500,000,000".

SEC. 2. DISASTER LOAN PERSONNEL.

Section 5(b)(8) of the Small Business Act (15 U.S.C. 634(b)(8)) is amended by striking the semicolon and inserting the following: ": *Provided*, That the Administrator may extend the six-month limitation for an additional six months if the Administrator determines the extension is necessary to continue efficient disaster loan making activities;".

Approved July 22, 1994.

LEGISLATIVE HISTORY—H.R. 4322:

HOUSE REPORTS: No. 103-572 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 19, considered and passed House.
July 20, considered and passed Senate.

Public Law 103-283
103d Congress

An Act

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes.

July 22, 1994
[H.R. 4454]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes, namely:

Legislative Branch Appropriations Act, 1995.

TITLE I—CONGRESSIONAL OPERATIONS

Congressional Operations Appropriations Act, 1995.
2 USC 60a note.

SENATE

MILEAGE AND EXPENSES ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $71,338,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,513,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $457,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $2,195,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $656,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $996,000 for each such committee; in all, $1,992,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $384,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $192,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $12,961,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $32,739,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,197,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $17,052,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $3,381,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $936,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,287,000 for each such committee; in all, $2,574,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $78,112,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $348,000.

SECRETARY OF THE SENATE

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Office of the Secretary of the Senate, $1,966,500 and, in addition, $7,000,000, to be derived by transfer from funds appropriated in fiscal year 1992 for "Salaries, Officers and Employees" and to remain available until September 30, 1998.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $74,894,000, of which $21,347,000 shall remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $7,429,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $206,542,000.

OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

For salaries and expenses of the Office of Senate Fair Employment Practices, $889,000.

SETTLEMENTS AND AWARDS RESERVE

For expenses for settlements and awards, $1,000,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $11,000,000, to remain available until September 30, 1996.

RESCISSION

Of the funds previously appropriated under the heading "SENATE", $23,000,000 are rescinded.

ADMINISTRATIVE PROVISIONS

Effective date.
2 USC 121d note.

SEC. 1. Effective on and after the date of enactment of this Act, the Secretary of the Senate, subject to the approval of the Committee on Appropriations of the Senate, is authorized to transfer up to $300,000 from any Senate appropriations account with respect to which the Secretary has disbursing authority to the revolving fund established under section 2(c) under the subheading "ADMINISTRATIVE PROVISIONS" under the heading "SENATE" in Public Law 102–392 (2 U.S.C. 121d(c)) to provide additional capitalization for such revolving fund. Any moneys so transferred shall be available for use in the same manner and to the same extent as the moneys otherwise in such revolving fund.

Reports.
40 USC 831 note.

SEC. 2. (a) Not later than September 30, 1995, the Secretary of the Senate shall submit to the Committee on Rules and Administration a report evaluating the quality and scope of the educational experience available to visitors to the Senate concerning the constitutional and historical role of the Senate in American Government and society.

(b) The Secretary of the Senate shall include in the report a plan for the improvement of the educational experience available to Senate visitors. Senate officers and officials and legislative branch support agencies shall work with the Secretary of the Senate in the development of the plan. Appropriate executive branch agencies, such as the National Archives and Records Administration and the Smithsonian Institution, are encouraged to offer assistance to the Secretary of the Senate in developing the plan.

(c) There are authorized to be paid out of the contingent fund of the Senate, upon vouchers approved by the Secretary of the Senate, such sums as are necessary to reimburse the routine expenses associated with developing the report required by this section.

SEC. 3. (a) Section 105(a) of the Legislative Branch Appropriations Act 1965 (Public Law 88–454; 2 U.S.C. 104a) is amended by adding at the end thereof the following new paragraph:

Reports.

"(4) Each report by the Secretary of the Senate required by paragraph (1) shall contain a separate summary of Senate accounts statement for each office of the Senate authorized to obligate appropriated funds, including each Senator's office, each officer of the

Senate, and each committee of the Senate. The summary of Senate accounts statement shall include—

"(A) the total amount of appropriations made available or allocated to the office;

"(B) any supplemental appropriation, transfer of funds, or rescission and the effect of such action on the appropriation or allocation to the office;

"(C) total expenses incurred for salary and office expenses; and

"(D) the unexpended balance.".

(b) Section 318 of the Legislative Branch Appropriations Act, 1991 (Public Law 101–520; 2 U.S.C. 59f) is amended by striking the period at the end of the last sentence and inserting the following: ", and in the case of each Senator, the allocation made to such Senator from the appropriation for official mail expenses.".

(c) The amendments made by this section shall be effective with respect to— Effective date. 2 USC 59f note.

(1) reports and statements covering periods beginning on and after October 1, 1994; and

(2) appropriations made and obligations incurred on and after such date.

SEC. 4. (a) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Daniel Webster Senate Page Residence Revolving Fund (hereafter referred to in this section as the "fund"). The fund shall consist of all rental payments and other moneys collected or received by the Sergeant at Arms with regard to the Daniel Webster Senate Page Residence. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate in connection with operation and maintenance of the Daniel Webster Senate Page Residence not normally performed by the Architect of the Capitol. In addition, such moneys may be used by the Sergeant at Arms to purchase food and food related items and fund activities for the pages. Nomenclature. 2 USC 88b-7.

(b) All moneys received from rental payments and other moneys collected or received by the Sergeant at Arms with regard to the Daniel Webster Senate Page Residence shall be deposited in the fund and shall be available for purposes of this section.

(c) Disbursements from the fund shall be made upon vouchers approved by the Sergeant at Arms, or the designee of the Sergeant at Arms.

(d) The Sergeant at Arms is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to provide for the operations of the Daniel Webster Senate Page Residence.

SEC. 5. Effective October 1, 1994, each of the figures contained in section 506(b)(3)(A)(iii) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)(3)(A)(iii)) is increased by $50,000: *Provided*, That, in any fiscal year beginning with fiscal year 1995, a Senator may use funds provided for official office expenses, but not to exceed $50,000, for mass mailing, as defined in section 6(b)(1) and all such mass mailings shall be under the frank. Effective date. 39 USC 3210 note.

SEC. 6. (a) This section shall apply to mailings by Senators, made during fiscal year 1995 and each fiscal year thereafter in addition to any other law relating to the use of the franking privilege. 39 USC 3210 note.

(b) For the purposes of this paragraph—

(1) the term "mass mailing"—

(A) means, with respect to a session of Congress, a mailing of more than 500 newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), but

(B) does not include a mailing—

(i) of matter in direct response to a communication from a person to whom the matter is mailed;

(ii) to other Members of Congress or to a Federal, State, or local government official;

(iii) of a news release to the communications media;

(iv) of a town meeting notice, but no such mailing may be made fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election; or

(v) of a Federal publication or other item that is provided by the Senate to all Senators or made available by the Senate for purchase by all Senators from official funds specifically for distribution.

(c) Except as provided in section 5, a Senator may not mail a mass mailing under the frank.

Regulations.

(d) The Senate Committee on Rules and Administration shall prescribe rules and regulations and take other action as the Committee considers necessary and proper for Senators to comply with this section and regulations.

SEC. 7. Of the funds previously appropriated under the heading "SENATE", $65,000,000 shall not remain available for obligation beyond the date of enactment of this Act.

SEC. 8. None of the funds appropriated under the heading "SENATE" under the subheading "OFFICIAL MAIL COSTS" may be used in any fiscal year beginning on or after October 1, 1994, for mass mailings as defined in section 6(b)(1).

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the estate of William H. Natcher, late a Representative from the Commonwealth of Kentucky, $133,600.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $728,468,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $6,096,000, including: Office of the Speaker, $1,444,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,042,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,429,000, including $10,000 for official expenses of the Minority Leader; Office of the

Majority Whip, $1,284,000, including $5,000 for official expenses of the Majority Whip and not to exceed $563,000 for the Chief Deputy Majority Whips; and Office of the Minority Whip, $897,000, including $5,000 for official expenses of the Minority Whip and not to exceed $104,000 for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of official and representative duties, $240,417,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $73,925,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $401,000.

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $53,191,000.

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE INFORMATION SYSTEMS

For salaries, expenses and temporary personal services of House Information Systems, under the direction of the Committee on House Administration, $22,437,000, of which $16,017,000 is provided herein: *Provided,* That House Information Systems is authorized to receive reimbursement for services provided from Members of the House of Representatives and other Governmental entities and such reimbursement shall be deposited in the Treasury for credit to this account: *Provided further,* That amounts so credited for fiscal year 1994 and not obligated shall be available for obligation in fiscal year 1995.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $244,572,000, including: Official Expenses of Members, $79,800,000; supplies, materials, administrative costs and Federal tort claims, $6,103,000; net expenses of purchase, lease and maintenance of office equipment, $11,779,000; net expenses for telecommunications, $10,872,000; furniture and furnishings, $2,012,000; stenographic reporting of committee hearings, $1,100,000; reemployed annuitants reimbursements, $1,279,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $130,849,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles,

interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $778,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed, $6,495,000: *Provided,* That the Federal Bureau of Investigation, notwithstanding any other provision of law, may in any fiscal year pay all administrative uncontrollable overtime accrued by its employees while on detail to the Committee on Appropriations.

2 USC 72a note.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $31,000,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $56,354,000, including: for salaries and expenses of the Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $14,158,000; for salaries and expenses of the Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,502,000; for salaries and expenses of the Office of the Doorkeeper, including overtime as authorized by law, $11,506,000; for salaries and expenses of the Office of Director of Non-legislative and Financial Services, $16,360,000; for salaries and expenses of the Office of Inspector General, $295,000; for salaries and expenses of the Office of General Counsel, $762,000; Office of the Chaplain, $124,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $983,000; for salaries and expenses of the Office of the Historian, $337,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,630,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,400,000; six minority employees, $747,000; the House Democratic Steering and Policy Committee and the Democratic Caucus, $1,523,000; the House Republican Conference, $1,523,000; and other authorized employees, $504,000.

ADMINISTRATIVE PROVISION

2 USC 74a-6.

SEC. 101. (a) TRANSFER OF MAJORITY AND MINORITY PRINTERS TO DIRECTOR OF NON-LEGISLATIVE AND FINANCIAL SERVICES.—As

soon as practicable, but not later than October 1, 1994, authority over the Majority and Minority Printers of the House of Representatives shall be transferred to the Director of Non-legislative and Financial Services of the House.

(b) FEES FOR OFFICES AND UTILITIES.—

(1) IN GENERAL.—Upon the transfer required by subsection (a), the Director shall charge the Majority and Minority Printers a reasonable monthly fee for the rental of offices and utilities.

(2) AVAILABILITY OF RECEIPTS.—The amounts received under this subsection shall be deposited in the Treasury of the United States for credit to the appropriation for "Salaries and Expenses of the House of Representatives", and shall be available for expenditure in any fiscal year to the extent provided in appropriations Acts.

(c) APPLICABILITY.—This section shall take effect upon the date of the enactment of this Act and shall apply to any fiscal year.

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,090,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,370,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $6,019,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two assistants and $400 per month each not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) $918,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,335,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $69,382,000, of which $33,463,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $35,919,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That of the amounts appropriated for fiscal year 1995 for salaries, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions to employees' benefits funds under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, uniforms, weapons, supplies, materials, training, medical services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $2,000,000, to be disbursed by the Clerk of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1995 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

ADMINISTRATIVE PROVISION

SEC. 102. Amounts appropriated for fiscal year 1995 for the Capitol Police Board under the heading "CAPITOL POLICE" may be transferred between the headings "SALARIES" and "GENERAL EXPENSES", upon approval of the Committees on Appropriations of the Senate and the House of Representatives.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,628,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board

is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $363,000, to be disbursed by the Secretary of the Senate.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92–484), including official reception and representation expenses (not to exceed $5,500 from the Trust Fund), and expenses incurred in administering an employee incentive awards program (not to exceed $2,500), and rental of space in the District of Columbia, $21,970,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92–484: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or shall be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93–344), including not to exceed $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $23,188,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 221 fulltime equivalent positions: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98–63: *Provided further,* That the Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose of surplus or obsolete personal property by inter-agency transfer, donation, or discarding.

2 USC 605

2 USC 606.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law, $9,103,000.

TRAVEL

40 USC 166a.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; security installations which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $200,000; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $22,797,000, of which $2,763,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,270,000, of which $25,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $47,619,000, of which $7,709,000 shall remain available until expended: *Provided,* That of the amount appropriated under this heading such sums as are necessary shall be used, at the direction of the Sergeant at Arms and Doorkeeper of the Senate, to complete improvements to the property acquired pursuant to section 1202 of Public Law 103–50.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $41,364,000, of which $10,260,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $33,437,000, of which $865,000 shall remain available until expended: *Provided,* That not to exceed $3,200,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1995.

ADMINISTRATIVE PROVISION

SEC. 103. The matter in chapter III of title I of the Supplemental Appropriations Act, 1975 under "Capitol Buildings and Grounds" under the heading "ARCHITECT OF THE CAPITOL" (40 U.S.C. 166b–2) is amended by striking "to grade 11" and inserting "at not to exceed grade 12".

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $60,084,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further,* That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. 2 USC 166 note

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $89,724,000: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1995".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $3,230,000, and, in addition, $7,000,000 to remain available until expended to be derived by transfer from funds previously made available without fiscal year limitation under the heading "ARCHITECT OF THE CAPITOL".

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $210,164,000, of which not more than $7,869,000 shall be derived from collections credited to this appropriation during fiscal year 1995 under the Act of June 28, 1902 (chapter 1301;

32 Stat. 480; 2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,869,000: *Provided further,* That of the total amount appropriated, $8,458,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $27,456,000, of which not more than $14,500,000 shall be derived from collections credited to this appropriation during fiscal year 1995 under 17 U.S.C. 708(c), and not more than $2,911,000 shall be derived from collections during fiscal year 1995 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than $17,411,000: *Provided further,* That up to $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further,* That not to exceed $2,250 may be expended on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for activities of the International Copyright Institute.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $44,951,000, of which $11,694,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,825,000, of which $1,886,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $194,290, of which $58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 205. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 206. Under the heading "Library of Congress" obligational authority shall be available, in an amount not to exceed $75,236,000 for reimbursable activities, $8,706,000 for revolving fund activities, and $6,150,000 for non-expenditure transfer activities in support of parliamentary development during the current fiscal year.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $12,483,000, of which $3,441,000 shall remain available until expended.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $32,207,000: *Provided,* That the objectives of chapter 41 of title 44, United States Code, as enacted by the Government Printing Office Electronic Information Access Enhancement Act of 1993, shall be carried out through cost savings: *Provided further,* That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $130,000: *Provided further,* That funds, not to exceed $2,000,000, from current year appropriations are authorized for producing and disseminating Congressional Serial Sets and other related Congressional/non-Congressional publications for 1993 and 1994 to depository and other designated libraries.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That the revolving fund shall be available for the hire or purchase of passenger motor vehicles, not to exceed a fleet of twelve: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "OFFICE OF SUPERINTENDENT OF DOCUMENTS, SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 4,293 workyears: *Provided further,* That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further,* That activities financed through the revolving fund may provide information in any format: *Provided further,* That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further,* That expenses for attendance at meetings shall not exceed $75,000.

44 USC 501 note

SEC. 207. Section 207(a) of the Legislative Appropriations Act, 1993 (Public Law 102-392) is amended—

(1) in paragraph (2)(A) by inserting after "as certified by the Public Printer," the following: "if the work is included in a class of work which"; and

(2) by amending paragraph (3) to read as follows:

"(3) As used in this section, the term 'printing' includes the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes."

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to AID projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $443,360,000: *Provided,* That not more than $1,000,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1995: *Provided further,* That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than $6,000,000 of such funds shall be available for use in fiscal year 1995: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That to the extent that funds are otherwise avail-

31 USC 9105 note.

able for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

Contracts.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. The last sentence of section 307(a) of the Legislative Branch Appropriations Act, 1994 (2 U.S.C. 60–1 note) is repealed.

SEC. 306. Annual and sick leave balances of employees transferred from the Office of the Director of Non-legislative and Financial Services, House Postal Operations, to the Architect of the Capitol, as of October 31, 1993, shall be credited to the leave accounts of such personnel, subject to the provisions of section 6304 of title 5, United States Code, upon their transfer to the appropriation for House office buildings.

SEC. 307. (a) CIVIL SERVICE RETIREMENT SYSTEM.—The first sentence of section 8335(d) of title 5, United States Code, is amended by striking "55" and inserting "57".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8425 of title 5, United States Code, is amended—

(A) in the first sentence of subsection (b) by striking "member of the Capitol Police or" and "member or";

(B) by redesignating subsection (c) as subsection (d); and

(C) by inserting after subsection (b) the following:

"(c) A member of the Capitol Police who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which such member becomes 57 years of age or completes 20 years of service if then over that age. The Capitol Police Board, when in its judgment the public interest so requires, may exempt such a member from automatic separation under this subsection until that member becomes 60 years of age. The Board shall notify the member in writing of the date of separation at least 60 days before that date. Action to separate the member is not effective, without the consent of the member, until the last day of the month in which the 60-day notice expires.".

(2) Section 8415(d) of title 5, United States Code, is amended by striking "(a) or (b)" and inserting "(a), (b), or (c)".

SEC. 308. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE TO GRANTEES AND CONTRACTORS.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

40 USC 188b-6.

SEC. 309. Section 316 of Public Law 101–302 is amended in the first sentence of subsection (a) by striking "1994" and inserting "1995".

SEC. 310. Upon enactment of this Act, $2,015,000 is made available under the headings "Architect of the Capitol, Capitol Buildings and Grounds, Capitol Buildings" to remain available until expended for all necessary expenses relating to the purchase and installation of x-ray machines and magnetometers: *Provided,* That the cost limitation for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, is hereby further increased by $2,015,000: *Provided further,* That the amount made available shall be derived by transfer from the funds appropriated to the Clerk of the House in the Fiscal Year 1986 Urgent Supplemental Appropriations Act, Public Law 99–349, and subsequently transferred to the Architect of the Capitol pursuant to the Legislative Branch Appropriations Act, 1989, Public Law 100–458, for Capitol Complex Security Enhancement.

SEC. 311. The following amounts appropriated under the following headings shall be withheld from obligation and shall only become available to the extent necessary to cover the costs of increases in pay and allowances authorized pursuant to the enactment of H.R. 4539, of the 103d Congress, or pursuant to the pay order of the President or other administrative action pursuant to law:

CAPITOL POLICE BOARD	
CAPITOL POLICE	
SALARIES	$167,000
OFFICE OF TECHNOLOGY ASSESSMENT	
SALARIES AND EXPENSES	39,000

CONGRESSIONAL BUDGET OFFICE	
SALARIES AND EXPENSES	55,000
ARCHITECT OF THE CAPITOL	
OFFICE OF THE ARCHITECT OF THE CAPITOL	
SALARIES	176,000
CAPITOL BUILDINGS AND GROUNDS	
CAPITOL BUILDINGS	161,000
CAPITOL GROUNDS	69,000
SENATE OFFICE BUILDINGS	280,000
CAPITOL POWER PLANT	95,000
LIBRARY OF CONGRESS	
CONGRESSIONAL RESEARCH SERVICE	
SALARIES AND EXPENSES	671,000
GOVERNMENT PRINTING OFFICE	
CONGRESSIONAL PRINTING AND BINDING	2,007,000
OFFICE OF SUPERINTENDENT OF DOCUMENTS	
SALARIES AND EXPENSES	107,000
BOTANIC GARDEN	
SALARIES AND EXPENSES	48,000
LIBRARY OF CONGRESS	
SALARIES AND EXPENSES	2,307,000
COPYRIGHT OFFICE	
SALARIES AND EXPENSES	270,000
BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED	
SALARIES AND EXPENSES	79,000
ARCHITECT OF THE CAPITOL	
LIBRARY BUILDING AND GROUNDS	
STRUCTURAL AND MECHANICAL CARE	123,000
GENERAL ACCOUNTING OFFICE	
SALARIES AND EXPENSES	3,835,000

Architect of the Capitol Human Resources Act. Government employees. 40 USC 166b-7.

SEC. 312. ARCHITECT OF THE CAPITOL HUMAN RESOURCES PROGRAM.—(a) SHORT TITLE.—This section may be cited as the "Architect of the Capitol Human Resources Act".

(b) FINDING AND PURPOSE.—

(1) FINDING.—The Congress finds that the Office of the Architect of the Capitol should develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations.

(2) PURPOSE.—It is the purpose of this section to require the Architect of the Capitol to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.

(c) PERSONNEL MANAGEMENT SYSTEM.—

(1) ESTABLISHMENT.—The Architect of the Capitol shall establish and maintain a personnel management system.

(2) REQUIREMENTS.—The personnel management system shall at a minimum include the following:

(A) A system which ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.

(B) An equal employment opportunity program which includes an affirmative employment program for employees and applicants for employment, and procedures for monitoring progress by the Architect of the Capitol in ensuring a workforce reflective of the diverse labor force.

(C) A system for the classification of positions which takes into account the difficulty, responsibility, and qualification requirements of the work performed, and which conforms to the principle of equal pay for substantially equal work.

(D) A program for the training of Architect of the Capitol employees which has among its goals improved employee performance and opportunities for employee advancement.

(E) A formal performance appraisal system which will permit the accurate evaluation of job performance on the basis of objective criteria for all Architect of the Capitol employees.

(F) A fair and equitable system to address unacceptable conduct and performance by Architect of the Capitol employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a formal grievance procedure.

(G) A program to provide services to deal with mental health, alcohol abuse, drug abuse, and other employee problems, and which ensures employee confidentiality.

(H) A formal policy statement regarding the use and accrual of sick and annual leave which shall be made known to all employees, and which is consistent with the other requirements of this section.

(d) IMPLEMENTATION OF PERSONNEL MANAGEMENT SYSTEM.—

(1) DEVELOPMENT OF PLAN.—The Architect of the Capitol shall—

(A) develop a plan for the establishment and maintenance of a personnel management system designed to achieve the requirements of subsection (c);

(B) submit the plan to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committees on Appropriations of the Senate and the House of Representatives not later than 12 months after the date of enactment of this Act; and

(C) implement the plan not later than 90 days after the plan is submitted to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committees on Appropriations of the Senate and the House of Representatives, as specified in subparagraph (B).

(2) EVALUATION AND REPORTING.—The Architect of the Capitol shall develop a system of oversight and evaluation to ensure that the personnel management system of the Architect of the Capitol achieves the requirements of subsection (c) and complies with all other relevant laws, rules and regulations. The Architect of the Capitol shall report to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, and the Joint Committee on the Library on an annual basis the results of its evaluation under this subsection.

(3) APPLICATION OF LAWS.—Nothing in this section shall be construed to alter or supersede any other provision of law otherwise applicable to the Architect of the Capitol or its employees, unless expressly provided in this section.

(e) DISCRIMINATION COMPLAINT PROCESSING.—

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "employee of the Architect of the Capitol" or "employee" means—

(i) any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(ii) any applicant for a position that is to be occupied by an individual described in clause (i); or

(iii) within 180 days after the termination of employment with the Architect of the Capitol, any individual who was formerly an employee described in clause (i) and whose claim of a violation arises out of the individual's employment with the Architect of the Capitol.

(B) The term "violation" means a practice that violates paragraph (2) of this subsection.

(C) Notwithstanding subparagraph (A), the terms "employee of the Architect of the Capitol" and "employee" do not include any individual referred to in clause (i), (ii), or (iii) of such subparagraph who is a House of Representatives garage or parking lot attendant (including the Superintendent), with respect to whom supervision and all other employee-related matters are transferred to the Sergeant at Arms of the House of Representatives pursuant to direction of the Committee on Appropriations of the House of Representatives in House Report 103–517 of the One Hundred Third Congress.

(2) DISCRIMINATORY PRACTICES PROHIBITED.—

(A) IN GENERAL.—All personnel actions affecting employees of the Architect of the Capitol shall be made free from any discrimination based on—

(i) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

(ii) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(iii) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

(B) INTIMIDATION PROHIBITED.—Any intimidation of, or reprisal against, any employee by the Architect of the Capitol, or by any employee of the Architect of the Capitol, because of the exercise of a right under this section constitutes an unlawful employment practice, which may be remedied in the same manner as are other violations described in subparagraph (A).

(3) PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.—

(A) Any employee of the Architect of the Capitol alleging a violation of paragraph (2) may file a charge with the General Accounting Office Personnel Appeals Board in accordance with the General Accounting Office Personnel Act of 1980 (31 U.S.C. 751–55). Such a charge may be filed only after the employee has filed a complaint with the Architect of the Capitol in accordance with require-

ments prescribed by the Architect of the Capitol and has exhausted all remedies pursuant to such requirements.

(B) The Architect of the Capitol shall carry out any action within its authority that the Board orders under section 4 of the General Accounting Office Personnel Act of 1980 (31 U.S.C. 753).

(C) The Architect of the Capitol shall reimburse the General Accounting Office for costs incurred by the Board in considering charges filed under this subsection.

(4) AMENDMENTS TO THE GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—

(A) Section 751(a)(1) of title 31, United States Code, is amended by inserting "or of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants," after "Office".

(B) Section 753(a) of title 31, United States Code, is amended—

(i) in paragraph (7) by striking "and" at the end of the paragraph;

(ii) in paragraph (8) by striking the period and inserting "; and"; and

(iii) by inserting at the end thereof the following:

"(9) an action involving discrimination prohibited under section 312(e)(2) of the Architect of the Capitol Human Resources Act.".

(C) Section 755 of title 31, United States Code, is amended—

(i) in subsection (a), by striking "or (7)" and inserting ", (7) or (9)"; and

(ii) in subsection (b)—

(I) by striking "or applicant for employment" and inserting "applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants"; and

(II) by inserting "or under section 312(e)(2) of the Architect of the Capitol Human Resources Act" after "of this title".

(f) CONFORMING AMENDMENTS.—

2 USC 1201. (1) Section 301(c) of Public Law 102–166 is amended—

(A) by striking subparagraph (B);

(B) by striking "or (B)" in subparagraphs (C) and (D); and

(C) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

2 USC 1205. (2) Section 305(c) of Public Law 102–166 is amended to read as follows:

"(c) EMPLOYEES OF THE CAPITOL POLICE.—In the case of an employee who is a member of the Capitol Police, the Director may refer the employee to the Capitol Police Board for resolution of the employee's complaint through the internal grievance procedures of the Capitol Police Board for a specific period of time, which shall not count against the time available for counseling or mediation under this title.".

2 USC 1212. (3) Section 312 of Public Law 102–166 is amended by striking "or by the Architect of the Capitol, or anyone employed by the Architect of the Capitol,".

(4) Section 501(h)(2) of the Family and Medical Leave Act of 1993 is amended by striking "or (B)". 2 USC 60m.

This Act may be cited as the "Legislative Branch Appropriations Act, 1995".

Approved July 22, 1994.

LEGISLATIVE HISTORY—H.R. 4454:

HOUSE REPORTS: Nos. 103-517 (Comm. on Appropriations) and 103-567 (Comm. of Conference).
SENATE REPORTS: No. 103-283 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 26, considered and passed House.
June 16, considered and passed Senate, amended.
June 29, House agreed to conference report.
July 1, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
July 22, Presidential statement.

Public Law 103-284
103d Congress

An Act

Aug. 1, 1994
[S. 832]

To designate the plaza to be constructed on the Federal Triangle property in Washington, DC, as the "Woodrow Wilson Plaza".

40 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the plaza to be constructed on the Federal Triangle property in Washington, DC as part of the development of such site pursuant to the Federal Triangle Development Act (Public Law 100–113) shall be known and designated as the "Woodrow Wilson Plaza".

Approved August 1, 1994.

LEGISLATIVE HISTORY—S. 832:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Oct. 7, considered and passed Senate.
Vol. 140 (1994): July 19, considered and passed House.

Public Law 103-285
103d Congress

An Act

To designate the Federal building located on St. Croix, Virgin Islands, as the "Almeric L. Christian Federal Building".

Aug. 1, 1994
[H.R. 1346]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located on St. Croix, Virgin Islands, shall be known and designated as the "Almeric L. Christian Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Almeric L. Christian Federal Building".

Approved August 1, 1994.

LEGISLATIVE HISTORY—H.R. 1346:

HOUSE REPORTS: No. 103-73 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): May 4, considered and passed House.
Vol. 140 (1994): July 15, considered and passed Senate.

Public Law 103-286
103d Congress

An Act

Aug. 1, 1994
[H.R. 1873]

To require certain payments made to victims of Nazi persecution to be disregarded in determining eligibility for and the amount of benefits or services based on need.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

42 USC 1437a note.

SECTION 1. CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION DISREGARDED IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF NEED-BASED BENEFITS AND SERVICES.

(a) IN GENERAL.—Payments made to individuals because of their status as victims of Nazi persecution shall be disregarded in determining eligibility for and the amount of benefits or services to be provided under any Federal or federally assisted program which provides benefits or services based, in whole or in part, on need.

(b) APPLICABILITY.—Subsection (a) shall apply to determinations made on or after the date of the enactment of this Act with respect to payments referred to in subsection (a) made before, on, or after such date.

(c) PROHIBITION AGAINST RECOVERY OF VALUE OF EXCESSIVE BENEFITS OR SERVICES PROVIDED DUE TO FAILURE TO TAKE ACCOUNT OF CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—No officer, agency, or instrumentality of any government may attempt to recover the value of excessive benefits or services provided before the date of the enactment of this Act under any program referred to in subsection (a) by reason of any failure to take account of payments referred to in subsection (a).

(d) NOTICE TO INDIVIDUALS WHO MAY HAVE BEEN DENIED ELIGIBILITY FOR BENEFITS OR SERVICES DUE TO THE FAILURE TO DISREGARD CERTAIN PAYMENTS MADE TO VICTIMS OF NAZI PERSECUTION.—Any agency of government that has not disregarded payments referred to in subsection (a) in determining eligibility for a program referred to in subsection (a) shall make a good faith effort to notify any individual who may have been denied eligibility for benefits or services under the program of the potential eligibility of the individual for such benefits or services.

(e) REPAYMENT OF ADDITIONAL RENT PAID UNDER HUD HOUSING PROGRAMS BECAUSE OF FAILURE TO DISREGARD REPARATION PAYMENTS.—

(1) AUTHORITY.—To the extent that amounts are provided in appropriation Acts for payments under this subsection, the Secretary of Housing and Urban Development shall make pay-

ments to qualified individuals in the amount determined under paragraph (3).

(2) QUALIFIED INDIVIDUALS.—For purposes of this subsection, the term "qualified individual" means an individual who—

(A) has received any payment because of the individual's status as a victim of Nazi persecution;

(B) at any time during the period beginning on February 1, 1993 and ending on April 30, 1993, resided in a dwelling unit in housing assisted under any program for housing assistance of the Department of Housing and Urban Development under which rent payments for the unit were determined based on or taking into consideration the income of the occupant of the unit;

(C) paid rent for such dwelling unit for any portion of the period referred to in subparagraph (B) in an amount determined in a manner that did not disregard the payment referred to in subparagraph (A); and

(D) has submitted a claim for payment under this subsection as required under paragraph (4).

The term does not include the successors, heirs, or estate of an individual meeting the requirements of the preceding sentence.

(3) AMOUNT OF PAYMENT.—The amount of a payment under this subsection for a qualified individual shall be equal to the difference between—

(A) the sum of the amount of rent paid by the individual for rental of the dwelling unit of the individual assisted under a program for housing assistance of the Department of Housing and Urban Development, for the period referred to in paragraph (2)(B), and

(B) the sum of the amount of rent that would have been payable by the individual for rental of such dwelling unit for such period if the payments referred to in paragraph (2)(A) were disregarded in determining the amount of rent payable by the individual for such period.

(4) SUBMISSION OF CLAIMS.—A payment under this subsection for an individual may be made only pursuant to a written claim for such payment by such individual submitted to the Secretary of Housing and Urban Development in the form and manner required by the Secretary before—

(A) in the case of any individual notified by the Department of Housing and Urban Development orally or in writing that such specific individual is eligible for a payment under this subsection, the expiration of the 6-month period beginning on the date of receipt of such notice; and

(B) in the case of any other individual, the expiration of the 12-month period beginning on the date of the enactment of this Act.

Approved August 1, 1994.

LEGISLATIVE HISTORY—H.R. 1873:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 12, considered and passed House.
July 19, considered and passed Senate.

Public Law 103-287
103d Congress

An Act

To designate the Federal building and United States courthouse in Lubbock, Texas, as the "George H. Mahon Federal Building and United States Courthouse".

Aug. 1, 1994
[H.R 2532]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 1205 Texas Avenue in Lubbock, Texas, shall be known and designated as the "George H. Mahon Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "George H. Mahon Federal Building and United States Courthouse".

Approved August 1, 1994.

LEGISLATIVE HISTORY—H.R. 2532:

HOUSE REPORTS: No. 103-228 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 13, considered and passed House.
Vol. 140 (1994). July 15, considered and passed Senate.

Public Law 103-288
103d Congress

An Act

Aug. 1, 1994
[H.R. 3770]

To designate the United States courthouse located at 940 Front Street in San Diego, California, and the Federal building attached to the courthouse as the "Edward J. Schwartz Courthouse and Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 940 Front Street in San Diego, California, and the Federal building attached to the courthouse shall be known and designated as the "Edward J. Schwartz Courthouse and Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse and Federal building referred to in section 1 shall be deemed to be a reference to the "Edward J. Schwartz Courthouse and Federal Building".

Approved August 1, 1994.

LEGISLATIVE HISTORY—H.R. 3770:

HOUSE REPORTS: No. 103-457 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 12, 13, considered and passed House.
July 15, considered and passed Senate.

Public Law 103-289
103d Congress

An Act

To designate the Federal building and United States courthouse located at 100 East Houston Street in Marshall, Texas, as the "Sam B. Hall, Jr. Federal Building and United States Courthouse".

Aug. 1, 1994
[H.R. 3840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 100 East Houston Street in Marshall, Texas, shall be known and designated as the "Sam B. Hall, Jr. Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the "Sam B. Hall, Jr. Federal Building and United States Courthouse".

Approved August 1, 1994.

LEGISLATIVE HISTORY—H.R. 3840:

HOUSE REPORTS: No. 103-514 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
July 15, considered and passed Senate.

Public Law 103-290
103d Congress

An Act

Aug. 1, 1994
[S. 1880]

To provide that the National Education Commission on Time and Learning shall terminate on September 30, 1994.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF THE NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING.

Subsection (g) of section 102 of the National Education Commission on Time and Learning Act (20 U.S.C. 1221–1 note) is amended by striking "90 days after submitting the final report required by subsection (d)" and inserting "on September 30, 1994".

Approved August 1, 1994.

LEGISLATIVE HISTORY—S. 1880:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 15, considered and passed Senate.
July 19, considered and passed House

Public Law 103-291
103d Congress

Joint Resolution

Designating May 29, 1995, through June 6, 1995, as a "Time for the National Observance of the Fiftieth Anniversary of World War II".

Aug 1, 1994
[S.J. Res. 172]

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over four hundred thousand Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1991 and 1995, over nine million American veterans of World War II will be holding reunions and conferences and otherwise commemorating the fiftieth anniversary of various events relating to World War II; and

Whereas June 4 marks the anniversary of the Battle of Midway, and June 6 marks the anniversary of D-Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 29, 1995, through June 6, 1995, is designated as a "Time for the National Observance of the Fiftieth Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that period with appropriate ceremonies and activities.

Approved August 1, 1994.

LEGISLATIVE HISTORY—S.J. Res. 172:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 24, considered and passed Senate.
July 12, considered and passed House, amended.
July 20, Senate concurred in House amendments.

Public Law 103-292
103d Congress

An Act

Aug. 11, 1994
[H.R. 2457]

To direct the Secretary of the Interior to conduct a salmon captive broodstock program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Winter Run Chinook Salmon Captive Broodstock Act of 1993.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Winter Run Chinook Salmon Captive Broodstock Act of 1993".

SEC. 2. ESTABLISHMENT OF SALMON CAPTIVE BROODSTOCK PROGRAM.

(a) IN GENERAL.—Subject to subsection (d), the Secretary of the Interior (hereinafter in this section referred to as the "Secretary") shall conduct in accordance with this section a salmon captive broodstock program (hereinafter in this section referred to as the "Program").

(b) PROGRAM.—The Program shall be carried out in a manner that is consistent with the goals, priorities, and policies set forth in any recovery plan for winter run Chinook salmon in the Sacramento River developed by the National Marine Fisheries Service under the Endangered Species Act of 1973, and with findings of consultations regarding that population of salmon carried out pursuant to section 7 of that Act.

(c) CONSULTATION.—The Secretary shall consult with the Winter Run Chinook Salmon Captive Broodstock Committee (a committee identified in the document entitled "Biological Assessment on the Effects of Coleman National Fish Hatchery Operations on Winter Run Chinook Salmon", prepared by the United States Fish and Wildlife Service) in making management decisions regarding the Program.

(d) STATE MATCHING.—The Secretary may not implement this section unless not less than 20 percent of amounts necessary to conduct the Program are provided by non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to conduct the Program $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

Approved August 11, 1994.

LEGISLATIVE HISTORY—H.R. 2457:

SENATE REPORTS: No. 103-298 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 20, considered and passed House.
Vol. 140 (1994): Aug. 2, considered and passed Senate

Public Law 103-293
103d Congress

Joint Resolution

Designating August 2, 1994, as "National Neighborhood Crime Watch Day".

Aug. 11, 1994
[H.J. Res. 374]

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers; and

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 9 to 10 o'clock postmeridian on August 2, 1994, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 2, 1994, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved August 11, 1994.

LEGISLATIVE HISTORY—H.J. Res. 374:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 25, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 103-294
103d Congress

Joint Resolution

Aug. 11, 1994
[S.J. Res. 195]

To designate August 1, 1994, as "Helsinki Human Rights Day".

Whereas August 1, 1994, is the 19th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter referred to as the "Helsinki Accords");

Whereas the participating States have declared their determination to fully respect and apply the Helsinki Principles Guiding Relations among participating States, including respect for human rights, the territorial integrity of States, and the inviolability of frontiers;

Whereas the participating States have declared that "the protection and promotion of human rights and fundamental freedoms and the strengthening of democratic institutions continue to be a vital basis for our comprehensive security";

Whereas the participating States have declared that "respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, democracy, the rule of law, economic liberty, social justice, and environmental responsibility are our common aims";

Whereas the participating States have acknowledged that "there is still much work to be done in building democratic and pluralistic societies, where diversity is fully protected and respected in practice";

Whereas the war in Bosnia and Hercegovina has resulted in organized, systematic, and premeditated war crimes and genocide and has threatened stability and security in Europe;

Whereas ethnic tensions, civil unrest, and egregious human rights abuses in several of the recently admitted CSCE States continue to result in significant violations of CSCE commitments; and

Whereas the CSCE has contributed to positive developments in Europe by promoting and furthering respect for the human rights and fundamental freedoms of all individuals and groups and provides an appropriate framework for the further development of such rights and freedoms and genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HELSINKI HUMAN RIGHTS DAY.

(a) DESIGNATION.—August 1, 1994, the 19th anniversary of the signing of the Final Act of the Conference on Security and

Cooperation in Europe, is designated as "Helsinki Human Rights Day".

(b) PROCLAMATION.—The President is authorized and requested to issue a proclamation reasserting America's commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory States to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities.

(c) HUMAN RIGHTS.—The President is requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. TRANSMITTAL.

The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other 52 Helsinki signatory States.

Approved August 11, 1994.

LEGISLATIVE HISTORY—S.J. Res. 195:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 25, considered and passed Senate.
Aug. 1, considered and passed House.

Public Law 103-295
103d Congress

An Act

Aug. 12, 1994
[H.R. 4429]

To authorize the transfer of naval vessels to certain foreign countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUSTRALIA.—Subject to section 6, the Secretary of the Navy is authorized to transfer to the Government of Australia the "NEWPORT" class tank landing ships SAGINAW (LST 1188) and FAIRFAX COUNTY (LST 1193). Such transfers shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(b) BRAZIL.—Subject to section 6, the Secretary of the Navy is authorized to transfer to the Government of Brazil the "NEWPORT" class tank landing ship CAYUGA (LST 1186) and the "KNOX" class frigates MILLER (FF 1091) and VALDEZ (FF 1096). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(c) MOROCCO.—Subject to section 6, the Secretary of the Navy is authorized to transfer to the Government of Morocco the "NEWPORT" class tank landing ship BRISTOL COUNTY (LST 1198). Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles).

(d) SPAIN.—Subject to section 6, the Secretary of the Navy is authorized to transfer to the Government of Spain the "NEWPORT" class tank landing ship BARNSTABLE COUNTY (LST 1197). Such transfer shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

SEC. 2. WAIVER OF REQUIREMENTS FOR NOTIFICATION TO CONGRESS.

The following provisions do not apply with respect to the transfers authorized by this Act:

(1) In case of a grant under section 516 of the Foreign Assistance Act of 1961, subsection (c) of that section and any similar provision of law.

(2) In the case of a sale under section 21 of the Arms Export Control Act, section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103-87) and any similar, successor provision of law.

(3) In the case of a lease under section 61 of the Arms Export Control Act, section 62 of that Act (except that section 62 of that Act shall apply to any renewal of the lease).

SEC. 3. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this Act shall be charged to the recipient.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1 of this Act shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into during that period under section 1 may be renewed.

SEC. 5. REPAIR AND REFURBISHMENT OF VESSELS IN THE UNITED STATES.

It is the sense of the Congress that the Secretary of the Navy should request that each country to which a naval vessel is transferred under this Act have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at shipyards located in the United States, including United States navy shipyards.

SEC. 6. CONDITION FOR TRANSFER.

No vessel may be transferred under this Act until the Secretary of Defense certifies in writing to Congress that, after the transfer—

(1) the amphibious lift capacity remaining available in the Navy is sufficient in all lift categories to transport 2½ Marine Corps expeditionary brigades simultaneously; and

(2) the amphibious lift capacity planned to be available in the Navy under the future-years defense program will be sufficient in all lift categories, throughout the period covered by the future-years defense program, to transport 2½ Marine Corps expeditionary brigades simultaneously.

Approved August 12, 1994.

LEGISLATIVE HISTORY—H.R. 4429:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
July 15, considered and passed Senate, amended.
Aug. 1, House concurred in Senate amendments with amendments.
Aug. 5, Senate concurred in House amendments.

Public Law 103-296
103d Congress

An Act

Aug. 15, 1994
[H.R. 4277]

To establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security Independence and Program Improvements Act of 1994
42 USC 1305 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Social Security Independence and Program Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

Sec. 101. Establishment of Social Security Administration as an independent agency.
Sec. 102. Commissioner and Deputy Commissioner; other officers.
Sec. 103. Social Security Advisory Board.
Sec. 104. Personnel; budgetary matters; seal of office.
Sec. 105. Transfers to the new Social Security Administration.
Sec. 106. Transition rules.
Sec. 107. Conforming amendments to titles II and XVI of the Social Security Act.
Sec. 108. Additional conforming amendments.
Sec. 109. Rules of construction.
Sec. 110. Effective dates.

TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI

Sec. 201. Restrictions on payment of benefits based on disability to substance abusers.
Sec. 202. Commission on childhood disability.
Sec. 203. Regulations regarding completion of plans for achieving self-support.
Sec. 204. SSI eligibility for students temporarily abroad.
Sec. 205. Disregard of cost-of-living increases for continued eligibility for work incentives.
Sec. 206. Expansion of the authority of the Social Security Administration to prevent, detect, and terminate fraudulent claims for OASDI and SSI benefits.
Sec. 207. Disability review required for SSI recipients who are 18 years of age.
Sec. 208. Continuing disability reviews.
Sec. 209. Exemption from adjustment in pass-along requirements.

TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS

Sec. 301. Issuance of physical documents in the form of bonds, notes, or certificates to the social security trust funds.
Sec. 302. GAO study regarding telephone access to local offices of the Social Security Administration.
Sec. 303. Expansion of State option to exclude service of election officials or election workers from coverage.
Sec. 304. Use of social security numbers by States and local governments and Federal district courts for jury selection purposes.

Sec. 305. Authorization for all States to extend coverage to State and local police officers and firefighters under existing coverage agreements.
Sec. 306. Limited exemption for Canadian ministers from certain self-employment tax liability.
Sec. 307. Exclusion of totalization benefits from the application of the windfall elimination provision.
Sec. 308. Exclusion of military reservists from application of the government pension offset and windfall elimination provisions.
Sec. 309. Repeal of the facility-of-payment provision.
Sec. 310. Maximum family benefits in guarantee cases.
Sec. 311. Authorization for disclosure of social security information for purposes of public or private epidemiological and similar research.
Sec. 312. Misuse of symbols, emblems, or names in reference to Social Security Administration, Department of Health and Human Services, or Department of the Treasury.
Sec. 313. Increased penalties for unauthorized disclosure of social security information.
Sec. 314. Increase in authorized period for extension of time to file annual earnings report.
Sec. 315. Extension of disability insurance program demonstration project authority.
Sec. 316. Cross-matching of social security account number information and employer identification number information maintained by the Department of Agriculture.
Sec. 317. Certain transfers to railroad retirement account made permanent.
Sec. 318. Authorization for use of social security account numbers by Department of Labor in administration of Federal workers' compensation laws.
Sec. 319. Coverage under FICA of Federal employees transferred temporarily to international organizations.
Sec. 320. Extension of the FICA tax exemption and certain tax rules to individuals who enter the United States under a visa issued under section 101 of the Immigration and Nationality Act.
Sec. 321. Technical and clerical amendments.

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY.

Section 701 of the Social Security Act (42 U.S.C. 901) is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. (a) There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration (in this title referred to as the 'Administration').

"(b) It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.

SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER; OTHER OFFICERS.

Section 702 of the Social Security Act (42 U.S.C. 902) is amended to read as follows:

"COMMISSIONER; DEPUTY COMMISSIONER; OTHER OFFICERS

"Commissioner of Social Security

"SEC. 702. (a)(1) There shall be in the Administration a Commissioner of Social Security (in this title referred to as the

'Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

"(3) The Commissioner shall be appointed for a term of 6 years, except that the initial term of office for Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Commissioner's term of office, such Commissioner may continue in office until the entry upon office of such a successor. A Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. An individual serving in the office of Commissioner may be removed from office only pursuant to a finding by the President of neglect of duty or malfeasance in office.

"(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

"(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this Act.

"(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(8) The Commissioner and the Secretary of Health and Human Services (in this title referred to as the 'Secretary') shall consult, on an ongoing basis, to ensure—

"(A) the coordination of the programs administered by the Commissioner, as described in section 701, with the programs administered by the Secretary under titles XVIII and XIX of this Act; and

"(B) that adequate information concerning benefits under such titles XVIII and XIX is available to the public.

"Deputy Commissioner of Social Security

President.

"(b)(1) There shall be in the Administration a Deputy Commissioner of Social Security (in this title referred to as the 'Deputy Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Deputy Commissioner shall be appointed for a term of 6 years, except that the initial term of office for the Deputy Commissioner shall terminate January 19, 2001. In any case in

which a successor does not take office at the end of a Deputy Commissioner's term of office, such Deputy Commissioner may continue in office until the entry upon office of such a successor. A Deputy Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

"(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner.

"Chief Financial Officer

"(c) There shall be in the Administration a Chief Financial Officer appointed by the Commissioner in accordance with section 901(a)(2) of title 31, United States Code.

"Inspector General

"(d) There shall be in the Administration an Inspector General appointed by the President, by and with the advice and consent of the Senate, in accordance with section 3(a) of the Inspector General Act of 1978.". President.

SEC. 103. SOCIAL SECURITY ADVISORY BOARD.

Section 703 of the Social Security Act (42 U.S.C. 903) is amended to read as follows:

"SOCIAL SECURITY ADVISORY BOARD

"Establishment of Board

"SEC. 703. (a) There shall be established a Social Security Advisory Board (in this section referred to as the 'Board').

"Functions of the Board

"(b) On and after the date the Commissioner takes office, the Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI. Specific functions of the Board shall include—

"(1) analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;

"(2) studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);

"(3) making recommendations to the President and to the Congress with respect to policies that will ensure the solvency

of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;

"(4) making recommendations with respect to the quality of service that the Administration provides to the public;

"(5) making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;

"(6) increasing public understanding of the social security system;

"(7) making recommendations with respect to a long-range research and program evaluation plan for the Administration;

"(8) reviewing and assessing any major studies of social security as may come to the attention of the Board; and

"(9) making recommendations with respect to such other matters as the Board determines to be appropriate.

"Structure and Membership of the Board

"(c)(1) The Board shall be composed of 7 members who shall be appointed as follows:

"(A) 3 members shall be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.

"(B) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

"(C) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

"(2) The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

"Terms of Appointment

"(d) Each member of the Board shall serve for a term of 6 years, except that—

"(1) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

"(2) the terms of service of the members initially appointed under this section shall begin on October 1, 1994, and expire as follows:

"(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

"(i) 2 years;

"(ii) 4 years; and

"(iii) 6 years.

"(B) The terms of service of members initially appointed by the President pro tempore of the Senate shall

Insurance Trust Fund, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.".

SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF OFFICE.

(a) IN GENERAL.—Section 704 of the Social Security Act (42 U.S.C. 904) is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE COMMISSIONER

"Personnel

"SEC. 704. (a)(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this Act, and attorneys and experts may be appointed without regard to the civil service laws. Except as otherwise provided in the preceding sentence or in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994 to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(2). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

"Budgetary Matters

"(b)(1) The Commissioner shall prepare an annual budget for the Administration, which shall be submitted by the President to the Congress without revision, together with the President's annual budget for the Administration.

"(2)(A) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

"(B) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

"Employment Restriction

"(c) The total number of positions in the Administration (other than positions established under section 702) which—

"(1) are held by noncareer appointees (within the meaning of section 3132(a)(7) of title 5, United States Code) in the Senior Executive Service, or

"(2) have been determined by the President or the Office of Personnel Management to be of a confidential, policy-determining, policy-making, or policy-advocating character and have been excepted from the competitive service thereby,

may not exceed at any time the equivalent of 20 full-time positions.

"Seal of Office

"(d) The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal.

"Data Exchanges

"(e)(1) Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code)—

"(A) the Secretary shall disclose to the Commissioner any record or information requested in writing by the Commissioner for the purpose of administering any program administered by the Commissioner, if records or information of such type were disclosed to the Commissioner of Social Security in the Department of Health and Human Services under applicable rules, regulations, and procedures in effect before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994; and

"(B) the Commissioner shall disclose to the Secretary or to any State any record or information requested in writing by the Secretary to be so disclosed for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations, and procedures in effect before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994.

"(2) The Commissioner and the Secretary shall enter into an agreement under which the Commissioner provides the Secretary data concerning the quality of the services and information provided to beneficiaries of the programs under titles XVIII and XIX and the administrative services provided by the Social Security Administration in support of such programs. Such agreement shall stipulate the type of data to be provided and the terms and conditions under which the data are to be provided. Contracts.

"(3) The Commissioner and the Secretary shall periodically review the need for exchanges of information not referred to in paragraph (1) or (2) and shall enter into such agreements as may be necessary and appropriate to provide information to each other or to States in order to meet the programmatic needs of the requesting agencies.

"(4)(A) Any disclosure from a system of records (as defined in section 552a(a)(5) of title 5, United States Code) pursuant to this subsection shall be made as a routine use under subsection (b)(3) of section 552a of such title (unless otherwise authorized under such section 552a).

"(B) Any computerized comparison of records, including matching programs, between the Commissioner and the Secretary shall be conducted in accordance with subsections (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code.

"(5) The Commissioner and the Secretary shall each ensure that timely action is taken to establish any necessary routine uses for disclosures required under paragraph (1) or agreed to pursuant to paragraph (3).".

42 USC 904 note.

(b) REPORT ON SES POSITIONS UNDER COMPREHENSIVE WORK FORCE PLAN.—Within 60 days after the establishment by the Commissioner of Social Security of the comprehensive work force plan required under section 704(b)(2) of the Social Security Act (as amended by this Act), the Director of the Office of Personnel Management shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report specifying the total number of Senior Executive Services positions authorized for the Social Security Administration in connection with such work force plan.

42 USC 904 note.

(c) EFFECTIVE DATE AND TRANSITION RULE FOR CERTAIN DATA EXCHANGE PROVISIONS.—

(1) EFFECTIVE DATE.—Section 704(e)(4) of the Social Security Act (as amended by subsection (a)) shall take effect March 31, 1996.

(2) TRANSITION RULE.—Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code), arrangements for disclosure of records or other information, and arrangements for computer matching of records, which were in effect immediately before the date of the enactment of this Act between the Social Security Administration in the Department of Health and Human Services and other components of such Department may continue between the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) and such Department during the period beginning on the date of the enactment of this Act and ending March 31, 1996.

42 USC 901 note.

SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) FUNCTIONS.—

(1) IN GENERAL.—There are transferred to the Social Security Administration all functions of the Secretary of Health and Human Services with respect to or in support of the programs and activities the administration of which is vested in the Social Security Administration by reason of this title and the amendments made thereby. The Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act (as amended by this title).

(2) FUNCTIONS OF OTHER AGENCIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Social Security Administration shall also perform—

(i) the functions of the Department of Health and Human Services, including functions relating to titles XVIII and XIX of the Social Security Act (including adjudications, subject to final decisions by the Secretary of Health and Human Services), that the Social Security Administration in such Department performed as of immediately before the date of the enactment of this Act, and

(ii) the functions of any other agency for which administrative responsibility was vested in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of this Act.

(B) RULES GOVERNING CONTINUATION OF FUNCTIONS IN THE ADMINISTRATION.—The Social Security Administration shall perform, on behalf of the Secretary of Health and Human Services (or the head of any other agency, as applicable), the functions described in subparagraph (A) in accordance with the same financial and other terms in effect on the day before the date of the enactment of this Act, except to the extent that the Commissioner and the Secretary (or other agency head, as applicable) agree to alter such terms pertaining to any such function or to terminate the performance by the Social Security Administration of any such function.

(b) PERSONNEL, ASSETS, ETC.—

(1) IN GENERAL.—There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally appropriated.

(3) EMPLOYMENT PROTECTIONS.—

(A) IN GENERAL.—During the 1-year period beginning March 31, 1995—

(i) the transfer pursuant to this section of any full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such personnel to be separated or reduced in grade or compensation solely as a result of such transfer, and

(ii) except as provided in subparagraph (B), any such personnel who were not employed in the Social Security Administration in the Department of Health and Human Services immediately before the date of the enactment of this Act shall not be subject to directed reassignment to a duty station outside their commuting area.

(B) SPECIAL RULES.—

(i) In the case of personnel whose duty station is in the Washington, District of Columbia, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Baltimore, Maryland, commuting area after September 30, 1995.

(ii) In the case of personnel whose duty station is in the Baltimore, Maryland, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Washington, District of Columbia, commuting area after September 30, 1995.

(4) OFFICE SPACE.—Notwithstanding section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606), and subject to available appropriations, the Administrator of General Services may, after consultation with the Commissioner of Social Security and under such terms and conditions as the Administrator finds to be in the interests of the United States—

(A) acquire occupiable space in the metropolitan area of Washington, District of Columbia, for housing the Social Security Administration, and

(B) renovate such space as necessary.

(c) INTER-AGENCY TRANSFER ARRANGEMENT.—The Secretary of Health and Human Services and the Commissioner of Social Security shall enter into a written inter-agency transfer arrangement (in this subsection referred to as the "arrangement"), which shall be effective March 31, 1995. Transfers made pursuant to this section shall be in accordance with the arrangement, which shall specify the personnel and resources to be transferred as provided under this section. The terms of such arrangement shall be transmitted not later than January 1, 1995, to the Committee on Ways and Means of the House of Representatives, to the Committee on Finance of the Senate, and to the Comptroller General of the United States. Not later than February 15, 1995, the Comptroller General shall submit a report to each such Committee setting forth an evaluation of such arrangement.

Reports.

42 USC 901 note.

SEC. 106. TRANSITION RULES.

(a) TRANSITION RULES RELATING TO OFFICERS OF THE SOCIAL SECURITY ADMINISTRATION.—

(1) APPOINTMENT OF INITIAL COMMISSIONER OF SOCIAL SECURITY.—The President shall nominate for appointment the initial Commissioner of Social Security to serve as head of the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) not later than 60 days after the date of the enactment of this Act.

(2) ASSUMPTION OF OFFICE OF INITIAL COMMISSIONER BEFORE EFFECTIVE DATE OF NEW AGENCY.—If the appointment of the initial Commissioner of Social Security pursuant to section 702 of the Social Security Act (as amended by this Act) is confirmed by the Senate pursuant to such section 702 before March 31, 1995, the individual shall take office as Commissioner immediately upon confirmation, and, until March 31, 1995, such Commissioner shall perform the functions of the Commissioner of Social Security in the Department of Health and Human Services.

(3) TREATMENT OF INSPECTOR GENERAL AND OTHER APPOINTMENTS.—At any time on or after the date of the enactment of this Act, any of the officers provided for in section 702 of the Social Security Act (as amended by this title) and any of the members of the Social Security Advisory Board provided for in section 703 of such Act (as so amended) may be nominated

and take office, under the terms and conditions set out in such sections.

(4) COMPENSATION FOR INITIAL OFFICERS AND BOARD MEMBERS BEFORE EFFECTIVE DATE OF NEW AGENCY.—Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer or employee of the new Social Security Administration and of any member or staff of the Social Security Advisory Board who takes office pursuant to this subsection before March 31, 1995, until such time as funds for that purpose are otherwise available.

(5) INTERIM ROLE OF CURRENT COMMISSIONER AFTER EFFECTIVE DATE OF NEW AGENCY.—In the event that, as of March 31, 1995, an individual appointed to serve as the initial Commissioner of Social Security has not taken office, until such initial Commissioner has taken office, the officer serving on March 31, 1995, as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall, while continuing to serve as such Commissioner of Social Security (or Acting Commissioner of Social Security), serve as Commissioner of Social Security (or Acting Commissioner of Social Security, respectively) in the Social Security Administration established under such section 701 and shall assume the powers and duties under such Act (as amended by this Act) of the Commissioner of Social Security in the Social Security Administration as so established under such section 701. In the event that, as of March 31, 1995, the President has not nominated an individual for appointment to the office of Commissioner of Social Security in the Social Security Administration established under such section 701, then the individual serving as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall become the Acting Commissioner of Social Security in the Social Security Administration as so established under such section 701.

(6) INTERIM INSPECTOR GENERAL.—The Commissioner of Social Security may appoint an individual to assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under section 701 of the Social Security Act for a period not to exceed 60 days. The Inspector General of the Department of Health and Human Services may, when so requested by the Commissioner, while continuing to serve as Inspector General in such Department, serve as Inspector General of the Social Security Administration established under such section 701 and shall assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under such section 701. The Social Security Administration shall reimburse the Office of Inspector General of the Department of Health and Human Services for costs of any functions performed pursuant to this subsection, from funds available to the Administration at the time the functions are performed. The authority under this

paragraph to exercise the powers and duties of the Inspector General shall terminate upon the entry upon office of an Inspector General for the Social Security Administration under the Inspector General Act of 1978.

(7) ABOLISHMENT OF OFFICE OF COMMISSIONER OF SOCIAL SECURITY IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective when the initial Commissioner of Social Security of the Social Security Administration established under section 701 of the Social Security Act (as amended by this title) takes office pursuant to section 702 of such Act (as so amended)—

(A) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(B) section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Social Security, Department of Health and Human Services.".

(b) CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary's delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

(2) which are in effect immediately before March 31, 1995, shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

(c) CONTINUATION OF PROCEEDINGS.—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before March 31, 1995, with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

(d) CONTINUATION OF SUITS.—Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced before March 31, 1995; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. In any suit, action, or other proceeding pending immediately before March 31, 1995, the court or hearing officer may at any time, on the motion of the court or hearing officer or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) CONTINUATION OF PENALTIES.—This title shall not have the effect of releasing or extinguishing any civil or criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

(f) JUDICIAL REVIEW.—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title and the amendments made thereby (other than functions performed pursuant to 105(a)(2)) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before March 31, 1995. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.

SEC. 107. CONFORMING AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) (other than section 201, section 231(c), section 226, and section 226A) and title XVI of such Act (42 U.S.C. 1382 et seq.) (other than section 1614(f)(2)(B)) are each amended— 42 USC 1381 *et seq.*

(1) by striking, wherever it appears, "Secretary of Health and Human Services" and inserting "Commissioner of Social Security";

(2) by striking, wherever it appears, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration"; and

(4) by striking, wherever it appears, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", "he", "her", and "she", and inserting (in the case of the word "Secretary") "Commissioner of Social Security", (in the case of the word "Secretary's") "Commissioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", (in the case of the word "her") "the Commissioner" or "the Commissioner's", as may be appropriate, and (in the case of the words "she" or "he") "the Commissioner".

(b) AMENDMENTS TO SECTION 201.—

(1) Subsections (a)(3), (a)(4), (b)(1), and (b)(2) of section 201 of such Act (42 U.S.C. 401) are amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(2) Subsections (a)(3) and (b)(1) of section 201 of such Act (42 U.S.C. 401) are amended by striking "such Secretary" and inserting "such Commissioner".

(3) Section 201(c) of such Act (42 U.S.C. 401(c)) is amended—

(A) in the first sentence, by inserting "the Commissioner of Social Security," before "the Secretary of the Treasury"; and

(B) in the fifth sentence, by striking "Commissioner of Social Security" and inserting "Deputy Commissioner of Social Security".

(4) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended—

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by the Managing Trustee, the Commissioner of Social Security, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act" and inserting "by the Department of Health and Human Services for the administration of title XVIII of this Act, and by the Department of the Treasury for the administration of titles II and XVIII of this Act";

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration"; and

(C) in the matter following clause (ii), by striking "titles II, XVI, and XVIII" in the first sentence and inserting "titles II and XVIII", and by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Commissioner of Social Security is responsible,

the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph.".

(4)(A) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) After the close of each fiscal year—

"(i) the Commissioner of Social Security shall determine—

"(I) the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII for which the Commissioner is responsible and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund of the Treasury,

"(II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund,

"(III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund,

"(IV) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

"(V) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund, and

"(ii) the Secretary of Health and Human Services shall determine—

"(I) the portion of the costs, incurred during such fiscal year, of the administration of title XVIII for which the Secretary is responsible, which should have been borne by the general fund of the Treasury,

"(II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

"(III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commisioner of Social Security and the Secretary shall each certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund of the Treasury, in order to ensure that each of the Trust Funds and the general fund of the Treasury have borne their proper share of the costs, incurred during such fiscal year, for—

"(i) the parts of the administration of this title, title XVI, and title XVIII for which the Commissioner of Social Security is responsible,

"(ii) the parts of the administration of title XVIII for which the Secretary is responsible, and

"(iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)).

The Managing Trustee shall transfer any such amounts in accordance with any certification so made.

"(D) The determinations required under subclauses (IV) and (V) of subparagraph (B)(i) shall be made in accordance with the cost allocation methodology in existence on the date of the enactment of the Social Security Independence and Program Improvements Act of 1994, until such time as the methodology for making the determinations required under such subclauses is revised by agreement of the Commissioner and the Secretary, except that the determination of the amounts to be borne by the general fund of the Treasury with respect to expenditures incurred in carrying out the functions of the Social Security Administration specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4).".

(5) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended, in the second sentence, by striking "established and maintained by the Secretary of Health and Human Services" and inserting "maintained by the Commissioner of Social Security", and by striking "Secretary shall furnish" and inserting "Commissioner of Social Security shall furnish".

(6) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended to read as follows:

"(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994, for determining the costs which should be borne by the general fund of the Treasury of carrying out the functions of the Commissioner, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds consider such action advisable, they may modify the method of determining such costs.".

(7) Section 201(i)(1) of such Act (42 U.S.C. 401(i)(1)) is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.".

(8) Subsections (j) and (k) of section 201 of such Act (42 U.S.C. 401) are each amended by striking "Secretary" each place it appears and inserting "Commissioner of Social Security".

(9) Section 201(l)(3)(B)(iii)(II) of such Act (42 U.S.C. 401(l)(3)(B)(iii)(II)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(10) Section 201(m)(3) of such Act (42 U.S.C. 401(m)(3)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(c) AMENDMENT TO SECTION 231.—Section 231(c) of such Act (42 U.S.C. 431(c)) is amended by striking "Secretary determines" and inserting "Commissioner of Social Security and the Secretary jointly determine".

SEC. 108. ADDITIONAL CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—

(1) Title VII of the Social Security Act (42 U.S.C. 901 et seq.) is amended by adding at the end the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. The Secretary shall perform the duties imposed upon the Secretary by this Act. The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act. The Secretary may appoint attorneys and experts without regard to the civil service laws.". 42 USC 913.

(2) Section 706 of such Act (42 U.S.C. 907) is repealed. This paragraph shall not apply with respect to the Advisory Council for Social Security appointed in 1994. 42 USC 907 note.

(3) Paragraph (2) of section 709(b) of such Act (42 U.S.C. 910(b)) is amended by striking "(as estimated by the Secretary)" and inserting "(for amounts which will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary)".

(b) AMENDMENTS TO TITLE XI.—

(1) Section 1101(a) of such Act (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration, except where the context requires otherwise.".

(2) Section 1106(a) of such Act (42 U.S.C. 1306(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" each place it appears and inserting "applicable agency";

(C) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(D) by adding at the end the following new paragraph:

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.".

(3) Section 1106(b) of such Act (42 U.S.C. 1306(b)) is amended—

(A) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) of such Act (42 U.S.C. 1306(c)) is amended—

(A) by striking "the Secretary" the first place it appears and inserting "the Commissioner of Social Security or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Commissioner or Secretary".

(5) Section 1106(d) of such Act (added by section 311 of this Act) is amended—

(A) by striking "Secretary" the first place it appears and inserting "Commissioner of Social Security";

(B) by striking "Secretary" the second place it appears and inserting "Commissioner";

(C) by striking "Secretary" the third place it appears and inserting "Commissioner in consultation with the Secretary of Health and Human Services"; and

(D) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

(6) Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security or the Secretary".

(7) Section 1110 of such Act (42 U.S.C. 1310) is amended—

(A) by striking "he", "his", and "him" each place they appear (except in subsection (b)(2)(A)) and inserting "the Commissioner", "the Commissioner's", and "the Commissioner", respectively;

(B) in subsection (a)(2), by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)" after "Secretary";

(C) in subsection (b)(1)—

(i) by striking "Secretary" each place it appears in the first two sentences and inserting "Commissioner";

(ii) by striking in the third sentence "determined by the Secretary," and inserting "determined by the Commissioner with respect to the old-age, survivors, and disability insurance programs under title II and the supplemental security income program under title XVI, and by the Secretary with respect to other titles of this Act,"; and

(iii) by striking the fourth sentence and inserting the following new sentences: "If, in order to carry out a project under this subsection, the Commissioner requests a State to make supplementary payments (or the Commissioner makes them pursuant to an agreement under section 1616) to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments, the Commissioner shall reimburse such State for the non-Federal share of such payments from amounts appropriated to carry out title XVI. If, in

order to carry out a project under this subsection, the Secretary requests a State to provide medical assistance under its plan approved under title XIX to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such assistance from amounts appropriated to carry out title XVI, which shall be provided by the Commissioner to the Secretary for this purpose.";

(D) in subsection (b)(2), by striking "Secretary" each place it appears and inserting "Commissioner"; and

(E) in subsection (b), by striking paragraph (3).

(8) Subsections (b) and (c) of section 1127 of such Act (42 U.S.C. 1320a–6) are each amended by striking "Secretary" and inserting "Commissioner of Social Security".

(9) Section 1128(f) of such Act (42 U.S.C. 1320a–7(f)) is amended—

(A) in paragraph (1), by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively", and

(B) in paragraph (3), by inserting after "title II" the following: ", except that, in so applying such section and section 205(l), any reference therein to the Commissioner of Social Security shall be considered a reference to the Secretary".

(10)(A) Section 1129 of such Act (added by section 206(b) of this Act) is amended—

(i) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(ii) in subsection (a)(1)—

(I) by striking "exclude, as provided in section 1128," and inserting "recommend that the Secretary exclude, as provided in section 1128,"; and

(II) by striking "and to direct" and all that follows through "determines";

(iii) in subsection (g)—

(I) by striking "Secretary's" and inserting "Commissioner's"; and

(II) by striking "the provisions" and all that follows and inserting the following: "the Commissioner shall notify the Secretary of the final determination and the reasons therefor, and the Secretary shall then notify the entities described in section 1128A(h) of such final determination.";

(iv) in subsection (k), by inserting "based on a recommendation under subsection (a)" after "section 1128"; and

(v) in subsection (l) (added by section 206(e)(1)), by striking "Department of Health and Human Services" and inserting "Social Security Administration".

(B) Section 206(g) of this Act is amended— 42 USC 405 note.

(i) by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security"; and

(ii) by striking "Secretary has exercised" and inserting "Commissioner has exercised".

(11) Section 1131 of such Act (42 U.S.C. 1320b–1) is amended—

(A) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(B) in subsection (a)(1)(A), by adding "or" at the end;

(C) in subsection (a)(1)(B), by striking "or" at the end;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or"; and

(G) in the matter in subsection (a) following paragraph (3) (as so redesignated), by striking "he" and inserting "the Commissioner of Social Security", by striking "paragraph (1)" and inserting "paragraph (1) or (2)", by striking "paragraph (2)" and inserting "paragraph (3)", and by striking "paragraph (1) or (2)(A)" and inserting "paragraph (1), (2), or (3)(A)".

(12) Section 1140 of such Act (42 U.S.C. 1320b–10) (as amended by section 312 of this Act) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "or of the Department of Health and Human Services";

(iii) by striking "which the Secretary shall prescribe" and inserting "which the Commissioner of Social Security shall prescribe"; and

(iv) by adding at the end the following new subparagraph:

"(B) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.";

(B) in subsection (b), by striking "the Secretary" and inserting "the Commissioner or the Secretary (as applicable)";

(C) in subsection (c)(2), by striking "the Secretary" each place it appears and inserting "the Commissioner or the Secretary (as applicable)"; and

(D) in subsection (d), by striking "the Office of Inspector General of the Department of Health and Human Services" and inserting "the Office of the Inspector General of the Social Security Administration or the Office of the Inspector General of the Department of Health and Human Services (as appropriate)".

(13) Section 1141 of such Act (42 U.S.C. 1320b–11) is amended—

(A) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(B) by striking "Secretary's" each place it appears and inserting "Commissioner's";

(C) in the first sentence of subsection (a), by striking "under the direction of the Commissioner of Social Security,"; and

(D) in subsection (d)(6), by striking "Department of Health Services and inserting "Social Security Administration".

(14) Section 1155 of such Act (42 U.S.C. 1320c–4) is amended by striking "(to the same extent as is provided in section 205(b))" and all that follows and inserting "(to the same extent as beneficiaries under title II are entitled to a hearing by the Commissioner of Social Security under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is $2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection.".

(c) AMENDMENTS TO TITLE XVIII.—

(1) Section 1817 of such Act (42 U.S.C. 1395i) is amended—

(A) in subsection (a), by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security";

(B) in subsection (b), by inserting "the Commissioner of Social Security," before "the Secretary of the Treasury"; and

(C) in subsection (f), by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 1840(a) of such Act (42 U.S.C. 1395s(a)) is amended—

(A) in paragraph (1), by striking "Secretary" and inserting "Commissioner of Social Security", and by adding at the end the following new sentence: "Such regulations shall be prescribed after consultation with the Secretary."; and

(B) in paragraph (2), by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(3) Section 1841(b) of such Act (42 U.S.C. 1395t) is amended by inserting "the Commissioner of Social Security," before "the Secretary of the Treasury".

(4) Section 1872 of such Act (42 U.S.C. 1395ii) is amended by inserting after "title II" the following: ", except that, in applying such provisions with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(5) Sections 1866(h)(1), 1869(b)(1), and 1881(g)(3) of such Act (42 U.S.C. 1395cc(h)(1), 1395ff(b)(1), 1395rr(g)(3)) are amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and in applying section 205(l) thereto, any reference therein to the Commissioner of

Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(6) Section 1876(c)(5)(B) of such Act (42 U.S.C. 1395mm(c)(5)(B)) is amended by adding at the end the following: "In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.".

(d) AMENDMENTS TO TITLE XIX.—

(1) Section 1902(a)(10)(A)(ii)(XI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XI)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(2) Section 1905(j) of such Act (42 U.S.C. 1396d(j)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(3) Section 1905(q)(2) of such Act (42 U.S.C. 1396d(q)(2)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(4) Section 1910(b)(2) of such Act (42 U.S.C. 1396i(b)(2)) is amended, in the first sentence, by inserting after "section 205(g)" the following: ", except that, in so applying such sections and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(5) Section 1918 of such Act (42 U.S.C. 1396q) is amended by inserting after "title II" the following: ", except that, in so applying such subsections, and in applying section 205(l) thereto, with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(e) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5312 the following new item:

"Commissioner of Social Security, Social Security Administration.";

(2) by adding at the end of section 5313 the following new item:

"Deputy Commissioner of Social Security, Social Security Administration.";

(3) by adding at the end of section 5315 the following new item:

"Inspector General, Social Security Administration.";

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears in section 8141 and inserting "Commissioner of Social Security"; and

(5) by striking "Secretary of Health and Human Services" in section 8347(m)(3) and inserting "Commissioner of Social Security".

(f) AMENDMENTS TO FOOD STAMP ACT OF 1977.—

(1) Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by inserting "the Commissioner of Social Security and" before "the Secretary of Health and Human Services".

(2) Sections 6(g), 11(j), and 16(e) of such Act (7 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is amended by adding ", the Commissioner of Social Security" after "the Secretary".

(g) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707(e)(3) of title 14, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(h) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) Subsections (c)(1), (c)(2)(E), (e)(2), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 3121(b)(10)(B) of such Code is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 3127 of such Code is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(4) Section 6050F(c)(1)(A) of such Code is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(5) Subsections (d) and (f) of section 6057 of such Code are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(6) Section 6103(l)(5) of such Code is amended—

(A) by striking "DEPARTMENT OF HEALTH AND HUMAN SERVICES" in the heading and inserting "SOCIAL SECURITY ADMINISTRATION"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(7) Subsections (d)(3)(C) and (e) of section 6402 of such Code are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(8) Section 6511(d)(5) of such Code is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(9)(A) Subsections (b)(2) and (h) of section 9704 of such Code are amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(B) Section 9706 of such Code is amended—

(i) by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security";

(ii) in such section as amended by clause (i), by striking "Secretary" each place it appears and inserting "Commissioner"; and

(iii) in subsection (d)(3), by striking "Secretary's" and inserting "Commissioner's".

(i) AMENDMENTS TO BLACK LUNG BENEFITS ACT.—

(1) Section 402(c) of the Black Lung Benefits Act (30 U.S.C. 902(c)) is amended by striking "where used in part B" and all that follows through "part C" and inserting "where used in part C".

(2) Part B of such Act (30 U.S.C. 921 et seq.) is amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Commissioner of Social Security", and by striking "Secretary" each place it otherwise appears in reference to the Secretary of Health and Human Services and inserting "Commissioner of Social Security".

(3) Section 426 of such Act (30 U.S.C. 936) is amended—

(A) in subsection (a), by striking "and the Secretary of Health, Education, and Welfare" and inserting ", the Commissioner of Social Security, and the Secretary of Health and Human Services"; and

(B) in subsection (b), by striking "the Secretary of Health, Education, and Welfare" and inserting "the Commissioner of Social Security".

(4) Section 435 of such Act (30 U.S.C. 945) is amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Commissioner of Social Security".

(5) Section 508 of such Act (30 U.S.C. 957) is amended by striking "the Secretary of Health, Education, and Welfare," and inserting "the Secretary of Health and Human Services, the Commissioner of Social Security,".

(j) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—

(1) Section 901(b)(2) of title 31, United States Code, is amended by adding at the end the following:

"(H) The Social Security Administration.".

(2) Section 3720A(f)(2) of such title is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(k) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 5105 of title 38, United States Code, is amended—

(1) by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(2) by striking the second sentence of subsection (b) and inserting the following new sentence: "A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official.".

(l) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—

(1) Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by striking "and" at the end of subparagraph (V); and

(B) by adding at the end the following new subparagraph:

"(W) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services which are transferred to the Social Security Administration by the Social Security Independence and Program Improvements Act of 1994 (other than functions performed pursuant to section 105(a)(2) of such Act), except that such transfers shall be made in accordance with the provisions of such Act and shall not be subject to subsections (b) through (d) of this section; and".

(2) Section 11 of such Act (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting "; or the Commissioner of Social Security, Social Security Administration" before "; as the case may be"; and

(B) in paragraph (2), by inserting ", or the Social Security Administration" before "; as the case may be".

(m) SECTION 505 OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980.—Section 505 of the Social Security Disability Amendments of 1980 is amended— 42 USC 1310 note

(1) in subsection (a), by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security";

(2) in subsection (a)(3), by amending the first sentence to read as follows: "In the case of any experiment or demonstration project under paragraph (1) which is initiated before June 10, 1996, the Commissioner may waive compliance with the benefit requirements of title II of the Social Security Act, and the Secretary of Health and Human Services may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII of such Act, insofar as is necessary for a thorough evaluation of the alternative methods under consideration."; and

(3) in subsections (a) and (c), by striking "Secretary" each place it otherwise appears and inserting "Commissioner".

SEC. 109. RULES OF CONSTRUCTION. 42 USC 901 note.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Commissioner of Social Security pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Commissioner of Social Security.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the officer or employee of the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

42 USC 401 note.

SEC. 110. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, this title, and the amendments made by such title, shall take effect March 31, 1995.

(b) TRANSITION RULES.—Section 106 shall take effect on the date of the enactment of this Act.

(c) EXCEPTIONS.—The amendments made by section 103, subsections (b)(4) and (c) of section 105, and subsections (a)(1), (e)(1), (e)(2), (e)(3), and (l)(2) of section 108 shall take effect on the date of the enactment of this Act.

TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI

SEC. 201. RESTRICTIONS ON PAYMENT OF BENEFITS BASED ON DISABILITY TO SUBSTANCE ABUSERS.

(a) AMENDMENTS RELATING TO BENEFITS BASED ON DISABILITY UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(1) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)(1)) is amended—

(i) by inserting "(A)" after "(j)(1)";

(ii) in the last sentence, by inserting ", if the interest of the individual under this title would be served thereby," after "alternative representative payee or"; and

(iii) by adding at the end the following new subparagraph:

"(B) In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, certification of payment of such benefits to a representative payee shall be deemed to serve the interest of such individual under this title. In any case in which such certification is so deemed under this subparagraph to serve the interest of an individual, the Secretary shall include, in such individual's notification of entitlement, a notice that alcoholism or drug addiction is a contributing factor material to the Secretary's determination of such individual's disability and that the Secretary is therefore required to make a certification of payment of such individual's benefits to a representative payee.".

(B) CONFORMING AMENDMENT.—Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 402(j)(2)(D)(ii)(II)) is amended by striking "or under the age of 15" and inserting ", under the age of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability) is eligible for benefits under this title by reason of disability.". 42 USC 405.

(C) 90-DAY DELAY IN DEFERRAL OR SUSPENSION OF BENEFITS FOR CURRENT BENEFICIARIES.—In the case of an individual who, as of 180 days after the date of the enactment of this Act, has been determined to be under a disability, if alcoholism or drug addiction is a contributing factor material to the determination of the Secretary of Health and Human Services that the individual is under a disability, the Secretary may, notwithstanding clauses (i) and (ii) of section 205(j)(2)(D) of the Social Security Act, make direct payment of benefits to such individual during the 90-day period commencing with the date on which such individual is provided the notice described in subparagraph (D)(ii) of this paragraph, until such time during such period as the selection of a representative payee is made pursuant to section 205(j) of such Act. 42 USC 405 note.

(D) EFFECTIVE DATE.—

(i) GENERAL RULE.—Except as provided in clause (ii), the amendments made by this paragraph shall apply with respect to benefits paid in months beginning after 180 days after the date of the enactment of this Act. 42 USC 405 note.

(ii) TREATMENT OF CURRENT BENEFICIARIES.—In any case in which—

(I) an individual is entitled to benefits based on disability (as defined in section 205(j)(7) of the Social Security Act, as amended by this section),

(II) the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and

(III) alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability,

the amendments made by this paragraph shall apply with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination and that the Secretary is therefore required to make a certification of payment of such individual's benefits to a representative payee.

(E) STUDY REGARDING FEASIBILITY, COST, AND EQUITY OF REQUIRING REPRESENTATIVE PAYEES FOR ALL DISABILITY BENEFICIARIES SUFFERING FROM ALCOHOLISM OR DRUG ADDICTION.— 42 USC 405 note

(i) STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the rep-

resentative payee program. In such study, the Secretary shall examine—

(I) the feasibility, cost, and equity of requiring representative payees for all individuals entitled to benefits based on disability under title II or XVI of the Social Security Act who suffer from alcoholism or drug addiction, irrespective of whether the alcoholism or drug addiction was material in any case to the Secretary's determination of disability,

(II) the feasibility, cost, and equity of providing benefits through non-cash means, including (but not limited to) vouchers, debit cards, and electronic benefits transfer systems,

(III) the extent to which child beneficiaries are afflicted by drug addition or alcoholism and ways of addressing such affliction, including the feasibility of requiring treatment, and

(IV) the extent to which children's representative payees are afflicted by drug addiction or alcoholism, and methods to identify children's representative payees afflicted by drug addition or alcoholism and to ensure that benefits continue to be provided to beneficiaries appropriately.

(ii) REPORT.—Not later than December 31, 1995, the Secretary shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the findings of the Secretary based on such study. Such report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.

(2) INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.—

(A) PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.—Section 205(j)(2)(C) of such Act (42 U.S.C. 405(j)(2)(C)) is amended by adding at the end the following new clause:

"(v) In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, when selecting such individual's representative payee, preference shall be given to—

"(I) a community-based nonprofit social service agency licensed or bonded by the State,

"(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities,

"(III) a State or local government agency with fiduciary responsibilities, or

"(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Secretary deems it appropriate,

unless the Secretary determines that selection of a family member would be appropriate.".

(B) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.—

(i) ALLOWABLE FEES.—Section 205(j)(4)(A) of such Act (42 U.S.C. 405(j)(4)) is amended—

(I) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(II) by inserting "(i)" after "(4)(A)";

(III) by striking subclause (II) (as redesignated by subclause (I) of this clause) and inserting the following:

"(II) $25.00 per month ($50.00 per month in any case in which the individual is entitled to benefits based on disability and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability).";

(IV) by inserting, after and below subclause (II) (as amended), the following new sentence:

"The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of $1.00 shall be rounded to the nearest multiple of $1.00."; and

(V) by adding at the end the following new clause:

"(ii) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this title but to whom all past-due benefits have not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).".

(ii) INCLUSION OF STATE AND LOCAL AGENCIES AS QUALIFIED ORGANIZATIONS.—Section 205(j)(4)(B) of such Act (42 U.S.C. 405(j)(4)(B)) is amended—

(I) by inserting "State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any" after "means any";

(II) by striking "representative payee and which," and inserting "representative payee, if such agency,";

(III) by striking ", and" at the end of clause (ii) and inserting a period; and

(IV) by striking clause (iii).

(iii) RETROACTIVE REPEAL OF SUNSET.—Effective July 1, 1994, section 205(j)(4) of such Act (42 U.S.C. 405(j)(4)) is amended by striking subparagraph (D).

(C) DEFINITION.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

"(7) For purposes of this subsection, the term 'benefit based on disability' of an individual means a disability insurance benefit of such individual under section 223 or a child's, widow's, or widow-

er's insurance benefit of such individual under section 202 based on such individual's disability.".

42 USC 405 note.

(D) EFFECTIVE DATE.—Except as provided in subparagraph (B)(iii), the amendments made by this paragraph shall apply with respect to months beginning after 90 days after the date of the enactment of this Act.

(3) NONPAYMENT OR TERMINATION OF BENEFITS.—

(A) IN GENERAL.—Section 225 of such Act (42 U.S.C. 425) is amended—

(i) by striking the heading and inserting the following:

"ADDITIONAL RULES RELATING TO BENEFITS BASED ON DISABILITY

"Suspension of Benefits";

(ii) by inserting before subsection (b) the following new heading:

"Continued Payments During Rehabilitation Program";

and

(iii) by adding at the end the following new subsection:

"Nonpayment or Termination of Benefits Where Entitlement Involves Alcoholism or Drug Addiction

"(c)(1)(A) In the case of any individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that such individual is under a disability, such individual shall comply with the provisions of this subsection. In any case in which an individual is required to comply with the provisions of this subsection, the Secretary shall include, in such individual's notification of entitlement, a notice informing such individual of such requirement.

"(B) Notwithstanding any other provision of this title, if an individual who is required under subparagraph (A) to comply with the provisions of this subsection is determined by the Secretary not to be in compliance with the provisions of this subsection, such individual's benefits based on disability shall be suspended for a period—

"(i) commencing with the first month following the month in which such individual is notified by the Secretary of the determination of noncompliance and that the individual's benefits will be suspended, and

"(ii) ending with the month preceding the first month, after the determination of noncompliance, in which such individual demonstrates that he or she has reestablished and maintained compliance with such provisions for the applicable period specified in paragraph (3).

"(2)(A) An individual described in paragraph (1) is in compliance with the requirements of this subsection for a month if in such month—

"(i) such individual undergoes substance abuse treatment which is appropriate for such individual's condition diagnosed as alcoholism or drug addiction and for the stage of such individual's rehabilitation and which is conducted at an institu-

tion or facility approved for purposes of this subsection by the Secretary, and

"(ii) such individual complies in such month with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under paragraph (5).

"(B) An individual described in paragraph (1) may be determined as failing to comply with the requirements of this subsection for a month only if treatment meeting the requirements of subparagraph (A)(i) is available for that month, as determined pursuant to regulations of the Secretary.

"(3) The applicable period specified in this paragraph is—

"(A) 2 consecutive months, in the case of a first determination that an individual is not in compliance with the requirements of this subsection,

"(B) 3 consecutive months, in the case of the second such determination with respect to the individual, or

"(C) 6 consecutive months, in the case of the third or subsequent such determination with respect to the individual.

"(4) In any case in which an individual's benefit is suspended for a period of 12 consecutive months for failure to comply with treatment described in paragraph (2) of this subsection, the month following such period shall be deemed, for purposes of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202 (as applicable), the termination month with respect to such entitlement.

"(5)(A) The Secretary shall provide for the monitoring and testing of individuals who are receiving benefits under this title and who as a condition of payment of such benefits are required to be undergoing treatment under paragraph (1) and complying with the terms, conditions, and requirements thereof as described in paragraph (2)(A), in order to assure such compliance.

"(B) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations— Regulations.

"(i) defining appropriate treatment for alcoholics and drug addicts who are subject to appropriate substance abuse treatment required under this subsection, and

"(ii) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress expected to be achieved by participants in such programs.

"(C)(i) For purposes of carrying out the requirements of subparagraphs (A) and (B), the Secretary shall provide for the establishment of one or more referral and monitoring agencies for each State.

"(ii) Each referral and monitoring agency for a State shall—

"(I) identify appropriate placements, for individuals residing in such State who are entitled to benefits based on disability and with respect to whom alcoholism or drug addiction is a contributing factor material to the Secretary's determination that they are under a disability, where they may obtain treatment described in paragraph (2)(A),

"(II) refer such individuals to such placements for such treatment, and

"(III) monitor compliance with the requirements of paragraph (2)(A) by individuals who are referred by the agency to such placements and promptly report failures to comply to the Secretary.

"(D) There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund such sums as are necessary to carry out the requirements of this paragraph for referral, monitoring, and testing.

"(6)(A) In the case of any individual who is entitled to a benefit based on disability for any month, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, payment of any past-due monthly insurance benefits under this title to which such individual is entitled shall be made in any month only to the extent that the sum of—

"(i) the amount of such past-due benefit paid in such month, and

"(ii) the amount of any benefit for the preceding month under such current entitlement which is payable in such month,

does not exceed, subject to subparagraph (B), twice the amount of such individual's benefit for the preceding month (determined without applying any reductions or deductions under this title).

"(B)(i) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this title but to whom any amount of past-due benefits has not been paid, for purposes of subparagraph (A), such individual's monthly insurance benefit for such individual's last month of entitlement shall be treated as such individual's benefit for the preceding month.

"(ii) For the first month in which an individual's past-due benefits referred to in subparagraph (A) are paid, the amount of the limitation provided in subparagraph (A) shall be increased by the amount of any debts of such individual related to housing which are outstanding as of the end of the preceding month and which are resulting in a high risk of homelessness for such individual.

"(C) Upon the death of an individual to whom payment of past-due benefits has been limited under subparagraph (A), any amount of such past-due benefits remaining unpaid shall be treated as an underpayment for purposes of section 204.

"(D) In the case of an individual who would be entitled to benefits based on disability but for termination of such benefits under paragraph (4) or (7), such individual shall be entitled to payment of past-due benefits under this paragraph as if such individual continued to be entitled to such terminated benefits.

"(7)(A) Subject to subparagraph (B), in the case of any individual entitled to benefits based on disability, if—

"(i) alcoholism or drug addiction is a contributing factor material to the Secretary's determination that such individual is under a disability, and

"(ii) as of the end of the 36-month period beginning with such individual's first month of entitlement, such individual would not otherwise be disabled but for alcoholism or drug addiction,

the month following such 36-month period shall be deemed, for purposes of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202 (as applicable), the termination month with respect to such entitlement. Such individual whose entitlement is terminated under this paragraph may not be entitled to benefits based on disability for any month following such 36-month period if, in such following month, alcoholism or drug addiction is a contrib-

uting factor material to the Secretary's determination that such individual is under a disability.

"(B) In determining whether the 36-month period referred to in subparagraph (A) has elapsed—

"(i) a month shall not be taken into account unless the Secretary determines, under regulations of the Secretary, that treatment required under this subsection is available to the individual for the month, and

"(ii) any month for which a suspension is in effect for the individual under paragraph (1)(B) shall not be taken into account.

"(8) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of this subsection) on the basis of the wages and self-employment income of such disabled individual but for the provisions of paragraph (1), (4), or (7) shall be payable as though such paragraph did not apply.

"(9) For purposes of this subsection, the term 'benefit based on disability' of an individual means a disability insurance benefit of such individual under section 223 or a child's, widow's, or widower's insurance benefit of such individual under section 202 based on the disability of such individual.".

(B) REPORT.—Not later than December 31, 1996, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full and complete report on the Secretary's activities under paragraph (5) of section 225(c) of the Social Security Act (as amended by subparagraph (A)). Such report shall include the number and percentage of individuals referred to in such paragraph who have not received regular drug testing since the effective date of such paragraph.

(C) SUNSET OF 36-MONTH RULE.—Section 225(c)(7) of the Social Security Act (added by subparagraph (A)) shall cease to be effective with respect to benefits for months after September 2004. 42 USC 425 note.

(D) PRESERVATION OF MEDICARE BENEFITS.—

(i) Section 226 of such Act (42 U.S.C. 426) is amended by adding at the end the following:

"(i) For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 225(c) shall be treated as entitled to such benefit for such month.".

(ii) Section 226A of such Act (42 U.S.C. 426A) is amended by adding at the end the following: 42 USC 426-1.

"(c) For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 225(c) shall be treated as entitled to such benefit for such month.".

(E) EFFECTIVE DATE.— 42 USC 425 note.

(i) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this paragraph shall apply with respect to benefits based on disability (as defined in section 225(c)(9) of the Social Security Act, added by this section) which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act. The Secretary Regulations.

of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after the date of the enactment of this Act.

(ii) REFERRAL AND MONITORING AGENCIES.—Section 225(c)(5) of the Social Security Act (added by this subsection) shall take effect 180 days after the date of the enactment of this Act.

(iii) TERMINATION AFTER 36 MONTHS.—Section 225(c)(7) of the Social Security Act (added by this subsection) shall apply with respect to benefits based on disability (as so defined) for months beginning after 180 days after the date of the enactment of this Act.

(F) TRANSITION RULES FOR CURRENT BENEFICIARIES.—In any case in which an individual is entitled to benefits based on disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability—

(i) TREATMENT REQUIREMENT.—Paragraphs (1) through (4) of section 225(c) of the Social Security Act (added by this subsection) shall apply only with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination and that such individual is therefore required to comply with the provisions of section 225(c) of such Act.

(ii) TERMINATION AFTER 36 MONTHS.—

(I) IN GENERAL.—For purposes of section 225(c)(7) of the Social Security Act (added by this subsection), the first month of entitlement beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of entitlement to such benefits.

(II) CONCURRENT BENEFICIARIES CURRENTLY UNDER TREATMENT.—In any case in which the individual is also entitled to benefits under title XVI and, as of 180 days after the date of the enactment of this Act, such individual is undergoing treatment required under section 1611(e)(3) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), the Secretary of Health and Human Services shall notify such individual of the provisions of section 225(c)(7) of the Social Security Act (added by this subsection) not later than 180 days after the date of the enactment of this Act.

(III) CONCURRENT BENEFICIARIES NOT CURRENTLY UNDER TREATMENT.—In any case in which the individual is also entitled to benefits under title XVI but, as of 180 days after the date of the enactment of this Act, such individual is not undergoing treatment described in subclause (II),

section 225(c)(7) (added by this subsection) shall apply only with respect to benefits for months after the month in which treatment required under section 1611(e)(3) of the Social Security Act (as amended by subsection (b)) is available, as determined under regulations of the Secretary of Health and Human Services, and the Secretary notifies such individual of the availability of such treatment and describes in such notification the provisions of section 225(c)(7) of the Social Security Act (added by this subsection).

(4) IRRELEVANCE OF LEGALITY OF SERVICES PERFORMED IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY.—

(A) IN GENERAL.—Section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended—

(i) by inserting "(A)" after "(4)"; and

(ii) by adding at the end the following new subparagraph:

"(B) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, the Secretary shall apply the criteria described in subparagraph (A) with respect to services performed by any individual without regard to the legality of such services.".

(B) CONFORMING AMENDMENT RELATING TO TRIAL WORK.—Section 222(c)(2) of such Act (42 U.S.C. 422(c)(2)) is amended by inserting "(whether legal or illegal)" after "activity".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act. 42 USC 422 note.

(b) AMENDMENTS RELATING TO SUPPLEMENTAL SECURITY INCOME BENEFITS UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.—

(1) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—Section 1631(a)(2)(A) of the Social Security Act (42 U.S.C. 1383(a)(2)(A)) is amended—

(i) in clause (ii)—

(I) by inserting "(I)" after "(ii)";

(II) by striking "or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A),"; and

(III) by adding after and below the end the following:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual under this title. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Secretary shall include, in the individual's notification of such eligibility, a notice that alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled and that the Secretary is therefore

required to pay the individual's benefits to a representative payee."; and

(ii) in clause (iii), by striking "to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse" and inserting "to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this title would be served thereby, to the individual or eligible spouse".

(B) CONFORMING AMENDMENT.—Section 1631(a)(2)(B)(viii)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(viii)(II)) is amended by striking "15 years" and all that follows and inserting "of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled) is eligible for benefits under this title by reason of disability.".

42 USC 1383 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply with respect to months beginning after 180 days after the date of the enactment of this Act.

(2) INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.—

(A) PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)), as amended by paragraph (1)(B) of this subsection, is amended—

(i) by redesignating clauses (vii) through (xii) as clauses (viii) through (xiii), respectively;

(ii) by inserting after clause (vi) the following:

"(vii) In the case of an individual eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, when selecting such individual's representative payee, preference shall be given to—

"(I) a community-based nonprofit social service agency licensed or bonded by the State;

"(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;

"(III) a State or local government agency with fiduciary responsibilities; or

"(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Secretary deems it appropriate,

unless the Secretary determines that selection of a family member would be appropriate.";

(iii) in clause (viii) (as so redesignated), by striking "clause (viii)" and inserting "clause (ix)";

(iv) in clause (ix) (as so redesignated), by striking "(vii)" and inserting "(viii)";

(v) in clause (xiii) (as so redesignated)—

(I) by striking "(xi)" and inserting "(xii)"; and

(II) by striking "(x)" and inserting "(xi)".

(B) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.—

(i) ALLOWABLE FEES.—Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended—

(I) in clause (i)—

(aa) by striking subclause (II) and inserting the following:

"(II) $25.00 per month ($50.00 per month in any case in which an individual is eligible for benefits under this title by reason of disability and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled)."; and

(bb) by inserting after the 1st sentence the following:

"The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of $1.00 shall be rounded to the nearest multiple of $1.00."; and

(II) by adding at the end the following:

"(v) In the case of an individual who is no longer eligible for benefits under this title but to whom any amount of past-due benefits under this title has not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).".

(ii) INCLUSION OF STATE AND LOCAL AGENCIES AS QUALIFIED ORGANIZATIONS.—Section 1631(a)(2)(D)(ii) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)) is amended—

(I) by inserting "State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any" after "means any";

(II) by inserting a comma after "service agency";

(III) by adding "and" at the end of subclause (I); and

(IV) in subclause (II)—

(aa) by adding "and" at the end of item (aa);

(bb) by striking "; and" at the end of item (bb) and inserting a period; and

(cc) by striking item (cc).

(iii) RETROACTIVE REPEAL OF SUNSET.—

(I) REPEAL.—Effective July 1, 1994, section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended by striking clause (iv).

(II) CONFORMING AMENDMENT.—Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended by redesignating clause (v) (as added by clause (i)(II) of this subparagraph) as clause (iv).

(C) EFFECTIVE DATE.—Except as provided in subparagraph (B)(iii)(I), the amendments made by this paragraph

42 USC 1383 note.

shall apply with respect to months beginning after 90 days after the date of the enactment of this Act.

(3) NONPAYMENT OR TERMINATION OF BENEFITS.—

(A) IN GENERAL.—Section 1611(e)(3)(A) of such Act (42 U.S.C. 1382(e)(3)(A)) is amended to read as follows:

"(A)(i)(I) In the case of any individual eligible for benefits under this title solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, the individual shall comply with the provisions of this subparagraph. In any case in which an individual is required to comply with the provisions of this subparagraph, the Secretary shall include in the individual's notification of such eligibility a notice informing the individual of such requirement.

"(II) Notwithstanding any other provision of this title, if an individual who is required under subclause (I) to comply with the requirements of this subparagraph is determined by the Secretary not to be in compliance with the provisions of this subparagraph, the individual's benefits under this title by reason of disability shall be suspended for a period—

"(aa) commencing with the first month following the month in which the individual is notified by the Secretary of the determination of noncompliance and that the individual's benefits will be suspended; and

"(bb) ending with the month preceding the first month, after the determination of noncompliance, in which the individual demonstrates that he or she has reestablished and maintained compliance with such provisions for the applicable period specified in clause (iii).

"(ii)(I) An individual described in clause (i) is in compliance with the requirements of this subparagraph for a month if in such month—

"(aa) the individual undergoes substance abuse treatment, which is appropriate for the individual's condition diagnosed as alcoholism or drug addiction and for the stage of the individual's rehabilitation and which is conducted at an institution or facility approved for purposes of this subparagraph by the Secretary; and

"(bb) the individual complies in such month with the terms, conditions, and requirements of the treatment and with requirements imposed by the Secretary under this paragraph.

"(II) An individual described in clause (i) may be determined as failing to comply with the requirements of this subparagraph for a month only if treatment meeting the requirements of subclause (I)(aa) is available for the month, as determined pursuant to regulations of the Secretary.

"(iii) The applicable period specified in this clause is—

"(I) 2 consecutive months, in the case of a 1st determination that an individual is not in compliance with the requirements of this subparagraph;

"(II) 3 consecutive months, in the case of the 2nd such determination with respect to the individual; or

"(III) 6 consecutive months, in the case of the 3rd or subsequent such determination with respect to the individual.

"(iv) An individual who is not in compliance with this paragraph for 12 consecutive months shall not be eligible for supplemental security income benefits under this title. The preceding sentence

shall not be construed to prevent the individual from reapplying and becoming eligible for such benefits.

"(v)(I) In the case of any individual eligible for benefits under this title by reason of disability, if—

"(aa) alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled; and

"(bb) as of the end of the 36-month period beginning with the 1st month for which such benefits by reason of disability are payable to the individual, the individual would not otherwise be disabled but for alcoholism or drug addiction,

the individual shall not be eligible for such benefits by reason of disability for any month following such 36-month period if, in such following month, alcoholism or drug addiction would be a contributing factor material to the Secretary's determination that the individual is disabled, notwithstanding section 1619(a).

"(II) An individual whose entitlement to benefits under title II based on disability has been terminated by reason of section 225(c)(7) shall not be eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, for any month after the individual's termination month (within the meaning of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202, as applicable) with respect to such benefits.

"(III) Any month for which a suspension is in effect for the individual under clause (i)(II) shall not be taken into account in determining whether any 36-month period referred to in this clause has elapsed.

"(vi)(I) In the case of any individual who is eligible for benefits under this title for any month solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, payment of any benefits under this title the payment of which is past due shall be made in any month only to the extent that the sum of—

"(aa) the amount of the past-due benefit paid in the month; and

"(bb) the amount of any benefit under this title which is payable to the individual for the month,

does not exceed twice the maximum benefit payable under this title to an eligible individual for the preceding month.

"(II) For the first month in which an individual's past-due benefits referred to in subclause (I) are paid, the amount of the limitation provided in subclause (I) shall be increased by the amount of any debts of the individual related to housing which are outstanding as of the end of the preceding month and which are resulting in a high risk of homelessness for the individual.

"(III) Upon the death of an individual to whom payment of past-due benefits has been limited under subclause (I), any amount of such past-due benefits remaining unpaid shall be treated as an underpayment for purposes of section 1631(b)(1)(A).

"(IV) As used in this clause, the term 'benefits under this title' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66.

"(V) In the case of an individual who would be eligible for benefits under this title by reason of disability but for termination of such benefits under clause (iv) or (v), the individual shall be eligible for payment of past-due benefits under this clause as if the individual continued to be eligible for such terminated benefits.

"(VI) Subclause (I) shall not apply to payments under section 1631(g).".

(B) REFERRAL, MONITORING, AND TREATMENT.—

(i) IN GENERAL.—Section 1611(e)(3)(B) of such Act (42 U.S.C. 1382(e)(3)(B)) is amended—

(I) by inserting "(i)" after "(B)";

(II) by striking the 2nd sentence; and

(III) by adding after and below the end the following:

Regulations.

"(ii) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations—

"(I) defining appropriate treatment for alcoholics and drug addicts who are subject to required appropriate substance abuse treatment under this subparagraph; and

"(II) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress expected to be achieved by participants in such programs.

"(iii)(I) For purposes of carrying out the requirements of clauses (i) and (ii), the Secretary shall provide for the establishment of 1 or more referral and monitoring agencies for each State.

"(II) Each referral and monitoring agency for a State shall—

"(aa) identify appropriate placements, for individuals residing in the State who are eligible for benefits under this title by reason of disability and with respect to whom alcoholism or drug addiction is a contributing factor material to the Secretary's determination that they are disabled, where they may obtain treatment described in subparagraph (A)(ii)(I);

"(bb) refer such individuals to such placements for such treatment; and

"(cc) monitor compliance with the requirements of subparagraph (A) by individuals who are referred by the agency to such placements, and promptly report to the Secretary any failure to comply with such requirements.".

42 USC 1382 note.

(ii) REPORT.—Not later than December 31, 1996, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full and complete report on the Secretary's activities under section 1611(e)(3)(B) of the Social Security Act. The report shall include the number and percentage of individuals referred to in such paragraph who have not received regular drug testing since the effective date of the amendments made by clause (i) of this subparagraph.

42 USC 1382 note.

(C) SUNSET OF 36-MONTH RULE.—Section 1611(e)(3)(A)(v) of the Social Security Act (added by subparagraph (A) of this paragraph) shall cease to be effective with respect to benefits for months after September 2004.

42 USC 1383c.

(D) PRESERVATION OF MEDICAID BENEFITS.—Section 1634 of such Act (42 U.S.C. 13283c) is amended by adding at the end the following:

"(e) Each person to whom benefits under this title by reason of disability are not payable for any month solely by reason of clause (i) or (v) of section 1611(e)(3)(A) shall be treated, for purposes of title XIX, as receiving benefits under this title for the month.".

(E) EFFECTIVE DATE.— 42 USC 1382 note.

(i) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this paragraph shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act by reason of disability which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after such date of enactment.

(ii) REFERRAL AND MONITORING AGENCIES.—The amendments made by subparagraph (B) shall take effect 180 days after the date of the enactment of this Act.

(iii) TERMINATION AFTER 36 MONTHS.—Clause (v) of section 1611(e)(3)(A) of the Social Security Act (added by the amendment made by subparagraph (A) of this paragraph) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act by reason of disability for months beginning after 180 days after the date of the enactment of this Act.

(F) TRANSITION RULES FOR CURRENT BENEFICIARIES.— 42 USC 1382 note. In any case in which an individual is eligible for supplemental security income benefits under title XVI of the Social Security Act by reason of disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, for purposes of section 1611(e)(3)(A)(v) of the Social Security Act (added by the amendment made by subparagraph (A) of this paragraph)—

(i) the first month of such eligibility beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of such eligibility; and

(ii) the Secretary shall notify the individual of the requirements of the amendments made by this paragraph no later than 180 days after the date of the enactment of this Act.

(4) IRRELEVANCE OF LEGALITY OF SUBSTANTIAL GAINFUL ACTIVITY.—

(A) IN GENERAL.—Section 1614(a)(3)(D) of such Act (42 U.S.C. 1382c(a)(3)(D)) is amended by adding at the end the following: "The Secretary shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act. 42 USC 1382c note.

42 USC 425 note.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to explore innovative referral, monitoring, and treatment approaches with respect to—

(A) individuals who are entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, and

(B) individuals who are eligible for supplemental security income benefits under title XVI of such Act based solely on disability,

in cases in which alcoholism or drug addiction is a contributing factor material to the Secretary's determination that individuals are under a disability. The Secretary may include in such demonstration projects individuals who are not described in either subparagraph (A) or subparagraph (B) if the inclusion of such individuals is necessary to determine the efficacy of various monitoring, referral, and treatment approaches for individuals described in subparagraph (A) or (B).

(2) SCOPE.—The demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative approaches under consideration while giving assurance that the results derived from the projects will obtain generally in the operation of the programs involved without committing such programs to the adoption of any particular system either locally or nationally.

(3) FINAL REPORT.—The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than December 31, 1997, a final report on the demonstration projects carried out under this subsection, together with any related data and materials which the Secretary may consider appropriate. The authority under this section shall terminate upon the transmittal of such final report.

42 USC 1382 note.

SEC. 202. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall appoint a Commission on the Evaluation of Disability in Children (in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint not less than 9 but not more than 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children;

(ii) the study of congenital, genetic, or perinatal disorders in children; or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology;

(ii) education and rehabilitation;

(iii) law;

(iv) the administration of disability programs; and

(v) social insurance (including health insurance); and

(C) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed by January 1, 1995, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chair of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage individuals skilled in medical and other aspects of childhood disability to provide such technical assistance as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under such title.

(2) The study described in paragraph (1) shall include issues of—

(A) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs;

(B) the feasibility of providing benefits to children through noncash means, including but not limited to vouchers, debit cards, and electronic benefit transfer systems;

(C) the extent to which the Social Security Administration can involve private organizations in an effort to increase the provision of social services, education, and vocational instruction with the aim of promoting independence and the ability to engage in substantial gainful activity;

(D) alternative ways and providing retroactive supplemental security income benefits to disabled children, including the desirability and feasibility of conserving some portion of such benefits to promote the long-term well-being of such children;

(E) the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity;

(F) the effects of the supplemental security income program on disabled children and their families; and

(G) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than November 30, 1995, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

SEC. 203. REGULATIONS REGARDING COMPLETION OF PLANS FOR ACHIEVING SELF-SUPPORT.

(a) IN GENERAL.—Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

"(d) The Secretary shall establish by regulation criteria for time limits and other criteria related to individuals' plans for achieving self-support, that take into account—

"(1) the length of time that the individual will need to achieve the individual's employment goal (within such reasonable period as the Secretary may establish); and

"(2) other factors determined by the Secretary to be appropriate.".

42 USC 1383b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1995.

SEC. 204. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD.

(a) IN GENERAL.—Section 1611(f) of the Social Security Act (42 U.S.C. 1382(f)) is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding after and below the end the following:

"(2) For a period of not more than 1 year, the first sentence of paragraph (1) shall not apply to any individual who—

"(A) was eligible to receive a benefit under this title for the month immediately preceding the first month during all of which the individual was outside the United States; and

"(B) demonstrates to the satisfaction of the Secretary that the absence of the individual from the United States will be—

"(i) for not more than 1 year; and

"(ii) for the purpose of conducting studies as part of an educational program that is—

"(I) designed to substantially enhance the ability of the individual to engage in gainful employment;

"(II) sponsored by a school, college, or university in the United States; and

"(III) not available to the individual in the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1995. 42 USC 1382 note.

SEC. 205. DISREGARD OF COST-OF-LIVING INCREASES FOR CONTINUED ELIGIBILITY FOR WORK INCENTIVES.

(a) IN GENERAL.—Section 1619(b)(1)(B) of the Social Security Act (42 U.S.C. 1382h(b)(1)(B)) is amended by inserting "and increases pursuant to section 215(i) in the level of monthly insurance benefits to which the individual is entitled under title II that occur while such individual is considered to be receiving supplemental security income benefits by reason of this subsection" after "earnings".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to eligibility determinations for months after December 1994. 42 USC 1382h note.

SEC. 206. EXPANSION OF THE AUTHORITY OF THE SOCIAL SECURITY ADMINISTRATION TO PREVENT, DETECT, AND TERMINATE FRAUDULENT CLAIMS FOR OASDI AND SSI BENEFITS.

(a) PREVENTION OF FRAUD BY TRANSLATORS OF FOREIGN LANGUAGES.—

(1) OASDI PROGRAMS.—Section 205(c) of the Social Security Act (42 U.S.C. 405(c)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

"(8) A translation into English by a third party of a statement made in a foreign language by an applicant for or beneficiary of monthly insurance benefits under this title shall not be regarded as reliable for any purpose under this title unless the third party, under penalty of perjury—

"(A) certifies that the translation is accurate; and

"(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.".

(2) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

"(4) A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of benefits under this title shall not be regarded as reliable for any purpose under this title unless the third party, under penalty of perjury—

"(A) certifies that the translation is accurate; and

"(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to translations made on or after October 1, 1994. 42 USC 405 note.

(b) CIVIL MONETARY PENALTIES, ASSESSMENTS, AND EXCLUSIONS FOR TITLES II AND XVI.—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following:

42 USC 1320a-8.

"SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESSMENTS FOR TITLES II AND XVI.

"(a)(1) Any person (including an organization, agency, or other entity) who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

"(A) monthly insurance benefits under title II, or

"(B) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such statement or representation. Such person also shall be subject to an assessment, in lieu of damages sustained by the United States because of such statement or representation, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation. In addition, the Secretary may make a determination in the same proceeding to exclude, as provided in section 1128, such a person who is a medical provider or physician from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program permanently or for such period as the Secretary determines.

"(2) For purposes of this section, a material fact is one which the Secretary may consider in evaluating whether an applicant is entitled to benefits under title II or eligible for benefits or payments under title XVI.

"(b)(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty or assessment, or whether to recommend exclusion under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by the Secretary and the Attorney General. The Secretary may not initiate an action under this section with respect to any violation described in subsection (a) later than 6 years after the date the violation was committed. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

"(2) The Secretary shall not make a determination adverse to any person under this section until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

"(3) In a proceeding under this section which—

"(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal or State crime charging fraud or false statements; and

"(B) involves the same transaction as in the criminal action;

the person is estopped from denying the essential elements of the criminal offense.

"(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, for failing to defend an action, or for such other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

"(A) in the case of refusal to provide or permit discovery, drawing negative factual inference or treating such refusal as an admission by deeming the matter, or certain facts, to be established;

"(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;

"(C) striking pleadings, in whole or in part;

"(D) staying the proceedings;

"(E) dismissal of the action;

"(F) entering a default judgment;

"(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct; and

"(H) refusing to consider any motion or other action which is not filed in a timely manner.

"(c) In determining pursuant to subsection (a) the amount or scope of any penalty or assessment, or whether to recommend an exclusion, the Secretary shall take into account—

"(1) the nature of the statements and representations referred to in subsection (a) and the circumstances under which they occurred;

"(2) the degree of culpability, history of prior offenses, and financial condition of the person committing the offense; and

"(3) such other matters as justice may require.

"(d)(1) Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the statement or representation referred to in subsection (a) was made, by filing in such court (within 60 days following the date the person is notified of the Secretary's determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

"(2) The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive in the review described in paragraph (1). If any party shall apply to the court for leave to adduce addi-

tional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify such findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and the Secretary shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole shall be conclusive, and the Secretary's recommendations, if any, for the modification or setting aside of the Secretary's original order.

"(3) Upon the filing of the record and the Secretary's original or modified order with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(e)(1) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered—

"(A) in a civil action in the name of the United States brought in United States district court for the district where the statement or representation referred to in subsection (a) was made, or where the person resides, as determined by the Secretary;

"(B) by means of reduction in tax refunds to which the person is entitled, based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code;

"(C)(i) by decrease of any payment of monthly insurance benefits under title II, notwithstanding section 207, or

"(ii) by decrease of any payment under title XVI for which the person is eligible, notwithstanding section 207, as made applicable to title XVI by reason of section 1631(d)(1);

"(D) by authorities provided under the Debt Collection Act of 1982, as amended, to the extent applicable to debts arising under the Social Security Act;

"(E) by deduction of the amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, from any sum then or later owing by the United States to the person against whom the penalty or assessment has been assessed; or

"(F) by any combination of the foregoing.

"(2) Amounts recovered under this section shall be recovered by the Secretary and shall be disposed of as follows:

"(A) In the case of amounts recovered arising out of a determination relating to title II, the amounts shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Secretary, and such amounts shall be deposited by the Managing Trustee into such Trust Fund.

"(B) In the case of amounts recovered arising out of a determination relating to title XVI, the amounts shall be depos-

ited by the Secretary into the general fund of the Treasury as miscellaneous receipts.

"(f) A determination pursuant to subsection (a) by the Secretary to impose a penalty or assessment, or to recommend an exclusion shall be final upon the expiration of the 60-day period referred to in subsection (d). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment imposed under this section.

"(g) Whenever the Secretary's determination to impose a penalty or assessment under this section with respect to a medical provider or physician becomes final, the provisions of section 1128A(h) shall apply.

"(h) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty and assessment if any such penalty were to be imposed or to seek other appropriate relief.

"(i)(1) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General for purposes of any investigation under this section.

"(2) The Secretary may delegate authority granted under this section to the Inspector General.

"(j) For purposes of this section, the term 'State agency' shall have the same meaning as in section 1128A(i)(1).

"(k) A principal is liable for penalties and assessments under subsection (a), and for an exclusion under section 1128, for the actions of the principal's agent acting within the scope of the agency.".

(2) CONFORMING AMENDMENTS.—Section 1128 of such Act (42 U.S.C. 1320a–7) is amended—

(A) in subsection (b)(7), by striking "or section 1128B" and inserting ", 1128B, or 1129";

(B) in subsection (b)(8)(B)(ii), by inserting "or 1129" after "section 1128A"; and

(C) in subsection (f)(3), by inserting ", 1129," after "sections 1128A".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conduct occurring on or after October 1, 1994. 42 USC 1320a-7 note.

(c) SSI FRAUD CONSIDERED A FELONY.—

(1) IN GENERAL.—Section 1632(a) of the Social Security Act (42 U.S.C. 1383a(a)) is amended by striking "shall" the 1st place such term appears and all that follows and inserting "shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.".

(2) CONFORMING AMENDMENT.—Section 1632(b) of such Act (42 U.S.C. 1383a(b)) is amended to read as follows:

"(b)(1) If a person or entity violates subsection (a) in the person's or entity's role as, or in applying to become, a representative payee under section 1631(a)(2) on behalf of another individual (other than the person's eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual.

"(2) Any person or entity convicted of a violation of subsection (a) of this section or of section 208 may not be certified as a representative payee under section 1631(a)(2).".

42 USC 1383a note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conduct occurring on or after October 1, 1994.

(d) AUTHORITY TO REDETERMINE ELIGIBILITY IF FRAUD IS INVOLVED, AND TO TERMINATE BENEFITS IF THERE IS INSUFFICIENT RELIABLE EVIDENCE.—

(1) OASDI PROGRAMS.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by adding at the end the following:

"(u)(1)(A) The Secretary shall immediately redetermine the entitlement of individuals to monthly insurance benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Secretary with regard to beneficiaries in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

"(B) When redetermining the entitlement, or making an initial determination of entitlement, of an individual under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

"(2) For purposes of paragraph (1), similar fault is involved with respect to a determination if—

"(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or

"(B) information that is material to the determination is knowingly concealed.

"(3) If, after redetermining pursuant to this subsection the entitlement of an individual to monthly insurance benefits, the Secretary determines that there is insufficient evidence to support such entitlement, the Secretary may terminate such entitlement and may treat benefits paid on the basis of such insufficient evidence as overpayments.".

(2) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following:

"(6)(A)(i) The Secretary shall immediately redetermine the eligibility of an individual for benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Secretary with regard to recipients in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

"(ii) When redetermining the eligibility, or making an initial determination of eligibility, of an individual for benefits under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

"(B) For purposes of subparagraph (A), similar fault is involved with respect to a determination if—

"(i) an incorrect or incomplete statement that is material to the determination is knowingly made; or

"(ii) information that is material to the determination is knowingly concealed.

"(C) If, after redetermining the eligibility of an individual for benefits under this title, the Secretary determines that there is insufficient evidence to support such eligibility, the Secretary may terminate such eligibility and may treat benefits paid on the basis of such insufficient evidence as overpayments.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1994, and shall apply to determinations made before, on, or after such date. 42 USC 405 note.

(e) AVAILABILITY OF RECIPIENT IDENTIFYING INFORMATION FROM THE INSPECTOR GENERAL.—

(1) IN GENERAL.—Section 1129 of the Social Security Act (added by subsection (b) of this section) is amended by adding at the end the following:

"(l) As soon as the Inspector General, Department of Health and Human Services, has reason to believe that fraud was involved in the application of an individual for monthly insurance benefits under title II or for benefits under title XVI, the Inspector General shall make available to the Secretary information identifying the individual, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that making the information so available in a particular investigation or redetermining the eligibility of the individual for such benefits would jeopardize the criminal prosecution of any person who is a subject of the investigation from which the information is derived.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1994. 42 USC 1320a-8 note.

(f) AUTHORITY TO USE AVAILABLE PREADMISSION IMMIGRANT AND REFUGEE MEDICAL INFORMATION.—

(1) IN GENERAL.—Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) as amended by subsection (d)(2) of this section, is amended by adding at the end the following:

"(7)(A) The Secretary shall request the Immigration and Naturalization Service or the Centers for Disease Control to provide the Secretary with whatever medical information, identification information, and employment history either such entity has with respect to any alien who has applied for benefits under title XVI to the extent that the information is relevant to any determination relating to eligibility for such benefits under title XVI.

"(B) Subparagraph (A) shall not be construed to prevent the Secretary from adjudicating the case before receiving such information.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1994. 42 USC 1383 note.

42 USC 405 note.

(g) ANNUAL REPORTS ON REVIEWS OF OASDI AND SSI CASES.—The Secretary of Health and Human Services shall annually submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the extent to which the Secretary has exercised his authority to review cases of entitlement to monthly insurance benefits under title II of the Social Security Act and supplemental security income cases under title XVI of such Act, and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.

42 USC 1382 note.

SEC. 207. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE.

(a) DISABILITY REVIEW REQUIREMENT.—

(1) IN GENERAL.—The applicable State agency or the Secretary of Health and Human Services (as may be appropriate) shall redetermine the eligibility of a qualified individual for supplemental security income benefits under title XVI of the Social Security Act by reason of disability, by applying the criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age.

(2) WHEN CONDUCTED.—The redetermination required by paragraph (1) with respect to a qualified individual shall be conducted during the 1-year period that begins on the date the qualified individual attains 18 years of age.

(3) MINIMUM NUMBER OF REVIEWS.—The Secretary shall conduct redeterminations under paragraph (1) with respect to not less than ⅓ of qualified individuals in each of fiscal years 1996, 1997, and 1998.

(4) QUALIFIED INDIVIDUAL DEFINED.—As used in this paragraph, the term "qualified individual" means a recipient of supplemental security income benefits under title XVI of the Social Security Act by reason of disability who attains 18 years of age in or after the 9th month after the month in which this Act is enacted.

(5) SUBSTITUTE FOR A CONTINUING DISABILITY REVIEW.—A redetermination under paragraph (1) of this subsection shall be considered a substitute for a review required under section 1614(a)(3)(G) of the Social Security Act.

(6) SUNSET.—Paragraph (1) shall have no force or effect after October 1, 1998.

(b) REPORT TO THE CONGRESS.—Not later than October 1, 1998, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the activities conducted under subsection (a).

42 USC 1382 note.

SEC. 208. CONTINUING DISABILITY REVIEWS.

(a) TEMPORARY ANNUAL MINIMUM NUMBER OF REVIEWS.—During each year of the 3-year period that begins on October 1, 1995, the Secretary of Health and Human Services shall apply section 221(i) of the Social Security Act in making disability determinations under title XVI of such Act with respect to at least 100,000 recipients of supplemental security income benefits under such title.

(b) REPORT TO THE CONGRESS.—Not later than October 1, 1998, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives

and the Committee on Finance of the Senate a report on the activities conducted under subsection (a).

SEC. 209. EXEMPTION FROM ADJUSTMENT IN PASS-ALONG REQUIREMENTS.

(a) IN GENERAL.—Section 1618(b) of the Social Security Act (42 U.S.C. 1382g(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2) For purposes of determining under paragraph (1) whether a State's expenditures for supplementary payments in the 12-month period beginning on the effective date of any increase in the level of supplemental security income benefits are not less than the State's expenditures for such payments in the preceding 12-month period, the Secretary, in computing the State's expenditures, shall disregard, pursuant to a 1-time election of the State, all expenditures by the State for retroactive supplementary payments that are required to be made in connection with the retroactive supplemental security income benefits referred to in section 5041 of the Omnibus Budget Reconciliation Act of 1990.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to increases in the level of supplemental security income benefits under title XVI of the Social Security Act whether occurring before, on, or after the date of the enactment of this Act.

42 USC 1382g note.

TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS

SEC. 301. ISSUANCE OF PHYSICAL DOCUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES TO THE SOCIAL SECURITY TRUST FUNDS.

(a) REQUIREMENT THAT OBLIGATIONS ISSUED TO THE OASDI TRUST FUNDS BE EVIDENCED BY PAPER INSTRUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES OF INDEBTEDNESS SETTING FORTH THEIR TERMS.—Section 201(d) of the Social Security Act (42 U.S.C. 401(d)) is amended by inserting after the fifth sentence the following new sentence: "Each obligation issued for purchase by the Trust Funds under this subsection shall be evidenced by a paper instrument in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury setting forth the principal amount, date of maturity, and interest rate of the obligation, and stating on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.".

(b) PAYMENT TO THE OASDI TRUST FUNDS FROM THE GENERAL FUND OF THE TREASURY OF INTEREST ON OBLIGATIONS, AND OF PROCEEDS FROM THE SALE OR REDEMPTION OF OBLIGATIONS, REQUIRED TO BE IN THE FORM OF CHECKS.—Section 201(f) of such Act (42 U.S.C. 401(f)) is amended by adding at the end the following new sentence: "Payment from the general fund of the Treasury to either of the Trust Funds of any such interest or proceeds

shall be in the form of paper checks drawn on such general fund to the order of such Trust Fund.".

42 USC 401 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to obligations issued, and payments made, after 60 days after the date of the enactment of this Act.

(2) TREATMENT OF OUTSTANDING OBLIGATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, a paper instrument, in the form of a bond, note, or certificate of indebtedness, for each obligation which has been issued to the Trust Fund under section 201(d) of the Social Security Act and which is outstanding as of such date. Each such document shall set forth the principal amount, date of maturity, and interest rate of the obligation, and shall state on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it was issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.

42 USC 902 note.

SEC. 302. GAO STUDY REGARDING TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of telephone access to local offices of the Social Security Administration.

(b) MATTERS TO BE STUDIED.—In conducting the study under this section, the Comptroller General shall make an independent assessment of the Social Security Administration's use of innovative technology (including attendant call and voice mail) to increase public telephone access to local offices of the Administration. Such study shall include—

(1) an assessment of the aggregate impact of such technology on public access to the local offices, and

(2) a separate assessment of the impact of such technology on public access to those local offices to which access was restricted on October 1, 1989.

(c) REPORT.—Not later than January 31, 1996, the Comptroller General shall submit a report on the results of the study conducted pursuant to this section to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 303. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$1,000 with respect to service performed during any calendar year commencing on or after January

1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year".

(2) AMENDMENT TO FICA.—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "$100" and inserting "$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking "$100" and inserting "$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year".

(2) AMENDMENT TO FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking "$100" and inserting "$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year".

(c) AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking "on or after January 1, 1968," and inserting "at any time";

(2) by striking "$100" and inserting "$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year"; and

(3) by striking the last sentence and inserting the following new sentence: "Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.".

(d) INDEXATION OF EXEMPT AMOUNT.—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting "(A)" after "(8)"; and

(2) by adding at the end the following new subparagraph:

"(B) For each year after 1999, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

"(i) for purposes of this subparagraph, 1997 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

"(ii) such amount as so adjusted, if not a multiple of $100, shall be rounded to the next higher multiple of $100 where such amount is a multiple of $50 and to the nearest multiple of $100 in any other case.

Federal Register, publication.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.".

42 USC 410 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1995.

SEC. 304. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking "(E)" in the matter preceding subclause (I) and inserting "(F)";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) It is the policy of the United States that—

"(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

"(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

"(ii) The additional purposes described in this clause are the following:

"(I) Identifying duplicate names of individuals on master lists used for jury selection purposes.

"(II) Identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

"(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

"(iv) For purposes of this subparagraph, the term 'State' has the meaning such term has in subparagraph (D).".

(b) CONFORMING AMENDMENT.—Section 1140(a)(2) of such Act (42 U.S.C. 1320b–10(a)(2)) is amended by striking "205(c)(2)(E)" and inserting "205(c)(2)(F)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 42 USC 405 note.

SEC. 305. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICE OFFICERS AND FIREFIGHTERS UNDER EXISTING COVERAGE AGREEMENTS.

(a) IN GENERAL.—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking "(1)" after "(l)", and by striking "the State of" and all that follows through "prior to the date of enactment of this subsection" and inserting "a State entered into pursuant to this section"; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENT.—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking "agreements with the States named in" and inserting "State agreements modified as provided in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act. 42 USC 418 note.

SEC. 306. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY. 26 USC 1402 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) PERIOD FOR FILING.—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) TAXABLE YEARS AFFECTED BY CERTIFICATE.—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual's primary

insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services (prior to March 31, 1995) or the Commissioner of Social Security (after March 30, 1995) shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 307. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking "but excluding" and all that follows through "1937" and inserting "but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233"; and

(2) in subparagraph (E), by inserting after "in the case of an individual" the following: "whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual".

(b) CONFORMING AMENDMENT RELATING TO BENEFITS UNDER 1939 ACT.—Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended by striking "but excluding" and all that follows through "1937" and inserting "but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233".

42 USC 415 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1))) with respect to benefits payable for months after December 1994.

SEC. 308. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) EXCLUSION FROM GOVERNMENT PENSION OFFSET PROVISIONS.—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking "unless subparagraph (B) applies.";

(2) in subparagraph (A), by striking "The" in the matter following clause (ii) and inserting "unless subparagraph (B) applies. The"; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

"(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).".

(b) EXCLUSION FROM WINDFALL ELIMINATION PROVISIONS.—Section 215(a)(7)(A) of such Act (as amended by section 307(a) of

this Act) and section 215(d)(3) of such Act (as amended by section 307(b) of this Act) are each further amended—

(1) by striking "and" before "(II)"; and

(2) by striking "section 233" and inserting "section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f) of the Social Security Act) with respect to benefits payable for months after December 1994. 42 USC 402 note.

SEC. 309. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking "section 222(b). Whenever" and inserting the following: "section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

"(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

"(B) who does not live in the same household as such individual, and

"(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section,

shall be made before the suspension under subsection (h)(3). Whenever".

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking "Such report need not be made" and all that follows through "The Secretary may grant" and inserting the following: "Such report need not be made for any taxable year—

"(i) beginning with or after the month in which such individual attained age 70, or

"(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

"(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

"(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

"(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant".

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF

REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

42 USC 403 note.

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1995.

26 USC 86 note.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1995, in taxable years ending after such date.

SEC. 310. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) IN GENERAL.—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

"(10)(A) Subject to subparagraphs (B) and (C)—

"(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insurance benefits or reentitled to disability insurance benefits or died, and

"(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

"(B) In any case in which—

"(i) the total monthly benefits with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

"(ii) the individual's primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual's entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

"(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of section 203(a)(1) of this Act as in effect in December 1978.".

(b) CONFORMING AMENDMENT.—Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended by striking "Subject to paragraph

(7)," and inserting "Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act based on the wages and self-employment income of an individual who— 42 USC 403 note.

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies,

after December 1995.

SEC. 311. AUTHORIZATION FOR DISCLOSURE OF SOCIAL SECURITY INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) IN GENERAL.—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) in subsection (f) (as so redesignated), by striking "subsection (d)" and inserting "subsection (e)"; and

(3) by inserting after subsection (c) the following new subsection:

"(d) Notwithstanding any other provision of this section, in any case in which—

"(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

"(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Secretary,

the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).".

(b) AVAILABILITY OF INFORMATION RETURNS REGARDING WAGES PAID EMPLOYEES.—Section 6103(l)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking "for the purpose of" and inserting "for the purpose of—";

(2) by striking "carrying out, in accordance with an agreement" and inserting the following:

"(A) carrying out, in accordance with an agreement";

(3) by striking "program." and inserting "program; or"; and

(4) by adding at the end the following new subparagraph:

"(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.".

26 USC 6103 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 312. MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY ADMINISTRATION OR DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b–10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.".

(b) ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking "Administration', the letters 'SSA' or 'HCFA'," and inserting "Administration', 'Department of Health and Human Services', 'Health and Human Services', 'Supplemental Security Income Program', or 'Medicaid', the letters 'SSA', 'HCFA', 'DHHS', 'HHS', or 'SSI',"; and

(2) in subparagraph (B) (as amended by section 304 and as redesignated), by striking "Social Security Administration" each place it appears and inserting "Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services", by striking "or of the Health Care Financing Administration", and by inserting "or the Medicare card," after "205(c)(2)(F)".

(c) EXEMPTION FOR USE OF WORDS, LETTERS, SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOVERNMENT AGENCIES BY SUCH AGENCIES.—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: "The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.".

(d) INCLUSION OF REASONABLENESS STANDARD.—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking "convey" and inserting "convey, or in a manner which reasonably could be interpreted or construed as conveying,".

(e) INEFFECTIVENESS OF DISCLAIMERS.—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this

section) is further amended by adding at the end the following new paragraph:

"(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.".

(f) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b–10(b)(1)) is amended by adding at the end the following new sentence: "In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.".

(g) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b–10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) of such Act is further amended—

(A) by striking "(1) Subject to paragraph (2), the" and inserting "The";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking "subparagraph (B)" and inserting "paragraph (2)".

(h) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b–10(c)(1)) is amended by inserting "and the first sentence of subsection (c)" after "and (i)".

(i) PENALTIES RELATING TO SOCIAL SECURITY ADMINISTRATION DEPOSITED IN OASI TRUST FUND, AND PENALTIES RELATED TO HEALTH CARE FINANCING ADMINISTRATION DEPOSITED IN THE HI AND SMI TRUST FUNDS.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b–10(c)(2)) is amended in the second sentence by striking "United States." and inserting "United States, except that (A) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivors Insurance Trust Fund, and (B) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Department of Health and Human Services, such amounts shall be deposited into the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund, as appropriate.".

(j) ENFORCEMENT.—Section 1140 of such Act (42 U.S.C. 1320b–10) is amended by adding at the end the following new subsection:

"(d) The preceding provisions of this section may be enforced through the Office of the Inspector General of the Department of Health and Human Services.".

(k) REPORTS.— 42 USC 1320b–10 note.

(1) IN GENERAL.—The Secretary of Health and Human Services and the Commissioner of Social Security shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate 3 reports on the operation of section 1140 of the Social Security Act with respect to the Social Security Administration or the Department of Health and Human Services during the period covered by the report, which shall specify—

(A) the number of complaints of violations of such section received by the Social Security Administration or the Department of Health and Human Services during the period,

(B) the number of cases in which the Social Security Administration or the Department, during the period, sent a notice of violation of such section requesting that an individual cease activities in violation of such section,

(C) the number of cases in which the Social Security Administration or the Department formally proposed a civil money penalty in a demand letter during the period,

(D) the total amount of civil money penalties assessed by the Social Security Administration or the Department under this section during the period,

(E) the number of requests for hearings filed during the period by the Social Security Administration or the Department pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act,

(F) the disposition during the period of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act, and

(G) the total amount of civil money penalties collected under this section and deposited into the Federal Old-Age and Survivors Insurance Trust Fund or the Health Insurance and Supplementary Medical Insurance Trust Funds, as applicable, during the period.

(2) WHEN DUE.—The reports required by paragraph (1) shall be submitted not later than December 1, 1995, not later than December 1, 1997, and not later than December 1, 1999, respectively.

(l) PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.—

(1) GENERAL RULE.—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

"(a) GENERAL RULE.—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

"(1) the words 'Department of the Treasury', or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

"(2) the titles 'Secretary of the Treasury' or 'Treasurer of the United States' or the title of any other officer or employee of the Department of the Treasury,

"(3) the abbreviations or initials of any entity referred to in paragraph (1),

"(4) the words 'United States Savings Bond' or the name of any other obligation issued by the Department of the Treasury,

"(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

"(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

"(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed $5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$25,000' for '$5,000'.

"(3) TIME LIMITATIONS.—

"(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

"(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

"(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

"(d) CRIMINAL PENALTY.—

"(1) IN GENERAL.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than $10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting '$50,000' for '$10,000'.

"(2) TIME LIMITATIONS.—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

"(3) COORDINATION WITH SUBSECTION (c).—No criminal proceeding may be commenced under this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

"333. Prohibition of misuse of Department of the Treasury names, symbols, etc.".

(3) REPORT.—Not later than May 1, 1996, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.

31 USC 333 note.

(m) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations occurring after March 31, 1995.

(2) PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.—Subsection (l)(3) shall take effect on the date of the enactment of this Act, and the amendments made by paragraphs (1) and (2) of subsection (l) shall apply with respect to violations occurring after such date.

SEC. 313. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking "misdemeanor" and inserting "felony";

(2) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(3) by striking "one year" and inserting "5 years".

(b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting "social security account number," after "information as to the";

(2) by striking "misdemeanor" and inserting "felony";

(3) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(4) by striking "one year" and inserting "5 years".

42 USC 1306 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 314. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

42 USC 403 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1994.

SEC. 315. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) IN GENERAL.—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96–265), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and section 5120 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), is further amended— 42 USC 1310 note

(1) in paragraph (3) of subsection (a), by striking "June 10, 1993" and inserting "June 10, 1996";

(2) in paragraph (4) of subsection (a), by striking "1992" and inserting "1995"; and

(3) in subsection (c), by striking "October 1, 1993" and inserting "October 1, 1996".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 42 USC 1310 note

SEC. 316. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) SOCIAL SECURITY ACCOUNT NUMBER INFORMATION.—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3791)) is amended—

(1) by inserting "(I)" after "(iii)"; and

(2) by striking "The Secretary of Agriculture shall restrict" and all that follows and inserting the following:

"(II) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

"(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

"(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.".

(b) EMPLOYER IDENTIFICATION NUMBER INFORMATION.—Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

26 USC 6109.

(1) by striking paragraph (2) and inserting the following:

"(2) SHARING OF INFORMATION AND SAFEGUARDS.—

"(A) SHARING OF INFORMATION.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

"(B) SAFEGUARDS.—The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.";

(2) in paragraph (3), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)", and by striking "social security account numbers" and inserting "employer identification numbers"; and

(3) in paragraph (4), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)".

SEC. 317. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

45 USC 231n note.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 318. AUTHORIZATION FOR USE OF SOCIAL SECURITY ACCOUNT NUMBERS BY DEPARTMENT OF LABOR IN ADMINISTRATION OF FEDERAL WORKERS' COMPENSATION LAWS.

Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

"(ix) In the administration of the provisions of chapter 81 of title 5, United States Code, and the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), the Secretary of Labor may require by regulation that any person filing a notice of injury or a claim for benefits under such provisions provide as part of such notice or claim such person's social security account number, subject to the requirements of this clause. No officer or employee of the Department of Labor shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such provisions. The Secretary of Labor shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of such provisions. The Secretary of Labor shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.".

SEC. 319. COVERAGE UNDER FICA OF FEDERAL EMPLOYEES TRANSFERRED TEMPORARILY TO INTERNATIONAL ORGANIZATIONS.

(a) TREATMENT OF SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Section 3121 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection: 26 USC 3121.

"(y) SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—

"(1) IN GENERAL.—For purposes of this chapter, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such international organization pursuant to section 3582 of title 5, United States Code, shall constitute 'employment' if—

"(A) immediately before such transfer, such individual performed service with a Federal agency which constituted 'employment' under subsection (b) for purposes of the taxes imposed by sections 3101(a) and 3111(a), and

"(B) such individual would be entitled, upon separation from such international organization and proper application, to reemployment with such Federal agency under such section 3582.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) FEDERAL AGENCY.—The term 'Federal agency' means an agency, as defined in section 3581(1) of title 5, United States Code.

"(B) INTERNATIONAL ORGANIZATION.—The term 'international organization' has the meaning provided such term by section 3581(3) of title 5, United States Code."

(2) CONTRIBUTIONS BY FEDERAL AGENCY.—Section 3122 of such Code (relating to Federal service) is amended by inserting after the first sentence the following new sentence: "In the case of the taxes imposed by this chapter with respect to service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable, the determination of the amount of remuneration for such service, and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency from which the transfer was made."

(3) COLLECTION OF EMPLOYEE CONTRIBUTIONS.—Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—In the case of any payments of wages for service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable—

"(1) subsection (a) shall not apply,

"(2) the head of the Federal agency from which the transfer was made shall separately include on the statement required under section 6051—

"(A) the amount determined to be the amount of the wages for such service, and

"(B) the amount of the tax imposed by section 3101 on such payments, and

"(3) the tax imposed by section 3101 on such payments shall be paid by the employee."

(4) EXCLUSION FROM TREATMENT AS TRADE OR BUSINESS.—Paragraph (2)(C) of section 1402(c) of such Code (defining trade or business) is amended by adding at the end the following: "except service which constitutes 'employment' under section 3121(y),".

(5) CONFORMING AMENDMENT.—Paragraph (15) of section 3121(b) of such Code is amended by inserting ", except service which constitutes 'employment' under subsection (y)" after "organization".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—Section 210 of the Social Security Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

"SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES

"(r)(1) For purposes of this title, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such international organization pursuant to section 3582 of title 5, United States Code, shall constitute 'employment' if—

"(A) immediately before such transfer, such individual performed service with a Federal agency which constituted 'employment' as defined in subsection (a), and

"(B) such individual would be entitled, upon separation from such international organization and proper application, to reemployment with such Federal agency under such section 3582.

"(2) For purposes of this subsection:

"(A) The term 'Federal agency' means an agency, as defined in section 3581(1) of title 5, United States Code.

"(B) The term 'international organization' has the meaning provided such term by section 3581(3) of title 5, United States Code."

(2) EXCLUSION FROM TREATMENT AS TRADE OR BUSINESS.—Section 211(c)(2)(C) of such Act (42 U.S.C. 411(c)(2)(C)) is amended by inserting before the semicolon the following ", except service which constitutes 'employment' under section 210(r)".

(3) CONFORMING AMENDMENT.—Section 210(a)(15) of such Act (42 U.S.C. 410(a)(15)) is amended by inserting ", except service which constitutes 'employment' under subsection (r)" before the semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the calendar quarter following the calendar quarter in which the date of the enactment of this Act occurs. 26 USC 1402 note.

SEC. 320. EXTENSION OF THE FICA TAX EXEMPTION AND CERTAIN TAX RULES TO INDIVIDUALS WHO ENTER THE UNITED STATES UNDER A VISA ISSUED UNDER SECTION 101 OF THE IMMIGRATION AND NATIONALITY ACT.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "(J), or (M)" each place it appears and inserting "(J), (M), or (Q)":

(A) Section 871(c).
(B) Section 1441(b).
(C) Section 3121(b)(19).
(D) Section 3231(e)(1).
(E) Section 3306(c)(19).

(2) Paragraph (3) of section 872(b) of such Code is amended by striking "(F) or (J)" and inserting "(F), (J), or (Q)".

(3) Paragraph (5) of section 7701(b) of such Code is amended by striking "subparagraph (J)" in subparagraphs (C)(i) and (D)(i)(II) and inserting "subparagraph (J) or (Q)".

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Paragraph (19) of section 210(a) of the Social Security Act is amended by striking "(J), or (M)" each place it appears and inserting "(J), (M), or (Q)".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect with the calendar quarter following the date of the enactment of this Act.

SEC. 321. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking "and and" and inserting "and".

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end, and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.

(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding subparagraph (A), by striking "parargaph" and inserting "paragraph".

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting "if the" before "Secretary" the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking "non-public" and inserting "nonpublic".

(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101–624;

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101–624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101–624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking "subclause (I) of", and by striking "subclause (II) of clause (i)" and inserting "clause (ii)"; and

(D) in clause (viii)(IV) (as redesignated), by inserting "a social security account number or" before "a request for".

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

"Representative Payees".

(11) The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:

"Notice Requirements".

(12) Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking "subsection (g)" and inserting "subsection (a)(7)".

(13) Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking "section 105(e)(2)" and inserting "section 104(e)(2)".

(14) Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(A) in paragraph (13), by striking "and" at the end; and

(B) in paragraph (14), by striking the period and inserting "; and".

(15) Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking "section" the first place it appears and inserting "sections".

(16) Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking "subsection" the second place it appears and inserting "subsections".

(17) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after "1990".

(18) Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.

(19) Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:

"Limitation on Payments to Prisoners".

(b) RELATED AMENDMENTS.—

(1) Section 603(b)(5)(A) of Public Law 101–649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting "under" before "paragraph (1)," and by striking "(17), or (18)" and inserting "(17), (18), or (19)", effective as if this paragraph were included in such section 603(b)(5)(A). 42 USC 402.

(2) Section 10208(b)(1) of Public Law 101–239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking "230(b)(2)(A)" and "430(b)(2)(A)" and inserting "230(b)(2)" and "430(b)(2)", respectively, effective as if this paragraph were included in such section 10208(b)(1). 42 USC 430

(c) CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN TITLE II OF THE SOCIAL SECURITY ACT TO THE INTERNAL REVENUE CODE.—

(1)(A)(i) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended— 42 USC 401 note.

(I) in subparagraph (A)(i), by striking "and subchapter E" and all that follows through "1954" and inserting "and chapters 2 and 21 of the Internal Revenue Code of 1986";

(II) in subparagraph (A)(ii), by striking "1954" and inserting "1986";

(III) in the matter in subparagraph (A) following clause (ii), by striking "subchapter E" and all that follows through "1954." and inserting "chapters 2 and 21 of the Internal Revenue Code of 1986.", and by striking "1954 other" and inserting "1986 other"; and

(IV) in subparagraph (B), by striking "1954" each place it appears and inserting "1986".

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking "section 3101(a)" and all that follows through "1950." and inserting "section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).", and by striking "wages reported" and all that follows through "1954," and inserting "wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,".

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1995. 42 USC 401 note.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking "The Board of Trustees shall prescribe before January 1, 1981, the method" and inserting "If at any time or times the Boards of Trustees of such Trust

Funds deem such action advisable, they may modify the method prescribed by such Boards";

(ii) by striking "1954" and inserting "1986"; and

(iii) by striking the last sentence.

(2) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—

(A) in paragraph (1), by striking "1954" and inserting "1986"; and

(B) in paragraph (3)(A), by inserting "of the Internal Revenue Code of 1986" after "3127".

(3) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting "or the Internal Revenue Code of 1986" after "1954".

(4)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting "or the Internal Revenue Code of 1986" after "Internal Revenue Code of 1954".

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking "1954" each place it appears and inserting "1986".

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amended by striking "1954" each place it appears and inserting "1986".

(5) Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by inserting "of the Internal Revenue Code of 1986" after "section 162(m)".

(6) Title II of such Act is further amended—

(A) in subsections (f)(5)(B)(ii) and (k) of section 203 (42 U.S.C. 403),

(B) in section 205(c)(1)(D)(i) (42 U.S.C. 405(c)(1)(D)(i)),

(C) in the matter in section 210(a) (42 U.S.C. 410(a)) preceding paragraph (1) and in paragraphs (8), (9), and (10) of section 210(a),

(D) in subsections (p)(4) and (q) of section 210 (42 U.S.C. 410),

(E) in the matter in section 211(a) (42 U.S.C. 411(a)) preceding paragraph (1) and in paragraphs (3), (4), (6), (10), (11), and (12) and clauses (iii) and (iv) of section 211(a),

(F) in the matter in section 211(c) (42 U.S.C. 411(c)) preceding paragraph (1), in paragraphs (3) and (6) of section 211(c), and in the matter following paragraph (6) of section 211(c),

(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),

(H) in section 216(j) (42 U.S.C. 416(j)),

(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),

(J) in section 229(b) (42 U.S.C. 429(b)),

(K) in section 230(c) (42 U.S.C. 430(c)), and

(L) in section 232 (42 U.S.C. 432),

by striking "1954" each place it appears and inserting "1986".

42 USC 401 note.

(d) RULES OF CONSTRUCTION.—

(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).

(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—

(1) DEFINITION OF NATIONAL AVERAGE WAGE INDEX.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking "paragraph (1)" and inserting "this subsection"; and

(C) by striking paragraph (1) and inserting the following new paragraphs:

"(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii), 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E), 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'national average wage index' for any particular calendar year means, subject to regulations of the Secretary under paragraph (2), the average of the total wages for such particular calendar year.

"(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed— Regulations.

"(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

"(B) by disregarding the limitation on wages specified in subsection (a)(1),

"(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

"(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years.".

(2) CONFORMING AMENDMENTS.—

(A) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking "deemed average total wages" and inserting "national average wage index", and by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1976,".

(B) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking "deemed average total wages" and inserting "national average wage index"; and

(ii) in subclause (II), by striking "the average of the total wages" and all that follows and inserting

"the national average wage index (as so defined) for 1977.".

(C) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "deemed average total wages" and inserting "national average wage index".

(D) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking "after 1978";

(ii) by striking "and the average of the total wages (as described in subparagraph (B)(ii)(I))" and inserting "and the national average wage index (as defined in section 209(k)(1))"; and

(iii) by striking the last sentence.

(E) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(F) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking "SSA average wage index" and inserting "national average wage index (as defined in section 209(k)(1))"; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(G) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read as follows:

"(ii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the national average wage index (as defined in section 209(k)(1)) and a statement of the effect such ratio and the level of such index may have upon benefit increases under this subsection in any notification made under clause (i) and any determination published under subparagraph (D).".

(H) Section 224(f)(2) of such Act (42 U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding "and" at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and inserting the following:

"(B) the ratio of (i) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).".

(f) TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—

(1) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(A) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(B) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(2) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—

(A) TITLE II AMENDMENTS.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended— 42 USC 405.

(i) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(ii) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(B) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of the Social Security Act (42 U.S.C. 1383(a)(2)) is amended—

(i) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(ii) by inserting after subparagraph (D) the following:

"(E) RESTITUTION.—In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(3) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(A) CALCULATION OF FEE OF CLAIMANT'S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

"(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase '(as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a))' for the parenthetical phrase contained therein; and".

(B) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(i) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(I) by inserting "(A)" after "(b)(1)"; and

(II) by adding at the end the following new subparagraph:

"(B) For purposes of this paragraph—

"(i) the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

"(ii) amounts of past-due benefits shall be determined before any applicable reduction under section 1127(a).".

(ii) PROTECTION FROM OFFSETTING SSI BENEFITS.—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a–6(a)) is amended by striking "section 206(a)(4)" and inserting "subsection (a)(4) or (b) of section 206".

(4) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

"(C) In any case involving—

"(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

"(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).".

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(D)".

42 USC 405 note.

(5) EFFECTIVE DATE.—Each amendment made by this subsection shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates, except that the amendments made by paragraph (3)(B) shall apply with respect to favorable judgments made after 180 days after the date of the enactment of this Act.

(g) ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE CONTRIBUTION AND BENEFIT BASE AND THE EARNINGS TEST EXEMPT AMOUNTS.—

(1) ADJUSTMENT OF OASDI CONTRIBUTION AND BENEFIT BASE.—

(A) IN GENERAL.—Section 230(b) of the Social Security Act (42 U.S.C. 430(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $60,600, and

"(2) the ratio of (A) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the national average wage index (as so defined) for 1992,".

(B) CONFORMING AMENDMENT RELATING TO APPLICABLE PRIOR LAW.—Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking "(except that" and all that follows through the end and inserting "(except that, for purposes of subsection (b) of such section 230 as so in effect, the

reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992).".

(C) ADJUSTMENT OF CONTRIBUTION AND BENEFIT BASE APPLICABLE IN DETERMINING YEARS OF COVERAGE FOR PURPOSES OF SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.—Section 215(a)(1)(C)(ii) of such Act is amended by striking "(except that" and all that follows through the end and inserting "(except that, for purposes of subsection (b) of such section 230 as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to $45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992).". 42 USC 415.

(2) ADJUSTMENT OF EARNINGS TEST EXEMPT AMOUNT.—Section 203(f)(8)(B)(ii) of the Social Security Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended to read as follows:

"(ii) the product of the corresponding exempt amount which is in effect with respect to months in the taxable year ending after 1993 and before 1995, and the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subparagraph (A) is made, to

"(II) the national average wage index (as so defined) for 1992,

with such product, if not a multiple of $10, being rounded to the next higher multiple of $10 where such product is a multiple of $5 but not of $10 and to the nearest multiple of $10 in any other case.".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall be effective with respect to the determination of the contribution and benefit base for years after 1994. 42 USC 415 note.

(B) The amendment made by paragraph (2) shall be effective with respect to the determination of the exempt amounts applicable to any taxable year ending after 1994. 42 USC 403 note.

(h) TECHNICAL AMENDMENTS TO TITLE XVI.—(1) Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended—

(A) in the 1st subsection (n), by striking "subsection" and inserting "title"; and

(B) by redesignating the 2nd subsection (n) as subsection (o).

(2) Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of the 1st paragraph (10) and inserting "; and"; and

(C) by redesignating the 2nd paragraph (10) as paragraph (11).

42 USC 1382b note

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Approved August 15, 1994.

LEGISLATIVE HISTORY—H.R. 4277 (S. 1560):

HOUSE REPORTS: Nos. 103-506 (Comm. on Ways and Means) and 103-670 (Comm. of Conference)
SENATE REPORTS: No. 103-221 accompanying S. 1560 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 2, S. 1560 considered and passed Senate.
May 17, H.R. 4277 considered and passed House.
May 23, considered and passed Senate, amended.
Aug. 5, Senate agreed to conference report.
Aug. 11, House agreed to conference report
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 30 (1994):
Aug. 15, Presidential remarks and statement

Public Law 103-297
103d Congress

An Act

To strengthen the authority of the Federal Trade Commission to protect consumers in connection with sales made with a telephone, and for other purposes.

Aug. 16, 1994
[H.R. 868]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Telemarketing and Consumer Fraud and Abuse Prevention Act. 15 USC 6101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 2. FINDINGS. 15 USC 6101.

The Congress makes the following findings:

(1) Telemarketing differs from other sales activities in that it can be carried out by sellers across State lines without direct contact with the consumer. Telemarketers also can be very mobile, easily moving from State to State.

(2) Interstate telemarketing fraud has become a problem of such magnitude that the resources of the Federal Trade Commission are not sufficient to ensure adequate consumer protection from such fraud.

(3) Consumers and others are estimated to lose $40 billion a year in telemarketing fraud.

(4) Consumers are victimized by other forms of telemarketing deception and abuse.

(5) Consequently, Congress should enact legislation that will offer consumers necessary protection from telemarketing deception and abuse.

SEC. 3. TELEMARKETING RULES. 15 USC 6102.

(a) IN GENERAL.—

(1) The Commission shall prescribe rules prohibiting deceptive telemarketing acts or practices and other abusive telemarketing acts or practices.

(2) The Commission shall include in such rules respecting deceptive telemarketing acts or practices a definition of deceptive telemarketing acts or practices which may include acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.

(3) The Commission shall include in such rules respecting other abusive telemarketing acts or practices—

(A) a requirement that telemarketers may not undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy,

(B) restrictions on the hours of the day and night when unsolicited telephone calls can be made to consumers, and

(C) a requirement that any person engaged in telemarketing for the sale of goods or services shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.

In prescribing the rules described in this paragraph, the Commission shall also consider recordkeeping requirements.

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 365 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

(d) SECURITIES AND EXCHANGE COMMISSION RULES.—

(1) PROMULGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 6 months after the effective date of rules promulgated by the Federal Trade Commission under subsection (a), the Securities and Exchange Commission shall promulgate, or require any national securities exchange or registered securities association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by persons described in paragraph (2).

(B) EXCEPTION.—The Securities and Exchange Commission is not required to promulgate a rule under subparagraph (A) if it determines that—

(i) Federal securities laws or rules adopted by the Securities and Exchange Commission thereunder provide protection from deceptive and other abusive telemarketing by persons described in paragraph (2) substantially similar to that provided by rules promulgated by the Federal Trade Commission under subsection (a); or

(ii) such a rule promulgated by the Securities and Exchange Commission is not necessary or appropriate in the public interest, or for the protection of investors, or would be inconsistent with the maintenance of fair and orderly markets.

Federal Register, publication.

If the Securities and Exchange Commission determines that an exception described in clause (i) or (ii) applies, the Securities and Exchange Commission shall publish in the Federal Register its determination with the reasons for it.

(2) APPLICATION.—

(A) IN GENERAL.—The rules promulgated by the Securities and Exchange Commission under paragraph (1)(A) shall apply to a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment

adviser or investment company, or any individual associated with a broker, dealer, transfer agent, municipal securities dealer, municipal securities broker, government securities broker, government securities dealer, investment adviser or investment company. The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in the preceding sentence.

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) the terms "broker", "dealer", "transfer agent", "municipal securities dealer", "municipal securities broker", "government securities broker", and "government securities dealer" have the meanings given such terms by paragraphs (4), (5), (25), (30), (31), (43), and (44) of section 3(a) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (25), (30), (31), (43), and (44));

(ii) the term "investment adviser" has the meaning given such term by section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)); and

(iii) the term "investment company" has the meaning given such term by section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)).

(e) COMMODITY FUTURES TRADING COMMISSION RULES.—

(1) APPLICATION.—The rules promulgated by the Federal Trade Commission under subsection (a) shall not apply to persons described in subsection (f)(1) of section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a).

(2) PROMULGATION.—Section 6 of the Commodity Exchange Act (7 U.S.C. 8, 9, 15, 13b, 9a) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), not later than six months after the effective date of rules promulgated by the Federal Trade Commission under section 3(a) of the Telemarketing and Consumer Fraud and Abuse Prevention Act, the Commission shall promulgate, or require each registered futures association to promulgate, rules substantially similar to such rules to prohibit deceptive and other abusive telemarketing acts or practices by any person registered or exempt from registration under this Act in connection with such person's business as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or a person associated with any such person. 7 USC 9b.

"(2) The Commission is not required to promulgate rules under paragraph (1) if it determines that—

"(A) rules adopted by the Commission under this Act provide protection from deceptive and abusive telemarketing by persons described under paragraph (1) substantially similar to that provided by rules promulgated by the Federal Trade Commission under section 3(a) of the Telemarketing and Consumer Fraud and Abuse Prevention Act; or

"(B) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

Federal Register, publication.

If the Commission determines that an exception described in subparagraph (A) or (B) applies, the Commission shall publish in the Federal Register its determination with the reasons for it.".

15 USC 6103.

SEC. 4. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule of the Commission under section 3, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such telemarketing, to enforce compliance with such rule of the Commission, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) or (f)(2) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no State may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action under subsection (a) or (f)(2) against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(e) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(f) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

SEC. 5. ACTIONS BY PRIVATE PERSONS. 15 USC 6104.

(a) IN GENERAL.—Any person adversely affected by any pattern or practice of telemarketing which violates any rule of the Commission under section 3, or an authorized person acting on such person's behalf, may, within 3 years after discovery of the violation, bring a civil action in an appropriate district court of the United States against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule of the Commission under section 3, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(c) ACTION BY THE COMMISSION.—Whenever a civil action has been instituted by or on behalf of the Commission for violation of any rule prescribed under section 3, no person may, during the pendency of such action instituted by or on behalf of the Commission, institute a civil action against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(d) COST AND FEES.—The court, in issuing any final order in any action brought under subsection (a), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(e) CONSTRUCTION.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

(f) VENUE; SERVICE OF PROCESS.—Any civil action brought under subsection (a) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

SEC. 6. ADMINISTRATION AND APPLICABILITY OF ACT. 15 USC 6105.

(a) IN GENERAL.—Except as otherwise provided in sections 3(d), 3(e), 4, and 5, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 3 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such rule shall be subject to

the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EFFECT ON OTHER LAWS.—Nothing contained in this Act shall be construed to limit the authority of the Commission under any other provision of law.

15 USC 6106.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) The term "attorney general" means the chief legal officer of a State.

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description, or illustration of the goods or services offered for sale,

(B) includes the business address of the seller,

(C) includes multiple pages of written material or illustrations, and

(D) has been issued not less frequently than once a year,

where the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation.

SEC. 8. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

15 USC 6107.

SEC. 9. ENFORCEMENT OF ORDERS.

(a) GENERAL AUTHORITY.—Subject to subsections (b) and (c), the Federal Trade Commission may bring a criminal contempt action for violations of orders of the Commission obtained in cases brought under section 13(b) of the Federal Trade Commission Act (15 U.S.C. 53(b)).

(b) APPOINTMENT.—An action authorized by subsection (a) may be brought by the Federal Trade Commission only after, and pursuant to, the appointment by the Attorney General of an attorney employed by the Commission, as a special assistant United States Attorney.

(c) REQUEST FOR APPOINTMENT.—

(1) APPOINTMENT UPON REQUEST OR MOTION.—A special assistant United States Attorney may be appointed under subsection (b) upon the request of the Federal Trade Commission

or the court which has entered the order for which contempt is sought or upon the Attorney General's own motion.

(2) TIMING.—The Attorney General shall act upon any request made under paragraph (1) within 45 days of the receipt of the request.

(d) TERMINATION OF AUTHORITY.—The authority of the Federal Trade Commission to bring a criminal contempt action under subsection (a) expires 2 years after the date of the first promulgation of rules under section 3. The expiration of such authority shall have no effect on an action brought before the expiration date.

SEC. 10. REVIEW.

Reports.
15 USC 6108.

Upon the expiration of 5 years following the date of the first promulgation of rules under section 3, the Commission shall review the implementation of this Act and its effect on deceptive telemarketing acts or practices and report the results of the review to the Congress.

Approved August 16, 1994.

LEGISLATIVE HISTORY—H.R. 868 (S. 568):

HOUSE REPORTS: No. 103-20 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 103-80 accompanying S. 568 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Mar. 2, considered and passed House.
June 30, considered and passed Senate, amended.
Vol. 140 (1994): July 25, House concurred in Senate amendment with an amendment.
Aug. 2, Senate concurred in House amendment.

Public Law 103-298
103d Congress

An Act

Aug. 17, 1994
[S. 1458]

To amend the Federal Aviation Act of 1958 to establish time limitations on certain civil actions against aircraft manufacturers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

General Aviation Revitalization Act of 1994.
49 USC 40101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Aviation Revitalization Act of 1994".

49 USC 40101 note.

SEC. 2. TIME LIMITATIONS ON CIVIL ACTIONS AGAINST AIRCRAFT MANUFACTURERS.

(a) IN GENERAL.—Except as provided in subsection (b), no civil action for damages for death or injury to persons or damage to property arising out of an accident involving a general aviation aircraft may be brought against the manufacturer of the aircraft or the manufacturer of any new component, system, subassembly, or other part of the aircraft, in its capacity as a manufacturer if the accident occurred—

(1) after the applicable limitation period beginning on—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such aircraft; or

(2) with respect to any new component, system, subassembly, or other part which replaced another component, system, subassembly, or other part originally in, or which was added to, the aircraft, and which is alleged to have caused such death, injury, or damage, after the applicable limitation period beginning on the date of completion of the replacement or addition.

(b) EXCEPTIONS.—Subsection (a) does not apply—

(1) if the claimant pleads with specificity the facts necessary to prove, and proves, that the manufacturer with respect to a type certificate or airworthiness certificate for, or obligations with respect to continuing airworthiness of, an aircraft or a component, system, subassembly, or other part of an aircraft knowingly misrepresented to the Federal Aviation Admin-

istration, or concealed or withheld from the Federal Aviation Administration, required information that is material and relevant to the performance or the maintenance or operation of such aircraft, or the component, system, subassembly, or other part, that is causally related to the harm which the claimant allegedly suffered;

(2) if the person for whose injury or death the claim is being made is a passenger for purposes of receiving treatment for a medical or other emergency;

(3) if the person for whose injury or death the claim is being made was not aboard the aircraft at the time of the accident; or

(4) to an action brought under a written warranty enforceable under law but for the operation of this Act.

(c) GENERAL AVIATION AIRCRAFT DEFINED.—For the purposes of this Act, the term "general aviation aircraft" means any aircraft for which a type certificate or an airworthiness certificate has been issued by the Administrator of the Federal Aviation Administration, which, at the time such certificate was originally issued, had a maximum seating capacity of fewer than 20 passengers, and which was not, at the time of the accident, engaged in scheduled passenger-carrying operations as defined under regulations in effect under the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.) at the time of the accident.

(d) RELATIONSHIP TO OTHER LAWS.—This section supersedes any State law to the extent that such law permits a civil action described in subsection (a) to be brought after the applicable limitation period for such civil action established by subsection (a).

SEC. 3. OTHER DEFINITIONS.

49 USC 40101 note.

For purposes of this Act—

(1) the term "aircraft" has the meaning given such term in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

(2) the term "airworthiness certificate" means an airworthiness certificate issued under section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)) or under any predecessor Federal statute;

(3) the term "limitation period" means 18 years with respect to general aviation aircraft and the components, systems, subassemblies, and other parts of such aircraft; and

(4) the term "type certificate" means a type certificate issued under section 603(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(a)) or under any predecessor Federal statute.

49 USC 40101 note.

SEC. 4. EFFECTIVE DATE; APPLICATION OF ACT.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF ACT.—This Act shall not apply with respect to civil actions commenced before the date of the enactment of this Act.

Approved August 17, 1994.

LEGISLATIVE HISTORY—S. 1458:

HOUSE REPORTS: No. 103-525, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on the Judiciary).
SENATE REPORTS: No. 103-202 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 16, considered and passed Senate.
June 27, considered and passed House, amended.
Aug. 2, Senate concurred in House amendment with an amendment.
Aug. 3, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Aug. 17, Presidential statement.

Public Law 103-299
103d Congress

Joint Resolution

Recognizing the American Academy in Rome, an American overseas center for independent study and advanced research, on the occasion of the 100th anniversary of its founding.

Aug. 18, 1994
[S.J. Res. 204]

Whereas the American Academy in Rome was established 100 years ago in Italy as the foremost American overseas center for independent study and advanced research on the fine arts and the humanities;

Whereas the American Academy in Rome has been a constant, active force for the enrichment of American culture, as year after year its Fellows and Residents have returned to the United States, enriched by the cultural heritage of Italy, and have conveyed their enrichment to their compatriots;

Whereas the American Academy in Rome has maintained and expanded upon the basis of its founding, and currently serves more than 3,000 people annually with its fellowship and residency programs, its unique research library, a series of summer programs, and projects in archaeology and publishing, and serves thousands of other people who participate in Academy concerts, lectures, symposia, exhibitions, and other special events in Rome and the United States;

Whereas the central purpose of the American Academy in Rome is its fellowship program, the Academy being committed to identifying and nurturing the most promising American talent available through the annual Rome Prize Fellowships competition and related programs;

Whereas since its founding, the American Academy in Rome has awarded more than 2,500 fellowships and residencies in the fields of architecture, design arts, landscape architecture, conservation and historic preservation, literature, musical composition, visual arts, classical studies, archaeology, art history, modern Italian studies, and post-classical humanistic studies;

Whereas the American Academy in Rome provides its gifted Fellows and Residents with the opportunity to develop and refine their professional, artistic, and scholarly potential through working on their own projects, interaction with their colleagues, and association with members of the Italian and European scholarly and artistic communities;

Whereas Fellows and Residents of the American Academy in Rome have included 2 Nobel Prize winners, 4 United States Poets Laureate, 7 National Medal of Arts winners, 9 MacArthur Fellows, and 30 Pulitzer Prize winners, and have won numerous other honors and awards;

Whereas the American Academy in Rome's library contains 111,000 volumes and ranks among the world's richest in its holdings in the fields of Roman topography and archaeology, and is further distinguished for its collection of rare books, periodicals, and works on Italian art and architecture;

Whereas the American Academy in Rome has always represented and fostered excellence in scholarship, having a distinguished scholarly faculty, having many of its Fellows and Residents go on to occupy chairs and posts of high responsibility in the finest colleges and universities in the United States, having publications which rival in quality the best that Europe produces, and having alumni who are the recipients of many academic degrees, honors, and awards;

Whereas the American Academy in Rome can be proud of its reputation in Roman archaeology, having been committed to this lofty and exacting pursuit from its very inception, having revolutionized the history of Roman republican architecture and town planning by it's excavations at Cosa in Etruria, and by continuing to further the development of the field through its perennial engagement in the training of excavators and the work of excavation;

Whereas the American Academy in Rome relies entirely on the income from its endowment, and the financial support of philanthropic individuals, foundations, corporations, colleges and universities across the United States, and the National Endowments for the Arts and for the Humanities; and

Whereas the American Academy in Rome is committed to ensuring the availability of the Rome Prize Fellowships to future generations of Americans as the United States approaches the 21st century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the American Academy in Rome, an American overseas center for independent study and advanced research based in Rome, Italy, which has played a pivotal role in the transference of culture between the United States and Italy, fostering international cultural relations between the two countries, be recognized for its contributions to America's cultural and intellectual life on the occasion of the 100th anniversary of its founding.

Approved August 18, 1994.

LEGISLATIVE HISTORY—S.J. Res. 204:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 15, considered and passed Senate.
Aug. 8, considered and passed House.

Public Law 103-300
103d Congress

An Act

To designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse".

Aug. 19, 1994
[H.R. 4790]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 111 South Tenth Street in St. Louis, Missouri, shall be known and designated as the "Thomas F. Eagleton United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas F. Eagleton United States Courthouse".

Approved August 19, 1994.

LEGISLATIVE HISTORY—H.R. 4790:

HOUSE REPORTS: No. 103-637 (Comm. on Public Works and Transportation)
CONGRESSIONAL RECORD, Vol. 140 (1994)
Aug. 8, considered and passed House
Aug. 17, considered and passed Senate.

Public Law 103-301
103d Congress

Joint Resolution

Aug. 19, 1994
[S.J. Res. 178]

To proclaim the week of October 16 through October 22, 1994, as "National Character Counts Week".

Whereas young people will be the stewards of our communities, Nation, and world in critical times, and the present and future well-being of our society requires an involved, caring citizenry with good character;

Whereas concerns about the character training of children have taken on a new sense of urgency as violence by and against youth threatens the physical and psychological well-being of the Nation;

Whereas more than ever, children need strong and constructive guidance from their families and their communities, including schools, youth organizations, religious institutions and civic groups;

Whereas the character of a Nation is only as strong as the character of its individual citizens;

Whereas the public good is advanced when young people are taught the importance of good character, and that character counts in personal relationships, in school, and in the workplace;

Whereas scholars and educators agree that people do not automatically develop good character and, therefore, conscientious efforts must be made by youth-influencing institutions and individuals to help young people develop the essential traits and characteristics that comprise good character;

Whereas character development is, first and foremost, an obligation of families, efforts by faith communities, schools, and youth, civic and human service organizations also play a very important role in supporting family efforts by fostering and promoting good character;

Whereas the Congress encourages students, teachers, parents, youth and community leaders to recognize the valuable role our youth play in the present and future of our Nation, and to recognize that character is an important part of that future;

Whereas, in July 1992, the Aspen Declaration was written by an eminent group of educators, youth leaders and ethics scholars for the purpose of articulating a coherent framework for character education appropriate to a diverse and pluralistic society;

Whereas the Aspen Declaration states that "Effective character education is based on core ethical values which form the foundation of democratic society";

Whereas the core ethical values identified by the Aspen Declaration constitute the Six Core Elements of Character;

Whereas these Six Core Elements of Character are—
(1) trustworthiness;
(2) respect;
(3) responsibility;
(4) justice and fairness;
(5) caring; and
(6) civic virtue and citizenship.

Whereas these Six Core Elements of Character transcend cultural, religious, and socioeconomic differences;

Whereas the Aspen Declaration states that "The character and conduct of our youth reflect the character and conduct of society; therefore, every adult has the responsibility to teach and model the core ethical values and every social institution has the responsibility to promote the development of good character.";

Whereas the Congress encourages individuals and organizations, especially those who have an interest in the education and training of our youth, to adopt these Six Core Elements of Character as intrinsic to the well-being of individuals, communities, and society as a whole; and

Whereas the Congress encourages communities, especially schools and youth organizations, to integrate these Six Core Elements of Character into programs serving students and children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 16 through October 22, 1994, is designated as "National Character Counts Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to embrace these Six Core Elements of Character and to observe the week with appropriate ceremonies and activities.

Approved August 19, 1994.

LEGISLATIVE HISTORY—S.J. Res. 178:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 24, considered and passed Senate.
Aug. 5, considered and passed House.

Public Law 103-302
103d Congress

An Act

Aug. 23, 1994
[H.R. 1426]

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Dams Safety Act of 1994.
25 USC 3801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Dams Safety Act of 1994".

25 USC 3801.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Secretary of the Interior has identified 53 dams on Indian lands that present a threat to human life in the event of a failure;

(2) because of inadequate attention in the past to problems stemming from structural deficiencies and regular maintenance requirements for dams operated by the Bureau of Indian Affairs, unsafe Bureau dams continue to pose an imminent threat to people and property;

(3) many Bureau dams have maintenance deficiencies regardless of their current safety condition classification and the deficiencies must be corrected to avoid future threats to human life and property;

(4) safe working dams on Indian lands are necessary to supply irrigation water, to provide flood control, to provide water for municipal, industrial, domestic, livestock, and recreation uses, and for fish and wildlife habitats; and

(5) it is necessary to institute a regular dam maintenance and repair program, utilizing the expertise in the Bureau, Indian tribes, and other Federal agencies.

25 USC 3802.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs.

(2) The term "dam" has the same meaning given such term by the first section of Public Law 92-367 (33 U.S.C. 467).

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special pro-

grams and services provided by the United States to Indian tribes because of their status as Indians.

SEC. 4. DAM SAFETY MAINTENANCE AND REPAIR PROGRAM. 25 USC 3803.

(a) ESTABLISHMENT.—The Secretary shall establish a dam safety maintenance and repair program within the Bureau to ensure maintenance and monitoring of the condition of each dam identified pursuant to subsection (e) necessary to maintain the dam in a satisfactory condition on a long-term basis.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act pursuant to the Dam Safety Program established by the Secretary of the Interior by order dated February 28, 1980, and all Bureau of Indian Affairs personnel assigned to such program as of the date of enactment of this Act are hereby transferred to the Dam Safety Maintenance and Repair Program. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Dam Safety Program is deemed to be a reference to the Dam Safety Maintenance and Repair Program.

(c) REHABILITATION.—Under the Dam Safety Maintenance and Repair Program, the Secretary shall perform such rehabilitation work as is necessary to bring the dams identified pursuant to subsection (e) to a satisfactory condition. In addition, each dam located on Indian lands shall be regularly maintained pursuant to the Dam Safety Maintenance and Repair Program established pursuant to subsection (a).

(d) MAINTENANCE ACTION PLAN.—The Secretary shall develop a maintenance action plan, which shall include a prioritization of actions to be taken, for those dams with a risk hazard rating of high or significant as identified pursuant to subsection (e).

(e) IDENTIFICATION OF DAMS.—

(1) DEVELOPMENT OF LIST.—The Secretary shall develop a comprehensive list of dams located on Indian lands that describes the dam safety condition classification of each dam, as specified in paragraph (2), the risk hazard classification of each dam, as specified in paragraph (3), and the conditions resulting from maintenance deficiencies.

(2) DAM SAFETY CONDITION CLASSIFICATIONS.—The dam safety condition classification referred to in paragraph (1) is one of the following classifications:

(A) SATISFACTORY.—No existing or potential dam safety deficiencies are recognized. Safe performance is expected under all anticipated conditions.

(B) FAIR.—No existing dam safety deficiencies are recognized for normal loading conditions. Infrequent hydrologic or seismic events would probably result in a dam safety deficiency.

(C) CONDITIONALLY POOR.—A potential dam safety deficiency is recognized for unusual loading conditions that may realistically occur during the expected life of the structure.

(D) POOR.—A potential dam safety deficiency is clearly recognized for normal loading conditions. Immediate actions to resolve the deficiency are recommended; reservoir restrictions may be necessary until resolution of the problem.

(E) UNSATISFACTORY.—A dam safety deficiency exists for normal loading conditions. Immediate remedial action is required for resolution of the problem.

(3) RISK HAZARD CLASSIFICATION.—The risk hazard classification referred to in paragraph (1) is one of the following classifications:

(A) HIGH.—Six or more lives would be at risk or extensive property damage could occur if the dam failed.

(B) SIGNIFICANT.—Between one and six lives would be at risk or significant property damage could occur if the dam failed.

(C) LOW.—No lives would be at risk and limited property damage would occur if the dam failed.

(f) LIMITATION ON PROGRAM AUTHORIZATION.—Work authorized by this Act shall be for the purpose of dam safety maintenance and structural repair. The Secretary may authorize, upon request of an Indian tribe, up to 20 percent of the cost of repairs to be used to provide additional conservation storage capacity or developing benefits beyond those provided by the original dams and reservoirs. This Act is not intended to preclude development of increased storage or benefits under any other authority or to preclude measures to protect fish and wildlife.

(g) TECHNICAL ASSISTANCE.—To carry out the purposes of this Act, the Secretary may obtain technical assistance on a nonreimbursable basis from other departments and agencies. Notwithstanding any such technical assistance, the Dam Safety Maintenance and Repair Program established under subsection (a) shall be under the direction and control of the Bureau.

(h) CONTRACT AUTHORITY.—In addition to any other authority established by law, the Secretary is authorized to contract with Indian tribes (under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))), as amended, to carry out the Dam Safety Maintenance and Repair Program established under this Act.

(i) ANNUAL REPORT.—The Secretary shall submit an annual report on the implementation of this Act. The report shall include—

(1) the list of dams and their status on the maintenance action plan developed under this section; and

(2) the projected total cost and a schedule of the projected annual cost of rehabilitation or repair for each dam under this section.

The report shall be submitted at the time the budget is required to be submitted under section 1105 of title 31, United States Code, to the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS. 25 USC 3804.

There is authorized to be appropriated such sums as may be necessary to carry out this Act. Funds provided under this Act are to be considered nonreimbursable.

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 1426:

HOUSE REPORTS: No. 103-600 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 25, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 103-303
103d Congress

An Act

Aug. 23, 1994
[H.R. 1631]

To amend title 11, District of Columbia Code, to increase the maximum amount in controversy permitted for cases under the jurisdiction of the Small Claims and Conciliation Branch of the Superior Court of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Justice Reform Act of 1994.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Justice Reform Act of 1994".

SEC. 2. INCREASE IN MAXIMUM AMOUNT IN CONTROVERSY PERMITTED FOR CASES UNDER JURISDICTION OF SMALL CLAIMS AND CONCILIATION BRANCH OF SUPERIOR COURT.

(a) IN GENERAL.—Section 11–1321, D.C. Code, is amended by striking "$2,000" and inserting "$5,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cases filed with the Superior Court of the District of Columbia on or after the date of the enactment of this Act.

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 1631:

HOUSE REPORTS: No. 103-174 (Comm. on the District of Columbia).
SENATE REPORTS: No. 103-261 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): July 19, considered and passed House.
Vol. 140 (1994): May 25, considered and passed Senate, amended.
Aug. 8, House concurred in Senate amendments.

Public Law 103-304
103d Congress

An Act

To authorize appropriations for the Martin Luther King, Jr. Federal Holiday Commission, to extend such Commission, and to support the planning and performance of national service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr.

Aug. 23, 1994
[H.R. 1933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

King Holiday and Service Act of 1994.
36 USC 169j note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "King Holiday and Service Act of 1994".

SEC. 2. MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION.

The Act entitled "An Act to establish a commission to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr.", approved August 27, 1984 (36 U.S.C. 169j and following) is amended—

(1) in section 3(1) by inserting "(including service opportunities)" after "activities"; 36 USC 169j-2.

(2) in section 4(a) by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following: 36 USC 169j-3.

"(7) the Chief Executive Officer of the Corporation for National and Community Service, appointed under section 193 of the National and Community Service Act of 1990 (42 U.S.C. 12651c).";

(3) in section 6— 36 USC 169j-5.

(A) in subsection (a) by striking "maximum rate of pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "rate of pay for level IV of the Executive Schedule under section 5315";

(B) in subsection (b)(1) by adding the following at the end: "A person who has been detailed under the preceding sentence for as many as 365 days (continuously or intermittently) may not subsequently be detailed to the Commission."; and

(C) all Federal employees on loan to the King Commission on the day of enactment of this Act may remain detailed to the Martin Luther King Holiday Commission for not more than 365 days; 36 USC 169j-5 note

(4) by amending section 7 to read as follows: 36 USC 169j-6.

"SEC. 7. There are authorized to be appropriated to carry out this Act—

"(1) $300,000 for fiscal year 1995;

"(2) $350,000 for fiscal year 1996;

"(3) $400,000 for fiscal year 1997;
"(4) $450,000 for fiscal year 1998; and
"(5) $500,000 for fiscal year 1999.";
(5) by amending section 8 to read as follows:

36 USC 169j-7.

"SEC. 8. COMMISSION REPORT.

"(a) IN GENERAL.—Not later than April 20 of each year, the Commission shall submit a report to the President and the Congress concerning its activities under this Act or under the National and Community Service Act of 1990.

"(b) ANALYSIS REQUIRED.—The Commission shall include in its annual report—

"(1) a detailed description of all activities undertaken by the Commission;

"(2) an analysis of the spending practices of the Commission indicating how much of the funds of the Commission are dedicated to salaries, travel expenses, and other overhead costs and how much are dedicated to the stated goals of the Commission; and

"(3) a detailed description of any grants made by the Corporation for National and Community Service with the consultation of the Commission.";

36 USC 169j-8.

(6) in section 9 by striking "April 20, 1994" and inserting "September 30, 1999";

(7) by adding at the end the following new section:

36 USC 169j-9.

"SEC. 10. None of the funds appropriated or donated to the Commission may be used for the purpose of purchasing first class air travel or first class hotel accommodations."; and

(8) by adding at the end the following:

36 USC 169j-10.

"SEC. 11. ACCOUNTING PROCEDURES.

"The Commission shall follow a comprehensive basis of accounting, as defined by the Comptroller General in B–255473. The Commission shall establish an accounting system for review by the Comptroller General under section 3512 of title 31, United States Code. The Comptroller General is authorized to review and audit the Commission, its programs, activities, operations, and financial transactions. The Comptroller General, and his agents, shall have access to all records, files, documents, and papers of the Commission, as necessary, to accomplish such audits.".

Records.

SEC. 3. MARTIN LUTHER KING, JR., SERVICE DAY.

(a) ADDITIONAL CORPORATION ACTIVITY TO SUPPORT NATIONAL SERVICE.—Section 198 of the National and Community Service Act of 1990 (42 U.S.C. 12653) is amended by adding at the end the following new subsection:

"(s) MARTIN LUTHER KING, JR., SERVICE DAY.—

"(1) ASSISTANCE.—The Corporation may make grants to eligible entities described in paragraph (2) to pay for the Federal share of the cost of planning and carrying out service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr. Such service opportunities shall consist of activities reflecting the life and teachings of Martin Luther King, Jr., such as cooperation and understanding among racial and ethnic groups, nonviolent conflict resolution, equal economic and educational opportunities, and social justice.

"(2) ELIGIBLE ENTITIES.—Any entity otherwise eligible for assistance under the national services laws shall be eligible to receive a grant under this subsection.

"(3) CONSULTATION.—In making grants under this subsection, the Corporation shall consult with the Martin Luther King, Jr. Federal Holiday Commission established under section 2 of Public Law 98–399 (36 U.S.C. 169j–1).

"(4) FEDERAL SHARE.—Grants provided under this subsection to an eligible entity to support the planning and carrying out of a service opportunity in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr., together with all other Federal funds used to plan or carry out the service opportunity, may not exceed 30 percent of the cost of planning and carrying out the service opportunity.

"(5) CALCULATION OF ENTITY CONTRIBUTIONS.—In determining the non-Federal share of the costs of planning and carrying out a service opportunity supported by a grant under this subsection, the Corporation shall consider in-kind contributions (including facilities, equipment, and services) made to plan or carry out the service opportunity.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REFERENCE TO REPEALED SECTION.—Section 101(a)(3) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 788) is amended by striking "through 136" and inserting "through 135". 42 USC 12655n.

(2) INCORRECT REFERENCE TO ACT.—Section 203(a)(3) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 891) is amended by striking "Act of 1993" and inserting "Act of 1990". 42 USC 12651d.

(3) DESCRIPTION OF NATIONAL SERVICE PARTICIPANTS.—Section 137(c) of the National and Community Service Act of 1990 (42 U.S.C. 12591(c)), as added by section 101(b) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 809), is amended by striking "subsection (a)(5)(A)" and inserting "subsection (a)(5)".

(4) EDUCATIONAL AWARD ELIGIBILITY REQUIREMENTS.—Section 146(a) of the National and Community Service Act of 1990 (42 U.S.C. 12602(a)), as added by section 102(a) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 818), is amended by striking the second paragraph (3).

(5) CIVILIAN COMMUNITY CORPS.—

(A) USE OF INCORRECT TERM.—Section 155(e) of the National and Community Service Act of 1990 (42 U.S.C. 12615(e)), as redesignated by section 104(b)(3) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 840), is amended by striking "CORPS" and inserting "CAMPS".

(B) REFERENCE TO SECTION.—Subsection (c)(2)(C)(i) of section 159 of the National and Community Service Act of 1990 (42 U.S.C. 12619), as amended by section 104(e)(2)(E)(ii) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 847), is amended by striking "section section 162(a)(2)" and inserting "section 162(a)(2)".

(C) CROSS REFERENCE.—Section 162(a)(1)(B)(ii) of the National and Community Service Act of 1990 (42 U.S.C.

12622(a)(1)(B)(ii)), as redesignated by section 104(b)(3) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 840), is amended by striking "section 4462 of the National Defense Authorization Act for Fiscal Year 1993" and inserting "section 1143a of title 10, United States Code".

(6) PUNCTUATION.—Section 198(q)(1) of the National and Community Service Act of 1990 (42 U.S.C. 12653(q)(1)), as added by section 104(c) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 840), is amended by striking "1995" and inserting "1995,".

(7) REDESIGNATED PARAGRAPH.—Subsection (b)(6) of section 103 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4953), as redesignated by section 323(b)(3) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 900), is amended by striking "(6)" and inserting "(5)".

(8) SUBPARAGRAPH INDENTATION.—Subsection (c)(1)(F) of section 103 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4953), as added by section 323(c)(1)(D) of the National and Community Service Trust Act of 1993 (Public Law 103–82; 107 Stat. 900), is amended by moving the left margin two ems to the left.

(9) CORRECT EXECUTION OF AMENDMENT.—Section 224 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5024) is amended by striking "volunteer projects for older Americans" and inserting "National Senior Volunteer Corps projects".

42 USC 4953 note.

(10) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect on the date of the enactment of this Act.

(B) RETROACTIVE EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as of October 1, 1993.

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 1933:

HOUSE REPORTS: No. 103-418, Pt. 1 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 15, considered and passed House.
May 23, 24, considered and passed Senate, amended.
Aug. 10, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Aug. 23, Presidential remarks.

Public Law 103-305
103d Congress

An Act

To amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

Aug 23, 1994
[H.R. 2739]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Aviation Administration Authorization Act of 1994.
49 USC 40101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Aviation Administration Authorization Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Amendment of title 49, United States Code.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT

Sec. 101. Airport improvement program.
Sec. 102. Airway improvement program.
Sec. 103. Operations of FAA.
Sec. 104. Innovative technology policy.
Sec. 105. Inclusion of explosive detection devices and universal access systems.
Sec. 106. Submission and approval of project grant applications.
Sec. 107. Preventive maintenance.
Sec. 108. Repeal of general aviation airport project grant application approval.
Sec. 109. Reports on impacts of new airport projects.
Sec. 110. Airport fees policy.
Sec. 111. Airport financial reports.
Sec. 112. Additional enforcement against illegal diversion of airport revenue.
Sec. 113. Resolution of airport-air carrier disputes concerning airport fees.
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TITLE VI—INTRASTATE TRANSPORTATION OF PROPERTY

Sec. 601. Preemption of intrastate transportation of property.

49 USC 40102 note.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 3. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT

SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103 is amended—

(1) by striking "Not more" and all that follows through "1993," and inserting "The total amounts which shall be avail-

able after September 30, 1981, to the Secretary of Transportation"; and

(2) by inserting before the period at the end "shall be $17,583,500,000 for fiscal years ending before October 1, 1994, $19,744,500,000 for fiscal years ending before October 1, 1995, and $21,958,500,000 for fiscal years ending before October 1, 1996".

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking "After" and all that follows through "Secretary" and inserting "After September 30, 1996, the Secretary".

SEC. 102. AIRWAY IMPROVEMENT PROGRAM.

(a) AIRWAY FACILITIES AND EQUIPMENT.—Section 48101(a) is amended—

(1) in paragraph (1) by striking "for" and inserting "For";

(2) in paragraph (2)—

(A) by striking "for" and inserting "For"; and

(B) by striking "$11,100,000,000" and inserting "$10,724,000,000";

(3) in paragraph (3)—

(A) by striking "for" and inserting "For"; and

(B) by striking "$14,000,000,000" and inserting "$13,394,000,000"; and

(4) by adding at the end the following:

"(4) For the fiscal years ending September 30, 1991–1996, $16,129,000,000.".

(b) CERTAIN DIRECT COSTS AND JOINT AIR NAVIGATION SERVICES.—Section 48104 is amended—

(1) in the heading for subsection (b) by inserting "FOR FISCAL YEARS 1993" after "LIMITATION";

(2) in subsection (b) by striking "each" and all that follows through "1995," and inserting "fiscal year 1993"; and

(3) by adding at the end the following:

"(c) LIMITATION FOR FISCAL YEARS 1994–1996.—The amount appropriated from the Trust Fund for the purposes of paragraphs (1) and (2) of subsection (a) for each of fiscal years 1994, 1995, and 1996 may not exceed the lesser of—

"(1) 50 percent of the amount of funds made available under sections 48101–48103 of this title for such fiscal year; or

"(2)(A) 70 percent of the amount of funds made available under sections 106(k) and 48101–48103 of this title for such fiscal year; less

"(B) the amount of funds made available under sections 48101–48103 of this title for such fiscal year.".

(c) LIMITATION ON OBLIGATING OR EXPENDING FUNDS.—Section 48108(c) is amended by striking "1995" and inserting "1996".

SEC. 103. OPERATIONS OF FAA.

Section 106(k) is amended by striking ", $5,100,000,000" and all that follows through "1995" and inserting ", $4,576,000,000 for fiscal year 1994, $4,674,000,000 for fiscal year 1995, and $4,810,000,000 for fiscal year 1996".

SEC. 104. INNOVATIVE TECHNOLOGY POLICY.

Section 47101(a) is amended—

(1) by striking "and" at the end of paragraph (9)(C);

(2) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(3) by adding at the end the following:

"(11) that the airport improvement program should be administered to encourage projects that employ innovative technology, concepts, and approaches that will promote safety, capacity, and efficiency improvements in the construction of airports and in the air transportation system (including the development and use of innovative concrete and other materials in the construction of airport facilities to minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability) and to encourage and solicit innovative technology proposals and activities in the expenditure of funding pursuant to this subchapter;".

SEC. 105. INCLUSION OF EXPLOSIVE DETECTION DEVICES AND UNIVERSAL ACCESS SYSTEMS.

Section 47102(3)(B)(ii) is amended by inserting after "or security equipment" the following: ", including explosive detection devices and universal access systems,".

SEC. 106. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

Section 47105(a)(1)(B) is amended—

(1) by striking "at least 2" each place it appears and inserting "1 or more"; and

(2) by striking "similar".

SEC. 107. PREVENTIVE MAINTENANCE.

(a) CONDITION OF ASSISTANCE.—Section 47105 is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) PREVENTIVE MAINTENANCE.—After January 1, 1995, the Secretary may approve an application under this subchapter for the replacement or reconstruction of pavement at an airport only if the sponsor has provided such assurances or certifications as the Secretary may determine appropriate that such airport has implemented an effective airport pavement maintenance-management program. The Secretary may require such reports on pavement condition and pavement management programs as the Secretary determines may be useful.".

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall study the products used for airport pavement maintenance and rehabilitation. Such study shall consider, at a minimum, the cost and benefits of the following:

(A) A requirement that the manufacturer or installer of such products provide minimum warranties.

(B) Establishment of enhanced minimum specifications or performance standards for such products.

(C) The use of insurance or other means to improve the performance and value of such products.

(2) SOLICITATION OF VIEWS.—In conducting the study under this subsection, the Secretary shall solicit and consider the views of airport operators, manufacturers of airport pavement maintenance and rehabilitation products, installers of such

products, appropriate Federal agencies, and other relevant persons.

(3) REPORT.—Not later than June 1, 1995, the Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this subsection.

SEC. 108. REPEAL OF GENERAL AVIATION AIRPORT PROJECT GRANT APPLICATION APPROVAL.

Section 47106 is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 109. REPORTS ON IMPACTS OF NEW AIRPORT PROJECTS.

Section 47106 is amended by adding at the end the following:

"(e) REPORTS RELATING TO CONSTRUCTION OF CERTAIN NEW HUB AIRPORTS.—At least 90 days prior to the approval under this subchapter of a project grant application for construction of a new hub airport that is expected to have 0.25 percent or more of the total annual enplanements in the United States, the Secretary shall submit to Congress a report analyzing the anticipated impact of such proposed new airport on—

"(1) the fees charged to air carriers (including landing fees), and other costs that will be incurred by air carriers, for using the proposed airport;

"(2) air transportation that will be provided in the geographic region of the proposed airport; and

"(3) the availability and cost of providing air transportation to rural areas in such geographic region.".

SEC. 110. AIRPORT FEES POLICY.

Section 47101(a) is further amended by adding at the end the following:

"(12) that airport fees, rates, and charges must be reasonable and may only be used for purposes not prohibited by this Act; and

"(13) that airports should be as self-sustaining as possible under the circumstances existing at each particular airport and in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system purposes and for other purposes for which airport revenues may be spent under section 47107(b)(1) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.".

SEC. 111. AIRPORT FINANCIAL REPORTS.

(a) IN GENERAL.—Section 47107(a) is amended—

(1) by inserting before the semicolon at the end of paragraph (15) "and make such reports available to the public";

(2) by striking "and" at the end of paragraph (17);

(3) by striking the period at the end of paragraph (18) and inserting "; and"; and

(4) by adding at the end the following:

"(19) the airport owner or operator will submit to the Secretary and make available to the public an annual report listing in detail— Public information.

"(A) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

"(B) all services and property provided to other units of government and the amount of compensation received for provision of each such service and property.".

49 USC 47107 note.

(b) FORMAT FOR REPORTING.—Within 180 days after the date of the enactment of this Act, the Secretary shall prescribe a uniform simplified format for reporting that is applicable to airports. Such format shall be designed to enable the public to understand readily how funds are collected and spent at airports, and to provide sufficient information relating to total revenues, operating expenditures, capital expenditures, debt service payments, contributions to restricted funds, accounts, or reserves required by financing agreements or covenants or airport lease or use agreements or covenants. Such format shall require each commercial service airport to report the amount of any revenue surplus, the amount of concession-generated revenue, and other information as required by the Secretary.

(c) ANNUAL SUMMARIES.—Section 47107 is amended by adding at the end the following:

"(k) ANNUAL SUMMARIES OF FINANCIAL REPORTS.—The Secretary shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives an annual summary of the reports submitted to the Secretary under subsection (a)(19) of this section and under section 111(b) of the Federal Aviation Administration Authorization Act of 1994.".

SEC. 112. ADDITIONAL ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.

(a) NEW POLICIES AND PROCEDURES.—Section 47107 is further amended by adding at the end the following:

"(l) POLICIES AND PROCEDURES TO ENSURE ENFORCEMENT AGAINST ILLEGAL DIVERSION OF AIRPORT REVENUE.—

"(1) IN GENERAL.—Not later than 90 days after the date of he enactment of this subsection, the Secretary of Transportation shall establish policies and procedures that will assure the prompt and effective enforcement of subsections (a)(13) and (b) of this section and grant assurances made under such subsections. Such policies and procedures shall recognize the exemption provision in subsection (b)(2) of this section and shall respond to the information contained in the reports of the Inspector General of the Department of Transportation on airport revenue diversion and such other relevant information as the Secretary may by law consider.

"(2) REVENUE DIVERSION.—Policies and procedures to be established pursuant to paragraph (1) of this subsection shall prohibit, at a minimum, the diversion of airport revenues (except as authorized under subsection (b) of this section) through—

"(A) direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

"(B) use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

"(C) payments in lieu of taxes or other assessments that exceed the value of services provided; or

"(D) payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

"(3) EFFORTS TO BE SELF-SUSTAINING.—With respect to subsection (a)(13) of this section, policies and procedures to be established pursuant to paragraph (1) of this subsection shall take into account, at a minimum, whether owners and operators of airports, when entering into new or revised agreements or otherwise establishing rates, charges, and fees, have undertaken reasonable efforts to make their particular airports as self-sustaining as possible under the circumstances existing at such airports.

"(4) ADMINISTRATIVE SAFEGUARDS.—Policies and procedures to be established pursuant to paragraph (1) shall mandate internal controls, auditing requirements, and increased levels of Department of Transportation personnel sufficient to respond fully and promptly to complaints received regarding possible violations of subsections (a)(13) and (b) of this section and grant assurances made under such subsections and to alert the Secretary to such possible violations.".

(b) WITHHOLDING OF APPROVAL OF APPLICATIONS FOR GRANTS OR PASSENGER FACILITY CHARGES; JUDICIAL ENFORCEMENT.—Section 47111 is amended by adding at the end the following:

"(e) ACTION ON GRANT ASSURANCES CONCERNING AIRPORT REVENUES.—If, after notice and opportunity for a hearing, the Secretary finds a violation of section 47107(b) of this title, as further defined by the Secretary under section 47107(l) of this title, or a violation of an assurance made under section 47107(b) of this title, and the Secretary has provided an opportunity for the airport sponsor to take corrective action to cure such violation, and such corrective action has not been taken within the period of time set by the Secretary, the Secretary shall withhold approval of any new grant application for funds under this chapter, or any proposed modification to an existing grant that would increase the amount of funds made available under this chapter to the airport sponsor, and withhold approval of any new application to impose a fee under section 40117 of this title. Such applications may thereafter be approved only upon a finding by the Secretary that such corrective action as the Secretary requires has been taken to address the violation and that the violation no longer exists.

"(f) JUDICIAL ENFORCEMENT.—For any violation of this chapter or any grant assurance made under this chapter, the Secretary may apply to the district court of the United States for any district in which the violation occurred for enforcement. Such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining any person from further violation.".

(c) CIVIL PENALTIES.—

(1) GENERAL PENALTY.—Section 46301(a) is amended—

(A) in paragraph (1) by striking "or 46303" and inserting "46303, 47107(b) (including any assurance made under such section)"; and

(B) by adding at the end the following:

"(5) In the case of a violation of section 47107(b) of this title, the maximum civil penalty for a continuing violation shall not exceed $50,000.".

(2) ADMINISTRATIVE PENALTY.—Section 46301(d)(2) is amended by striking "or 46303" and inserting "46303, or 47107(b) (as further defined by the Secretary under section 47107(l) and including any assurance made under section 47107(b))".

(3) PROCEDURES.—Section 46301(d)(7) is amended by adding at the end the following:

"(D) In the case of a violation of section 47107(b) of this title or any assurance made under such section—

"(i) a civil penalty shall not be assessed against an individual;

"(ii) a civil penalty may be compromised as provided under subsection (f); and

"(iii) judicial review of any order assessing a civil penalty may be obtained only pursuant to section 46110 of this title.".

(d) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—Section 47115 is amended by adding at the end the following new subsection:

"(f) CONSIDERATION OF DIVERSION OF REVENUES IN AWARDING DISCRETIONARY GRANTS.—

"(1) GENERAL RULE.—Subject to paragraph (2), in deciding whether or not to distribute funds to an airport from the discretionary funds established by subsection (a) of this section and section 47116 of this title, the Secretary shall consider as a factor militating against the distribution of such funds to the airport the fact that the airport is using revenues generated by the airport or by local taxes on aviation fuel for purposes other than capital or operating costs of the airport or the local airports system or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property.

"(2) REQUIRED FINDING.—Paragraph (1) shall apply only when the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of such revenues in the airport's first fiscal year ending after the date of the enactment of this subsection, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.".

(e) UNREASONABLE BURDEN ON INTERSTATE COMMERCE.—Section 40116(d)(2)(A) is amended by adding at the end the following:

"(iv) Levy or collect a tax, fee, or charge, first taking effect after the date of the enactment of this clause, exclusively upon any business located at a commercial service airport or operating as a permittee of such an airport other than a tax, fee, or charge wholly utilized for airport or aeronautical purposes.".

SEC. 113. RESOLUTION OF AIRPORT-AIR CARRIER DISPUTES CONCERNING AIRPORT FEES.

(a) IN GENERAL.—Subchapter I of chapter 471 of subtitle VII is amended—

(1) by redesignating section 47129 (and any references thereto) as section 47131; and

(2) by inserting after section 47128 the following new section:

"§ 47129. Resolution of airport-air carrier disputes concerning airport fees

"(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

"(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers (as defined in section 40102 of this subtitle) by the owner or operator of an airport is reasonable if—

"(A) a written request for such determination is filed with the Secretary by such owner or operator; or

"(B) a written complaint requesting such determination is filed with the Secretary by an affected air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

"(2) CALCULATION OF FEE.—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

"(3) SECRETARY NOT TO SET FEE.—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

"(b) PROCEDURAL REGULATIONS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish in the Federal Register final regulations, policy statements, or guidelines establishing— Federal Register, publication.

"(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

"(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

"(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

"(1) Not more than 120 days after an air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

"(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

"(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is

assigned or within such shorter period as the Secretary may specify.

"(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

"(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

"(6) Any findings of fact in a final order of the Secretary under this subsection, if supported by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

"(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER ACCESS.—

"(1) PAYMENT UNDER PROTEST.—

"(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier to the airport under protest.

"(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant air carrier to the airport under protest shall be subject to refund or credit to the air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

"(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier agree otherwise.

"(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

"(2) GUARANTEE OF AIR CARRIER ACCESS.—Contingent upon an air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's prices, routes, or services, as a means of enforcing the fee.

"(e) APPLICABILITY.—This section does not apply to—

"(1) a fee imposed pursuant to a written agreement with air carriers using the facilities of an airport;

"(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to the date of the enactment of this section; or

"(3) any other existing fee not in dispute as of such date of enactment.

"(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

"(1) the rights of any party under any existing written agreement between an air carrier and the owner or operator of an airport; or

"(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of the date of the enactment of this section.

"(g) DEFINITION.—In this section, the term 'fee' means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.".

(b) CONFORMING AMENDMENT.—The analysis to such chapter is amended—

(1) by striking "47129" and inserting "47131"; and

(2) by inserting after the item relating to section 47128 the following:

"47129. Resolution of airport-air carrier disputes concerning airport fees.".

SEC. 114. TERMINAL DEVELOPMENT.

Section 47109 is amended—

(1) in subsection (a) by striking "subsections (b) and (c)" and inserting "subsection (b)"; and

(2) by striking subsection (c).

SEC. 115. LETTERS OF INTENT.

Section 47110(e) is amended by adding at the end the following:

"(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.".

SEC. 116. MILITARY AIRPORT PROGRAM.

(a) MILITARY AIRPORT SET-ASIDE.—Section 47117(e)(1)(E) is amended by striking ", and 1995" and inserting ", 1995, and 1996".

(b) DESIGNATION OF MILITARY AIRPORTS.—Section 47118(a) is amended—

(1) by striking "12" and inserting "15"; and

(2) by adding at the end the following: "The Secretary may only designate an airport for such grants (other than an airport designated for such grants on or before the date of the enactment of this sentence) if the Secretary finds that grants under such section for projects at such airport would reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings.".

(c) ELIMINATION OF EXTENSION OF 5-YEAR PERIOD OF ELIGIBILITY.—Section 47118(d) is amended by striking the last sentence.

(d) CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—Section 47118(f) is amended by striking "–1995" and inserting "–1996".

SEC. 117. TERMINAL DEVELOPMENT COSTS.

Section 47119 is amended—

(1) in subsection (a) by inserting "or, in the case of a commercial service airport which annually had less than 0.05 percent of the total enplanements in the United States, between January 1, 1992, and October 31, 1992," after "July 12, 1976,"; and

(2) by adding at the end the following:

"(c) NONHUB AIRPORTS.—With respect to a project at a commercial service airport which annually has less than 0.05 percent of the total enplanements in the United States, the Secretary may approve the use of the amounts described in subsection (a) notwithstanding the requirements of sections 47107(a)(17), 47112, and 47113.".

SEC. 118. AIRPORT SAFETY DATA COLLECTION.

(a) IN GENERAL.—Chapter 471 of subtitle VII is further amended by inserting after section 47129 the following:

"§ 47130. Airport safety data collection

"Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may contract, using sole source or limited source authority, for the collection of airport safety data.".

(b) CLERICAL AMENDMENT.—The analysis for such chapter 471 is further amended by inserting after the item relating to section 47129 the following:

"47130. Airport safety data collection.".

SEC. 119. SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.

Section 47504(c) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) by inserting after paragraph (1) the following:

"(2) SOUNDPROOFING AND ACQUISITION OF CERTAIN RESIDENTIAL BUILDINGS AND PROPERTIES.—The Secretary may incur obligations to make grants from amounts made available under section 48103 of this title—

"(A) for projects to soundproof residential buildings—

"(i) if the airport operator received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

"(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

"(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter; and

"(B) to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection to soundproof residential buildings located on residential properties, and to acquire residential properties, at which noise levels are not compatible with normal operations of an airport—

"(i) if the airport operator amended an existing local aircraft noise regulation during calendar year 1993 to increase the maximum permitted noise levels for scheduled air carrier aircraft as a direct result of implementation of revised aircraft noise departure

procedures mandated for aircraft safety purposes by the Administrator of the Federal Aviation Administration for standardized application at airports served by scheduled air carriers;

"(ii) if the airport operator submits updated noise exposure contours, as required by the Secretary; and

"(iii) if the Secretary determines that the proposed projects are compatible with the purposes of this chapter."; and

(3) in paragraph (4), as so redesignated, by striking "paragraph (1) of".

SEC. 120. LANDING AIDS AND NAVIGATIONAL EQUIPMENT INVENTORY POOL.

(a) PURCHASE.—Section 44502(a) is amended by adding at the end the following new paragraph:

"(4) PURCHASE OF INSTRUMENT LANDING SYSTEM.—

"(A) ESTABLISHMENT OF PROGRAM.—The Secretary shall purchase precision approach instrument landing system equipment for installation at airports on an expedited basis.

"(B) AUTHORIZATION.—No less than $30,000,000 of the amounts appropriated under section 48101(a) for each of fiscal years 1995 and 1996 shall be used for the purpose of carrying out this paragraph, including acquisition, site preparation work, installation, and related expenditures.".

(b) COST SAVINGS ASSOCIATED WITH PURCHASE.—Notwithstanding other provisions of law or regulations to the contrary, the Administrator shall establish, within 120 days after the date of the enactment of this Act, a process through which airport sponsors may take advantage of cost savings associated with the purchase and installation of instrument landing systems, along with associated equipment, under existing or future Federal Aviation Administration contracts. The process established by the Administrator may provide for the direct reimbursement (including administrative costs) of the Administrator by an airport sponsor using grants funds under subchapter I of chapter 471 of subtitle VII of title 49, United States Code, relating to airport improvement, for the ordering of such equipment and installation or for the direct ordering of such equipment and installation by an airport sponsor, using such grant funds, from the suppliers with which the Administrator has contracted. 49 USC 44502 note.

SEC. 121. REVIEW OF PASSENGER FACILITY CHARGE PROGRAM.

The Secretary shall conduct a review of section 158.49(b) of title 14, Code of Federal Regulations, to assess the effectiveness of such section in light of the objectives of section 40117 of title 49, United States Code, and shall take such corrective action as the Secretary determines to be necessary to address any problems discovered in the review.

TITLE II—OTHER AVIATION PROGRAMS

SEC. 201. TERM OF OFFICE OF FAA ADMINISTRATOR.

Section 106(b) is amended by adding at the end the following: "The term of office for any individual appointed as Administrator after the date of the enactment of this sentence shall be 5 years.".

SEC. 202. ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.

Section 40113 is amended by adding at the end the following new subsection:

"(e) ASSISTANCE TO FOREIGN AVIATION AUTHORITIES.—

"(1) SAFETY-RELATED TRAINING AND OPERATIONAL SERVICES.—The Administrator may provide safety-related training and operational services to foreign aviation authorities with or without reimbursement, if the Administrator determines that providing such services promotes aviation safety. To the extent practicable, air travel reimbursed under this subsection shall be conducted on United States air carriers.

"(2) REIMBURSEMENT SOUGHT.—The Administrator shall actively seek reimbursement for services provided under this subsection from foreign aviation authorities capable of providing such reimbursement.

"(3) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this section shall be credited to the appropriation from which the expenses were incurred in providing such services.

Records.

"(4) REPORTING.—Not later than December 31, 1995, and annually thereafter, the Administrator shall transmit to Congress a list of the foreign aviation authorities to which the Administrator provided services under this subsection in the preceding fiscal year. Such list shall specify the dollar value of such services and any reimbursement received for such services.".

SEC. 203. USE OF PASSENGER FACILITY CHARGES TO MEET FEDERAL MANDATES.

Section 40117(a)(3) is amended—

(1) by striking "and" at end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following:

"(F) in addition to projects eligible under subparagraph (A), the construction, reconstruction, repair, or improvement of areas of an airport used for the operation of aircraft or actions to mitigate the environmental effects of such construction, reconstruction, repair, or improvement when the construction, reconstruction, repair, improvement, or action is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, or the Federal Water Pollution Control Act with respect to the airport.".

SEC. 204. PASSENGER FACILITY CHARGES.

(a) CLARIFICATION OF APPLICABILITY.—

(1) GENERAL RULE.—Section 40117(e)(2) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C)(ii) and inserting "; and"; and

(C) by adding at the end the following:

"(D) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flier award coupon without monetary payment.".

(2) LIMITATION ON STATUTORY CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed as requiring any person to refund any fee paid before the date of the enactment of this Act. 49 USC 40117 note.

(b) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—Section 40117(d) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2)(C) and inserting "; and"; and

(3) by adding at the end the following:

"(3) the application includes adequate justification for each of the specific projects.".

SEC. 205. GAMBLING ON COMMERCIAL AIRCRAFT.

(a) IN GENERAL.—

(1) RESTRICTIONS.—Chapter 413 of subtitle VII is amended by adding at the end the following:

"§ 41311. Gambling restrictions

"(a) IN GENERAL.—An air carrier or foreign air carrier may not install, transport, or operate, or permit the use of, any gambling device on board an aircraft in foreign air transportation.

"(b) DEFINITION.—In this section, the term 'gambling device' means any machine or mechanical device (including gambling applications on electronic interactive video systems installed on board aircraft for passenger use)—

"(1) which when operated may deliver, as the result of the application of an element of chance, any money or property; or

"(2) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.".

(2) CLERICAL AMENDMENT.—The analysis of such chapter 413 is amended by inserting at the end the following new item:

"41311. Gambling restrictions.".

(b) STUDY OF GAMBLING ON COMMERCIAL AIRCRAFT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete a study of— 49 USC 41311 note.

(1) the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use, including an evaluation of the effect of such systems on the navigational and other electronic equipment of the aircraft, on the passengers and crew of the aircraft, and on issues relating to the method of payment;

(2) the competitive implications of permitting foreign air carriers only, but not United States air carriers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft in the foreign commerce of the United States on flights over international waters, or in fifth freedom city-pair markets; and

(3) whether gambling should be allowed on international flights, including proposed legislation to effectuate any recommended changes in existing law.

The Secretary shall, within 5 days after the completion of the study, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Reports.

Works and Transportation of the House of Representatives on the results of the study.

SEC. 206. SLOTS FOR AIR CARRIERS AT AIRPORTS.

(a) AVAILABILITY OF SLOTS.—

(1) IN GENERAL.—Subchapter I of chapter 417 of subtitle VII is amended by adding at the end the following:

"§ 41714. Availability of slots

"(a) MAKING SLOTS AVAILABLE FOR ESSENTIAL AIR SERVICE.—

"(1) OPERATIONAL AUTHORITY.—If basic essential air service under subchapter II of this chapter is to be provided from an eligible point to a high density airport (other than Washington National Airport), the Secretary of Transportation shall ensure that the air carrier providing or selected to provide such service has sufficient operational authority at the high density airport to provide such service. The operational authority shall allow flights at reasonable times taking into account the needs of passengers with connecting flights.

"(2) EXEMPTIONS.—If necessary to carry out the objectives of paragraph (1), the Secretary shall by order grant exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to air carriers using Stage 3 aircraft or to commuter air carriers, unless such an exemption would significantly increase operational delays.

"(3) ASSURANCE OF ACCESS.—If the Secretary finds that an exemption under paragraph (2) would significantly increase operational delays, the Secretary shall take such action as may be necessary to ensure that an air carrier providing or selected to provide basic essential air service is able to obtain access to a high density airport; except that the Secretary shall not be required to make slots available at O'Hare International Airport in Chicago, Illinois, if the number of slots available for basic essential air service (including slots specifically designated as essential air service slots and slots used for such purposes) to and from such airport is at least 132 slots.

"(4) ACTION BY THE SECRETARY.—The Secretary shall issue a final order under this subsection on or before the 60th day after receiving a request from an air carrier for operational authority under this subsection.

"(b) SLOTS FOR FOREIGN AIR TRANSPORTATION.—

"(1) EXEMPTIONS.—If the Secretary finds it to be in the public interest at a high density airport (other than Washington National Airport), the Secretary may grant by order exemptions from the requirements of subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable air carriers and foreign air carriers to provide foreign air transportation using Stage 3 aircraft.

"(2) SLOT WITHDRAWALS.—The Secretary may not withdraw a slot from an air carrier in order to allocate that slot to a carrier to provide foreign air transportation if the withdrawal of that slot would result in the withdrawal of slots from an air carrier at O'Hare International Airport under section 93.223

of title 14, Code of Federal Regulations, in excess of the total withdrawn from that air carrier as of October 31, 1993.

"(3) EQUIVALENT RIGHTS OF ACCESS.—The Secretary shall not take a slot at a high density airport from an air carrier and award such slot to a foreign air carrier if the Secretary determines that air carriers are not provided equivalent rights of access to airports in the country of which such foreign air carrier is a citizen.

"(4) PERIOD OF EFFECTIVENESS.—This subsection and exemptions issued under this subsection shall cease to be in effect when the final rules issued under subsection (f) become effective.

"(c) SLOTS FOR NEW ENTRANTS.—

"(1) IN GENERAL.—If the Secretary finds it to be in the public interest and the circumstances to be exceptional, the Secretary may by order grant exemptions from the requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at high density airports), to enable new entrant air carriers to provide air transportation at high density airports (other than Washington National Airport).

"(2) PERIOD OF EFFECTIVENESS.—Exemptions issued under this subsection shall cease to be in effect on or after the date on which the final rules issued under subsection (f) become effective.

"(d) SPECIAL RULES FOR WASHINGTON NATIONAL AIRPORT.—

"(1) IN GENERAL.—Notwithstanding sections 6005(c)(5) and 6009(e) of the Metropolitan Washington Airports Act of 1986, or any provision of this section, the Secretary may, only under circumstances determined by the Secretary to be exceptional, grant by order to an air carrier currently holding or operating a slot at Washington National Airport an exemption from requirements under subparts K and S of part 93 of title 14, Code of Federal Regulations (pertaining to slots at Washington National Airport), to enable that carrier to provide air transportation with Stage 3 aircraft at Washington National Airport; except that such exemption shall not—

"(A) result in an increase in the total number of slots per day at Washington National Airport;

"(B) result in an increase in the total number of slots at Washington National Airport from 7:00 ante meridiem to 9:59 post meridiem;

"(C) increase the number of operations at Washington National Airport in any 1-hour period by more than 2 operations;

"(D) result in the withdrawal or reduction of slots operated by an air carrier;

"(E) result in a net increase in noise impact on surrounding communities resulting from changes in timing of operations permitted under this subsection; and

"(F) continue in effect on or after the date on which the final rules issued under subsection (f) become effective.

"(2) LIMITATION ON APPLICABILITY.—Nothing in this subsection shall adversely affect Exemption No. 5133, as from time-to-time amended and extended.

"(e) STUDY.—

"(1) MATTERS TO BE CONSIDERED.—The Secretary shall continue the Secretary's current examination of slot regulations and shall ensure that the examination includes consideration of—

"(A) whether improvements in technology and procedures of the air traffic control system and the use of quieter aircraft make it possible to eliminate the limitations on hourly operations imposed by the high density rule contained in part 93 of title 14 of the Code of Federal Regulations or to increase the number of operations permitted under such rule;

"(B) the effects of the elimination of limitations or an increase in the number of operations allowed on each of the following:

"(i) congestion and delay in any part of the national aviation system;

"(ii) the impact of noise on persons living near the airport;

"(iii) competition in the air transportation system;

"(iv) the profitability of operations of airlines serving the airport; and

"(v) aviation safety;

"(C) the impact of the current slot allocation process upon the ability of air carriers to provide essential air service under subchapter II of this chapter;

"(D) the impact of such allocation process upon the ability of new entrant air carriers to obtain slots in time periods that enable them to provide service;

"(E) the impact of such allocation process on the ability of foreign air carriers to obtain slots;

"(F) the fairness of such process to air carriers and the extent to which air carriers are provided equivalent rights of access to the air transportation market in the countries of which foreign air carriers holding slots are citizens;

"(G) the impact, on the ability of air carriers to provide domestic and international air service, of the withdrawal of slots from air carriers in order to provide slots for foreign air carriers; and

"(H) the impact of the prohibition on slot withdrawals in subsections (b)(2) and (b)(3) of this section on the aviation relationship between the United States Government and foreign governments, including whether the prohibition in such subsections will require the withdrawal of slots from general and military aviation in order to meet the needs of air carriers and foreign air carriers providing foreign air transportation (and the impact of such withdrawal on general aviation and military aviation) and whether slots will become available to meet the needs of air carriers and foreign air carriers to provide foreign air transportation as a result of the planned relocation of Air Force Reserve units and the Air National Guard at O'Hare International Airport.

"(2) REPORT.—Not later than January 31, 1995, the Secretary shall complete the current examination of slot regulations and shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee

on Public Works and Transportation of the House of Representatives a report containing the results of such examination.

"(f) RULEMAKING.—The Secretary shall conduct a rulemaking proceeding based on the results of the study described in subsection (e). In the course of such proceeding, the Secretary shall issue a notice of proposed rulemaking not later than August 1, 1995, and shall issue a final rule not later than 90 days after public comments are due on the notice of proposed rulemaking.

"(g) WEEKEND OPERATIONS.—The Secretary shall consider the advisability of revising section 93.227 of title 14, Code of Federal Regulations, so as to eliminate weekend schedules from the determination of whether the 80 percent standard of subsection (a)(1) of that section has been met.

"(h) DEFINITIONS.—In this section and section 41734(h), the following definitions apply:

"(1) COMMUTER AIR CARRIER.—The term 'commuter air carrier' means a commuter operator as defined or applied in subpart K or S of part 93 of title 14, Code of Federal Regulations.

"(2) HIGH DENSITY AIRPORT.—The term 'high density airport' means an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft.

"(3) NEW ENTRANT AIR CARRIER.—The term 'new entrant air carrier' means an air carrier that does not hold a slot at the airport concerned and has never sold or given up a slot at that airport after December 16, 1985, and a limited incumbent carrier as defined in subpart S of part 93 of title 14, Code of Federal Regulations.

"(4) SLOT.—The term 'slot' means a reservation for an instrument flight rule takeoff or landing by an air carrier of an aircraft in air transportation.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 417 of subtitle VII is amended by inserting after the item relating to section 41713 the following:

"41714. Availability of slots.".

(c) NONCONSIDERATION OF SLOT AVAILABILITY.—Section 41734 is amended by adding at the end the following:

"(h) NONCONSIDERATION OF SLOT AVAILABILITY.—In determining what is basic essential air service and in selecting an air carrier to provide such service, the Secretary shall not consider as a factor whether slots at a high density airport are available for providing such service.".

SEC. 207. AIR SERVICE TERMINATION NOTICE.

(a) IN GENERAL.—Subchapter I of chapter 417 of subtitle VII is further amended by adding at the end the following new section:

"§ 41715. Air service termination notice

"(a) IN GENERAL.—An air carrier may not terminate interstate air transportation from a nonhub airport included on the Secretary's latest published list of such airports, unless such air carrier has given the Secretary at least 45 days' notice before such termination.

"(b) EXCEPTIONS.—The requirements of subsection (a) shall not apply when—

"(1) the carrier involved is experiencing a sudden or unforeseen financial emergency, including natural weather related emergencies, equipment-related emergencies, and strikes;

"(2) the termination of transportation is made for seasonal purposes only;

"(3) the carrier involved has operated at the affected nonhub airport for 180 days or less;

"(4) the carrier involved provides other transportation by jet from another airport serving the same community as the affected nonhub airport; or

"(5) the carrier involved makes alternative arrangements, such as a change of aircraft size, or other types of arrangements with a part 121 or part 135 air carrier, that continues uninterrupted service from the affected nonhub airport.

"(c) WAIVERS FOR REGIONAL/COMMUTER CARRIERS.—Before January 1, 1995, the Secretary shall establish terms and conditions under which regional/commuter carriers can be excluded from the termination notice requirement.

"(d) DEFINITIONS.—In this section, the following definitions apply:

"(1) NONHUB AIRPORT.—The term 'nonhub airport' has the meaning that term has under section 41731(a)(3).

"(2) PART 121 AIR CARRIER.—The term 'part 121 air carrier' means an air carrier to which part 121 of title 14, Code of Federal Regulations, applies.

"(3) PART 135 AIR CARRIER.—The term 'part 135 air carrier' means an air carrier to which part 135 of title 14, Code of Federal Regulations, applies.

"(4) REGIONAL/COMMUTER CARRIERS.—The term 'regional/commuter carrier' means—

"(A) a part 135 air carrier; or

"(B) a part 121 air carrier that provides air transportation exclusively with aircraft having a seating capacity of no more than 70 passengers.

"(5) TERMINATION.—The term 'termination' means the cessation of all service at an airport by an air carrier.".

(b) CONFORMING AMENDMENTS.—The analysis of such chapter 417 is amended by inserting after the item relating to section 41714 the following new item:

"41715. Air service termination notice.".

(c) CIVIL PENALTIES.—Section 46301(a), as amended by section 1121(d) of this Act, is further amended—

(1) in paragraph (1)(A) by inserting ", or 41715" before "of this title;";

(2) in paragraph (4) by inserting "(other than a violation of section 41715)" after "violation" the second and third place it appears; and

(3) by adding at the end the following:

"(6) Notwithstanding paragraph (1), the maximum civil penalty for violating section 41715 shall be $5,000 instead of $1,000.".

49 USC 41715 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 1, 1995.

SEC. 208. STATE TAXATION OF AIR CARRIER EMPLOYEES.

Section 40116(f) is amended by adding at the end the following:

"(3) Compensation paid by an air carrier to an employee described in subsection (a) in connection with such employee's authorized leave or other authorized absence from regular duties on the carrier's aircraft in order to perform services on behalf of the employee's airline union shall be subject to the income tax laws of only the following:

"(A) The State or political subdivision of the State that is the residence of the employee.

"(B) The State or political subdivision of the State in which the employee's scheduled flight time would have been more than 50 percent of the employee's total scheduled flight time for the calendar year had the employee been engaged full time in the performance of regularly assigned duties on the carrier's aircraft.".

SEC. 209. FOREIGN FEE COLLECTION.

Section 45301 is amended—

(1) in subsection (b) by striking "This section" and inserting "Subsection (a)"; and

(2) by adding at the end the following:

"(c) RECOVERY OF COST OF FOREIGN AVIATION SERVICES.—

"(1) ESTABLISHMENT OF FEES.—The Administrator may establish and collect fees for providing or carrying out the following aviation services outside the United States: any test, authorization, certificate, permit, rating, evaluation, approval, inspection, review.

"(2) FOREIGN REPAIR STATION CERTIFICATION AND INSPECTION FEES.—The Administrator must establish and collect under this subsection fees for certification and inspection of repair stations outside of the United States.

"(3) LEVEL OF FEES.—Fees shall be established under this subsection as necessary to recover the additional cost of providing or carrying out such services outside the United States, as compared to the cost of providing or carrying out such services within the United States; except that the Administrator may for such services as the Administrator designates (and shall for certification and inspection of repair stations outside the United States) establish fees at a level necessary to recover the full cost of providing such services.

"(4) EFFECT ON OTHER AUTHORITY.—The provisions of this subsection do not limit the Administrator's authority to establish and collect fees under subsection (a).

"(5) CREDITING OF PREESTABLISHED FEES.—Fees described in paragraph (1) that were not established before the date of the enactment of this subsection may be credited in accordance with section 45302(d).".

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

Federal Aviation Administration Research, Engineering, and Development Act of 1994.
49 USC 40101 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1994".

SEC. 302. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Section 48102(a) of title 49, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) for fiscal year 1995—

"(A) $7,673,000 for management and analysis projects and activities;

"(B) $80,901,000 for capacity and air traffic management technology projects and activities;

"(C) $39,242,000 for communications, navigation, and surveillance projects and activities;

"(D) $2,909,000 for weather projects and activities;

"(E) $8,660,000 for airport technology projects and activities;

"(F) $51,004,000 for aircraft safety technology projects and activities;

"(G) $36,604,000 for system security technology projects and activities;

"(H) $26,484,000 for human factors and aviation medicine projects and activities;

"(I) $8,124,000 for environment and energy projects and activities; and

"(J) $5,199,000 for innovative/cooperative research projects and activities; and

"(2) for fiscal year 1996—

"(A) $8,056,000 for management and analysis projects and activities;

"(B) $84,946,000 for capacity and air traffic management technology projects and activities;

"(C) $41,204,000 for communications, navigation, and surveillance projects and activities;

"(D) $3,054,000 for weather projects and activities;

"(E) $9,093,000 for airport technology projects and activities;

"(F) $53,554,000 for aircraft safety technology projects and activities;

"(G) $38,434,000 for system security technology projects and activities;

"(H) $27,808,000 for human factors and aviation medicine projects and activities;

"(I) $8,532,000 for environment and energy projects and activities; and

"(J) $5,459,000 for innovative/cooperative research projects and activities.".

49 USC 40101 note.

SEC. 303. JOINT AVIATION RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the heads of other appropriate Federal agencies, shall jointly establish a program to conduct research on aviation technologies that enhance United States competitiveness. The program shall include—

(1) next-generation satellite communications, including global positioning satellites;

(2) advanced airport and airplane security;

(3) environmentally compatible technologies, including technologies that limit or reduce noise and air pollution;

(4) advanced aviation safety programs; and

(5) technologies and procedures to enhance and improve airport and airway capacity.

(b) PROCEDURES FOR CONTRACTS AND GRANTS.—The Administrator and the heads of the other appropriate Federal agencies shall administer contracts and grants entered into under the program established under subsection (a) in accordance with procedures developed jointly by the Administrator and the heads of

the other appropriate Federal agencies. The procedures should include an integrated acquisition policy for contract and grant requirements and for technical data rights that are not an impediment to joint programs among the Federal Aviation Administration, the other Federal agencies involved, and industry.

(c) PROGRAM ELEMENTS.—The program established under subsection (a) shall include—

(1) selected programs that jointly enhance public and private aviation technology development;

(2) an opportunity for private contractors to be involved in such technology research and development; and

(3) the transfer of Government-developed technologies to the private sector to promote economic strength and competitiveness.

(d) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.

SEC. 304. AIRCRAFT CABIN AIR QUALITY RESEARCH PROGRAM.

49 USC 40101 note.

(a) ESTABLISHMENT.—The Administrator, in consultation with the heads of other appropriate Federal agencies, shall establish a research program to determine—

(1) what, if any, aircraft cabin air conditions, including pressure altitude systems, on flights within the United States are harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness; and

(2) the risk of airline passengers and crew contracting infectious diseases during flight.

(b) CONTRACT WITH CENTER FOR DISEASE CONTROL.—In carrying out the research program established under subsection (a), the Administrator and the heads of the other appropriate Federal agencies shall contract with the Center for Disease Control and other appropriate agencies to carry out any studies necessary to meet the goals of the program set forth in subsection (c).

(c) GOALS.—The goals of the research program established under subsection (a) shall be—

(1) to determine what, if any, cabin air conditions currently exist on domestic aircraft used for flights within the United States that could be harmful to the health of airline passengers and crew, as indicated by physical symptoms such as headaches, nausea, fatigue, and lightheadedness, and including the risk of infection by bacteria and viruses;

(2) to determine to what extent, changes in, cabin air pressure, temperature, rate of cabin air circulation, the quantity of fresh air per occupant, and humidity on current domestic aircraft would reduce or eliminate the risk of illness or discomfort to airline passengers and crew; and

(3) to establish a long-term research program to examine potential health problems to airline passengers and crew that may arise in an airplane cabin on a flight within the United States because of cabin air quality as a result of the conditions and changes described in paragraphs (1) and (2).

(d) PARTICIPATION.—In carrying out the research program established under subsection (a), the Administrator shall encourage participation in the program by representatives of aircraft manufacturers, air carriers, aviation employee organizations, airline passengers, and academia.

(e) REPORT.—(1) Within six months after the date of enactment of this Act, the Administrator shall submit to the Congress a plan for implementation of the research program established under subsection (a).

(2) The Administrator shall annually submit to the Congress a report on the progress made during the year for which the report is submitted toward meeting the goals set forth in subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal years 1995 and 1996 under section 48102(a) of title 49, United States Code, as amended by section 302 of this title, there are authorized to be appropriated for fiscal years 1995 and 1996, respectively, such sums as may be necessary to carry out this section.

49 USC 49101 note.

SEC. 305. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each office within the Federal Aviation Administration that conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of the enactment of this Act.

Reports.

(3) The Secretary, before January 1, 1995, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 306. PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.

49 USC 49101 note.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this title, or under any amendment made by this title, should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this title, or under any amendment made by this title, the Secretary shall provide to each recipient a notice describing the statement made in subsection (a) by the Congress.

SEC. 307. COOPERATIVE AGREEMENTS FOR RESEARCH, ENGINEERING, AND DEVELOPMENT.

Section 44505 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements on a cost-shared basis with Federal and non-Federal entities that the Administrator may select in order to conduct, encourage, and promote aviation research, engineering, and development, including the development of prototypes and demonstration models.".

SEC. 308. RESEARCH PROGRAM ON QUIET AIRCRAFT TECHNOLOGY.

(a) IN GENERAL.—Subchapter I of chapter 475 of part B of subtitle VII is amended by adding at the end the following new section:

"§ 47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft

"(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall conduct a study to identify technologies for noise reduction of propeller driven aircraft and rotorcraft.

"(b) GOAL.—The goal of the study conducted under subsection (a) is to determine the status of research and development now underway in the area of quiet technology for propeller driven aircraft and rotorcraft, including technology that is cost beneficial, and to determine whether a research program to supplement existing research activities is necessary.

"(c) PARTICIPATION.—In conducting the study required under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of the Department of Defense, the Department of the Interior, the airtour industry, the aviation industry, academia and other appropriate groups.

"(d) REPORT.—Not less than 280 days after the date of the enactment of this section, the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall transmit to Congress a report on the results of the study required under subsection (a).

"(e) RESEARCH AND DEVELOPMENT PROGRAM.—If the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration determine that additional research and development is necessary and would

substantially contribute to the development of quiet aircraft technology, then the agencies shall conduct an appropriate research program in consultation with the entities listed in subsection (c) to develop safe, effective, and economical noise reduction technology (including technology that can be applied to existing propeller driven aircraft and rotorcraft) that would result in aircraft that operate at substantially reduced levels of noise to reduce the impact of such aircraft and rotorcraft on the resources of national parks and other areas.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 47508 the following new item:

"47509. Research program on quiet aircraft technology for propeller and rotor driven aircraft.".

TITLE IV—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

SEC. 401. EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.

Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1995" and inserting "October 1, 1996";

(2) by inserting "or the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992" after "Capacity Expansion Act of 1990" in subparagraph (A);

(3) by striking "(as such Acts were in effect on the date of the enactment of the Airport Improvement Program Temporary Extension Act of 1994)" in subparagraph (A) and inserting "or the Federal Aviation Administration Authorization Act of 1994"; and

(4) by adding at the end the following new flush sentence: "Any reference in subparagraph (A) to an Act shall be treated as a reference to such Act and the corresponding provisions (if any) of title 49, United States Code, as such Act and provisions were in effect on the date of the enactment of the last Act referred to in subparagraph (A).".

TITLE V—MISCELLANEOUS PROVISIONS

49 USC 45102 note.

SEC. 501. RULEMAKING ON RANDOM TESTING FOR PROHIBITED DRUGS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall complete a rulemaking proceeding and issue a final decision on whether there should be a reduction in the annualized rate now required by the Secretary of random testing for prohibited drugs for personnel engaged in aviation activities.

SEC. 502. TRANSPORTATION SECURITY REPORT.

Section 44938(a) is amended by striking "December 31" and inserting "March 31".

SEC. 503. REPEAL OF ANNUAL REPORT REQUIREMENT.

Section 401 of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193; 94 Stat. 57) is repealed. 49 USC app 1348 note.

SEC. 504. ADVANCED LANDING SYSTEM.

Notwithstanding any other provision of law or regulation, the Administrator shall consider for approval under part 171 of title 14, Code of Federal Regulations, the new generation, low cost, advanced landing system being developed by the Department of Defense. The charter for approval of such system shall be considered and acted upon expeditiously by the Federal Aviation Administration in the region where such system is being developed.

SEC. 505. ASBESTOS REMOVAL AND BUILDING DEMOLITION AND REMOVAL, VACANT AIR FORCE STATION, MARIN COUNTY, CALIFORNIA.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated in fiscal year 1995 to the account for the Department of Transportation for facilities and equipment of the Federal Aviation Administration such amount as may be necessary to permit the Administrator to carry out asbestos abatement activities and the demolition and removal of buildings at the site of the vacant Air Force station located on Mount Tamalpais, Marin County, California. The amount authorized to be appropriated by the preceding sentence shall not exceed the Federal Aviation Administration's share of the costs of carrying out such activities, demolitions, and removals.

(b) AUTHORITY TO USE FUNDS.—The Administrator may use the funds appropriated pursuant to the authorization of appropriations in subsection (a) to carry out the abatement activities and demolition and removal described in that subsection. Such funds shall be available for such purpose until expended.

SEC. 506. LAND ACQUISITION COSTS.

Notwithstanding section 47108 of title 49, United States Code, the Secretary may approve an upward adjustment not to exceed $750,000 in the maximum obligation of the United States under an airport improvement program grant made under subchapter I of chapter 471 of subtitle VII of such title to a reliever airport after September 1, 1989, and before October 1, 1989, in order to assist in funding increased land acquisition costs (as determined in judicial proceedings) and associated eligible project costs.

SEC. 507. INFORMATION ON DISINSECTION OF AIRCRAFT.

Records. Publication. 49 USC 40101 note.

(a) AVAILABILITY OF INFORMATION.—In the interest of protecting the health of air travelers, the Secretary shall publish a list of the countries (as determined by the Secretary) that require disinsection of aircraft landing in such countries while passengers and crew are on board such aircraft.

(b) REVISION.—The Secretary shall revise the list required under subsection (a) on a periodic basis.

(c) PUBLICATION.—The Secretary shall publish the list required under subsection (a) not later than 30 days after the date of the enactment of this Act. The Secretary shall publish a revision to

the list not later than 30 days after completing the revision under subsection (b).

49 USC 47124 note.

SEC. 508. CONTRACT TOWER ASSISTANCE.

The Secretary shall take appropriate action to assist communities where the Secretary deems such assistance appropriate in obtaining the installation of a Level I Contract Tower for those communities.

SEC. 509. DISCONTINUATION OF AVIATION SAFETY JOURNAL.

(a) IN GENERAL.—The Administrator may not publish, nor contract with any other organization for the publication of, the magazine known as the "Aviation Safety Journal".

(b) CANCELLATION OF EXISTING CONTRACTS.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall cancel any existing contract for publication of the Aviation Safety Journal.

Louisiana.

SEC. 510. MONROE AIRPORT IMPROVEMENT.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on the date of transfer of Selman Field, Louisiana, from the United States to the city of Monroe, Louisiana), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any term contained in the 1949 deed of conveyance, or any other deed of conveyance occurring subsequent to that initial transference and before the date of enactment of this Act, under which the United States conveyed certain property then constituting Selman Field, Louisiana, to the city of Monroe, Louisiana, for airport purposes.

(b) CONDITIONS.—Any waiver granted under subsection (a) shall be subject to the following conditions:

(1) The city of Monroe, Louisiana, shall agree that, in conveying any interest in the property which the United States conveyed to the city by a deed described in subsection (a), the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

Alaska.

SEC. 511. SOLDOTNA AIRPORT IMPROVEMENT.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on December 12, 1963), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any of the terms contained in the deed of conveyance dated December 12, 1963, under which the United States conveyed certain property to the city of Soldotna, Alaska, for airport purposes.

(b) CONDITIONS.—Any waiver granted under subsection (a) shall be subject to the following conditions:

(1) The city of Soldotna, Alaska, shall agree that, in conveying any interest in the property which the United States conveyed to the city by deed dated December 12, 1963, the city will receive an amount for such interest which is equal to

the fair market value (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 512. STURGIS, KENTUCKY.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding any other provision of law, the Secretary is authorized, subject to section 47153 of title 49, United States Code, and subsection (b) of this section, to waive with respect to such parcels of land, or portions of such parcels, as the Administrator determines are no longer required for airport purposes, from any term contained in the deed of conveyance dated July 13, 1948, under which the United States conveyed such property to the Union County Air Board, State of Kentucky, for airport purposes of the Sturgis Municipal Airport.

(b) CONDITIONS.—Any waiver granted by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The Union County Air Board shall agree that, in leasing or conveying any interest in the property with respect to which waivers are granted under subsection (a), such Board will receive an amount that is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by the Secretary). Regulations.

(2) Such Board shall use any amount so received only for the development, improvement, operation, or maintenance of the Sturgis Municipal Airport.

(3) Any other conditions that the Secretary considers necessary to protect or advance the interests of the United States in civil aviation.

SEC. 513. ROLLA AIRPORT IMPROVEMENT. Missouri.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 16 of the Federal Airport Act (as in effect on December 30, 1957), the Secretary is authorized, subject to the provisions of section 47153 of title 49, United States Code, and the provisions of subsection (b) of this section, to waive any of the terms contained in the deed of conveyance dated December 30, 1957, or any other deed of conveyance dated after such date and before the date of enactment of this Act, under which the United States conveyed certain property to the city of Rolla, Missouri, for airport purposes.

(b) CONDITIONS.—Any waiver under subsection (a) shall be subject to the following conditions:

(1) The city of Rolla, Missouri, shall agree that, in conveying any interest in the property which the United States conveyed to the city by a deed described in subsection (a), the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(2) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 514. PALM SPRINGS, CALIFORNIA.

(a) AUTHORITY TO GRANT WAIVERS.—Notwithstanding section 47153 of title 49, United States Code, and subject to the provisions of subsection (b), the Secretary shall grant waivers from all of

the terms contained in the deed of conveyance dated September 15, 1949, under which the United States conveyed certain property to Palm Springs, California, for airport purposes. The waivers shall apply only to approximately 11 acres of lot 16 of section 13, and approximately 39.07 acres of lots 19 and 20 of section 19, used by the city of Palm Springs, California, for general governmental purposes.

(b) CONDITIONS.—Any waiver granted by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The Secretary shall waive any requirement that there be credited to the account of the airport any amount attributable to the city's use for governmental purposes of any land conveyed under the deed of conveyance referred to in subsection (a) before the date of the enactment of this section.

(2) The city shall abandon all claims, against income of the Palm Springs Regional Airport or other assets of that airport, for reimbursement of general revenue funds that the city may have expended before the date of the enactment of this section for acquisition of 523.39 acres of land conveyed August 28, 1961, for airport purposes and for expenses incurred at any time in connection with such acquisition, and such claims shall not be eligible for reimbursement under the Airport and Airway Improvement Act or any successor law.

SEC. 515. REAL ESTATE TRANSFERS IN ALASKA AND WEATHER OBSERVATION SERVICES.

(a) TRANSFER OF SITE IN LAKE MINCHUMINA, ALASKA.—The Administrator shall convey to the Iditarod Area School District the Federal Aviation Administration building number 106 and a reasonable amount of land to make use of the property, at Lake Minchumina, Alaska, for the purpose of providing educational facilities, under the terms set forth in Agreement No. DTFA04–93–J–82007, between the Federal Aviation Administration and the Iditarod Area School District, and such other terms as are mutually agreed on between the Administrator and the Iditarod Area School District.

(b) TRANSFER OF SITE IN FORT YUKON, ALASKA.—The Administrator shall convey to the city of Fort Yukon, Alaska, the buildings of the Federal Aviation Administration and land in Fort Yukon, Alaska (described as that portion of Lot 4, U.S. Survey 7161, within section 8, T.20 N., R.12E., Fairbanks Meridian consisting of 7.14 acres, and containing the health clinic and staff housing for the aforementioned clinic) for the purpose of providing health services, under terms that are mutually agreed on between the Administrator and the city of Fort Yukon.

(c) WEATHER OBSERVATION SERVICES.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall designate airports, as described in this section, and provide human observers at such airports to offer real time weather information to pilots by direct radio contact. Airports to be designated shall be located in a State that averaged, during the period 1989–1993, 3 or more accidents per year involving serious or fatal injury to crew or passengers on regularly scheduled flights operating single-engine aircraft under visual flight rules, and shall be designated as follows:

(1) Not to exceed 5 airports where terrain and conditions do not lend themselves to IFR operations supported solely by automated weather observing systems.

(2) Not to exceed 1 airport where an automated surface observing system is scheduled to be accepted on September 1, 1994, with such weather services to be provided until such time as the Administrator determines that the automated surface observing system is fully operational.

(3) Not to exceed 8 airports (where such weather observation services shall be on a cost-reimbursable basis) that are minor hub stations or strategic visual flight rules alternate airports at times when an observer is needed to supplement the automated weather observing system or immediately replace it in the event of failure.

SEC. 516. RELOCATION OF AIRWAY FACILITIES. Texas.

Compensation received by the United States for transfer of the San Jacinto Disposal Area by the United States to the city of Galveston, Texas, shall include compensation to be provided to the Federal Aviation Administration for all costs of establishing airway facilities to replace existing airway facilities on the San Jacinto Disposal Area. Such compensation shall include but is not limited to compensation for the replacement of the land, clear zones, buildings and equipment, and demolition and disposal of the existing facilities on the San Jacinto Disposal Area.

SEC. 517. SAFETY AT ASPEN-PITKIN COUNTY AIRPORT. Colorado.

(a) NIGHTTIME OPERATIONS.—On and after November 1, 1994, nighttime operations (takeoffs and landings) at Aspen-Pitkin County Airport in the State of Colorado shall be allowed for a pilot operating under instrumentflight rules or visual flight rules under parts 91 and 135 of title 14, Code of Federal Regulations, between 30 minutes after official sunset and 11 p.m., local time, as follows:

(1) A pilot may operate under instrument flight rules between 30 minutes after official sunset and 11 p.m., local time (or such other operating hours as are established uniformly for all classes of operators), only if the pilot—

(A) is granted clearance by air traffic control;

(B) is instrument-rated;

(C) is operating an aircraft that is equipped as required under section 91.205(d) of such title 14 for instrument flight; and

(D) is operating an instrument approach or departure procedure approved by the Federal Aviation Administration.

(2) A pilot may operate under visual flight rules between 30 minutes after official sunset and 11:00 p.m., local time (or such other operating hours as are established uniformly for all classes of operators), only if the pilot—

(A) is instrument-rated;

(B) has completed at least one takeoff or landing in the preceding 12 calendar months at such airport; and

(C) operates an aircraft equipped as required under section 91.205(d) of such title 14 for instrument flight.

(b) COMMITMENTS OF AIRPORT OWNER OR OPERATOR.—The owner or operator of the Aspen-Pitkin County Airport shall be considered to be in compliance with the requirements of subchapter II of chapter 475 of title 49, United States Code, and not otherwise

unjustly discriminatory when such owner or operator notifies the Administrator that such owner or operator—

(1) commits to modify its existing regulation to expand access to general aviation operations under such special operating restrictions as are created under subsection (a) and such conditions applicable to aircraft noise certification as are currently in effect for night operations at such airport; and

(2) commits permanently not to enforce its 1990 regulatory action eliminating the so-called "ski season exception" to its nighttime curfew.

To remain in compliance, such owner or operator shall carry out both such commitments on or before November 1, 1994.

Proposed rule.

(c) MOUNTAIN FLYING.—The Administrator shall issue a notice of proposed rulemaking on mountain flying.

SEC. 518. COLLECTIVE BARGAINING AT WASHINGTON AIRPORTS.

(a) STUDY.—The Secretary and the Secretary of Labor shall undertake a study of whether employees of airports operated by the Metropolitan Washington Airports Authority (hereinafter in this section referred to as the "Airports Authority") should be given the right to bargain collectively. The study shall consider whether the benefits of collective bargaining for employees of the Airports Authority outweighs the burdens of collective bargaining.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary and the Secretary of Labor shall investigate the following matters and reach conclusions as to the relevance of such matters to the question of whether employees of airports operated by the Airports Authority should be given collective bargaining rights:

(1) The employment status of employees of the Airports Authority.

(2) The wages and working conditions of firefighters and other employees at the airports operated by the Airports Authority and other airports.

(3) The collective bargaining rights of employees at the airports operated by the Airports Authority and other airports.

(4) Whether other airports are governed by Federal labor laws.

(5) The existing rights of employees of the Airports Authority to collective representation regarding the terms and conditions of employment.

(6) Any other factors that the Secretary and the Secretary of Labor consider relevant to the study.

In conducting such study, the Secretary and the Secretary of Labor shall also consider procedures for impass resolution of collective bargaining disputes that will avoid the disruption of essential public services at the Airports Authority.

(c) REPORT.—Not later than March 1, 1995, the Secretary and the Secretary of Labor shall transmit to Congress a report containing the results of the study to be conducted under subsection (a). If the study concludes that employees of the airports operated by the Airports Authority should be afforded collective bargaining rights, the report shall also include specific legislative recommendations.

49 USC 40105 note.

SEC. 519. REPORT ON CERTAIN BILATERAL NEGOTIATIONS.

The Secretary shall report every other month to the Committee on Public Works and Transportation of the House of Representatives

and the Committee on Commerce, Science, and Transportation of the Senate on the status of all active aviation bilateral and multilateral negotiations and informal government-to-government consultations with United States aviation trade partners.

SEC. 520. STUDY ON INNOVATIVE FINANCING.

49 USC 47101 note.

(a) STUDY.—The Secretary shall conduct a study on innovative approaches for using Federal funds to finance airport development as a means of supplementing financing available under the Airport Improvement Program.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary shall consider, at a minimum, the following:

(1) Mechanisms that will produce greater investments in airport development per dollar of Federal expenditure.

(2) Approaches that would permit entering into agreements with non-Federal entities, such as airport sponsors, for the loan of Federal funds, guarantee of loan repayment, or purchase of insurance or other forms of enhancement for borrower debt, including the use of unobligated Airport Improvement Program contract authority and unobligated balances in the Airport and Airway Trust Fund.

(3) Means to lower the cost of financing airport development.

(c) CONSULTATION.—In considering innovative financing pursuant to this section, the Secretary may consult with airport owners and operators and public and private sector experts.

(d) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 521. SAFETY OF JUNEAU INTERNATIONAL AIRPORT.

Alaska.

(a) STUDY.—Not later than 30 days after the date of the enactment of this Act, the Secretary, in cooperation with the National Transportation Safety Board, the National Guard, and the Juneau International Airport, shall undertake a study of the safety of the approaches to the Juneau International Airport.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary shall examine—

(1) the crash of Alaska Airlines Flight 1866 on September 4, 1971;

(2) the crash of a Lear Jet on October 22, 1985;

(3) the crash of an Alaska Army National Guard aircraft on November 12, 1992;

(4) the adequacy of NAVAIDs in the vicinity of the Juneau International Airport;

(5) the possibility of inaccurate data from Sisters Island DVOR and the possibility of confusion between Elephant Island Non-Directional Beacon and Coghlan Island Non-Directional Beacon;

(6) the need for a singular Approach Surveillance Radar site on top of Heintzleman Ridge;

(7) the need for a Terminal Very High Frequency Omni-Directional Range (Terminal VOR) navigational aid in Gastineau Channel; and

(8) any other matter that a participant in the study specified in subsection (a) considers appropriate to the safety of

aircraft approaching or leaving the Juneau International Airport.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report which—

(1) details the matters considered by the study conducted under subsection (a);

(2) summarizes any conclusions reached by the participants in the study;

(3) proposes specific recommendations to improve or enhance the safety of aircraft approaching or leaving the Juneau International Airport or contains a detailed explanation of why no recommendations are being proposed;

(4) estimates the cost of any proposed recommendations;

(5) includes any other matters the Secretary deems appropriate; and

(6) includes any minority views if a consensus is not reached among the participants in the study specified in subsection (a).

SEC. 522. STUDY ON CHILD RESTRAINT SYSTEMS.

(a) STUDY.—The Secretary shall conduct a study on the availability, effectiveness, cost, and usefulness of restraint systems that may offer protection to a child carried in the lap of an adult aboard an air carrier aircraft or provide for the attachment of a child restraint device to the aircraft.

(b) STUDY CRITERIA.—Among other issues, the study shall examine the impact of the following:

(1) The direct cost to families of requiring air carriers to provide restraint systems and requiring infants to use them, including whether airlines will charge a fare for use of seats containing infant restraining systems; such estimate to cover a ten-year period.

(2) The impact on air carrier aircraft passenger volume by requiring use of infant restraint systems, including whether families will choose to travel to destinations by other means, including automobiles; such estimate to cover a ten-year period.

(3) The impact over a 10-year period on fatality rates of infants using other modes of transportation, including automobiles.

(4) The efficacy of infant restraint systems currently marketed as able to be used for air carrier aircraft.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a).

SEC. 523. SENSE OF SENATE RELATING TO DOT INSPECTOR GENERAL.

It is the sense of the Senate that the Inspector General of the Department of Transportation in carrying out the duties and responsibilities of the Inspector General Act of 1978 has oversight responsibilities and may conduct and supervise audits and investigations relating to any funds appropriated by the Congress and made available for any programs or operations at Washington

National Airport and Washington Dulles International Airport, and that the Inspector General shall—

(1) provide leadership and coordination and recommend policies for activities designed to promote the economy, efficiency, and effectiveness of such programs and operations;

(2) act to prevent and detect fraud and abuse in such programs and operations; and

(3) inform the Secretary and the Congress about problems and deficiencies relating to the administration of such programs and operations.

SEC. 524. SENSE OF SENATE ON ISSUANCE OF REPORT ON USAGE OF RADAR AT THE CHEYENNE, WYOMING, AIRPORT.

It is the sense of the Senate that the Secretary should—

(1) take such action as may be necessary to revise the cost and benefit analysis process of the Department of Transportation to fully take projected military enplanement and cost savings figures into consideration with regard to radar installations at joint-use civilian and military airports;

(2) require the Administrator to reevaluate the aircraft radar needs at the Cheyenne, Wyoming, airport and enter into an immediate dialogue with officials of the Wyoming Air Guard, F.E. Warren Air Force Base, and Cheyenne area leaders in the phase II radar installation reevaluation of the Administration and adjust cost and benefit determinations based to some appropriate degree on already provided military figures and concerns and other enplanement projections in the region; and

(3) report to Congress not later than 60 days after the date of the enactment of this Act on the results of the reevaluation of the aircraft radar needs of the Cheyenne, Wyoming, airport and of Southeast Wyoming, and explain how military figures and concerns will be appropriately solicited in future radar decisions involving joint-use airport facilities.

SEC. 525. NORTH KOREA.

(a) FINDINGS.—(1) President Clinton stated in November 1993 that it is the official policy of the United States that North Korea cannot be allowed to become a nuclear power.

(2) The United States seeks to persuade North Korea, through negotiations, the imposition of sanctions, or other means, to act in accordance with its freely undertaken obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and to abandon its efforts to develop nuclear weapons.

(3) North Korea has repeatedly threatened to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, has resisted efforts of the International Atomic Energy Agency to conduct effective inspections of its nuclear program, and has stated that it would consider the imposition of economic sanctions as an act of war and has threatened retaliatory action.

(4) The North Korean Government has constructed and has operated a reprocessing facility at Yongbyon solely designed to convert spent nuclear fuel into plutonium with which to make nuclear weapons. Further, the existence of this facility and the development of these weapons gravely threaten security in the region and increases the likelihood of worldwide nuclear terrorism.

(5) The Secretary of Defense stated that the United States must act on the assumption that there will be some increase in the risk of war if sanctions are imposed on North Korea.

(6) It is incumbent on the United States to take all necessary and prudent action to act together with the Republic of Korea to ensure the preparedness of United States and Republic of Korea forces to repel as quickly as possible any attack from North Korea and to protect the safety and security of United States and Republic of Korea forces, as well as the safety and security of the civilian population of the peninsula.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the United States should immediately take all necessary and prudent actions to enhance the preparedness and safety of United States forces and urge and assist the Republic of Korea to do likewise in order to deter and, if necessary, repel an attack from North Korea.

SEC. 526. SENSE OF SENATE ON FINAL REGULATIONS UNDER CIVIL RIGHTS ACT OF 1964.

(a) FINDINGS.—The Senate finds that—

(1) the liberties protected by our Constitution include religious liberty protected by the first amendment;

(2) citizens of the United States profess the beliefs of almost every conceivable religion;

(3) Congress has historically protected religious expression even from governmental action not intended to be hostile to religion;

(4) the Supreme Court has written that "the free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires";

(5) the Supreme Court has firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the content of the ideas is offensive to some;

(6) Congress enacted the Religious Freedom Restoration Act of 1993 to restate and make clear again our intent and position that religious liberty is and should forever be granted protection from unwarranted and unjustified government intrusions and burdens;

(7) the Equal Employment Opportunity Commission has written proposed guidelines to title VII of the Civil Rights Act of 1964, published in the Federal Register on October 1, 1993, that may result in the infringement of religious liberty;

(8) such guidelines do not appropriately resolve issues related to religious liberty and religious expression in the workplace;

(9) properly drawn guidelines for the determination of religious harassment should provide appropriate guidance to employers and employees and assist in the continued preservation of religious liberty as guaranteed by the first amendment;

(10) the Commission states in its proposed guidelines that it retains wholly separate guidelines for the determination of sexual harassment because the Commission believes that sexual harassment raises issues about human interaction that are to some extent unique in comparison to other harassment and may warrant separate treatment; and

(11) the subject of religious harassment also raises issues about human interaction that are to some extent unique in comparison to other harassment.

(b) It is the sense of the Senate that, for purposes of issuing final regulations under title VII of the Civil Rights Act of 1964 in connection with the proposed guidelines published by the Equal Employment Opportunity Commission on October 1, 1993 (58 Fed. Reg. 51266)—

(1) the category of religion should be withdrawn from the proposed guidelines at this time;

(2) any new guidelines for the determination of religious harassment should be drafted so as to make explicitly clear that symbols or expressions of religious belief consistent with the first amendment and the Religious Freedom Restoration Act of 1993 are not to be restricted and do not constitute proof of harassment;

(3) the Commission should hold public hearings on such new proposed guidelines; and

(4) the Commission should receive additional public comment before issuing similar new regulations.

TITLE VI—INTRASTATE TRANSPORTATION OF PROPERTY

SEC. 601. PREEMPTION OF INTRASTATE TRANSPORTATION OF PROPERTY.

49 USC 11501 note.

(a) FINDINGS.—Congress finds and declares that—

(1) the regulation of intrastate transportation of property by the States has—

(A) imposed an unreasonable burden on interstate commerce;

(B) impeded the free flow of trade, traffic, and transportation of interstate commerce; and

(C) placed an unreasonable cost on the American consumers; and

(2) certain aspects of the State regulatory process should be preempted.

(b) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

(1) IN GENERAL.—Section 41713(b) is amended by adding at the end the following new paragraph:

"(4) TRANSPORTATION BY AIR CARRIER OR CARRIER AFFILIATED WITH A DIRECT AIR CARRIER.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier or carrier affiliated with a direct air carrier through common controlling ownership when such carrier is transporting property by aircraft or by motor vehicle (whether or not such property has had or will have a prior or subsequent air movement).

"(B) MATTERS NOT COVERED.—Subparagraph (A)—

"(i) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the author-

ity of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

"(ii) does not apply to the transportation of household goods, as defined in section 10102 of this title.

"(C) APPLICABILITY OF PARAGRAPH (1).—This paragraph shall not limit the applicability of paragraph (1).".

(2) CONFORMING AMENDMENTS.—

(A) SECTION 41713.—Section 41713(b)(2) is amended by striking "Paragraph (1) of this subsection does" and inserting "Paragraphs (1) and (4) of this subsection do".

(B) SECTION 40102.—Section 40102(a)(35) is amended by striking "for air transportation".

(C) SECTION 10521.—Section 10521(b)(1) is amended by striking "and 11501(e)" and inserting "11501(e), and 11501(h)".

(c) TRANSPORTATION BY MOTOR CARRIER.—Section 11501 is amended by adding at the end the following new subsection:

"(h) PREEMPTION OF STATE ECONOMIC REGULATION OF MOTOR CARRIERS.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4) of this title) or any motor private carrier with respect to the transportation of property.

"(2) MATTERS NOT COVERED.—Paragraph (1)—

"(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization; and

"(B) does not apply to the transportation of household goods.

"(3) STATE STANDARD TRANSPORTATION PRACTICES.—

"(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

"(i) uniform cargo liability rules,

"(ii) uniform bills of lading or receipts for property being transported,

"(iii) uniform cargo credit rules, or

"(iv) antitrust immunity for joint line rates or routes, classifications and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

"(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this subtitle or a regulation issued by the Interstate Commerce Commission or the Secretary of Transportation under this subtitle; and

"(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

"(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 1995; except that with respect to the State of Hawaii the amendment made by subsection (c) shall take effect on the last day of the 3-year period beginning on the date of the enactment of this Act. 49 USC 10521 note.

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 2739 (S. 1491):

HOUSE REPORTS: Nos. 103-240 (Comm. on Public Works and Transportation) and 103-677 (Comm. of Conference).

SENATE REPORTS: No. 103-181 accompanying S. 1491 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 139 (1993): Oct. 7, 13, considered and passed House.

Vol. 140 (1994): June 9, 10, 14-16, considered and passed House amended, in lieu of S. 1491.

Aug. 8, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):

Aug. 23, Presidential statement.

Public Law 103-306
103d Congress

An Act

Aug. 23, 1994
[H.R. 4426]

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes, namely:

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $23,009,101, to remain available until expended: *Provided,* That one quarter of such funds may be obligated only after April 1, 1995: *Provided further,* That one quarter of such funds may be obligated only after September 1, 1995: *Provided further,* That not more than twenty-one days prior to the obligation of each such sum, the Secretary shall submit a certification to the Committees on Appropriations that the Bank has not approved any loans to Iran since October 1, 1994, or the President of the United States certifies that withholding of these funds is contrary to the national interest of the United States.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $743,923,914.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), $90,000,000, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,235,000,000, for the United States contribution to the replenishment, to remain available until expended.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $68,743,028, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $5,364,000 may be expended for the purchase of such stock in fiscal year 1995.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $28,111,959, and for the United States share of the increases in the resources of the Fund for Special Operations, $21,338,000, and for the United States share of the capital stock of the Inter-American Investment Corporation, $190,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $1,594,568,180.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, $75,000,000 to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $167,960,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $124,229,309, for the United States contribution to the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $133,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,002,540.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $69,180,353, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $7,002,000 may be expended for the purchase of such stock in fiscal year 1995.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $161,420,824.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $25,000,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $374,000,000: *Provided,* That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That of the funds appropriated under this heading that are made available for the United Nations Children's Fund (UNICEF), 75 per centum shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum shall be expended within thirty days from the start of UNICEF's fourth quarter of operations for 1995: *Provided further,* That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's

Republic of China: *Provided further,* That not more than $50,000,000 of the funds appropriated under this heading may be made available to the UNFPA: *Provided further,* That not more than one-half of this amount may be provided to UNFPA before March 1, 1995, and that no later than February 15, 1995, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1995: *Provided further,* That any amount UNFPA plans to spend in the People's Republic of China in 1995 above $7,000,000, shall be deducted from the amount of funds provided to UNFPA after March 1, 1995 pursuant to the previous provisos: *Provided further,* That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds.

Reports

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1995, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $853,000,000, to remain available until September 30, 1996: *Provided,* That of the funds appropriated under this title under the heading "Agency for International Development", (1) not less than $280,000,000 should be made available for activities which have as their objective the reduction of childhood mortality, including such activities as immunization programs, oral rehydration programs, and education programs which address improved nutrition, and water and sanitation programs, (2) not less than $135,000,000 should be made available for basic education programs, and (3) not less than $25,000,000 should be made available for micronutrient programs.

POPULATION, DEVELOPMENT ASSISTANCE

Abortion.

For necessary expenses to carry out the provisions of section 104(b), $450,000,000, to remain available until September 30, 1996: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad

Sterilization.

range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options including abortion: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That of the funds appropriated under this heading, not less than the amount equal to the amount made available for the Office of Population of the Agency for International Development in fiscal year 1994 shall be made available to that office: *Provided further,* That the Administrator of the Agency for International Development may decrease that amount only if he consults with and provides a written justification to the Committees on Appropriations: *Provided further,* That such justification shall be considered in accordance with the regular notification procedures of the Committees on Appropriations.

DEVELOPMENT FUND FOR AFRICA

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, $802,000,000, to remain available until September 30, 1996: *Provided,* That none of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Community shall be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PRIVATE AND VOLUNTARY ORGANIZATIONS

22 USC 2151u note.

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section

491 of the Foreign Assistance Act of 1961, as amended, $169,998,000 to remain available until expended.

DEBT RESTRUCTURING

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, $7,000,000, to remain available until expended.

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the subsidy cost of direct loans and loan guarantees, $1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That guarantees of loans made under this heading in support of microenterprise activities may guarantee up to 70 percent of the principal amount of any such loans notwithstanding section 108 of the Foreign Assistance Act of 1961. In addition, for administrative expenses to carry out programs under this heading, $500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

HOUSING GUARANTY PROGRAM ACCOUNT

For the subsidy cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $19,300,000: *Provided,* That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections: *Provided further,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject to the availability of qualified applicants for such guarantees. In addition, for administrative expenses to carry out guaranteed loan programs, $8,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: *Provided further,* That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Eastern Europe and programs for the benefit of South Africans disadvantaged by apartheid, section 223(j) of the Foreign Assistance Act of 1961: *Provided further,* That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

President.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,118,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $517,500,000: *Provided,* That of this amount not more than $1,475,000 may be made available to pay for printing costs: *Provided further,* That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of that Agency or the Administrator's designee.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $39,118,000, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,349,000,000, to remain available until September 30, 1996: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1994, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further,* That not more than $50,000,000 of the funds appropriated under this heading may be made available to finance tied-aid credits, unless the President determines it is in the national interest to provide in excess of $50,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds made available or limited by this Act may be used for tied-aid credits or tied-aid grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 may be used for tied-aid credits:

President.

Provided further, That as used in this heading the term "tied-aid credits" means any credit, within the meaning of section 15(h)(1) of the Export-Import Bank Act of 1945, which is used for blended or parallel financing, as those terms are defined by sections 15(h)(4) and (5), respectively, of such Act: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, bicommunal projects, and measures aimed at the reunification of the island and designed to reduce tensions, and promote peace and cooperation between the two communities on Cyprus.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of part I of the Foreign Assistance Act of 1961, up to $19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until expended.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $359,000,000, to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

(b) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(c) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, $850,000,000, to remain available until expended: *Provided,* That the provisions of 498B(j) of the Foreign Assistance Act of 1961 shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be transferred to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

(c) Funds may be furnished without regard to subsection (b) if the President determines that to do so is in the national interest.

22 USC 5814 note.

(d) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in Principle Six of the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national interest of the United States: *Provided further,* That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian, disaster and refugee relief.

(e) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability: *Provided,* That this restriction does not apply to demilitarization, defense conversion or non-proliferation programs, or programs to support troop withdrawal including through the support of an officer resettlement program, and technical assistance for the housing sector.

(f) Funds appropriated under this heading shall be subject to the regular procedures of the Committees on Appropriations.

(g) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(h) Funds appropriated under this heading may be made available for assistance for Mongolia.

(i) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be provided to the maximum extent feasible through the private sector, including private voluntary organizations and nongovernmental organizations functioning in the new independent states.

(j) Of the funds appropriated under this heading, not less than $15,000,000 should be available only for a family planning program for the new independent states of the former Soviet Union comparable to the family planning program currently administered by the Agency for International Development in the Central Asian Republics and focusing on population assistance which provides an alternative to abortion.

(k) Of the funds appropriated under this heading, not less than $150,000,000 should be made available for programs for Ukraine: *Provided,* That of these funds not less than $25,000,000 should be made available for land privatization activities and development of small and medium size businesses, including agriculture enterprises.

(l) Of the funds made available by this or any other Act, not less than $75,000,000 should be made available for programs and activities for Armenia.

(m) Of the funds made available by this or any other Act, not less than $50,000,000 should be made available for programs and activities for Georgia.

(n) The President should establish a Trans-Caucasus Enterprise Fund.

(o) The report required by subsection (d) under the heading "Assistance for the New Independent States of the Former Soviet Union", contained in Public Law 102–391, shall be updated at least annually and shall also contain a listing of all grants and contracts issued from funds appropriated annually for the new independent states of the former Soviet Union, to include for each grant and contract (1) a description of its purpose, (2) its amount, and (3) the country where the grant or contract funds are to be expended. Reports. 22 USC 5814 note.

(p) Not less than $50,000,000 of the funds appropriated under this heading should be made available for programs and activities which match United States private sector resources with Federal funds.

(q) Within sixty days of enactment of this Act, the Administrator of the Agency for International Development shall report to the Committees on Appropriations on steps being taken to include individuals and organizations with language or regional expertise in the provision of assistance to the new independent states of the former Soviet Union. Reports.

(r) Of the funds appropriated under this heading and under the heading "Assistance for Eastern Europe and the Baltic States", not to exceed $30,000,000 shall be made available for police training and exchanges, and investigative and technical assistance activities related to international criminal activities.

(s) Of the funds appropriated under this heading, not less than 50 percent should be made available for country specific activities within bilateral, regional, or multilateral programs, except as provided through the regular notification procedures of the Committees on Appropriations.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,905,000: *Provided,* That, when, with the permission of the President of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made: *Provided further,* That this provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further,* That notwithstanding section 505(a)(2) of the African Development Foundation Act, in exceptional circumstances the board of directors of the Foundation may waive the dollar limitation contained in that section with

Reports.

respect to a project: *Provided further,* That the Foundation shall provide a report to the Committees on Appropriations after each time such waiver authority is exercised.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $30,960,000.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $219,745,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1996.

Abortion.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $105,000,000: *Provided,* That during fiscal year 1995, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $671,000,000: *Provided,* That not more than $11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That not less than $80,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel.

REFUGEE RESETTLEMENT ASSISTANCE

For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, $6,000,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $15,244,000.

NONPROLIFERATION AND DISARMAMENT FUND

For necessary expenses for a "Nonproliferation and Disarmament Fund", $10,000,000, to remain available until expended, to promote bilateral and multilateral activities: *Provided,* That such funds may be used pursuant to the authorities contained in section 504 of the FREEDOM Support Act: *Provided further,* That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available notwithstanding any other provision of law: *Provided further,* That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $25,500,000: *Provided,* That up to $300,000 of the funds appropriated under this heading may be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 on the condition that that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further,* That the civilian personnel for whom military education and training may be provided under this heading may also include members of national legislatures who are responsible for the oversight and management of the military,

and may also include individuals who are not members of a government: *Provided further,* That none of the funds appropriated under this heading shall be available for Indonesia, Rwanda, and Zaire: *Provided further,* That a report is to be submitted to the Committees on Appropriations addressing how the proposed School of the Americas IMET program for fiscal year 1995 will contribute to the promotion of human rights, respect for civilian authority and the rule of law, the establishment of legitimate judicial mechanisms for the military, and achieving the goal of right sizing military forces: *Provided further,* That none of the funds appropriated under this heading or under the heading "Military-to-Military Contact Program" may be made available for Thailand or Algeria except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That the Secretary of State shall submit, by February 1, 1995, a report to the Committees on Appropriations on the Thai military's support for the Khmer Rouge and the Thai Government's efforts to impede support for Burmese democracy advocates, exiles, and refugees.

Reports

Reports.

MILITARY-TO-MILITARY CONTACT PROGRAM

For necessary expenses, for the military-to-military contact program of the Department of Defense, $12,000,000: *Provided,* That funds appropriated under this heading may be made available only for activities in the area of responsibility of the United States Pacific Command and for activities for East European countries and the Baltic States.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,151,279,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1994, whichever is later: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $47,917,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $619,650,000: *Provided further,* That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United

States of comparable maturities: *Provided further,* That funds appropriated under this heading shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following: $255,150,000 only for Greece and $364,500,000 only for Turkey: *Provided further,* That 10 percent of the principal amount of direct loans for Turkey shall be withheld until the Secretary of State, in consultation with the Secretary of Defense, has submitted to the Committees on Appropriations a report addressing, among other things, the allegations of abuses against civilians by the Turkish armed forces and the situation in Cyprus, and a separate notification has been submitted at least 15 days prior to the obligation of such funds: *Provided further,* That 10 percent of the principal amount of direct loans for Greece shall be withheld until the Secretary of State has submitted to the Committees on Appropriations a report on the allegations of Greek violations of the United Nations sanctions against Serbia and of the United Nations Charter, and a separate notification has been submitted at least 15 days prior to the obligation of such funds.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia, Guatemala, and Peru: *Provided further,* That none of the funds appropriated under this heading may be made available for Colombia or Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That not more than $100,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available

under this heading for necessary expenses for grants if countries specified under this heading as eligible for such direct loans decline to utilize such loans: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $22,150,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $335,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1995 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated under this heading, and no employee of the Defense Security Assistance Agency, may be used to facilitate the transport of aircraft to commercial arms sales shows.

SPECIAL DEFENSE ACQUISITION FUND

Notwithstanding any provision of Public Law 102–391 as amended by Public Law 103–87, not to exceed $140,000,000 of the obligational authority provided in that Act under the heading "Special Defense Acquisition Fund" may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act.

Not to exceed $20,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of closing the Special Defense Acquisition Fund, to remain available for obligation until September 30, 1998: *Provided,* That the authority provided in this Act is not used to initiate new procurements.

PEACEKEEPING OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $75,000,000: *Provided,* That of this amount up to $850,000 may be transferred to, and merged with, funds appropriated under the heading "International Military Education and Training" to carry out the provisions of section 541 of the Act: *Provided further,* That funds transferred under the previous proviso shall be in addition to amounts that may be transferred between accounts under the authority of any other provision of law.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing

authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $786,551,000 to remain available until September 30, 1996: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until 2010 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1995 and 1996: *Provided further,* That up to $100,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further,* That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, $45,228,000: *Provided,* That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further,* That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1995.

Termination date.
12 USC 635a note.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $24,322,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $33,944,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1995 and 1996: *Provided further,* That such sums shall remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal year 1995, and through fiscal year 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1996. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $44,986,000.

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1995, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the authority of this subsection may not be used in fiscal year 1995.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1 and 8 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further,* That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided,* That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publica-

tion, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

22 USC 262h note.

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Development Assistance Fund", "Population, Development Assistance", "Development Fund for Africa", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic

Support Fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Military-to-Military Contact Program", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further,* That the requirements of this section or any similar provision of this Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

President

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided,* That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organiza-

tions and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1996.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

REPORTING REQUIREMENT

SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act. President.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, Dominican Republic, El Salvador, Guatemala, Haiti, Indonesia, Liberia, Nicaragua, Pakistan, Peru, Rwanda, Sudan, or Zaire except as provided through the regular notification procedures of the Committees on Appropriations: *Provided,* That this section shall not apply to funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 that are made available for El Salvador and Nicaragua.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

FAMILY PLANNING, CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 522. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That such individuals shall not be included within any personnel ceiling or personnel level, with regard to individuals detailed or assigned to the Agency for International Development prior to October 1, 1994, established pursuant to any provision of law or regulation applicable to any United States Government agency during the period of detail or assignment: *Provided further,* That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that

restricts assistance to foreign countries: *Provided further,* That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

22 USC 2796.

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out "1994" and inserting in lieu thereof "1995".

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 526. (a) Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

5 USC 5924.

(b) Section 13 of the Department of State Appropriations Authorization Act of 1973 is repealed.

(c) The Secretary of the Treasury may, to fulfill commitments of the United States, (1) subscribe to and make payment for shares of the Inter-American Development Bank, make contributions to the Fund for Special Operations of that Bank, and vote for resolutions (including amendments to that Bank's constitutive agreement), all in connection with the eighth general increase in resources of that Bank; and (2) contribute to the Restructured Global Environment Facility under its Instrument, to the African Development Fund in connection with the seventh general replenishment of its resources, and to the Interest Subsidy Account of the successor to the Enhanced Structural Adjustment Facility of the International Monetary Fund. The amount authorized to be appropriated for payment for paid-in shares of the Inter-American Development Bank is limited to $76,832,001, the amount authorized to be appropriated for payment for callable shares of the Inter-American Development Bank is limited to $4,511,156,729, and the amount authorized to be appropriated for payment of

the contribution to the Interest Subsidy Account of the successor to the Enhanced Structural Adjustment Facility of the International Monetary Fund is limited to $25,000,000. The amount to be paid in respect of each such contribution or subscription is authorized to be appropriated without fiscal year limitation. Each such subscription or contribution shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(d) Title XV of the International Financial Institutions Act (22 U.S.C. 262o) is amended by adding at the end the following:

"SEC. 1502. MILITARY SPENDING BY RECIPIENT COUNTRIES; MILITARY INVOLVEMENT IN THE ECONOMIES OF RECIPIENT COUNTRIES. 22 USC 262o-1.

"(a) CONSIDERATION OF COMMITMENT TO ACHIEVING CERTAIN GOALS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2)) to promote growth in the international economy by taking into account, when considering whether to support or oppose loan proposals at these institutions, the extent to which the recipient government has demonstrated a commitment to achieving the following goals:

"(A) to provide accurate and complete data on the annual expenditures and receipts of the armed forces;

"(B) to establish good and publicly accountable governance, including an end to excessive military involvement in the economy; and

"(C) to make substantial reductions in excessive military spending and forces.

"(b) STEPS TO ACHIEVE GOALS REQUIRED.—The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as so defined) to promote a policy at each institution under which—

"(1) the respective institution monitors closely and, through regular policy consultations with recipient governments, seeks to influence the composition of public expenditure in favor of funding growth and development priorities and away from unproductive expenditure, including excessive military expenditures;

"(2) the respective institution supports lending operations which assist efforts of recipient governments to promote good governance, including public participation, and reduce military expenditures; and

"(3) the allocation of resources and the extension of credit by the respective institution takes into account the performance of recipient governments in the areas of good governance, ending excessive military involvement in the economy and reducing excessive military expenditures.".

(e) Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by redesignating section 1620 as section 1622 and by inserting after section 1619 the following: 22 USC 262p-5.

"SEC. 1620. RESPECT FOR INDIGENOUS PEOPLES. 22 USC 262p-4o.

"The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2)) and the United States representative

to the council of the Global Environment Facility administered by the International Bank for Reconstruction and Development to use the voice and vote of the United States to bring about the creation and full implementation of policies designed to promote respect for and full protection of the territorial rights, traditional economies, cultural integrity, traditional knowledge and human rights of indigenous peoples.

22 USC 262p-4p.

"SEC. 1621. ENCOURAGEMENT OF FAIR LABOR PRACTICES.

"(a) The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2)) to use the voice and vote of the United States to urge the respective institution—

"(1) to adopt policies to encourage borrowing countries to guarantee internationally recognized worker rights (within the meaning of section 502(a)(4) of the Trade Act of 1974) and to include the status of such rights as an integral part of the institution's policy dialogue with each borrowing country;

"(2) in developing the policies referred to in paragraph (1), to use the relevant conventions of the International Labor Organization, which have set forth, among other things, the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, and certain minimum labor standards that take into account differences in development levels among nations including a minimum age for the employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; and

"(3) to establish formal procedures to screen projects and programs funded by the institution for any negative impact in a borrowing country on the rights referred to in paragraph (1).

Reports.

"(b) The Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate by the end of each fiscal year a report on the extent to which each borrowing country guarantees internationally recognized worker rights to its labor force and on progress toward achieving each of the goals described in subsection (a).".

(f) The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended by adding at the end the following:

22 USC 283z-10.

"SEC. 38. FOCUS ON LOW-INCOME AREAS OF LATIN AMERICA AND THE CARIBBEAN.

"The Secretary of the Treasury shall direct the United States Executive Director of the Bank to use the voice and vote of the United States to support an increased focus on the poorest countries in Latin America and the Caribbean, and on poorer areas of better off countries, and to support programs conducted by the Multilateral Investment Fund, particularly in targeting low-income countries and populations, working with nongovernmental organizations and training and assisting former combatants from civil conflicts in Latin America.".

DEPLETED URANIUM

SEC. 527. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M–833 antitank shells or any comparable antitank shells containing

a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Taiwan: *Provided,* That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 528. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution designated in subsection (b), and the Administrator of the Agency for International Development shall instruct the United States Executive Director of the International Fund for Agriculture Development, to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the African Development Fund, and the European Bank for Reconstruction and Development.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 529. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

President. Federal Register, publication.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 530. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export

22 USC 2763 note.

Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

COMPETITIVE INSURANCE

SEC. 531. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate.

STINGERS IN THE PERSIAN GULF REGION

SEC. 532. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 533. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

DEBT-FOR-DEVELOPMENT

SEC. 534. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be for the purpose for which the assistance was provided to that organization.

LOCATION OF STOCKPILES

SEC. 535. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$200,000,000 for stockpiles in Israel for fiscal year 1994" and inserting in lieu thereof "a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995". 22 USC 2321h.

SEPARATE ACCOUNTS

SEC. 536. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.— 22 USC 2359 note.
(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth— Contracts.

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remai , in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

102 Stat. 2268-6.
22 USC 2346, 2359.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

President.

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detai ed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 537. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate

in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 538. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq, Serbia or Montenegro unless the President determines and so certifies to the Congress that— 50 USC 1701 note.

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, Serbia, or Montenegro, as the case may be and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq, Serbia, or Montenegro into its customs territory, and

(2) the export of its products to Iraq, Serbia, or Montenegro, as the case may be.

POW/MIA MILITARY DRAWDOWN

SEC. 539. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1995, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to Vietnam, Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of

Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

President. Reports.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 540. During fiscal year 1995, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

PRIORITY DELIVERY OF EQUIPMENT

SEC. 541. Notwithstanding any other provision of law, the delivery of excess defense articles that are to be transferred on a grant basis under section 516 of the Foreign Assistance Act to NATO allies and to major non-NATO allies on the southern and southeastern flank of NATO shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

ISRAEL DRAWDOWN

SEC. 542. Section 599B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (as amended by Public Law 102–145, as amended, and Public Law 102–391), is further amended— 104 Stat. 2064.

(a) by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal year 1995";

(b) by striking out "Appropriations Act, 1994" and inserting in lieu thereof "Appropriations Act, 1995"; and

(c) by striking out "$700,000,000" and inserting in lieu thereof "$775,000,000".

CASH FLOW FINANCING

SEC. 543. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99–83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 544. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited. Reports.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 545. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided,* That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 546. (a) Congress finds as follows:

(1) The United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia.

(2) The federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces.

(3) Because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo, or to a unilateral lifting of the arms embargo by the President of the United States, against Bosnia-Hercegovina, the President is authorized to transfer, subject to the regular notification procedures of the Committees on Appropriations, to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1995: *Provided,* That the President certifies in a timely fashion to the Congress that—

(1) the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region; and

(2) United States allies are prepared to join in such a military assistance effort.

President. Reports.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

SPECIAL AUTHORITIES

SEC. 547. (a) Funds appropriated in title II of this Act that are made available for Haiti, Afghanistan, Lebanon, and Cambodia, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia-Hercegovina, Croatia, and Kosova, may be made available notwithstanding any other provision of law: *Provided,* That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985: *Provided further,* That the President shall terminate assistance to any country or organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

President.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, and for the purpose of supporting biodiversity conservation activities: *Provided,* That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) During fiscal year 1995, the President may use up to $50,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling contained in subsection (a) of that section.

(d) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 548. (a) FINDINGS.—The Congress finds that—

(1) since 1948 the Arab countries have maintained a primary boycott against Israel, refusing to do business with Israel;

(2) since the early 1950s the Arab League has maintained a secondary and tertiary boycott against American and other companies that have commercial ties with Israel;

(3) the boycott seeks to coerce American firms by blacklisting those that do business with Israel and harm America's competitiveness;

(4) the United States has a longstanding policy opposing the Arab League boycott and United States law prohibits American firms from providing information to Arab countries to demonstrate compliance with the boycott;

(5) with real progress being made in the Middle East peace process and the serious confidence-building measures taken by the State of Israel an end to the Arab boycott of Israel and of American companies that have commercial ties with Israel is long overdue and would represent a significant confidence-building measure; and

(6) in the interest of Middle East peace and free commerce, the President must take more concrete steps to press the Arab states to end their practice of blacklisting and boycotting American companies that have trade ties with Israel.

(b) POLICY.—It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel; and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ANTI-NARCOTICS ACTIVITIES

SEC. 549. (a) Of the funds appropriated by this Act under the heading "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the provisions of section 534 of the Foreign Assistance Act of 1961, except that

programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Of the funds appropriated by this Act under the heading "Economic Support Fund", notwithstanding section 660 of the Foreign Assistance Act of 1961, up to $3,000,000 may be made available, subject to the regular notification procedures of the Committees on Appropriations, for technical assistance, training, and commodities with the objective of creating a professional civilian police force for Panama, and for programs to improve penal institutions and the rehabiliation of offenders in Panama (which programs may be conducted other than through multilateral or regional institutions), except that such technical assistance shall not include more than $1,000,000 for the procurement of equipment for law enforcement purposes, and shall not include lethal equipment.

(c) Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia and Peru and subsection (b) may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 550. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided,* That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

President.

President.

Abortion.
Sterilization.

(b) PUBLIC LAW 480.—During fiscal year 1995, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under titles I and II of the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

Terrorism.

(1) with respect to section 529 of this Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights. Human rights.

EARMARKS

SEC. 551. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided. President.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided,* That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

CEILINGS AND EARMARKS

SEC. 552. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

EXCESS DEFENSE ARTICLES

SEC. 553. (a) The authority of section 519 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1995 to provide nonlethal excess defense articles to countries for which United States foreign assistance has been requested and for which receipt of such articles was separately justified for the fiscal year, without regard to the restrictions in subsection (a) of section 519.

(b) The authority of section 518 of the Foreign Assistance Act of 1961 may be exercised notwithstanding any other provision of law.

(c) The authority of section 516 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1995 to provide defense articles to Jordan, except that the provision of such defense articles shall be subject to section 538 of this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 554. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

DISADVANTAGED ENTERPRISES

Minorities.

SEC. 555. (a) Except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for the "Development Assistance Fund", "Population, Development Assistance", and the "Development Fund for Africa" shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for sub-Saharan Africa for the current fiscal year.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

Contracts.
Small business.

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

Regulations.

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the Agency's headquarters in Washington, as well as all Agency missions and regional offices, shall notify the Agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year. Reports.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

USE OF AMERICAN RESOURCES

SEC. 556. To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

LIMITATIONS ON ASSISTANCE FOR NICARAGUA

Sec. 557. (a) Funds appropriated by this Act under the heading "Economic Support Fund" may only be made available to the Government of Nicaragua upon the notification, in writing, by the Secretary of State to the appropriate committees that he has determined that significant and tangible progress is being made by the Government of Nicaragua toward—

(1) the prosecution of any individual identified as part of a terrorist/kidnapping ring by the investigation of issues raised by the discovery, after the May 23, 1993, explosion in Managua, of weapons caches, false passports, identity papers and other documents, suggesting the existence of such a ring, including all government officials (including any members of the armed forces or security forces); Terrorism

(2) the resolution of expropriation claims and the effective compensation of legitimate claims;

(3) the timely implementation of recommendations made by the Tripartite Commission as it undertakes to review and identify those responsible for gross human rights violations, including the expeditious prosecution of individuals identified by the commission in connection with such violations;

(4) the enactment into law of legislation to reform the Nicaraguan military and security forces in order to guarantee civilian control over the armed forces;

(5) the establishment of civilian control over the police, and the independence of the police from the military; and

(6) the effective reform of the Nicaraguan judicial system.

(b) The notification pursuant to subsection (a) above shall include a detailed listing of the tangible evidence that forms the basis for such determination.

(c) For purposes of this section, the term "appropriate committees" means the Committees on Foreign Relations and Appropriations of the Senate and Committees on Foreign Affairs and Appropriations of the House of Representatives.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 558. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

CONSULTING SERVICES

SEC. 559. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 560. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 561. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

GUARANTEES

SEC. 562. Section 251(b)(2)(G) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1994" and inserting in lieu thereof "1994 and 1995" in both places that this appears. 2 USC 901.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 563. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act. Termination date.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests. President. Reports.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 564. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 565. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 583(a) of the Middle East Peace Facilitation Act of 1994 (part E of title V of Public Law 103–236) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 583(b)(2) of the Middle East Peace Facilitation Act or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

FACILITATE PEACE IN THE MIDDLE EAST

SEC. 565A. ADDITIONAL CONGRESSIONAL EXPECTATION.—Section 583(b)(5) of the Middle East Peace Facilitation Act is amended—

Ante, p. 488.

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) amending its National Covenant to eliminate all references calling for the destruction of Israel.".

PROCUREMENT REDUCTION

SEC. 566. (a) Of the budgetary resources available to the Agency for International Development during fiscal year 1995, $1,598,000 are permanently canceled.

(b) The Administrator of the Agency for International Development shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for

a product or services and ending with contract completion and closeout, as specified in section 403(a)(2) of title 41, United States Code.

IMPLEMENTATION OF WORLD BANK RECOMMENDATIONS

SEC. 567. (a) Funds appropriated by title I of this Act under the headings "Contribution to the International Bank for Reconstruction and Development" and "Contribution to the International Development Association" shall be available for payment to such institutions as follows:

(1) Fifty percent of the funds appropriated under each such heading shall be made available prior to April 1, 1995. Fifty percent of the funds appropriated under each such heading shall be made available on April 1, 1995, or thereafter, only if the Secretary of the Treasury makes the determinations (and so reports to the Committees on Appropriations) described in paragraph (2) of this subsection at any time on or after that date.

(2) The determinations referred to in paragraph (1) are determinations that the International Bank for Reconstruction and Development is—

(A) implementing the recommendations contained in "Next Steps", the follow-up to the Wapenhans Report;

(B) implementing the action plan contained in chapter 8 of its April 8, 1994, resettlement review entitled "Resettlement and Development"; and

(C) implementing the Bank's procedures on Disclosure of Operational Information issued in September 1993.

(b) Funds appropriated by title I of this Act under the heading "Contribution to the International Finance Corporation" shall be available for payment to such institution as follows:

(1) Fifty percent of the funds appropriated under such heading shall be made available prior to April 1, 1995. Fifty percent of the funds appropriated under such heading shall be made available on or after April 1, 1995, only if the Secretary of the Treasury makes the determination (and so reports to the Committees on Appropriations) described in paragraph (2) of this subsection.

(2) The determination referred to in paragraph (1) is a determination that the International Finance Corporation is pursuing reforms comparable to those adopted by the International Bank for Reconstruction and Development regarding the environment, information disclosure, and resettlement.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 568. (a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency shall provide, to the greatest extent practicable, to such entity notice consistent with subsection (a) and section 604(a) of the Foreign Assistance Act of 1961.

WEST BANK AND GAZA ECONOMIC DEVELOPMENT FUND

SEC. 569. Of the funds appropriated by this Act under the heading "Economic Support Fund", not less than $20,000,000 should be made available to support the creation and expansion of small and medium-sized businesses, including agricultural enterprises, in the West Bank and Gaza. All or any part of such funds may be used for the subsidy cost of direct loans and loan guarantees as defined in section 502 of the Congressional Budget Act of 1974. Funds made available under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

AGRICULTURAL AID TO THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 570. Of the funds appropriated by title II of this Act under the heading "Assistance for the New Independent States of the Former Soviet Union" up to $50,000,000 should be made available only for provision of United States agricultural commodities to address the food and nutrition needs of the people of the new independent states of the former Soviet Union: *Provided,* That in providing assistance under this section, primary emphasis shall be given to meeting the food and nutrition needs of children and pregnant and post-partum women: *Provided further,* That funds made available for the purposes of this section may be used for transportation of United States agricultural commodities provided under this section: *Provided further,* That the President may enter into agreements with the governments of the new independent states and nongovernmental organizations to provide for the sale of any part of the United States agricultural commodities in the new independent states for local currencies: *Provided further,* That any such local currencies shall be used in the new independent states to process, transport, store, distribute or otherwise enhance the effectiveness of the use of United States agricultural commodities provided under this section, and to support agricultural and rural development activities.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 571. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1995 for programs under title IV of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That $12,000,000 shall be immediately transferred from funds available to the Export-Import Bank for fiscal year 1994 to the Overseas Private Investment Corporation, and $1,000,000 shall be immediately transferred from funds available to the Export-Import Bank for fiscal year 1994 to the Trade and Development Agency: *Provided further,* That the provisions of the previous proviso shall be effective on the date of enactment of this Act.

Effective date.

INCAE

SEC. 572. The Government of Nicaragua may assume the obligation of the Central American Institute of Business Administration (INCAE) to make payment to the United States under a loan made to INCAE pursuant to an Alliance for Progress Loan Agreement dated April 25, 1972: *Provided,* That such payment shall be for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of such obligation and shall relieve INCAE of any further liability to the United States for payment of interest and principal under such loan notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

MONGOLIA

SEC. 573. Section 620(f) of the Foreign Assistance Act of 1961 is amended by striking "Mongolian People's Republic." from the list contained therein. 22 USC 2370.

REPORT ON COMPLIANCE WITH COMMITMENTS

SEC. 574. Section 804(b) of title VIII of Public Law 101–246 (PLO Commitments Compliance Act of 1989) is amended— 104 Stat. 78.

(1) in paragraph (9) by striking "; and" and inserting in lieu thereof ";";

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph:

"(11) measures taken by the PLO to prevent acts of terrorism, crime and hostilities and to legally punish offenders, as called for in the Gaza-Jericho agreement of May 4, 1994.".

WAR CRIMES TRIBUNALS

SEC. 575. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended, may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided,* That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further,* That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia. Reports. 22 USC 2656 note.

DONATION OF SURPLUS AGRICULTURAL COMMODITIES TO POLAND

SEC. 576. (a) EXTENSION OF AUTHORIZATION.—Section 2223(a) of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note) is amended by—

(1) inserting "if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland" after "Notwithstanding any other provision of law,"; and

(2) striking "1988 through 1992" and inserting in lieu thereof "1995 through 1999".

(b) DEFINITION OF ELIGIBLE COMMODITIES.—Section 2223(b)(1) of that Act is amended by inserting ", soybeans, and soybean products" after "feed grains".

(c) ELIGIBLE ACTIVITIES.—Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended in the third sentence—

(1) by striking "and" at the end of subclause (II);

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subclause: "(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.".

7 USC 1431 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1994.

NONLETHAL EXCESS DEFENSE ARTICLES

SEC. 577. Notwithstanding section 519(f) of the Foreign Assistance Act of 1961, during fiscal year 1995, funds available to the Department of Defense may be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of section 519 to Albania.

LANDMINES

SEC. 578. Notwithstanding any other provision of law, demining equipment available to any department or agency and used in support of the clearing of landmines for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

PROHIBITION ON PAYMENT OF CERTAIN EXPENSES

SEC. 579. None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" or "FOREIGN MILITARY FINANCING PROGRAM" for Informational Program activities may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

EMERGENCY PROJECTS IN BOSNIA AND HERZEGOVINA

SEC. 580. Of the funds appropriated by this Act, not less than $10,000,000 should be available only for emergency winterization and rehabilitation projects and for the reestablishment of essential services in Bosnia and Herzegovina.

HUMANITARIAN ASSISTANCE FOR BOSNIA AND HERZEGOVINA

SEC. 581. Of the funds appropriated by this Act, not less than $5,000,000 should be available only for medical equipment, medical supplies, and medicine to Bosnia and Herzegovina, and for the repair and reconstruction of hospitals, clinics, and medical facilities in Bosnia and Herzegovina.

INDONESIA

SEC. 582. The United States shall continue to refrain from selling or licensing for export to the Government of Indonesia defense articles such as small or light arms and crowd control items until the Secretary of State determines and reports to the Committees on Appropriations that there has been significant progress made on human rights in East Timor and elsewhere in Indonesia, including in such areas as—

(1) complying with the recommendations in the United Nations Special Rapporteur's January 1992 report and the March 1993 recommendations of the United Nations Human Rights Commission;

(2) significantly reducing Indonesia's troop presence in East Timor; and

(3) participating constructively in the United Nations Secretary General's efforts to resolve the status of East Timor.

REPORT ON THE SALARIES AND BENEFITS OF THE IMF AND THE WORLD BANK

SEC. 583. The Comptroller General shall submit a report to the Committees on Appropriations on the following—

(1) a review of the existing salaries and benefits of employees of the International Monetary Fund and the International Bank for Reconstruction and Development; and

(2) a review of all benefits paid to dependents of Fund and Bank employees.

Such report shall include a comparison of the salaries and benefits paid to employees and dependents of the Fund and the Bank with salaries and benefits paid to employees holding comparable positions in the public and private sectors in member countries and in the international sector.

BALTIC TROOP WITHDRAWAL

SEC. 584. (a) PROHIBITION.—None of the funds appropriated or otherwise made available by this Act (other than funds to carry out humanitarian assistance) may be available in any fiscal year for Russia unless the President has certified to the Congress not more than six months in advance of the obligation or expenditure of such funds that the Government of Russia and the Governments of Latvia and Estonia have established a timetable for the withdrawal of the armed forces of Russia and the Commonwealth of

Independent States, and all parties are complying with such timetable.

(b) Subsection (a) does not apply if the President determines that the provision of funds to the Government of Russia is in the national security interest of the United States.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 585. (a) None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided,* That this subsection shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem.

(b) Meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

REPORT ON BIOLOGICAL AND CHEMICAL WEAPONS

President.

SEC. 586. The President shall report to the Committees on Appropriations, not later than January 30, 1995, on whether or not Russia has demonstrated a commitment to comply with the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and, upon Russian ratification and entry into force, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, and the Wyoming "Memorandum of Understanding Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition of Chemical Weapons".

Titles I through V may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995".

Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994.

TITLE VI—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

DEBT RELIEF FOR JORDAN

(a) AUTHORITY TO REDUCE DEBT.—

(1) AUTHORITY.—For fiscal year 1994 and thereafter, the President is authorized to reduce or cancel amounts owed to the United States or any agency of the United States by the

Hashemite Kingdom of Jordan as a result of loans originally made or credits originally extended by the United States or any agency of the United States before January 1, 1994.

(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) CERTAIN PROHIBITIONS INAPPLICABLE.—The authority of this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961, as amended, section 321 of the International Development and Food Assistance Act of 1975, or similar provisions of law. In addition, a reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(b) APPROPRIATIONS.—

(1) APPROPRIATIONS.—For the cost of modifying direct loans, as defined in section 502 of the Congressional Budget Act of 1974, for Jordan, in accordance with the authority contained in this section, $99,000,000 is appropriated, to remain available until September 30, 1994.

(2) FISCAL YEAR 1994.—For fiscal year 1994—

(A) funds appropriated under this section may be used only for the cost of modifying direct loans entered into under programs administered by the Agency for International Development; and

(B) such funds may be used to reduce or cancel not to exceed $220,000,000 of the amounts owed pursuant to such loans.

AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for "International Disaster Assistance", $20,000,000, to remain available until expended, for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended: *Provided,* That funds appropriated under this heading may be made available notwithstanding section 10 of Public Law 91–672: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF STATE

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for "United States Emergency Refugee and Migration Assistance Fund", $30,000,000: *Provided,* That such funds may be made available to respond to the current Rwandan refugee crisis if the President determines that it is in the national interest to do so: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

This title may be cited as the "Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994".

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 4426:

HOUSE REPORTS: Nos. 103-524 (Comm. on Appropriations) and 103-633 (Comm. of Conference).
SENATE REPORTS: No. 103-287 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 25, considered and passed House.
June 29, July 13-15, considered and passed Senate, amended.
Aug. 4, House agreed to conference report.
Aug. 9, 10, Senate considered and agreed to conference report.

Public Law 103-307
103d Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

Aug. 23, 1994
[H.R. 4453]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military Construction Appropriations Act, 1995.

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $550,476,000, to remain available until September 30, 1999: *Provided,* That of this amount, not to exceed $66,126,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $385,110,000, to remain available until September 30, 1999: *Provided,* That of this amount, not to exceed $43,380,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $516,813,000, to remain available until September 30, 1999: *Provided,* That of this amount, not to exceed $49,386,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $504,118,000, to remain available until September 30, 1999: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $51,960,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $188,062,000, to remain available until September 30, 1999.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $249,056,000, to remain available until September 30, 1999.

MILITARY CONSTRUCTION, ARMY RESERVE

(TRANSFER OF FUNDS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $57,370,000, to remain available until September 30, 1999: *Provided*, That of the funds appropriated for "Military Construction, Army Reserve, 1992/1996", $1,500,000 shall be transferred to "Military Construction, Army National Guard, 1992/1996" for the same purposes as the appropriation to which transferred.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $22,748,000, to remain available until September 30, 1999.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $57,066,000, to remain available until September 30, 1999.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $119,000,000, to remain available until expended.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $170,002,000, to remain available until September 30, 1999; for Operation and maintenance, and for debt payment, $1,013,708,000; in all $1,183,710,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, prin-

cipal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $267,465,000, to remain available until September 30, 1999; for Operation and maintenance, and for debt payment, $937,599,000; in all $1,205,064,000.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $277,444,000, to remain available until September 30, 1999; for Operation and maintenance, and for debt payment, $824,845,000 of which not more than $14,200,000 may be obligated for the acquisition of family housing units at Comiso AB, Italy; in all $1,102,289,000.

FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $350,000, to remain available for obligation until September 30, 1999; for Operation and maintenance, $29,031,000; in all $29,381,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526), $87,600,000, to remain available for obligation until September 30, 1995: *Provided,* That none of these funds may be obligated for base realignment and closure activities under Public Law 100–526 which would cause the Department's $1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further,* That not less than $66,800,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $265,700,000, to remain available until expended: *Provided,* That not less than $138,700,000 of the funds appropriated herein shall be available solely for environmental restoration: *Provided further,* That, in addition, not to exceed $133,000,000 may be transferred from "Homeowners Assistance Fund, Defense" to "Base Realignment and Closure Account, Part II", to be merged with, and to be available for the same purposes and the same time period as that account.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $2,322,858,000, to remain available until expended: *Provided,* That not less than $302,700,000 of the funds appropriated herein shall be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account, shall be transferred to the appropriations for Family Housing, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 117. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

10 USC 2860 note.

SEC. 118. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth

fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

(TRANSFER OF FUNDS)

SEC. 119. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred. 10 USC 2860 note.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States. Reports

(TRANSFER OF FUNDS)

SEC. 121. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 122. The second paragraph under the heading, "Family Housing, Navy and Marine Corps" in title XI of Public Law 102–368, is amended by inserting "and the August 8, 1993 earthquake in Guam" immediately after "Typhoon Omar". 106 Stat. 1151.

SEC. 123. (a) Of the budgetary resources available to the Department of Defense for military construction and family housing accounts during fiscal year 1995, $10,421,000 are permanently canceled.

(b) The Secretary of Defense shall allocate the amount of budgetary resources canceled among the Department's military construction and family housing accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or

services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 124. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 125. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 126. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a fraudulent label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that was not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 127. LAND CONVEYANCE, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Seattle, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 5.09 acres, the location of the Naval Reserve Center, Seattle, Washington.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value (as determined by the Secretary) of the portion of the real property to be conveyed under subsection (a) that is described in paragraph (2).

(2) Paragraph (1) applies to the portion of the parcel of real property referred to in subsection (a) that consists of approximately 3.67 acres and was acquired by the United States from a party other than the City.

(c) CONDITION.—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the real property in its condition at the time of conveyance.

(d) REQUIREMENTS RELATING TO CONVEYANCE.—(1) The Secretary may not make the conveyance authorized by subsection (a) until the commencement of the use by the Navy of a Naval

Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed.

(2) The Secretary may not commence construction of a facility to be the replacement facility under paragraph (1) for the Naval Reserve Center until the Secretary completes an environmental impact statement with respect to the construction and operation of the facility to be the replacement facility.

(e) PAYMENT FOR COMMERCIAL USE.—If at any time after the conveyance under this section the City ceases utilizing the real property conveyed under subsection (a) for public purposes, and uses such real property instead for commercial purposes, the City shall pay to the United States an amount equal to the excess, if any, of—

(1) an amount equal to the fair market value (as determined by the Secretary) of the real property referred to in subsection (b)(2), and any improvements thereon, at the time the City ceases utilizing the real property for public purposes, over

(2) the amount determined by the Secretary under subsection (b)(1).

(f) USE OF PROCEEDS.—Proceeds from the sale shall be deposited in the Treasury of the United States.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(h) ADDITIONAL TERMS AND CONDITIONS.—(1) The Navy may scope more than one site.

(2) The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 128. LAND TRANSFER, WOODBRIDGE RESEARCH FACILITY, VIRGINIA.

(a) REQUIREMENT OF TRANSFER.—Notwithstanding any other provision of law, the Secretary of the Army shall transfer, without reimbursement, to the Department of the Interior, a parcel of real estate consisting of approximately 580 acres and comprising the Army Research Laboratory Woodbridge Facility, Virginia, together with any improvements thereon.

(b) USE OF TRANSFERRED PROPERTY.—The Secretary of the Interior shall use appropriate parts of this real property for (1) incorporation into the Mason Neck Wildlife Refuge and (2) work with the local government and the Woodbridge Reuse Committee to plan any additional usage of the property, including an environmental education center: *Provided,* That the Secretary of the Interior provide appropriate public access to the property.

This Act may be cited as the "Military Construction Approprations Act, 1995".

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 4453:

HOUSE REPORTS: Nos. 103-516 (Comm. on Appropriations) and 103-624 (Comm. of Conference).
SENATE REPORTS: No. 103-312 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May. 24, considered and passed House.
July 15, considered and passed Senate, amended.
Aug. 1, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and disagreed to another.
Aug. 10, Senate agreed to conference report; concurred in certain House amendments, and receded from another.

Public Law 103-308
103d Congress

Joint Resolution

Designating December 7 of each year as "National Pearl Harbor Remembrance Day".

Aug. 23, 1994
[H.J. Res. 131]

Whereas, on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the armed forces of the United States stationed at Pearl Harbor, Hawaii; 36 USC 169*l* note.

Whereas more than 2,000 citizens of the United States were killed and more than 1,000 citizens of the United States were wounded in the attack on Pearl Harbor;

Whereas the attack on Pearl Harbor marked the entry of the United States into World War II;

Whereas the veterans of World War II and all other people of the United States commemorate December 7 in remembrance of the attack on Pearl Harbor; and

Whereas commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the armed forces of the United States during World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7 of each year is designated as "National Pearl Harbor Remembrance Day" and the President is authorized and requested— 36 USC 169*l*.

(1) to issue annually a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities; and

(2) to urge all Federal agencies, and interested organizations, groups, and individuals, to fly the flag of the United States at halfstaff each December 7 in honor of the individuals who died as a result of their service at Pearl Harbor.

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.J. Res. 131:

HOUSE REPORTS: No. 103-595 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 5, considered and passed House.
Aug. 10, considered and passed Senate.

Public Law 103-309
103d Congress

Joint Resolution

Aug. 23, 1994
[H.J. Res. 175]

Designating October 1994 as "Italian-American Heritage and Culture Month".

Whereas Italians and Italian-Americans have contributed to the United States in all aspects of life, including art, science, civil service, military service, athletics, education, law, and politics;
Whereas Italian-Americans make up one of the largest ethnic groups in the United States;
Whereas in recognition of the accomplishments of Christopher Columbus, recognized as one of the greatest explorers in world history and the first to record the discovery of the Americas, a national observance day was established in October of every year;
Whereas the phrase in the Declaration of Independence "All men are created equal", was suggested by the Italian patriot and immigrant Philip Mazzei;
Whereas the people of the United States take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our Nation's history such as Fiorello La Guardia, the beloved Mayor of New York City, and Enrico Fermi, who won the 1938 Nobel Prize in Physics;
Whereas Italy enjoys a rich cultural heritage and has given the world the great works of Dante, the breathtaking art of Giotti and Michelangelo, and the inspirational music of Antonio Vivaldi and Domenico Scarlatti;
Whereas the Americas were named after the Italian explorer Amerigo Vespucci;
Whereas Giuseppe Verdi, one of the world's most renowned opera composers, was born October 10, 1813;
Whereas William Paca, an Italian-American, was one of the signers of the Declaration of Independence; and
Whereas during October 1993 and October 1994 special attention will be directed at National, State, and local programs that promote Italian heritage and culture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,
That October 1994 is designated as "Italian-American Heritage and Culture Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.J. Res. 175:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 5, considered and passed House.
Aug. 10, considered and passed Senate.

Public Law 103-310
103d Congress

An Act

Aug. 25, 1994
[H.R. 4812]

To direct the Administrator of General Services to acquire by transfer the Old U.S. Mint in San Francisco, California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OLD U.S. MINT, SAN FRANCISCO, CALIFORNIA.

Not later than 1 year after the date of the enactment of this Act, the Administrator of General Services shall take such actions as may be necessary to acquire by transfer, without consideration, the property referred to as the "Old U.S. Mint", located at Fifth and Mission Streets in San Francisco, California, together with any improvements, structures, and fixtures located on the property.

SEC. 2. REPAIRS OF OLD U.S. MINT, SAN FRANCISCO.

Nothing in this Act shall be construed to force the General Services Administration to repair the Old U.S. Mint building prior to repairs to other Federal buildings in greater need of repair.

Approved August 25, 1994.

LEGISLATIVE HISTORY—H.R. 4812 (S. 2185):

HOUSE REPORTS: No. 103-634 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 103-302 accompanying S. 2185 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 2, S. 2185 considered and passed Senate.
Aug. 8, H.R. 4812 considered and passed House.
Aug. 11, considered and passed Senate, amended.
Aug. 16, House concurred in Senate amendment.

Public Law 103-311
103d Congress

An Act

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1994, 1995, 1996, and 1997, and for other purposes.

Aug. 26, 1994
[H.R. 2178]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

Hazardous Materials Transportation Authorization Act of 1994. 49 USC 5101 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Hazardous Materials Transportation Authorization Act of 1994".

SEC. 102. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 5127(a) (relating to authorization of appropriations) is amended by striking out "the fiscal year ending September 30, 1993," and inserting "fiscal year 1993, $18,000,000 for fiscal year 1994, $18,540,000 for fiscal year 1995, $19,100,000 for fiscal year 1996, and $19,670,000 for fiscal year 1997".

SEC. 104. EXEMPTIONS FROM REQUIREMENT TO FILE REGISTRATION STATEMENT.

Section 5108(a) (relating to persons required to file) is amended by adding at the end the following new paragraph:

"(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.".

SEC. 105. PLANNING GRANTS FOR INDIAN TRIBES.

(a) AUTHORITY TO MAKE GRANTS.—Section 5116(a)(1) (relating to planning grants) is amended—

(1) by inserting "and Indian tribes" after "States" the first place it appears; and

(2) by striking "in a State and between States" and inserting "on lands under the jurisdiction of a State or Indian tribe, and between lands under the jurisdiction of a State or Indian tribe and lands of another State or Indian tribe".

(b) MAINTENANCE OF EFFORT.—Section 5116(a)(2) (relating to planning grants) is amended—

(1) by inserting "or Indian tribe" after "State" the first and third places it appears;

(2) by striking "the State" the second place it appears;

(3) by inserting "the State or Indian tribe" before "certifies"; and

(4) by inserting "the State" before "agrees".

(c) COORDINATION OF PLANNING.—Section 5116(a) (relating to planning grants in general) is amended by adding at the end the following new paragraph:

"(3) A State or Indian tribe receiving a grant under this subsection shall ensure that planning under the grant is coordinated with emergency planning conducted by adjacent States and Indian tribes.".

SEC. 106. TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.

Section 5107(d) (relating to coordination of training requirements) is amended—

(1) by inserting "or duplicate" after "conflict with"; and

(2) by striking "hazardous waste operations and" and inserting "hazard communication, and hazardous waste operations, and".

SEC. 107. DISCLOSURE OF FEES LEVIED BY STATES, POLITICAL SUBDIVISIONS, AND INDIAN TRIBES.

Section 5125(g) (relating to fees) is amended—

(1) by inserting "(1)" after "(g) FEES.—"; and

(2) by adding at the end the following:

Reports.

"(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, report to the Secretary on—

"(A) the basis on which the fee is levied upon persons involved in such transportation;

"(B) the purposes for which the revenues from the fee are used;

"(C) the annual total amount of the revenues collected from the fee; and

"(D) such other matters as the Secretary requests.".

SEC. 108. ANNUAL REPORT.

Section 5121(e) (relating to annual report) is amended—

(1) by striking "Annual" in the subsection heading, and

(2) by striking the first sentence and inserting the following: "The Secretary shall, once every 2 years, prepare and submit to the President for transmittal to the Congress a comprehensive report on the transportation of hazardous materials during the preceding 2 calendar years.".

SEC. 109. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

Safety.
Science and technology.
23 USC 307 note.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway system technologies to promote hazardous materials transportation safety. The Secretary of Transportation shall ensure that 2 or more operational tests funded under such Act shall promote such safety and advance technology for providing information to persons who provide emergency response to hazardous materials transportation incidents.

(b) GRANTS FOR CERTAIN EMERGENCY RESPONSE INFORMATION TECHNOLOGIES.—

(1) In carrying out one of the operational tests under subsection (a), the Secretary of Transportation may make grants to one or more persons, including a State or local government or department, agency, or instrumentality thereof, to demonstrate the feasibility of establishing and operating computerized telecommunications emergency response information technologies that are used—

(A) to identify the contents of shipments of hazardous materials transported by motor carriers;

(B) to permit retrieval of data on shipments of hazardous materials transported by motor carriers;

(C) to link systems that identify, store, and allow the retrieval of data for emergency response to incidents and accidents involving transportation of hazardous materials by motor carrier; and

(D) to provide information to facilitate responses to accidents and incidents involving hazardous materials shipments by motor carriers either directly or through linkage with other systems.

(2) Any project carried out with a grant under this subsection must involve two or more motor carriers of property. One of the motor carriers selected to participate in the project must be a carrier that transports mostly hazardous materials. The other motor carrier selected must be a regular-route common carrier that specializes in transporting less-than-truckload shipments. The motor carriers selected may be engaged in multimodal movements of hazardous materials with other motor carriers, rail carriers, or water carriers.

(3) To the maximum extent practicable, the Secretary of Transportation shall coordinate a project under this subsection with any existing Federal, State, and local government projects and private projects which are similar to the project under this subsection. The Secretary may require that a project under this subsection be carried out in conjunction with such similar Federal, State, and local government projects and private projects.

SEC. 110. RAIL TANK CAR SAFETY.

Regulations.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations under the following:

(1) The rulemaking proceeding under Docket HM–175A entitled "Crashworthiness Protection Requirements for Tank Cars".

(2) The rulemaking proceeding under Docket HM–201 entitled "Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws and Other Defects of Tank Car Tanks".

49 USC 5103 note.

SEC. 111. SAFE PLACEMENT OF TRAIN CARS.

The Secretary of Transportation shall conduct a study of existing practices regarding the placement of cars on trains, with particular attention to the placement of cars that carry hazardous materials. In conducting the study, the Secretary shall consider whether such placement practices increase the risk of derailment, hazardous materials spills, or tank ruptures or have any other adverse effect on safety. The results of the study shall be submitted to Congress within 1 year after the date of enactment of this Act.

Regulations.

SEC. 112. GRADE CROSSING SAFETY.

The Secretary of Transportation shall, within 6 months after the date of enactment of this Act, amend regulations—

(1) under chapter 51 of title 49, United States Code (relating to transportation of hazardous materials), to prohibit the driver of a motor vehicle transporting hazardous materials in commerce, and

(2) under chapter 315 of such title (relating to motor carrier safety) to prohibit the driver of any commercial motor vehicle, from driving the motor vehicle onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

Regulations.

SEC. 113. DRIVER'S RECORD OF DUTY STATUS.

(a) IN GENERAL.—

(1) The Secretary of Transportation shall prescribe regulations amending part 395 of title 49, Code of Federal Regulations, to improve—

(A) compliance by commercial motor vehicle drivers and motor carriers with hours of service requirements; and

(B) the effectiveness and efficiency of Federal and State enforcement officers reviewing such compliance.

Effective date.

(2) Such regulations shall be proposed not later than 12 months after the date of enactment of this Act and shall be issued and become effective not later than 18 months after such date of enactment. In prescribing the regulations, the Secretary of Transportation shall ensure that compliance can be achieved at a cost that is reasonable to drivers and motor carriers.

(b) CONTENTS OF REGULATIONS.—Such regulations shall include the following:

(1) A description of identification items (which include either driver name or vehicle number) that shall be part of a written or electronic document to enable such written or electronic document to be used by a motor carrier or by an enforcement officer as a supporting document to verify the accuracy of a driver's record of duty status.

(2) A provision specifying the number, type, and frequency of supporting documents that must be retained by a motor

carrier so as to allow verification of the accuracy of such documents at a reasonable cost, to the driver and the motor carrier, of record acquisition and retention.

(3) A provision specifying the period during which supporting documents shall be retained by the motor carrier. The period shall be at least 6 months from the date of a document's receipt.

(4) A provision to authorize, on a case-by-case basis, motor carrier self-compliance systems that ensure driver compliance with hours of service requirements and allow Federal and State enforcement officers the opportunity to conduct independent audits of such systems to validate compliance with section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto). Such authorization may also be provided by the Secretary to a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary and that are subject to audit by Federal and State enforcement officers.

(5) A provision to allow a waiver, on a case-by-case basis, of certain requirements of section 395.8(k) of title 49, Code of Federal Regulations (or successor regulations thereto), when sufficient supporting documentation is provided directly and at a satisfactory frequency to enforcement personnel by an intelligent vehicle-highway system, as defined by section 6059 of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note). Such waiver may also be allowed for a group of motor carriers that meet specific conditions that may be established by regulation by the Secretary.

(c) SUPPORTING DOCUMENT DEFINED.—For purposes of this section, a supporting document is any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver's record of duty status.

SEC. 114. SAFETY PERFORMANCE HISTORY OF NEW DRIVERS.

(a) AMENDMENT OF REGULATIONS.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall amend section 391.23 of title 49, Code of Federal Regulations (or successor regulations thereto), to—

(1) specify the safety information that must be sought under that section by a motor carrier with respect to a driver;

(2) require that such information be requested from former employers and that former employers furnish the requested information within 30 days after receiving the request; and

(3) ensure that the driver to whom such information applies has a reasonable opportunity to review and comment on the information.

(b) SAFETY INFORMATION.—The safety information required to be specified under subsection (a)(1) shall include information on—

(1) any motor vehicle accidents in which the driver was involved during the preceding 3 years;

(2) any failure of the driver, during the preceding 3 years, to undertake or complete a rehabilitation program under section 31302 of title 49, United States Code (relating to limitation on the number of driver's licenses), after being found to

have used, in violation of law or Federal regulation, alcohol or a controlled substance;

(3) any use by the driver, during the preceding 3 years, in violation of law or Federal regulation, of alcohol or a controlled substance subsequent to completing such a rehabilitation program; and

(4) any other matters determined by the Secretary of Transportation to be appropriate and useful for determining the driver's safety performance.

(c) FORMER EMPLOYER.—For purposes of this section, a former employer is any person who employed the driver in the preceding 3 years.

SEC. 115. RETENTION OF SHIPPING PAPERS.

Section 5110 (relating to shipping papers and disclosure) is amended by adding at the end the following new subsection:

"(e) RETENTION OF PAPERS.—After the hazardous material to which a shipping paper provided to a carrier under subsection (a) applies is no longer in transportation, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business. Such person and carrier shall, upon request, make the shipping paper available to a Federal, State, or local government agency at reasonable times and locations.".

49 USC 5121 note.

SEC. 116. TOLL FREE NUMBER FOR REPORTING.

The Secretary of Transportation shall designate a toll free telephone number for transporters of hazardous materials and other individuals to report to the Secretary possible violations of chapter 51 of title 49, United States Code, or any order or regulation issued under that chapter.

SEC. 117. TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PACKAGING.—

(1) Sections 5102(3)(C)(ii) and 5102(4)(A)(iii) are each amended by striking "packages" and inserting "packagings".

(2) Sections 5103(b)(1)(A)(iii), 5121(c)(1)(A), 5125(b)(1)(E), and 5126(a) are each amended by striking "a package or" and inserting "a packaging or a".

(3) Section 5108(a)(1)(D) is amended—

(A) by striking "a bulk package" and inserting in lieu thereof "a bulk packaging"; and

(B) by striking "the package" and inserting "the bulk packaging".

(b) OTHER.—Section 5104(a)(1) is amended by striking "or package" each place it appears and inserting ", package, or packaging (or a component of a container, package, or packaging)".

SEC. 118. HOURS OF SERVICE RULEMAKING FOR FARMERS AND RETAIL FARM SUPPLIERS.

Not later than 3 months after the date of enactment of this Act the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether or not the requirements of section 395.3 of title 49, Code of Federal Regulations, relating to hours of service, may be waived for farmers and retail farm suppliers when such farmers and retail farm suppliers are transporting crops

or farm supplies for agricultural purposes within a 50-mile radius of their distribution point or farm.

SEC. 119. TRAINING.

(a) SUPPLEMENTAL PUBLIC SECTOR TRAINING GRANTS.—Section 5116 (relating to planning and training grants, monitoring, and review) is amended by adding at the end the following new subsections:

"(j) SUPPLEMENTAL TRAINING GRANTS.—

"(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

"(2) For the purposes of this subsection the Secretary, after consultation with interested organizations, shall—

"(A) identify regions or locations in which fire departments or other organizations which provide emergency response to hazardous materials transportation accidents and incidents are in need of hazardous materials training; and

"(B) prioritize such needs and develop a means for identifying additional specific training needs.

"(3) Funds granted to an organization under this subsection shall only be used—

"(A) to train instructors to conduct hazardous materials response training programs;

"(B) to purchase training equipment used exclusively to train instructors to conduct such training programs; and

"(C) to disseminate such information and materials as are necessary for the conduct of such training programs.

"(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to train instructors to conduct hazardous materials response training programs in such fiscal year that will use—

"(A) a course or courses developed or identified under subsection (g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this subsection;

for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall be open to all such individuals on a nondiscriminatory basis.

"(5) The Secretary may impose such additional terms and conditions on grants to be made under this subsection as the Secretary determines are necessary to protect the interests of the United States and to carry out the objectives of this subsection.

"(k) REPORTS.—Not later than September 30, 1997, the Secretary shall submit to Congress a report on the allocation and uses of training grants authorized under subsection (b) for fiscal year 1993 through fiscal year 1996 and grants authorized under subsection (j) and section 5107 for fiscal years 1995 and 1996.

Such report shall identify the ultimate recipients of training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of training programs carried out.".

(b) FUNDING.—Section 5127(b) (relating to appropriations for hazmat employee training) is amended—

(1) by inserting "(1)" after "TRAINING.—", and

(2) by adding at the end the following:

"(2)(A) There shall be available to the Secretary for carrying out section 5116(j), from amounts in the account established pursuant to section 5116(i), $250,000 for each of fiscal years 1995, 1996, 1997, and 1998.

"(B) In addition to amounts made available under subparagraph (A), there is authorized to be appropriated to the Secretary for carrying out section 5116(j) $1,000,000 for each of the fiscal years 1995, 1996, 1997, and 1998.".

(c) HAZMAT EMPLOYEE TRAINING PROGRAM.—

(1) The first sentence of section 5107(e) (relating to hazmat employee training requirements and grants) is amended to read as follows: "The Secretary shall, subject to the availability of funds under section 5127(c)(3), make grants for training instructors to train hazmat employees under this section.".

(2) The second sentence of such section is amended by inserting "hazmat employee" after "nonprofit".

(3) Section 5107 (relating to hazmat employee training requirements and grants) is amended by adding at the end thereof the following new subsection:

"(g) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.".

(4) Section 5127(b)(1) (relating to hazmat employee training funding) is amended to read as follows:

"(b) TRAINING OF HAZMAT EMPLOYEE INSTRUCTORS.—(1) There is authorized to be appropriated to the Secretary $3,000,000 for each of fiscal years 1995, 1996, 1997, and 1998 to carry out section 5107(e).".

(d) CONFORMING AMENDMENTS.—

(1) Section 5108(g)(2)(A)(viii) is amended by striking "5107(e),".

(2) Section 5116(i)(1) is amended by striking "and section 5107(e)".

(3) Section 5116(i)(3) is amended by striking "and section 5107(e)".

SEC. 120. TIME FOR SECRETARIAL ACTION.

(a) EXEMPTIONS.—Section 5117 (relating to exemptions and exclusions) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e) respectively, and

(2) by inserting after subsection (b) the following:

Federal Register, publication.

"(c) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall issue or renew the exemption for which an application was filed or deny such issuance or renewal within 180 days after the first day of the month following the date of the filing of such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the

exemption is delayed, along with an estimate of the additional time necessary before the decision is made.".

(b) DECISIONS ON PREEMPTION.—Section 5125(d) (relating to decisions on preemption) is amended by inserting immediately after the second sentence the following: "The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made.". Federal Register, publication.

SEC. 121. STUDY OF HAZARDOUS MATERIALS TRANSPORTATION BY MOTOR CARRIERS NEAR FEDERAL PRISONS. 49 USC 5112 note.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine the safety considerations of transporting hazardous materials by motor carriers in close proximity to Federal prisons, particularly those housing maximum security prisoners. Such study shall include an evaluation of the ability of such facilities and the designated local planning agencies to safely evacuate such prisoners in the event of an emergency and any special training, equipment, or personnel that would be required by such facility and the designated local emergency planning agencies to carry out such evacuation. Such study shall not apply to or address issues concerning rail transportation of hazardous materials.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section, along with the Secretary's recommendations for any legislative or regulatory changes to enhance the safety regarding the transportation of hazardous materials by motor carriers near Federal prisons.

SEC. 122. USE OF FIBER DRUM PACKAGING. 49 USC 5103 note.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than the 60th day following the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether the requirements of section 5103(b) of title 49, United States Code (relating to regulations for safe transportation), as they pertain to open head fiber drum packaging can be met for the domestic transportation of liquid hazardous materials (with respect to those classifications of liquid hazardous materials transported by such drums pursuant to regulations in effect on September 30, 1991) with standards other than the performance-oriented packaging standards adopted under docket number HM-181 contained in part 178 of title 49, Code of Federal Regulations.

(b) ISSUANCE OF STANDARDS.—If the Secretary of Transportation determines, as a result of the rulemaking proceeding initiated under subsection (a), that a packaging standard other than the performance-oriented packaging standards referred to in subsection (a) will provide an equal or greater level of safety for the domestic transportation of liquid hazardous materials than would be provided if such performance-oriented packaging standards were in effect, the Secretary shall issue regulations which implement such other standard and which take effect before October 1, 1996. Regulations.

(c) COMPLETION OF RULEMAKING PROCEEDING.—The rulemaking proceeding initiated under subsection (a) shall be completed before October 1, 1995.

(d) LIMITATIONS.—

(1) The provisions of subsections (a), (b), and (c) shall not apply to packaging for those hazardous materials regulated by the Department of Transportation as poisonous by inhalation under chapter 51 of title 49, United States Code.

(2) Nothing in this section shall be construed to prohibit the Secretary of Transportation from issuing or enforcing regulations for the international transportation of hazardous materials.

49 USC 5101 note.

SEC. 123. BUY AMERICA.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under this title may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"), which are applicable to those funds.

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this title, it is the sense of Congress that entities receiving such assistance should, in expending such assistance, purchase only American-made equipment and products.

(2) In providing financial assistance under this title, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this title, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) RECIPROCITY.—

(1) Except as provided in paragraph (2), no contract or subcontract may be made with funds authorized under this title to a company organized under the laws of a foreign country unless the Secretary of Transportation finds that such country affords comparable opportunities to companies organized under laws of the United States.

(2)(A) The Secretary of Transportation may waive the provisions of paragraph (1) if the products or services required are not reasonably available from companies organized under the laws of the United States. Any such waiver shall be reported to Congress.

Reports.

(B) Paragraph (1) shall not apply to the extent that to do so would violate the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

TITLE II—TRUCKING INDUSTRY REGULATORY REFORM

Trucking Industry Regulatory Reform Act of 1994.
49 USC 10101 note.

SEC. 201. SHORT TITLE.

This title may by cited as the "Trucking Industry Regulatory Reform Act of 1994".

SEC. 202. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 203. PURPOSE.

49 USC 10101 note.

The purpose of this title is to enhance competition, safety, and efficiency in the motor carrier industry and to enhance efficiency in government.

SEC. 204. TRANSPORTATION POLICY.

Section 10101(a)(2) (relating to transportation policy) is amended—

(1) by redesignating subparagraphs (A) through (I) as subparagraphs (C) through (K), respectively, and

(2) by inserting before subparagraph (C) (as so redesignated) the following: "(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property; (B) promote Federal regulatory efficiency in the motor carrier transportation system and to require fair and expeditious regulatory decisions when regulation is required;".

SEC. 205. EXEMPTIONS.

(a) IN GENERAL.—Section 10505 (relating to authority to exempt rail carrier transportation) is amended—

(1) by inserting ", or a motor carrier providing transportation of property other than household goods, or in noncontiguous domestic trade," after "rail carrier providing transportation" in subsection (a),

(2) by inserting "section 10101 or" before "section 10101a" in subsection (a)(1) and subsection (d),

(3) by inserting ", or a motor carrier providing transportation of property other than household goods, or in non-contiguous domestic trade," after "rail carrier" in subsection (f), and

(4) by striking out "or" in subsection (g), and inserting after "subtitle" the following: ", (3) to relieve a motor carrier of property or other person from the application or enforcement of the provisions of sections 10706, 10761, 10762, 10927, and 11707 of this title, or (4) to exempt a motor carrier of property from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage; insurance; antitrust immunity for joint line rates and routes, classification of commodities (including uniform packaging rules), uniform bills of lading, or standardized mileage guides; or safety fitness.".

(b) DEFINITION.—Section 10102 (relating to definitions) is amended by redesignating paragraphs (18) through (31) as (19)

through (32), respectively, and by inserting after paragraph (17) the following:

"(18) 'non-contiguous domestic trade' means motor-water transportation subject to the jurisdiction of the Commission under chapter 105 of this title involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.".

(c) CLERICAL AMENDMENTS.—

(1) The caption of section 10505 is amended by inserting "and motor carrier" after "rail carrier".

(2) The chapter analysis for chapter 105 is amended by inserting "and motor carrier" after "rail carrier" in the item relating to section 10505.

SEC. 206. TARIFF FILING.

(a) AUTHORITY TO ESTABLISH RATES.—Section 10702(b) (relating to authority for carriers to establish rates, classifications, rules, and practices) is amended by inserting ", except a motor contract carrier of property," after "A contract carrier".

(b) PROHIBITION OF TRANSPORTATION WITHOUT TARIFF.—Section 10761(a) (relating to transportation prohibited without tariff) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13) or in noncontiguous domestic trade)" after "chapter 105 of this title", and

(2) by striking out "That carrier" in the second sentence and inserting "A carrier subject to this subsection",

(3) by inserting before the period at the end of the first sentence the following: ", except that a motor carrier of property the application of whose rates is determined or governed by a tariff on file with the Commission cannot collect its rates unless the carrier is a participant in those tariffs", and

(4) by inserting before the period at the end of the second sentence the following: ", except that a motor carrier of property the application of whose rates are determined or governed by a tariff on file with the Commission shall issue a power of attorney to the tariff publishing agent of such tariff and, upon its acceptance, the agent shall issue a notice to the participating carrier certifying its continuing participation in such tariff, which certification shall be kept open for public inspection".

(c) GENERAL TARIFF REQUIREMENT.—Section 10762(a) (relating to general tariff requirement) is amended—

(1) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "A motor common carrier" in the second sentence of paragraph (1),

(2) by inserting "(excluding a motor common carrier providing transportation of property, other than household goods, under an individually determined rate, classification, rule, or practice, as defined in section 10102(13), or in noncontiguous domestic trade)" after "carriers" in the third sentence of paragraph (1),

(3) by striking the last sentence of paragraph (1) and inserting the following: "A motor contract carrier of property is not required to publish or file actual or minimum rates under this subtitle. Except as provided in the Negotiated Rates Act of 1993 and the amendments made by that Act, nothing in the Trucking Industry Regulatory Reform Act of 1994 (and the amendments made by that Act) creates any obligation for a shipper based solely on a rate that was on file with the Commission or elsewhere on the date of enactment of such Act.", and

(4) by adding at the end the following:

"(3) A motor common carrier of property (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate agreed to between the shipper and carrier may have been based. When the applicability or reasonableness of the rates and related provisions billed by a motor common carrier is challenged by the person paying the freight charges, the Commission shall determine whether such rates and provisions are reasonable or applicable based on the record before it. In those cases where a motor common carrier (other than a motor common carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Commission determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the original bill in order to have the right to collect such charges.

"(4) If a shipper seeks to contest the charges originally billed, the shipper may request that the Commission determine whether the charges originally billed must be paid. A shipper must contest the original bill within 180 days in order to have the right to contest such charges.

"(5) Any tariff on file with the Commission on the date of enactment of the Trucking Industry Regulatory Reform Act of 1994 not required to be filed with the Commission after the enactment of that Act is null and void beginning on that date.". Termination date.

(d) PROPOSED RATE CHANGES.—

(1) COMMON CARRIERS.—Section 10762(c)(1) (relating to proposed rate changes) is amended by inserting "(excluding a motor common carrier providing transportation of property other than household goods, under an individually determined rate, classification, rule, or practice defined in section 10102(13), or in a noncontiguous domestic trade)" after "common carrier".

(2) CONTRACT CARRIERS.—Section 10762(c)(2) (relating to proposed rate changes) is amended by inserting "(except a motor contract carrier of property)" after "contract carrier".

(e) EFFECT ON NEGOTIATED RATES ACT.—Section 10762 (relating to general tariff requirements) is amended by adding at the end thereof the following new subsection:

"(j) Nothing in this section shall affect the application of the provisions of the Negotiated Rates Act of 1993 (or the amendments made by that Act) to undercharge claims for transportation provided prior to the date of enactment of the Trucking Industry Regulatory Reform Act of 1994.".

(f) DEFINITION.—Section 10102 (relating to definitions) is amended—

(1) by redesignating paragraphs (13) through (32) as (14) through (33), and

(2) by inserting after paragraph (12) the following:

"(13) 'individually determined rate, classification, rule, or practice' means a rate, classification, rule, or practice established by—

"(A) a single motor common carrier for application to transportation that it can provide over its line; or

"(B) 2 or more interlining carriers without participation in an organization established or continued under an agreement approved under section 10706(b) for application to transportation that the interlining carriers can provide jointly over their lines.".

SEC. 207. MOTOR COMMON CARRIER LICENSING.

(a) IN GENERAL.—Section 10922 (relating to certification of motor and water carriers) is amended—

(1) by redesignating subsections (b) through (l) as (c) through (m), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission under section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In making a finding under paragraph (1), the Commission shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the applicant is unable to comply with the requirements of subparagraph (A), (B), or (C) of that paragraph.

"(3) The Commission shall find any applicant for authority to operate as a motor carrier under this section to be unfit if the applicant does not meet the safety and safety fitness requirements under paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, the safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.".

(b) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(c) (relating to public convenience and necessity) as redesignated by subsection (a), is amended—

(1) by striking "carrier of property" in paragraph (1) and inserting "carrier of household goods",

(2) by striking paragraphs (4) and (6) and redesignating paragraphs (5), (7), (8), and (9) as (4), (5), (6), and (7), respectively,

(3) by striking "carrier holding authority under paragraph (4)(D) of this subsection" in paragraph (4) (as redesignated) and inserting "motor carrier providing transportation of shipments weighing 100 pounds or less transported in a motor vehicle in which no one package exceeds 100 pounds",

(4) by striking "of property" in paragraph (5) (as redesignated) and inserting "of household goods",

(5) by striking "of property" in paragraph (6) (as redesignated) and inserting "of household goods", and

(6) by striking "Notwithstanding the provisions of paragraph (4) of this subsection, the provisions" in paragraph (7) (as redesignated) and inserting "The provisions".

(c) CERTIFICATE SPECIFICATIONS.—Section 10922(f)(1) (relating to specifications for certificate), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

(d) PUBLIC CONVENIENCE AND NECESSITY.—Section 10922(h)(1) (relating to public convenience and necessity), as redesignated by subsection (a) of this section, is amended by inserting "of household goods or passengers" after "motor common carrier".

SEC. 208. MOTOR CONTRACT CARRIER LICENSING.

(a) AUTHORITY TO ISSUE PERMITS.—Section 10923(a) (relating to authority to issue permits) is amended by inserting "of household goods or passengers" after "motor contract carrier".

(b) MOTOR CONTRACT CARRIER PERMITS.—Section 10923 (relating to permits of motor and water contract carriers and household goods freight forwarders) is amended by redesignating subsections (b) through (e) as (c) through (f), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) Except as provided in this section and section 10930 of this title, the Commission shall issue a permit to a person authorizing the person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor contract carrier of property other than household goods if the Commission finds that the person is able to comply with—

"(A) this subtitle, the regulations of the Commission, and any safety requirements imposed by the Commission,

"(B) the safety fitness requirements established by the Secretary of Transportation in consultation with the Commission pursuant to section 31144 of this title, and

"(C) the minimum financial responsibility requirements established by the Commission pursuant to section 10927 of this title.

"(2) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property other than household goods the Commission shall consider any evidence demonstrating that the applicant is unable to comply with this subtitle,

the regulations of the Commission, safety requirements of the Commission, or the safety fitness and minimum financial responsibility requirements of subsection (b)(1).

"(3) The Commission shall find any applicant for authority to operate as a motor carrier of property other than household goods under this subsection to be unfit if the applicant does not meet the safety and safety fitness requirements of paragraph (1)(A) or (1)(B) of this subsection and shall deny the application.

"(4) A person may protest an application under this subsection to provide transportation only on the ground that the applicant fails or will fail to comply with this subtitle, the regulations of the Commission, safety requirements of the Commission, or the safety fitness or minimum financial responsibility requirements of paragraph (1).".

(c) APPLICATION FILING REQUIREMENTS.—Section 10923(c) (relating to application filing requirements), as redesignated by subsection (b) of this section, is amended—

(1) by striking "motor contract carrier of property" in paragraphs (3) and (4) and inserting "motor contract carrier of household goods",

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as (5) and (6), respectively, and

(3) by striking "motor contract carriers of property" in paragraph (5) (as redesignated) and inserting "motor contract carriers of household goods".

(d) CONDITIONS OF TRANSPORTATION OR SERVICE.—Section 10923(e) (relating to conditions of transportation or service), as redesignated by subsection (b) of this section, is amended—

(1) by inserting "of passengers or household goods" after "contract carrier" in paragraph (1), and

(2) by striking "each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)" in paragraph (2) and inserting "in the case of a motor contract carrier of passengers, the number of persons,".

SEC. 209. REVOCATION OF MOTOR CARRIER AUTHORITY.

Section 10925(d)(1) (relating to effective period of certificates, permits, and licenses) is amended—

(1) by striking "if a motor carrier or broker" in subparagraph (A) and inserting "if a motor carrier of passengers, motor common carrier of household goods, or broker",

(2) by striking "and" at the end of subparagraph (A),

(3) by redesignating subparagraph (B) as (D) and inserting after subparagraph (A) the following new subparagraphs:

"(B) if a motor contract carrier of property, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10924(e), 10927 (b) or (d), or 31144, of this title;

"(C) if a motor common carrier of property other than household goods, for failure to comply with safety requirements of the Commission or the safety fitness requirements pursuant to section 10701, 10702, 10924(e), 10927 (b) or (d), or 31144 of this title; and".

SEC. 210. STUDY OF INTERSTATE COMMERCE COMMISSION FUNCTIONS.

(a) INTERSTATE COMMERCE COMMISSION REPORT.—The Interstate Commerce Commission shall prepare and submit to the Sec-

retary of Transportation and to each committee of the Congress having jurisdiction over legislation affecting the Commission a report identifying and analyzing all regulatory responsibilities of the Commission. The Commission shall make recommendations concerning specific statutory and regulatory functions of the Commission that could be eliminated or restructured. The Commission shall submit the report within 60 days after the date of enactment of this Act.

(b) SECRETARY OF TRANSPORTATION STUDY.—The Secretary of Transportation shall study the feasibility and efficiency of merging the Interstate Commerce Commission into the Department of Transportation as an independent agency, combining it with other Federal agencies, retaining the Interstate Commerce Commission in its present form, eliminating the agency and transferring all or some of its functions to the Department of Transportation or other Federal agencies, and other organizational changes that lead to government, transportation, or public interest efficiencies. The study shall consider the cost savings that might be achieved, the efficient allocation of resources, the elimination of unnecessary functions, and responsibility for regulatory functions. The Secretary shall solicit comments from the public with respect to both the Department's and the Commission's findings. The Secretary shall submit the results of such study together with any recommendations to the Congress within 4 months after the date of the submission of the Interstate Commerce Commission report required in subsection (a).

SEC. 211. LIMITATION ON STATE REGULATION OF INTRASTATE TRANSPORTATION OF PASSENGERS BY BUS.

(a) IN GENERAL.—Chapter 109 (relating to licensing) is amended by adding at the end thereof the following new section:

"§ 10936. Limitation on State regulation of intrastate passengers by bus

"A State or political subdivision of a State may not enforce any law or regulation relating to intrastate fares for the transportation of passengers by bus by an interstate motor carrier of passengers over a route authorized by the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) Section 10521(b)(1) is amended by inserting "10936," after "10935,".

(2) Section 11501(e) is amended—

(A) by striking all but paragraph (5),

(B) by redesignating paragraph (5) as subsection (e), and

(C) by striking "paragraph" and inserting "subsection".

(3) The table of sections for subchapter IV of chapter 109 is amended by adding at the end the following new item:

"10936. Limitation on State regulation of intrastate passengers by bus.".

49 USC 10101 note.

SEC. 212. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the enactment of this Act, except for sections 207 and 208, which shall take effect on January 1, 1995.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 2178 (S. 1640):

HOUSE REPORTS: No. 103-336, Pt. 1 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 103-217 accompanying S. 1640 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 21, considered and passed House.
Vol. 140 (1994): Aug. 11, considered and passed Senate, amended, in lieu of S. 1640.
Aug. 16, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Aug. 21, Presidential statement.

Public Law 103-312
103d Congress

An Act

To amend the Federal Trade Commission Act to extend the authorization of appropriations in such Act, and for other purposes.

Aug. 26, 1994
[H.R. 2243]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Trade Commission Act Amendments of 1994.
15 USC 58 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Federal Trade Commission Act Amendments of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Trade Commission Act.

SEC. 2. AGRICULTURAL COOPERATIVES.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating sections 24 and 25 as sections 25 and 26, respectively, and by inserting immediately after section 23 the following new section: 15 USC 57c, 58.

"SEC. 24. (a) The Commission shall not have any authority to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled 'An Act to authorize association of producers of agricultural products', approved February 18, 1922 (7 U.S.C. 291 et seq., commonly known as the Capper-Volstead Act), is not a violation of any of the antitrust Acts or this Act. 15 USC 57b-5.

"(b) The Commission shall not have any authority to conduct any study or investigation of any agricultural marketing orders.".

SEC. 3. COMPENSATION IN PROCEEDINGS.

(a) REPEAL.—Subsection (h) of section 18 (15 U.S.C. 57a) is repealed and subsections (i), (j), and (k) of section 18 are redesignated as subsections (h), (i), and (j), respectively.

(b) CONFORMING AMENDMENT.—Section 18(a)(1) (15 U.S.C. 57a(a)(1)) is amended by striking "subsection (i)" and inserting "subsection (h)".

SEC. 4. PROCEEDINGS SUBSEQUENT TO VIOLATIONS OF ORDERS.

Courts.

(a) CONSENT ORDERS.—Section 5(m)(1)(B) (15 U.S.C. 45(m)(1)(B)) is amended by inserting ", other than a consent order," immediately after "order" the first time it appears.

(b) DETERMINATIONS OF LAW.—Section 5(m)(2) (15 U.S.C. 45(m)(2)) is amended by adding at the end the following: "Upon request of any party to such an action against such defendant, the court shall also review the determination of law made by

the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).".

SEC. 5. PREVALENCE OF UNLAWFUL ACTS OR PRACTICES.

Section 18(b) (15 U.S.C. 57a(b)) is amended by adding at the end the following new paragraph:

Proposed rule.

"(3) The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent. The Commission shall make a determination that unfair or deceptive acts or practices are prevalent under this paragraph only if—

"(A) it has issued cease and desist orders regarding such acts or practices, or

"(B) any other information available to the Commission indicates a widespread pattern of unfair or deceptive acts or practices.".

SEC. 6. EFFECTIVE DATE OF ORDERS.

(a) ORDERS SUBJECT TO PETITION FOR REVIEW.—Section 5(g)(2) (15 U.S.C. 45(g)(2)) is amended to read as follows:

"(2) Except as to any order provision subject to paragraph (4), upon the sixtieth day after such order is served, if a petition for review has been duly filed; except that any such order may be stayed, in whole or in part and subject to such conditions as may be appropriate, by—

"(A) the Commission;

"(B) an appropriate court of appeals of the United States, if (i) a petition for review of such order is pending in such court, and (ii) an application for such a stay was previously submitted to the Commission and the Commission, within the 30-day period beginning on the date the application was received by the Commission, either denied the application or did not grant or deny the application; or

"(C) the Supreme Court, if an applicable petition for certiorari is pending.".

(b) ORDERS SUBJECT TO SECTIONS 5(m)(1)(B) AND 19(a)(2).—Section 5(g)(3) (15 U.S.C. 45(g)(3)) is amended to read as follows:

"(3) For purposes of subsection (m)(1)(B) and of section 19(a)(2), if a petition for review of the order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

(c) DIVESTITURE ORDERS.—Section 5(g)(4) (15 U.S.C. 45(g)(4)) is amended to read as follows:

"(4) In the case of an order provision requiring a person, partnership, or corporation to divest itself of stock, other share capital, or assets, if a petition for review of such order of the Commission has been filed—

"(A) upon the expiration of the time allowed for filing a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed;

"(B) upon the denial of a petition for certiorari, if the order of the Commission has been affirmed or the petition for review has been dismissed by the court of appeals; or

"(C) upon the expiration of 30 days from the date of issuance of a mandate of the Supreme Court directing that the order of the Commission be affirmed or the petition for review be dismissed.".

(d) TECHNICAL.—Paragraph (1) of section 5(g) (15 U.S.C. 45(g)(1)) is amended by striking "; or" and inserting a period.

SEC. 7. CIVIL INVESTIGATIVE DEMANDS.

(a) DEFINITIONS.—Section 20(a) (15 U.S.C. 57b–1(a)) is amended—

(1) in paragraph (2), by inserting "or in any antitrust violations" immediately after "section 5(a)(1))";

(2) in paragraph (3), by inserting "or any provisions relating to antitrust violations" immediately after "section 5(a)(1))";

(3) in paragraph (7), by inserting "or any antitrust violation" immediately after "section 5(a)(1))"; and

(4) by adding at the end the following new paragraph:

"(8) The term 'antitrust violation' means any unfair method of competition (within the meaning of section 5(a)(1)), any violation of the Clayton Act, any violation of any other Federal statute that prohibits, or makes available to the Commission a civil remedy with respect to, any restraint upon or monopolization of interstate or foreign trade or commerce, or any activity in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in such an unfair method of competition or violation.".

(b) ISSUANCE OF DEMAND.—(1) Section 20(c)(1) (15 U.S.C. 57b–1(c)(1)) is amended—

(A) by inserting "or tangible things" immediately after "documentary material" the first place it appears;

(B) by inserting "or to antitrust violations," immediately after "section 5(a)(1)),"; and

(C) by inserting "to submit such tangible things," immediately after "copying or reproduction,".

(2) Section 20(c) (15 U.S.C. 57b–1(c)) is amended—

(A) by redesignating paragraphs (4), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (5), (6), (7), (8), (9), (10), (11), (13), and (14), respectively;

(B) by inserting immediately after paragraph (3) the following new paragraph:

"(4) Each civil investigative demand for the submission of tangible things shall—

"(A) describe each class of tangible things to be submitted under the demand with such definiteness and certainty as to permit such things to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and

"(C) identify the custodian to whom such things shall be submitted."; and

(C) by inserting immediately after paragraph (11), as so redesignated, the following new paragraph:

"(12) The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.".

(c) SECTION 20(g).—Section 20(g) (15 U.S.C. 57b–1(g)) is amended by inserting ", tangible things" immediately after "documentary material".

(d) APPLICABILITY OF SECTION 20.—Section 20(j)(1) (15 U.S.C. 57b–1(j)(1)) is amended by inserting immediately before the semicolon the following: ", any proceeding under section 11(b) of the Clayton Act (15 U.S.C. 21(b)), or any adjudicative proceeding under any other provision of law".

SEC. 8. COMMISSION CUSTODY OF TANGIBLE THINGS.

Section 21 (15 U.S.C. 57b–2) is amended—

(1) in subsection (a)(1), by inserting "tangible things," immediately after "documentary material,";

(2) in subsection (b)(1), by inserting ", tangible thing," immediately after "document";

(3) in subsection (b)(2)(A), by inserting "tangible things," immediately after "documentary material,";

(4) in subsection (b)(3)—

(A) in subparagraph (A), by inserting "tangible things," immediately after "documentary material,";

(B) in subparagraph (B), by inserting ", and may make tangible things available," immediately after "oral testimony"; and by inserting ", things," immediately after "such material";

(C) in subparagraph (C), by inserting "tangible things," immediately after "documentary material," and by inserting ", things," immediately after "material"; and

(D) in subparagraph (D), by inserting ", tangible things," immediately after "documentary material";

(5) in subsection (b)(4), by inserting "tangible things," immediately after "documentary material,";

(6) in subsection (b)(5), by inserting "tangible things," immediately after "documentary material,";

(7) in subsection (b)(6)—

(A) by inserting immediately after the first sentence the following new sentence: "The custodian of any tangible things may make such things available for inspection to such persons on the same basis."; and

(B) by inserting "results of inspections of tangible things," immediately after "Such documentary material,"; and

(8) in subsection (b)(7), by inserting "tangible things," immediately after "documentary material,".

SEC. 9. DEFINITION OF UNFAIR ACTS OR PRACTICES.

Section 5 (15 U.S.C. 45) is amended by adding at the end the following:

"(n) The Commission shall have no authority under this section or section 18 to declare unlawful an act or practice on the grounds that such act or practice is unfair unless the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. In determining whether an act or practice is unfair, the Commission may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.".

SEC. 10. PROCESS.

(a) AUTHORITY.—

(1) ADVERTISEMENTS IN VIOLATION OF SECTION 12.—Section 13(a) (15 U.S.C. 53(a)) is amended by striking the last sentence and inserting the following: "Any suit may be brought where such person, partnership, or corporation resides or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code. In addition, the court may, if the court determines that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, cause such other person, partnership, or corporation to be added as a party without regard to whether venue is otherwise proper in the district in which the suit is brought. In any suit under this section, process may be served on any person, partnership, or corporation wherever it may be found.".

(2) PROVISIONS ENFORCED BY COMMISSION.—Section 13(b) (15 U.S.C. 53(b)) is amended by striking the last sentence and inserting the following: "Any suit may be brought where such person, partnership, or corporation resides or transacts business, or wherever venue is proper under section 1391 of title 28, United States Code. In addition, the court may, if the court determines that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, cause such other person, partnership, or corporation to be added as a party without regard to whether venue is otherwise proper in the district in which the suit is brought. In any suit under this section, process may be served on any person, partnership, or corporation wherever it may be found.".

(b) PROCEDURES.—Section 13 (15 U.S.C. 53) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Any process of the Commission under this section may be served by any person duly authorized by the Commission—

"(1) by delivering a copy of such process to the person to be served, to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served;

"(2) by leaving a copy of such process at the residence or the principal office or place of business of such person, partnership, or corporation; or

"(3) by mailing a copy of such process by registered mail or certified mail addressed to such person, partnership, or corporation at his, or her, or its residence, principal office, or principal place or business.

The verified return by the person serving such process setting forth the manner of such service shall be proof of the same.".

15 USC 57c note.

SEC. 11. INTERVENTION BY COMMISSION IN CERTAIN PROCEEDINGS.

(a) LIMITATION ON USE OF AUTHORIZED FUNDS.—The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal years 1994, 1995, and 1996 for the purpose of submitting statements to, appearing before, or intervening in the proceedings of, any Federal or State agency or State legislative body concerning proposed rules or legislation that the agency or legislative body is considering unless the Commission advises the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding such action as soon as possible.

(b) CONTENTS OF NOTICE TO CONGRESS.—The notice required in subsection (a) shall include the name of the agency or legislator involved, the date of such action, and a concise statement regarding the nature and purpose of such action.

SEC. 12. RESOURCE ALLOCATION STUDY.

The Federal Trade Commission shall conduct an evaluation of the level of its personnel resources and the manner in which such resources are allocated. The Commission shall study—

(1) whether overall resources at the Commission are adequate to fulfill the Commission's responsibilities in the areas of competition and consumer protection;

(2) the distribution of personnel to individual offices of commissioners, departments, bureaus, and other units within the Commission, and whether the current allocation of personnel most efficiently enables the Commission to fulfill its statutory mandate;

(3) the number of personnel in supervisory positions, contrasted with those personnel in nonsupervisory positions; and

(4) whether the amount of workyears devoted to research activities should be increased and what results (if any) such an increase would produce.

The Commission shall transmit the results of such study, together with any recommendations that the Commission determines appropriate, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than 6 months after the date of enactment of this Act.

SEC. 13. FEDERAL-STATE COOPERATION.

The Federal Trade Commission shall review its statutory responsibilities to identify those matters within its jurisdiction where Federal enforcement is particularly necessary or desirable and those areas that might more effectively be enforced at the

State or local level. In identifying such areas, the Commission shall—

(1) consider the resources available to the Commission and the States, as well as particular rules that have been promulgated by the Commission;

(2) consult with the attorneys general of the States, representatives of consumers and industry, and other interested parties; and

(3) consider such other issues as will result in more efficient implementation of the statutory responsibilities of the Commission.

Not later than 6 months after the date of enactment of this Act, the Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information identified in paragraphs (1) through (3), together with specific recommendations for methods of achieving greater cooperation between the Commission and the States.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 25 (15 U.S.C. 57c), as so redesignated by section 2 of this Act, is amended to read as follows:

"SEC. 25. There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission not to exceed $92,700,000 for fiscal year 1994; not to exceed $99,000,000 for fiscal year 1995; and not to exceed $102,000,000 for fiscal year 1996.".

SEC. 15. EFFECTIVE DATE; APPLICABILITY. 15 USC 45 note.

(a) IN GENERAL.—Except as provided in subsections (b), (c), (d), and (e), the provisions of this Act shall take effect on the date of enactment of this Act.

(b) APPLICABILITY OF SECTION 5.—The amendment made by section 5 of this Act shall apply only to rulemaking proceedings initiated after the date of enactment of this Act. Such amendment shall not be construed to affect in any manner a rulemaking proceeding which was initiated before the date of enactment of this Act.

(c) APPLICABILITY OF SECTION 6.—The amendments made by section 6 of this Act shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order which was issued before the date of enactment of this Act.

(d) APPLICABILITY OF SECTIONS 7 AND 8.—The amendments made by sections 7 and 8 of this Act shall apply only with respect to compulsory process issued after the date of enactment of this Act.

(e) APPLICABILITY OF SECTION 9.—The amendments made by section 9 of this Act shall apply only with respect to cease and desist orders issued under section 5 of the Federal Trade Commission Act (15 U.S.C. 45), or to rules promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) after the date of enactment of this Act. These amendments shall not be construed to affect in any manner a cease and desist order which was issued, or a rule which was promulgated, before the date of enactment of this Act. These amendments shall not be

construed to affect in any manner a cease and desist order issued after the date of enactment of this Act, if such order was issued pursuant to remand from a court of appeals or the Supreme Court of an order issued by the Federal Trade Commission before the date of enactment of this Act.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 2243 (S. 1179):

HOUSE REPORTS: Nos. 103-138 (Comm. on Energy and Commerce) and 103-617 (Comm. of Conference).
SENATE REPORTS: No. 103-180 accompanying S. 1179 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): June 21, considered and passed House.
Sept. 22, considered and passed Senate, amended, in lieu of S. 1179.
Vol. 140 (1994): July 25, House agreed to conference report.
Aug. 11, Senate agreed to conference report.

Public Law 103-313
103d Congress

An Act

To designate a portion of the Farmington River in Connecticut as a component of the National Wild and Scenic Rivers System.

Aug. 26, 1994
[H.R. 2815]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Farmington Wild and Scenic River Act.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmington Wild and Scenic River Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Public Law 99-590 authorized the study of 2 segments of the West Branch of the Farmington River, including an 11-mile headwater segment in Massachusetts and the uppermost 14-mile segment in Connecticut, for potential inclusion in the National Wild and Scenic Rivers System, and created the Farmington River Study Committee, consisting of representatives from the 2 States, the towns bordering the 2 segments, and other river interests, to advise the Secretary of the Interior in conducting the study and concerning management alternatives should the river be included in the National Wild and Scenic Rivers System;

(2) the study determined that both segments of the river are eligible for inclusion in the National Wild and Scenic Rivers System based upon their free-flowing condition and outstanding fisheries, recreation, wildlife, and historic values;

(3) the towns that directly abut the Connecticut segment (Hartland, Barkhamsted, New Hartford, and Canton), as well as the Town of Colebrook, which abuts the segment's major tributary, have demonstrated their desire for national wild and scenic river designation through town meeting actions endorsing designation; in addition, the 4 abutting towns have demonstrated their commitment to protect the river through the adoption of "river protection overlay districts", which establish a uniform setback for new structures, new septic systems, sand and gravel extraction, and vegetation removal along the entire length of the Connecticut segment;

(4) during the study, the Farmington River Study Committee and the National Park Service prepared a comprehensive management plan for the Connecticut segment (the "Upper Farmington River Management Plan", dated April 29, 1993) which establishes objectives, standards, and action programs that will ensure long-term protection of the river's outstanding values and compatible management of its land and water resources, without Federal management of affected lands not owned by the United States;

(5) the Farmington River Study Committee voted unanimously on April 29, 1993, to adopt the Upper Farmington River Management Plan and to recommend that Congress include the Connecticut segment in the National Wild and Scenic Rivers System in accordance with the spirit and provisions of the Upper Farmington River Management Plan, and to recommend that, in the absence of town votes supporting designation, no action be taken regarding wild and scenic river designation of the Massachusetts segment; and

(6) the Colebrook Dam and Goodwin Dam hydroelectric projects are located outside the river segment designated by section 3, and based on the study of the Farmington River pursuant to Public Law 99–590, continuation of the existing operation of these projects as presently configured, including associated transmission lines and other existing project works, is compatible with the designation made by section 3 and will not unreasonably diminish the scenic, recreational, and fish and wildlife values of the segment designated by such section as of the date of enactment of this Act.

SEC. 3. DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"( ) FARMINGTON RIVER, CONNECTICUT.—The 14-mile segment of the West Branch and mainstem extending from immediately below the Goodwin Dam and Hydroelectric Project in Hartland, Connecticut, to the downstream end of the New Hartford-Canton, Connecticut, town line (hereinafter in this paragraph referred to as the 'segment'), as a recreational river, to be administered by the Secretary of the Interior through cooperative agreements between the Secretary of the Interior and the State of Connecticut and its relevant political subdivisions, namely the Towns of Colebrook, Hartland, Barkhamsted, New Hartford, and Canton and the Hartford Metropolitan District Commission, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Upper Farmington River Management Plan, dated April 29, 1993, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed to satisfy the requirement for a comprehensive management plan pursuant to section 3(d) of this Act.".

16 USC 1274 note.

SEC. 4. MANAGEMENT.

(a) COMMITTEE.—The Director of the National Park Service, or his or her designee, shall represent the Secretary on the Farmington River Coordinating Committee provided for in the plan.

Contracts

(b) FEDERAL.—(1) In order to provide for the long-term protection, preservation, and enhancement of the river segment designated by section 3, the Secretary, pursuant to section 10(e) of

the Wild and Scenic Rivers Act, shall offer to enter into cooperative agreements with the State of Connecticut and its relevant political subdivisions identified in the amendment made by such section 3 and, pursuant to section 11(b)(1) of such Act, shall make a similar offer to the Farmington River Watershed Association. The Secretary, pursuant to such section 11(b)(1), also may enter into cooperative agreements with other parties who may be represented on the Committee. All cooperative agreements provided for in this Act shall be consistent with the Plan, and may include provisions for financial or other assistance from the United States to facilitate the long-term protection, conservation, and enhancement of the segment designated by such section 3 and the implementation of the Plan.

(2) The Secretary may provide technical assistance, staff support, and funding to assist in the implementation of the Plan.

(3) Implementation of this Act through cooperative agreements as described in paragraph (2) of this subsection shall not constitute National Park Service administration of the segment designated by section 3 for purposes of section 10(c) of the Wild and Scenic Rivers Act, and shall not cause such segment to be considered as being a unit of the National Park System.

(c) WATER RESOURCES PROJECTS.—(1) In determining whether a proposed water resources project would have a direct and adverse effect on the values for which the segment designated by section 3 was included in the National Wild and Scenic Rivers System, the Secretary shall specifically consider the extent to which the project is consistent with the Plan.

(2) For purposes of implementation of section 7 of the Wild and Scenic Rivers Act, the Plan, including the detailed analysis of instream flow needs incorporated therein and such additional analysis as may be incorporated in the future, shall serve as the primary source of information regarding the flows needed to maintain instream resources and the potential compatibility between resource protection and possible water supply withdrawals.

(d) LAND MANAGEMENT.—The zoning ordinances duly adopted by the towns of Hartland, Barkhamsted, New Hartford, and Canton, Connecticut, including the "river protection overlay districts" in effect on the date of enactment of this Act, shall be deemed to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act. For the purpose of section 6(c), such towns shall be deemed "villages" and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply to the segment designated by section 3.

SEC. 5. DEFINITIONS.

16 USC 1274 note.

For the purposes of this Act:

(1) The term "Committee" means the Farmington River Coordinating Committee referred to in section 4.

(2) The term "Plan" means the comprehensive management plan for the Connecticut segment of the Farmington River prepared by the Farmington River Study Committee and the National Park Service, which is known as the "Upper Farmington River Management Plan" and dated April 29, 1993.

(3) The term "Secretary" means the Secretary of the Interior.

16 USC 1274 note.

SEC. 6. FUNDING AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, including the amendment to the Wild and Scenic Rivers Act made by section 3.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 2815:

HOUSE REPORTS: No. 103-430 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-278 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 15, considered and passed House.
June 16, considered and passed Senate, amended.
Aug. 16, House concurred in Senate amendments.

Public Law 103-314
103d Congress

An Act

To designate certain lands in the Commonwealth of Virginia as the George Washington National Forest Mount Pleasant Scenic Area.

Aug. 26, 1994
[H.R. 2942]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

George Washington National Forest Mount Pleasant Scenic Area Act. Conservation. 16 USC 545 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "George Washington National Forest Mount Pleasant Scenic Area Act".

16 USC 545.

SEC. 2. PURPOSES.

The purposes of this Act with respect to the George Washington National Forest Mount Pleasant Scenic Area are to—

(1) ensure appropriate protection and preservation of the scenic quality, water quality, natural characteristics, and water resources;

(2) protect and manage vegetation to provide wildlife and fish habitat, consistent with paragraph (1);

(3) provide areas that may develop characteristics of old-growth forests; and

(4) provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

16 USC 545a.

SEC. 3. ESTABLISHMENT OF MOUNT PLEASANT NATIONAL SCENIC AREA.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is hereby established in the George Washington National Forest, Virginia, the George Washington National Forest Mount Pleasant Scenic Area (in this section referred to as the "scenic area").

(2) LANDS INCLUDED IN SCENIC AREA.—The scenic area shall consist of certain lands in the George Washington National Forest, Virginia, which comprise approximately seven thousand five hundred and eighty acres, as generally depicted on a map entitled "Mount Pleasant National Scenic Area—Proposed", dated June 21, 1993.

(3) MAPS AND DESCRIPTIONS.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file a map and boundary description of the scenic area with the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. The map and description shall have the same force and effect as if included in this Act, except that the Secretary is authorized to correct clerical and typographical errors in such boundary description and map. Such map and

boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. In the case of any discrepancy between the acreage and the map described in paragraph (2), the map shall control.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the "Secretary") shall administer the scenic area in accordance with this Act and the laws and regulations generally applicable to the National Forest System. In the event of conflict between this Act and other laws and regulations, this Act shall take precedence.

(2) MANAGEMENT PLAN.—Within three years after the date of the enactment of this Act, the Secretary shall develop a management plan for the scenic area as an amendment to the Land and Resource Management Plan for the George Washington National Forest. Such an amendment shall conform to the provisions of this Act. Nothing in this Act shall require the Secretary to revise the Land and Resource Management Plan for the George Washington National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(c) ROADS.—After the date of the enactment of this Act, no new permanent roads shall be constructed within the scenic area, except that this prohibition shall not be construed to deny access to private lands or interests therein in the scenic area.

(d) VEGETATION MANAGEMENT.—No timber harvest shall be allowed within the scenic area, except as may be necessary in the control of fire, insects, and diseases and to provide for public safety and trail access. Notwithstanding the foregoing, the Secretary may engage in vegetation manipulation practices for maintenance of existing wildlife clearings and visual quality. Firewood may be harvested for personal use along perimeter roads under such conditions as the Secretary may impose.

(e) MOTORIZED TRAVEL.—

(1) AUTHORIZED ROUTES.—Motorized travel in the scenic area shall be allowed on State Route 635. Subject to such conditions as the Secretary may impose, motorized travel in the scenic area shall also be allowed on Forest Development Road 51.

(2) OTHER AREAS.—Other than as provided in paragraph (1), motorized travel shall not be permitted within the scenic area, except that the Secretary may authorize motorized travel within the scenic area as necessary for administrative use in furtherance of the purposes of this Act and on temporary routes in support of wildlife management projects.

(f) FIRE.—Wildfires shall be suppressed in a manner consistent with the purposes of this Act, using such means as the Secretary considers appropriate.

(g) INSECTS AND DISEASE.—Insect and disease outbreaks may be controlled in the scenic area to maintain scenic quality, prevent tree mortality, reduce hazards to visitors, or protect private lands.

(h) WATER.—The scenic area shall be administered so as to maintain or enhance existing water quality.

(i) MINING WITHDRAWAL.—Subject to valid existing rights, all federally owned lands in the scenic area are hereby withdrawn from location, entry, and patent under the mining laws of the

United States and from leasing claims under the mineral and geothermal leasing laws of the United States, including amendments to such laws.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 2942:

HOUSE REPORTS: No. 103-686 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 8, considered and passed House.
Aug. 19, considered and passed Senate.

Public Law 103-315
103d Congress

An Act

Aug. 26, 1994
[H.R. 3197]

To redesignate the postal facility located at 2100 North 13th Street in Reading, Pennsylvania, as the "Gus Yatron Postal Facility".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The postal facility located at 2100 North 13th Street in Reading, Pennsylvania, and known as the Reading General Mail Facility, shall be known and designated as the "Gus Yatron Postal Facility".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the postal facility referred to in section 1 shall be deemed to be a reference to the Gus Yatron Postal Facility.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 3197:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 8, considered and passed House.
Vol. 140 (1994): Aug. 19, considered and passed Senate.

Public Law 103-316
103d Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

Aug. 26, 1994
[H.R. 4506]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, for energy and water development, and for other purposes, namely:

Energy and Water Development Appropriations Act, 1995.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $181,199,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Red River Navigation Study, Arkansas, $300,000;

Los Angeles County Water Conservation and Supply, California, $500,000;

Norco Bluffs, California, $200,000;

Indianapolis, White River, Central Waterfront, Indiana, $4,000,000;

Lake George, Hobart, Indiana, $200,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $150,000;

Ohio River Greenway, Indiana, $500,000;

Hazard, Kentucky, $500,000;

Kentucky Lock and Dam, Kentucky, $2,000,000;

Mussers Dam, Pennsylvania, $100,000;
Hartsville, Trousdale County, Tennessee, $95,000;
West Virginia Comprehensive, West Virginia, $350,000; and
West Virginia Port Development, West Virginia, $800,000.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $983,668,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri, and GIWW-Brazos River Floodgates, Texas, projects, and of which funds are provided for the following projects in the amounts specified:

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,000,000;
Red River below Denison Dam Levee and Bank Stabilization, Arkansas, Louisiana and Texas, $2,100,000;
West Sacramento, California, $500,000;
Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $400,000;
Sacramento River Flood Control Project (Deficiency Correction), California, $3,700,000;
San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;
Central and Southern Florida, Florida, $8,624,000;
Kissimmee River, Florida, $4,000,000;
Savannah Harbor Deepening, Georgia (Reimbursement), $11,585,000, of which $2,083,000 is for a cost-shared Savannah River recreation enhancement and public access project along 900 linear feet of shoreline in the City of Savannah;
Casino Beach, Illinois, $1,000,000;
Des Moines Recreational River and Greenbelt, Iowa, $4,000,000;
Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $20,000,000;
Middlesborough (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,200,000;
Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;
Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $5,000,000;
Lake Pontchartrain and Vicinity (Jefferson Parish), Louisiana, $800,000;
Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $12,500,000;
Ouachita River Levees, Louisiana, $4,500,000;
Ste. Genevieve, Missouri, $3,000,000;
Hackensack Meadowlands Area, New Jersey, $2,500,000;

Ramapo River at Oakland, New Jersey, $600,000;
Salem River, New Jersey, $1,000,000;
Carolina Beach and Vicinity, North Carolina, $2,800,000;
Fort Fisher and Vicinity, North Carolina, $900,000;
Broad Top Region, Pennsylvania, $1,000,000;
Lackawanna River, Olyphant, Pennsylvania, $1,100,000;
Lackawanna River, Scranton, Pennsylvania, $1,000,000;
South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, Pennsylvania, $7,000,000;
Allendale Dam, Rhode Island, $67,500;
Wallisville Lake, Texas, $1,000,000;
Richmond Filtration Plant, Virginia, $2,000,000;
Southern West Virginia Environmental Restoration Infrastructure and Resource Protection Development Pilot Program, West Virginia, $1,500,000;
Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $500,000; and
Upper Mingo County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $250,000:

Provided, That of the offsetting collections credited to this account, $71,000 are permanently canceled.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $328,138,000, to remain available until expended, and of which funds are provided for the following projects in the amounts specified:

Eastern Arkansas Region, Arkansas, $3,000,000;
Yazoo Basin, Mississippi, Upper Yazoo Projects, Belzoni Bridge Removal, $640,000; and
Tiptonville, Tennessee, Levee Extension, Mississippi River Levees, $1,000,000.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,646,535,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which $37,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation

Act of 1965, as amended (16 U.S.C. 460l), and of which funds are provided for the following projects in the amounts specified:

Tucson Diversion Channel, Arizona, $2,500,000;

Jeffersonville-Clarksville, Indiana, $750,000;

McAlpine Lock and Dam (Ohio River Locks and Dams), Kentucky, $1,000,000;

Raystown Lake, Pennsylvania, $5,330,000; and

John H. Kerr Reservoir (Mosquito Control), Virginia and North Carolina, $40,000:

Provided, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That of the offsetting collections credited to this account, $1,000 are permanently canceled: *Provided further,* That the Secretary of the Army is directed during fiscal year 1995 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $101,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $14,979,000, to remain available until expended: *Provided,* That of the offsetting collections credited to this account, $5,000 are permanently canceled.

OIL SPILL RESEARCH

For expenses necessary to carry out the purposes of the Oil Spill Liability Trust Fund, pursuant to title VII of the Oil Pollution Act of 1990, $900,000, to be derived from the Fund and to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, and the Water Resources Support Center, $152,500,000: *Provided,* That not to exceed $59,280,000 of the funds provided in this Act shall be available for general administration and related functions in the Office of the Chief of Engineers: *Provided further,* That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the Division Offices.

PERMANENT APPROPRIATIONS

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $4,000.

RIVERS AND HARBORS CONTRIBUTED FUNDS

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $16,000.

ADMINISTRATIVE PROVISIONS

During the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

Contracts.

SEC. 101. In fiscal year 1995, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, shall not collect fees at boat launching ramps located in undeveloped or lightly developed shorelands with minimum security and illumination.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For the purpose of carrying out provisions of the Central Utah Project Completion Act, Public Law 102–575 (106 Stat. 4605), $38,972,000, to remain available until expended, of which $22,839,000 shall be to carry out the activities authorized under title II of the Act and for feasibility studies of alternatives to the Uintah and Upalco Units, and of which $16,133,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: *Provided,* That of the amounts deposited into the Account, $5,000,000 shall be considered the Federal Contribution authorized by paragraph 402(b)(2) of the Act and $11,133,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out the activities authorized under title III of the Act.

In addition, for necessary expenses incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,191,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902,

32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $14,190,000: *Provided,* That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $432,727,000 of which $23,272,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $153,793,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further,* That of the total appropriated, $4,827,000 shall be available for transfer to the State of New Mexico Irrigation Works Construction Fund for settlement of all claims associated with Costilla Dam.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $284,300,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project.

43 USC 618d note.

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $9,000,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $23,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $600,000: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, to remain available until expended, such sums as may be assessed and collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f) and 3406(c)(1) of Public Law 102–575: *Provided,* That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $37,232,000 (October 1992 price levels), as authorized by section 3407(d) of Public Law 102–575.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $54,034,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

43 USC 502 note.

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

WORKING CAPITAL FUND

Of the offsetting collections credited to this account, $863,000 are permanently canceled due to reduced GSA rental charges and $1,848,000 are permanently canceled due to efficiencies in the procurement process.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 9 passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of pas-

senger motor vehicles (not to exceed 25, of which 19 are for replacement only), $3,314,548,000, to remain available until expended: *Provided,* That the Secretary of Energy may transfer available amounts appropriated for use by the Department of Energy under title III of previously enacted Energy and Water Development Appropriations Acts into the Isotope Production and Distribution Program Fund, in order to continue isotope production and distribution activities: *Provided further,* That the authority to use these amounts appropriated is effective from the date of enactment of this Act: *Provided further,* That fees set by the Secretary for the sale of isotopes and related services shall hereafter be determined without regard to the provisions of Energy and Water Development Appropriations Act (Public Law 101–101): *Provided further,* That amounts provided for isotope production and distribution in previous Energy and Water Development Appropriations Acts shall be treated as direct appropriations and shall be merged with funds appropriated under this head.

42 USC 2061 note.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for residual uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102–486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary; purchase of passenger motor vehicles (not to exceed 11 for replacement only), $73,210,000, to remain available until expended: *Provided,* That revenues received by the Department for residual uranium enrichment activities and estimated to total $9,900,000 in fiscal year 1995, shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1995 so as to result in a final fiscal year 1995 appropriation estimated at not more than $63,310,000.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $301,327,000 to be derived from the fund, to remain available until expended: *Provided,* That at least $41,700,000 of amounts derived from the fund for such expenses shall be expended in accordance with title X, subtitle A of the Energy Policy Act of 1992.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for gen-

eral science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only), $984,031,000, to remain available until expended: *Provided,* That none of the funds made available under this section for Department of Energy facilities may be obligated or expended for food, beverages, receptions, parties, country club fees, plants or flowers pursuant to any cost-reimbursable contract: *Provided further,* That of the amounts previously appropriated to orderly terminate the Superconducting Super Collider (SSC) project in the Energy and Water Development Appropriations Act, 1994, amounts not to exceed $65,000,000 shall be available as a one-time contribution to the completion, with modification, of partially completed facilities at the project site if the Secretary determines such one-time contribution (i) will assist the maximization of the value of the investment made in the facilities and (ii) is in furtherance of a settlement of the claims that the State of Texas has asserted against the United States in connection with the termination of the SSC project: *Provided further,* That no such amounts shall be made available as a contribution to operating expenses of such facilities.

NUCLEAR WASTE DISPOSAL FUND

For the nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $392,800,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise her authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided,* That of the amount herein appropriated, within available funds, not to exceed $5,500,000 may be provided to the State of Nevada, for the sole purpose of conduct of its scientific oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: *Provided further,* That of the amount herein appropriated, not more than $7,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further,* That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy and made available to the State and affected units of local government by direct payment: *Provided further,* That within ninety days of the completion of each Federal fiscal year, each State or local entity shall provide certification to the Department of Energy, that all funds expended from such payments have been expended for activities as defined in Public Law 97–425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further,* That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in section 1913 of title 18, United States Code: *Provided further,* That none of

the funds herein appropriated may be used for litigation expenses: *Provided further,* That none of the funds herein appropriated may be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 104, of which 103 are for replacement only, including 22 police-type vehicles), $3,229,069,000, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 87 of which 67 are for replacement only including 6 police-type vehicles), $5,092,691,000, to remain available until expended.

MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials support, and other defense activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,849,657,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $129,430,000, to remain available until expended, all of which shall be used in accordance with the terms and conditions of the Nuclear Waste Fund appropriation of the Department of Energy contained in this title.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $407,312,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511, et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $161,490,000 in fiscal year 1995 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1995 so as to result in a final fiscal year 1995 appropriation estimated at not more than $245,822,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $26,465,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $6,494,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for the purchase, operation and maintenance of two rotary-wing aircraft for replacement only, and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1995, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $22,431,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $21,316,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $3,935,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $222,285,000, to remain available until expended, of which $202,512,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided,* That of the amount herein appropriated, within available funds, $5,135,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $7,472,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $166,173,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, not to exceed $166,173,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1995, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $0.

42 USC 7171 note.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

40 USC app. 401 note.

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $282,000,000.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $17,933,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $343,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $478,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91–407), $511,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $520,501,000, to remain available until expended, of which $22,000,000 shall be derived from the Nuclear Waste Fund: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $498,501,000 in fiscal year 1995 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1995 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1995 appropriation estimated at not more than $22,000,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $5,080,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* That from this appropriation, transfers of sums may be made to other agencies of the Government

Notice.

for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1995 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1995 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,664,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

SALARIES AND EXPENSES

For necessary expenses of the office of the Nuclear Waste Negotiator in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, as amended by Public Law 102–486, section 802, $1,000,000 to be derived from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $318,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $288,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $142,873,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 501. SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1995".

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 4506:

HOUSE REPORTS: Nos. 103-533 (Comm. on Appropriations) and 103-672 (Comm. of Conference).
SENATE REPORTS: No. 103-291 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 14, considered and passed House.
June 30, considered and passed Senate, amended.
Aug. 10, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Aug. 11, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Aug. 26, Presidential statement.

Public Law 103-317
103d Congress

An Act

Aug. 26, 1994
[H.R. 4603]

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, and for other purposes, namely:

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995. Department of Justice and Related Agencies Appropriations Act, 1995.

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $98,100,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102–534 (106 Stat. 3524), of which $750,000 of the funds provided under the Missing Children's Program shall be made available as a grant to a national voluntary organization representing Alzheimer patients and families to plan, design, and operate the "Safe Return" Program.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $62,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102–534 (106 Stat. 3524), of which: (a) $50,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs;

(b) $12,000,000 shall be available to carry out the provisions of chapter B of subpart 2 of part E of title I of said Act, for Correctional Options Grants: *Provided*, That of the funds made available in fiscal year 1995 under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended: (a) $2,000,000 shall be available for the District of Columbia Metropolitan Area Drug Enforcement Task Force; (b) not to exceed $500,000 shall be available to make grants or enter contracts to carry out the Denial of Federal Benefits program under the Controlled Substances Act, as amended by the Crime Control Act of 1990 (21 U.S.C. 862); and (c) $500,000 shall be available to carry out the provisions of the Anti Car Theft Act of 1992 (Public Law 102–519), for grants to be used in combating motor vehicle theft, of which $200,000 shall be available pursuant to subtitle B of title I of said Act, and of which $300,000 shall be available pursuant to section 306 of title III of said Act: *Provided further*, That funds made available in fiscal year 1995 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles: *Provided further*, That funds made available in fiscal year 1995 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $144,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of said Act, as amended by Public Law 102–586, of which: (a) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of said Act; (b) $10,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of said Act for prevention and treatment programs relating to juvenile gangs; (c) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of said Act; (d) $4,000,000 shall be available for expenses authorized by part G of title II of said Act for juvenile mentoring programs; and (e) $20,000,000 shall be available for expenses authorized by title V of said Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $11,250,000, to remain available until expended, as authorized by sections 214B, 218, and 224 of said Act, of which: (a) $500,000 shall be available for expenses authorized by section 213 of said Act for regional children's advocacy centers; (b) $2,000,000 shall be available for expenses authorized by section 214 of said Act for local children's advocacy centers; (c) $2,000,000 shall be available for technical assistance and training, as authorized by section 214A of said Act, of which $1,500,000 is for a grant to the American Prosecutor Research Institute's National

Center for Prosecution of Child Abuse, and of which $500,000 is for a grant to the National Network of Child Advocacy Centers; (d) $1,000,000 shall be available for training and technical assistance, as authorized by section 217(b)(1) of said Act for a grant to the National Court Appointed Special Advocates program; (e) $5,000,000 shall be available for expenses authorized by section 217(b)(2) of said Act to initiate and expand local court appointed special advocate programs; and (f) $750,000, notwithstanding section 224(b) of said Act, shall be available to develop and distribute model technical assistance and training programs to improve the handling of child abuse and neglect cases, as authorized by section 223(a) of said Act, for a grant to the National Council of Juvenile and Family Court Judges.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,072,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $120,185,000; of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided,* That of the offsetting collections credited to this account, $37,000 are permanently canceled.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,500,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation: *Provided,* That of the offsetting collections credited to this account, $24,000 are permanently canceled.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $13,456,000, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided,* That funds des-

ignated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further,* That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

WORKING CAPITAL FUND

Of the offsetting collections credited to this account, $387,000 are permanently canceled.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $7,451,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $417,202,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided,* That of the funds available in this appropriation, not to exceed $50,099,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further,* That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further,* That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1995: *Provided further,* That of the offsetting collections credited to this account, $99,000 are permanently canceled.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,500,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101-509 (104 Stat. 1289).

CIVIL LIBERTIES PUBLIC EDUCATION FUND

For research contracts and public education activities, and to publish and distribute the hearings, findings, and recommendations of the Commission on Wartime Relocation and Internment of Civilians, pursuant to section 106(b) of the Civil Liberties Act of 1988 (Public Law 100–383), $5,000,000, to remain available until expended.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $80,655,000: *Provided,* That notwithstanding any other provision of law, not to exceed $39,640,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $41,015,000: *Provided further,* That any fees received in excess of $39,640,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further,* That of the offsetting collections credited to this account, $155,000 are permanently canceled.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, $829,723,000, of which not to exceed $2,500,000 shall be available until September 30, 1996 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further,* That of the offsetting collections credited to this account, $180,000 are permanently canceled.

In addition, for all reasonable and necessary expenses to implement the Attorney General's Violent Crime Task Force Initiatives in the United States Attorney Offices, $15,000,000, to remain available until expended, including the reasonable and necessary expenses of intergovernmental, interlocal, cooperative and task force agreements, however denominated, and contracts with State and local prosecutive and law enforcement agencies engaged in the investigation and prosecution of crimes of violence and drug trafficking crimes.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $103,190,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554), of which $62,593,000 shall be derived from the United States Trustee System Fund: *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further,* That, notwithstanding any other provision of law, not to exceed $40,597,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended by section 111 of Public Law 102–140 (105 Stat. 795), shall be retained and used for necessary expenses in this appropriation: *Provided further,* That the $103,190,000 herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $62,593,000: *Provided further,* That any of the aforementioned fees collected in excess of $40,597,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further,* That of the offsetting collections credited to this account, $218,000 are permanently canceled.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $830,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $396,847,000, as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses: *Provided,* That of the offsetting collections credited to this account, $95,000 are permanently canceled.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $298,216,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $78,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning,

construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $20,379,000, of which not to exceed $10,001,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $55,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $92,000.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $374,943,000, of which $50,000,000 shall remain available until expended: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further,* That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,206,871,000, of which not to exceed $35,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1996; of which not to exceed $14,000,000 for research and development related to investigative activities shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; of which $84,400,000, to remain available until expended, shall only be available to defray expenses for the automation of fingerprint identification services and related costs; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That of the offsetting collections credited to this account, $572,000 are permanently canceled.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,265 passenger motor vehicles, of which 1,115 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $757,204,000, of which not to exceed $1,800,000 for research shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1996, and of which not to exceed $50,000 shall be available for

official reception and representation expenses: *Provided,* That of the offsetting collections credited to this account, $439,000 are permanently canceled.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 813 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,102,671,000, of which not to exceed $400,000 for research shall remain available until expended, and of which not to exceed $10,000,000 shall be available for costs associated with the Training program for basic officer training: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1995: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further,* That of the offsetting collections credited to this account, $1,240,000 are permanently canceled.

CONSTRUCTION

For planning, construction, renovation, equipping and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $50,000,000, to remain available until expended.

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $75,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 736 of which 383 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,356,404,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary,

in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1996: *Provided further,* That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuban and Haitian entrants: *Provided further,* That any unobligated balances available for the care of Mariel Cuban detainees under the heading, "Salaries and Expenses, Community Relations Service" are transferred to this heading, and shall remain available until expended.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $10,344,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $280,494,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: *Provided further,* That unless a notification as required under section 605 of this Act is submitted to the Committees on Appropriations of the House and Senate, none of the funds in this Act for the Cooperative Agreement Program shall be available for a cooperative agreement with a State or local government for the housing of Federal prisoners and detainees when the cost per bed

space for such cooperative agreement exceeds $50,000, and in addition, any cooperative agreement with a cost per bed space that exceeds $25,000 must remain in effect for no less than 15 years: *Provided further,* That of the total amount appropriated, not to exceed $9,903,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,463,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Subject to subsection (b) of section 102 of the Department of Justice and Related Agencies Appropriations Act, 1993, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

Abortions.

SEC. 103. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 104. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section

in any way diminishes the effect of section 103 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

Terrorism.

SEC. 105. Pursuant to the provisions of law set forth in 18 U.S.C. 3071–3077, not to exceed $5,000,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 106. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That this section shall not apply to any appropriation made available in title I of this Act under the heading, "Office of Justice Programs, Justice Assistance": *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 107. In fiscal year 1995, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Commissary Fund.

SEC. 108. (a) Of the budgetary resources available to the Department of Justice during fiscal year 1995, $23,830,000 are permanently canceled.

(b) The Attorney General shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

28 USC 509 note.

SEC. 109. Notwithstanding 31 U.S.C. 3302 or any other law, in litigation involving unusually high costs, the Department of Justice may receive and retain reimbursement for salaries and expenses, for fiscal year 1995 and thereafter, from any other governmental component being represented in the litigation.

SEC. 110. Paragraph 524(c)(9) of title 28, United States Code, is amended by adding subparagraph (E), as follows:

> "(E) Subject to the notification procedures contained in section 605 of Public Law 103–121, and after satisfying the transfer requirement in subparagraph (B) above, any excess unobligated balance remaining in the Fund on September 30, 1994 shall be available to the Attorney General, without fiscal year limitation, for any Federal law enforcement, litigative/prosecutive, and correctional activities, or any other authorized purpose of the Department of Justice. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.".

8 USC 1356 note.

SEC. 111. Public Law 103–121 (107 Stat. 1161) is amended by inserting the words "and California" after the phrase "for projects on the northern border of the United States".

SEC. 112. Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended by striking "1994" and inserting "1995".

28 USC 524 note.

SEC. 113. Notwithstanding any other provision of law—

(a) No transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations Acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code.

(b) No appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

SEC. 114. SENSE OF CONGRESS.—It is the sense of Congress that the President of the United States and the President-elect of Mexico should meet as soon as possible following the August elections in Mexico to discuss bilateral issues of mutual concern with the objective of deepening and strengthening the ties between the two neighbors, with emphasis on cooperation to establish equitable and effective regulation of the flow of citizens across the border between Mexico and the United States.

Criminal Justice Information Services Placement Assistance Act.

SEC. 115. (a) IN GENERAL.—Except as provided in subsection (c), an individual described in subsection (b) may be appointed noncompetitively, under a career or career-conditional appointment, to a position in the competitive service if—

(1) the individual meets the qualification requirements prescribed by the Office of Personnel Management for the position to which appointed;

(2) the last previous Federal employment of the individual was as an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(3) the individual is appointed to such position within two years after separating from the Criminal Justice Information Services Division.

(b) INDIVIDUAL DESCRIBED.—An individual described in this subsection is an individual who—

(1) on the date of the enactment of this Act—

(A) is an employee of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) is serving in an appointed position (i) to be relocated from Washington, District of Columbia, to Clarksburg, West Virginia, and (ii) that is excepted by law or regulation from the competitive service; and

(2) has not relocated with his or her position in the Criminal Justice Information Services Division to Clarksburg, West Virginia.

(c) APPLICATION.—This section does not apply to an individual serving on the date of the enactment of this Act in an appointed position on a temporary or term basis.

(d) This section may be cited as the "Criminal Justice Information Services Placement Assistance Act".

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $9,000,000: *Provided,* That not to exceed $50,000 may be used to employ consultants: *Provided further,* That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further,* That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $233,000,000: *Provided,* That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds: *Provided further,* That of the budgetary resources available in fiscal year 1995 in this account, $242,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901–02; not to exceed $600,000 for land and structures; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $185,232,000, of which not to exceed $300,000 shall remain available until September 30, 1996, for research and policy studies:

Provided, That $116,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at $68,832,000: *Provided further,* That any offsetting collections received in excess of $116,400,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further,* That of the budgetary resources available in fiscal year 1995 in this account, $197,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2): *Provided further,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86–484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(d) of title 47 of the Code of Federal Regulations, other than to amend policies with respect to waivers of the portion of section 73.3555(d) that concerns cross-ownership of a daily newspaper and an AM or FM radio broadcast station.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $18,569,000: *Provided,*

That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $94,428,000: *Provided,* That notwithstanding any other provision of law, not to exceed $39,640,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1995, so as to result in a final fiscal year 1995 appropriation estimated at not more than $54,788,000: *Provided further,* That any fees received in excess of $39,640,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995: *Provided further,* That section 605 of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$25,000" and inserting in lieu thereof "$45,000": *Provided further,* That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285): *Provided further,* That of the budgetary resources available in fiscal year 1995 in this account, $145,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2): *Provided further,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374), except that this proviso shall cease to be effective upon enactment of an Act authorizing appropriations for the Federal Trade Commission for fiscal year 1995.

15 USC 18a note.

Termination date.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $74,856,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commis-

sions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel or transportation to or from such meetings, and (iii) any other related lodging or subsistence: *Provided,* That of the budgetary resources available in fiscal year 1995 in this account, $902,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

In addition, upon enactment of legislation amending the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), and subject to the schedule of fees contained in such legislation, such fees may be collected and shall be deposited as an offsetting collection to this appropriation to recover the costs of registration, supervision, and regulation of investment advisers and their activities: *Provided,* That such fees shall remain available until expended: *Provided further,* That any such fees collected in excess of $8,595,000 shall not be available for obligation until October 1, 1995.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $13,550,000 to remain available until expended: *Provided,* That not to exceed $2,500 shall be available for official reception and representation expenses.

This title may be cited as the "Department of Justice and Related Agencies Appropriations Act, 1995".

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $265,000,000, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership, the Advanced Technology Program and the Quality Pro-

gram of the National Institute of Standards and Technology, $525,000,000, to remain available until expended, of which not to exceed $1,710,000 may be transferred to the "Working Capital Fund": *Provided*, That notwithstanding the time limitations imposed by 15 U.S.C. 278k(c) (1) and (5) on the duration of Federal financial assistance that may be awarded by the Secretary of Commerce to Regional Centers for the Transfer of Manufacturing Technology ("Centers"), such Federal financial assistance for a Center may continue beyond six years and may be renewed for additional periods, not to exceed three years each, at a rate not to exceed one-third of the Center's total annual costs, subject before any such renewal to a positive evaluation of the Center and to a finding by the Secretary of Commerce that continuation of Federal funding to that Center is in the best interest of the Regional Centers for the Transfer of Manufacturing Technology Program. 15 USC 278k note.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $64,686,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,835,000,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, in addition to fees currently being assessed and collected, additional fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering marine sanctuary and aeronautical charting programs: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1995, so as to result in a final general fund appropriation estimated at not more than $1,829,000,000: *Provided further*, That any such additional fees received in excess of $6,000,000 in fiscal year 1995 shall not be available for obligation until October 1, 1995: *Provided further*, That in addition, $55,500,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided further*, That hereafter all receipts received from the sale of aeronautical charts that result from an increase in the price of individual charts above the level in effect for such charts on September 30, 1993, 33 USC 851. 44 USC 1307 note.

shall be deposited in this account as an offsetting collection and shall be available for obligation: *Provided further,* That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $500,000, and any grant made in fiscal year 1995 to a State which did not receive funding under this program in fiscal year 1994 shall not exceed $800,000: *Provided further*, That of the total amount appropriated in this paragraph, $16,000,000 shall be available for the integrated program office for convergence of civilian and military polar-orbiting meteorological satellites: *Provided further,* That of the offsetting collections credited to this account, $123,000 are permanently canceled.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $97,600,000; of which $2,500,000 is for a grant to the City of Kansas City, Missouri, for development of a weather and environmental center; and of which the following amounts shall be available to carry out continuing construction activities: $3,500,000 for a grant for construction of a Multispecies Aquaculture Center in the State of New Jersey; $1,000,000 for a grant to the Mystic Seaport, Mystic, Connecticut, for a maritime education center; $5,200,000 for a grant to the Center for Interdisciplinary Research and Education in Indiana; and $2,000,000 for a grant for the construction of the Massachusetts Biotechnology Research Institute in Boston; and all sums in this paragraph are to remain available until expended: *Provided,* That subject to the availability of appropriations provided in advance for these purposes, the Secretary of Commerce is granted approval to enter into a contract with Florida State University which shall: (1) provide the University with funds to assist in the construction and associated expenses, including parking, of a meteorological sciences building on its Tallahassee, Florida, campus; and (2) include a space agreement with the University at no cost to the Government, other than for operational expenses, for space in this building for use as the Weather Forecast Office: *Provided further,* That if the Secretary of Commerce determines that the property that was transferred to the United States by the City of Clovis, California, by a deed dated November 20, 1984, for use as a weather forecasting office, is no longer needed for such use, title to that property, and improvements thereto, shall revert to the City of Clovis, California.

Florida.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, construction, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and

Atmospheric Administration, $23,040,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: *Provided*, That none of the funds made available under this heading may be used to guarantee loans for the purchase of any new or existing fishing vessel.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,273,000 to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000 to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $400,000, to remain available until expended.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $36,510,000: *Provided*, That of the offsetting collections credited to this account, $17,000 are permanently canceled.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $16,900,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law,

$136,000,000: *Provided,* That of the offsetting collections credited to this account, $225,000 are permanently canceled.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $142,576,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $46,937,000, to remain available until September 30, 1996: *Provided,* That of the offsetting collections credited to this account, $2,000 are permanently canceled.

ECONOMICS AND STATISTICS ADMINISTRATION REVOLVING FUND

15 USC 1527a.

There is hereby established the Economics and Statistics Administration Revolving Fund which shall be available without fiscal year limitation. For initial capitalization, there is appropriated $1,677,000 to the Fund: *Provided,* That the Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account as offsetting collections, to be available for carrying out these purposes without further appropriation.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms to include a grant of $9,000,000 for the National Textile Center University Consortium, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $266,450,000, to remain available until expended; of

which $930,000 is for a grant to the Michigan Biotechnology Institute; $1,000,000 is for a grant to the Emerging Technologies Institute in Sacramento, California; $1,700,000 is for a grant to the Massachusetts Biotechnology Research Institute; $1,200,000 is for a grant to the Center for Global Competitiveness in Loretto, Pennsylvania; and $3,400,000 is for a grant to the Textile Clothing Technology Center: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,823,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $43,900,000, of which $31,872,000 shall remain available until expended: *Provided,* That $600,000 is available only for a grant for the NTTC to implement a Minority Apprenticeship Program in Technology Management; $100,000 is available only for a grant for a Minority Economic Opportunity Center in Cleveland, Ohio; and $200,000 is available only for a grant for the U.S.-Africa Trade and Technology Center in Savannah, Georgia.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703, including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for official representation expenses abroad; $16,407,000, to remain available until expended: *Provided,* That none of the funds appropriated by this paragraph shall be available to carry out the provisions of section 203(a) of the International Travel Act of 1961, as amended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $83,000,000, to remain available until expended, of which $6,000,000 is available only for the acquisition of high performance computing capability: *Provided,* That of the offsetting collections credited to this account, $2,195,000 are permanently canceled: *Provided further,* That the funds made available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided further,* That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $10,000,000, of which not to exceed $2,000,000 shall remain available until September 30, 1996.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

For expenses necessary to implement the American Technology Preeminence Act, $8,000,000, to remain available until expended: *Provided,* That of the offsetting collections credited to this account, $140,000 are permanently canceled.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $20,981,000, to remain available until expended: *Provided,* That of the offsetting collections credited to this account, $2,000 are permanently canceled: *Provided further,* That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA in furtherance of its assigned functions under this paragraph and such funds received from other Government agencies shall remain available until expended.

PUBLIC BROADCASTING

FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $29,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of said Act: *Provided further,* That notwithstanding the provisions of section 391 of said Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding the provisions of sections 391 and 392 of the Communications Act, as amended, not to exceed $1,500,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $64,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $5,000,000 shall be available for program administration and other support activities as authorized by section 391 of said Act including support of the Advisory Council on National Information Infrastructure: *Provided further,* That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: *Provided further,* That notwithstanding the requirements of section 392(a) and 392(c) of such Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

For expenses necessary to carry out the provisions of the National Endowment for Children's Educational Television Act of 1990, title II of Public Law 101–437, including costs for contracts, grants and administrative expenses, $2,500,000, to remain available until expended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $408,024,000: *Provided,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: *Provided further,* That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $32,205,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles

as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population. 13 USC 23 note.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Of the budgetary resources available to the Department of Commerce during fiscal year 1995, $12,355,000 are permanently canceled.

(b) The Secretary of Commerce shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purpose of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

TITLE III—THE JUDICIARY

The Judiciary Appropriations Act, 1995.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $24,240,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,000,000, of which $260,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $13,438,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $11,685,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,340,127,000 (including the purchase of firearms and ammunition); of which not to exceed $14,454,000 shall remain available until expended for space alteration projects; of which not to exceed $11,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,250,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice

Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $250,000,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i): *Provided,* That not to exceed $19,800,000 shall be available for Death Penalty Resource Centers.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $59,346,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $97,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $47,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $18,828,000; of which $1,800,000 shall remain available through September 30, 1996, to provide

education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $21,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $6,900,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $575,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,800,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: *Provided,* That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

This title may be cited as "The Judiciary Appropriations Act, 1995".

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $214,356,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $76,100,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies: *Provided further,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

Of the budgetary resources available to the Maritime Administration of the Department of Transportation during fiscal year 1995, $360,000 are permanently canceled. The Secretary of Transportation shall allocate the amount of budgetary resources canceled among the Department's Maritime Administration accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

READY RESERVE FORCE

(INCLUDING RESCISSION)

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and for related programs, $150,000,000, to remain available until expended: *Provided,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

Of the unobligated balances available under this heading, $158,000,000 are rescinded.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $25,000,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $2,000,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,894,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,000,000 to remain available until expended.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,384,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,949,000, of which $2,500,000 shall remain available until expended: *Provided,* That not to exceed $98,000 shall be available for official reception and representation expenses.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 101–574, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $258,175,000 of which $15,000,000 shall be available to implement section 24 of the Small Business Act, as amended, including $500,000 to be made available only to the City of Buffalo, New York: *Provided,* That section 24(e) of the Small Business Act (15 U.S.C. 651(e)) is amended by striking "fiscal years 1992 through 1994" and inserting in lieu thereof "fiscal years 1995 through 1997": *Provided further,* That section 112(c)(2) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended by striking "October 1, 1994" and inserting "October 1, 1997": *Provided further,* That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administraton; certain loan servicing activities; and installing and servicing the agency's computer-based electronic bulletin board: *Provided further,* That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriation. Of the total amount appropriated in this paragraph, $77,375,000 shall be available for grants for performance in fiscal year 1995 or fiscal year 1996 for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended, of which $3,375,000 shall be available to carry out Defense economic transition technical assistance as authorized by 15 U.S.C. 648(c)(3)(G): *Provided further,* That not more than $500,000 of the total amount

15 USC 697 note.

in this paragraph shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse Centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act.

None of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee for the Small Business Development Center Program.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $9,596,000, and for the cost of guaranteed loans, $278,305,000, as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee Program, and of which the following shall remain available until September 30, 1996: $15,990,000 for the Small Business Investment Company Debentures Program; $7,398,000 for the Specialized Small Business Investment Company Program; and $20,457,000 for the Small Business Investment Company Participating Securities Program, and of which $30,000,000 shall be used to pre-pay the Federal Financing Bank for debentures guaranteed by the Administration pursuant to section 503 of the Small Business Investment Act: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for expenses not otherwise provided for, of the Small Business Administration, $27,350,000 of which: $750,000 shall be available for a grant to the North Carolina Biotechnology Center for a demonstration project which would integrate small business formation and preparation of a biotechnology workforce; $500,000 shall be available for continuation of a grant to the Van Emmons Population Marketing Analysis Center, Towanda, Pennsylvania, for an integrated small business data base to assist Appalachian Region small businesses; $1,000,000 shall be available for continuation of a grant to the City of Prestonsburg, Kentucky, for small business development assistance; $375,000 shall be available for a grant to the State of Nebraska for establishing the Nebraska Micro Enterprise Initiative to include a clearinghouse and training and counseling programs; $3,000,000 shall be available for continuation of a grant to the National Center for Genome Resources in New Mexico to provide consulting assistance, information and related services to small businesses and for related purposes; $1,000,000 shall be available for continuation of a grant for the Genesis Small Business Incubator Facility, Fayetteville, Arkansas; $500,000 shall be available for a grant to an entity in Bozeman, Montana, to establish a small business assistance center to assist small businesses to qualify and participate in the Small Business Innovation Research (SBIR) program; $1,000,000 shall be available for continuation of a grant to the Center for Entrepreneurial Opportunity in Greensburg, Pennsylvania, to provide for a small business

consulting and assistance center for entrepreneurial opportunities; $1,500,000 for a grant to a consortium in Buffalo, New York, to provide assistance to small businesses for technical improvement of commercial industrial products; $250,000 shall be available for a grant to the Western Massachusetts Enterprise Fund to expand microlending to entrepreneurs and small businesses; $400,000 shall be available for continuation of a grant to the State of Ohio, Department of Development, International Trade Division to assist small businesses to expand export opportunities; $1,000,000 shall be available for continuation of a grant to assist the development of a small business consulting, information and assistance center in Hazard, Kentucky; $2,000,000 shall be available for continuation of a grant to the WVHTC Foundation for build-out, equipment, and operations costs for a small business incubator facility and for an outreach grant program to assist small business economic development; $125,000 shall be available for a grant to an organization in Bowling Green, Kentucky, to establish a small business pilot program to convert municipal waste into a marketable product; $2,500,000 shall be available for a grant to the City of Carbondale, Pennsylvania, to establish and operate a small business incubator facility; $500,000 shall be available for continuation of a grant to the New York City Public Library for construction and related costs for the Industry and Business Library; $200,000 shall be available for continuation of a grant to assist the Small Business Institute program of the Small Business Administration to establish and operate a National Data Center Small Business Institute program in Conway, Arkansas; $4,000,000 shall be available for a grant to the Unified Technology Center in Cleveland, Ohio, to assist small businesses in the design of high quality environmentally sound processes; $1,250,000 shall be available for a grant to the City of Whitesburg, Kentucky, to develop and equip a facility to promote the development of small businesses and enhance economic development; $2,500,000 shall be available for a grant to the City of Wheeling, West Virginia, for the Oglebay Small Business Rural Development Center; $1,000,000 shall be available for a grant for a Small Business Development Institute in North Philadelphia, Pennsylvania, for a facility to assist and train minority small businesses; $250,000 shall be available for continuation of a grant to the City of Espanola, New Mexico, for the second phase of the development of the Espanola Plaza project to assist small businesses and enhance economic development; $1,000,000 shall be available for a grant to North Central West Virginia Community Action to establish a small business rural enterprise training institute and microloan demonstration program; $500,000 shall be available for a grant to the Mississippi Delta Small Business Technology Project, Little Rock, Arkansas, for technology education for small business owners and employees; and $250,000 shall be available for a grant to establish a small business incubator facility in West Charlotte, North Carolina.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $97,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $52,153,000, to remain available

until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the business area in which the disaster has occurred.

In addition, for administrative expenses to carry out the direct loan program, $78,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

In addition, for the cost of emergency disaster loans and associated administrative expenses, $125,000,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available beginning in fiscal year 1995 to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Budget Enforcement Act of 1990: *Provided further,* That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D).

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $5,369,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISIONS—SMALL BUSINESS ADMINISTRATION

SEC. 401. (a) Of the budgetary resources available to the Small Business Administration during fiscal year 1995, $1,021,000 are permanently canceled.

(b) The Administrator of the Small Business Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $415,000,000; of which $350,700,000 is for basic field programs; $9,390,000 is for Native American programs; $13,830,000 is for migrant programs; $1,435,000 is for law school clinics; $1,305,000 is for supplemental field programs; $870,000 is for regional training centers; $10,800,000 is for national support; $11,585,000 is for State support; $785,000 is for client initiatives; $1,145,000 is for the Clearinghouse; $655,000 is for computer assisted legal research regional centers; and $12,500,000 is for Corporation management and administration.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

SEC. 403. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1995, pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area, shall be distributed in the following order:

(1) Grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1995 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1994 pursuant to Public Law 103–121.

(2) 50 percent of new basic field funds shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee or contractor's fiscal year 1994 grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount.

(3) 50 percent of new basic field funds shall be allocated to grantees and contractors in an amount that is proportionate to the number of poor people in such grantee or contractor's service area as enumerated in the 1990 census.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101–515, and that all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions as set forth in section 607 of Public Law 101–515, except that the funding formulas and provisos 15, 20 and 22 shall not apply, and all references to "1991" in section 607 of Public Law 101–515 shall be deemed to be "1995", unless subparagraph (2) applies; and

(2) authorizing legislation for fiscal year 1995 for the Legal Services Corporation that is enacted into law.

Department of State and Related Agencies Appropriations Act, 1995.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration $1,731,416,000: *Provided,* That hereafter all receipts received from a new charge from expedited passport processing shall be deposited in this account as an offsetting collection and shall be available until expended: *Provided further,* That hereafter all receipts received from an increase in the charge for Immigrant Visas in effect on September 30, 1994, caused by processing an applicant's fingerprints, shall be deposited in this account as an offsetting collection and shall remain available until expended. Of the funds appropriated under this heading: not to exceed $4,000,000 shall be available for grants, contracts, and other activities to conduct research and promote international cooperation and environmental and other scientific issues; not to exceed $600,000 shall be available to carry out the activities of the Commission on Protecting and Reducing Government Secrecy; and not to exceed $300,000 shall be available to carry out activities of the Office of Cambodian Genocide Investigations. None of the funds appropriated under this heading shall be available to carry out the provisions of section 101(b)(2)(E) of Public Law 103–236.

22 USC 214 note.

8 USC 1356 note.

Of the funds provided under this heading, $28,356,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and $15,000,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service (DTS), except that such latter amount shall not be available for obligation until the expiration of the 15-day period beginning on the date on which the Secretary of State and the Director of the Diplomatic Telecommunications Service Program Office submit the DTS planning report required by section 507.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 502 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $385,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $23,850,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,780,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $9,579,000: *Provided,* That none of the funds appropriated in this paragraph shall be available to carry out section 101(b)(4)(A) of Public Law 103–236: *Provided further,* That of the funds appropriated in this paragraph, not to exceed $500,000 shall be available to carry out section 101(b)(4)(B) of Public Law 103–236.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $421,760,000 to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies. Of the funds made available in this paragraph not to exceed $117,864,000 shall be available for Maintenance of Buildings and Facility Rehabilitation.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e) $6,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,465,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $129,321,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a note.

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $877,222,000, of which not to exceed $4,000,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure pursuant to section 401(a)(2) of Public Law 103–236 until a certification is made under section 401(b) of said Act: *Provided further,* that certification under section 401(b) of Public Law 103–236 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: *Provided further*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by

such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $533,304,000, of which not to exceed $288,000,000 is available to pay arrearages accumulated in fiscal year 1994 and not to exceed $23,092,000 is available to pay other outstanding arrearages: *Provided*, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows: 22 USC 269a note.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $12,858,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary

Commission, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $10,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 501. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 502. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 503. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 504. (a) Of the budgetary resources available to the Department of State during fiscal year 1995, $5,566,000 are permanently canceled.

(b) The Secretary of State shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or

services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 505. Section 140 of Public Law 103–236 is amended— 8 USC 1182 note.

(1) by inserting after subsection (d)(3) the following new subsection (e):

"(e) FINGERPRINT CHECKS.—

"(1) Effective not later than March 31, 1995, the Secretary of State shall in the ten countries with the highest volume of immigrant visa issuance for the most recent fiscal year for which data are available require the fingerprinting of applicants over sixteen years of age for immigrant visas. The Department of State shall submit records of such fingerprints to the Federal Bureau of Investigation in order to ascertain whether such applicants previously have been convicted of a felony under State or Federal law in the United States, and shall pay all appropriate fees. Effective date.

"(2) The Secretary shall prescribe and publish such regulations as may be necessary to implement the requirements of this subsection, and to avoid undue processing costs and delays for eligible immigrants and the United States Government."; and Regulations. Publication.

(2) in subsections (d)(4) and (d)(5), by changing the word "procedure" to "procedures", by changing the words "this subsection" each time they appear to "subsections (d) and (e)", and by redesignating paragraphs (d)(4) and (d)(5), respectively, as subsections (f) and (g). *Ante.* p. 400, 401.

SEC. 506. (a) Section 212 of the Immigration and Nationality Act, as amended (U.S.C. 1182), is amended by adding at the end thereof the following new subsection (o): 8 USC 1182.

"(o) An alien who has been physically present in the United States shall not be eligible to receive an immigrant visa within ninety days following departure therefrom unless—

"(1) the alien was maintaining a lawful nonimmigrant status at the time of such departure, or

"(2) the alien is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

"(A) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986;

"(B) entered the United States before May 5, 1988, resided in the United States on May 5, 1988, and is not a lawful permanent resident; and

"(C) applied for benefits under section 301(a) of the Immigration Act of 1990.".

(b) Section 245 of the Immigration and Nationality Act, as amended (8 U.S.C. 1255), is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (a) and (c) of this section, an alien physically present in the United States who—

"(A) entered the United States without inspection; or

"(B) is within one of the classes enumerated in subsection (c) of this section,

may apply to the Attorney General for the adjustment of his or her status to that of an alien lawfully admitted for permanent residence. The Attorney General may accept such application only if the alien remits with such application a sum equalling five times the fee required for the processing of applications under this section as of the date of receipt of the application, but such sum shall not be required from a child under the age of seventeen, or an alien who is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

"(i) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986;

"(ii) entered the United States before May 5, 1988, resided in the United States on May 5, 1988, and is not a lawful permanent resident; and

"(iii) applied for benefits under section 301(a) of the Immigration Act of 1990. The sum specified herein shall be in addition to the fee normally required for the processing of an application under this section.

"(2) Upon receipt of such an application and the sum hereby required, the Attorney General may adjust the status of the alien to that of an alien lawfully admitted for permanent residence if—

"(A) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence; and

"(B) an immigrant visa is immediately available to the alien at the time the application is filed.

"(3) Sums remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in sections 286 (m), (n), and (o) of this title.".

Effective date. Termination date. 8 USC 1182 note.

(c) The provisions of these amendments to the Immigration and Nationality Act shall take effect on October 1, 1994 and shall cease to have effect on October 1, 1997.

8 USC 1255 note.

(d) The Immigration and Naturalization Service shall conduct full fingerprint identification checks through the Federal Bureau of Investigation for all individuals over sixteen years of age adjusting immigration status in the United States pursuant to this section.

22 USC 2669a.

SEC. 507. (a) DIPLOMATIC TELECOMMUNICATIONS SERVICE FINANCIAL MANAGEMENT.—In fiscal year 1995 and each succeeding fiscal year—

(1) the Secretary of State shall provide funds for the operation of the Diplomatic Telecommunications Service (DTS) in a sufficient amount to sustain the current level of support services being provided by the DTS, and no portion of such

amount may be reprogrammed or transferred for any other purpose;

(2) all funds for the operation and enhancement of the DTS shall be directly available for use by the Diplomatic Telecommunications Service Program Office (DTS–PO); and

(3) the DTS–PO financial management officer shall be provided direct access to the Department of State financial management system to independently monitor and control the obligation and expenditure of all funds for the operation and enhancement of the DTS.

(b) DTS POLICY BOARD.—Within 60 days after the date of the enactment of this Act, the Secretary of State and the Director of the DTS–PO shall restructure the DTS Policy Board to provide for representation on the Board, during fiscal year 1995 and each succeeding fiscal year, by—

(1) the Director of the DTS–PO;

(2) the senior information management official from each agency currently serving on the Board;

(3) a senior career information management official from each of the Department of Commerce, the United States Information Agency, and the Defense Intelligence Agency; and

(4) a senior career information management official from each of 2 other Federal agencies served by the DTS, each of whom shall be appointed on a rotating basis by the Secretary of State and the Director of the DTS–PO for a 2-year term.

(c) DTS CONSOLIDATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of State and the Director of the DTS–PO shall carry out a program under which total DTS consolidation will be completed before October 1, 1995, at not less than five embassies of medium to large size.

(2) PILOT PROGRAM REQUIREMENTS.—Under the program required in paragraph (1)—

(A) each participating embassy shall be provided with a full range of integrated information services, including message, data, and voice, without additional charge;

(B) a combined transmission facility shall be established and jointly operated, with open access to all unclassified transmission equipment;

(C) an unclassified packet switch communication system shall be installed and shall serve all foreign affairs agencies associated with the embassy;

(D) separate classified transmission systems (including MERCURY) shall be terminated; and

(E) all foreign affairs agency systems requiring international communications capability shall obtain such capability solely through the DTS.

(3) PILOT PROGRAM REPORT.—Not later than January 15, 1996, the Secretary of State and the Director of the DTS–PO shall submit to the Committees on Appropriations of the House and Senate a report describing the actions taken under the program required by this subsection. The report shall include a cost-benefit analysis for each embassy participating in the program.

(d) DTS PLANNING REPORT.—Not later than January 15, 1995, the Secretary of State and the Director of the DTS–PO shall submit to the Committees on Appropriations a DTS planning report. The report shall include—

(1) a detailed plan for carrying out the pilot program required by subsection (c), including an estimate of the funds required for such purpose; and

(2) a comprehensive DTS strategy plan that contains detailed plans and schedules for—

(A) an overall DTS network configuration and security strategy;

(B) transition of the existing dedicated circuits and classified transmission systems to the unclassified packet switch communications system;

(C) provision of a basic level of voice service for all DTS customers;

(D) funding of new initiatives and of replacement of current systems;

(E) combining existing DTS network control centers, relay facilities, and overseas operations; and

(F) reducing the extensive reliance of DTS–PO on the full-time services of contractors.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control and disarmament activities, $54,500,000, of which not less than $9,500,000 is available until expended only for activities related to the implementation of the Chemical Weapons Convention, and of which not to exceed $100,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.): *Provided,* That of the budgetary resources available in fiscal year 1995 in this account, $122,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99–83, section 1303.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception

and representation expenses, $42,500,000, to remain available until expended.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $476,362,000: *Provided,* That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $1,000,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535–1536: *Provided further,* That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That not to exceed $2,000,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of

1978, as amended (5 U.S.C. App. 3), and in accordance with the provisions of 31 U.S.C. 1105(a)(25), $4,300,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, Congress-Bundestag Exchange, and other educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $238,279,000, to remain available until expended as authorized by 22 U.S.C. 2455: *Provided,* That of the funds appropriated in this paragraph, $500,000 is available for the Mike Mansfield Fellowship Program.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

TRUST FUND

For payment to the Eisenhower Exchange Fellowship Program Trust Fund as authorized by the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), $2,500,000, to remain available until expended.

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated to be derived from interest and earnings from the Eisenhower Exchange Fellowship Program Trust Fund as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), $300,000 to remain available until expended: *Provided,* That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Nonprofit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1995, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $468,796,000, of which not to exceed $10,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3) and not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Informational and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes: *Provided,* That

$229,735,000 shall be transferred to the Board for International Broadcasting and shall remain available until expended for expenses authorized by the Board for International Broadcasting Act of 1973, as amended, of which not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That on the date upon which the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is repealed, as provided for by section 310(e) of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 (Public Law 103–236; 108 Stat. 442), funds made available for expenses of the Board for International Broadcasting shall be made available until expended only for expenses necessary to enable the Broadcasting Board of Governors to carry out the authorities provided in section 305(a) of Public Law 103–236, including the appointment of staff personnel as authorized by section 305(a)(11) of Public Law 103–236: *Provided further,* That such amounts appropriated to the Board for International Broadcasting in fiscal year 1994 as are certified by the Office of Management and Budget to the Congress as gains due to the fluctuation of foreign currency, may be used in fiscal year 1995 and thereafter either to offset foreign currency losses or to offset unfunded RFE/RL costs associated with the implementation of Public Law 103–236: *Provided further,* That obligated but unexpended balances appropriated in fiscal year 1990 to fund planned transmitter modernization expenses may be expended in fiscal year 1995 for unfunded RFE/RL costs associated with the implementation of Public Law 103–236: *Provided further,* That funds appropriated under this Act used by the Board for International Broadcasting or the Broadcasting Board of Governors to relocate offices or operations of RFE/RL, Incorporated, from Munich, Germany to Prague, Czech Republic, shall be made available only from funds provided for the Board for International Broadcasting in this paragraph: *Provided further,* That none of the funds provided by this Act for the United States Information Agency, except for amounts made available for transfer to the Board for International Broadcasting, shall be available for any excess cost to implement the plan required by section 310 of Public Law 103–236: *Provided further,* That no funds appropriated under this heading may be expended for the payment of retroactive operating costs, including rent on facilities, in Prague, or for the payment of operating costs prior to the date of signing a lease by RFE/RL, Incorporated: *Provided further,* That not less than the amount appropriated by this Act for the Office of Inspector General, Board for International Broadcasting shall be available for semiannual reviews of RFE/RL, Incorporated and that on-site review is maintained at the current level throughout the duration of the relocation transition.

22 USC 6212 note.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $85,314,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

RADIO FREE ASIA

For expenses necessary to carry out the Radio Free Asia program as authorized by section 309 of the International Broadcasting Act of 1994 (title III of the Foreign Relations Authorization Act of 1994, Public Law 103–236), $10,000,000, to remain available until expended.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.), and the International Broadcasting Act of 1994 (title III of the Foreign Relations Authorization Act of 1994, Public Law 103–236), including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000, to remain available until expended.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $24,500,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $4,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $34,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

(a) Of the budgetary resources available to the United States Information Agency during fiscal year 1995, $1,440,000 are permanently canceled.

(b) The Director of the United States Information Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1995".

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. (a) None of the funds made available in this Act may be used for the construction, repair (other than emergency

repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

(b) None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), conversion, or modernization of aircraft for the National Oceanic and Atmospheric Administration in facilities located outside the United States and Canada.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 609. No funds appropriated herein, or by any other Act, shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to deny or refuse entry into the United States of any goods on the United States Munitions List manufactured or produced in the People's Republic of China, for which authority had been granted to import into the United States, on or before May 26, 1994, and which were, on or before May 26, 1994, in a bonded warehouse or foreign trade zone, in port, or, as determined by the United States on a case-by-case basis, in transit.

42 USC 2000e-12 note.

SEC. 610. RELIGIOUS LIBERTY.

(a) FINDINGS.—The Congress finds that—

(1) the liberties protected by our Constitution include religious liberty protected by the first amendment;

(2) citizens of the United States profess the beliefs of almost every conceivable religion;

(3) Congress has historically protected religious expression even from governmental action not intended to be hostile to religion;

(4) the Supreme Court has written that "the free exercise of religion means, first and foremost, the right to believe and profess whatever religious doctrine one desires";

(5) the Supreme Court has firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the content of the ideas is offensive to some;

(6) Congress enacted the Religious Freedom Restoration Act of 1993 to restate and make clear again our intent and position that religious liberty is and should forever be granted

protection from unwarranted and unjustified government intrusions and burdens;

(7) the Equal Employment Opportunity Commission has written proposed guidelines to title VII of the Civil Rights Act of 1964, published in the Federal Register on October 1, 1993, that expand the definition of religious harassment beyond established legal standards set forth by the Supreme Court, and that may result in the infringement of religious liberty;

(8) such guidelines do not appropriately resolve issues related to religious liberty and religious expression in the workplace;

(9) properly drawn guidelines for the determination of religious harassment should provide appropriate guidance to employers and employees and assist in the continued preservation of religious liberty as guaranteed by the first amendment;

(10) the Commission states in its proposed guidelines that it retains wholly separate guidelines for the determination of sexual harassment because the Commission believes that sexual harassment raises issues about human interaction that are to some extent unique; and

(11) the subject of religious harassment also raises issues about human interaction that are to some extent unique in comparison to other harassment.

(b) CATEGORY OF RELIGIOUS HARASSMENT IN PROPOSED GUIDELINES.—For purposes of issuing final regulations under title VII of the Civil Rights Act of 1964 in connection with the proposed guidelines published by the Equal Employment Opportunity Commission on October 1, 1993 (58 Fed. Reg. 51266), the Chairperson of the Equal Employment Opportunity Commission shall ensure that—

(1) the category of religion shall be withdrawn from the proposed guidelines at this time;

(2) any new guidelines for the determination of religious harassment shall be drafted so as to make explicitly clear that symbols or expressions of religious belief consistent with the first amendment and the Religious Freedom Restoration Act of 1993 are not to be restricted and do not constitute proof of harassment;

(3) the Commission shall hold public hearings on such new proposed guidelines; and

(4) the Commission shall receive additional public comment before issuing similar new regulations.

Titles I through VI of this Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995".

TITLE VII—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATIONS

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, and for other purposes, namely:

CHAPTER I

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs" pursuant to the Public Works and Economic Development Assistance Act of 1965 as amended, to be used for grants to assist States and local communities in recovering from the flooding and damage caused by Tropical Storm Alberto and other disasters, $50,000,000 to remain available until expended; and in addition $5,000,000 to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans for the Northridge earthquake, the flooding and other damage caused by Tropical Storm Alberto in Georgia, Alabama, and Florida, and other disasters and associated administrative expenses, $470,000,000, which shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, to remain available until expended: *Provided,* That of this amount, not to exceed $135,000,000 is for administrative expenses of such loans, including not to exceed $2,500,000 for the Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program, and said sums may be transferred to and merged with appropriations for "Salaries and expenses" and "Office of Inspector General": *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

Under the head, "Federal-Aid Highways, Emergency Relief Program (Highway Trust Fund)" in title I of Public Law 103–211, delete beginning after "$950,000,000;" through "by the President to the Congress, all".

CHAPTER II

SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING OPERATIONS

For an additional amount for "Contributions for International Peacekeeping Operations", $670,000,000 to be available for obligation and expenditure through September 30, 1994: *Provided,* That 50 percent of this amount shall be withheld from obligation and expenditure pursuant to section 401(a)(3) of Public Law 103–236 until a certification is made pursuant to section 401(b) of said Act.

TITLE VIII

Violent Crime Control Appropriations Act, 1995.

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance to carry out the provisions of subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Acts of 1968, as amended, notwithstanding the provisions of section 511 of said Act, $450,000,000, to remain available until expended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program.

STATE CRIMINAL RECORDS UPGRADE

For grants, contracts, cooperative agreements, and other assistance authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, Public Law 103–159 (107 Stat. 1536), $100,000,000, to remain available until expended, of which up to $6,000,000 may be used for implementation of the Federal Bureau of Investigation's National Instant Background Check System: *Provided,* That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

STATE CORRECTIONAL GRANTS

For grants to States to develop, construct, or expand military style boot camp prison programs which include coordinated, inten-

sive aftercare services for inmates following release, $24,500,000, to remain available until expended: *Provided,* That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

DRUG COURTS

For grants, contracts, cooperative agreements, and other assistance to implement drug court programs which combine intensive probationary supervision and mandatory drug testing and treatment as an alternative punishment for young, non-violent drug offenders, $29,000,000, to remain available until expended: *Provided,* That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

For grants, contracts, cooperative agreements, and other assistance to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving crimes against women, $26,000,000, to remain available until expended: *Provided,* That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

OUNCE OF PREVENTION COUNCIL

For grants by the Ounce of Prevention Council, $1,500,000, to remain available until expended.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

Regulations
8 USC 1365
note.

For necessary expenses, as authorized by section 501 of the Immigration Reform and Control Act of 1986, as amended (8 U.S.C. 1365), $130,000,000, to remain available until expended: *Provided,* That the Attorney General shall promulgate regulations to (a) prescribe requirements for program participation eligibility for States, (b) require verification by States of the eligible incarcerated population data with the Immigration and Naturalization Service, (c) prescribe a formula for distributing assistance to eligible States, and (d) award assistance to eligible States: *Provided further,* That of the amount appropriated herein, one-third shall be distributed on a preliminary basis no later than 120 days after the beginning of the fiscal year, according to regulations promulgated by the Attorney General: *Provided further,* That the remaining two-thirds of the amount appropriated herein shall be distributed after final application for program participation to be submitted by the States by September 30, 1995: *Provided further,* That not to exceed one percentum of the amount appropriated herein shall be available for salaries and expenses for management and administration to be transferred to and merged with the appropriations for Justice Assistance.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

In addition to amounts otherwise made available in this Act, for necessary expenses of the Executive Office for Immigration Review associated with the President's Immigration Initiative, $17,400,000, of which not to exceed $6,000,000 shall remain available until expended.

COMMUNITY POLICING

For grants, contracts, cooperative agreements, and other assistance for the Cops on the Beat Program, $1,300,000,000, to remain available until expended, of which $200,000,000 shall be available to the Bureau of Justice Assistance to make awards to jurisdictions pursuant to the police hiring grant program provided in the supplemental appropriation for Justice Assistance contained in the Supplemental Appropriations Act of 1993 (Public Law 103–50, 107 Stat. 246): *Provided*, That not to exceed $11,000,000 of the amount appropriated herein shall be available for salaries and expenses for program administration, of which $900,000 shall be transferred to and merged with the management and administration program of the Justice Assistance appropriation.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

In addition to amounts otherwise made available in this Act for "Salaries and Expenses, General Legal Activities", $4,600,000 for necessary expenses of the Civil Division associated with the President's Immigration Initiative, of which not to exceed $1,500,000 shall remain available until expended.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

In addition to amounts otherwise made available in this Act for "Salaries and Expenses, United States Attorneys", $6,800,000 for necessary expenses associated with the President's Immigration Initiative, of which not to exceed $2,000,000 shall remain available until expended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

In addition to amounts otherwise made available under this heading in this Act for "Salaries and Expenses", $100,600,000 to implement the President's Immigration Initiative, of which not to exceed $32,000,000 shall remain available until expended.

BORDER CONTROL SYSTEM MODERNIZATION

For the development, testing, evaluation and procurement of new automation and communications systems and other new technologies necessary for the administration and enforcement of the laws relating to immigration, naturalization and alien registration, not otherwise provided for, $154,600,000, to remain available until expended.

GENERAL PROVISION

Upon enactment of a bill establishing the Violent Crime Reduction Trust Fund and reducing discretionary spending limits, amounts made available under each heading under this title shall be rescinded, and an amount equal to the amount under each such heading shall be made available from such Trust Fund under the same terms and conditions contained in this title. Obligations and outlays incurred prior to the establishment of such Trust Fund shall, after enactment, be recorded against amounts made available from the Trust Fund under the appropriate heading as if such obligations and outlays had originally been made from such Trust Fund.

This title may be cited as the "Violent Crime Control Appropriations Act, 1995".

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 4603:

HOUSE REPORTS: Nos. 103-552 (Comm. on Appropriations) and 103-708 (Comm. of Conference).
SENATE REPORTS: No. 103-309 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 23, 24, 27, considered and passed House.
July 21, 22, considered and passed Senate, amended.
Aug. 18, House agreed to conference report.
Aug. 19, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Aug. 26, Presidential statement.

Public Law 103-318
103d Congress

An Act

To establish the Northern Great Plains Rural Development Commission, and for other purposes.

Aug. 26, 1994
[S. 2099]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Northern Great Plains Rural Development Act.
7 USC 2661 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Great Plains Rural Development Act".

SEC. 2. FINDINGS.

7 USC 2661 note.

Congress finds that—

(1) the rural economy of the Northern Great Plains is undergoing a substantial and potentially threatening transformation;

(2) the rural Northern Great Plains suffers from substantial measurable poverty, unemployment, outmigration, underemployment, aging of the population, and low per capita income;

(3) the Northern Great Plains is highly rural and has a highly dispersed population, and contains many Native American reservations;

(4) many of the basic industries of the rural Northern Great Plains in natural resources are under stress;

(5) a concerted Federal, State, and local public and private effort is needed if the rural Northern Great Plains is to share in the general prosperity of the United States;

(6) the creation of jobs and expansion of existing businesses, including small businesses, offer the greatest hope for rural economic growth and revitalization in the Northern Great Plains;

(7) the availability of capital, technology, market information, infrastructure development, educational opportunities, health care, housing, recreational activities, and resource development are essential to successful business development in the rural Northern Great Plains;

(8) the transportation needs of the rural Northern Great Plains must be addressed through highway and bridge construction, air service availability, and rail service and river transport development;

(9) because of the social, geographic, weather, historical, and cultural ties of the rural Northern Great Plains as well as common economic problems, planning for this unique region is desirable and urgently needed; and

(10) in the rural Northern Great Plains, the tourism industry offers significant additional potential for supporting economic development and job growth, fostered by the wise stewardship of natural resources.

7 USC 2661 note. **SEC. 3. PURPOSE.**

The purpose of this Act is to establish the Northern Great Plains Rural Development Commission to study and make recommendations regarding the economic needs and economic development of the rural Northern Great Plains by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, businesses, and other entities in developing a 10-year rural economic development plan for the Northern Great Plains.

7 USC 2661 note. **SEC. 4. DEFINITIONS.**

As used in this Act:

(1) CHAIRPERSON.—The term "chairperson" means the chairperson of the Commission.

(2) COMMISSION.—The term "Commission" means the Northern Great Plains Rural Development Commission.

(3) NORTHERN GREAT PLAINS.—The term "Northern Great Plains" means the States of North Dakota, South Dakota, Nebraska, Iowa, and Minnesota.

(4) STATE.—The term "State" means a State in the Northern Great Plains.

7 USC 2661 note. **SEC. 5. ESTABLISHMENT.**

There is established a Commission to be known as the "Northern Great Plains Rural Development Commission".

7 USC 2661 note. **SEC. 6. MEMBERSHIP AND ORGANIZATION.**

(a) MEMBERSHIP.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the Governor of each State; and

(2) 1 member shall be appointed from each of the States by the Secretary of Agriculture.

(b) TERM.—Each member of the Commission shall serve for such term as the official who appoints the member determines is appropriate.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but the Commission may establish that a lesser number shall constitute a quorum for the purpose of conducting hearings.

(d) MEETINGS.—

(1) FIRST MEETINGS.—Five or more members appointed under subsection (a)(1) shall determine the date, time, and place of the first meeting, and shall call the first meeting. At the first meeting, the members of the Commission shall appoint a chairperson from among the members appointed under subsection (a)(1). The first meeting of the Commission shall be held not later than 45 days after the date of enactment of this Act.

(2) ADDITIONAL MEETINGS.—The Commission shall conduct such additional meetings as the Commission determines are appropriate.

(e) APPOINTMENTS.—Each appointment under this Act shall be made not later than 30 days after the date of enactment of this Act.

(f) VACANCIES.—A vacancy on the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(g) HEADQUARTERS.—The Commission shall establish the location for the headquarters of the Commission.

SEC. 7. DUTIES. 7 USC 2661 note.

(a) PLAN.—The Commission shall identify and study the economic development, infrastructure, technology, telecommunications, capital, employment, transportation, business resource development, education, health care, housing, and recreation needs of the Northern Great Plains and develop a 10-year plan that makes recommendations and establishes priorities to address the needs.

(b) PREPARATION OF PLAN.—In developing the plan, the Commission shall, with respect to the Northern Great Plains—

(1) sponsor and conduct investigations, research studies, and field hearings;

(2) review and evaluate available research, studies, and information on conditions in the areas referred to in subsection (a);

(3) study the economy, identifying strengths, weaknesses, participation levels, opportunities, and methods of addressing outmigration;

(4) develop a profile of, and a description of resources devoted to, economic development (including tourism), human resources (including demographics, outmigration, poverty, Native Americans, education, and training), infrastructure (including air, water, highway, rail, and telecommunications), and natural resources;

(5) study and evaluate the economic development resources, coordination, collaboration, and "best practices" of the Federal, State, and local governments, nonprofit organizations, universities, businesses, agricultural and natural resources groups, foundations, cooperatives, and other organizations;

(6) identify methods of facilitating the employment and business startups of unemployed, underemployed, and low-income individuals and households;

(7) identify effective methods for promoting development on Native American reservations;

(8) study the availability of methods of delivering public, private, and nonprofit capital and technical assistance for business startups and expansions, including farming and ranching;

(9) evaluate the availability of, need for, and strategies for providing and maintaining, the infrastructure, including air, water, highway, rail, and telecommunications;

(10) study the structure and potential development of major industries, including agriculture, timber, mining, tourism, and manufacturing (including the use of advanced technologies and processes and adding value to raw materials and component parts);

(11) study the competence and availability of the labor force, including the health, educational, training, housing, and economic needs of the labor force;

(12) develop an inventory of water, mineral, energy, timber, agricultural, fishery, wildlife, and other natural resources;

(13) assess the comparative cost of doing business;

(14) assess the international trading levels, markets, and practices, and potential opportunities;

(15) assess the interconnection between metropolitan and rural areas and identify methods through which the areas can collaborate;

(16) assess methods by which small communities and regions are collaborating or can collaborate in economic development initiatives;

(17) evaluate—

(A) the distribution and impact of Federal spending, including grant-in-aid programs, research, and Federal procurement, and compare the level of spending in these categories with spending in other regions of the country; and

(B) the extent to which reliance on Federal, State, and local government outlays for poverty programs can be reduced by outlays targeted for economic development;

(18) identify Federal, State, and local government programs, policies, and regulations that enhance or obstruct the development of businesses and well-paying jobs with long-term potential and that effectively use the skills, education, and training of the labor force;

(19) evaluate the potential for States to jointly finance projects and activities of regional benefit; and

(20) analyze such other issues as the Commission determines are relevant to future economic development.

(c) DEVELOPMENT OF PLAN.—In developing the plan, the Commission shall—

(1) provide a forum for the consideration of the problems of the rural Northern Great Plains and proposed solutions, and establish and utilize citizens groups, special advisory councils, public hearings, and conferences;

(2) seek and encourage the participation of interested citizens, public officials, groups, agencies, economic development organizations, natural resource organizations, and other organizations;

(3) make the Commission accessible to the individuals, groups, agencies, and organizations referred to in paragraph (2) by holding at least 1 well publicized public hearing in each State; and

(4) consult with—

(A) Federal, State, and local government agencies, including the Departments of Agriculture, Commerce, Education, Labor, Health and Human Services, Housing and Urban Development, and Transportation, and the Small Business Administration, bank regulatory agencies, and rural development councils;

(B) banks, insurance companies, venture capital companies, and other for-profit financial institutions;

(C) nonprofit and community-based development organizations, revolving loan funds, and other organizations;

(D) industry and sectoral organizations;

(E) foundations and universities; and

(F) other organizations involved in economic development activities.

SEC. 8. COMPENSATION OF MEMBERS. 7 USC 2661 note.

(a) MEMBERS APPOINTED BY GOVERNORS.—Each member of the Commission appointed by a Governor of a State may be compensated by the State that the member represents.

(b) MEMBERS APPOINTED BY THE SECRETARY.—Each member appointed by the Secretary of Agriculture, who is not otherwise employed by the United States Government, shall receive compensation at a rate determined by the Secretary of not to exceed the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day the member is engaged in the actual performance of the duties of the Commission. A member of the Commission appointed by the Secretary who is an officer or employee of the United States Government shall serve without additional compensation.

(c) TRAVEL AND OTHER EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Commission. Each member of the Commission shall also be reimbursed by the United States Government for other necessary expenses incurred by the member in the performance of the duties of the member.

SEC. 9. POWERS AND ADMINISTRATIVE PROVISIONS. 7 USC 2661 note.

(a) EXPERTS AND CONSULTANTS.—The Commission may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Commission may enter into agreements with the Administrator of General Services for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as are agreed on by the chairperson and the Administrator of General Services.

(c) CONTRACTS.—Subject to subsection (d), the Commission may enter into contracts with Federal and State agencies and private firms, institutions, and agencies for the conduct of research and surveys, the preparation of reports, and other activities necessary to carry out the duties of the Commission.

(d) SUPPLIES, SERVICES, PROPERTY, AND CONTRACTS.—The Commission may procure supplies, services, and property, and make contracts in any fiscal year, only to such extent and in such amounts as are provided in appropriation Acts.

(e) HEARINGS.—The Commission or, on the authorization of the Commission, a member of the Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, memoranda, papers, and documents as the Commission or the member considers appropriate.

(f) INFORMATION.—The Commission may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each department, bureau, agency, board, commission, office, establishment, or instrumentality shall provide, to the extent per-

mitted by law, the information, suggestions, estimates, and statistics directly to the Commission, upon request by the chairperson.

(g) PERSONNEL.—

(1) IN GENERAL.—Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the chairperson of the Commission may appoint, terminate, and fix the compensation of an Executive Director and such additional personnel as the chairperson determines are necessary to enable the Commission to carry out the duties of the Commission.

(2) COMPENSATION.—The rate of compensation of the Executive Director may not exceed a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title. The rate of compensation of all other personnel may not exceed a rate equal to the daily equivalent of the lowest annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of such title.

(h) ASSISTANCE FROM OTHER AGENCIES.—Upon request of the Commission, the head of any Federal agency may make any of the facilities and services of the agency available to the Commission or detail any of the personnel of the agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out the duties of the Commission under this Act. If the head of an agency determines that the agency cannot make the facilities, services, or personnel available to the Commission, the head shall notify the chairperson in writing.

(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

7 USC 2661 note.

SEC. 10. REPORTS.

(a) INTERIM REPORT.—Before the end of the 270-day period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit a report to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, describing the findings and activities of the Commission and the further activities necessary to carry out the duties of the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the first meeting of the Commission under section 6(d)(1), the Commission shall submit to the Secretary of Agriculture, the President pro tempore of the Senate, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Speaker of the House of Representatives, the Committee on Agriculture of the House of Representatives, the President, and the Governor of each State, a report describing the findings and activities of the Commission and recommendations in accordance with paragraph (2) regarding specific actions that are necessary to promote the economic development of the rural Northern Great Plains while preserving,

to the maximum extent possible, the natural beauty and habitat of the Northern Great Plains.

(2) RECOMMENDATIONS.—

(A) REGIONAL COLLABORATION.—The Commission shall, with respect to the Northern Great Plains—

(i) determine the most effective and appropriate method for ensuring continued collaboration within the region on economic development matters, considering regional compacts, cooperatives, foundations, development corporations, and other agreements and organizations;

(ii) identify the organizational structure, method of financing, functions, and participating organizations, of the collaboration referred to in clause (i);

(iii) identify methods of effective multi-community, substate, and small region development; and

(iv) assess the interconnection between metropolitan and rural areas and identify methods of collaboration between the areas.

(B) BUSINESS DEVELOPMENT.—The Commission shall, with respect to the rural Northern Great Plains—

(i) recommend methods of diversifying the rural economy, including the development and financing of value-added and new-use agricultural products;

(ii) develop methods to promote and finance beginning owner-occupied farming and ranching operations;

(iii) recommend methods of promoting entrepreneurial development, including business startups and expansions;

(iv) recommend methods in which the public, private, and nonprofit sectors can help increase international trading levels and penetrate new markets in agricultural, manufactured, and service products;

(v) evaluate the potential utility of business and manufacturing networks in target sectors;

(vi) assess the competitiveness of manufacturers and the use of modern technology, processes, and information by the manufacturers, and methods of assisting manufacturers lacking the technology, processes, or information;

(vii) recommend methods in which capital and technical assistance can be provided on a regional or sectoral basis to business startups and expansions by public, private, and nonprofit organizations; and

(viii) recommend ways in which Federal and State resource conservation programs can be used to encourage tourism in the region.

(C) CAPITAL.—The Commission shall, with respect to the rural Northern Great Plains—

(i) determine if there are capital needs in the economy, and in what part of the economy the needs are located, and recommend how governmental, nonprofit, cooperative, community-based, microlending, banking, venture, seed, and nonbanking financing sources can assist in meeting the needs;

(ii) identify such strategies in organization, regulations, policy, marketing, and coordination as are

needed to implement a plan to meet the needs referred to in clause (i); and

(iii) recommend methods of utilizing secondary financial markets to increase the capital available for business development.

(D) INFRASTRUCTURE.—The Commission shall, with respect to the rural Northern Great Plains—

(i) prepare a plan to preserve, finance, and operate effective freight railroad service in coordination with States, the Federal Railroad Administration, the Interstate Commerce Commission, rail operators, shippers, and the financial community;

(ii) prepare an assessment and agreement on the capital needs, coordination, and financing of telecommunications infrastructure, in cooperation with the Department of Agriculture, the National Telecommunications and Information Administration of the Department of Commerce, the Federal Communications Commission, the public utilities commission of each State, telephone companies and cooperatives, representative users, and such other entities as the Commission determines are appropriate; and

(iii) recommend strategies for addressing air, water, and highway needs.

(E) HUMAN RESOURCES.—The Commission shall, with respect to the rural Northern Great Plains—

(i) identify methods of facilitating the employment and business startups of individuals who are not effectively participating in the labor force, including unemployed, underemployed, and low-income individuals and households;

(ii) identify methods of coordinating on a regional or sectoral basis education and training programs that are tied to economic development initiatives, especially programs that address the outmigration of youth; and

(iii) study the competence and availability of the labor force and the effects of the health, educational, training, housing, and economic needs of the labor force, and identify regional strategies addressing the needs.

(F) GOVERNMENT PROGRAMS, POLICIES, AND REGULATIONS.—The Commission shall submit to the appropriate government, nonprofit, and private sector organizations recommendations for modifications or additions to the programs, policies, and regulations referred to in section 7(b)(18) to promote the rural development of the Northern Great Plains.

SEC. 11. TERMINATION. 7 USC 2661 note.

The Commission shall terminate on the earlier of—

(1) 120 days after the date of submission of the final report under section 10; and

(2) 2 years after the date of enactment of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS. 7 USC 2661 note.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved August 26, 1994.

LEGISLATIVE HISTORY—S. 2099:

HOUSE REPORTS: No. 103-700 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 22, considered and passed Senate.
Aug. 12, considered and passed House.

Public Law 103-319
103d Congress
Joint Resolution

Aug. 26, 1994
[S.J. Res. 153]

To designate the week beginning on November 20, 1994 and ending on November 26, 1994, as "National Family Caregivers Week".

Whereas the number of Americans who are age 65 or older is growing dramatically, with an unprecedented increase in the number of frail elderly age 85 or older;

Whereas approximately 5,200,000 older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide help to older persons with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities, and therefore need information about available community resources for respite care and other support services;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing older persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on November 20, 1994 and ending on November 26, 1994, is designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved August 26, 1994.

LEGISLATIVE HISTORY—S.J. Res. 153:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 24, considered and passed Senate.
Aug. 5, considered and passed House, amended.
Aug. 12, Senate concurred in House amendments.

Public Law 103-320
103d Congress

Joint Resolution

Designating September 16, 1994, as "National POW/MIA Recognition Day" and authorizing display of the National League of Families POW/MIA flag.

Aug. 26, 1994
[S.J. Res. 196]

Whereas the United States has fought in many wars and thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer tragic and continuing hardships;

Whereas, in the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of the Americans whom are still missing in action and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 16, 1994, is designated "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2. REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed, as a symbol of the concern and commitment of the United States to accounting, as fully as possible, for Americans whom are still prisoners of war, missing in action, or unaccounted for and to ending the uncertainty for their families and the Nation—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1994 (Memorial Day), September 16, 1994 (National POW/MIA Recognition Day), and November 11, 1994 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 16, 1994.

(b) BUILDINGS.—The buildings specified in this subsection are—

(1) the White House;

(2) the Capitol Building; and

(3) the buildings containing the primary offices of the—

(A) Secretary of State;

(B) Secretary of Defense;

(C) Secretary of Veterans Affairs; and

(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of the Joint Resolution entitled "Joint Resolution designating September 21, 1990, as 'National POW/MIA Recognition Day', and recognizing the National League of Families POW/MIA flag", approved August 10, 1990 (36 U.S.C. 189).

Approved August 26, 1994.

LEGISLATIVE HISTORY—S.J. Res. 196:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 2, considered and passed Senate.
Aug. 12, considered and passed House.

Public Law 103-321
103d Congress

An Act

To amend the Commemorative Works Act, and for other purposes.

Aug. 26, 1994
[H.R. 2947]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF LEGISLATIVE AUTHORITY FOR MEMORIAL ESTABLISHMENT.

40 USC 1003 note.

(a) IN GENERAL.—The legislative authority for each of the following groups to establish a commemorative work (as defined by Public Law 99–652, as amended) shall expire at the end of the 10-year period beginning on the date of enactment of such authority for the respective commemorative work, notwithstanding the time period limitation specified in section 10(b) of that Public Law:

(1) The Black Revolutionary War Patriots Foundation.

(2) The Women in Military Service for America Memorial Foundation.

(3) The National Peace Garden.

(b) NAME CHANGE.—(1) The Congress finds that the Peace Garden Project, Incorporated, has changed its name to the National Peace Garden.

(2) Any reference in a law, map, regulation, document, paper, or other record of the United States to the entity referred to in paragraph (1) shall be deemed to be a reference to the National Peace Garden.

SEC. 2. COMMEMORATIVE WORKS ACT AMENDMENTS.

(a) DEFINITIONS.—(1) Section 2(c) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" (40 U.S.C. 1002(c)) is amended—

(A) by inserting "plaque, inscription," after "memorial,";

(B) by striking out "a person" and inserting in lieu thereof "an individual"; and

(C) by inserting "American" before "history".

(2) Section 2(d) of such Act (40 U.S.C. 1002(d)) is amended by striking "an individual, group or organization" and inserting "a public agency, and an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is".

(b) AUTHORIZATION.—Section 3 of such Act (40 U.S.C. 1003) is amended as follows:

(1) In subsection (a), by inserting "on Federal lands referred to in section 1(d)" after "established".

(2) By redesignating subsection (b) as subsection (d) and inserting after subsection (a) the following new subsections:

"(b) A military commemorative work may be authorized only to commemorate a war or similar major military conflict or to commemorate any branch of the Armed Forces. No commemorative work commemorating a lesser conflict or a unit of an Armed Force shall be authorized. Commemorative works to a war or similar major military conflict shall not be authorized until at least 10 years after the officially designated end of the event.

"(c) A commemorative work commemorating an event, individual, or group of individuals, other than a military commemorative work as described in subsection (b) of this section, shall not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.".

(c) SPECIFIC CONDITIONS APPLICABLE TO AREAS I AND II.—Section 6 of such Act (40 U.S.C. 1006) is amended to read as follows:

"SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II

"SEC. 6. (a) AREA I.—The Secretary or Administrator (as appropriate) may, after seeking the advice of the National Capital Memorial Commission, recommend the location of a commemorative work in Area I only if the Secretary or Administrator (as appropriate) determines that the subject of the commemorative work is of preeminent historical and lasting significance to the Nation. The Secretary or Administrator (as appropriate) shall notify the National Capital Memorial Commission and the committees of Congress specified in section 3(b) of the recommendation by the Secretary or Administrator (as appropriate) that a commemorative work should be located in Area I. The location of a commemorative work in Area I shall be deemed not authorized, unless, not later than 150 calendar days after such notification, the recommendation is approved by law.

"(b) AREA II.—Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.".

(d) SITE AND DESIGN APPROVAL.—Section 7 of such Act (40 U.S.C. 1007) is amended—

(1) in the matter preceding paragraph (1) of subsection (a), by striking out "commencing construction of the commemorative work" and inserting in lieu thereof "requesting the permit for the construction of the commemorative work";

(2) in paragraph (1) of subsection (a)—

(A) by inserting "the selection of alternative sites and designs for" after "regarding"; and

(B) by striking out the second sentence;

(3) in paragraph (2) of subsection (a), by striking out "and the Secretary or Administrator (as appropriate)"; and

(4) in the matter preceding paragraph (1) of subsection (b), by inserting "(but not limited by)" after "guided by".

(e) CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT.—(1) Section 8(a)(3) of such Act (40 U.S.C. 1008(a)(3)) is amended by striking out "contracts for construction and drawings" and inserting in lieu thereof "contract documents for construction".

(2) Section 8 of such Act (40 U.S.C. 1008) is amended by adding at the end the following:

"(c)(1) The Secretary or the Administrator (as appropriate) may suspend any activity under the authority of this Act with respect to the establishment of a commemorative work if the Secretary or Administrator determines the fundraising efforts with respect to the commemorative work have misrepresented an affiliation with the commemorative work or the United States.

"(2) The person shall be required to submit to the Secretary or Administrator an annual report of operations, including financial statements audited by an independent certified public accountant, paid for by the person authorized to construct the commemorative work.". Reports.

(f) TEMPORARY SITE DESIGNATION.—Section 9(a) of such Act (40 U.S.C. 1009(a)) is amended by striking out "he may designate such a site on lands administered by him" and inserting in lieu thereof "a site may be designated on lands administered by the Secretary".

(g) MISCELLANEOUS PROVISIONS.—Section 10(d) of such Act (40 U.S.C. 1010(d)) is amended to read as follows:

"(d) The Secretary and the Administrator shall develop appropriate regulations or standards to carry out this Act.". Regulations.

(h) SHORT TITLE.—Such Act is amended by adding at the end the following new section: 40 USC 1001 note.

"SHORT TITLE

"SEC. 11. This Act may be cited as the 'Commemorative Works Act'.". Commemorative Works Act.

Approved August 26, 1994.

LEGISLATIVE HISTORY—H.R. 2947:

HOUSE REPORTS: No. 103-400 (Comm. on Natural Resources)
SENATE REPORTS: No. 103-247 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 22, considered and passed House.
Vol. 140 (1994): Apr. 12, considered and passed Senate, amended.
Aug. 16, House concurred in Senate amendments.

Public Law 103-322
103d Congress

An Act

Sept. 13, 1994
[H.R. 3355]

To control and prevent crime.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Violent Crime Control and Law Enforcement Act of 1994.
Intergovernmental relations.
42 USC 13701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control and Law Enforcement Act of 1994".

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Sec. 330005. Correction of drafting error in the Foreign Corrupt Practices Act.
Sec. 330006. Elimination of redundant penalty provision in 18 U.S.C. 1116.
Sec. 330007. Elimination of redundant penalty.
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Sec. 330016. Correction of misleading and outmoded fine amounts in offenses under title 18.
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Sec. 330019. Technical errors in section 1956.
Sec. 330020. Technical error.
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Sec. 330022. Margin error.
Sec. 330023. Technical corrections relating to section 248 of title 18, United States Code.
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Sec. 330025. Victims of Crime Act.

TITLE I—PUBLIC SAFETY AND POLICING

Public Safety Partnership and Community Policing Act of 1994.

SEC. 10001. SHORT TITLE.

42 USC 3711 note.

This title may be cited as the "Public Safety Partnership and Community Policing Act of 1994".

SEC. 10002. PURPOSES.

42 USC 3796dd note.

The purposes of this title are to—

(1) substantially increase the number of law enforcement officers interacting directly with members of the community ("cops on the beat");

(2) provide additional and more effective training to law enforcement officers to enhance their problem solving, service, and other skills needed in interacting with members of the community;

(3) encourage the development and implementation of innovative programs to permit members of the community to assist State, Indian tribal government, and local law enforcement agencies in the prevention of crime in the community; and

(4) encourage the development of new technologies to assist State, Indian tribal government, and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime,

by establishing a program of grants and assistance in furtherance of these objectives, including the authorization for a period of 6 years of grants for the hiring and rehiring of additional career law enforcement officers.

SEC. 10003. COMMUNITY POLICING; "COPS ON THE BEAT".

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

42 USC 3797.

(2) by redesignating section 1701 as section 1801; and
(3) by inserting after part P the following new part:

"PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

42 USC 3796dd.

"SEC. 1701. AUTHORITY TO MAKE PUBLIC SAFETY AND COMMUNITY POLICING GRANTS.

"(a) GRANT AUTHORIZATION.—The Attorney General may make grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia thereof to increase police presence, to expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise to enhance public safety.

"(b) REHIRING, HIRING, AND INITIAL REDEPLOYMENT GRANT PROJECTS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for programs, projects, and other activities to—

"(A) rehire law enforcement officers who have been laid off as a result of State and local budget reductions for deployment in community-oriented policing;

"(B) hire and train new, additional career law enforcement officers for deployment in community-oriented policing across the Nation; and

"(C) procure equipment, technology, or support systems, or pay overtime, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that would result from a grant for a like amount for the purposes specified in subparagraph (A) or (B).

"(2) GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.—Grants pursuant to paragraph (1)(C)—

"(A) may not exceed—

"(i) 20 percent of the funds available for grants pursuant to this subsection in fiscal year 1995;

"(ii) 20 percent of the funds available for grants pursuant to this subsection in fiscal year 1996; or

"(iii) 10 percent of the funds available for grants pursuant to this subsection in fiscal years 1997, 1998, 1999, and 2000; and

"(B) may not be awarded in fiscal years 1998, 1999, or 2000 unless the Attorney General has certified that grants awarded in fiscal years 1995, 1996, and 1997 pursuant to subparagraph (1)(C) have resulted in an increase in the number of officers deployed in community-oriented policing equal to or greater than the increase in the number of officers that have resulted from the grants in like amounts awarded in fiscal years 1995, 1996, and 1997 pursuant to paragraph (1) (A) and (B).

"(c) TROOPS-TO-COPS PROGRAMS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career law enforcement officers for deployment in commu-

nity-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

"(2) DEFINITION.—In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

"(d) ADDITIONAL GRANT PROJECTS.—Grants made under subsection (a) may include programs, projects, and other activities to—

"(1) increase the number of law enforcement officers involved in activities that are focused on interaction with members of the community on proactive crime control and prevention by redeploying officers to such activities;

"(2) provide specialized training to law enforcement officers to enhance their conflict resolution, mediation, problem solving, service, and other skills needed to work in partnership with members of the community;

"(3) increase police participation in multidisciplinary early intervention teams;

"(4) develop new technologies to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime;

"(5) develop and implement innovative programs to permit members of the community to assist State and local law enforcement agencies in the prevention of crime in the community, such as a citizens' police academy, including programs designed to increase the level of access to the criminal justice system enjoyed by victims, witnesses, and ordinary citizens by establishing decentralized satellite offices (including video facilities) of principal criminal courts buildings;

"(6) establish innovative programs to reduce, and keep to a minimum, the amount of time that law enforcement officers must be away from the community while awaiting court appearances;

"(7) establish and implement innovative programs to increase and enhance proactive crime control and prevention programs involving law enforcement officers and young persons in the community;

"(8) develop and establish new administrative and managerial systems to facilitate the adoption of community-oriented policing as an organization-wide philosophy;

"(9) establish, implement, and coordinate crime prevention and control programs (involving law enforcement officers working with community members) with other Federal programs that serve the community and community members to better address the comprehensive needs of the community and its members; and

"(10) support the purchase by a law enforcement agency of no more than 1 service weapon per officer, upon hiring for deployment in community-oriented policing or, if necessary, upon existing officers' initial redeployment to community-oriented policing.

"(e) PREFERENTIAL CONSIDERATION OF APPLICATIONS FOR CERTAIN GRANTS.—In awarding grants under this part, the Attorney General may give preferential consideration, where feasible, to applications for hiring and rehiring additional career law enforce-

ment officers that involve a non-Federal contribution exceeding the 25 percent minimum under subsection (i).

"(f) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Attorney General may provide technical assistance to States, units of local government, Indian tribal governments, and to other public and private entities, in furtherance of the purposes of the Public Safety Partnership and Community Policing Act of 1994.

"(2) MODEL.—The technical assistance provided by the Attorney General may include the development of a flexible model that will define for State and local governments, and other public and private entities, definitions and strategies associated with community or problem-oriented policing and methodologies for its implementation.

"(3) TRAINING CENTERS AND FACILITIES.—The technical assistance provided by the Attorney General may include the establishment and operation of training centers or facilities, either directly or by contracting or cooperative arrangements. The functions of the centers or facilities established under this paragraph may include instruction and seminars for police executives, managers, trainers, supervisors, and such others as the Attorney General considers to be appropriate concerning community or problem-oriented policing and improvements in police-community interaction and cooperation that further the purposes of the Public Safety Partnership and Community Policing Act of 1994.

"(g) UTILIZATION OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(h) MINIMUM AMOUNT.—Unless all applications submitted by any State and grantee within the State pursuant to subsection (a) have been funded, each qualifying State, together with grantees within the State, shall receive in each fiscal year pursuant to subsection (a) not less than 0.5 percent of the total amount appropriated in the fiscal year for grants pursuant to that subsection. In this subsection, 'qualifying State' means any State which has submitted an application for a grant, or in which an eligible entity has submitted an application for a grant, which meets the requirements prescribed by the Attorney General and the conditions set out in this part.

"(i) MATCHING FUNDS.—The portion of the costs of a program, project, or activity provided by a grant under subsection (a) may not exceed 75 percent, unless the Attorney General waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program, project, or activity. In relation to a grant for a period exceeding 1 year for hiring or rehiring career law enforcement officers, the Federal share shall decrease from year to year for up to 5 years, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support, as provided in an approved plan pursuant to section 1702(c)(8).

"(j) ALLOCATION OF FUNDS.—The funds available under this part shall be allocated as provided in section 1001(a)(11)(B).

"(k) TERMINATION OF GRANTS FOR HIRING OFFICERS.—The authority under subsection (a) of this section to make grants for the hiring and rehiring of additional career law enforcement officers shall lapse at the conclusion of 6 years from the date of enactment

of this part. Prior to the expiration of this grant authority, the Attorney General shall submit a report to Congress concerning the experience with and effects of such grants. The report may include any recommendations the Attorney General may have for amendments to this part and related provisions of law in light of the termination of the authority to make grants for the hiring and rehiring of additional career law enforcement officers. Reports.

"SEC. 1702. APPLICATIONS. 42 USC 3796dd-1.

"(a) IN GENERAL.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.

"(b) APPLICATION.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

"(c) CONTENTS.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan that reflects consultation with community groups and appropriate private and public agencies and reflects consideration of the statewide strategy under section 503(a)(1);

"(2) demonstrate a specific public safety need;

"(3) explain the applicant's inability to address the need without Federal assistance;

"(4) identify related governmental and community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate coordination with all affected agencies;

"(6) outline the initial and ongoing level of community support for implementing the proposal including financial and in-kind contributions or other tangible commitments;

"(7) specify plans for obtaining necessary support and continuing the proposed program, project, or activity following the conclusion of Federal support;

"(8) if the application is for a grant for hiring or rehiring additional career law enforcement officers, specify plans for the assumption by the applicant of a progressively larger share of the cost in the course of time, looking toward the continuation of the increased hiring level using State or local sources of funding following the conclusion of Federal support;

"(9) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;

"(10) explain how the grant will be utilized to reorient the affected law enforcement agency's mission toward community-oriented policing or enhance its involvement in or commitment to community-oriented policing; and

"(11) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within the sworn positions in the law enforcement agency. Minorities.

"(d) SPECIAL PROVISIONS.—

"(1) SMALL JURISDICTIONS.—Notwithstanding any other provision of this part, in relation to applications under this part of units of local government or law enforcement agencies

having jurisdiction over areas with populations of less than 50,000, the Attorney General may waive 1 or more of the requirements of subsection (c) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

"(2) SMALL GRANT AMOUNT.—Notwithstanding any other provision of this part, in relation to applications under section 1701(d) for grants of less than $1,000,000, the Attorney General may waive 1 or more of the requirements of subsection (c) and may otherwise make special provisions to facilitate the expedited submission, processing, and approval of such applications.

42 USC 3796dd-2.

"SEC. 1703. RENEWAL OF GRANTS.

"(a) IN GENERAL.—Except for grants made for hiring or rehiring additional career law enforcement officers, a grant under this part may be renewed for up to 2 additional years after the first fiscal year during which a recipient receives its initial grant, if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.

"(b) GRANTS FOR HIRING.—Grants made for hiring or rehiring additional career law enforcement officers may be renewed for up to 5 years, subject to the requirements of subsection (a), but notwithstanding the limitation in that subsection concerning the number of years for which grants may be renewed.

"(c) MULTIYEAR GRANTS.—A grant for a period exceeding 1 year may be renewed as provided in this section, except that the total duration of such a grant including any renewals may not exceed 3 years, or 5 years if it is a grant made for hiring or rehiring additional career law enforcement officers.

42 USC 3796dd-3.

"SEC. 1704. LIMITATION ON USE OF FUNDS.

"(a) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States or units of local government shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this part, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

"(b) NON-FEDERAL COSTS.—

"(1) IN GENERAL.—States and units of local government may use assets received through the Assets Forfeiture equitable sharing program to provide the non-Federal share of the cost of programs, projects, and activities funded under this part.

"(2) INDIAN TRIBAL GOVERNMENTS.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(c) HIRING COSTS.—Funding provided under this part for hiring or rehiring a career law enforcement officer may not exceed $75,000, unless the Attorney General grants a waiver from this limitation.

"SEC. 1705. PERFORMANCE EVALUATION.

42 USC 3796dd-4.

"(a) MONITORING COMPONENTS.—Each program, project, or activity funded under this part shall contain a monitoring component, developed pursuant to guidelines established by the Attorney General. The monitoring required by this subsection shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the life of the program, project, or activity and presentation of such data in a usable form.

"(b) EVALUATION COMPONENTS.—Selected grant recipients shall be evaluated on the local level or as part of a national evaluation, pursuant to guidelines established by the Attorney General. Such evaluations may include assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded programs, projects, and activities may be required. Outcome measures may include crime and victimization indicators, quality of life measures, community perceptions, and police perceptions of their own work.

"(c) PERIODIC REVIEW AND REPORTS.—The Attorney General may require a grant recipient to submit to the Attorney General the results of the monitoring and evaluations required under subsections (a) and (b) and such other data and information as the Attorney General deems reasonably necessary.

"SEC. 1706. REVOCATION OR SUSPENSION OF FUNDING.

42 USC 3796dd-5.

"If the Attorney General determines, as a result of the reviews required by section 1705, or otherwise, that a grant recipient under this part is not in substantial compliance with the terms and requirements of an approved grant application submitted under section 1702, the Attorney General may revoke or suspend funding of that grant, in whole or in part.

"SEC. 1707. ACCESS TO DOCUMENTS.

42 USC 3796dd-6.

"(a) BY THE ATTORNEY GENERAL.—The Attorney General shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this part and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this part.

"(b) BY THE COMPTROLLER GENERAL.—Subsection (a) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"SEC. 1708. GENERAL REGULATORY AUTHORITY.

42 USC 3796dd-7.

"The Attorney General may promulgate regulations and guidelines to carry out this part.

"SEC. 1709. DEFINITIONS.

42 USC 3796dd-8.

"In this part—

"'career law enforcement officer' means a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.

"'citizens' police academy' means a program by local law enforcement agencies or private nonprofit organizations in which citizens, especially those who participate in neighborhood watch programs, are trained in ways of facilitating communica-

tion between the community and local law enforcement in the prevention of crime.

"'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711, et seq.) is amended by striking the item relating to part Q and inserting the following:

"PART Q—PUBLIC SAFETY AND COMMUNITY POLICING; 'COPS ON THE BEAT'

"Sec. 1701. Authority to make public safety and community policing grants.
"Sec. 1702. Applications.
"Sec. 1703. Renewal of grants.
"Sec. 1704. Limitation on use of funds.
"Sec. 1705. Performance evaluation.
"Sec. 1706. Revocation or suspension of funding.
"Sec. 1707. Access to documents.
"Sec. 1708. General regulatory authority.
"Sec. 1709. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O" and inserting "O, P, and Q"; and

(2) by adding at the end the following new paragraph:

"(11)(A) There are authorized to be appropriated to carry out part Q, to remain available until expended—

"(i) $1,332,000,000 for fiscal year 1995;
"(ii) $1,850,000,000 for fiscal year 1996;
"(iii) $1,950,000,000 for fiscal year 1997;
"(iv) $1,700,000,000 for fiscal year 1998;
"(v) $1,700,000,000 for fiscal year 1999; and
"(vi) $268,000,000 for fiscal year 2000.

"(B) Of funds available under part Q in any fiscal year, up to 3 percent may be used for technical assistance under section 1701(f) or for evaluations or studies carried out or commissioned by the Attorney General in furtherance of the purposes of part Q. Of the remaining funds, 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations exceeding 150,000 or by public and private entities that serve areas with populations exceeding 150,000, and 50 percent shall be allocated for grants pursuant to applications submitted by units of local government or law enforcement agencies having jurisdiction over areas with populations 150,000 or less or by public and private entities that serve areas with populations 150,000 or less. Of the funds available in relation to grants under part Q, at least 85 percent shall be applied to grants for the purposes specified in section 1701(b), and no more than 15 percent may be applied to other grants in furtherance of the purposes of part Q. In view of the extraordinary need for law enforcement assistance in Indian country, an appropriate amount of funds available under

part Q shall be made available for grants to Indian tribal governments or tribal law enforcement agencies.".

TITLE II—PRISONS

Subtitle A—Violent Offender Incarceration and Truth in Sentencing Incentive Grants

SEC. 20101. GRANTS FOR CORRECTIONAL FACILITIES. 42 USC 13701.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to individual States and to States organized as multi-State compacts to construct, develop, expand, modify, operate, or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that can free conventional prison space for the confinement of violent offenders, to ensure that prison cell space is available for the confinement of violent offenders and to implement truth in sentencing laws for sentencing violent offenders.

(b) ELIGIBILITY.—To be eligible to receive a grant under this subtitle, a State or States organized as multi-State compacts shall submit an application to the Attorney General which includes—

(1) assurances that the State or States have implemented, or will implement, correctional policies and programs, including truth in sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public;

(2) assurances that the State or States have implemented policies that provide for the recognition of the rights and needs of crime victims;

(3) assurances that funds received under this section will be used to construct, develop, expand, modify, operate, or improve correctional facilities to ensure that prison cell space is available for the confinement of violent offenders;

(4) assurances that the State or States have a comprehensive correctional plan which represents an integrated approach to the management and operation of correctional facilities and programs and which includes diversion programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs, prisoner work activities (including, to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance, and an assessment of recidivism rates;

(5) assurances that the State or States have involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to

ensure the incarceration of violent offenders, and that the State or States will share funds received under this section with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in State prison facilities;

(6) assurances that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds;

(7) assurances that the State or States have implemented, or will implement within 18 months after the date of the enactment of this Act, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled;

(8) if applicable, documentation of the multi-State compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities; and

(9) if applicable, a description of the eligibility criteria for prisoner participation in any boot camp that is to be funded.

(c) CONSIDERATION.—The Attorney General, in making such grants, shall give consideration to the special burden placed on States which incarcerate a substantial number of inmates who are in the United States illegally.

42 USC 13702.

SEC. 20102. TRUTH IN SENTENCING INCENTIVE GRANTS.

(a) TRUTH IN SENTENCING GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Truth in Sentencing Incentive Grants. To be eligible to receive such a grant, a State must meet the requirements of section 20101(b) and shall demonstrate that the State—

(1) has in effect laws which require that persons convicted of violent crimes serve not less than 85 percent of the sentence imposed; or

(2) since 1993—

(A) has increased the percentage of convicted violent offenders sentenced to prison;

(B) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(C) has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(D) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85 percent of the sentence imposed if—

(i) the person has been convicted on 1 or more prior occasions in a court of the United States or of a State of a violent crime or a serious drug offense; and

(ii) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.

(b) ALLOCATION OF TRUTH IN SENTENCING INCENTIVE FUNDS.—

(1) FORMULA ALLOCATION.—The amount available to carry out this section for any fiscal year under subsection (a) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(2) TRANSFER OF UNUSED FUNDS.—On September 30 of each of fiscal years 1996, 1998, 1999, and 2000, the Attorney General shall transfer to the funds to be allocated under section 20103(b)(1) any funds made available to carry out this section that are not allocated to an eligible State under paragraph (1).

SEC. 20103. VIOLENT OFFENDER INCARCERATION GRANTS. 42 USC 13703.

(a) VIOLENT OFFENDER INCARCERATION GRANT PROGRAM.—Fifty percent of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 shall be made available for Violent Offender Incarceration Grants. To be eligible to receive such a grant, a State or States must meet the requirements of section 20101(b).

(b) ALLOCATION OF VIOLENT OFFENDER INCARCERATION FUNDS.—

(1) FORMULA ALLOCATION.—Eighty-five percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) and any amount transferred under section 20102(b)(2) for that fiscal year shall be allocated as follows:

(A) 0.25 percent shall be allocated to each eligible State except that the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands each shall be allocated 0.05 percent.

(B) The amount remaining after application of subparagraph (A) shall be allocated to each eligible State in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(2) DISCRETIONARY ALLOCATION.—Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under subsection (a) and any amount transferred under section 20103(b)(3) for that fiscal year shall be allocated at the discretion of the Attorney General to States that have demonstrated the greatest need for such grants and the ability to best utilize the funds to meet the objectives of the grant program and ensure that prison cell space is available for the confinement of violent offenders.

(3) TRANSFER OF UNUSED FORMULA FUNDS.—On September 30 of each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Attorney General shall transfer to the discretionary program under paragraph (2) any funds made available for allocation under paragraph (1) that are not allocated to an eligible State under paragraph (1).

42 USC 13704. **SEC. 20104. MATCHING REQUIREMENT.**

The Federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle.

42 USC 13705. **SEC. 20105. RULES AND REGULATIONS.**

(a) The Attorney General shall issue rules and regulations regarding the uses of grant funds received under this subtitle not later than 90 days after the date of enactment of this Act.

(b) If data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for that State for the purposes of allocation of any funds under this subtitle.

42 USC 13706. **SEC. 20106. TECHNICAL ASSISTANCE AND TRAINING.**

The Attorney General may request that the Director of the National Institute of Corrections and the Director of the Federal Bureau of Prisons provide technical assistance and training to a State or States that receive a grant under this subtitle to achieve the purposes of this subtitle.

42 USC 13707. **SEC. 20107. EVALUATION.**

The Attorney General may request the Director of the National Institute of Corrections to assist with an evaluation of programs established with funds under this subtitle.

42 USC 13708. **SEC. 20108. DEFINITIONS.**

In this subtitle—

"boot camp" means a correctional program of not more than 6 months' incarceration involving—

(A) assignment for participation in the program, in conformity with State law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(B) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(C) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(D) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

"part 1 violent crimes" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

"State" or "States" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

42 USC 13709. **SEC. 20109. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle—

(1) $175,000,000 for fiscal year 1995;

(2) $750,000,000 for fiscal year 1996;

(3) $1,000,000,000 for fiscal year 1997;
(4) $1,900,000,000 for fiscal year 1998;
(5) $2,000,000,000 for fiscal year 1999; and
(6) $2,070,000,000 for fiscal year 2000.

Subtitle B—Punishment for Young Offenders

SEC. 20201. CERTAIN PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 10003(a), is amended—

(1) by redesignating part R as part S;
(2) by redesignating section 1801 as section 1901; and 42 USC 3797.
(3) by inserting after part Q the following new part:

"PART R—CERTAIN PUNISHMENT FOR YOUNG OFFENDERS

"SEC. 1801. GRANT AUTHORIZATION. 42 USC 13796ee.

"(a) IN GENERAL.—The Attorney General may make grants under this part to States, for the use by States and units of local government, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certain punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certain punishment for young offenders;

"(2) restitution programs for young offenders;

"(3) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.) and projects that provide family counseling;

"(4) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(5) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(6) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse) and gang-related offenses; and

"(7) adequate and appropriate after care programs for young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, family counseling and other support programs upon release.

42 USC 3796ee-1.

"SEC. 1802. STATE APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION OF APPLICATION.—To request a grant under this part, the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(2) ASSURANCES.—An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

42 USC 3796ee-2.

"SEC. 1803. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Attorney General shall make a grant under section 1801(a) to carry out the projects described in the application submitted by such applicant under section 1802 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1802 shall be considered approved, in whole or in part, by the Attorney General not later than 45 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1801(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

42 USC 3796ee-3.

"SEC. 1804. LOCAL APPLICATIONS.

"(a) IN GENERAL.—

"(1) SUBMISSION OF APPLICATION.—To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1802(b).

"(2) APPROVAL.—An application under paragraph (1) shall be considered to have been approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) DISAPPROVAL.—The State shall not disapprove any application submitted to the State without first affording the

applicant reasonable notice and an opportunity for reconsideration.

"(4) EFFECT OF APPROVAL.—If an application under subsection (a) is approved, the unit of local government is eligible to receive funds under this part.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1801 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Attorney General has approved the application submitted by the State and has made funds available to the State. The Attorney General may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1805. ALLOCATION AND DISTRIBUTION OF FUNDS.

42 USC 3796ee-4.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—

"(1) IN GENERAL.—A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1801 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) UNDISTRIBUTED FUNDS.—Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1801.

"(3) UNUSED FUNDS.— If the Attorney General determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1801, the Attorney General shall award such funds to units of local government in such State giving priority to the units of local government that the Attorney General considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Attorney General.

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section

1802(a) for the fiscal year for which the projects receive assistance under this part.

"(e) CONSIDERATION.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Attorney General shall consider as a factor whether a State has in effect throughout such State a law or policy that requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(1) be suspended from school for a reasonable period of time; and

"(2) lose driving license privileges for a reasonable period of time.

"(f) DEFINITION.—For purposes of this part, 'juvenile' means a person 18 years of age or younger.

42 USC 3796ee-5.

"SEC. 1806. EVALUATION.

"(a) IN GENERAL.—

"(1) SUBMISSION TO THE DIRECTOR.—Each State and unit of local government that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in accordance with guidelines issued by the Attorney General. Such evaluation shall include an appraisal by representatives of the community of the programs funded by the grant.

"(2) WAIVER.—The Attorney General may waive the requirement specified in paragraph (1) if the Attorney General determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Attorney General shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State or unit of local government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 10003(a), is amended by striking the matter relating to part R and inserting the following:

"PART R—CERTAIN PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1801. Grant authorization.
"Sec. 1802. State applications.
"Sec. 1803. Review of State applications.
"Sec. 1804. Local applications.
"Sec. 1805. Allocation and distribution of funds.
"Sec. 1806. Evaluation.

"PART S—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended—

(1) by adding a semicolon at the end of paragraph (21);

(2) by striking "and" at the end of paragraph (22);

(3) by striking the period at the end of paragraph (23) and inserting a semicolon; and

(4) by adding after paragraph (23) the following:

"(24) the term 'young offender' means a non-violent first-time offender or a non-violent offender with a minor criminal record who is 22 years of age or younger (including juveniles).".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 10003(c), is amended—

(1) in paragraph (3) by striking "and Q" and inserting "Q, or R"; and

(2) by adding at the end the following new paragraph:

"(16) There are authorized to be appropriated to carry out projects under part R—

"(A) $20,000,000 for fiscal year 1996;

"(B) $25,000,000 for fiscal year 1997;

"(C) $30,000,000 for fiscal year 1998;

"(D) $35,000,000 for fiscal year 1999; and

"(E) $40,000,000 for fiscal year 2000.".

Subtitle C—Alien Incarceration

SEC. 20301. INCARCERATION OF UNDOCUMENTED CRIMINAL ALIENS.

(a) INCARCERATION.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(j) INCARCERATION.—

"(1) If the chief executive officer of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the incarceration of an undocumented criminal alien submits a written request to the Attorney General, the Attorney General shall, as determined by the Attorney General—

"(A) enter into a contractual arrangement which provides for compensation to the State or a political subdivision of the State, as may be appropriate, with respect to the incarceration of the undocumented criminal alien; or

"(B) take the undocumented criminal alien into the custody of the Federal Government and incarcerate the alien.

"(2) Compensation under paragraph (1)(A) shall be the average cost of incarceration of a prisoner in the relevant State as determined by the Attorney General.

"(3) For purposes of this subsection, the term 'undocumented criminal alien' means an alien who—

"(A) has been convicted of a felony and sentenced to a term of imprisonment; and

"(B)(i) entered the United States without inspection or at any time or place other than as designated by the Attorney General;

"(ii) was the subject of exclusion or deportation proceedings at the time he or she was taken into custody by the State or a political subdivision of the State; or

"(iii) was admitted as a nonimmigrant and at the time he or she was taken into custody by the State or a political subdivision of the State has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status.

"(4)(A) In carrying out paragraph (1), the Attorney General shall give priority to the Federal incarceration of undocumented criminal aliens who have committed aggravated felonies.

"(B) The Attorney General shall ensure that undocumented criminal aliens incarcerated in Federal facilities pursuant to this subsection are held in facilities which provide a level of security appropriate to the crimes for which they were convicted.

"(5) There are authorized to be appropriated such sums as may be necessary to carry out this subsection, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

"(A) $130,000,000 for fiscal year 1995;
"(B) $300,000,000 for fiscal year 1996;
"(C) $330,000,000 for fiscal year 1997;
"(D) $350,000,000 for fiscal year 1998;
"(E) $350,000,000 for fiscal year 1999; and
"(F) $340,000,000 for fiscal year 2000.".

8 USC 1252 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1994.

8 USC 1252 note.

(c) TERMINATION OF LIMITATION.—Notwithstanding section 242(j)(5) of the Immigration and Nationality Act, as added by subsection (a), the requirements of section 242(j) of the Immigration and Nationality Act, as added by subsection (a), shall not be subject to the availability of appropriations on and after October 1, 2004.

Subtitle D—Miscellaneous Provisions

SEC. 20401. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "In designating the place of imprisonment or making transfers under this subsection, there shall be no favoritism given to prisoners of high social or economic status.".

SEC. 20402. PRISON IMPACT ASSESSMENTS.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4047. Prison impact assessments

"(a) Any submission of legislation by the Judicial or Executive branch which could increase or decrease the number of persons incarcerated in Federal penal institutions shall be accompanied by a prison impact statement (as defined in subsection (b)).

"(b) The Attorney General shall, in consultation with the Sentencing Commission and the Administrative Office of the United States Courts, prepare and furnish prison impact assessments under subsection (c) of this section, and in response to requests from Congress for information relating to a pending measure or matter that might affect the number of defendants processed through the Federal criminal justice system. A prison impact assessment on pending legislation must be supplied within 21 days of any request. A prison impact assessment shall include—

"(1) projections of the impact on prison, probation, and post prison supervision populations;

"(2) an estimate of the fiscal impact of such population changes on Federal expenditures, including those for construc-

tion and operation of correctional facilities for the current fiscal year and 5 succeeding fiscal years;

"(3) an analysis of any other significant factor affecting the cost of the measure and its impact on the operations of components of the criminal justice system; and

"(4) a statement of the methodologies and assumptions utilized in preparing the assessment.

"(c) The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 303 is amended by adding at the end the following new item:

"4047. Prison impact assessments.".

SEC. 20403. SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION.

(a) IMPOSITION OF SENTENCE.—Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

(b) DUTIES OF THE SENTENCING COMMISSION.—Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

SEC. 20404. APPLICATION TO PRISONERS TO WHICH PRIOR LAW APPLIES.

18 USC 4042 note.

In the case of a prisoner convicted of an offense committed prior to November 1, 1987, the reference to supervised release in section 4042(b) of title 18, United States Code, shall be deemed to be a reference to probation or parole.

SEC. 20405. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

(4) in subsection (b)—

(A) in the first sentence by inserting "(other than a prisoner serving a sentence for a crime of violence)" after "A prisoner"; and

(B) by inserting after the first sentence the following: "A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence, other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's

sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with such institutional disciplinary regulations.".

42 USC 13721.

SEC. 20406. TASK FORCE ON PRISON CONSTRUCTION STANDARDIZATION AND TECHNIQUES.

(a) TASK FORCE.—The Director of the National Institute of Corrections shall, subject to availability of appropriations, establish a task force composed of Federal, State, and local officials expert in prison construction, and of at least an equal number of engineers, architects, and construction experts from the private sector with expertise in prison design and construction, including the use of cost-cutting construction standardization techniques and cost-cutting new building materials and technologies.

(b) COOPERATION.—The task force shall work in close cooperation and communication with other State and local officials responsible for prison construction in their localities.

(c) PERFORMANCE REQUIREMENTS.—The task force shall work to—

(1) establish and recommend standardized construction plans and techniques for prison and prison component construction; and

(2) evaluate and recommend new construction technologies, techniques, and materials,

to reduce prison construction costs at the Federal, State, and local levels and make such construction more efficient.

(d) DISSEMINATION.—The task force shall disseminate information described in subsection (c) to State and local officials involved in prison construction, through written reports and meetings.

(e) PROMOTION AND EVALUATION.—The task force shall—

(1) work to promote the implementation of cost-saving efforts at the Federal, State, and local levels;

(2) evaluate and advise on the results and effectiveness of such cost-saving efforts as adopted, broadly disseminating information on the results; and

(3) to the extent feasible, certify the effectiveness of the cost-savings efforts.

42 USC 13722.

SEC. 20407. EFFICIENCY IN LAW ENFORCEMENT AND CORRECTIONS.

(a) IN GENERAL.—In the administration of each grant program funded by appropriations authorized by this Act or by an amendment made by this Act, the Attorney General shall encourage—

(1) innovative methods for the low-cost construction of facilities to be constructed, converted, or expanded and the low-cost operation of such facilities and the reduction of administrative costs and overhead expenses; and

(2) the use of surplus Federal property.

(b) ASSESSMENT OF CONSTRUCTION COMPONENTS AND DESIGNS.—The Attorney General may make an assessment of the cost efficiency and utility of using modular, prefabricated, precast, and pre-engineered construction components and designs for housing nonviolent criminals.

SEC. 20408. AMENDMENTS TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT AND THE NATIONAL LITERACY ACT OF 1991.

(a) TECHNICAL AMENDMENT.—The matter preceding paragraph (1) of section 214(d) of the Department of Education Organization Act (20 U.S.C. 3423a(d)) is amended by striking "under subsection (a)" and inserting "under subsection (c)".

(b) ESTABLISHMENT OF A PANEL AND USE OF FUNDS.—Section 601 of the National Literacy Act of 1991 (20 U.S.C. 1211–2) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following new subsections:

"(g) PANEL.—The Secretary is authorized to consult with and convene a panel of experts in correctional education, including program administrators and field-based professionals in adult corrections, juvenile services, jails, and community corrections programs, to—

"(1) develop measures for evaluating the effectiveness of the programs funded under this section; and

"(2) evaluate the effectiveness of such programs.

"(h) USE OF FUNDS.—Notwithstanding any other provision of law, the Secretary may use not more than five percent of funds appropriated under subsection (i) in any fiscal year to carry out grant-related activities such as monitoring, technical assistance, and replication and dissemination.".

SEC. 20409. APPROPRIATE REMEDIES FOR PRISON OVERCROWDING.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3626. Appropriate remedies with respect to prison crowding

"(a) REQUIREMENT OF SHOWING WITH RESPECT TO THE PLAINTIFF IN PARTICULAR.—

"(1) HOLDING.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) RELIEF.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) INMATE POPULATION CEILINGS.—

"(1) REQUIREMENT OF SHOWING WITH RESPECT TO PARTICULAR PRISONERS.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on particular identified prisoners.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1), including the requirement of improved medical or health care

and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order or consent decree seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

18 USC 3626 note.

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

18 USC 3626 note.

(d) SUNSET PROVISION.—This section and the amendments made by this section are repealed effective as of the date that is 5 years after the date of enactment of this Act.

Virginia. District of Columbia. 42 USC 13723.

SEC. 20410. CONGRESSIONAL APPROVAL OF ANY EXPANSION AT LORTON AND CONGRESSIONAL HEARINGS ON FUTURE NEEDS.

(a) CONGRESSIONAL APPROVAL.—Notwithstanding any other provision of law, the existing prison facilities and complex at the District of Columbia Corrections Facility at Lorton, Virginia, shall not be expanded unless such expansion has been approved by the Congress under the authority provided to Congress in section 446 of the District of Columbia Self-Government and Governmental Reorganization Act.

(b) SENATE HEARINGS.—The Senate directs the Subcommittee on the District of Columbia of the Committee on Appropriations of the Senate to conduct hearings regarding expansion of the prison complex in Lorton, Virginia, prior to any approval granted pursuant to subsection (a). The subcommittee shall permit interested parties, including appropriate officials from the County of Fairfax, Virginia, to testify at such hearings.

(c) DEFINITION.—For purposes of this section, the terms "expanded" and "expansion" mean any alteration of the physical structure of the prison complex that is made to increase the number of inmates incarcerated at the prison.

SEC. 20411. AWARDS OF PELL GRANTS TO PRISONERS PROHIBITED.

(a) IN GENERAL.—Section 401(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(8)) is amended to read as follows:

"(8) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

20 USC 1070a note.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act.

SEC. 20412. EDUCATION REQUIREMENT FOR EARLY RELEASE.

Section 3624(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "behavior.—";

(2) by striking "Such credit toward service of sentence vests at the time that it is received. Credit that has vested

may not later be withdrawn, and credit that has not been earned may not later be granted." and inserting "Credit that has not been earned may not later be granted."; and

(3) by adding at the end the following:

"(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned or is making satisfactory progress toward a high school diploma or an equivalent degree.

"(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.

"(4) Exemptions to the General Educational Development requirement may be made as deemed appropriate by the Director of the Federal Bureau of Prisons.".

SEC. 20413. CONVERSION OF CLOSED MILITARY INSTALLATIONS INTO FEDERAL PRISON FACILITIES.

42 USC 13724.

(a) STUDY OF SUITABLE BASES.—The Secretary of Defense and the Attorney General shall jointly conduct a study of all military installations selected before the date of enactment of this Act to be closed pursuant to a base closure law for the purpose of evaluating the suitability of any of these installations, or portions of these installations, for conversion into Federal prison facilities. As part of the study, the Secretary and the Attorney General shall identify the military installations so evaluated that are most suitable for conversion into Federal prison facilities.

(b) SUITABILITY FOR CONVERSION.—In evaluating the suitability of a military installation for conversion into a Federal prison facility, the Secretary of Defense and the Attorney General shall consider the estimated cost to convert the installation into a prison facility and such other factors as the Secretary and the Attorney General consider to be appropriate.

(c) TIME FOR STUDY.—The study required by subsection (a) shall be completed not later than the date that is 180 days after the date of enactment of this Act.

(d) CONSTRUCTION OF FEDERAL PRISONS.—

(1) IN GENERAL.—In determining where to locate any new Federal prison facility, and in accordance with the Department of Justice's duty to review and identify a use for any portion of an installation closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526) and the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510), the Attorney General shall—

(A) consider whether using any portion of a military installation closed or scheduled to be closed in the region pursuant to a base closure law provides a cost-effective alternative to the purchase of real property or construction of new prison facilities;

(B) consider whether such use is consistent with a reutilization and redevelopment plan; and

(C) give consideration to any installation located in a rural area the closure of which will have a substantial adverse impact on the economy of the local communities and on the ability of the communities to sustain an economic recovery from such closure.

(2) CONSENT.—With regard to paragraph (1)(B), consent must be obtained from the local re-use authority for the military installation, recognized and funded by the Secretary of Defense, before the Attorney General may proceed with plans for the design or construction of a prison at the installation.

(3) REPORT ON BASIS OF DECISION.—Before proceeding with plans for the design or construction of a Federal prison, the Attorney General shall submit to Congress a report explaining the basis of the decision on where to locate the new prison facility.

(4) REPORT ON COST-EFFECTIVENESS.—If the Attorney General decides not to utilize any portion of a closed military installation or an installation scheduled to be closed for locating a prison, the report shall include an analysis of why installations in the region, the use of which as a prison would be consistent with a reutilization and redevelopment plan, does not provide a cost-effective alternative to the purchase of real property or construction of new prison facilities.

(e) DEFINITION.—In this section, "base closure law" means—

(1) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

SEC. 20414. POST-CONVICTION RELEASE DRUG TESTING—FEDERAL OFFENDERS.

(a) DRUG TESTING PROGRAM.—

(1) IN GENERAL.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3608. Drug testing of Federal offenders on post-conviction release

"The Director of the Administrative Office of the United States Courts, in consultation with the Attorney General and the Secretary of Health and Human Services, shall, subject to the availability of appropriations, establish a program of drug testing of Federal offenders on post-conviction release. The program shall include such standards and guidelines as the Director may determine necessary to ensure the reliability and accuracy of the drug testing programs. In each judicial district the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4).".

(2) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3608. Drug testing of Federal offenders on post-conviction release.".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and";

(3) by adding at the end the following new paragraph:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance, but the condition stated in this paragraph may be ameliorated or suspended by the court for any individual defendant if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant."; and

(4) by adding at the end the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A defendant who tests positive may be detained pending verification of a positive drug test result. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3565(b), when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS OF SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the court as provided in section 3563(a)(4). The results of a drug test administered in accordance with the preceding subsection shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 3583(g) when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The condition stated in the preceding sentence may be ameliorated or suspended by the Commission for any individual parolee if it determines that there is good cause for doing so. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider whether the availability of appropriate substance abuse treatment programs, or an individual's current or past participation in such programs, warrants an exception in accordance with United States Sentencing Commission guidelines from the rule of section 4214(f) when considering any action against a defendant who fails a drug test.".

SEC. 20415. REPORTING OF CASH RECEIVED BY CRIMINAL COURT CLERKS.

26 USC 6050I.

(a) IN GENERAL.—Section 6050I of the Internal Revenue Code of 1986 (relating to returns relating to cash received in trade or business) is amended by adding at the end the following new subsection:

"(g) CASH RECEIVED BY CRIMINAL COURT CLERKS.—

"(1) IN GENERAL.—Every clerk of a Federal or State criminal court who receives more than $10,000 in cash as bail for any individual charged with a specified criminal offense shall make a return described in paragraph (2) (at such time as the Secretary may by regulations prescribe) with respect to the receipt of such bail.

"(2) RETURN.—A return is described in this paragraph if such return—

"(A) is in such form as the Secretary may prescribe, and

"(B) contains—

"(i) the name, address, and TIN of—

"(I) the individual charged with the specified criminal offense, and

"(II) each person posting the bail (other than a person licensed as a bail bondsman),

"(ii) the amount of cash received,

"(iii) the date the cash was received, and

"(iv) such other information as the Secretary may prescribe.

"(3) SPECIFIED CRIMINAL OFFENSE.—For purposes of this subsection, the term 'specified criminal offense' means—

"(A) any Federal criminal offense involving a controlled substance,

"(B) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

"(C) money laundering (as defined in section 1956 or 1957 of such title), and

"(D) any State criminal offense substantially similar to an offense described in subparagraph (A), (B), or (C).

"(4) INFORMATION TO FEDERAL PROSECUTORS.—Each clerk required to include on a return under paragraph (1) the information described in paragraph (2)(B) with respect to an individual described in paragraph (2)(B)(i)(I) shall furnish (at such time as the Secretary may by regulations prescribe) a written statement showing such information to the United States Attorney for the jurisdiction in which such individual resides and the jurisdiction in which the specified criminal offense occurred.

"(5) INFORMATION TO PAYORS OF BAIL.—Each clerk required to make a return under paragraph (1) shall furnish (at such time as the Secretary may by regulations prescribe) to each person whose name is required to be set forth in such return by reason of paragraph (2)(B)(i)(II) a written statement showing—

"(A) the name and address of the clerk's office required to make the return, and

"(B) the aggregate amount of cash described in paragraph (1) received by such clerk.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iv) of section 6724(d)(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows: 26 USC 6724.

"(iv) section 6050I (a) or (g)(1) (relating to cash received in trade or business, etc.),".

(2) Subparagraph (K) of section 6724(d)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(K) section 6050I(e) or paragraph (4) or (5) of section 6050I(g) (relating to cash received in trade or business, etc.),". 26 USC 6050I.

(3) The heading for section 6050I of the Internal Revenue Code of 1986 is amended by striking "**BUSINESS**" and inserting "**BUSINESS, ETC.**".

(4) The table of sections for subpart B of part III of subchapter A of chapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by striking "business" and inserting "business, etc." in the item relating to section 6050I.

(c) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe temporary regulations under the amendments made by this section within 90 days after the date of enactment of this Act. 26 USC 6050I note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 60th day after the date on which the temporary regulations are prescribed under subsection (c). 26 USC 6050I note.

SEC. 20416. CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS.

(a) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "ninety days" and inserting "180 days"; and

(B) in paragraph (2), by inserting before the period at the end the following: "or are otherwise fair and effective"; and

(2) in subsection (c)—

(A) in paragraph (1) by inserting before the period at the end the following: "or are otherwise fair and effective"; and

(B) in paragraph (2) by inserting before the period at the end the following: "or is no longer fair and effective".

42 USC 1997e note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 20417. NOTIFICATION OF RELEASE OF PRISONERS.

Section 4042 of title 18, United States Code, is amended—

(1) by striking "The Bureau" and inserting "(a) IN GENERAL.—The Bureau";

(2) by striking "This section" and inserting "(c) APPLICATION OF SECTION.—This section";

(3) in paragraph (4) of subsection (a), as designated by paragraph (1)—

(A) by striking "Provide" and inserting "provide"; and

(B) by striking the period at the end and inserting "; and";

(4) by inserting after paragraph (4) of subsection (a), as designated by paragraph (1), the following new paragraph:

"(5) provide notice of release of prisoners in accordance with subsection (b).";

and

(5) by inserting after subsection (a), as designated by paragraph (1), the following new subsection:

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) At least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, written notice of the release or change of residence shall be provided to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside. Notice prior to release shall be provided by the Director of the Bureau of Prisons. Notice concerning a change of residence following release shall be provided by the probation officer responsible for the supervision of the released prisoner, or in a manner specified by the Director of the Administrative Office of the United States Courts. The notice requirements under this subsection do not apply in relation to a prisoner being protected under chapter 224.

"(2) A notice under paragraph (1) shall disclose—

"(A) the prisoner's name;

"(B) the prisoner's criminal history, including a description of the offense of which the prisoner was convicted; and

"(C) any restrictions on conduct or other conditions to the release of the prisoner that are imposed by law, the sentencing court, or the Bureau of Prisons or any other Federal agency.

"(3) A prisoner is described in this paragraph if the prisoner was convicted of—

"(A) a drug trafficking crime, as that term is defined in section 924(c)(2); or

"(B) a crime of violence (as defined in section 924(c)(3)).

"(4) The notice provided under this section shall be used solely for law enforcement purposes.".

SEC. 20418. CORRECTIONAL JOB TRAINING AND PLACEMENT. 42 USC 13725.

(a) PURPOSE.—It is the purpose of this section to encourage and support job training programs, and job placement programs, that provide services to incarcerated persons or ex-offenders.

(b) DEFINITIONS.—As used in this section:

(1) CORRECTIONAL INSTITUTION.—The term "correctional institution" means any prison, jail, reformatory, work farm, detention center, or halfway house, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(2) CORRECTIONAL JOB TRAINING OR PLACEMENT PROGRAM.—The term "correctional job training or placement program" means an activity that provides job training or job placement services to incarcerated persons or ex-offenders, or that assists incarcerated persons or ex-offenders in obtaining such services.

(3) EX-OFFENDER.—The term "ex-offender" means any individual who has been sentenced to a term of probation by a Federal or State court, or who has been released from a Federal, State, or local correctional institution.

(4) INCARCERATED PERSON.—The term "incarcerated person" means any individual incarcerated in a Federal or State correctional institution who is charged with or convicted of any criminal offense.

(c) ESTABLISHMENT OF OFFICE.—

(1) IN GENERAL.—The Attorney General shall establish within the Department of Justice an Office of Correctional Job Training and Placement. The Office shall be headed by a Director, who shall be appointed by the Attorney General.

(2) TIMING.—The Attorney General shall carry out this subsection not later than 6 months after the date of enactment of this section.

(d) FUNCTIONS OF OFFICE.—The Attorney General, acting through the Director of the Office of Correctional Job Training and Placement, in consultation with the Secretary of Labor, shall—

(1) assist in coordinating the activities of the Federal Bonding Program of the Department of Labor, the activities of the Department of Labor related to the certification of eligibility for targeted jobs credits under section 51 of the Internal Revenue Code of 1986 with respect to ex-offenders, and any other correctional job training or placement program of the Department of Justice or Department of Labor;

(2) provide technical assistance to State and local employment and training agencies that—

(A) receive financial assistance under this Act; or

(B) receive financial assistance through other programs carried out by the Department of Justice or Department of Labor, for activities related to the development of employability;

(3) prepare and implement the use of special staff training materials, and methods, for developing the staff competencies needed by State and local agencies to assist incarcerated persons and ex-offenders in gaining marketable occupational skills and job placement;

(4) prepare and submit to Congress an annual report on the activities of the Office of Correctional Job Training and Placement, and the status of correctional job training or placement programs in the United States;

(5) cooperate with other Federal agencies carrying out correctional job training or placement programs to ensure coordination of such programs throughout the United States;

(6) consult with, and provide outreach to—

(A) State job training coordinating councils, administrative entities, and private industry councils, with respect to programs carried out under this Act; and

(B) other State and local officials, with respect to other employment or training programs carried out by the Department of Justice or Department of Labor;

(7) collect from States information on the training accomplishments and employment outcomes of a sample of incarcerated persons and ex-offenders who were served by employment or training programs carried out, or that receive financial assistance through programs carried out, by the Department of Justice or Department of Labor; and

(8)(A) collect from States and local governments information on the development and implementation of correctional job training or placement programs; and

(B) disseminate such information, as appropriate.

TITLE III—CRIME PREVENTION

Subtitle A—Ounce of Prevention Council

42 USC 13741.

SEC. 30101. OUNCE OF PREVENTION COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established an Ounce of Prevention Council (referred to in this title as the "Council"), the members of which—

(A) shall include the Attorney General, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of the Interior, and the Director of the Office of National Drug Control Policy; and

(B) may include other officials of the executive branch as directed by the President.

President.

(2) CHAIR.—The President shall designate the Chair of the Council from among its members (referred to in this title as the "Chair").

(3) STAFF.—The Council may employ any necessary staff to carry out its functions, and may delegate any of its functions or powers to a member or members of the Council.

(b) PROGRAM COORDINATION.—For any program authorized under the Violent Crime Control and Law Enforcement Act of 1994, the Ounce of Prevention Council Chair, only at the request of the Council member with jurisdiction over that program, may coordinate that program, in whole or in part, through the Council.

(c) ADMINISTRATIVE RESPONSIBILITIES AND POWERS.—In addition to the program coordination provided in subsection (b), the

Council shall be responsible for such functions as coordinated planning, development of a comprehensive crime prevention program catalogue, provision of assistance to communities and community-based organizations seeking information regarding crime prevention programs and integrated program service delivery, and development of strategies for program integration and grant simplification. The Council shall have the authority to audit the expenditure of funds received by grantees under programs administered by or coordinated through the Council. In consultation with the Council, the Chair may issue regulations and guidelines to carry out this subtitle and programs administered by or coordinated through the Council.

SEC. 30102. OUNCE OF PREVENTION GRANT PROGRAM. 42 USC 13742.

(a) IN GENERAL.—The Council may make grants for—

(1) summer and after-school (including weekend and holiday) education and recreation programs;

(2) mentoring, tutoring, and other programs involving participation by adult role models (such as D.A.R.E. America);

(3) programs assisting and promoting employability and job placement; and

(4) prevention and treatment programs to reduce substance abuse, child abuse, and adolescent pregnancy, including outreach programs for at-risk families.

(b) APPLICANTS.—Applicants may be Indian tribal governments, cities, counties, or other municipalities, school boards, colleges and universities, private nonprofit entities, or consortia of eligible applicants. Applicants must show that a planning process has occurred that has involved organizations, institutions, and residents of target areas, including young people, and that there has been cooperation between neighborhood-based entities, municipality-wide bodies, and local private-sector representatives. Applicants must demonstrate the substantial involvement of neighborhood-based entities in the carrying out of the proposed activities. Proposals must demonstrate that a broad base of collaboration and coordination will occur in the implementation of the proposed activities, involving cooperation among youth-serving organizations, schools, health and social service providers, employers, law enforcement professionals, local government, and residents of target areas, including young people. Applications shall be geographically based in particular neighborhoods or sections of municipalities or particular segments of rural areas, and applications shall demonstrate how programs will serve substantial proportions of children and youth resident in the target area with activities designed to have substantial impact on their lives.

(c) PRIORITY.—In making such grants, the Council shall give preference to coalitions consisting of a broad spectrum of community-based and social service organizations that have a coordinated team approach to reducing gang membership and the effects of substance abuse, and providing alternatives to at-risk youth.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the applications submitted under subsection (b) for the fiscal year for which the projects receive assistance under this title.

(2) WAIVER.—The Council may waive the 25 percent matching requirement under paragraph (1) upon making a determina-

tion that a waiver is equitable in view of the financial circumstances affecting the ability of the applicant to meet that requirement.

(3) NON-FEDERAL SHARE.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

(4) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to a governmental entity shall not be used to supplant State or local funds, or in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this title, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

(5) EVALUATION.—The Council shall conduct a thorough evaluation of the programs assisted under this title.

42 USC 13743.

SEC. 30103. DEFINITION.

In this subtitle, "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

42 USC 13744.

SEC. 30104. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $1,500,000 for fiscal year 1995;
(2) $14,700,000 for fiscal year 1996;
(3) $18,000,000 for fiscal year 1997;
(4) $18,000,000 for fiscal year 1998;
(5) $18,900,000 for fiscal year 1999; and
(6) $18,900,000 for fiscal year 2000.

Subtitle B—Local Crime Prevention Block Grant Program

42 USC 13751.

SEC. 30201. PAYMENTS TO LOCAL GOVERNMENTS.

(a) PAYMENT AND USE.—

(1) PAYMENT.—The Attorney General, shall pay to each unit of general local government which qualifies for a payment under this subtitle an amount equal to the sum of any amounts allocated to the government under this subtitle for each payment period. The Attorney General shall pay such amount from amounts appropriated under section 30202.

(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more of the following purposes:

(A) Education, training, research, prevention, diversion, treatment, and rehabilitation programs to prevent juvenile violence, juvenile gangs, and the use and sale of illegal drugs by juveniles.

(B) Programs to prevent crimes against the elderly based on the concepts of the Triad model.

(C) Programs that prevent young children from becoming gang involved, including the award of grants or contracts to community-based service providers that have a proven track record of providing services to children ages 5 to 18.

(D) Saturation jobs programs, offered either separately or in conjunction with the services provided for under the Youth Fair Chance Program, that provide employment opportunities leading to permanent unsubsidized employment for disadvantaged young adults 16 through 25 years of age.

(E) Midnight sports league programs that shall require each player in the league to attend employment counseling, job training, and other educational classes provided under the program, which shall be held in conjunction with league sports games at or near the site of the games.

(F) Supervised sports and recreation programs, including Olympic Youth Development Centers established in cooperation with the United States Olympic Committee, that are offered—

(i) after school and on weekends and holidays, during the school year; and

(ii) as daily (or weeklong) full-day programs (to the extent available resources permit) or as part-day programs, during the summer months.

(G) Prevention and enforcement programs to reduce—

(i) the formation or continuation of juvenile gangs; and

(ii) the use and sale of illegal drugs by juveniles.

(H) Youth anticrime councils to give intermediate and secondary school students a structured forum through which to work with community organizations, law enforcement officials, government and media representatives, and school administrators and faculty to address issues regarding youth and violence.

(I) Award of grants or contracts to the Boys and Girls Clubs of America, a national nonprofit youth organization, to establish Boys and Girls Clubs in public housing.

(J) Supervised visitation centers for children who have been removed from their parents and placed outside the home as a result of abuse or neglect or other risk of harm to them and for children whose parents are separated or divorced and the children are at risk because—

(i) there is documented sexual, physical, or emotional abuse as determined by a court of competent jurisdiction;

(ii) there is suspected or elevated risk of sexual, physical, or emotional abuse, or there have been threats of parental abduction of the child;

(iii) due to domestic violence, there is an ongoing risk of harm to a parent or child;

(iv) a parent is impaired because of substance abuse or mental illness;

(v) there are allegations that a child is at risk for any of the reasons stated in clauses (i), (ii), (iii),

and (iv), pending an investigation of the allegations; or

(vi) other circumstances, as determined by a court of competent jurisdiction, point to the existence of such a risk.

(K) Family Outreach Teams which provide a youth worker, a parent worker, and a school-parent organizer to provide training in outreach, mentoring, community organizing and peer counseling and mentoring to locally recruited volunteers in a particular area.

(L) To establish corridors of safety for senior citizens by increasing the numbers, presence, and watchfulness of law enforcement officers, community groups, and business owners and employees.

(M) Teams or units involving both specially trained law enforcement professionals and child or family services professionals that on a 24-hour basis respond to or deal with violent incidents in which a child is involved as a perpetrator, witness, or victim.

(N) Dwelling units to law enforcement officers without charge or at a substantially reduced rent for the purpose of providing greater security for residents of high crime areas.

(b) TIMING OF PAYMENTS.—The Attorney General shall pay each amount allocated under this subtitle to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period if the unit of general local government has provided the Attorney General with the assurances required by section 30203(d).

(c) ADJUSTMENTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this subtitle to a unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid.

(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a unit of general local government only if the Attorney General determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

(d) RESERVATION FOR ADJUSTMENTS.—The Attorney General may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Attorney General, by not later than 15 months after receipt from the Attorney General, any amount that is—

(A) paid to the unit from amounts appropriated under the authority of this section; and

(B) not expended by the unit within one year after receipt from the Attorney General.

(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payments in future payment periods accordingly.

(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to units of general local government.

(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this subtitle to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this subtitle, be made available from State or local sources.

SEC. 30202. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13752.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

(1) $75,940,000 for fiscal year 1996;
(2) $75,940,000 for fiscal year 1997;
(3) $75,940,000 for fiscal year 1998;
(4) $75,940,000 for fiscal year 1999; and
(5) $73,240,000 for fiscal year 2000.

Such sums are to remain available until expended.

(b) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Attorney General in furtherance of the purposes of the program. Such sums are to remain available until expended.

SEC. 30203. QUALIFICATION FOR PAYMENT. 42 USC 13753.

(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Attorney General of the units' proposed use of assistance under this subtitle. Regulations.

(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this subtitle for a payment period only after establishing to the satisfaction of the Attorney General that—

(1) the government will establish a trust fund in which the government will deposit all payments received under this subtitle;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller

General of the United States. As applicable, amounts received under this subtitle shall be audited in compliance with the Single Audit Act of 1984;

Records.

(6) after reasonable notice to the government, the government will make available to the Attorney General and the Comptroller General of the United States, with the right to inspect, records the Attorney General reasonably requires to review compliance with this subtitle or the Comptroller General of the United States reasonably requires to review compliance and operations;

Reports.

(7) the government will make reports the Attorney General reasonably requires, in addition to the annual reports required under this subtitle; and

(8) the government will spend the funds only for the purposes set forth in section 30201(a)(2).

(c) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

(d) SANCTIONS FOR NONCOMPLIANCE.—

(1) IN GENERAL.—If the Attorney General decides that a unit of general local government has not complied substantially with subsection (b) or regulations prescribed under subsection (b), the Attorney General shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Attorney General will withhold additional payments to the government for the current payment period and later payment periods until the Attorney General is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (b) and regulations prescribed under subsection (b).

(2) NOTICE.—Before giving notice under paragraph (1), the Attorney General shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

(3) PAYMENT CONDITIONS.—The Attorney General may make a payment to a unit of general local government notified under paragraph (1) only if the Attorney General is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (b) and regulations prescribed under subsection (b).

42 USC 13754.

SEC. 30204. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE DISTRIBUTION.—For each payment period, the Attorney General shall allocate out of the amount appropriated for the period under the authority of section 30202—

(1) 0.25 percent to each State; and

(2) of the total amount of funds remaining after allocation under paragraph (1), an amount that is equal to the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

(b) LOCAL DISTRIBUTION.—(1) The Attorney General shall allocate among the units of general local government in a State the amount allocated to the State under paragraphs (1) and (2) of subsection (a).

(2) The Attorney General shall allocate to each unit of general local government an amount which bears the ratio that the number of part 1 violent crimes reported by such unit to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all units in the State in which the unit is located to the Federal Bureau of Investigation for 1993 multiplied by the ratio of the population living in all units in the State in which the unit is located that reported part 1 violent crimes to the Federal Bureau of Investigation for 1993 bears to the population of the State; or if such data are not available for a unit, the ratio that the population of such unit bears to the population of all units in the State in which the unit is located for which data are not available multiplied by the ratio of the population living in units in the State in which the unit is located for which data are not available bears to the population of the State.

(3) If under paragraph (2) a unit is allotted less than $5,000 for the payment period, the amount allotted shall be transferred to the Governor of the State who shall equitably distribute the allocation to all such units or consortia thereof.

(4) If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall allocate to this newly incorporated local government, out of the amount allocated to the State under this section, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Attorney General in making allocations pursuant to this section, the Attorney General shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

(c) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this subtitle.

SEC. 30205. UTILIZATION OF PRIVATE SECTOR. 42 USC 13755.

Funds or a portion of funds allocated under this subtitle may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the uses specified under section 30201(a)(2).

SEC. 30206. PUBLIC PARTICIPATION. 42 USC 13756.

A unit of general local government expending payments under this subtitle shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation

of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

42 USC 13757. **SEC. 30207. ADMINISTRATIVE PROVISIONS.**

The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968, shall apply to the Attorney General for purposes of carrying out this subtitle.

42 USC 13758. **SEC. 30208. DEFINITIONS.**

For purposes of this subtitle:

(1) The term "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

(2) The term "payment period" means each 1-year period beginning on October 1 of the years 1995 through 2000.

(3) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of section 30204(a), 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam, and 17 per centum to the Northern Mariana Islands.

(4) The term "children" means persons who are not younger than 5 and not older than 18 years old.

(5) The term "part 1 violent crimes" means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

Subtitle C—Model Intensive Grant Programs

42 USC 13771. **SEC. 30301. GRANT AUTHORIZATION.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Attorney General may award grants to not more than 15 chronic high intensive crime areas to develop comprehensive model crime prevention programs that—

(A) involve and utilize a broad spectrum of community resources, including nonprofit community organizations, law enforcement organizations, and appropriate State and Federal agencies, including the State educational agencies;

(B) attempt to relieve conditions that encourage crime; and

(C) provide meaningful and lasting alternatives to involvement in crime.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in awarding grants under paragraph (1).

(b) PRIORITY.—In awarding grants under subsection (a), the Attorney General shall give priority to proposals that—

(1) are innovative in approach to the prevention of crime in a specific area;

(2) vary in approach to ensure that comparisons of different models may be made; and

(3) coordinate crime prevention programs funded under this program with other existing Federal programs to address the overall needs of communities that benefit from grants received under this title.

SEC. 30302. USES OF FUNDS. 42 USC 13772.

(a) IN GENERAL.—Funds awarded under this subtitle may be used only for purposes described in an approved application. The intent of grants under this subtitle is to fund intensively comprehensive crime prevention programs in chronic high intensive crime areas.

(b) GUIDELINES.—The Attorney General shall issue and publish in the Federal Register guidelines that describe suggested purposes for which funds under approved programs may be used. Federal Register, publication.

(c) EQUITABLE DISTRIBUTION OF FUNDS.—In disbursing funds under this subtitle, the Attorney General shall ensure the distribution of awards equitably on a geographic basis, including urban and rural areas of varying population and geographic size.

SEC. 30303. PROGRAM REQUIREMENTS. 42 USC 13773.

(a) DESCRIPTION.—An applicant shall include a description of the distinctive factors that contribute to chronic violent crime within the area proposed to be served by the grant. Such factors may include lack of alternative activities and programs for youth, deterioration or lack of public facilities, inadequate public services such as public transportation, street lighting, community-based substance abuse treatment facilities, or employment services offices, and inadequate police or public safety services, equipment, or facilities.

(b) COMPREHENSIVE PLAN.—An applicant shall include a comprehensive, community-based plan to attack intensively the principal factors identified in subsection (a). Such plans shall describe the specific purposes for which funds are proposed to be used and how each purpose will address specific factors. The plan also shall specify how local nonprofit organizations, government agencies, private businesses, citizens groups, volunteer organizations, and interested citizens will cooperate in carrying out the purposes of the grant.

(c) EVALUATION.—An applicant shall include an evaluation plan by which the success of the plan will be measured, including the articulation of specific, objective indicia of performance, how the indicia will be evaluated, and a projected timetable for carrying out the evaluation.

SEC. 30304. APPLICATIONS. 42 USC 13774.

To request a grant under this subtitle the chief local elected official of an area shall—

(1) prepare and submit to the Attorney General an application in such form, at such time, and in accordance with such procedures, as the Attorney General shall establish; and

(2) provide an assurance that funds received under this subtitle shall be used to supplement, not supplant, non-Federal

funds that would otherwise be available for programs funded under this subtitle.

42 USC 13775.

SEC. 30305. REPORTS.

Not later than December 31, 1998, the Attorney General shall prepare and submit to the Committees on the Judiciary of the House and Senate an evaluation of the model programs developed under this subtitle and make recommendations regarding the implementation of a national crime prevention program.

42 USC 13776.

SEC. 30306. DEFINITIONS.

In this subtitle—

"chief local elected official" means an official designated under regulations issued by the Attorney General. The criteria used by the Attorney General in promulgating such regulations shall ensure administrative efficiency and accountability in the expenditure of funds and execution of funded projects under this subtitle.

"chronic high intensity crime area" means an area meeting criteria adopted by the Attorney General by regulation that, at a minimum, define areas with—

(A) consistently high rates of violent crime as reported in the Federal Bureau of Investigation's "Uniform Crime Reports", and

(B) chronically high rates of poverty as determined by the Bureau of the Census.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

42 USC 13777.

SEC. 30307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $100,000,000 for fiscal year 1996;
(2) $125,100,000 for fiscal year 1997;
(3) $125,100,000 for fiscal year 1998;
(4) $125,100,000 for fiscal year 1999; and
(5) $150,200,000 for fiscal year 2000.

Subtitle D—Family and Community Endeavor Schools Grant Program

Community Schools Youth Services and Supervision Grant Program Act of 1994.
42 USC 13791.

SEC. 30401. COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Community Schools Youth Services and Supervision Grant Program Act of 1994".

(b) DEFINITIONS.—In this section—

"child" means a person who is not younger than 5 and not older than 18 years old.

"community-based organization" means a private, locally initiated, community-based organization that—

(A) is a nonprofit organization, as defined in section 103(23) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(23)); and

(B) is operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons:

(i) Residents of the community.

(ii) Business and civic leaders actively involved in providing employment and business development opportunities in the community.

(iii) Educators.

(iv) Religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with an activity funded under this title).

(v) Law enforcement agencies.

(vi) Public housing agencies.

(vii) Other public agencies.

(viii) Other interested parties.

"eligible community" means an area identified pursuant to subsection (e).

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"poverty line" means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"public school" means a public elementary school, as defined in section 1201(i) of the Higher Education Act of 1965 (20 U.S.C. 1141(i)), and a public secondary school, as defined in section 1201(d) of that Act.

"Secretary" means the Secretary of Health and Human Services, in consultation and coordination with the Attorney General.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

(c) PROGRAM AUTHORITY.—

(1) IN GENERAL.—

(A) ALLOCATIONS FOR STATES AND INDIAN COUNTRY.—For any fiscal year in which the sums appropriated to carry out this section equal or exceed $20,000,000, from the sums appropriated to carry out this subsection, the Secretary shall allocate, for grants under subparagraph (B) to community-based organizations in each State, an amount bearing the same ratio to such sums as the number of children in the State who are from families with incomes below the poverty line bears to the number of children in all States who are from families with incomes below the poverty line. In view of the extraordinary need for assistance in Indian country, an appropriate amount of funds available under this subtitle shall be made available for such grants in Indian country.

(B) GRANTS TO COMMUNITY-BASED ORGANIZATIONS FROM ALLOCATIONS.—For such a fiscal year, the Secretary may award grants from the appropriate State or Indian country allocation determined under subparagraph (A) on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(C) REALLOCATION.—If, at the end of such a fiscal year, the Secretary determines that funds allocated for community-based organizations in a State or Indian country under subparagraph (B) remain unobligated, the Secretary may use such funds to award grants to eligible community-based organizations in another State or Indian country to pay for such Federal share. In awarding such grants, the Secretary shall consider the need to maintain geographic diversity among the recipients of such grants. Amounts made available through such grants shall remain available until expended.

(2) OTHER FISCAL YEARS.—For any fiscal year in which the sums appropriated to carry out this section are less than $20,000,000, the Secretary may award grants on a competitive basis to eligible community-based organizations to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section.

(3) ADMINISTRATIVE COSTS.—The Secretary may use not more than 3 percent of the funds appropriated to carry out this section in any fiscal year for administrative costs.

(d) PROGRAM REQUIREMENTS.—

(1) LOCATION.—A community-based organization that receives a grant under this section to assist in carrying out such a program shall ensure that the program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility in a State or Indian country, such as a college or university, a local or State park or recreation center, church, or military base, that is—

(i) in a location that is easily accessible to children in the community; and

(ii) in compliance with all applicable local ordinances.

(2) USE OF FUNDS.—Such community-based organization—

(A) shall use funds made available through the grant to provide, to children in the eligible community, services and activities that—

(i) shall include supervised sports programs, and extracurricular and academic programs, that are offered—

(I) after school and on weekends and holidays, during the school year; and

(II) as daily full-day programs (to the extent available resources permit) or as part-day programs, during the summer months;

(B) in providing such extracurricular and academic programs, shall provide programs such as curriculum-based supervised educational, work force preparation,

entrepreneurship, cultural, health programs, social activities, arts and crafts programs, dance programs, tutorial and mentoring programs, and other related activities;

(C) may use—

(i) such funds for minor renovation of facilities that are in existence prior to the operation of the program and that are necessary for the operation of the program for which the organization receives the grant, purchase of sporting and recreational equipment and supplies, reasonable costs for the transportation of participants in the program, hiring of staff, provision of meals for such participants, provision of health services consisting of an initial basic physical examination, provision of first aid and nutrition guidance, family counselling, parental training, and substance abuse treatment where appropriate; and

(ii) not more than 5 percent of such funds to pay for the administrative costs of the program; and

(D) may not use such funds to provide sectarian worship or sectarian instruction.

(e) ELIGIBLE COMMUNITY IDENTIFICATION.—

(1) IDENTIFICATION.—To be eligible to receive a grant under this section, a community-based organization shall identify an eligible community to be assisted under this section.

(2) CRITERIA.—Such eligible community shall be an area that meets such criteria with respect to significant poverty and significant juvenile delinquency, and such additional criteria, as the Secretary may by regulation require.

(f) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services to be provided through the program for which the grant is sought;

(B) contain an assurance that the community-based organization will spend grant funds received under this section in a manner that the community-based organization determines will best accomplish the objectives of this section;

(C) contain a comprehensive plan for the program that is designed to achieve identifiable goals for children in the eligible community;

(D) set forth measurable goals and outcomes for the program that—

(i) will—

(I) where appropriate, make a public school the focal point of the eligible community; or

(II) make a local facility described in subsection (d)(1)(B) such a focal point; and

(ii) may include reducing the percentage of children in the eligible community that enter the juvenile justice system, increasing the graduation rates, school

attendance, and academic success of children in the eligible community, and improving the skills of program participants;

(E) provide evidence of support for accomplishing such goals and outcomes from—

(i) community leaders;

(ii) businesses;

(iii) local educational agencies;

(iv) local officials;

(v) State officials;

(vi) Indian tribal government officials; and

(vii) other organizations that the community-based organization determines to be appropriate;

(F) contain an assurance that the community-based organization will use grant funds received under this section to provide children in the eligible community with activities and services that shall include supervised sports programs, and extracurricular and academic programs, in accordance with subparagraphs (A) and (B) of subsection (d)(2);

(G) contain a list of the activities and services that will be offered through the program for which the grant is sought and sponsored by private nonprofit organizations, individuals, and groups serving the eligible community, including—

(i) extracurricular and academic programs, such as programs described in subsection (d)(2)(B); and

(ii) activities that address specific needs in the community;

(H) demonstrate the manner in which the community-based organization will make use of the resources, expertise, and commitment of private entities in carrying out the program for which the grant is sought;

(I) include an estimate of the number of children in the eligible community expected to be served pursuant to the program;

(J) include a description of charitable private resources, and all other resources, that will be made available to achieve the goals of the program;

(K) contain an assurance that the community-based organization will use competitive procedures when purchasing, contracting, or otherwise providing for goods, activities, or services to carry out programs under this section;

(L) contain an assurance that the program will maintain a staff-to-participant ratio (including volunteers) that is appropriate to the activity or services provided by the program;

(M) contain an assurance that the program will maintain an average attendance rate of not less than 75 percent of the participants enrolled in the program, or will enroll additional participants in the program;

(N) contain an assurance that the community-based organization will comply with any evaluation under subsection (m), any research effort authorized under Federal law, and any investigation by the Secretary;

(O) contain an assurance that the community-based organization shall prepare and submit to the Secretary

an annual report regarding any program conducted under this section;

(P) contain an assurance that the program for which the grant is sought will, to the maximum extent possible, incorporate services that are provided solely through non-Federal private or nonprofit sources; and

(Q) contain an assurance that the community-based organization will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to community-based organizations who submit applications that demonstrate the greatest effort in generating local support for the programs.

(g) ELIGIBILITY OF PARTICIPANTS.—

(1) IN GENERAL.—To the extent possible, each child who resides in an eligible community shall be eligible to participate in a program carried out in such community that receives assistance under this section.

(2) ELIGIBILITY.—To be eligible to participate in a program that receives assistance under this section, a child shall provide the express written approval of a parent or guardian, and shall submit an official application and agree to the terms and conditions of participation in the program.

(3) NONDISCRIMINATION.—In selecting children to participate in a program that receives assistance under this section, a community-based organization shall not discriminate on the basis of race, color, religion, sex, national origin, or disability.

(h) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary may establish a peer review panel that shall be comprised of individuals with demonstrated experience in designing and implementing community-based programs.

(2) COMPOSITION.—A peer review panel shall include at least 1 representative from each of the following:

(A) A community-based organization.

(B) A local government.

(C) A school district.

(D) The private sector.

(E) A charitable organization.

(F) A representative of the United States Olympic Committee, at the option of the Secretary.

(3) FUNCTIONS.—A peer review panel shall conduct the initial review of all grant applications received by the Secretary under subsection (f), make recommendations to the Secretary regarding—

(A) grant funding under this section; and

(B) a design for the evaluation of programs assisted under this section.

(i) INVESTIGATIONS AND INSPECTIONS.—The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(j) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each community-based organization having an application approved under subsection

(f) the Federal share of the costs of developing and carrying out programs described in subsection (c).

(2) FEDERAL SHARE.—The Federal share of such costs shall be no more than—

(A) 75 percent for each of fiscal years 1995 and 1996;

(B) 70 percent for fiscal year 1997; and

(C) 60 percent for fiscal year 1998 and thereafter.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including plant, equipment, and services (including the services described in subsection (f)(2)(P)), and funds appropriated by the Congress for the activity of any agency of an Indian tribal government or the Bureau of Indian Affairs on any Indian lands may be used to provide the non-Federal share of the costs of programs or projects funded under this subtitle.

(B) SPECIAL RULE.—At least 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(k) EVALUATION.—The Secretary shall conduct a thorough evaluation of the programs assisted under this section, which shall include an assessment of—

(1) the number of children participating in each program assisted under this section;

(2) the academic achievement of such children;

(3) school attendance and graduation rates of such children; and

(4) the number of such children being processed by the juvenile justice system.

Family and Community Endeavor Schools Act. 42 USC 13792.

SEC. 30402. FAMILY AND COMMUNITY ENDEAVOR SCHOOLS GRANT PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Family and Community Endeavor Schools Act".

(b) PURPOSE.—It is the purpose of this section to improve the overall development of at-risk children who reside in eligible communities as defined in subsection (l)(3).

(c) PROGRAM AUTHORITY.—The Secretary may award grants on a competitive basis to eligible local entities to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this section. No local entity shall receive a grant of less than $250,000 in a fiscal year. Amounts made available through such grants shall remain available until expended.

(d) PROGRAM REQUIREMENTS.—

(1) IMPROVEMENT PROGRAMS.—A local entity that receives funds under this section shall develop or expand programs that are designed to improve academic and social development by instituting a collaborative structure that trains and coordinates the efforts of teachers, administrators, social workers, guidance counselors, parents, and school volunteers to provide concurrent social services for at-risk students at selected public schools in eligible communities.

(2) OPTIONAL ACTIVITIES.—A local entity that receives funds under this section may develop a variety of programs to serve the comprehensive needs of students, including—

(A) homework assistance and after-school programs, including educational, social, and athletic activities;

(B) nutrition services;

(C) mentoring programs;

(D) family counseling; and

(E) parental training programs.

(e) ELIGIBLE COMMUNITY IDENTIFICATION.—The Secretary through regulation shall define the criteria necessary to qualify as an eligible community as defined in subsection (l)(3). Regulations.

(f) GRANT ELIGIBILITY.—To be eligible to receive a grant under this section, a local entity shall—

(1) identify an eligible community to be assisted;

(2) develop a community planning process that includes—

(A) parents and family members;

(B) local school officials;

(C) teachers employed at schools within the eligible community;

(D) public housing resident organization members, where applicable; and

(E) public and private nonprofit organizations that provide education, child protective services, or other human services to low-income, at-risk children and their families; and

(3) develop a concentrated strategy for implementation of the community planning process developed under paragraph (2) that targets clusters of at-risk children in the eligible community.

(g) APPLICATIONS.—

(1) APPLICATION REQUIRED.—To be eligible to receive a grant under this section, a local entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require, and obtain approval of such application.

(2) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) shall—

(A) contain a comprehensive plan for the program that is designed to improve the academic and social development of at-risk children in schools in the eligible community;

(B) provide evidence of support for accomplishing the objectives of such plan from—

(i) community leaders;

(ii) a school district;

(iii) local officials; and

(iv) other organizations that the local entity determines to be appropriate;

(C) provide an assurance that the local entity will use grant funds received under this subsection to implement the program requirements listed in subsection (d);

(D) include an estimate of the number of children in the eligible community expected to be served under the program;

(E) provide an assurance that the local entity will comply with any evaluation requested under subsection (k), any research effort authorized under Federal law, and any investigation by the Secretary;

(F) provide an assurance that the local entity shall prepare and submit to the Secretary an annual report regarding any program conducted under this section;

(G) provide an assurance that funds made available under this section shall be used to supplement, not supplant, other Federal funds that would otherwise be available for activities funded under this section; and

(H) provide an assurance that the local entity will maintain separate accounting records for the program.

(3) PRIORITY.—In awarding grants to carry out programs under this section, the Secretary shall give priority to local entities which submit applications that demonstrate the greatest effort in generating local support for the programs.

(h) PEER REVIEW PANEL.—

(1) ESTABLISHMENT.—The Secretary shall establish a peer review panel not to exceed 8 members that shall be comprised of individuals with demonstrated experience in designing and implementing programs to improve the academic and social development of at-risk children.

(2) FUNCTIONS.—Such panel shall make recommendations to the Secretary regarding—

(A) an illustrative model that effectively achieves the program requirements indicated in subsection (d) and a process whereby local entities can request such model; and

(B) a design for the evaluation of programs assisted under this section.

(i) INVESTIGATIONS AND INSPECTIONS.—The Secretary may conduct such investigations and inspections as may be necessary to ensure compliance with the provisions of this section.

(j) FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall, subject to the availability of appropriations, pay to each local entity having an application approved under subsection (g) the Federal share of the costs of developing and carrying out programs referred to in subsection (d).

(2) FEDERAL SHARE.—The Federal share of such costs shall be 70 percent.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of such costs may be in cash or in kind, fairly evaluated, including personnel, plant, equipment, and services.

(B) SPECIAL RULE.—Not less than 15 percent of the non-Federal share of such costs shall be provided from private or nonprofit sources.

(k) EVALUATION.—The Secretary shall require a thorough evaluation of the programs assisted under this section, which shall include an assessment of the academic and social achievement of children assisted with funds provided under this section.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "Secretary" means the Secretary of the Department of Education;

(2) the term "local entity" means—

(A) a local educational agency, or

(B) a community-based organization as defined in section 1471(3) of the Elementary and Secondary Education Act of 1965;

(3) the term "eligible community" means an area which meets criteria with respect to significant poverty and significant violent crime, and such additional criteria, as the Secretary may by regulation require; and

(4) the term "public school" means an elementary school (as defined in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))) and a secondary school (as defined in section 1471(21) of that Act).

SEC. 30403. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13793.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle—

(1) $37,000,000 for fiscal year 1995;
(2) $103,500,000 for fiscal year 1996;
(3) $121,500,000 for fiscal year 1997;
(4) $153,000,000 for fiscal year 1998;
(5) $193,500,000 for fiscal year 1999; and
(6) $201,500,000 for fiscal year 2000.

(b) PROGRAMS.—Of the amounts appropriated under subsection (a) for any fiscal year—

(1) 70 percent shall be made available to carry out section 30401; and

(2) 30 percent shall be made available to carry out section 30402.

Subtitle G—Assistance for Delinquent and At-Risk Youth

SEC. 30701. GRANT AUTHORITY. 42 USC 13801.

(a) GRANTS.—

(1) IN GENERAL.—In order to prevent the commission of crimes or delinquent acts by juveniles, the Attorney General may make grants to public or private nonprofit organizations to support the development and operation of projects to provide residential services to youth, aged 11 to 19, who—

(A) have dropped out of school;

(B) have come into contact with the juvenile justice system; or

(C) are at risk of dropping out of school or coming into contact with the juvenile justice system.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

(3) SERVICES.—Such services shall include activities designed to—

(A) increase the self-esteem of such youth;

(B) assist such youth in making healthy and responsible choices;

(C) improve the academic performance of such youth pursuant to a plan jointly developed by the applicant and the school which each such youth attends or should attend; and

(D) provide such youth with vocational and life skills.

(b) APPLICATIONS.—

(1) IN GENERAL.—A public agency or private nonprofit organization which desires a grant under this section shall

submit an application at such time and in such manner as the Attorney General may prescribe.

(2) CONTENTS.—An application under paragraph (1) shall include—

(A) a description of the program developed by the applicant, including the activities to be offered;

(B) a detailed discussion of how such program will prevent youth from committing crimes or delinquent acts;

(C) evidence that such program—

(i) will be carried out in facilities which meet applicable State and local laws with regard to safety;

(ii) will include academic instruction, approved by the State, Indian tribal government, or local educational agency, which meets or exceeds State, Indian tribal government, and local standards and curricular requirements; and

(iii) will include instructors and other personnel who possess such qualifications as may be required by applicable State or local laws; and

(D) specific, measurable outcomes for youth served by the program.

(c) CONSIDERATION OF APPLICATIONS.—Not later than 60 days following the submission of applications, the Attorney General shall—

(1) approve each application and disburse the funding for each such application; or

(2) disapprove the application and inform the applicant of such disapproval and the reasons therefor.

(d) REPORTS.—A grantee under this section shall annually submit a report to the Attorney General that describes the activities and accomplishments of such program, including the degree to which the specific youth outcomes are met.

(e) DEFINITIONS.—In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

42 USC 13802.

SEC. 30702. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under section 30701—

(1) $5,400,000 for fiscal year 1996;
(2) $6,300,000 for fiscal year 1997;
(3) $7,200,000 for fiscal year 1998;
(4) $8,100,000 for fiscal year 1999; and
(5) $9,000,000 for fiscal year 2000.

Subtitle H—Police Recruitment

SEC. 30801. GRANT AUTHORITY. 42 USC 13811.

(a) GRANTS.—

(1) IN GENERAL.—The Attorney General may make grants to qualified community organizations to assist in meeting the costs of qualified programs which are designed to recruit and retain applicants to police departments.

(2) CONSULTATION WITH THE OUNCE OF PREVENTION COUNCIL.—The Attorney General may consult with the Ounce of Prevention Council in making grants under paragraph (1).

(b) QUALIFIED COMMUNITY ORGANIZATIONS.—An organization is a qualified community organization which is eligible to receive a grant under subsection (a) if the organization—

(1) is a nonprofit organization; and

(2) has training and experience in—

(A) working with a police department and with teachers, counselors, and similar personnel,

(B) providing services to the community in which the organization is located,

(C) developing and managing services and techniques to recruit individuals to become members of a police department and to assist such individuals in meeting the membership requirements of police departments,

(D) developing and managing services and techniques to assist in the retention of applicants to police departments, and

(E) developing other programs that contribute to the community.

(c) QUALIFIED PROGRAMS.—A program is a qualified program for which a grant may be made under subsection (a) if the program is designed to recruit and train individuals from underrepresented neighborhoods and localities and if—

(1) the overall design of the program is to recruit and retain applicants to a police department;

(2) the program provides recruiting services which include tutorial programs to enable individuals to meet police force academic requirements and to pass entrance examinations;

(3) the program provides counseling to applicants to police departments who may encounter problems throughout the application process; and

(4) the program provides retention services to assist in retaining individuals to stay in the application process of a police department.

(d) APPLICATIONS.—To qualify for a grant under subsection (a), a qualified organization shall submit an application to the Attorney General in such form as the Attorney General may prescribe. Such application shall—

(1) include documentation from the applicant showing—

(A) the need for the grant;

(B) the intended use of grant funds;

(C) expected results from the use of grant funds; and

(D) demographic characteristics of the population to be served, including age, disability, race, ethnicity, and languages used; and

(2) contain assurances satisfactory to the Attorney General that the program for which a grant is made will meet the applicable requirements of the program guidelines prescribed by the Attorney General under subsection (i).

(e) ACTION BY THE ATTORNEY GENERAL.—Not later than 60 days after the date that an application for a grant under subsection (a) is received, the Attorney General shall consult with the police department which will be involved with the applicant and shall—

(1) approve the application and disburse the grant funds applied for; or

(2) disapprove the application and inform the applicant that the application is not approved and provide the applicant with the reasons for the disapproval.

(f) GRANT DISBURSEMENT.—The Attorney General shall disburse funds under a grant under subsection (a) in accordance with regulations of the Attorney General which shall ensure—

(1) priority is given to applications for areas and organizations with the greatest showing of need;

(2) that grant funds are equitably distributed on a geographic basis; and

(3) the needs of underserved populations are recognized and addressed.

(g) GRANT PERIOD.—A grant under subsection (a) shall be made for a period not longer than 3 years.

(h) GRANTEE REPORTING.—(1) For each year of a grant period for a grant under subsection (a), the recipient of the grant shall file a performance report with the Attorney General explaining the activities carried out with the funds received and assessing the effectiveness of such activities in meeting the purpose of the recipient's qualified program.

(2) If there was more than one recipient of a grant, each recipient shall file such report.

(3) The Attorney General shall suspend the funding of a grant, pending compliance, if the recipient of the grant does not file the report required by this subsection or uses the grant for a purpose not authorized by this section.

Regulations.

(i) GUIDELINES.—The Attorney General shall, by regulation, prescribe guidelines on content and results for programs receiving a grant under subsection (a). Such guidelines shall be designed to establish programs which will be effective in training individuals to enter instructional programs for police departments and shall include requirements for—

(1) individuals providing recruiting services;

(2) individuals providing tutorials and other academic assistance programs;

(3) individuals providing retention services; and

(4) the content and duration of recruitment, retention, and counseling programs and the means and devices used to publicize such programs.

42 USC 13812.

SEC. 30802. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under section 30801—

(1) $2,000,000 for fiscal year 1996;

(2) $4,000,000 for fiscal year 1997;

(3) $5,000,000 for fiscal year 1998;

(4) $6,000,000 for fiscal year 1999; and

(5) $7,000,000 for fiscal year 2000.

Subtitle J—Local Partnership Act

SEC. 31001. ESTABLISHMENT OF PAYMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 31, United States Code, is amended by inserting after chapter 65 the following new chapter:

"CHAPTER 67—FEDERAL PAYMENTS

"Sec.
"6701. Payments to local governments.
"6702. Local Government Fiscal Assistance Fund.
"6703. Qualification for payment.
"6704. State area allocations; allocations and payments to territorial governments.
"6705. Local government allocations.
"6706. Income gap multiplier.
"6707. State variation of local government allocations.
"6708. Adjustments of local government allocations.
"6709. Information used in allocation formulas.
"6710. Public participation.
"6711. Prohibited discrimination.
"6712. Discrimination proceedings.
"6713. Suspension and termination of payments in discrimination proceedings.
"6714. Compliance agreements.
"6715. Enforcement by the Attorney General of prohibitions on discrimination.
"6716. Civil action by a person adversely affected.
"6717. Judicial review.
"6718. Investigations and reviews.
"6719. Reports.
"6720. Definitions, application, and administration.

"§ 6701. Payments to local governments

"(a) PAYMENT AND USE.—

"(1) PAYMENT.—The Secretary shall pay to each unit of general local government which qualifies for a payment under this chapter an amount equal to the sum of any amounts allocated to the government under this chapter for each payment period. The Secretary shall pay such amount out of the Local Government Fiscal Assistance Fund under section 6702.

"(2) USE.—Amounts paid to a unit of general local government under this section shall be used by that unit for carrying out one or more programs of the unit related to—

"(A) education to prevent crime;

"(B) substance abuse treatment to prevent crime; or

"(C) job programs to prevent crime.

"(3) COORDINATION.—Programs funded under this title shall be coordinated with other existing Federal programs to meet the overall needs of communities that benefit from funds received under this section.

"(b) TIMING OF PAYMENTS.—The Secretary shall pay each amount allocated under this chapter to a unit of general local government for a payment period by the later of 90 days after the date the amount is available or the first day of the payment period provided that the unit of general local government has provided the Secretary with the assurances required by section 6703(d).

"(c) ADJUSTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall adjust a payment under this chapter to a unit of general local government to the extent that a prior payment to the

government was more or less than the amount required to be paid.

"(2) CONSIDERATIONS.—The Secretary may increase or decrease under this subsection a payment to a unit of local government only if the Secretary determines the need for the increase or decrease, or the unit requests the increase or decrease, within one year after the end of the payment period for which the payment was made.

"(d) RESERVATION FOR ADJUSTMENTS.—The Secretary may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of general local government in a State if the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

"(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

"(1) REPAYMENT REQUIRED.—A unit of general local government shall repay to the Secretary, by not later than 15 months after receipt from the Secretary, any amount that is—

"(A) paid to the unit from amounts appropriated under the authority of this section; and

"(B) not expended by the unit within one year after receipt from the Secretary.

"(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Secretary shall reduce payments in future payment periods accordingly.

"(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Secretary as repayments under this subsection shall be deposited in the Local Government Fiscal Assistance Fund for future payments to units of general local government.

"(f) EXPENDITURE WITH DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Of amounts paid to a unit of general local government under this chapter for a payment period, not less than 10 percent of the total combined amounts obligated by the unit for contracts and subcontracts shall be expended with—

"(A) small business concerns controlled by socially and economically disadvantaged individuals and women; and

"(B) historically Black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

"(2) EXCEPTION.—Paragraph (1) shall not apply to amounts paid to a unit of general local government to the extent the unit determines that the paragraph does not apply through a process that provides for public participation.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'small business concern' has the meaning such term has under section 3 of the Small Business Act; and

"(B) the term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act and relevant subcontracting regulations promulgated pursuant to that section.

"(g) NONSUPPLANTING REQUIREMENT.—

"(1) IN GENERAL.—Funds made available under this chapter to units of local government shall not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of funds under this chapter, be made available from State or local sources.

"(2) BASE LEVEL AMOUNT.—The total level of funding available to a unit of local government for accounts serving eligible purposes under this chapter in the fiscal year immediately preceding receipt of a grant under this chapter shall be designated the 'base level account' for the fiscal year in which a grant is received. Grants under this chapter in a given fiscal year shall be reduced on a dollar for dollar basis to the extent that a unit of local government reduces its base level account in that fiscal year.

"§ 6702. Local Government Fiscal Assistance Fund

"(a) ADMINISTRATION OF FUND.—The Department of the Treasury has a Local Government Fiscal Assistance Fund, which consists of amounts appropriated to the Fund.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

"(1) $270,000,000 for fiscal year 1996;
"(2) $283,500,000 for fiscal year 1997;
"(3) $355,500,000 for fiscal year 1998;
"(4) $355,500,000 for fiscal year 1999; and
"(5) $355,500,000 for fiscal year 2000.

Such sums are to remain available until expended.

"(c) ADMINISTRATIVE COSTS.—Up to 2.5 percent of the amount authorized to be appropriated under subsection (b) is authorized to be appropriated for the period fiscal year 1995 through fiscal year 2000 to be available for administrative costs by the Secretary in furtherance of the purposes of the program. Such sums are to remain available until expended.

"§ 6703. Qualification for payment

"(a) IN GENERAL.—The Secretary shall issue regulations establishing procedures under which eligible units of general local government are required to provide notice to the Secretary of the units' proposed use of assistance under this chapter. Subject to subsection (c), the assistance provided shall be used, in amounts determined by the unit, for activities under, or for activities that are substantially similar to an activity under, 1 or more of the following programs and the notice shall identify 1 or more of the following programs for each such use:

"(1) The Drug Abuse Resistance Education Program under section 5122 of the Elementary and Secondary Education Act of 1965.

"(2) The National Youth Sports Program under section 682 of the Community Services Block Grant Act (Public Law 97-35) as amended by section 205, Public Law 103-252.

"(3) The Gang Resistance Education and Training Program under the Act entitled 'An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes', approved November 5, 1990 (Public Law 101-509).

"(4) Programs under title II or IV of the Job Training Partnership Act (29 U.S.C. 1601 et seq.).

"(5) Programs under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), as amended.

"(6) Programs under the School to Work Opportunities Act (Public Law 103–239).

"(7) Substance Abuse Treatment and Prevention programs authorized under title V or XIX of the Public Health Services Act (43 U.S.C. 201 et seq.).

"(8) Programs under the Head Start Act (42 U.S.C. 9831 et seq.).

"(9) Programs under part A or B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(10) The TRIO programs under part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(11) Programs under the National Literacy Act of 1991.

"(12) Programs under the Carl Perkins Vocational Educational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

"(13) The demonstration partnership programs including the community initiative targeted to minority youth under section 203 of the Human Services Reauthorization Act of 1994 (Public Law 103–252).

"(14) The runaway and homeless youth program and the transitional living program for homeless youth under title III of the Juvenile Justice and Delinquency Prevention Act (Public Law 102–586).

"(15) The family support program under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1148 et seq.).

"(16) After-school activities for school aged children under the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.).

"(17) The community-based family resource programs under section 401 of the Human Services Reauthorization Act of 1994 (Public Law 103–252).

"(18) The family violence programs under the Child Abuse Prevention and Treatment Act Amendments of 1984.

"(19) Job training programs administered by the Department of Agriculture, the Department of Defense, or the Department of Housing and Urban Development.

"(b) NOTICE TO AGENCY.—Upon receipt of notice under subsection (a) from an eligible unit of general local government, the Secretary shall notify the head of the appropriate Federal agency for each program listed in subsection (a) that is identified in the notice as a program under which an activity will be conducted with assistance under this chapter. The notification shall state that the unit has elected to use some or all of its assistance under this chapter for activities under that program. The head of a Federal agency that receives such a notification shall ensure that such use is in compliance with the laws and regulations applicable to that program, except that any requirement to provide matching funds shall not apply to that use.

"(c) ALTERNATIVE USES OF FUNDS.—

"(1) ALTERNATIVE USES AUTHORIZED.—In lieu of, or in addition to, use for an activity described in subsection (a) and

notice for that use under subsection (a), an eligible unit of general local government may use assistance under this chapter, and shall provide notice of that use to the Secretary under subsection (a), for any other activity that is consistent with 1 or more of the purposes described in section 6701(a)(2).

"(2) NOTICE DEEMED TO DESCRIBE CONSISTENT USE.—Notice by a unit of general local government that it intends to use assistance under this chapter for an activity other than an activity described in subsection (a) is deemed to describe an activity that is consistent with 1 or more of the purposes described in section 6701(a)(2) unless the Secretary provides to the unit, within 30 days after receipt of that notice of intent from the unit, written notice (including an explanation) that the use is not consistent with those purposes.

"(d) GENERAL REQUIREMENTS FOR QUALIFICATION.—A unit of general local government qualifies for a payment under this chapter for a payment period only after establishing to the satisfaction of the Secretary that—

"(1) the government will establish a trust fund in which the government will deposit all payments received under this chapter;

"(2) the government will use amounts in the trust fund (including interest) during a reasonable period;

"(3) the government will expend the payments so received, in accordance with the laws and procedures that are applicable to the expenditure of revenues of the government;

"(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

"(5) all laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act), as amended (40 U.S.C. 276c, 48 Stat. 948);

"(6) the government will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Secretary after consultation with the Comptroller General of the United States. As applicable, amounts received under this chapter shall be audited in compliance with the Single Audit Act of 1984;

"(7) after reasonable notice to the government, the government will make available to the Secretary and the Comptroller General of the United States, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General of the United States

Records.

reasonably requires to review compliance and operations under section 6718(b);

Reports.

"(8) the government will make reports the Secretary reasonably requires, in addition to the annual reports required under section 6719(b); and

"(9) the government will spend the funds only for the purposes set forth in section 6701(a)(2).

"(e) REVIEW BY GOVERNORS.—A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (d).

"(f) SANCTIONS FOR NONCOMPLIANCE.—

"(1) IN GENERAL.—If the Secretary decides that a unit of general local government has not complied substantially with subsection (d) or regulations prescribed under subsection (d), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current payment period and later payment periods until the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (d) and regulations prescribed under subsection (d).

"(2) NOTICE.—Before giving notice under paragraph (1), the Secretary shall give the chief executive officer of the unit of general local government reasonable notice and an opportunity for comment.

"(3) PAYMENT CONDITIONS.—The Secretary may make a payment to a unit of general local government notified under paragraph (1) only if the Secretary is satisfied that the government—

"(A) has taken the appropriate corrective action; and

"(B) will comply with subsection (d) and regulations prescribed under subsection (d).

"§ 6704. State area allocations; allocations and payments to territorial governments

"(a) FORMULA ALLOCATION BY STATE.—For each payment period, the Secretary shall allocate to each State out of the amount appropriated for the period under the authority of section 6702(b) (minus the amounts allocated to territorial governments under subsection (e) for the payment period) an amount bearing the same ratio to the amount appropriated (minus such amounts allocated under subsection (e)) as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

"(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

"(2) allocate the amount allocated to the State to units of general local government in the State under sections 6705 and 6706.

"(b) GENERAL FORMULA.—

"(1) IN GENERAL.—For the payment period beginning October 1, 1994, the amount allocated to a State under this sub-

section for a payment period is the amount bearing the same ratio to $5,300,000,000 as—

"(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2)), multiplied by the relative income factor of the State (determined under paragraph (3)), multiplied by the relative rate of the labor force unemployed in the State (determined under paragraph (4)); bears to

"(B) the sum of the products determined under subparagraph (A) of this paragraph for all States.

"(2) GENERAL TAX EFFORT FACTOR.—The general tax effort factor of a State for a payment period is—

"(A) the net amount of State and local taxes of the State collected during the year 1991 as reported by the Bureau of the Census in the publication Government Finances 1990–1991; divided by

"(B) the total income of individuals, as determined by the Secretary of Commerce for national accounts purposes for 1992 as reported in the publication Survey of Current Business (August 1993), attributed to the State for the same year.

"(3) RELATIVE INCOME FACTOR.—The relative income factor of a State is a fraction in which—

"(A) the numerator is the per capita income of the United States; and

"(B) the denominator is the per capita income of the State.

"(4) RELATIVE RATE OF LABOR FORCE.—The relative rate of the labor force unemployed in a State is a fraction in which—

"(A) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

"(B) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes).

"(c) ALTERNATIVE FORMULA.—For the payment period beginning October 1, 1994, the amount allocated to a State under this subsection for a payment period is the total amount the State would receive if—

"(1) $1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the population of the State bears to the population of all States;

"(2) $1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the population of the State, multiplied by a fraction in which—

"(i) the numerator is the per capita income of all States; and

"(ii) the denominator is the per capita income of the State; bears to

"(B) the sum of the products determined under subparagraph (A) for all States;

"(3) $600,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the income tax amount of the State (determined under subsection (d)(1)) bears to the sum of the income tax amounts of all States;

"(4) $600,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the general tax effort amount of the State (determined under subsection (d)(2)) bears to the sum of the general tax effort amounts of all States;

"(5) $600,000,000 were allocated among the States on the basis of unemployment by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as—

"(A) the labor force of the State, multiplied by a fraction in which—

"(i) the numerator is the percentage of the labor force of the State that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes); and

"(ii) the denominator is the percentage of the labor force of the United States that is unemployed in the calendar year preceding the payment period (as determined by the Secretary of Labor for general statistical purposes)

bears to

"(B) the sum of the products determined under subparagraph (A) for all States; and

"(6) $1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated under this paragraph as the urbanized population of the State bears to the urbanized population of all States. In this paragraph, the term 'urbanized population' means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area as published by the Bureau of the Census for 1990 in the publication General Population Characteristics for Urbanized Areas.

"(d) INCOME TAX AMOUNT AND TAX EFFORT AMOUNT.—

"(1) INCOME TAX AMOUNT.—The income tax amount of a State for a payment period is 15 percent of the net amount collected during the calendar year ending before the beginning of the payment period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 164(a)(3)). The income tax amount for a payment period shall be at least 1 percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable year ending during the last calendar year ending before the beginning of

the payment period. The Secretary shall determine the Government income tax liability attributed to the State by using the data published by the Secretary for 1991 in the publication Statistics of Income Bulletin (Winter 1993–1994).

"(2) GENERAL TAX EFFORT AMOUNT.—The general tax effort amount of a State for a payment period is the amount determined by multiplying—

"(A) the net amount of State and local taxes of the State collected during the year 1991 as reported in the Bureau of Census in the publication Government Finances 1990–1991; and

"(B) the general tax effort factor of the State determined under subsection (b)(2).

"(e) ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—(A) For each payment period for which funds are available for allocation under this chapter, the Secretary shall allocate to each territorial government an amount equal to the product of 1 percent of the amount of funds available for allocation multiplied by the applicable territorial percentage.

"(B) For the purposes of this paragraph, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(2) PAYMENTS TO LOCAL GOVERNMENTS.—The governments of the territories shall make payments to local governments within their jurisdiction from sums received under this subsection as they consider appropriate.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'territorial government' means the government of a territory;

"(B) the term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands; and

"(C) the term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"§ 6705. Local government allocations

"(a) INDIAN TRIBES AND ALASKAN NATIVES VILLAGES.—If there is in a State an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the tribe or village bears to the population of the State. The Secretary shall allocate amounts under this subsection to Indian tribes and Alaskan native villages in a State before allocating amounts to units of general local government in the State under subsection (c). For the payment period beginning October 1, 1994, the Secretary shall use as the population of each Indian tribe or Alaskan native village the population for 1991 as reported by the Bureau of Indian Affairs in the publication Indian Service Population and Labor Force Estimates (January 1991). In addition to uses authorized under section 6701(a)(2), amounts allocated under this subsection and paid to an Indian

tribe or Alaskan native village under this chapter may be used for renovating or building prisons or other correctional facilities.

"(b) NEWLY INCORPORATED LOCAL GOVERNMENTS AND ANNEXED GOVERNMENTS.—If there is in a State a unit of general local government that has been incorporated since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall allocate to this newly incorporated local government, out of the amount allocated to the State under section 6704, an amount bearing the same ratio to the amount allocated to the State as the population of the newly incorporated local government bears to the population of the State. If there is in the State a unit of general local government that has been annexed since the date of the collection of the data used by the Secretary in making allocations pursuant to sections 6704 through 6706 and 6708, the Secretary shall pay the amount that would have been allocated to this local government to the unit of general local government that annexed it.

"(c) OTHER LOCAL GOVERNMENT ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall allocate among the units of general local government in a State (other than units receiving allocations under subsection (a)) the amount allocated to the State under section 6704 (as that amount is reduced by allocations under subsection (a)). Of the amount to be allocated, the Secretary shall allocate a portion equal to ½ of such amount in accordance with section 6706(1), and shall allocate a portion equal to ½ of such amount in accordance with section 6706(2). A unit of general local government shall receive an amount equal to the sum of amounts allocated to the unit from each portion.

"(2) RATIO.—From each portion to be allocated to units of local government in a State under paragraph (1), the Secretary shall allocate to a unit an amount bearing the same ratio to the funds to be allocated as—

"(A) the population of the unit, multiplied by the general tax effort factor of the unit (determined under paragraph (3)), multiplied by the income gap of the unit (determined under paragraph (4)), bears to

"(B) the sum of the products determined under subparagraph (A) for all units in the State for which the income gap for that portion under paragraph (4) is greater than zero.

"(3) GENERAL TAX EFFORT FACTOR.—(A) Except as provided in subparagraph (C), the general tax effort factor of a unit of general local government for a payment period is—

"(i) the adjusted taxes of the unit; divided by

"(ii) the total income attributed to the unit.

"(B) If the amount determined under subparagraphs (A) (i) and (ii) for a unit of general local government is less than zero, the general tax effort factor of the unit is deemed to be zero.

"(C)(i) Except as otherwise provided in this subparagraph, for the payment period beginning October 1, 1994, the adjusted taxes of a unit of general local government are the taxes imposed by the unit for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments

for capital outlay), as determined by the Bureau of the Census for the 1987 Census of Governments and adjusted as follows:

"(I) Adjusted taxes equals total taxes times a fraction in which the numerator is the sum of unrestricted revenues and revenues dedicated for spending on education minus total education spending and the denominator is total unrestricted revenues.

"(II) Total taxes is the sum of property tax; general sales tax; alcoholic beverage tax; amusement tax; insurance premium tax; motor fuels tax; parimutuels tax; public utilities tax; tobacco tax; other selective sales tax; alcoholic beverage licenses, amusement licenses; corporation licenses, hunting and fishing licenses; motor vehicle licenses; motor vehicle operator licenses; public utility licenses; occupation and business licenses, not elsewhere classified; other licenses, individual income tax; corporation net income tax; death and gift tax; documentary and stock transfer tax; severance tax; and taxes not elsewhere classified.

"(III) Unrestricted revenues is the sum of total taxes and intergovernmental revenue from Federal Government, general revenue sharing; intergovernmental revenue from Federal Government, other general support; intergovernmental revenue from Federal Government, other; intergovernmental revenue from State government, other general support; intergovernmental revenue from State government, other; intergovernmental revenue from local governments, other general support; intergovernmental revenue from local governments, other; miscellaneous general revenue, property sale-housing and community development; miscellaneous general revenue, property sale-other property; miscellaneous general revenue, interest earnings on investments; miscellaneous general revenue, fines and forfeits; miscellaneous general revenue, rents; miscellaneous general revenues, royalties; miscellaneous general revenue, donations from private sources; miscellaneous general revenue, net lottery revenue (after prizes and administrative expenses); miscellaneous general revenue, other miscellaneous general revenue; and all other general charges, not elsewhere classified.

"(IV) Revenues dedicated for spending on education is the sum of elementary and secondary education, school lunch; elementary and secondary education, tuition; elementary and secondary education, other; higher education, auxiliary enterprises; higher education, other; other education, not elsewhere classified; intergovernmental revenue from Federal Government, education; intergovernmental revenue from State government, education; intergovernmental revenue from local governments, interschool system revenue; intergovernmental revenue from local governments, education; interest earnings, higher education; interest earnings, elementary and secondary education; miscellaneous revenues, higher education; and miscellaneous revenues, elementary and secondary education.

"(V) Total education spending is the sum of elementary and secondary education, current operations; elementary and secondary education, construction; elementary and

secondary education, other capital outlays; elementary and secondary education, to State governments; elementary and secondary education, to local governments, not elsewhere classified; elementary and secondary education, to counties; elementary and secondary education, to municipalities; elementary and secondary education, to townships; elementary and secondary education, to school districts; elementary and secondary education, to special districts; higher education-auxiliary enterprises, current operations; higher education-auxiliary enterprises, construction; higher education, auxiliary enterprises, other capital outlays; other higher education, current operations; other higher education, construction; other higher education, other capital outlays; other higher education, to State government; other higher education, to local governments, not elsewhere classified; other higher education, to counties; other higher education, to municipalities; other higher education, to townships; other higher education, to school districts; other higher education, to special districts; education assistance and subsidies; education, not elsewhere classified, current operations; education, not elsewhere classified, construction education, not elsewhere classified, other capital outlays; education, not elsewhere classified, to State government; education, not elsewhere classified, to local governments, not elsewhere classified; education, not elsewhere classified, to counties; education, not elsewhere classified, to municipalities; education, not elsewhere classified, to townships; education, not elsewhere classified, to school districts; education, not elsewhere classified, to special districts; and education, not elsewhere classified, to Federal Government.

"(VI) If the amount of adjusted taxes is less than zero, the amount of adjusted tax shall be deemed to be zero.

"(VII) If the amount of adjusted taxes exceeds the amount of total taxes, the amount of adjusted taxes is deemed to equal the amount of total taxes.

"(ii) The Secretary shall, for purposes of clause (i), include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in the geographic area of which is located the unit of general local government as taxes imposed by the unit for public purposes if—

"(I) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

"(II) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this clause.

"(iii) The adjusted taxes of a unit of general local government shall not exceed the maximum allowable adjusted taxes for that unit.

"(iv) The maximum allowable adjusted taxes for a unit of general local government is the allowable adjusted taxes of the unit minus the excess adjusted taxes of the unit.

"(v) The allowable adjusted taxes of a unit of general government is the greater of—

"(I) the amount equal to 2.5, multiplied by the per capita adjusted taxes of all units of general local government of the same type in the State, multiplied by the population of the unit; or

"(II) the amount equal to the population of the unit, multiplied by the sum of the adjusted taxes of all units of municipal local government in the State, divided by the sum of the populations of all the units of municipal local government in the State.

"(vi) The excess adjusted taxes of a unit of general local government is the amount equal to—

"(I) the adjusted taxes of the unit, minus

"(II) 1.5 multiplied by the allowable adjusted taxes of the unit;

except that if this amount is less than zero then the excess adjusted taxes of the unit is deemed to be zero.

"(vii) For purposes of this subparagraph—

"(I) the term 'per capita adjusted taxes of all units of general local government of the same type' means the sum of the adjusted taxes of all units of general local government of the same type divided by the sum of the populations of all units of general local government of the same type; and

"(II) the term 'units of general local government of the same type' means all townships if the unit of general local government is a township, all municipalities if the unit of general local government is a municipality, all counties if the unit of general local government is a county, or all unified city/county governments if the unit of general local government is a unified city/county government.

"(4) INCOME GAP.—(A) Except as provided in subparagraph (B), the income gap of a unit of general local government is—

"(i) the number which applies under section 6706, multiplied by the per capita income of the State in which the unit is located; minus

"(ii) the per capita income of the geographic area of the unit.

"(B) If the amount determined under subparagraph (A) for a unit of general local government is less than zero, then the relative income factor of the unit is deemed to be zero.

"(d) SMALL GOVERNMENT ALLOCATIONS.—If the Secretary decides that information available for a unit of general local government with a population below a number (of not more than 500) prescribed by the Secretary is inadequate, the Secretary may allocate to the unit, in lieu of any allocation under subsection (b) for a payment period, an amount bearing the same ratio to the total amount to be allocated under subsection (b) for the period for all units of general local government in the State as the population of the unit bears to the population of all units in the State.

"§ 6706. Income gap multiplier

"For purposes of determining the income gap of a unit of general local government under section 6705(b)(4)(A), the number which applies is—

"(1) 1.6, with respect to ½ of any amount allocated under section 6704 to the State in which the unit is located; and

"(2) 1.2, with respect to the remainder of such amount.

"§ 6707. State variation of local government allocations

"(a) STATE FORMULA.—A State government may provide by law for the allocation of amounts among units of general local government in the State on the basis of population multiplied by the general tax effort factors or income gaps of the units of general local government determined under sections 6705 (a) and (b) or a combination of those factors. A State government providing for a variation of an allocation formula provided under sections 6705 (a) and (b) shall notify the Secretary of the variation by the 30th day before the beginning of the first payment period in which the variation applies. A variation shall—

"(1) provide for allocating the total amount allocated under sections 6705 (a) and (b); and

"(2) apply uniformly in the State.

"(b) CERTIFICATION.—A variation by a State government under this section may apply only if the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only if the Secretary is notified of the variation at least 30 days before the first payment period in which the variation applies.

"§ 6708. Adjustments of local government allocations

"(a) MAXIMUM AMOUNT.—The amount allocated to a unit of general local government for a payment period may not exceed the adjusted taxes imposed by the unit of general local government as determined under section 6705(b)(3). Amounts in excess of adjusted taxes shall be paid to the Governor of the State in which the unit of local government is located.

"(b) DE MINIMIS ALLOCATIONS TO UNITS OF GENERAL LOCAL GOVERNMENT.—If the amount allocated to a unit of general local government (except an Indian tribe or an Alaskan native village) for a payment period would be less than $5,000 but for this subsection or is waived by the governing authority of the unit of general local government, the Secretary shall pay the amount to the Governor of the State in which the unit is located.

"(c) USE OF PAYMENTS TO STATES.—The Governor of a State shall use all amounts paid to the Governor under subsections (a) and (b) for programs described in section 6701(a)(2) in areas of the State where are located the units of general local government with respect to which amounts are paid under subsection (b).

"(d) DE MINIMIS ALLOCATIONS TO INDIAN TRIBES AND ALASKAN NATIVE VILLAGES.—

"(1) AGGREGATION OF DE MINIMIS ALLOCATIONS.—If the amount allocated to an Indian tribe or an Alaskan native village for a payment period would be less than $5,000 but for this subsection or is waived by the chief elected official of the tribe or village, the amount—

"(A) shall not be paid to the tribe or village (except under paragraph (2)); and

"(B) shall be aggregated with other such amounts and available for use by the Attorney General under paragraph (2).

"(2) USE OF AGGREGATED AMOUNTS.—Amounts aggregated under paragraph (1) for a payment period shall be available for use by the Attorney General to make grants in the payment

period on a competitive basis to Indian Tribes and Alaskan native village for—

"(A) programs described in section 6701(a)(2); or

"(B) renovating or building prisons or other correctional facilities.

"§ 6709. Information used in allocation formulas

"(a) POPULATION DATA FOR PAYMENT PERIOD BEGINNING OCTOBER 1, 1994.—For the payment period beginning October 1, 1994, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use for the population of the States the population for 1992 as reported by the Bureau of the Census in the publication Current Population Reports, Series P–25, No. 1045 (July 1992) and for the population of units of general local government the Secretary shall use the population for 1990 as reported by the Bureau of the Census in the publication Summary Social, Economic, and Housing Characteristics.

"(b) DATA FOR PAYMENT PERIODS BEGINNING AFTER SEPTEMBER 30, 1995.—For any payment period beginning after September 30, 1995, the Secretary, in making allocations pursuant to sections 6704 through 6706 and 6708, shall use information more recent than the information used for the payment period beginning October 1, 1994, provided the Secretary notifies the Committee on Government Operations of the House of Representatives at least 90 days prior to the beginning of the payment period that the Secretary has determined that the more recent information is more reliable than the information used for the payment period beginning October 1, 1994.

"§ 6710. Public participation

"(a) HEARINGS.—

"(1) IN GENERAL.—A unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

"(2) SENIOR CITIZENS.—A unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

"(b) DISCLOSURE OF INFORMATION.—

"(1) IN GENERAL.—By the 10th day before a hearing required under subsection (a)(1) is held, a unit of general local government shall—

"(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

"(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary Publication.

of the proposed budget and a notice of the time and place of the hearing.

"(2) AVAILABILITY.—By the 30th day after adoption of the budget under State or local law, the government shall—

"(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

Publication.

"(B) publish in at least one newspaper of general circulation a notice that the information referred to in subparagraph (A) is available for inspection.

"(c) WAIVERS OF REQUIREMENTS.—A requirement—

"(1) under subsection (a)(1) may be waived if the budget process required under the applicable State or local law or charter provisions—

"(A) ensures the opportunity for public attendance and participation contemplated by subsection (a); and

"(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

"(2) under subsection (b)(1)(B) and paragraph (2)(B) may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government from amounts available for payment under this chapter, or if publication is otherwise impracticable.

"(d) EXCEPTION TO 10-DAY LIMITATION.—If the Secretary is satisfied that a unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) may be changed to the extent necessary to comply with applicable State or local law.

"§ 6711. Prohibited discrimination

"(a) GENERAL PROHIBITION.—No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a unit of general local government because of race, color, national origin, or sex if the government receives a payment under this chapter.

"(b) ADDITIONAL PROHIBITIONS.—The following prohibitions and exemptions also apply to a program or activity of a unit of general local government if the government receives a payment under this chapter:

"(1) A prohibition against discrimination because of age under the Age Discrimination Act of 1975.

"(2) A prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973.

"(3) A prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968 (popularly known as the Civil Rights Act of 1968).

"(c) LIMITATIONS ON APPLICABILITY OF PROHIBITIONS.—Subsections (a) and (b) do not apply if the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity with respect to which the allegation of discrimination is made.

"(d) INVESTIGATION AGREEMENTS.—The Secretary shall try to make agreements with heads of agencies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

"(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

"(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

"§ 6712. Discrimination proceedings

"(a) NOTICE OF NONCOMPLIANCE.—By the 10th day after the Secretary makes a finding of discrimination or receives a holding of discrimination about a unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

"(b) INFORMAL PRESENTATION OF EVIDENCE.—A unit of general local government may present evidence informally to the Secretary within 30 days after the government receives a notice of noncompliance from the Secretary. Except as provided in subsection (e), the government may present evidence on whether—

"(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6711(a);

"(2) the program or activity of the government violated a prohibition described in section 6711(b); and

"(3) any part of that program or activity has been paid for with a payment received under this chapter.

"(c) TEMPORARY SUSPENSION OF PAYMENTS.—By the end of the 30-day period under subsection (b), the Secretary shall decide whether the unit of general local government has not complied with section 6711 (a) or (b), unless the government has entered into a compliance agreement under section 6714. If the Secretary decides that the government has not complied, the Secretary shall notify the government of the decision and shall suspend payments to the government under this chapter unless, within 10 days after the government receives notice of the decision, the government—

"(1) enters into a compliance agreement under section 6714; or

"(2) requests a proceeding under subsection (d)(1).

"(d) ADMINISTRATIVE REVIEW OF SUSPENSIONS.—

"(1) PROCEEDING.—A proceeding requested under subsection (c)(2) shall begin by the 30th day after the Secretary receives a request for the proceeding. The proceeding shall be before an administrative law judge appointed under section 3105 of title 5, United States Code. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the unit of general local government is likely to prevail in showing compliance with section 6711 (a) or (b).

"(2) DECISION.—If the administrative law judge decides at the end of a proceeding under paragraph (1) that the unit of general local government has—

"(A) not complied with section 6711 (a) or (b), the judge may order payments to the government under this chapter terminated; or

"(B) complied with section 6711 (a) or (b), a suspension under section 6713(a)(1)(A) shall be discontinued promptly.

"(3) LIKELIHOOD OF PREVAILING.—An administrative law judge may not issue a preliminary decision that the government is not likely to prevail if the judge has issued a decision described in paragraph (2)(A).

"(e) BASIS FOR REVIEW.—In a proceeding under subsections (b) through (d) on a program or activity of a unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding of discrimination is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

"§ 6713. Suspension and termination of payments in discrimination proceedings

"(a) IMPOSITION AND CONTINUATION OF SUSPENSIONS.—

"(1) IN GENERAL.—The Secretary shall suspend payment under this chapter to a unit of general local government—

"(A) if an administrative law judge appointed under section 3105 of title 5, United States Code, issues a preliminary decision in a proceeding under section 6712(d)(1) that the government is not likely to prevail in showing compliance with section 6711 (a) and (b);

"(B) if the administrative law judge decides at the end of the proceeding that the government has not complied with section 6711 (a) or (b), unless the government makes a compliance agreement under section 6714 by the 30th day after the decision; or

"(C) if required under section 6712(c).

"(2) EFFECTIVENESS.—A suspension already ordered under paragraph (1)(A) continues in effect if the administrative law judge makes a decision under paragraph (1)(B).

"(b) LIFTING OF SUSPENSIONS AND TERMINATIONS.—If a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding based on the holding shall be discontinued.

"(c) RESUMPTION OF PAYMENTS UPON ATTAINING COMPLIANCE.—The Secretary may resume payment to a unit of general local government of payments suspended by the Secretary only—

"(1) as of the time of, and under the conditions stated in—

"(A) the approval by the Secretary of a compliance agreement under section 6714(a)(1); or

"(B) a compliance agreement entered into by the Secretary under section 6714(a)(2);

"(2) if the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6712(a);

"(3) if a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding

under section 6712(d)(1)), that the government has complied with sections 6711 (a) and (b); or

"(4) if a suspension is discontinued under subsection (b).

"(d) PAYMENT OF DAMAGES AS COMPLIANCE.—For purposes of subsection (c)(2), compliance by a government may consist of the payment of restitution to a person injured because the government did not comply with section 6711 (a) or (b).

"(e) RESUMPTION OF PAYMENTS UPON REVERSAL BY COURT.—The Secretary may resume payment to a unit of general local government of payments terminated under section 6712(d)(2)(A) only if the decision resulting in the termination is reversed by an appellate court.

"§ 6714. Compliance agreements

"(a) TYPES OF COMPLIANCE AGREEMENTS.—A compliance agreement is an agreement—

"(1) approved by the Secretary, between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the unit of general local government that has not complied with section 6711 (a) or (b); or

"(2) between the Secretary and the chief executive officer.

"(b) CONTENTS OF AGREEMENTS.—A compliance agreement—

"(1) shall state the conditions the unit of general local government has agreed to comply with that would satisfy the obligations of the government under sections 6711 (a) and (b);

"(2) shall cover each matter that has been found not to comply, or would not comply, with section 6711 (a) or (b); and

"(3) may be a series of agreements that dispose of those matters.

"(c) AVAILABILITY OF AGREEMENTS TO PARTIES.—The Secretary shall submit a copy of a compliance agreement to each person who filed a complaint referred to in section 6716(b), or, if an agreement under subsection (a)(1), each person who filed a complaint with a governmental authority, about a failure to comply with section 6711 (a) or (b). The Secretary shall submit the copy by the 15th day after an agreement is made. However, if the Secretary approves an agreement under subsection (a)(1) after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

"§ 6715. Enforcement by the Attorney General of prohibitions on discrimination

"The Attorney General may bring a civil action in an appropriate district court of the United States against a unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6711 (a) or (b). The court may grant—

"(1) a temporary restraining order;

"(2) an injunction; or

"(3) an appropriate order to ensure enjoyment of rights under section 6711 (a) or (b), including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

"§ 6716. Civil action by a person adversely affected

"(a) AUTHORITY FOR PRIVATE SUITS IN FEDERAL OR STATE COURT.—If a unit of general local government, or an officer or employee of a unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b).

"(b) ADMINISTRATIVE REMEDIES REQUIRED TO BE EXHAUSTED.—A person adversely affected shall file an administrative complaint with the Secretary or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6711(d). Administrative remedies are deemed to be exhausted by the person after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

"(1) issues a decision that the government has not failed to comply with this chapter; or

"(2) does not issue a decision on the complaint.

"(c) AUTHORITY OF COURT.—In an action under this section, the court—

"(1) may grant—

"(A) a temporary restraining order;

"(B) an injunction; or

"(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

"(2) to enforce compliance with section 6711 (a) or (b), may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

"(d) INTERVENTION BY ATTORNEY GENERAL.—In an action under this section to enforce compliance with section 6711 (a) or (b), the Attorney General may intervene in the action if the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

"§ 6717. Judicial review

"(a) APPEALS IN FEDERAL COURT OF APPEALS.—A unit of general local government which receives notice from the Secretary about withholding payments under section 6703(f), suspending payments under section 6713(a)(1)(B), or terminating payments under section 6712(d)(2)(A), may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition shall be filed by the 60th day after the date the notice is received. The clerk of the court shall immediately send a copy of the petition to the Secretary.

"(b) FILING OF RECORD OF ADMINISTRATIVE PROCEEDING.—The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

"(c) COURT ACTION.—The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. If a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. Upon such a remand, the Secretary may make new or modified findings and shall certify additional proceedings to the court.

"(d) REVIEW ONLY BY SUPREME COURT.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.

"§ 6718. Investigations and reviews

"(a) INVESTIGATIONS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall within a reasonable time limit—

"(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6716(b), a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

"(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

"(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6711 (a) or (b) or other provision of this chapter.

"(2) TIME LIMIT.—The maximum time limit under paragraph (1)(A) is 120 days.

"(b) REVIEWS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out reviews of the activities of the Secretary, State governments, and units of general local government necessary for the Congress to evaluate compliance and operations under this chapter. These reviews shall include a comparison of the waste and inefficiency of local governments using funds under this chapter compared to waste and inefficiency with other comparable Federal programs.

"§ 6719. Reports

"(a) REPORTS BY SECRETARY TO CONGRESS.—Before June 2 of each year prior to 2002, the Secretary personally shall report to the Congress on—

"(1) the status and operation of the Local Government Fiscal Assistance Fund during the prior fiscal year; and

"(2) the administration of this chapter, including a complete and detailed analysis of—

"(A) actions taken to comply with sections 6711 through 6715, including a description of the kind and extent of noncompliance and the status of pending complaints;

"(B) the extent to which units of general local government receiving payments under this chapter have complied with the requirements of this chapter;

"(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

"(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

"(b) REPORTS BY UNITS OF GENERAL LOCAL GOVERNMENT TO SECRETARY.—

"(1) IN GENERAL.—At the end of each fiscal year, each unit of general local government which received a payment under this chapter for the fiscal year shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

"(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated in the fiscal year;

"(B) the relationship of the payment to the relevant functional items in the budget of the government; and

"(C) the differences between the actual and proposed use of the payment.

"(2) AVAILABILITY OF REPORT.—The Secretary shall provide a copy of a report submitted under paragraph (1) by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the manner and form prescribed by the Secretary.

"§ 6720. Definitions, application, and administration

"(a) DEFINITIONS.—In this chapter—

"(1) 'unit of general local government' means—

"(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes; and

"(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers;

"(2) 'payment period' means each 1-year period beginning on October 1 of the years 1994 through 2000;

"(3) 'State and local taxes' means taxes imposed by a State government or unit of general local government or other political subdivision of a State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) as determined by the Secretary of Commerce for general statistical purposes;

"(4) 'State' means any of the several States and the District of Columbia;

"(5) 'income' means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes, which for units of general local government is reported by the Bureau of the Census for 1990 in the publication Summary Social, Economic, and Housing Characteristics;

"(6) 'per capita income' means—

"(A) in the case of the United States, the income of the United States divided by the population of the United States;

"(B) in the case of a State, the income of that State, divided by the population of that State; and

"(C) in the case of a unit of general local government, the income of that unit of general local government divided by the population of the unit of general local government;

"(7) 'finding of discrimination' means a decision by the Secretary about a complaint described in section 6716(b), a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a unit of general local government has not complied with section 6711 (a) or (b);

"(8) 'holding of discrimination' means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, United States Code, that a unit of general local government expending amounts received under this chapter has—

"(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

"(B) violated a prohibition against discrimination described in section 6711(b); and

"(9) 'Secretary' means the Secretary of Housing and Urban Development.

"(b) DELEGATION OF ADMINISTRATION.—The Secretary may enter into agreements with other executive branch departments and agencies to delegate to that department or agency all or part of the Secretary's responsibility for administering this chapter.

"(c) TREATMENT OF SUBSUMED AREAS.—If the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. If only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations prescribed by the Secretary, the Secretary shall make all data computations based on the ratio of the estimated population of the part to the population of the entire unit of general local government.

"(d) BOUNDARY AND OTHER CHANGES.—If a boundary line change, a State statutory or constitutional change, annexation, a governmental reorganization, or other circumstance results in the application of sections 6704 through 6708 in a way that does not carry out the purposes of sections 6701 through 6708, the Secretary shall apply sections 6701 through 6708 under regulations of the Secretary in a way that is consistent with those purposes.".

31 USC 6701 note.

(b) ISSUANCE OF REGULATIONS.—Within 90 days of the date of enactment of this Act the Secretary shall issue regulations, which may be interim regulations, to implement subsection (a), modifying the regulations for carrying into effect the Revenue Sharing Act that were in effect as of July 1, 1987, and that were published in 31 C.F.R. part 51. The Secretary need not hold a public hearing before issuing these regulations.

31 USC 6702 note.

(c) DEFICIT NEUTRALITY.—Any appropriation to carry out the amendment made by this subtitle to title 31, United States Code, for fiscal year 1995 or 1996 shall be offset by cuts elsewhere in appropriations for that fiscal year.

SEC. 31002. TECHNICAL AMENDMENT.

The table of chapters at the beginning of subtitle V of title 31, United States Code, is amended by adding after the item relating to chapter 65 the following:

"67. Federal payments ..... 6701".

National Community Economic Partnership Act of 1994.

Subtitle K—National Community Economic Partnership

42 USC 13701 note.

SEC. 31101. SHORT TITLE.

This subtitle may be cited as the "National Community Economic Partnership Act of 1994".

CHAPTER 1—COMMUNITY ECONOMIC PARTNERSHIP INVESTMENT FUNDS

42 USC 13821.

SEC. 31111. PURPOSE.

It is the purpose of this chapter to increase private investment in distressed local communities and to build and expand the capacity of local institutions to better serve the economic needs of local residents through the provision of financial and technical assistance to community development corporations.

42 USC 13822.

SEC. 31112. PROVISION OF ASSISTANCE.

(a) AUTHORITY.—The Secretary of Health and Human Services (referred to in this subtitle as the "Secretary") may, in accordance with this chapter, provide nonrefundable lines of credit to community development corporations for the establishment, maintenance or expansion of revolving loan funds to be utilized to finance projects intended to provide business and employment opportunities for low-income, unemployed, or underemployed individuals and to improve the quality of life in urban and rural areas.

(b) REVOLVING LOAN FUNDS.—

(1) COMPETITIVE ASSESSMENT OF APPLICATIONS.—In providing assistance under subsection (a), the Secretary shall establish and implement a competitive process for the solicitation and consideration of applications from eligible entities for lines of credit for the capitalization of revolving funds.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a line of credit under this chapter an applicant shall—

(A) be a community development corporation;

(B) prepare and submit an application to the Secretary that shall include a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted and the impact of such assistance on low-income, underemployed, and unemployed individuals in the target area;

(C) demonstrate previous experience in the development of low-income housing or community or business development projects in a low-income community and provide a record of achievement with respect to such projects; and

(D) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit or letters of commitment) in an amount that

is at least equal to the amount requested in the application submitted under subparagraph (B).

(3) EXCEPTION.—Notwithstanding the provisions of paragraph (2)(D), the Secretary may reduce local contributions to not less than 25 percent of the amount of the line of credit requested by the community development corporation if the Secretary determines such to be appropriate in accordance with section 31116.

SEC. 31113. APPROVAL OF APPLICATIONS. 42 USC 13823.

(a) IN GENERAL.—In evaluating applications submitted under section 31112(b)(2)(B), the Secretary shall ensure that—

(1) the residents of the target area to be served (as identified under the strategic development plan) would have an income that is less than the median income for the area (as determined by the Secretary);

(2) the applicant community development corporation possesses the technical and managerial capability necessary to administer a revolving loan fund and has past experience in the development and management of housing, community and economic development programs;

(3) the applicant community development corporation has provided sufficient evidence of the existence of good working relationships with—

(A) local businesses and financial institutions, as well as with the community the corporation proposes to serve; and

(B) local and regional job training programs;

(4) the applicant community development corporation will target job opportunities that arise from revolving loan fund investments under this chapter so that 75 percent of the jobs retained or created under such investments are provided to—

(A) individuals with—

(i) incomes that do not exceed the Federal poverty line; or

(ii) incomes that do not exceed 80 percent of the median income of the area;

(B) individuals who are unemployed or underemployed;

(C) individuals who are participating or have participated in job training programs authorized under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Family Support Act of 1988 (Public Law 100–485);

(D) individuals whose jobs may be retained as a result of the provision of financing available under this chapter; or

(E) individuals who have historically been underrepresented in the local economy; and

(5) a representative cross section of applicants are approved, including large and small community development corporations, urban and rural community development corporations and community development corporations representing diverse populations.

(b) PRIORITY.—In determining which application to approve under this chapter the Secretary shall give priority to those applicants proposing to serve a target area—

(1) with a median income that does not exceed 80 percent of the median for the area (as determined by the Secretary); and

(2) with a high rate of unemployment, as determined by the Secretary or in which the population loss is at least 7 percent from April 1, 1980, to April 1, 1990, as reported by the Bureau of the Census.

42 USC 13824.

SEC. 31114. AVAILABILITY OF LINES OF CREDIT AND USE.

(a) APPROVAL OF APPLICATION.—The Secretary shall provide a community development corporation that has an application approved under section 31113 with a line of credit in an amount determined appropriate by the Secretary, subject to the limitations contained in subsection (b).

(b) LIMITATIONS ON AVAILABILITY OF AMOUNTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide in excess of $2,000,000 in lines of credit under this chapter to a single applicant.

(2) PERIOD OF AVAILABILITY.—A line of credit provided under this chapter shall remain available over a period of time established by the Secretary, but in no event shall any such period of time be in excess of 3 years from the date on which such line of credit is made available.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), if a recipient of a line of credit under this chapter has made full and productive use of such line of credit, can demonstrate the need and demand for additional assistance, and can meet the requirements of section 31112(b)(2), the amount of such line of credit may be increased by not more than $1,500,000.

(c) AMOUNTS DRAWN FROM LINE OF CREDIT.—Amounts drawn from each line of credit under this chapter shall be used solely for the purposes described in section 31111 and shall only be drawn down as needed to provide loans, investments, or to defray administrative costs related to the establishment of a revolving loan fund.

(d) USE OF REVOLVING LOAN FUNDS.—Revolving loan funds established with lines of credit provided under this chapter may be used to provide technical assistance to private business enterprises and to provide financial assistance in the form of loans, loan guarantees, interest reduction assistance, equity shares, and other such forms of assistance to business enterprises in target areas and who are in compliance with section 31113(a)(4).

42 USC 13825.

SEC. 31115. LIMITATIONS ON USE OF FUNDS.

(a) MATCHING REQUIREMENT.—Not to exceed 50 percent of the total amount to be invested by an entity under this chapter may be derived from funds made available from a line of credit under this chapter.

(b) TECHNICAL ASSISTANCE AND ADMINISTRATION.—Not to exceed 10 percent of the amounts available from a line of credit under this chapter shall be used for the provision of training or technical assistance and for the planning, development, and management of economic development projects. Community development corporations shall be encouraged by the Secretary to seek technical assistance from other community development corporations, with expertise in the planning, development and management of economic development projects. The Secretary shall assist in the identification and facilitation of such technical assistance.

(c) LOCAL AND PRIVATE SECTOR CONTRIBUTIONS.—To receive funds available under a line of credit provided under this chapter, an entity, using procedures established by the Secretary, shall demonstrate to the community development corporation that such entity agrees to provide local and private sector contributions in accordance with section 31112(b)(2)(D), will participate with such community development corporation in a loan, guarantee or investment program for a designated business enterprise, and that the total financial commitment to be provided by such entity is at least equal to the amount to be drawn from the line of credit.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made using funds made available under this chapter may be used only for the purposes described in section 31111 and shall be reinvested in the community in which they were generated.

SEC. 31116. PROGRAM PRIORITY FOR SPECIAL EMPHASIS PROGRAMS. 42 USC 13826.

(a) IN GENERAL.—The Secretary shall give priority in providing lines of credit under this chapter to community development corporations that propose to undertake economic development activities in distressed communities that target women, Native Americans, at risk youth, farmworkers, population-losing communities, very low-income communities, single mothers, veterans, and refugees; or that expand employee ownership of private enterprises and small businesses, and to programs providing loans of not more than $35,000 to very small business enterprises.

(b) RESERVATION OF FUNDS.—Not less than 5 percent of the amounts made available under section 31112(a)(2)(A) may be reserved to carry out the activities described in subsection (a).

CHAPTER 2—EMERGING COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 31121. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS. 42 USC 13841.

(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

(b) SKILL ENHANCEMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to acquire training and technical assistance from agencies or institutions that have extensive experience in the development and management of low-income community economic development projects; or

(B) to acquire such assistance from other highly successful community development corporations.

(c) OPERATING GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants to community development corporations to enable such corporations to support an administrative capacity for the planning, development, and management of low-income community economic development projects.

(2) USE OF FUNDS.—A recipient of a grant under paragraph (1) may use amounts received under such grant—

(A) to conduct evaluations of the feasibility of potential low-income community economic development projects that address identified needs in the low-income community and that conform to those projects and activities permitted under subtitle A;

(B) to develop a business plan related to such a potential project; or

(C) to mobilize resources to be contributed to a planned low-income community economic development project or strategy.

(d) APPLICATIONS.—A community development corporation that desires to receive a grant under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(e) AMOUNT AVAILABLE FOR A COMMUNITY DEVELOPMENT CORPORATION.—Amounts provided under this section to a community development corporation shall not exceed $75,000 per year. Such corporations may apply for grants under this section for up to 3 consecutive years, except that such corporations shall be required to submit a new application for each grant for which such corporation desires to receive and compete on the basis of such applications in the selection process.

42 USC 13842.

SEC. 31122. EMERGING COMMUNITY DEVELOPMENT CORPORATION REVOLVING LOAN FUNDS.

(a) AUTHORITY.—The Secretary may award grants to emerging community development corporations to enable such corporations to establish, maintain or expand revolving loan funds, to make or guarantee loans, or to make capital investments in new or expanding local businesses.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a community development corporation;

(2) have completed not less than one nor more than two community economic development projects or related projects that improve or provide job and employment opportunities to low-income individuals;

(3) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a strategic investment plan that identifies and describes the economic characteristics of the target area to be served, the types of business to be assisted using amounts received under the grant and the impact of such assistance on low-income individuals; and

(4) have secured one or more commitments from local sources for contributions (either in cash or in kind, letters of credit, or letters of commitment) in an amount that is equal to at least 10 percent of the amounts requested in the application submitted under paragraph (2).

(c) USE OF THE REVOLVING LOAN FUND.—

(1) IN GENERAL.—A revolving loan fund established or maintained with amounts received under this section may be utilized to provide financial and technical assistance, loans, loan guarantees or investments to private business enterprises to—

(A) finance projects intended to provide business and employment opportunities for low-income individuals and to improve the quality of life in urban and rural areas; and

(B) build and expand the capacity of emerging community development corporations and serve the economic needs of local residents.

(2) TECHNICAL ASSISTANCE.—The Secretary shall encourage emerging community development corporations that receive grants under this section to seek technical assistance from established community development corporations, with expertise in the planning, development and management of economic development projects and shall facilitate the receipt of such assistance.

(3) LIMITATION.—Not to exceed 10 percent of the amounts received under this section by a grantee shall be used for training, technical assistance and administrative purposes.

(d) USE OF PROCEEDS FROM INVESTMENTS.—Proceeds derived from investments made with amounts provided under this section may be utilized only for the purposes described in this subtitle and shall be reinvested in the community in which they were generated.

(e) AMOUNTS AVAILABLE.—Amounts provided under this section to a community development corporation shall not exceed $500,000 per year.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 31131. DEFINITIONS. 42 USC 13851.

As used in this subtitle:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a private, nonprofit corporation whose board of directors is comprised of business, civic and community leaders, and whose principal purpose includes the provision of low-income housing or community economic development projects that primarily benefit low-income individuals and communities.

(2) LOCAL AND PRIVATE SECTOR CONTRIBUTION.—The term "local and private sector contribution" means the funds available at the local level (by private financial institutions, State and local governments) or by any private philanthropic organization and private, nonprofit organizations that will be committed and used solely for the purpose of financing private business enterprises in conjunction with amounts provided under this subtitle.

(3) POPULATION-LOSING COMMUNITY.—The term "population-losing community" means any county in which the net population loss is at least 7 percent from April 1, 1980 to April 1, 1990, as reported by the Bureau of the Census.

(4) PRIVATE BUSINESS ENTERPRISE.—The term "private business enterprise" means any business enterprise that is engaged in the manufacture of a product, provision of a service, construc-

tion or development of a facility, or that is involved in some other commercial, manufacturing or industrial activity, and that agrees to target job opportunities stemming from investments authorized under this subtitle to certain individuals.

(5) TARGET AREA.—The term "target area" means any area defined in an application for assistance under this subtitle that has a population whose income does not exceed the median for the area within which the target area is located.

(6) VERY LOW-INCOME COMMUNITY.—The term "very low-income community" means a community in which the median income of the residents of such community does not exceed 50 percent of the median income of the area.

42 USC 13852.

SEC. 31132. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out chapters 1 and 2—

(1) $45,000,000 for fiscal year 1996;
(2) $72,000,000 for fiscal year 1997;
(3) $76,500,000 for fiscal year 1998; and
(4) $76,500,000 for fiscal year 1999.

(b) EARMARKS.—Of the aggregate amount appropriated under subsection (a) for each fiscal year—

(1) 60 percent shall be available to carry out chapter 1; and

(2) 40 percent shall be available to carry out chapter 2.

(c) AMOUNTS.—Amounts appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

42 USC 13853.

SEC. 31133. PROHIBITION.

None of the funds authorized under this subtitle shall be used to finance the construction of housing.

Subtitle O—Urban Recreation and At-Risk Youth

SEC. 31501. PURPOSE OF ASSISTANCE.

16 USC 2502.

Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "It is further the purpose of this title to improve recreation facilities and expand recreation services in urban areas with a high incidence of crime and to help deter crime through the expansion of recreation opportunities for at-risk youth. It is the further purpose of this section to increase the security of urban parks and to promote collaboration between local agencies involved in parks and recreation, law enforcement, youth social services, and juvenile justice system.".

SEC. 31502. DEFINITIONS.

16 USC 2503

Section 1004 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting the following new subsection after subsection (c) and by redesignating subsections (d) through (j) as (e) through (k), respectively:

"(d) 'at-risk youth recreation grants' means—

"(1) rehabilitation grants,

"(2) innovation grants, or

"(3) matching grants for continuing program support for programs of demonstrated value or success in providing constructive alternatives to youth at risk for engaging in criminal behavior, including grants for operating, or coordinating recreation programs and services;

in neighborhoods and communities with a high prevalence of crime, particularly violent crime or crime committed by youthful offenders; in addition to the purposes specified in subsection (b), rehabilitation grants referred to in paragraph (1) of this subsection may be used for the provision of lighting, emergency phones or other capital improvements which will improve the security of urban parks;".

SEC. 31503. CRITERIA FOR SELECTION.

Section 1005 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "and" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting "; and" and by adding the following at the end: 16 USC 2504.

"(8) in the case of at-risk youth recreation grants, the Secretary shall give a priority to each of the following criteria:

"(A) Programs which are targeted to youth who are at the greatest risk of becoming involved in violence and crime.

"(B) Programs which teach important values and life skills, including teamwork, respect, leadership, and self-esteem.

"(C) Programs which offer tutoring, remedial education, mentoring, and counseling in addition to recreation opportunities.

"(D) Programs which offer services during late night or other nonschool hours.

"(E) Programs which demonstrate collaboration between local park and recreation, juvenile justice, law enforcement, and youth social service agencies and non-governmental entities, including the private sector and community and nonprofit organizations.

"(F) Programs which leverage public or private recreation investments in the form of services, materials, or cash.

"(G) Programs which show the greatest potential of being continued with non-Federal funds or which can serve as models for other communities.".

SEC. 31504. PARK AND RECREATION ACTION RECOVERY PROGRAMS.

Section 1007(b) of the Urban Park and Recreation Recovery Act of 1978 is amended by adding the following at the end: "In order to be eligible to receive 'at-risk youth recreation grants' a local government shall amend its 5-year action program to incorporate the goal of reducing crime and juvenile delinquency and to provide a description of the implementation strategies to achieve this goal. The plan shall also address how the local government is coordinating its recreation programs with crime prevention efforts of law enforcement, juvenile corrections, and youth social service agencies.". 16 USC 2506

SEC. 31505. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) PROGRAM SUPPORT.—Section 1013 of the Urban Park and Recreation Recovery Act of 1978 is amended by inserting "(a) IN 16 USC 2512.

GENERAL.—" after "1013" and by adding the following new subsection at the end:

"(b) PROGRAM SUPPORT.—Not more than 25 percent of the amounts made available under this title to any local government may be used for program support.".

(b) EXTENSION.—Section 1003 of the Urban Park and Recreation Recovery Act of 1978 is amended by striking "for a period of five years" and by striking "short-term". 16 USC 2502.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

(1) $2,700,000 for fiscal year 1996;
(2) $450,000 for fiscal year 1997;
(3) $450,000 for fiscal year 1998;
(4) $450,000 for fiscal year 1999; and
(5) $450,000 for fiscal year 2000.

Subtitle Q—Community-Based Justice Grants for Prosecutors

42 USC 13861.

SEC. 31701. GRANT AUTHORIZATION.

(a) IN GENERAL.—The Attorney General may make grants to State, Indian tribal, or local prosecutors for the purpose of supporting the creation or expansion of community-based justice programs.

(b) CONSULTATION.—The Attorney General may consult with the Ounce of Prevention Council in making grants under subsection (a).

42 USC 13862.

SEC. 31702. USE OF FUNDS.

Grants made by the Attorney General under this section shall be used—

(1) to fund programs that require the cooperation and coordination of prosecutors, school officials, police, probation officers, youth and social service professionals, and community members in the effort to reduce the incidence of, and increase the successful identification and speed of prosecution of, young violent offenders;

(2) to fund programs in which prosecutors focus on the offender, not simply the specific offense, and impose individualized sanctions, designed to deter that offender from further antisocial conduct, and impose increasingly serious sanctions on a young offender who continues to commit offenses;

(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods, treatment, counseling, educational, and recreational programs that create alternatives to criminal activity; and

(4) in rural States (as defined in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)), to fund cooperative efforts between State and local prosecutors, victim advocacy and assistance groups, social and community service providers, and law enforcement agencies to investigate and prosecute child abuse cases, treat youthful victims of child abuse, and work in cooperation with the community to develop education and prevention strategies

directed toward the issues with which such entities are concerned.

SEC. 31703. APPLICATIONS. 16 USC 13863.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this part for any fiscal year, a State, Indian tribal, or local prosecutor, in conjunction with the chief executive officer of the jurisdiction in which the program will be placed, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each applicant shall include—

(1) a request for funds for the purposes described in section 31702;

(2) a description of the communities to be served by the grant, including the nature of the youth crime, youth violence, and child abuse problems within such communities;

(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this section; and

(4) statistical information in such form and containing such information that the Attorney General may require.

(c) COMPREHENSIVE PLAN.—Each applicant shall include a comprehensive plan that shall contain—

(1) a description of the youth violence or child abuse crime problem;

(2) an action plan outlining how the applicant will achieve the purposes as described in section 31702;

(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources; and

(4) a description of how the requested grant will be used to fill gaps.

SEC. 31704. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS. 42 USC 13864.

(a) ADMINISTRATIVE COST LIMITATION.—The Attorney General shall use not more than 5 percent of the funds available under this program for the purposes of administration and technical assistance.

(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

(1) the Attorney General determines that the funds made available to the recipient during the previous years were used in a manner required under the approved application; and

(2) the Attorney General determines that an additional grant is necessary to implement the community prosecution program described in the comprehensive plan required by section 31703.

SEC. 31705. AWARD OF GRANTS. 42 USC 13865.

The Attorney General shall consider the following facts in awarding grants:

(1) Demonstrated need and evidence of the ability to provide the services described in the plan required under section 31703.

(2) The Attorney General shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

42 USC 13866.

SEC. 31706. REPORTS.

(a) REPORT TO ATTORNEY GENERAL.—State and local prosecutors that receive funds under this subtitle shall submit to the Attorney General a report not later than March 1 of each year that describes progress achieved in carrying out the plan described under section 31703(c).

(b) REPORT TO CONGRESS.—The Attorney General shall submit to the Congress a report by October 1 of each year in which grants are made available under this subtitle which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this subtitle.

42 USC 13867.

SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle—

(1) $7,000,000 for fiscal year 1996;
(2) $10,000,000 for fiscal year 1997;
(3) $10,000,000 for fiscal year 1998;
(4) $11,000,000 for fiscal year 1999; and
(5) $12,000,000 for fiscal year 2000.

42 USC 13868.

SEC. 31708. DEFINITIONS.

In this subtitle—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

"young violent offenders" means individuals, ages 7 through 22, who have committed crimes of violence, weapons offenses, drug distribution, hate crimes and civil rights violations, and offenses against personal property of another.

Family Unity Demonstration Project Act.

Subtitle S—Family Unity Demonstration Project

42 USC 13701 note.

SEC. 31901. SHORT TITLE.

This subtitle may be cited as the "Family Unity Demonstration Project Act".

42 USC 13881.

SEC. 31902. PURPOSE.

The purpose of this subtitle is to evaluate the effectiveness of certain demonstration projects in helping to—

(1) alleviate the harm to children and primary caretaker parents caused by separation due to the incarceration of the parents;

(2) reduce recidivism rates of prisoners by encouraging strong and supportive family relationships; and

(3) explore the cost effectiveness of community correctional facilities.

SEC. 31903. DEFINITIONS. 42 USC 13882.

In this subtitle—

"child" means a person who is less than 7 years of age.

"community correctional facility" means a residential facility that—

(A) is used only for eligible offenders and their children under 7 years of age;

(B) is not within the confines of a jail or prison;

(C) houses no more than 50 prisoners in addition to their children; and

(D) provides to inmates and their children—

(i) a safe, stable, environment for children;

(ii) pediatric and adult medical care consistent with medical standards for correctional facilities;

(iii) programs to improve the stability of the parent-child relationship, including educating parents regarding—

(I) child development; and

(II) household management;

(iv) alcoholism and drug addiction treatment for prisoners; and

(v) programs and support services to help inmates—

(I) to improve and maintain mental and physical health, including access to counseling;

(II) to obtain adequate housing upon release from State incarceration;

(III) to obtain suitable education, employment, or training for employment; and

(IV) to obtain suitable child care.

"eligible offender" means a primary caretaker parent who—

(A) has been sentenced to a term of imprisonment of not more than 7 years or is awaiting sentencing for a conviction punishable by such a term of imprisonment; and

(B) has not engaged in conduct that—

(i) knowingly resulted in death or serious bodily injury;

(ii) is a felony for a crime of violence against a person; or

(iii) constitutes child neglect or mental, physical, or sexual abuse of a child.

"primary caretaker parent" means—

(A) a parent who has consistently assumed responsibility for the housing, health, and safety of a child prior to incarceration; or

(B) a woman who has given birth to a child after or while awaiting her sentencing hearing and who

expresses a willingness to assume responsibility for the housing, health, and safety of that child,

a parent who, in the best interest of a child, has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category "primary caretaker".

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

42 USC 13883.

SEC. 31904. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

(1) $3,600,000 for fiscal year 1996;
(2) $3,600,000 for fiscal year 1997;
(3) $3,600,000 for fiscal year 1998;
(4) $3,600,000 for fiscal year 1999; and
(5) $5,400,000 for fiscal year 2000.

(b) AVAILABILITY OF APPROPRIATIONS.—Of the amount appropriated under subsection (a) for any fiscal year—

(1) 90 percent shall be available to carry out chapter 1; and

(2) 10 percent shall be available to carry out chapter 2.

CHAPTER 1—GRANTS TO STATES

42 USC 13891.

SEC. 31911. AUTHORITY TO MAKE GRANTS.

(a) GENERAL AUTHORITY.—The Attorney General may make grants, on a competitive basis, to States to carry out in accordance with this subtitle family unity demonstration projects that enable eligible offenders to live in community correctional facilities with their children.

(b) PREFERENCES.—For the purpose of making grants under subsection (a), the Attorney General shall give preference to a State that includes in the application required by section 31912 assurances that if the State receives a grant—

(1) both the State corrections agency and the State health and human services agency will participate substantially in, and cooperate closely in all aspects of, the development and operation of the family unity demonstration project for which such a grant is requested;

(2) boards made up of community members, including residents, local businesses, corrections officials, former prisoners, child development professionals, educators, and maternal and child health professionals will be established to advise the State regarding the operation of such project;

(3) the State has in effect a policy that provides for the placement of all prisoners, whenever possible, in correctional facilities for which they qualify that are located closest to their respective family homes;

(4) unless the Attorney General determines that a longer timeline is appropriate in a particular case, the State will implement the project not later than 180 days after receiving a grant under subsection (a) and will expend all of the grant during a 1-year period;

(5) the State has the capacity to continue implementing a community correctional facility beyond the funding period to ensure the continuity of the work;

(6) unless the Attorney General determines that a different process for selecting participants in a project is desirable, the State will—

(A) give written notice to a prisoner, not later than 30 days after the State first receives a grant under subsection (a) or 30 days after the prisoner is sentenced to a term of imprisonment of not more than 7 years (whichever is later), of the proposed or current operation of the project;

(B) accept at any time at which the project is in operation an application by a prisoner to participate in the project if, at the time of application, the remainder of the prisoner's sentence exceeds 180 days;

(C) review applications by prisoners in the sequence in which the State receives such applications; and

(D) not more than 50 days after reviewing such applications approve or disapprove the application; and

(7) for the purposes of selecting eligible offenders to participate in such project, the State has authorized State courts to sentence an eligible offender directly to a community correctional facility, provided that the court gives assurances that the offender would have otherwise served a term of imprisonment.

(c) SELECTION OF GRANTEES.—The Attorney General shall make grants under subsection (a) on a competitive basis, based on such criteria as the Attorney General shall issue by rule and taking into account the preferences described in subsection (b). Regulations.

SEC. 31912. ELIGIBILITY TO RECEIVE GRANTS. 42 USC 13892.

To be eligible to receive a grant under section 31911, a State shall submit to the Attorney General an application at such time, in such form, and containing such information as the Attorney General reasonably may require by rule.

SEC. 31913. REPORT. 42 USC 13893.

(a) IN GENERAL.—A State that receives a grant under this title shall, not later than 90 days after the 1-year period in which the grant is required to be expended, submit a report to the Attorney General regarding the family unity demonstration project for which the grant was expended.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of prisoners who submitted applications to participate in the project and the number of prisoners who were placed in community correctional facilities;

(2) state, with respect to prisoners placed in the project, the number of prisoners who are returned to that jurisdiction and custody and the reasons for such return;

(3) describe the nature and scope of educational and training activities provided to prisoners participating in the project;

(4) state the number, and describe the scope of, contracts made with public and nonprofit private community-based organizations to carry out such project; and

(5) evaluate the effectiveness of the project in accomplishing the purposes described in section 31902.

CHAPTER 2—FAMILY UNITY DEMONSTRATION PROJECT FOR FEDERAL PRISONERS

42 USC 13901.

SEC. 31921. AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—With the funds available to carry out this subtitle for the benefit of Federal prisoners, the Attorney General, acting through the Director of the Bureau of Prisons, shall select eligible prisoners to live in community correctional facilities with their children.

(b) GENERAL CONTRACTING AUTHORITY.—In implementing this title, the Attorney General may enter into contracts with appropriate public or private agencies to provide housing, sustenance, services, and supervision of inmates eligible for placement in community correctional facilities under this title.

(c) USE OF STATE FACILITIES.—At the discretion of the Attorney General, Federal participants may be placed in State projects as defined in chapter 1. For such participants, the Attorney General shall, with funds available under section 31904(b)(2), reimburse the State for all project costs related to the Federal participant's placement, including administrative costs.

42 USC 13902.

SEC. 31922. REQUIREMENTS.

For the purpose of placing Federal participants in a family unity demonstration project under section 31921, the Attorney General shall consult with the Secretary of Health and Human Services regarding the development and operation of the project.

Subtitle T—Substance Abuse Treatment in Federal Prisons

SEC. 32001. SUBSTANCE ABUSE TREATMENT IN FEDERAL PRISONS.

Section 3621 of title 18, United States Code, is amended—

(1) in the last sentence of subsection (b), by striking ", to the extent practicable,"; and

(2) by adding at the end the following new subsection:

"(e) SUBSTANCE ABUSE TREATMENT.—

"(1) PHASE-IN.—In order to carry out the requirement of the last sentence of subsection (b) of this section, that every prisoner with a substance abuse problem have the opportunity to participate in appropriate substance abuse treatment, the Bureau of Prisons shall, subject to the availability of appropriations, provide residential substance abuse treatment (and make arrangements for appropriate aftercare)—

"(A) for not less than 50 percent of eligible prisoners by the end of fiscal year 1995, with priority for such treatment accorded based on an eligible prisoner's proximity to release date;

"(B) for not less than 75 percent of eligible prisoners by the end of fiscal year 1996, with priority for such treatment accorded based on an eligible prisoner's proximity to release date; and

"(C) for all eligible prisoners by the end of fiscal year 1997 and thereafter, with priority for such treatment accorded based on an eligible prisoner's proximity to release date.

"(2) INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM.—

"(A) GENERALLY.—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under paragraph (1) of this subsection, shall remain in the custody of the Bureau under such conditions as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

"(B) PERIOD OF CUSTODY.—The period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.

"(3) REPORT.—The Bureau of Prisons shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives on January 1, 1995, and on January 1 of each year thereafter, a report. Such report shall contain—

"(A) a detailed quantitative and qualitative description of each substance abuse treatment program, residential or not, operated by the Bureau;

"(B) a full explanation of how eligibility for such programs is determined, with complete information on what proportion of prisoners with substance abuse problems are eligible; and

"(C) a complete statement of to what extent the Bureau has achieved compliance with the requirements of this title.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

"(A) $13,500,000 for fiscal year 1996;

"(B) $18,900,000 for fiscal year 1997;

"(C) $25,200,000 for fiscal year 1998;

"(D) $27,000,000 for fiscal year 1999; and

"(E) $27,900,000 for fiscal year 2000.

"(5) DEFINITIONS.—As used in this subsection—

"(A) the term 'residential substance abuse treatment' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(i) directed at the substance abuse problems of the prisoner; and

"(ii) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems;

"(B) the term 'eligible prisoner' means a prisoner who is—

"(i) determined by the Bureau of Prisons to have a substance abuse problem; and

"(ii) willing to participate in a residential substance abuse treatment program; and

"(C) the term 'aftercare' means placement, case management and monitoring of the participant in a community-based substance abuse treatment program when the participant leaves the custody of the Bureau of Prisons.

"(6) COORDINATION OF FEDERAL ASSISTANCE.—The Bureau of Prisons shall consult with the Department of Health and Human Services concerning substance abuse treatment and related services and the incorporation of applicable components of existing comprehensive approaches including relapse prevention and aftercare services.".

Subtitle U—Residential Substance Abuse Treatment for State Prisoners

SEC. 32101. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS.

(a) RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PRISONERS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 20201(a), is amended—

(1) by redesignating part S as part T;

42 USC 3797.

(2) by redesignating section 1901 as section 2001; and

(3) by inserting after part R the following new part:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

42 USC 3796ff.

"SEC. 1901. GRANT AUTHORIZATION.

"(a) The Attorney General may make grants under this part to States, for use by States and units of local government for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional and detention facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment.

"(b) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services to ensure that projects of substance abuse treatment and related services for State prisoners incorporate applicable components of existing comprehensive approaches including relapse prevention and aftercare services.

42 USC 3796ff-1.

"SEC. 1902. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part the chief executive of a State shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(3) Such application shall coordinate the design and implementation of treatment programs between State correctional representatives and the State Alcohol and Drug Abuse agency (and, if appropriate, between representatives of local correctional agencies

and representatives of either the State alcohol and drug abuse agency or any appropriate local alcohol and drug abuse agency).

"(b) SUBSTANCE ABUSE TESTING REQUIREMENT.—To be eligible to receive funds under this part, a State must agree to implement or continue to require urinalysis or other proven reliable forms of testing of individuals in correctional residential substance abuse treatment programs. Such testing shall include individuals released from residential substance abuse treatment programs who remain in the custody of the State.

"(c) ELIGIBILITY FOR PREFERENCE WITH AFTER CARE COMPONENT.—

"(1) To be eligible for a preference under this part, a State must ensure that individuals who participate in the substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services.

"(2) State aftercare services must involve the coordination of the correctional facility treatment program with other human service and rehabilitation programs, such as educational and job training programs, parole supervision programs, half-way house programs, and participation in self-help and peer group programs, that may aid in the rehabilitation of individuals in the substance abuse treatment program.

"(3) To qualify as an aftercare program, the head of the substance abuse treatment program, in conjunction with State and local authorities and organizations involved in substance abuse treatment, shall assist in placement of substance abuse treatment program participants with appropriate community substance abuse treatment facilities when such individuals leave the correctional facility at the end of a sentence or on parole.

"(d) COORDINATION OF FEDERAL ASSISTANCE.—Each application submitted for a grant under this section shall include a description of how the funds made available under this section will be coordinated with Federal assistance for substance abuse treatment and aftercare services currently provided by the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration.

"(e) STATE OFFICE.—The Office designated under section 507—

"(1) shall prepare the application as required under this section; and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1903. REVIEW OF STATE APPLICATIONS. 42 USC 3796ff-2.

"(a) IN GENERAL.—The Attorney General shall make a grant under section 1901 to carry out the projects described in the application submitted under section 1902 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application the Attorney General has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1902 shall be considered approved, in whole or in part, by the Attorney General not later than 90 days after first received unless the Attorney General informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects.

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Attorney General shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

42 USC 3796ff-3. **"SEC. 1904. ALLOCATION AND DISTRIBUTION OF FUNDS.**

"(a) ALLOCATION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the State prison population of such State bears to the total prison population of all the participating States.

"(b) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1902 for the fiscal year for which the projects receive assistance under this part.

42 USC 3796ff-4. **"SEC. 1905. EVALUATION.**

"Each State that receives a grant under this part shall submit to the Attorney General an evaluation not later than March 1 of each year in such form and containing such information as the Attorney General may reasonably require.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 20201(b), is amended by inserting after the matter relating to part R the following new part:

"PART S—RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS

"Sec. 1901. Grant authorization.
"Sec. 1902. State applications.
"Sec. 1903. Review of State applications.
"Sec. 1904. Allocation and distribution of funds.
"Sec. 1905. Evaluation.

"PART T—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2001. Confirmation of rules, authorities, and proceedings.".

(c) DEFINITIONS.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), as amended by section 20201(c), is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) the term 'residential substance abuse treatment program' means a course of individual and group activities, lasting between 6 and 12 months, in residential treatment facilities set apart from the general prison population—

"(A) directed at the substance abuse problems of the prisoner; and

"(B) intended to develop the prisoner's cognitive, behavioral, social, vocational, and other skills so as to solve the prisoner's substance abuse and related problems.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 20201(d), is amended—

(1) in paragraph (3) by striking "and R" and inserting "R, or S"; and

(2) by adding at the end the following new paragraph:

"(17) There are authorized to be appropriated to carry out the projects under part S—

"(A) $27,000,000 for fiscal year 1996;

"(B) $36,000,000 for fiscal year 1997;

"(C) $63,000,000 for fiscal year 1998;

"(D) $72,000,000 for fiscal year 1999; and

"(E) $72,000,000 for fiscal year 2000.".

Subtitle V—Prevention, Diagnosis, and Treatment of Tuberculosis in Correctional Institutions

Diseases.

SEC. 32201. PREVENTION, DIAGNOSIS, AND TREATMENT OF TUBERCULOSIS IN CORRECTIONAL INSTITUTIONS.

42 USC 13911.

(a) GUIDELINES.—The Attorney General, in consultation with the Secretary of Health and Human Services and the Director of the National Institute of Corrections, shall develop and disseminate to appropriate entities, including State, Indian tribal, and local correctional institutions and the Immigration and Naturalization Service, guidelines for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions and persons held in holding facilities operated by or under contract with the Immigration and Naturalization Service.

(b) COMPLIANCE.—The Attorney General shall ensure that prisons in the Federal prison system and holding facilities operated by or under contract with the Immigration and Naturalization Service comply with the guidelines described in subsection (a).

(c) GRANTS.—

(1) IN GENERAL.—The Attorney General shall make grants to State, Indian tribal, and local correction authorities and public health authorities to assist in establishing and operating programs for the prevention, diagnosis, treatment, and followup care of tuberculosis among inmates of correctional institutions.

(2) FEDERAL SHARE.—The Federal share of funding of a program funded with a grant under paragraph (1) shall not exceed 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $700,000 for fiscal year 1996;

(B) $1,000,000 for fiscal year 1997;

(C) $1,000,000 for fiscal year 1998;

(D) $1,100,000 for fiscal year 1999; and

(E) $1,200,000 for fiscal year 2000.

(d) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Subtitle X—Gang Resistance Education and Training

42 USC 13921.

SEC. 32401. GANG RESISTANCE EDUCATION AND TRAINING PROJECTS.

(a) ESTABLISHMENT OF PROJECTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish not less than 50 Gang Resistance Education and Training (GREAT) projects, to be located in communities across the country, in addition to the number of projects currently funded.

(2) SELECTION OF COMMUNITIES.—Communities identified for such GREAT projects shall be selected by the Secretary of the Treasury on the basis of gang-related activity in that particular community.

(3) AMOUNT OF ASSISTANCE PER PROJECT; ALLOCATION.—The Secretary of the Treasury shall make available not less than $800,000 per project, subject to the availability of appropriations, and such funds shall be allocated—

(A) 50 percent to the affected State and local law enforcement and prevention organizations participating in such projects; and

(B) 50 percent to the Bureau of Alcohol, Tobacco and Firearms for salaries, expenses, and associated administrative costs for operating and overseeing such projects.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $9,000,000 for fiscal year 1995;
(2) $7,200,000 for fiscal year 1996;
(3) $7,200,000 for fiscal year 1997;
(4) $7,200,000 for fiscal year 1998;
(5) $7,200,000 for fiscal year 1999; and
(6) $7,720,000 for fiscal year 2000.

Violence Against Women Act of 1994.

TITLE IV—VIOLENCE AGAINST WOMEN

42 USC 13701 note.

SEC. 40001. SHORT TITLE.

This title may be cited as the "Violence Against Women Act of 1994".

Subtitle A—Safe Streets for Women

Safe Streets for Women Act of 1994.

SEC. 40101. SHORT TITLE.

42 USC 13701 note.

This subtitle may be cited as the "Safe Streets for Women Act of 1994".

CHAPTER 1—FEDERAL PENALTIES FOR SEX CRIMES

SEC. 40111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact have become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) AMENDMENT OF SENTENCING GUIDELINES.—The Sentencing Commission shall implement the amendment made by subsection (a) by promulgating amendments, if appropriate, in the sentencing guidelines applicable to chapter 109A offenses.

28 USC 994 note.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 40112. FEDERAL PENALTIES.

28 USC 994 note.

(a) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend, where necessary, its sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, as follows:

(1) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to enhance penalties if more than 1 offender is involved in the offense.

(2) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to reduce unwarranted disparities between the sentences for sex offenders who are known to the victim and sentences for sex offenders who are not known to the victim.

(3) The Commission shall review and promulgate amendments to the guidelines to enhance penalties, if appropriate, to render Federal penalties on Federal territory commensurate with penalties for similar offenses in the States.

(4) The Commission shall review and promulgate amendments to the guidelines, if appropriate, to account for the general problem of recidivism in cases of sex offenses, the severity of the offense, and its devastating effects on survivors.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission shall review and submit to Congress a report containing an analysis of Federal rape sentencing, accompanied by comment from independent experts in the field, describing—

(1) comparative Federal sentences for cases in which the rape victim is known to the defendant and cases in which the rape victim is not known to the defendant;

(2) comparative Federal sentences for cases on Federal territory and sentences in surrounding States; and

(3) an analysis of the effect of rape sentences on populations residing primarily on Federal territory relative to the impact of other Federal offenses in which the existence of Federal jurisdiction depends upon the offense's being committed on Federal territory.

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—

(1) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release,

modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed

findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions

of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Mandatory restitution.".

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

(1) $500,000 for fiscal year 1996;
(2) $500,000 for fiscal year 1997; and
(3) $500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

(1) by redesignating part T as part U;
42 USC 3797. (2) by redesignating section 2001 as section 2101; and
(3) by inserting after part S the following new part:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

42 USC 3796gg. **"SEC. 2001. PURPOSE OF THE PROGRAM AND GRANTS.**

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women, and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against

women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities, providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted, and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

"(6) developing, enlarging, or strengthening programs addressing stalking; and

"(7) developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

"SEC. 2002. STATE GRANTS.

42 USC 3796gg-1.

"(a) GENERAL GRANTS.—The Attorney General may make grants to States, for use by States, units of local government, nonprofit nongovernmental victim services programs, and Indian tribal governments for the purposes described in section 2001(b).

"(b) AMOUNTS.—Of the amounts appropriated for the purposes of this part—

"(1) 4 percent shall be available for grants to Indian tribal governments;

"(2) $500,000 shall be available for grants to applicants in each State; and

"(3) the remaining funds shall be available for grants to applicants in each State in an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the States that results from a distribution among the States on the basis of each State's population in relation to the population of all States (not including populations of Indian tribes).

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used for any of the purposes described in section 2001(b);

"(2) grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following 3 areas: prosecution, law enforcement, and victim services; and

"(4) any Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 shall apply to grants made under this part. In addition, each application shall include the certifications of qualification required by subsection (c), including documentation from nonprofit, nongovernmental victim services programs, describing their participation in developing the plan required by subsection (c)(2). An application shall include—

"(1) documentation from the prosecution, law enforcement, and victim services programs to be assisted, demonstrating—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

"(C) expected results from the use of grant funds; and

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background;

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 2005; and

"(3) proof of compliance with the requirements for paying filing and service fees for domestic violence cases provided in section 2006.

"(e) DISBURSEMENT.—

"(1) IN GENERAL.—Not later than 60 days after the receipt of an application under this part, the Attorney General shall—

"(A) disburse the appropriate sums provided for under this part; or

"(B) inform the applicant why the application does not conform to the terms of section 513 or to the requirements of this section.

"(2) REGULATIONS.—In disbursing monies under this part, the Attorney General shall issue regulations to ensure that States will—

"(A) give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

"(D) recognize and address the needs of underserved populations.

"(f) FEDERAL SHARE.—The Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

"(g) INDIAN TRIBES.—Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this part.

"(h) GRANTEE REPORTING.—

"(1) IN GENERAL.—Upon completion of the grant period under this part, a State or Indian tribal grantee shall file a performance report with the Attorney General explaining the activities carried out, which report shall include an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) CERTIFICATION BY GRANTEE AND SUBGRANTEES.—A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant.

"(3) SUSPENSION OF FUNDING.—The Attorney General shall suspend funding for an approved application if—

"(A) an applicant fails to submit an annual performance report;

"(B) funds are expended for purposes other than those described in this part; or

"(C) a report under paragraph (1) or accompanying assessments demonstrate to the Attorney General that the program is ineffective or financially unsound.

"SEC. 2003. DEFINITIONS.

42 USC 3796gg-2.

"In this part—

"(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies;

"(2) the term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code;

"(3) the term 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(4) the term 'law enforcement' means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(5) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders,

including such agency's component bureaus (such as governmental victim services programs);

"(6) the term 'sexual assault' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim;

"(7) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities; and

"(8) the term 'victim services' means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including nonprofit, nongovernmental organizations assisting domestic violence or sexual assault victims through the legal process.

42 USC 3796gg-3.

"SEC. 2004. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this part, the Attorney General may request any Federal agency to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State, tribal, and local assistance efforts.

"(b) REPORTING.—Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that includes, for each State and for each grantee Indian tribe—

"(1) the number of grants made and funds distributed under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) an evaluation of the effectiveness of programs funded under this part.

"(c) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment, the Attorney General shall publish final regulations or guidelines implementing this part.

42 USC 3796gg-4.

"SEC. 2005. RAPE EXAM PAYMENTS.

"(a) RESTRICTION OF FUNDS.—

"(1) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the

full out-of-pocket cost of forensic medical exams described in subsection (b) for victims of sexual assault.

"(2) REDISTRIBUTION.—Funds withheld from a State or unit of local government under paragraph (1) shall be distributed to other States or units of local government pro rata. Funds withheld from an Indian tribal government under paragraph (1) shall be distributed to other Indian tribal governments pro rata.

"(b) MEDICAL COSTS.—A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket cost of forensic medical exams for victims of sexual assault if any government entity—

"(1) provides such exams to victims free of charge to the victim;

"(2) arranges for victims to obtain such exams free of charge to the victims; or

"(3) reimburses victims for the cost of such exams if—

"(A) the reimbursement covers the full cost of such exams, without any deductible requirement or limit on the amount of a reimbursement;

"(B) the reimbursing governmental entity permits victims to apply for reimbursement for not less than one year from the date of the exam;

"(C) the reimbursing governmental entity provides reimbursement not later than 90 days after written notification of the victim's expense; and

"(D) the State, Indian tribal government, unit of local government, or reimbursing governmental entity provides information at the time of the exam to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement.

"SEC. 2006. FILING COSTS FOR CRIMINAL CHARGES.

42 USC 3796gg-5.

"(a) IN GENERAL.—A State, Indian tribal government, or unit of local government, shall not be entitled to funds under this part unless the State, Indian tribal government, or unit of local government—

"(1) certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, or witness subpoena; or

"(2) gives the Attorney General assurances that its laws, policies and practices will be in compliance with the requirements of paragraph (1) within the later of—

"(A) the period ending on the date on which the next session of the State legislature ends; or

"(B) 2 years.

"(b) REDISTRIBUTION.—Funds withheld from a State, unit of local government, or Indian tribal government under subsection (a) shall be distributed to other States, units of local government, and Indian tribal government, respectively, pro rata.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42

U.S.C. 3711 et seq.), as amended by section 32101(b), is amended by striking the matter relating to part T and inserting the following:

"PART T—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"Sec. 2001. Purpose of the program and grants.
"Sec. 2002. State grants.
"Sec. 2003. General definitions.
"Sec. 2004. General terms and conditions.
"Sec. 2005. Rape exam payments.
"Sec. 2006. Filing costs for criminal charges.

"PART U—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2101. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 32101(d), is amended—

(1) in paragraph (3) by striking "and S" and inserting "S, and T"; and

(2) by adding at the end the following new paragraph:

"(18) There are authorized to be appropriated to carry out part T—

"(A) $26,000,000 for fiscal year 1995;
"(B) $130,000,000 for fiscal year 1996;
"(C) $145,000,000 for fiscal year 1997;
"(D) $160,000,000 for fiscal year 1998;
"(E) $165,000,000 for fiscal year 1999; and
"(F) $174,000,000 for fiscal year 2000.".

CHAPTER 3—SAFETY FOR WOMEN IN PUBLIC TRANSIT AND PUBLIC PARKS

42 USC 13931.

SEC. 40131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Appropriation authorization.

(a) GENERAL PURPOSE.—There is authorized to be appropriated not to exceed $10,000,000, for the Secretary of Transportation (referred to in this section as the "Secretary") to make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be compiled on the basis of the type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of law, the Federal share under this section for each capital improvement project that enhances the safety and security of public transportation systems and that is not required by law (including any other provision of this Act) shall be 90 percent of the net project cost of the project.

(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to the same terms, conditions, requirements, and provisions applicable to grants and loans as specified in section 5321 of title 49, United States Code.

SEC. 40132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91–383 (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE. 16 USC 1a–7a.

"(a) AVAILABILITY OF FUNDS.—There are authorized to be appropriated out of the Violent Crime Reduction Trust Fund, not to exceed $10,000,000, for the Secretary of the Interior to take all necessary actions to seek to reduce the incidence of violent crime in the National Park System. Appropriation authorization.

"(b) RECOMMENDATIONS FOR IMPROVEMENT.—The Secretary shall direct the chief official responsible for law enforcement within the National Park Service to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) DISTRIBUTION OF FUNDS.—Based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute the funds authorized by subsection (a) throughout the National Park System. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) USE OF FUNDS.—Funds provided under this section may be used—

"(1) to increase lighting within or adjacent to National Park System units;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to National Park System units;

"(3) to increase security or law enforcement personnel within or adjacent to National Park System units; or

"(4) for any other project intended to increase the security and safety of National Park System units.".

SEC. 40133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—

"(1) AVAILABILITY OF FUNDS.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated out of the Violent Crime Reduction Trust Fund, the Secretary may provide financial assistance to the States, not to exceed $15,000,000, for projects or combinations thereof for the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) fund any other project intended to increase the security and safety of public parks and recreation areas.

"(2) ELIGIBILITY.—In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection shall be dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

Urban areas.

"(3) FEDERAL SHARE.—Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes described in this subsection, and the remaining share of the cost shall be borne by the State.".

CHAPTER 4—NEW EVIDENTIARY RULES

28 USC 2074 note.

SEC. 40141. SEXUAL HISTORY IN CRIMINAL AND CIVIL CASES.

Effective date.

(a) MODIFICATION OF PROPOSED AMENDMENT.—The proposed amendments to the Federal Rules of Evidence that are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the amendment made by subsection (b).

(b) RULE.—Rule 412 of the Federal Rules of Evidence is amended to read as follows: 28 USC app.

"Rule 412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition

"(a) EVIDENCE GENERALLY INADMISSIBLE.—The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subdivisions (b) and (c):

"(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.

"(2) Evidence offered to prove any alleged victim's sexual predisposition.

"(b) EXCEPTIONS.—

"(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:

"(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury or other physical evidence;

"(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and

"(C) evidence the exclusion of which would violate the constitutional rights of the defendant.

"(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.

"(c) PROCEDURE TO DETERMINE ADMISSIBILITY.—

"(1) A party intending to offer evidence under subdivision (b) must—

"(A) file a written motion at least 14 days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and

"(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.

"(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.".

(c) TECHNICAL AMENDMENT.—The table of contents for the Federal Rules of Evidence is amended by amending the item relating to rule 412 to read as follows:

"412. Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition:

"(a) Evidence generally inadmissible.

"(b) Exceptions.

"(c) Procedure to determine admissibility.".

CHAPTER 5—ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

SEC. 40151. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Human Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

42 USC 300w-10.

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities for—

"(1) educational seminars;
"(2) the operation of hotlines;
"(3) training programs for professionals;
"(4) the preparation of informational materials; and
"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $35,000,000 for fiscal year 1996;
"(2) $35,000,000 for fiscal year 1997;
"(3) $45,000,000 for fiscal year 1998;
"(4) $45,000,000 for fiscal year 1999; and
"(5) $45,000,000 for fiscal year 2000.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—The Secretary shall make allotments to each State on the basis of the population of the State, and subject to the conditions provided in this section and sections 1904 through 1909.".

42 USC 13941.

SEC. 40152. TRAINING PROGRAMS.

(a) IN GENERAL.—The Attorney General, after consultation with victim advocates and individuals who have expertise in treating sex offenders, shall establish criteria and develop training programs to assist probation and parole officers and other personnel who work with released sex offenders in the areas of—

(1) case management;
(2) supervision; and
(3) relapse prevention.

(b) TRAINING PROGRAMS.—The Attorney General shall ensure, to the extent practicable, that training programs developed under

subsection (a) are available in geographically diverse locations throughout the country.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 1996; and

(2) $1,000,000 for fiscal year 1997.

SEC. 40153. CONFIDENTIALITY OF COMMUNICATIONS BETWEEN SEXUAL ASSAULT OR DOMESTIC VIOLENCE VICTIMS AND THEIR COUNSELORS. 42 USC 13942

(a) STUDY AND DEVELOPMENT OF MODEL LEGISLATION.—The Attorney General shall—

(1) study and evaluate the manner in which the States have taken measures to protect the confidentiality of communications between sexual assault or domestic violence victims and their therapists or trained counselors;

(2) develop model legislation that will provide the maximum protection possible for the confidentiality of such communications, within any applicable constitutional limits, taking into account the following factors:

(A) the danger that counseling programs for victims of sexual assault and domestic violence will be unable to achieve their goal of helping victims recover from the trauma associated with these crimes if there is no assurance that the records of the counseling sessions will be kept confidential;

(B) consideration of the appropriateness of an absolute privilege for communications between victims of sexual assault or domestic violence and their therapists or trained counselors, in light of the likelihood that such an absolute privilege will provide the maximum guarantee of confidentiality but also in light of the possibility that such an absolute privilege may be held to violate the rights of criminal defendants under the Federal or State constitutions by denying them the opportunity to obtain exculpatory evidence and present it at trial; and

(C) consideration of what limitations on the disclosure of confidential communications between victims of these crimes and their counselors, short of an absolute privilege, are most likely to ensure that the counseling programs will not be undermined, and specifically whether no such disclosure should be allowed unless, at a minimum, there has been a particularized showing by a criminal defendant of a compelling need for records of such communications, and adequate procedural safeguards are in place to prevent unnecessary or damaging disclosures; and

(3) prepare and disseminate to State authorities the findings made and model legislation developed as a result of the study and evaluation.

(b) REPORT AND RECOMMENDATIONS.—Not later than the date that is 1 year after the date of enactment of this Act, the Attorney General shall report to the Congress—

(1) the findings of the study and the model legislation required by this section; and

(2) recommendations based on the findings on the need for and appropriateness of further action by the Federal Government.

Reports.

(c) REVIEW OF FEDERAL EVIDENTIARY RULES.—The Judicial Conference of the United States shall evaluate and report to Congress its views on whether the Federal Rules of Evidence should be amended, and if so, how they should be amended, to guarantee that the confidentiality of communications between sexual assault victims and their therapists or trained counselors will be adequately protected in Federal court proceedings.

42 USC 13943.

SEC. 40154. INFORMATION PROGRAMS.

The Attorney General shall compile information regarding sex offender treatment programs and ensure that information regarding community treatment programs in the community into which a convicted sex offender is released is made available to each person serving a sentence of imprisonment in a Federal penal or correctional institution for a commission of an offense under chapter 109A of title 18, United States Code, or for the commission of a similar offense, including halfway houses and psychiatric institutions.

42 USC 5712d.

SEC. 40155. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended—

(1) by redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) by inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, provision of information, and referral for runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $7,000,000 for fiscal year 1996;

"(2) $8,000,000 for fiscal year 1997; and

"(3) $15,000,000 for fiscal year 1998.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 40156. VICTIMS OF CHILD ABUSE PROGRAMS.

(a) COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.—

(1) REAUTHORIZATION.—Section 218(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13014(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $6,000,000 for fiscal year 1996;
"(2) $6,000,000 for fiscal year 1997;
"(3) $7,000,000 for fiscal year 1998;
"(4) $9,000,000 for fiscal year 1999; and
"(5) $10,000,000 for fiscal year 2000.".

(2) TECHNICAL AMENDMENT.—Section 216 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13012) is amended by striking "this chapter" and inserting "this subtitle".

(b) CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS.—

(1) REAUTHORIZATION.—Section 224(a) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13024(a)) is amended to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle—

"(1) $750,000 for fiscal year 1996;
"(2) $1,000,000 for fiscal year 1997;
"(3) $2,000,000 for fiscal year 1998;
"(4) $2,000,000 for fiscal year 1999; and
"(5) $2,300,000 for fiscal year 2000.".

(2) TECHNICAL AMENDMENT.—Section 221(b) of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13021(b)) is amended by striking "this chapter" and inserting "this subtitle".

(c) GRANTS FOR TELEVISED TESTIMONY.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by amending section 1001(a)(7) (42 U.S.C. 3793(a)(7)) to read as follows:

"(7) There are authorized to be appropriated to carry out part N— Appropriation authorization.

"(A) $250,000 for fiscal year 1996;
"(B) $1,000,000 for fiscal year 1997;
"(C) $1,000,000 for fiscal year 1998;
"(D) $1,000,000 for fiscal year 1999; and
"(E) $1,000,000 for fiscal year 2000.";

(2) in section 1402 (42 U.S.C. 3796aa–1) by striking "to States, for the use of States and units of local government in the States";

(3) in section 1403 (42 U.S.C. 3796aa–2)—

(A) by inserting "or unit of local government" after "of a State";

(B) by inserting "and" after paragraph (1);

(C) in paragraph (2) by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (3) and (4);

(4) in section 1404 (42 U.S.C. 3796aa–3)—

(A) in subsection (a)—

(i) by striking "The Bureau" and all that follows through "determining that" and inserting "An applicant is eligible to receive a grant under this part if—";

(ii) in paragraph (1) by striking "there is in effect in such State" and inserting "the applicant certifies

and the Director determines that there is in effect in the State";

(iii) in paragraph (2) by striking "such State law shall meet" and inserting "the applicant certifies and the Director determines that State law meets";

(iv) by inserting "and" after subparagraph (E);

(v) in paragraph (3)—

(I) by inserting "the Director determines that" before "the application"; and

(II) by striking "; and" and inserting a period;

(vi) by striking paragraph (4);

(vii) by striking "Each application" and inserting the following:

"(b) Each application"; and

(viii) by striking "the Bureau" each place it appears and inserting "the Director"; and

(B) by redesignating subsection (b) as subsection (c) and by striking "The Bureau" and inserting "The Director";

(5) by striking section 1405 (42 U.S.C. 3796aa–4);

(6) in section 1406 (42 U.S.C. 3796aa–5)—

(A) in subsection (a)—

(i) by striking "State which" and inserting "State or unit of local government that";

(ii) by striking "title" and inserting "part"; and

(iii) in paragraph (1) by striking "State"; and

(B) in subsection (b)(1) by striking "such State" and inserting "the State and units of local government in the State";

(7) in section 1407 (42 U.S.C. 3796aa–6)—

(A) in subsection (c)—

(i) by striking "Each State" and all that follows through "effective audit" and inserting "Grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds) shall keep such records as the Director may require by rule to facilitate such an audit."; and

(ii) in paragraph (2) by striking "States which receive grants, and of units of local government which receive any part of a grant made under this part" and inserting "grant recipients (or private organizations with which grant recipients have contracted to provide equipment or training using grant funds)"; and

(B) by adding at the end the following new subsection:

"(d) UTILIZATION OF PRIVATE SECTOR.—Nothing in this part shall prohibit the utilization of any grant funds to contract with a private organization to provide equipment or training for the televising of testimony as contemplated by the application submitted by an applicant.";

(8) by striking section 1408 (42 U.S.C. 3796aa–7); and

(9) in the table of contents—

(A) in the item relating to section 1405 by striking "Allocation and distribution of funds under formula grants" and inserting "(Repealed)"; and

(B) in the item relating to section 1408 by striking "State office" and inserting "(Repealed)".

Subtitle B—Safe Homes for Women

Safe Homes for Women Act of 1994.

SEC. 40201. SHORT TITLE.

42 USC 13701 note

This title may be cited as the "Safe Homes for Women Act of 1994".

CHAPTER 1—NATIONAL DOMESTIC VIOLENCE HOTLINE

SEC. 40211. GRANT FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

42 USC 10416.

"(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

"(b) DURATION.—A grant under this section may extend over a period of not more than 5 years.

"(c) ANNUAL APPROVAL.—The provision of payments under a grant under this section shall be subject to annual approval by the Secretary and subject to the availability of appropriations for each fiscal year to make the payments.

"(d) ACTIVITIES.—Funds received by an entity under this section shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a private, nonprofit entity shall—

"(1) contract with a carrier for the use of a toll-free telephone line;

"(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women; and

"(4) publicize the hotline to potential users throughout the United States.

"(e) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) contain such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

Federal Register, publication.

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database;

"(D) a plan for publicizing the availability of the hotline;

"(E) a plan for providing service to non-English speaking callers, including hotline personnel who speak Spanish; and

"(F) a plan for facilitating access to the hotline by persons with hearing impairments;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as domestic violence State coalitions or recognized national domestic violence groups;

"(4) demonstrates that the applicant has a commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities; and

"(5) contain such other information as the Secretary may require.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $1,000,000 for fiscal year 1995;

"(B) $400,000 for fiscal year 1996;

"(C) $400,000 for fiscal year 1997;

"(D) $400,000 for fiscal year 1998;

"(E) $400,000 for fiscal year 1999; and

"(F) $400,000 for fiscal year 2000.

"(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.".

CHAPTER 2—INTERSTATE ENFORCEMENT

SEC. 40221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—DOMESTIC VIOLENCE

"Sec. 2261. Interstate domestic violence.
"Sec. 2262. Interstate violation of protection order.
"Sec. 2263. Pretrial release of defendant.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§ 2261. Interstate domestic violence

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion,

duress, or fraud and, in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner, shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

"§ 2262. Interstate violation of protection order

"(a) OFFENSES.—

"(1) CROSSING A STATE LINE.—A person who travels across a State line or enters or leaves Indian country with the intent to engage in conduct that—

"(A)(i) violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued; or

"(ii) would violate subparagraph (A) if the conduct occurred in the jurisdiction in which the order was issued; and

"(B) subsequently engages in such conduct,

shall be punished as provided in subsection (b).

"(2) CAUSING THE CROSSING OF A STATE LINE.—A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, intentionally commits an act that injures the person's spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (b).

"(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned—

"(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

"(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

"(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

"(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed

in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

"(5) for not more than 5 years, in any other case,

or both fined and imprisoned.

"§ 2263. Pretrial release of defendant

"In any proceeding pursuant to section 3142 for the purpose of determining whether a defendant charged under this chapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

"§ 2264. Restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willful-

ness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days before sentencing, the United States Attorney (or such Attorney's delegate), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the delegate) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the delegate) shall advise the victim that the victim may file a separate affidavit and assist the victim in the preparation of the affidavit.

"(d) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (a) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegate) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(e) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section, shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(f) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable 10 days before sentencing as provided in subsection (c), the United States Attorney (or the United States Attorney's delegate) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 90 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(g) RESTITUTION IN ADDITION TO PUNISHMENT.—An award of restitution to the victim of an offense under this chapter is not a substitute for imposition of punishment under this chapter.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe (the enforcing State or Indian tribe) and enforced as if it were the order of the enforcing State or tribe.

"(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

"(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"In this chapter—

"'bodily injury' means any act, except one done in self-defense, that results in physical injury or sexual abuse.

"'Indian country' has the meaning stated in section 1151.

"'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion filed by or on behalf of a person seeking protection.

"'spouse or intimate partner' includes—

"(A) a spouse, a former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides.

"'State' includes a State of the United States, the District of Columbia, a commonwealth, territory, or possession of the United States.

"'travel across State lines' does not include travel across State lines by an individual who is a member of an Indian tribe when such individual remains at all times in the territory of the Indian tribe of which the individual is a member.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Domestic violence ..... 2261.".

CHAPTER 3—ARREST POLICIES IN DOMESTIC VIOLENCE CASES

SEC. 40231. ENCOURAGING ARREST POLICIES.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40121(a), is amended—

(1) by redesignating part U as part V;

42 USC 3797.

(2) by redesignating section 2101 as section 2201; and

(3) by inserting after part T the following new part:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

42 USC 3796hh.

"SEC. 2101. GRANTS.

"(a) PURPOSE.—The purpose of this part is to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

"(b) GRANT AUTHORITY.—The Attorney General may make grants to eligible States, Indian tribal governments, or units of local government for the following purposes:

"(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations.

"(2) To develop policies and training in police departments to improve tracking of cases involving domestic violence.

"(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges.

"(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(5) To strengthen legal advocacy service programs for victims of domestic violence.

"(6) To educate judges in criminal and other courts about domestic violence and to improve judicial handling of such cases.

"(c) ELIGIBILITY.—Eligible grantees are States, Indian tribal governments, or units of local government that—

"(1) certify that their laws or official policies—

"(A) encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed; and

"(B) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

"(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

"(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

"(4) certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

"SEC. 2102. APPLICATIONS.

42 USC 3796hh-1.

"(a) APPLICATION.—An eligible grantee shall submit an application to the Attorney General that—

"(1) contains a certification by the chief executive officer of the State, Indian tribal government, or local government entity that the conditions of section 2101(c) are met or will be met within the later of—

"(A) the period ending on the date on which the next session of the State or Indian tribal legislature ends; or

"(B) 2 years of the date of enactment of this part;

"(2) describes plans to further the purposes stated in section 2101(a);

"(3) identifies the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) includes documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and identifying such programs in which such groups will be consulted for development and implementation.

"(b) PRIORITY.—In awarding grants under this part, the Attorney General shall give priority to applicants that—

"(1) do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

"(2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence.

"SEC. 2103. REPORTS.

42 USC 3796hh-2

"Each grantee receiving funds under this part shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this part and containing such additional information as the Attorney General may prescribe.

"SEC. 2104. REGULATIONS OR GUIDELINES.

Publication. 42 USC 3796hh-3.

"Not later than 120 days after the date of enactment of this part, the Attorney General shall publish proposed regulations or guidelines implementing this part. Not later than 180 days after the date of enactment of this part, the Attorney General shall publish final regulations or guidelines implementing this part.

"SEC. 2105. DEFINITIONS.

42 USC 3796hh-4.

"For purposes of this part—

"(1) the term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant

monies, or by any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this part; and

"(2) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40121(b), is amended by striking the matter relating to part U and inserting the following:

"PART U—GRANTS TO ENCOURAGE ARREST POLICIES

"Sec. 2101. Grants.
"Sec. 2102. Applications.
"Sec. 2103. Reports.
"Sec. 2104. Regulations or guidelines.
"Sec. 2105. Definitions.

"PART V—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 2201. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40121(c), is amended—

(1) in paragraph (3) by striking "and T" and inserting "T, and U"; and

(2) by adding at the end the following new paragraph:

"(19) There are authorized to be appropriated to carry out part U—

"(A) $28,000,000 for fiscal year 1996;
"(B) $33,000,000 for fiscal year 1997; and
"(C) $59,000,000 for fiscal year 1998.

(d) ADMINISTRATIVE PROVISIONS.—

(1) REGULATIONS.—Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)), is amended by striking "and O" and inserting "O, and U".

(2) DENIAL OF APPLICATION.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783 (b)) is amended in the first sentence by striking "or O" and inserting "O, or U".

CHAPTER 4—SHELTER GRANTS

SEC. 40241. GRANTS FOR BATTERED WOMEN'S SHELTERS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

Appropriation authorization.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $50,000,000 for fiscal year 1996;
"(2) $60,000,000 for fiscal year 1997;
"(3) $70,000,000 for fiscal year 1998;
"(4) $72,500,000 for fiscal year 1999; and
"(5) $72,500,000 for fiscal year 2000.".

CHAPTER 5—YOUTH EDUCATION

SEC. 40251. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40211, is amended by adding at the end the following new section:

"SEC. 317. YOUTH EDUCATION AND DOMESTIC VIOLENCE. 42 USC 10417

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary may, in consultation with the Secretary of Education, select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in consultation with educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $400,000 for fiscal year 1996.".

CHAPTER 6—COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE

SEC. 40261. ESTABLISHMENT OF COMMUNITY PROGRAMS ON DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 40251, is amended by adding at the end the following new section:

"SEC. 318. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES. 42 USC 10418.

"(a) IN GENERAL.—The Secretary shall provide grants to nonprofit private organizations to establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

"(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

"(2) shall include representatives of pertinent sectors of the local community, which may include—

"(A) health care providers;

"(B) the education community;

"(C) the religious community;

"(D) the justice system;

"(E) domestic violence program advocates;

"(F) human service entities such as State child services divisions;

"(G) business and civic leaders; and

"(H) other pertinent sectors.

Federal Register, publication.

"(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

"(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

"(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

"(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

"(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

"(B) the method for identification and selection of project staff and a project evaluator;

"(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

"(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

"(E) a plan for, developing outreach and public education campaigns regarding domestic violence; and

"(4) contains such other information, agreements, and assurances as the Secretary may require.

"(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

"(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

"(1) annual approval by the Secretary; and

"(2) availability of appropriations.

"(f) GEOGRAPHICAL DISPERSION.—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.

"(g) USE OF GRANT MONIES.—

"(1) IN GENERAL.—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.

"(2) REQUIREMENTS.—In establishing and operating a project, a nonprofit private organization shall—

"(A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;

"(B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and

"(C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $4,000,000 for fiscal year 1996; and

"(2) $6,000,000 for fiscal year 1997.

"(i) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.". Publication.

CHAPTER 7—FAMILY VIOLENCE PREVENTION AND SERVICES ACT AMENDMENTS

SEC. 40271. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

SEC. 40272. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 309(5)(B) of the Family Violence Prevention and Services Act (42 U.S.C. 10408(5)(B)) is amended by inserting "or other supportive services" before "by peers individually or in groups,".

(b) SPECIAL ISSUE RESOURCE CENTERS.—

(1) GRANTS.—Section 308(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(a)(2)) is amended by striking "six" and inserting "seven".

(2) FUNCTIONS.—Section 308(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10407(c)) is amended—

(A) by striking the period at the end of paragraph (6) and inserting ", including the issuance and enforcement of protection orders."; and

(B) by adding at the end the following new paragraph:

"(7) Providing technical assistance and training to State domestic violence coalitions.".

(c) STATE DOMESTIC VIOLENCE COALITIONS.—Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;";

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court officials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

CHAPTER 8—CONFIDENTIALITY FOR ABUSED PERSONS

42 USC 13951.

SEC. 40281. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Postal Service.

(a) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses.

(b) REQUIREMENTS.—The regulations under subsection (a) shall require—

(1) in the case of an individual, the presentation to an appropriate postal official of a valid, outstanding protection order; and

(2) in the case of a domestic violence shelter, the presentation to an appropriate postal authority of proof from a State domestic violence coalition that meets the requirements of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(c) DISCLOSURE FOR CERTAIN PURPOSES.—The regulations under subsection (a) shall not prohibit the disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes.

(d) EXISTING COMPILATIONS.—Compilations of addresses existing at the time at which order is presented to an appropriate postal official shall be excluded from the scope of the regulations under subsection (a).

CHAPTER 9—DATA AND RESEARCH

SEC. 40291. RESEARCH AGENDA. 42 USC 13961.

(a) REQUEST FOR CONTRACT.—The Attorney General shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice, and direct services to victims and experts on domestic violence in diverse, ethnic, social, and language minority communities and the social sciences. In setting the agenda, the Academy shall focus primarily on preventive, educative, social, and legal strategies, including addressing the needs of underserved populations.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Attorney General shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

SEC. 40292. STATE DATABASES. 42 USC 13962.

(a) IN GENERAL.—The Attorney General shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of sexual and domestic violence offenses within a State. Reports.

(b) CONSULTATION.—In conducting its study, the Attorney General shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services

to victims of domestic violence. The final report shall set forth the views of the persons consulted on the recommendations.

(c) REPORT.—The Attorney General shall ensure that no later than 1 year after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committees on the Judiciary of the Senate and the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $200,000 for fiscal year 1996.

42 USC 13963

SEC. 40293. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—$100,000 for fiscal year 1996.

CHAPTER 10—RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT

42 USC 13971.

SEC. 40295. RURAL DOMESTIC VIOLENCE AND CHILD ABUSE ENFORCEMENT ASSISTANCE.

(a) GRANTS.—The Attorney General may make grants to States, Indian tribal governments, and local governments of rural States, and to other public or private entities of rural States—

(1) to implement, expand, and establish cooperative efforts and projects between law enforcement officers, prosecutors, victim advocacy groups, and other related parties to investigate and prosecute incidents of domestic violence and child abuse;

(2) to provide treatment and counseling to victims of domestic violence and child abuse; and

(3) to work in cooperation with the community to develop education and prevention strategies directed toward such issues.

(b) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"rural State" has the meaning stated in section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb(B)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $7,000,000 for fiscal year 1996;

(B) $8,000,000 for fiscal year 1997; and

(C) $15,000,000 for fiscal year 1998.

(2) ADDITIONAL FUNDING.—In addition to funds received under a grant under subsection (a), a law enforcement agency may use funds received under a grant under section 103 to accomplish the objectives of this section.

Subtitle C—Civil Rights for Women

Civil Rights Remedies for Gender-Motivated Violence Act. 42 USC 13701 note.

SEC. 40301. SHORT TITLE.

This subtitle may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

42 USC 13981.

SEC. 40302. CIVIL RIGHTS.

(a) PURPOSE.—Pursuant to the affirmative power of Congress to enact this subtitle under section 5 of the Fourteenth Amendment to the Constitution, as well as under section 8 of Article I of the Constitution, it is the purpose of this subtitle to protect the civil rights of victims of gender motivated violence and to promote public safety, health, and activities affecting interstate commerce by establishing a Federal civil rights cause of action for victims of crimes of violence motivated by gender.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim's gender; and

(2) the term "crime of violence" means—

(A) an act or series of acts that would constitute a felony against the person or that would constitute a felony against property if the conduct presents a serious risk of physical injury to another, and that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States; and

(B) includes an act or series of acts that would constitute a felony described in subparagraph (A) but for the relationship between the person who takes such action and the individual against whom such action is taken.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be dem-

onstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

(3) CONCURRENT JURISDICTION.—The Federal and State courts shall have concurrent jurisdiction over actions brought pursuant to this subtitle.

(4) SUPPLEMENTAL JURISDICTION.—Neither section 1367 of title 28, United States Code, nor subsection (c) of this section shall be construed, by reason of a claim arising under such subsection, to confer on the courts of the United States jurisdiction over any State law claim seeking the establishment of a divorce, alimony, equitable distribution of marital property, or child custody decree.

(5) LIMITATION ON REMOVAL.—Section 1445 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A civil action in any State court arising under section 40302 of the Violence Against Women Act of 1994 may not be removed to any district court of the United States.".

SEC. 40303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92–318,"; and

(2) by inserting ", or section 40302 of the Violence Against Women Act of 1994," after "1964".

SEC. 40304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

Equal Justice for Women in the Courts Act of 1994.

Subtitle D—Equal Justice for Women in the Courts Act

42 USC 13701 note.

SEC. 40401. SHORT TITLE.

This subtitle may be cited as the "Equal Justice for Women in the Courts Act of 1994".

CHAPTER 1—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

42 USC 13991.

SEC. 40411. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States (as defined in section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701)) in training judges and court personnel in the laws of the States and by Indian tribes in training tribal judges and court personnel in the laws

of the tribes on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 40412. TRAINING PROVIDED BY GRANTS. 42 USC 13992

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court

personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases; and

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

42 USC 13993.

SEC. 40413. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

42 USC 13994

SEC. 40414. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter $600,000 for fiscal year 1996.

(b) MODEL PROGRAMS.—Of amounts appropriated under this section, the State Justice Institute shall expend not less than 40 percent on model programs regarding domestic violence and not less than 40 percent on model programs regarding rape and sexual assault.

CHAPTER 2—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

42 USC 14001.

SEC. 40421. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDIES.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits and to implement recommended reforms.

(b) MATTERS FOR EXAMINATION.—The studies under subsection (a) may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes in judicial proceedings;

(5) sentencing;

(6) sentencing alternatives and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters;

(11) the admissibility of the victim's past sexual history in civil and criminal cases; and

(12) the aspects of the topics listed in section 40412 that pertain to issues within the jurisdiction of the Federal courts.

(c) CLEARINGHOUSE.—The Administrative Office of the United States Courts shall act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide the Administrative Office of the Courts of the United States with their reports and related material.

(d) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 40422. AUTHORIZATION OF APPROPRIATIONS. 42 USC 14002.

There are authorized to be appropriated—

(1) to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services to carry out section 40421(a) $500,000 for fiscal year 1996;

(2) to the Federal Judicial Center to carry out section 40421(d) $100,000 for fiscal year 1996; and

(3) to the Administrative Office of the United States Courts to carry out section 40421(c) $100,000 for fiscal year 1996.

Subtitle E—Violence Against Women Act Improvements

SEC. 40501. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 40502. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

42 USC 14011

SEC. 40503. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.".

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a State or Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(5) CONFIDENTIALITY OF TEST.—The results of any test ordered under this subsection shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested. The victim may disclose the test results only to any medical professional, counselor, family member or sexual partner(s) the victim may have had since the attack. Any such individual to whom the test results are disclosed by the victim shall maintain the confidentiality of such information.

(6) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure by the victim of the results of any test performed under this subsection to anyone other than those mentioned in paragraph (5). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(7) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this subsection may be held in contempt of court.

(c) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV. Reports.

SEC. 40504. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 40505. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of

the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, 'Federal benefit' means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States.".

42 USC 14012.

SEC. 40506. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101–542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) in conjunction with the report produced by the Department of Education in coordination with institutions of education under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101–542) and amendments made by that Act, an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1996.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of post-secondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by this section—$200,000 for fiscal year 1996.

SEC. 40507. REPORT ON BATTERED WOMEN'S SYNDROME. 42 USC 14013.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the House Committee on Energy and Commerce, the Senate Committee on Labor and Human Resources, and the Committees on the Judiciary of the Senate and the House of Representatives a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been considered in criminal trials.

(b) COMPONENTS.—The report under subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State, tribal, and Federal court cases in which evidence of battered women's syndrome was offered in criminal trials; and

(3) an assessment by State, tribal, and Federal judges, prosecutors, and defense attorneys of the effects that evidence of battered women's syndrome may have in criminal trials.

42 USC 14014.

SEC. 40508. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

42 USC 14015.

SEC. 40509. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

Subtitle F—National Stalker and Domestic Violence Reduction

Records

SEC. 40601. AUTHORIZING ACCESS TO FEDERAL CRIMINAL INFORMATION DATABASES.

(a) ACCESS AND ENTRY.—Section 534 of title 28, United States Code, is amended by adding at the end the following:

"(e)(1) Information from national crime information databases consisting of identification records, criminal history records, protection orders, and wanted person records may be disseminated to civil or criminal courts for use in domestic violence or stalking cases. Nothing in this subsection shall be construed to permit access to such records for any other purpose.

"(2) Federal and State criminal justice agencies authorized to enter information into criminal information databases may include—

"(A) arrests, convictions, and arrest warrants for stalking or domestic violence or for violations of protection orders for the protection of parties from stalking or domestic violence; and

"(B) protection orders for the protection of persons from stalking or domestic violence, provided such orders are subject to periodic verification.

"(3) As used in this subsection—

"(A) the term 'national crime information databases' means the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

"(B) the term 'protection order' includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.".

(b) RULEMAKING.—The Attorney General may make rules to carry out the subsection added to section 534 of title 28, United States Code, by subsection (a), after consultation with the officials charged with managing the National Crime Information Center and the Criminal Justice Information Services Advisory Policy Board. 28 USC 534 note.

SEC. 40602. GRANT PROGRAM. 42 USC 14031 note.

(a) IN GENERAL.—The Attorney General is authorized to provide grants to States and units of local government to improve processes for entering data regarding stalking and domestic violence into local, State, and national crime information databases.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State or unit of local government shall certify that it has or intends to establish a program that enters into the National Crime Information Center records of—

(1) warrants for the arrest of persons violating protection orders intended to protect victims from stalking or domestic violence;

(2) arrests or convictions of persons violating protection or domestic violence; and

(3) protection orders for the protection of persons from stalking or domestic violence.

SEC. 40603. AUTHORIZATION OF APPROPRIATIONS. 42 USC 14032

There are authorized to be appropriated to carry out this subtitle—

(1) $1,500,000 for fiscal year 1996;
(2) $1,750,000 for fiscal year 1997; and
(3) $2,750,000 for fiscal year 1998.

SEC. 40604. APPLICATION REQUIREMENTS. 42 USC 14033.

An application for a grant under this subtitle shall be submitted in such form and manner, and contain such information, as the Attorney General may prescribe. In addition, applications shall include documentation showing—

(1) the need for grant funds and that State or local funding, as the case may be, does not already cover these operations;

(2) intended use of the grant funds, including a plan of action to increase record input; and

(3) an estimate of expected results from the use of the grant funds.

42 USC 14034. **SEC. 40605. DISBURSEMENT.**

Not later than 90 days after the receipt of an application under this subtitle, the Attorney General shall either provide grant funds or shall inform the applicant why grant funds are not being provided.

42 USC 14035 **SEC. 40606. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATIONS.**

The Attorney General may provide technical assistance and training in furtherance of the purposes of this subtitle, and may provide for the evaluation of programs that receive funds under this subtitle, in addition to any evaluation requirements that the Attorney General may prescribe for grantees. The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, or through contracts or other arrangements with other entities.

42 USC 14036. **SEC. 40607. TRAINING PROGRAMS FOR JUDGES.**

The State Justice Institute, after consultation with nationally recognized nonprofit organizations with expertise in stalking and domestic violence cases, shall conduct training programs for State (as defined in section 202 of the State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701)) and Indian tribal judges to ensure that a judge issuing an order in a stalking or domestic violence case has all available criminal history and other information, whether from State or Federal sources.

42 USC 14037. **SEC. 40608. RECOMMENDATIONS ON INTRASTATE COMMUNICATION.**

The State Justice Institute, after consultation with nationally recognized nonprofit associations with expertise in data sharing among criminal justice agencies and familiarity with the issues raised in stalking and domestic violence cases, shall recommend proposals regarding how State courts may increase intrastate communication between civil and criminal courts.

42 USC 14038 **SEC. 40609. INCLUSION IN NATIONAL INCIDENT-BASED REPORTING SYSTEM.**

Not later than 2 years after the date of enactment of this Act, the Attorney General, in accordance with the States, shall compile data regarding domestic violence and intimidation (including stalking) as part of the National Incident-Based Reporting System (NIBRS).

42 USC 14039 **SEC. 40610. REPORT TO CONGRESS.**

The Attorney General shall submit to the Congress an annual report, beginning one year after the date of the enactment of this Act, that provides information concerning the incidence of stalking and domestic violence, and evaluates the effectiveness of State antistalking efforts and legislation.

42 USC 14040. **SEC. 40611. DEFINITIONS.**

As used in this subtitle—

(1) the term "national crime information databases" refers to the National Crime Information Center and its incorporated criminal history databases, including the Interstate Identification Index; and

(2) the term "protection order" includes an injunction or any other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

Subtitle G—Protections for Battered Immigrant Women and Children

SEC. 40701. ALIEN PETITIONING RIGHTS FOR IMMEDIATE RELATIVE OR SECOND PREFERENCE STATUS.

(a) IN GENERAL.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(A)",

(B) by redesignating the second sentence as clause (ii), and

(C) by adding at the end the following new clauses:

"(iii) An alien who is the spouse of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the alien's spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's spouse; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien or a child of the alien.

"(iv) An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who has resided in the United States with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States and during the period of residence with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien.";

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)"; and

(B) by adding at the end the following new clauses:

"(ii) An alien who is the spouse of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iii)) under such section if the alien demonstrates to the Attorney General that the conditions described in subclauses (I) and (II) of subparagraph (A)(iii) are met with respect to the alien.

"(iii) An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who has resided in the United States with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

"(I) the alien is residing in the United States and during the period of residence with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent; and

"(II) the alien is a person whose deportation, in the opinion of the Attorney General, would result in extreme hardship to the alien."; and

(3) by adding at the end the following new subparagraph:

"(H) In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) CONFORMING AMENDMENTS.—(1) Section 204(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(2)) is amended—

(A) in subparagraph (A) by striking "filed by an alien who," and inserting "for the classification of the spouse of an alien if the alien,"; and

(B) in subparagraph (B) by striking "by an alien whose prior marriage" and inserting "for the classification of the spouse of an alien if the prior marriage of the alien".

(2) Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "204(a)(1)(A)" and inserting "204(a)(1)(A)(ii)".

(c) SURVIVAL RIGHTS TO PETITION.—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

"(h) The legal termination of a marriage may not be the sole basis for revocation under section 205 of a petition filed under subsection (a)(1)(A)(iii) or a petition filed under subsection (a)(1)(B)(ii) pursuant to conditions described in subsection (a)(1)(A)(iii)(I).".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995. 8 USC 1151 note.

SEC. 40702. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER APPLICATIONS.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended by inserting after the second sentence the following: "In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act and shall apply to applications made before, on, or after such date. 8 USC 1186a note

SEC. 40703. SUSPENSION OF DEPORTATION.

(a) BATTERED SPOUSE OR CHILD.—Section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by inserting after paragraph (2) the following:

"(3) is deportable under any law of the United States except section 241(a)(1)(G) and the provisions specified in paragraph (2); has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application; has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent); and proves that during all of such time in the United States the alien was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's parent or child.".

(b) CONSIDERATION OF EVIDENCE.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

"(g) In acting on applications under subsection (a)(3), the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.".

TITLE V—DRUG COURTS

SEC. 50001. DRUG COURTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40231(a), is amended—

(1) by redesignating part V as part W;

(2) by redesignating section 2201 as section 2301; and 42 USC 3797.

(3) by inserting after part U the following new part:

"PART V—DRUG COURTS

42 USC 3796ii. **"SEC. 2201. GRANT AUTHORITY.**

"The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for programs that involve—

"(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

"(2) the integrated administration of other sanctions and services, which shall include—

"(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

"(B) substance abuse treatment for each participant;

"(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress; and

"(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services.

42 USC 3796ii-1. **"SEC. 2202. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.**

"The Attorney General shall—

Regulations. "(1) issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

"(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

42 USC 3796ii-2. **"SEC. 2203. DEFINITION.**

"In this part, 'violent offender' means a person who—

"(1) is charged with or convicted of an offense, during the course of which offense or conduct—

"(A) the person carried, possessed, or used a firearm or dangerous weapon;

"(B) there occurred the death of or serious bodily injury to any person; or

"(C) there occurred the use of force against the person of another,

without regard to whether any of the circumstances described in subparagraph (A), (B), or (C) is an element of the offense or conduct of which or for which the person is charged or convicted; or

"(2) has one or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

42 USC 3796ii-3. **"SEC. 2204. ADMINISTRATION.**

"(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2205. APPLICATIONS. 42 USC 3796ii-4.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or chief judge of a unit of local government or Indian tribal government shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2206. FEDERAL SHARE. 42 USC 3796ii-5.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2205 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2207. GEOGRAPHIC DISTRIBUTION. 42 USC 3796ii-6.

"The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"SEC. 2208. REPORT. 42 USC 3796ii-7.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a report in March of the following year regarding the effectiveness of this part.

42 USC 3796ii-8.

"SEC. 2209. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 40231(b), is amended by striking the matter relating to part V and inserting the following:

"PART V—DRUG COURTS

"Sec. 2201. Grant authority.
"Sec. 2202. Prohibition of participation by violent offenders.
"Sec. 2203. Definition.
"Sec. 2204. Administration.
"Sec. 2205. Applications.
"Sec. 2206. Federal share.
"Sec. 2207. Geographic distribution.
"Sec. 2208. Report.
"Sec. 2209. Technical assistance, training, and evaluation.

"PART W—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2301. Continuation of rules, authorities, and proceedings ".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 40231(c), is amended—

(1) in paragraph (3) by striking "and U" and inserting "U, and V"; and

(2) by adding at the end the following new paragraph:

"(20) There are authorized to be appropriated to carry out part V—

"(A) $100,000,000 for fiscal year 1995;
"(B) $150,000,000 for fiscal year 1996;
"(C) $150,000,000 for fiscal year 1997;
"(D) $200,000,000 for fiscal year 1998;
"(E) $200,000,000 for fiscal year 1999; and
"(F) $200,000,000 for fiscal year 2000.".

42 USC 379ii note. Reports.

SEC. 50002. STUDY BY THE GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 50001(a) and report to Congress the results of the study on or before January 1, 1997.

(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part V of the Omnibus Crime Control

and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—

(1) recidivism rates of program participants;
(2) completion rates among program participants;
(3) drug use by program participants; and
(4) the costs of the program to the criminal justice system.

TITLE VI—DEATH PENALTY

Federal Death Penalty Act of 1994.

SEC. 60001. SHORT TITLE.

18 USC 3591 note.

This title may be cited as the "Federal Death Penalty Act of 1994".

SEC. 60002. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§ 3591. Sentence of death

"(a) A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381; or

"(2) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"(b) A defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B); or

"(2) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) EQUALLY CULPABLE DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background, record, or character or any other circumstance of the offense that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an

offense described in section 3591(a)(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE.—In determining whether a sentence of death is justified for an offense described in section 3591(a)(2), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 46502 of title 49, United States Code (aircraft piracy).

"(2) PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c), the defendant has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which

a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to 1 or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act (21 U.S.C. 848(c)), and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of that Act (21 U.S.C. 859).

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he or she is engaged in the performance of his or her official duties;

"(ii) because of the performance of his or her official duties; or

"(iii) because of his or her status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

"(15) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—In the case of an offense under chapter 109A (sexual abuse) or chapter 110 (sexual abuse of children), the defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(b), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor for which notice has been given exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial or before acceptance by the court of a plea of guilty, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family, and may include oral testimony, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, and any other relevant information. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the trial judge's discretion. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor for which notice has been provided under subsection (a). Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by 1 or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who

concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a)(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591(a)(2), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(b), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether the defendant should be sentenced to death, to life imprisonment without possibility of release or some other lesser sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death. The court of appeals shall not reverse or vacate a sentence of death on account of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the Government establishes beyond a reasonable doubt that the error was harmless.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of the State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation

of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability, lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the United States Department of Justice, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any prosecution or execution under this section if such participation is contrary to the moral or religious convictions of the employee. In this subsection, 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151 of this title) and which has occurred within the boundaries of Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death sentence ..... 3591".

SEC. 60003. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFT AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the

court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(4) MURDER.—The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(5) KILLING OF FOREIGN OFFICIAL.—Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(6) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(7) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(8) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life", inserting a period, and striking the remainder of the section.

(9) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(10) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(11) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(12) RACKETEERING.—Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(13) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(14) CARJACKING.—Section 2119(3) of title 18, United States Code, is amended by striking the period after "both" and inserting ", or sentenced to death."; and by striking ", possessing a firearm as defined in section 921 of this title," and inserting ", with the intent to cause death or serious bodily harm".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Chapter 465 of title 49, United States Code, is amended—

(1) in the chapter analysis by striking "Death penalty sentencing procedure for aircraft piracy" and inserting "Repealed"; and

(2) by striking section 46503.

18 USC 3591 note.

SEC. 60004. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 60005. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—A person who, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—In this section—

"'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house.

"'murder' means a first degree or second degree murder (as defined in section 1111).

"'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 60006. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the

period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 60007. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114 of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, as provided under section 1111, or, in the case of manslaughter, as provided under section 1112.".

SEC. 60008. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

Drive-By Shooting Prevention Act of 1994. 18 USC 36 note.

(a) SHORT TITLE.—This section may be cited as the "Drive-By Shooting Prevention Act of 1994".

(b) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Drive-by shooting

"(a) DEFINITION.—In this section, 'major drug offense' means—

"(1) a continuing criminal enterprise punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).

"(b) OFFENSE AND PENALTIES.—(1) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, by fine under this title, or both.

"(2) A person who, in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of 2 or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder (as defined in section 1111(a)), be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder (as defined in section 1111(a)), be fined under this title, imprisoned for any term of years or for life, or both.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Drive-by shooting.".

SEC. 60009. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60005(a), is amended by adding at the end the following new section:

"§ 1119. Foreign murder of United States nationals

"(a) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(b) OFFENSE.—A person who, being a national of the United States, kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(c) LIMITATIONS ON PROSECUTION.—(1) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

"(2) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1119".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60005(a), is amended by adding at the end the following new item:

"1119. Foreign murder of United States nationals.".

SEC. 60010. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"A person who, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item for section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

SEC. 60011. DEATH PENALTY FOR SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 60012. MURDER BY ESCAPED PRISONERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60009(a), is amended by adding at the end the following new section:

"§ 1120. Murder by escaped prisoners

"(a) DEFINITION.—In this section, 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.

"(b) OFFENSE AND PENALTY.—A person, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another shall be punished as provided in sections 1111 and 1112.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60009(b)(2), is amended by adding at the end the following new item:

"1120. Murder by escaped prisoners.".

SEC. 60013. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.".

SEC. 60014. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (a) by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) A person who kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm

or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.".

SEC. 60015. DEATH PENALTY FOR THE MURDER OF STATE OR LOCAL OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS AND STATE CORRECTIONAL OFFICERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 60012(a), is amended by adding at the end the following new section:

"§ 1121. Killing persons aiding Federal investigations or State correctional officers

"(a) Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any person assisting a Federal criminal investigation, while that assistance is being rendered and because of it,

shall be sentenced according to the terms of section 1111, including by sentence of death or by imprisonment for life.

"(b)(1) Whoever, in a circumstance described in paragraph (3) of this subsection, while incarcerated, intentionally kills any State correctional officer engaged in, or on account of the performance of such officer's official duties, shall be sentenced to a term of imprisonment which shall not be less than 20 years, and may be sentenced to life imprisonment or death.

"(2) As used in this section, the term, 'State correctional officer' includes any officer or employee of any prison, jail, or other detention facility, operated by, or under contract to, either a State or local governmental agency, whose job responsibilities include providing for the custody of incarcerated individuals.

"(3) The circumstance referred to in paragraph (1) is that—

"(A) the correctional officer is engaged in transporting the incarcerated person interstate; or

"(B) the incarcerated person is incarcerated pursuant to a conviction for an offense against the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 60012(b), is amended by adding at the end the following new item:

"1121. Killing persons aiding Federal investigations or State correctional officers.".

SEC. 60016. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) by striking "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting "punished as provided in subsection (b).";

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years, a fine under this title, or both; and

"(3) in any other case, imprisonment for not more than 10 years, a fine under this title, or both."; and

(4) in subsection (a), as designated by paragraph (1), by striking "commissioner" each place it appears and inserting "magistrate judge".

SEC. 60017. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting after the section heading the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 60018. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 60019. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

"(H) attempts to do any act prohibited under subparagraphs (A) through (G),

shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1) (B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States and the activity is not prohibited as a crime by the State in which the activity takes place; or

"(iii) the activity takes place on a ship flying the flag of a foreign country or outside the United States, by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—In this section—

"'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'ship' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) OFFENSES.—

"(1) IN GENERAL.—A person who unlawfully and intentionally—

"(A) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(B) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(C) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(D) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(E) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (D); or

"(F) attempts to do anything prohibited under subparagraphs (A) through (E),

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

"(2) THREAT TO SAFETY.—A person who threatens to do anything prohibited under paragraph (1) (B) or (C), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

"(d) DEFINITIONS.—In this section—

"'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

"'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

"'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

"'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—This section and the amendments made by this section shall take effect on the later of— 18 USC 2280 note.

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 60020. TORTURE.

Section 2340A(a) of title 18, United States Code, is amended by inserting "punished by death or" before "imprisoned for any term of years or for life.".

SEC. 60021. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, as amended by section 60008(b), is amended by adding at the end the following new section:

"§ 37. Violence at international airports

"(a) OFFENSE.—A person who unlawfully and intentionally, using any device, substance, or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury (as defined in section 1365 of this title) or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport, if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.

"(c) It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term 'labor dispute' has the meaning set forth in section 2(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, as amended by section 60008(c), is amended by adding at the end the following new item:

"37. Violence at international airports.".

18 USC 37 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 60022. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18, United States Code is amended to read as follows:

"(1) if the killing is murder (as defined in section 1111(a)), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 60023. WEAPONS OF MASS DESTRUCTION.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by inserting after section 2332 the following new section:

"§ 2332a. Use of weapons of mass destruction

"(a) OFFENSE.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term 'weapon of mass destruction' means—

"(A) any destructive device as defined in section 921 of this title;

"(B) poison gas;

"(C) any weapon involving a disease organism; or

"(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by inserting after the item relating to section 2332 the following:

"2332a. Use of weapons of mass destruction.".

SEC. 60024. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) Any person" and inserting "(1)(A) Any person";

(B) by striking "(A) knowing" and inserting "(i) knowing";

(C) by striking "(B) knowing" and inserting "(ii) knowing";

(D) by striking "(C) knowing" and inserting "(iii) knowing";

(E) by striking "(D) encourages" and inserting "(iv) encourages";

(F) by striking "shall be fined in accordance with title 18, or imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs" and inserting "shall be punished as provided in subparagraph (B)"; and

(G) by adding at the end the following new subparagraph:

"(B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

"(i) in the case of a violation of subparagraph (A)(i), be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

"(ii) in the case of a violation of subparagraph (A) (ii), (iii), or (iv), be fined under title 18, United States Code, imprisoned not more than 5 years, or both;

"(iii) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18, United States Code) to, or places in jeopardy the life of, any person, be fined under title 18, United States Code, imprisoned not more than 20 years, or both; and

"(iv) in the case of a violation of subparagraph (A) (i), (ii), (iii), or (iv) resulting in the death of any person, be punished

by death or imprisoned for any term of years or for life, fined under title 18, United States Code, or both."; and

(2) in paragraph (2) by striking "or imprisoned not more than five years, or both" and inserting "or in the case of a violation of subparagraph (B)(ii), imprisoned not more than 10 years, or both; or in the case of a violation of subparagraph (B)(i) or (B)(iii), imprisoned not more than 5 years, or both.".

SEC. 60025. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by inserting before the period the following: ", except that such list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person".

SEC. 60026. APPOINTMENT OF COUNSEL.

Section 3005 of title 18, United States Code, is amended by striking "learned in the law" and all that follows through "He shall" and inserting "; and the court before which the defendant is to be tried, or a judge thereof, shall promptly, upon the defendant's request, assign 2 such counsel, of whom at least 1 shall be learned in the law applicable to capital cases, and who shall have free access to the accused at all reasonable hours. In assigning counsel under this section, the court shall consider the recommendation of the Federal Public Defender organization, or, if no such organization exists in the district, of the Administrative Office of the United States Courts. The defendant shall".

TITLE VII—MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES

SEC. 70001. MANDATORY LIFE IMPRISONMENT FOR PERSONS CONVICTED OF CERTAIN FELONIES.

Section 3559 of title 18, United States Code, is amended—

(1) in subsection (b), by striking "An" and inserting "Except as provided in subsection (c), an" in lieu thereof; and

(2) by adding the following new subsection at the end:

"(c) IMPRISONMENT OF CERTAIN VIOLENT FELONS.—

"(1) MANDATORY LIFE IMPRISONMENT.—Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if—

"(A) the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of—

"(i) 2 or more serious violent felonies; or

"(ii) one or more serious violent felonies and one or more serious drug offenses; and

"(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'assault with intent to commit rape' means an offense that has as its elements engaging in physical contact with another person or using or brandishing a weapon against another person with intent to commit aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242);

"(B) the term 'arson' means an offense that has as its elements maliciously damaging or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive;

"(C) the term 'extortion' means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person;

"(D) the term 'firearms use' means an offense that has as its elements those described in section 924(c) or 929(a), if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both;

"(E) the term 'kidnapping' means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force;

"(F) the term 'serious violent felony' means—

"(i) a Federal or State offense, by whatever designation and wherever committed, consisting of murder (as described in section 1111); manslaughter other than involuntary manslaughter (as described in section 1112); assault with intent to commit murder (as described in section 113(a)); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242); abusive sexual contact (as described in sections 2244 (a)(1) and (a)(2)); kidnapping; aircraft piracy (as described in section 46502 of Title 49); robbery (as described in section 2111, 2113, or 2118); carjacking (as described in section 2119); extortion; arson; firearms use; or attempt, conspiracy, or solicitation to commit any of the above offenses; and

"(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense;

"(G) the term 'State' means a State of the United States, the District of Columbia, and a commonwealth, territory, or possession of the United States; and

"(H) the term 'serious drug offense' means—

"(i) an offense that is punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)); or

"(ii) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been punishable under section 401(b)(1)(A) or 408 of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), 848) or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)(A)).

"(3) NONQUALIFYING FELONIES.—

"(A) ROBBERY IN CERTAIN CASES.—Robbery, an attempt, conspiracy, or solicitation to commit robbery; or an offense described in paragraph (2)(F)(ii) shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) no firearm or other dangerous weapon was used in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

"(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

"(B) ARSON IN CERTAIN CASES.—Arson shall not serve as a basis for sentencing under this subsection if the defendant establishes by clear and convincing evidence that—

"(i) the offense posed no threat to human life; and

"(ii) the defendant reasonably believed the offense posed no threat to human life.

"(4) INFORMATION FILED BY UNITED STATES ATTORNEY.—The provisions of section 411(a) of the Controlled Substances Act (21 U.S.C. 851(a)) shall apply to the imposition of sentence under this subsection.

"(5) RULE OF CONSTRUCTION.—This subsection shall not be construed to preclude imposition of the death penalty.

"(6) SPECIAL PROVISION FOR INDIAN COUNTRY.—No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to this subsection for any offense for which Federal jurisdiction is solely predicated on Indian country (as defined in section 1151) and which occurs within the boundaries of such Indian country unless the governing body of the tribe has elected that this subsection have effect over land and persons subject to the criminal jurisdiction of the tribe.

"(7) RESENTENCING UPON OVERTURNING OF PRIOR CONVICTION.—If the conviction for a serious violent felony or serious drug offense that was a basis for sentencing under this subsection is found, pursuant to any appropriate State or Federal procedure, to be unconstitutional or is vitiated on the explicit basis of innocence, or if the convicted person is pardoned on the explicit basis of innocence, the person serving a sentence imposed under this subsection shall be resentenced to any sentence that was available at the time of the original sentencing.".

SEC. 70002. LIMITED GRANT OF AUTHORITY TO BUREAU OF PRISONS.

Section 3582(c)(1)(A) of title 18, United States Code, is amended—

(1) so that the margin of the matter starting with "extraordinary" and ending with "reduction" the first place it appears is indented an additional two ems;

(2) by inserting a one-em dash after "that" the second place it appears;

(3) by inserting a semicolon after "reduction" the first place it appears;

(4) by indenting the first line of the matter referred to in paragraph (1) and designating that matter as clause (i); and

(5) by inserting after such matter the following:

"(ii) the defendant is at least 70 years of age, has served at least 30 years in prison, pursuant to a sentence imposed under section 3559(c), for the offense or offenses for which the defendant is currently imprisoned, and a determination has been made by the Director of the Bureau of Prisons that the defendant is not a danger to the safety of any other person or the community, as provided under section 3142(g);".

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 80001. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing, after the Government has been afforded the opportunity to make a recommendation, that—

"(1) the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines and was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. 848; and

"(5) not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct

or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

28 USC 994 note

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the "Commission"), under section 994(a)(1) and (p) of title 28—

(i) shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section and the amendment made by this section; and

(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

18 USC 3553 note.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of enactment of this Act.

TITLE IX—DRUG CONTROL

Subtitle A—Enhanced Penalties and General Provisions

SEC. 90101. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting "(d)".

SEC. 90102. INCREASED PENALTIES FOR DRUG-DEALING IN "DRUG-FREE" ZONES. 42 USC 14051

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement for a defendant convicted of violating section 419 of the Controlled Substances Act (21 U.S.C. 860).

SEC. 90103. ENHANCED PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS AND FOR SMUGGLING DRUGS INTO FEDERAL PRISONS. 42 USC 14052.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to appropriately enhance the penalty for a person convicted of an offense—

(1) under section 404 of the Controlled Substances Act involving simple possession of a controlled substance within a Federal prison or other Federal detention facility; or

(2) under section 401(b) of the Controlled Substances Act involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility.

(c) NO PROBATION.—Notwithstanding any other law, the court shall not sentence a person convicted of an offense described in subsection (b) to probation.

SEC. 90104. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act)".

SEC. 90105. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become

final" and inserting "a prior conviction for a felony drug offense has become final".

(b) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this title or title II or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting "one or more prior convictions of such person for a felony drug offense have become final".

(c) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means".

(d) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 90106. ADVERTISING.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

42 USC 14053

SEC. 90107. VIOLENT CRIME AND DRUG EMERGENCY AREAS.

(a) DEFINITIONS.—In this section—

"major violent crime or drug-related emergency" means an occasion or instance in which violent crime, drug smuggling, drug trafficking, or drug abuse violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) DECLARATION OF VIOLENT CRIME AND DRUG EMERGENCY AREAS.—If a major violent crime or drug-related emergency exists

throughout a State or a part of a State, the President may declare the State or part of a State to be a violent crime or drug emergency area and may take appropriate actions authorized by this section.

(c) PROCEDURE.—

(1) IN GENERAL.—A request for a declaration designating an area to be a violent crime or drug emergency area shall be made, in writing, by the chief executive officer of a State or local government, respectively (or in the case of the District of Columbia, the mayor), and shall be forwarded to the Attorney General in such form as the Attorney General may by regulation require. One or more cities, counties, States, or the District of Columbia may submit a joint request for designation as a major violent crime or drug emergency area under this subsection.

(2) FINDING.—A request made under paragraph (1) shall be based on a written finding that the major violent crime or drug-related emergency is of such severity and magnitude that Federal assistance is necessary to ensure an effective response to save lives and to protect property and public health and safety.

(d) IRRELEVANCY OF POPULATION DENSITY.—The President shall not limit declarations made under this section to highly populated centers of violent crime or drug trafficking, drug smuggling, or drug use, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

(e) REQUIREMENTS.—As part of a request for a declaration under this section, and as a prerequisite to Federal violent crime or drug emergency assistance under this section, the chief executive officer of a State or local government shall—

(1) take appropriate action under State or local law and furnish information on the nature and amount of State and local resources that have been or will be committed to alleviating the major violent crime- or drug-related emergency;

(2) submit a detailed plan outlining that government's short- and long-term plans to respond to the violent crime or drug emergency, specifying the types and levels of Federal assistance requested and including explicit goals (including quantitative goals) and timetables; and

(3) specify how Federal assistance provided under this section is intended to achieve those goals.

(f) REVIEW PERIOD.—The Attorney General shall review a request submitted pursuant to this section, and the President shall decide whether to declare a violent crime or drug emergency area, within 30 days after receiving the request. President.

(g) FEDERAL ASSISTANCE.—The President may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(h) DURATION OF FEDERAL ASSISTANCE.—

(1) IN GENERAL.—Federal assistance under this section shall not be provided to a violent crime or drug emergency area for more than 1 year.

(2) EXTENSION.—The chief executive officer of a jurisdiction may apply to the President for an extension of assistance beyond 1 year. The President may extend the provision of Federal assistance for not more than an additional 180 days.

(i) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section.

(j) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this section shall diminish or detract from existing authority possessed by the President or Attorney General.

Subtitle B—National Narcotics Leadership Act Amendments

SEC. 90201. IMPLEMENTATION OF NATIONAL DRUG CONTROL STRATEGY.

(a) PROGRAM BUDGET.—Section 1003(c) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)) is amended—

(1) by redesignating paragraphs (5), (6), and (7), as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The Director shall request the head of a department or agency to include in the department's or agency's budget submission to the Office of Management and Budget funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.".

(b) BUDGET RECOMMENDATION.—Section 1003(b) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.".

(c) CONTROL OF DRUG-RELATED RESOURCES.—Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended—

(1) in subsection (d)—

(A) by amending paragraph (2) to read as follows:

"(2) request the head of a department or agency or program to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department or agency in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;

(B) by striking "and" at the end of paragraph (6);

(C) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(D) by adding after paragraph (7) the following new paragraphs:

"(8) except to the extent that the Director's authority under this paragraph is limited in an annual appropriations Act, transfer funds appropriated to a National Drug Control Program agency account to a different National Drug Control Program agency account in an amount that does not exceed 2 percent of the amount appropriated to either account, upon advance approval of the Committees on Appropriations of each House of Congress; and

"(9) in order to ensure compliance with the National Drug Control Program, issue to the head of a National Drug Control Program agency a funds control notice described in subsection (f)."; and

(2) by adding at the end the following new subsections:

"(f) FUNDS CONTROL NOTICES.—(1) A funds control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

"(A) months, fiscal year quarters, or other time periods; and

"(B) activities, functions, projects, or object classes.

"(2) An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a funds control notice issued by the Director.

"(3) In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of and in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.".

(d) CERTIFICATION OF ADEQUACY OF BUDGET REQUEST.—Section 1003(c)(3)(B) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(c)(3)(B)) is amended—

(1) by inserting "in whole or in part" after "adequacy of such request"; and

(2) by striking the semicolon at the end and inserting "and, with respect to a request that is not certified as adequate to implement the objectives of the National Drug Control Strategy, include in the certification an initiative or funding level that would make the request adequate;".

SEC. 90202. OFFICE PERSONNEL RESTRICTION.

Section 1003 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502) is amended by adding at the end the following new subsection:

"(f) PROHIBITION ON POLITICAL CAMPAIGNING.—A Federal officer in the Office of National Drug Control Policy who is appointed by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such an official is not prohibited by this subsection from making contributions to individual candidates.".

SEC. 90203. NATIONAL DRUG CONTROL STRATEGY OUTCOME MEASURES.

Section 1005(a) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1504(a)) is amended—

(1) in paragraph (2)(A) by inserting "and the consequences of drug abuse" after "drug abuse"; and

(2) by amending paragraph (4) to read as follows:

"(4) The Director shall include with each National Drug Control Strategy an evaluation of the effectiveness of Federal drug control during the preceding year. The evaluation shall include an assessment of Federal drug control efforts, including—

"(A) assessment of the reduction of drug use, including estimates of drug prevalence and frequency of use as measured by national, State, and local surveys of illicit drug use and by other special studies of—

"(i) high-risk populations, including school dropouts, the homeless and transient, arrestees, parolees, and probationers, and juvenile delinquents; and

"(ii) drug use in the workplace and the productivity lost by such use;

"(B) assessment of the reduction of drug availability, as measured by—

"(i) the quantities of cocaine, heroin, and marijuana available for consumption in the United States;

"(ii) the amount of cocaine and heroin entering the United States;

"(iii) the number of hectares of poppy and coca cultivated and destroyed;

"(iv) the number of metric tons of heroin and cocaine seized;

"(v) the number of cocaine processing labs destroyed;

"(vi) changes in the price and purity of heroin and cocaine;

"(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

"(viii) the effectiveness of Federal technology programs at improving drug detection capabilities at United States ports of entry;

"(C) assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

"(i) burdens drug users placed on hospital emergency rooms in the United States, such as the quantity of drug-related services provided;

"(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other communicable diseases as a result of drug use;

"(iii) the extent of drug-related crime and criminal activity; and

"(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States; and

"(D) determination of the status of drug treatment in the United States, by assessing—

"(i) public and private treatment capacity within each State, including information on the number of treatment slots available in relation to the number

actually used, including data on intravenous drug users and pregnant women;

"(ii) the extent, within each State, to which treatment is available, on demand, to intravenous drug users and pregnant women;

"(iii) the number of drug users the Director estimates could benefit from treatment; and

"(iv) the success of drug treatment programs, including an assessment of the effectiveness of the mechanisms in place federally, and within each State, to determine the relative quality of substance abuse treatment programs, the qualifications of treatment personnel, and the mechanism by which patients are admitted to the most appropriate and cost effective treatment setting.

"(5) The Director shall include with the National Drug Control Strategy required to be submitted not later than February 1, 1995, and with every second such strategy submitted thereafter—

"(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

"(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at-risk for drug use;

"(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B); and

"(D) identification of the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals.

"(6) Federal agencies responsible for the collection or estimation of drug-related information required by the Director shall cooperate with the Director, to the fullest extent possible, to enable the Director to satisfy the requirements of sections 4 and 5.

"(7) With each National Drug Control Strategy, the Director shall report to the President and the Congress on the Director's assessment of drug use and availability in the United States, including an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect in the preceding year in reducing drug use and availability.".

SEC. 90204. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) DRUG ABUSE ADDICTION AND REHABILITATION CENTER.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a(c)(1)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examine addiction and rehabilitation research and

the application of technology to expanding the effectiveness or availability of drug treatment;".

(b) ASSISTANCE FROM THE ADVANCED RESEARCH PROJECT AGENCY.—Section 1003A of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502a) is amended by adding at the end the following:

"(f) ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—The Director of the Advanced Research Project Agency shall, to the fullest extent possible, render assistance and support to the Office of National Drug Control Policy and its Director.".

(c) REPEAL AND REDESIGNATION.—The National Narcotics Leadership Act of 1988 is amended by—

(1) repealing section 1008 (21 U.S.C. 1505), as in effect on the date of the enactment of this Act;

(2) redesignating section 1003A, as amended by subsection (b) of this section, as section 1008; and

21 USC 1502a, 1505.

(3) moving such section, as redesignated, so as to follow section 1007.

SEC. 90205. SPECIAL FORFEITURE FUND AMENDMENTS.

(a) DEPOSITS INTO SPECIAL FORFEITURE FUND.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended to read as follows:

"(b) DEPOSITS.—There shall be deposited into the Fund the amounts specified by section 524(c)(9) of title 28, United States Code, and section 9307(g) of title 31, United States Code, and any earnings on the investments authorized by subsection (d).".

(b) TRANSFERS FROM DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.—Section 524(c)(9) of title 28, United States Code, is amended by amending subparagraphs (B), (C), and (D) to read as follows:

"(B) Subject to subparagraphs (C) and (D), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Attorney General shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.

"(C) Transfers under subparagraph (B) may be made only from the excess unobligated balance and may not exceed one-half of the excess unobligated balance for any year. In addition, transfers under subparagraph (B) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000.

"(D) For the purpose of determining amounts available for distribution at year end for any fiscal year, 'excess unobligated balance' means the unobligated balance of the Fund generated by that fiscal year's operations, less any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under paragraph (1).".

(c) TRANSFERS FROM DEPARTMENT OF THE TREASURY FORFEITURE FUND.— Section 9703(g) of title 31, United States Code, is amended—

(1) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

"(A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than $100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988."; and

(B) in subparagraph (B) by adding the following at the end: "Further, transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed $100,000,000."; and

(2) in subparagraph (4)(A)—

(A) in clause (i) by striking "(i)"; and

(B) by striking clause (ii).

(d) SURPLUS FUNDS.—Section 6073 of the Asset Forfeiture Amendments Act of 1988 (21 U.S.C. 1509) is amended—

(1) by redesignating subsections (c), (d), (e), and (f), as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) SUPER SURPLUS.—(1) Any unobligated balance up to $20,000,000 remaining in the Fund on September 30 of a fiscal year shall be available to the Director, subject to paragraph (2), to transfer to, and for obligation and expenditure in connection with drug control activities of, any Federal agency or State or local entity with responsibilities under the National Drug Control Strategy.

"(2) A transfer may be made under paragraph (1) only with the advance written approval of the Committees on Appropriations of each House of Congress.".

SEC. 90206. AUTHORIZATION OF APPROPRIATIONS.

Section 1011 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1508) is amended by striking "4" and inserting "8".

SEC. 90207. ADEQUATE STAFFING OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

Section 1008(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1)) is amended by striking "such" and inserting "up to 75 and such additional".

SEC. 90208. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) REAUTHORIZATION.—Section 1009 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking "the date which is 5 years after the date of the enactment of this subtitle" and inserting "September 30, 1997".

(b) CONTINUED EFFECTIVENESS.—The National Narcotics Leadership Act of 1988 (21 U.S.C. 1501 et seq.) shall be considered not to have been repealed by operation of section 1009 of that Act, but shall remain in effect as if the amendment made by subsection (a) had been included in that Act on the date of its enactment. 21 USC 1506 note.

Drunk Driving Child Protection Act of 1994.
18 USC 1 note.

TITLE X—DRUNK DRIVING PROVISIONS

SEC. 100001. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1994".

SEC. 100002. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) by adding at the end the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 100003. DRIVING WHILE INTOXICATED PROSECUTION PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles.".

TITLE XI—FIREARMS

Subtitle A—Assault Weapons

Public Safety and Recreational Firearms Use Protection Act.
18 USC 921 note.

SEC. 110101. SHORT TITLE.

This subtitle may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

SEC. 110102. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS.

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

"(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed under Federal law on the date of the enactment of this subsection.

"(3) Paragraph (1) shall not apply to—

"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

"(B) any firearm that—

"(i) is manually operated by bolt, pump, lever, or slide action;

"(ii) has been rendered permanently inoperable; or

"(iii) is an antique firearm;

"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this subsection is in effect.

"(4) Paragraph (1) shall not apply to—

"(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

"(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(30) The term 'semiautomatic assault weapon' means—

"(A) any of the firearms, or copies or duplicates of the firearms in any caliber, known as—

"(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

"(ii) Action Arms Israeli Military Industries UZI and Galil;

"(iii) Beretta Ar70 (SC–70);

"(iv) Colt AR–15;

"(v) Fabrique National FN/FAL, FN/LAR, and FNC;

"(vi) SWD M–10, M–11, M–11/9, and M–12;
"(vii) Steyr AUG;
"(viii) INTRATEC TEC–9, TEC–DC9 and TEC–22; and
"(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;
"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—
"(i) a folding or telescoping stock;
"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
"(iii) a bayonet mount;
"(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
"(v) a grenade launcher;
"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—
"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
"(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and
"(v) a semiautomatic version of an automatic firearm; and
"(D) a semiautomatic shotgun that has at least 2 of—
"(i) a folding or telescoping stock;
"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
"(iii) a fixed magazine capacity in excess of 5 rounds; and
"(iv) an ability to accept a detachable magazine.".

(c) PENALTIES.—

(1) VIOLATION OF SECTION 922(v).—Section 924(a)(1)(B) of such title is amended by striking "or (q) of section 922" and inserting "(r), or (v) of section 922".

(2) USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.—Section 924(c)(1) of such title is amended in the first sentence by inserting ", or semiautomatic assault weapon," after "short-barreled shotgun,".

(d) IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.—Section 923(i) of such title is amended by adding at the end the following: "The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured.".

SEC. 110103. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, as amended by section 110102(a), is amended by adding at the end the following new subsection:

"(w)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

"(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on or before the date of the enactment of this subsection.

"(3) This subsection shall not apply to—

"(A) the manufacture for, transfer to, or possession by the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State, or a transfer to or possession by a law enforcement officer employed by such an entity for purposes of law enforcement (whether on or off duty);

"(B) the transfer to a licensee under title I of the Atomic Energy Act of 1954 for purposes of establishing and maintaining an on-site physical protection system and security organization required by Federal law, or possession by an employee or contractor of such licensee on-site for such purposes or off-site for purposes of licensee-authorized training or transportation of nuclear materials;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.".

"(4) If a person charged with violating paragraph (1) asserts that paragraph (1) does not apply to such person because of paragraph (2) or (3), the Government shall have the burden of proof to show that such paragraph (1) applies to such person. The lack of a serial number as described in section 923(i) of title 18, United States Code, shall be a presumption that the large capacity ammunition feeding device is not subject to the prohibition of possession in paragraph (1).".

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of title 18, United States Code, as amended by section 110102(b), is amended by adding at the end the following new paragraph:

"(31) The term 'large capacity ammunition feeding device'—

"(A) means a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994 that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; but

"(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.".

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, as amended by section 110102(c)(1), is amended by striking "or (v)" and inserting "(v), or (w)".

(d) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of title 18, United States Code, as amended by section 110102(d) of this Act, is amended by adding at the end the following: "A large capacity ammunition

feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.".

18 USC 921 note.

SEC. 110104. STUDY BY ATTORNEY GENERAL.

(a) STUDY.—The Attorney General shall investigate and study the effect of this subtitle and the amendments made by this subtitle, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

18 USC 921 note.

SEC. 110105. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

SEC. 110106. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

"APPENDIX A

Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle
Browning BAR Mark II Safari Magnum Rifle
Browning High-Power Rifle
Heckler & Koch Model 300 Rifle
Iver Johnson M–1 Carbine
Iver Johnson 50th Anniversary M–1 Carbine
Marlin Model 9 Camp Carbine
Marlin Model 45 Carbine
Remington Nylon 66 Auto-Loading Rifle
Remington Model 7400 Auto Rifle
Remington Model 7400 Rifle
Remington Model 7400 Special Purpose Auto Rifle
Ruger Mini-14 Autoloading Rifle (w/o folding stock)
Ruger Mini Thirty Rifle

Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle
Browning Model 81 Long Action BLR
Browning Model 1886 Lever-Action Carbine
Browning Model 1886 High Grade Carbine
Cimarron 1860 Henry Replica
Cimarron 1866 Winchester Replicas
Cimarron 1873 Short Rifle
Cimarron 1873 Sporting Rifle
Cimarron 1873 30" Express Rifle
Dixie Engraved 1873 Rifle
E.M.F. 1866 Yellowboy Lever Actions
E.M.F. 1860 Henry Rifle
E.M.F. Model 73 Lever-Action Rifle
Marlin Model 336CS Lever-Action Carbine
Marlin Model 30AS Lever-Action Carbine
Marlin Model 444SS Lever-Action Sporter
Marlin Model 1894S Lever-Action Carbine

Marlin Model 1894CS Carbine
Marlin Model 1894CL Classic
Marlin Model 1895SS Lever-Action Rifle
Mitchell 1858 Henry Replica
Mitchell 1866 Winchester Replica
Mitchell 1873 Winchester Replica
Navy Arms Military Henry Rifle
Navy Arms Henry Trapper
Navy Arms Iron Frame Henry
Navy Arms Henry Carbine
Navy Arms 1866 Yellowboy Rifle
Navy Arms 1873 Winchester-Style Rifle
Navy Arms 1873 Sporting Rifle
Remington 7600 Slide Action
Remington Model 7600 Special Purpose Slide Action
Rossi M92 SRC Saddle-Ring Carbine
Rossi M92 SRS Short Carbine
Savage 99C Lever-Action Rifle
Uberti Henry Rifle
Uberti 1866 Sporting Rilfe
Uberti 1873 Sporting Rifle
Winchester Model 94 Side Eject Lever-Action Rifle
Winchester Model 94 Trapper Side Eject
Winchester Model 94 Big Bore Side Eject
Winchester Model 94 Ranger Side Eject Lever-Action Rifle
Winchester Model 94 Wrangler Side Eject

Centerfire Rifles—Bolt Action

Alpine Bolt-Action Rifle
A-Square Caesar Bolt-Action Rifle
A-Square Hannibal Bolt-Action Rifle
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700D Bavarian Bolt-Action Rifle
Anschutz 1733D Mannlicher Rifle
Barret Model 90 Bolt-Action Rifle
Beeman/HW 60J Bolt-Action Rifle
Blaser R84 Bolt-Action Rifle
BRNO 537 Sporter Bolt-Action Rifle
BRNO ZKB 527 Fox Bolt-Action Rifle
BRNO ZKK 600, 601, 602 Bolt-Action Rifles
Browning A-Bolt Rifle
Browning A-Bolt Stainless Stalker
Browning A-Bolt Left Hand
Browning A-Bolt Short Action
Browning Euro-Bolt Rifle
Browning A-Bolt Gold Medallion
Browning A-Bolt Micro Medallion
Century Centurion 14 Sporter
Century Enfield Sporter #4
Century Swedish Sporter #38
Century Mauser 98 Sporter
Cooper Model 38 Centerfire Sporter
Dakota 22 Sporter Bolt-Action Rifle
Dakota 76 Classic Bolt-Action Rifle
Dakota 76 Short Action Rifles
Dakota 76 Safari Bolt-Action Rifle
Dakota 416 Rigby African
E.A.A./Sabatti Rover 870 Bolt-Action Rifle
Auguste Francotte Bolt-Action Rifles
Carl Gustaf 2000 Bolt-Action Rifle
Heym Magnum Express Series Rifle
Howa Lightning Bolt-Action Rifle
Howa Realtree Camo Rifle
Interarms Mark X Viscount Bolt-Action Rifle
Interarms Mini-Mark X Rifle
Interarms Mark X Whitworth Bolt-Action Rifle
Interarms Whitworth Express Rifle
Iver Johnson Model 5100A1 Long-Range Rifle
KDF K15 American Bolt-Action Rifle
Krico Model 600 Bolt-Action Rifle

Krico Model 700 Bolt-Action Rifles
Mauser Model 66 Bolt-Action Rifle
Mauser Model 99 Bolt-Action Rifle
McMillan Signature Classic Sporter
McMillan Signature Super Varminter
McMillan Signature Alaskan
McMillan Signature Titanium Mountain Rifle
McMillan Classic Stainless Sporter
McMillan Talon Safari Rifle
McMillan Talon Sporter Rifle
Midland 1500S Survivor Rifle
Navy Arms TU–33/40 Carbine
Parker-Hale Model 81 Classic Rifle
Parker-Hale Model 81 Classic African Rifle
Parker-Hale Model 1000 Rifle
Parker-Hale Model 1100M African Magnum
Parker-Hale Model 1100 Lightweight Rifle
Parker-Hale Model 1200 Super Rifle
Parker-Hale Model 1200 Super Clip Rifle
Parker-Hale Model 1300C Scout Rifle
Parker-Hale Model 2100 Midland Rifle
Parker-Hale Model 2700 Lightweight Rifle
Parker-Hale Model 2800 Midland Rifle
Remington Model Seven Bolt-Action Rifle
Remington Model Seven Youth Rifle
Remington Model Seven Custom KS
Remington Model Seven Custom MS Rifle
Remington 700 ADL Bolt-Action Rifle
Remington 700 BDL Bolt-Action Rifle
Remington 700 BDL Varmint Special
Remington 700 BDL European Bolt-Action Rifle
Remington 700 Varmint Synthetic Rifle
Remington 700 BDL SS Rifle
Remington 700 Stainless Synthetic Rifle
Remington 700 MTRSS Rifle
Remington 700 BDL Left Hand
Remington 700 Camo Synthetic Rifle
Remington 700 Safari
Remington 700 Mountain Rifle
Remington 700 Custom KS Mountain Rifle
Remington 700 Classic Rifle
Ruger M77 Mark II Rifle
Ruger M77 Mark II Magnum Rifle
Ruger M77RL Ultra Light
Ruger M77 Mark II All-Weather Stainless Rifle
Ruger M77 RSI International Carbine
Ruger M77 Mark II Express Rifle
Ruger M77VT Target Rifle
Sako Hunter Rifle
Sako Fiberclass Sporter
Sako Safari Grade Bolt Action
Sako Hunter Left-Hand Rifle
Sako Classic Bolt Action
Sako Hunter LS Rifle
Sako Deluxe Lightweight
Sako Super Deluxe Sporter
Sako Mannlicher-Style Carbine
Sako Varmint Heavy Barrel
Sako TRG–S Bolt-Action Rifle
Sauer 90 Bolt-Action Rifle
Savage 110G Bolt-Action Rifle
Savage 110CY Youth/Ladies Rifle
Savage 110WLE One of One Thousand Limited Edition Rifle
Savage 110GXP3 Bolt-Action Rifle
Savage 110F Bolt-Action Rifle
Savage 110FXP3 Bolt-Action Rifle
Savage 110GV Varmint Rifle
Savage 112FV Varmint Rifle
Savage Model 112FVS Varmint Rifle
Savage Model 112BV Heavy Barrel Varmint Rifle
Savage 116FSS Bolt-Action Rifle
Savage Model 116FSK Kodiak Rifle

Savage 110FP Police Rifle
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T
Steyr-Mannlicher Luxus Model L, M, S
Steyr-Mannlicher Model M Professional Rifle
Tikka Bolt-Action Rifle
Tikka Premium Grade Rifles
Tikka Varmint/Continental Rifle
Tikka Whitetail/Battue Rifle
Ultra Light Arms Model 20 Rifle
Ultra Light Arms Model 28, Model 40 Rifles
Voere VEC 91 Lightning Bolt-Action Rifle
Voere Model 2165 Bolt-Action Rifle
Voere Model 2155, 2150 Bolt-Action Rifles
Weatherby Mark V Deluxe Bolt-Action Rifle
Weatherby Lasermark V Rifle
Weatherby Mark V Crown Custom Rifles
Weatherby Mark V Sporter Rifle
Weatherby Mark V Safari Grade Custom Rifles
Weatherby Weathermark Rifle
Weatherby Weathermark Alaskan Rifle
Weatherby Classicmark No. 1 Rifle
Weatherby Weatherguard Alaskan Rifle
Weatherby Vanguard VGX Deluxe Rifle
Weatherby Vanguard Classic Rifle
Weatherby Vanguard Classic No. 1 Rifle
Weatherby Vanguard Weatherguard Rifle
Wichita Classic Rifle
Wichita Varmint Rifle
Winchester Model 70 Sporter
Winchester Model 70 Sporter WinTuff
Winchester Model 70 SM Sporter
Winchester Model 70 Stainless Rifle
Winchester Model 70 Varmint
Winchester Model 70 Synthetic Heavy Varmint Rifle
Winchester Model 70 DBM Rifle
Winchester Model 70 DBM-S Rifle
Winchester Model 70 Featherweight
Winchester Model 70 Featherweight WinTuff
Winchester Model 70 Featherweight Classic
Winchester Model 70 Lightweight Rifle
Winchester Ranger Rifle
Winchester Model 70 Super Express Magnum
Winchester Model 70 Super Grade
Winchester Model 70 Custom Sharpshooter
Winchester Model 70 Custom Sporting Sharpshooter Rifle

Centerfire Rifles—Single Shot

Armsport 1866 Sharps Rifle, Carbine
Brown Model One Single Shot Rifle
Browning Model 1885 Single Shot Rifle
Dakota Single Shot Rifle
Desert Industries G-90 Single Shot Rifle
Harrington & Richardson Ultra Varmint Rifle
Model 1885 High Wall Rifle
Navy Arms Rolling Block Buffalo Rifle
Navy Arms #2 Creedmoor Rifle
Navy Arms Sharps Cavalry Carbine
Navy Arms Sharps Plains Rifle
New England Firearms Handi-Rifle
Red Willow Armory Ballard No. 5 Pacific
Red Willow Armory Ballard No. 1.5 Hunting Rifle
Red Willow Armory Ballard No. 8 Union Hill Rifle
Red Willow Armory Ballard No. 4.5 Target Rifle
Remington-Style Rolling Block Carbine
Ruger No. 1B Single Shot
Ruger No. 1A Light Sporter
Ruger No. 1H Tropical Rifle
Ruger No. 1S Medium Sporter
Ruger No. 1 RSI International
Ruger No. 1V Special Varminter
C. Sharps Arms New Model 1874 Old Reliable

C. Sharps Arms New Model 1875 Rifle
C. Sharps Arms 1875 Classic Sharps
C. Sharps Arms New Model 1875 Target & Long Range
Shiloh Sharps 1874 Long Range Express
Shiloh Sharps 1874 Montana Roughrider
Shiloh Sharps 1874 Military Carbine
Shiloh Sharps 1874 Business Rifle
Shiloh Sharps 1874 Military Rifle
Sharps 1874 Old Reliable
Thompson/Center Contender Carbine
Thompson/Center Stainless Contender Carbine
Thompson/Center Contender Carbine Survival System
Thompson/Center Contender Carbine Youth Model
Thompson/Center TCR '87 Single Shot Rifle
Uberti Rolling Block Baby Carbine

Drillings, Combination Guns, Double Rifles

Beretta Express SSO O/U Double Rifles
Beretta Model 455 SxS Express Rifle
Chapuis RGExpress Double Rifle
Auguste Francotte Sidelock Double Rifles
Auguste Francotte Boxlock Double Rifle
Heym Model 55B O/U Double Rifle
Heym Model 55FW O/U Combo Gun
Heym Model 88b Side-by-Side Double Rifle
Kodiak Mk. IV Double Rifle
Kreighoff Teck O/U Combination Gun
Kreighoff Trumpf Drilling
Merkel Over/Under Combination Guns
Merkel Drillings
Merkel Model 160 Side-by-Side Double Rifles
Merkel Over/Under Double Rifles
Savage 24F O/U Combination Gun
Savage 24F–12T Turkey Gun
Springfield Inc. M6 Scout Rifle/Shotgun
Tikka Model 412s Combination Gun
Tikka Model 412S Double Fire
A. Zoli Rifle-Shotgun O/U Combo

Rimfire Rifles—Autoloaders

AMT Lightning 25/22 Rifle
AMT Lightning Small-Game Hunting Rifle II
AMT Magnum Hunter Auto Rifle
Anschutz 525 Deluxe Auto
Armscor Model 20P Auto Rifle
Browning Auto-22 Rifle
Browning Auto-22 Grade VI
Krico Model 260 Auto Rifle
Lakefield Arms Model 64B Auto Rifle
Marlin Model 60 Self-Loading Rifle
Marlin Model 60ss Self-Loading Rifle
Marlin Model 70 HC Auto
Marlin Model 990l Self-Loading Rifle
Marlin Model 70P Papoose
Marlin Model 922 Magnum Self-Loading Rifle
Marlin Model 995 Self-Loading Rifle
Norinco Model 22 ATD Rifle
Remington Model 522 Viper Autoloading Rifle
Remington 552BDL Speedmaster Rifle
Ruger 10/22 Autoloading Carbine (w/o folding stock)
Survival Arms AR–7 Explorer Rifle
Texas Remington Revolving Carbine
Voere Model 2115 Auto Rifle

Rimfire Rifles—Lever & Slide Action

Browning BL–22 Lever-Action Rifle
Marlin 39TDS Carbine
Marlin Model 39AS Golden Lever-Action Rifle
Remington 572BDL Fieldmaster Pump Rifle
Norinco EM–321 Pump Rifle
Rossi Model 62 SA Pump Rifle

Rossi Model 62 SAC Carbine
Winchester Model 9422 Lever-Action Rifle
Winchester Model 9422 Magnum Lever-Action Rifle

Rimfire Rifles—Bolt Actions & Single Shots

Anschutz Achiever Bolt-Action Rifle
Anschutz 1416D/1516D Classic Rifles
Anschutz 1418D/1518D Mannlicher Rifles
Anschutz 1700D Classic Rifles
Anschutz 1700D Custom Rifles
Anschutz 1700 FWT Bolt-Action Rifle
Anschutz 1700D Graphite Custom Rifle
Anschutz 1700D Bavarian Bolt-Action Rifle
Armscor Model 14P Bolt-Action Rifle
Armscor Model 1500 Rifle
BRNO ZKM–452 Deluxe Bolt-Action Rifle
BRNO ZKM 452 Deluxe
Beeman/HW 60–J–ST Bolt-Action Rifle
Browning A-Bolt 22 Bolt-Action Rifle
Browning A-Bolt Gold Medallion
Cabanas Phaser Rifle
Cabanas Master Bolt-Action Rifle
Cabanas Espronceda IV Bolt-Action Rifle
Cabanas Leyre Bolt-Action Rifle
Chipmunk Single Shot Rifle
Cooper Arms Model 36S Sporter Rifle
Dakota 22 Sporter Bolt-Action Rifle
Krico Model 300 Bolt-Action Rifles
Lakefield Arms Mark II Bolt-Action Rifle
Lakefield Arms Mark I Bolt-Action Rifle
Magtech Model MT–22C Bolt-Action Rifle
Marlin Model 880 Bolt-Action Rifle
Marlin Model 881 Bolt-Action Rifle
Marlin Model 882 Bolt-Action Rifle
Marlin Model 883 Bolt-Action Rifle
Marlin Model 883SS Bolt-Action Rifle
Marlin Model 25MN Bolt-Action Rifle
Marlin Model 25N Bolt-Action Repeater
Marlin Model 15YN "Little Buckaroo"
Mauser Model 107 Bolt-Action Rifle
Mauser Model 201 Bolt-Action Rifle
Navy Arms TU–KKW Training Rifle
Navy Arms TU–33/40 Carbine
Navy Arms TU–KKW Sniper Trainer
Norinco JW–27 Bolt-Action Rifle
Norinco JW–15 Bolt-Action Rifle
Remington 541–T
Remington 40–XR Rimfire Custom Sporter
Remington 541–T HB Bolt-Action Rifle
Remington 581–S Sportsman Rifle
Ruger 77/22 Rimfire Bolt-Action Rifle
Ruger K77/22 Varmint Rifle
Ultra Light Arms Model 20 RF Bolt-Action Rifle
Winchester Model 52B Sporting Rifle

Competition Rifles—Centerfire & Rimfire

Anschutz 64–MS Left Silhouette
Anschutz 1808D RT Super Match 54 Target
Anschutz 1827B Biathlon Rifle
Anschutz 1903D Match Rifle
Anschutz 1803D Intermediate Match
Anschutz 1911 Match Rifle
Anschutz 54.18MS REP Deluxe Silhouette Rifle
Anschutz 1913 Super Match Rifle
Anschutz 1907 Match Rifle
Anschutz 1910 Super Match II
Anschutz 54.18MS Silhouette Rifle
Anschutz Super Match 54 Target Model 2013
Anschutz Super Match 54 Target Model 2007
Beeman/Feinwerkbau 2600 Target Rifle
Cooper Arms Model TRP–1 ISU Standard Rifle

E.A.A./Weihrauch HW 60 Target Rifle
E.A.A./HW 660 Match Rifle
Finnish Lion Standard Target Rifle
Krico Model 360 S2 Biathlon Rifle
Krico Model 400 Match Rifle
Krico Model 360S Biathlon Rifle
Krico Model 500 Kricotronic Match Rifle
Krico Model 600 Sniper Rifle
Krico Model 600 Match Rifle
Lakefield Arms Model 90B Target Rifle
Lakefield Arms Model 91T Target Rifle
Lakefield Arms Model 92S Silhouette Rifle
Marlin Model 2000 Target Rifle
Mauser Model 86–SR Specialty Rifle
McMillan M–86 Sniper Rifle
McMillan Combo M–87/M–88 50-Caliber Rifle
McMillan 300 Phoenix Long Range Rifle
McMillan M–89 Sniper Rifle
McMillan National Match Rifle
McMilıan Long Range Rifle
Parker-Hale M–87 Target Rifle
Parker-Hale M–85 Sniper Rifle
Remington 40–XB Rangemaster Target Centerfire
Remington 40–XR KS Rimfire Position Rifle
Remington 40–XBBR KS
Remington 40–XC KS National Match Course Rifle
Sako TRG–21 Bolt-Action Rifle
Steyr-Mannlicher Match SPG–UIT Rifle
Steyr-Mannlicher SSG P–I Rifle
Steyr-Mannlicher SSG P–III Rifle
Steyr-Mannlicher SSG P–IV Rifle
Tanner Standard UIT Rifle
Tanner 50 Meter Free Rifle
Tanner 300 Meter Free Rifle
Wichita Silhouette Rifle

Shotguns—Autoloaders

American Arms/Franchi Black Magic 48/AL
Benelli Super Black Eagle Shotgun
Benelli Super Black Eagle Slug Gun
Benelli M1 Super 90 Field Auto Shotgun
Benelli Montefeltro Super 90 20-Gauge Shotgun
Benelli Montefeltro Super 90 Shotgun
Benelli M1 Sporting Special Auto Shotgun
Benelli Black Eagle Competition Auto Shotgun
Beretta A–303 Auto Shotgun
Beretta 390 Field Auto Shotgun
Beretta 390 Super Trap, Super Skeet Shotguns
Beretta Vittoria Auto Shotgun
Beretta Model 1201F Auto Shotgun
Browning BSA 10 Auto Shotgun
Browning BSA 10 Stalker Auto Shotgun
Browning A–500R Auto Shotgun
Browning A–500G Auto Shotgun
Browning A–500G Sporting Clays
Browning Auto-5 Light 12 and 20
Browning Auto-5 Stalker
Browning Auto-5 Magnum 20
Browning Auto-5 Magnum 12
Churchill Turkey Automatic Shotgun
Cosmi Automatic Shotgun
Maverick Model 60 Auto Shotgun
Mossberg Model 5500 Shotgun
Mossberg Model 9200 Regal Semi-Auto Shotgun
Mossberg Model 9200 USST Auto Shotgun
Mossberg Model 9200 Camo Shotgun
Mossberg Model 6000 Auto Shotgun
Remington Model 1100 Shotgun
Remington 11–87 Premier Shotgun
Remington 11–87 Sporting Clays
Remington 11–87 Premier Skeet

Remington 11–87 Premier Trap
Remington 11–87 Special Purpose Magnum
Remington 11–87 SPS–T Camo Auto Shotgun
Remington 11–87 Special Purpose Deer Gun
Remington 11–87 SPS–BG-Camo Deer/Turkey Shotgun
Remington 11–87 SPS-Deer Shotgun
Remington 11–87 Special Purpose Synthetic Camo
Remington SP–10 Magnum-Camo Auto Shotgun
Remington SP–10 Magnum Auto Shotgun
Remington SP–10 Magnum Turkey Combo
Remington 1100 LT–20 Auto
Remington 1100 Special Field
Remington 1100 20-Gauge Deer Gun
Remington 1100 LT–20 Tournament Skeet
Winchester Model 1400 Semi-Auto Shotgun

Shotguns—Slide Actions

Browning Model 42 Pump Shotgun
Browning BPS Pump Shotgun
Browning BPS Stalker Pump Shotgun
Browning BPS Pigeon Grade Pump Shotgun
Browning BPS Pump Shotgun (Ladies and Youth Model)
Browning BPS Game Gun Turkey Special
Browning BPS Game Gun Deer Special
Ithaca Model 87 Supreme Pump Shotgun
Ithaca Model 87 Deerslayer Shotgun
Ithaca Deerslayer II Rifled Shotgun
Ithaca Model 87 Turkey Gun
Ithaca Model 87 Deluxe Pump Shotgun
Magtech Model 586–VR Pump Shotgun
Maverick Models 88, 91 Pump Shotguns
Mossberg Model 500 Sporting Pump
Mossberg Model 500 Camo Pump
Mossberg Model 500 Muzzleloader Combo
Mossberg Model 500 Trophy Slugster
Mossberg Turkey Model 500 Pump
Mossberg Model 500 Bantam Pump
Mossberg Field Grade Model 835 Pump Shotgun
Mossberg Model 835 Regal Ulti-Mag Pump
Remington 870 Wingmaster
Remington 870 Special Purpose Deer Gun
Remington 870 SPS–BG-Camo Deer/Turkey Shotgun
Remington 870 SPS-Deer Shotgun
Remington 870 Marine Magnum
Remington 870 TC Trap
Remington 870 Special Purpose Synthetic Camo
Remington 870 Wingmaster Small Gauges
Remington 870 Express Rifle Sighted Deer Gun
Remington 879 SPS Special Purpose Magnum
Remington 870 SPS–T Camo Pump Shotgun
Remington 870 Special Field
Remington 870 Express Turkey
Remington 870 High Grades
Remington 870 Express
Remington Model 870 Express Youth Gun
Winchester Model 12 Pump Shotgun
Winchester Model 42 High Grade Shotgun
Winchester Model 1300 Walnut Pump
Winchester Model 1300 Slug Hunter Deer Gun
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun
Winchester Model 1300 Turkey Gun
Winchester Model 1300 Ranger Pump Gun

Shotguns—Over/Unders

American Arms/Franchi Falconet 2000 O/U
American Arms Silver I O/U
American Arms Silver II Shotgun
American Arms Silver Skeet O/U
American Arms/Franchi Sporting 2000 O/U
American Arms Silver Sporting O/U
American Arms Silver Trap O/U

American Arms WS/OU 12, TS/OU 12 Shotguns
American Arms WT/OU 10 Shotgun
Armsport 2700 O/U Goose Gun
Armsport 2700 Series O/U
Armsport 2900 Tri-Barrel Shotgun
Baby Bretton Over/Under Shotgun
Beretta Model 686 Ultralight O/U
Beretta ASE 90 Competition O/U Shotgun
Beretta Over/Under Field Shotguns
Beretta Onyx Hunter Sport O/U Shotgun
Beretta Model SO5, SO6, SO9 Shotguns
Beretta Sporting Clay Shotguns
Beretta 687EL Sporting O/U
Beretta 682 Super Sporting O/U
Beretta Series 682 Competition Over/Unders
Browning Citori O/U Shotgun
Browning Superlight Citori Over/Under
Browning Lightning Sporting Clays
Browning Micro Citori Lightning
Browning Citori Plus Trap Combo
Browning Citori Plus Trap Gun
Browning Citori O/U Skeet Models
Browning Citori O/U Trap Models
Browning Special Sporting Clays
Browning Citori GTI Sporting Clays
Browning 325 Sporting Clays
Centurion Over/Under Shotgun
Chapuis Over/Under Shotgun
Connecticut Valley Classics Classic Sporter O/U
Connecticut Valley Classics Classic Field Waterfowler
Charles Daly Field Grade O/U
Charles Daly Lux Over/Under
E.A.A./Sabatti Sporting Clays Pro-Gold O/U
E.A.A/Sabatti Falcon-Mon Over/Under
Kassnar Grade I O/U Shotgun
Krieghoff K–80 Sporting Clays O/U
Krieghoff K–80 Skeet Shotgun
Krieghoff K–80 International Skeet
Krieghoff K–80 Four-Barrel Skeet Set
Krieghoff K–80/RT Shotguns
Krieghoff K–80 O/U Trap Shotgun
Laurona Silhouette 300 Sporting Clays
Laurona Silhouette 300 Trap
Laurona Super Model Over/Unders
Ljutic LM–6 Deluxe O/U Shotgun
Marocchi Conquista Over/Under Shotgun
Marocchi Avanza O/U Shotgun
Merkel Model 200E O/U Shotgun
Merkel Model 200E Skeet, Trap Over/Unders
Merkel Model 203E, 303E Over/Under Shotguns
Perazzi Mirage Special Sporting O/U
Perazzi Mirage Special Four-Gauge Skeet
Perazzi Sporting Classic O/U
Perazzi MX7 Over/Under Shotguns
Perazzi Mirage Special Skeet Over/Under
Perazzi MX8/MX8 Special Trap, Skeet
Perazzi MX8/20 Over/Under Shotgun
Perazzi MX9 Single Over/Under Shotguns
Perazzi MX12 Hunting Over/Under
Perazzi MX28, MX410 Game O/U Shotguns
Perazzi MX20 Hunting Over/Under
Piotti Boss Over/Under Shotgun
Remington Peerless Over/Under Shotgun
Ruger Red Label O/U Shotgun
Ruger Sporting Clays O/U Shotgun
San Marco 12-Ga. Wildflower Shotgun
San Marco Field Special O/U Shotgun
San Marco 10-Ga. O/U Shotgun
SKB Model 505 Deluxe Over/Under Shotgun
SKB Model 685 Over/Under Shotgun
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays
Stoeger/IGA Condor I O/U Shotgun

Stoeger/IGA ERA 2000 Over/Under Shotgun
Techni-Mec Model 610 Over/Under
Tikka Model 412S Field Grade Over/Under
Weatherby Athena Grade IV O/U Shotguns
Weatherby Athena Grade V Classic Field O/U
Weatherby Orion O/U Shotguns
Weatherby II, III Classic Field O/Us
Weatherby Orion II Classic Sporting Clays O/U
Weatherby Orion II Sporting Clays O/U
Winchester Model 1001 O/U Shotgun
Winchester Model 1001 Sporting Clays O/U
Pietro Zanoletti Model 2000 Field O/U

Shotguns—Side by Sides

American Arms Brittany Shotgun
American Arms Gentry Double Shotgun
American Arms Derby Side-by-Side
American Arms Grulla #2 Double Shotgun
American Arms WS/SS 10
American Arms TS/SS 10 Double Shotgun
American Arms TS/SS 12 Side-by-Side
Arrieta Sidelock Double Shotguns
Armsport 1050 Series Double Shotguns
Arizaga Model 31 Double Shotgun
AYA Boxlock Shotguns
AYA Sidelock Double Shotguns
Beretta Model 452 Sidelock Shotgun
Beretta Side-by-Side Field Shotguns
Crucelegui Hermanos Model 150 Double
Chapuis Side-by-Side Shotgun
E.A.A./Sabatti Saba-Mon Double Shotgun
Charles Daly Model Dss Double
Ferlib Model F VII Double Shotgun
Auguste Francotte Boxlock Shotgun
Auguste Francotte Sidelock Shotgun
Garbi Model 100 Double
Garbi Model 101 Side-by-Side
Garbi Model 103A, B Side-by-Side
Garbi Model 200 Side-by-Side
Bill Hanus Birdgun Doubles
Hatfield Uplander Shotgun
Merkel Model 8, 47E Side-by-Side Shotguns
Merkel Model 47LSC Sporting Clays Double
Merkel Model 47S, 147S Side-by-Sides
Parker Reproductions Side-by-Side
Piotti King No. 1 Side-by-Side
Piotti Lunik Side-by-Side
Piotti King Extra Side-by-Side
Piotti Piuma Side-by-Side
Precision Sports Model 600 Series Doubles
Rizzini Boxlock Side-by-Side
Rizzini Sidelock Side-by-Side
Stoeger/IGA Uplander Side-by-Side Shotgun
Ugartechea 10-Ga. Magnum Shotgun

Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun
Browning BT–99 Competition Trap Special
Browning BT–99 Plus Trap Gun
Browning BT–99 Plus Micro
Browning Recoilless Trap Shotgun
Browning Micro Recoilless Trap Shotgun
Desert Industries Big Twenty Shotgun
Harrington & Richardson Topper Model 098
Harrington & Richardson Topper Classic Youth Shotgun
Harrington & Richardson N.W.T.F. Turkey Mag
Harrington & Richardson Topper Deluxe Model 098
Krieghoff KS–5 Trap Gun
Krieghoff KS–5 Special
Krieghoff K–80 Single Barrel Trap Gun
Ljutic Mono Gun Single Barrel

Ljutic LTX Super Deluxe Mono Gun
Ljutic Recoilless Space Gun Shotgun
Marlin Model 55 Goose Gun Bolt Action
New England Firearms Turkey and Goose Gun
New England Firearms N.W.T.F. Shotgun
New England Firearms Tracker Slug Gun
New England Firearms Standard Pardner
New England Firearms Survival Gun
Perazzi TM1 Special Single Trap
Remington 90–T Super Single Shotgun
Snake Charmer II Shotgun
Stoeger/IGA Reuna Single Barrel Shotgun
Thompson/Center TCR '87 Hunter Shotgun.".

Subtitle B—Youth Handgun Safety

SEC. 110201. PROHIBITION OF THE POSSESSION OF A HANDGUN OR AMMUNITION BY, OR THE PRIVATE TRANSFER OF A HANDGUN OR AMMUNITION TO, A JUVENILE.

(a) OFFENSE.—Section 922 of title 18, United States Code, as amended by section 110103(a), is amended by adding at the end the following new subsection:

"(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

"(A) a handgun; or

"(B) ammunition that is suitable for use only in a handgun.

"(3) This subsection does not apply to—

"(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

"(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

"(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

"(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

"(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited

by Federal, State or local law from possessing a firearm;

"(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

"(iv) in accordance with State and local law;

"(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

"(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

"(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

"(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

"(5) For purposes of this subsection, the term 'juvenile' means a person who is less than 18 years of age.

"(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

"(B) The court may use the contempt power to enforce subparagraph (A).

"(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following new paragraph:

"(5)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

"(ii) A juvenile is described in this clause if—

"(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

"(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

"(B) A person other than a juvenile who knowingly violates section 922(x)—

"(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

"(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.".

(c) TECHNICAL AMENDMENT OF JUVENILE DELINQUENCY PROVISIONS IN TITLE 18, UNITED STATES CODE.—

(1) SECTION 5031.—Section 5031 of title 18, United States Code, is amended by inserting "or a violation by such a person of section 922(x)" before the period at the end.

(2) SECTION 5032.—Section 5032 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph by inserting "or (x)" after "922(p)"; and

(B) in the fourth undesignated paragraph by inserting "or section 922(x) of this title," before "criminal prosecution on the basis".

(d) TECHNICAL AMENDMENT OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "which do not constitute violations of valid court orders" and inserting "(other than an offense that constitutes a violation of a valid court order or a violation of section 922(x) of title 18, United States Code, or a similar State law)."

42 USC 5653 note.

(e) MODEL LAW.—The Attorney General, acting through the Director of the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) evaluate existing and proposed juvenile handgun legislation in each State;

(2) develop model juvenile handgun legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as the result of the evaluation; and

Reports.

(4) report to Congress by December 31, 1995, findings and recommendations concerning the need or appropriateness of further action by the Federal Government.

Subtitle C—Licensure

SEC. 110301. FIREARMS LICENSURE AND REGISTRATION TO REQUIRE A PHOTOGRAPH AND FINGERPRINTS.

(a) FIREARMS LICENSURE.—Section 923(a) of title 18, United States Code, is amended in the second sentence by inserting "and shall include a photograph and fingerprints of the applicant" before the period.

(b) REGISTRATION.—Section 5802 of the Internal Revenue Code of 1986 is amended by inserting after the first sentence the following: "An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application.".

26 USC 5802.

SEC. 110302. COMPLIANCE WITH STATE AND LOCAL LAW AS A CONDITION TO LICENSE.

Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the applicant certifies that—

"(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

"(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

"(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

"(iii) that the applicant has sent or delivered a form to be prescribed by the Secretary, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license.".

SEC. 110303. ACTION ON FIREARMS LICENSE APPLICATION.

Section 923(d)(2) of title 18, United States Code, is amended by striking "forty-five-day" and inserting "60-day".

SEC. 110304. INSPECTION OF FIREARMS LICENSEES' INVENTORY AND RECORDS.

Section 923(g)(1)(B)(ii) of title 18, United States Code, is amended to read as follows:

"(ii) for ensuring compliance with the record keeping requirements of this chapter—

"(I) not more than once during any 12-month period; or

"(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee.".

SEC. 110305. REPORTS OF THEFT OR LOSS OF FIREARMS.

Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Secretary and to the appropriate local authorities.".

SEC. 110306. RESPONSES TO REQUESTS FOR INFORMATION.

Section 923(g) of title 18, United States Code, as amended by section 110405, is amended by adding at the end the following new paragraph:

"(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Secretary for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information

shall be provided orally or in writing, as the Secretary may require. The Secretary shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.".

SEC. 110307. NOTIFICATION OF NAMES AND ADDRESSES OF FIREARMS LICENSEES.

Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(1) The Secretary of the Treasury shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.".

Subtitle D—Domestic Violence

SEC. 110401. PROHIBITION AGAINST DISPOSAL OF FIREARMS TO, OR RECEIPT OF FIREARMS BY, PERSONS WHO HAVE COMMITTED DOMESTIC ABUSE.

(a) INTIMATE PARTNER DEFINED.—Section 921(a) of title 18, United States Code, as amended by section 110103(b), is amended by inserting at the end the following new paragraph:

"(32) The term 'intimate partner' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.".

(b) PROHIBITION AGAINST DISPOSAL OF FIREARMS.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

"(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.".

(c) PROHIBITION AGAINST RECEIPT OF FIREARMS.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by inserting "or" at the end of paragraph (7); and

(3) by inserting after paragraph (7) the following:

"(8) who is subject to a court order that—

"(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

"(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

"(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

"(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury,".

(d) STORAGE OF FIREARMS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 922.".

(e) RETURN OF FIREARMS.—Section 924(d)(1) of title 18, United States Code, is amended by striking "the seized" and inserting "or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished".

Subtitle E—Gun Crime Penalties

SEC. 110501. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME. 28 USC 994 note

(a) AMENDMENT TO SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a drug trafficking crime (as defined in section 924(c)(2) of title 18, United States Code) if a semiautomatic firearm is involved.

(b) SEMIAUTOMATIC FIREARM.—In subsection (a), "semiautomatic firearm" means any repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.

SEC. 110502. ENHANCED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY. 28 USC 994 note

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate amendments to the sentencing guidelines to appropriately enhance penalties in a case in which a defendant convicted

under section 844(h) of title 18, United States Code, has previously been convicted under that section.

SEC. 110503. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 60013, is amended by adding at the end the following new subsection:

"(j) A person who, with intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 110504. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110203(a), is amended by adding at the end the following new subsection:

"(k) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 110505. REVOCATION OF SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in

the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR FOR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm; or

"(3) refuses to comply with drug testing imposed as a condition of supervised release;

the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

SEC. 110506. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM OR REFUSAL TO COMPLY WITH DRUG TESTING.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3);

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates

a condition of probation prohibiting the defendant from possessing a firearm; or

"(3) refuses to comply with drug testing, thereby violating the condition imposed by section 3563(a)(4),

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 110507. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B) by striking "(a)(6),"; and

(2) in subsection (a)(2) by inserting "(a)(6)," after "subsections".

SEC. 110508. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 110509. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

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"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 110510. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 924(e)(1) OF TITLE 18.—Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) SECTION 924(c)(1) OF TITLE 18.—Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.".

SEC. 110511. PROHIBITION AGAINST TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 110512. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY. 28 USC 994 note.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide an appropriate enhancement of the punishment for a defendant convicted of a felony under chapter 25 of title 18, United States Code, if the defendant used or carried a firearm (as defined in section 921(a)(3) of title 18, United States Code) during and in relation to the felony.

SEC. 110513. ENHANCED PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS. 28 USC 994 note.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to—

(1) appropriately enhance penalties in cases in which a defendant convicted under section 922(g) of title 18, United States Code, has 1 prior conviction by any court referred to in section 922(g)(1) of title 18 for a violent felony (as defined in section 924(e)(2)(B) of that title) or a serious drug offense (as defined in section 924(e)(2)(A) of that title); and

(2) appropriately enhance penalties in cases in which such a defendant has 2 prior convictions for a violent felony (as so defined) or a serious drug offense (as so defined).

SEC. 110514. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 110515. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110504(a), is amended by adding at the end the following new subsection:

"(l) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 110204(b), is amended by adding at the end the following new subsection:

"(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 110516. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting "person".

SEC. 110517. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 110515(a), is amended by adding at the end the following new subsection:

"(m) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 110518. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 110517(a), is amended by adding at the end the following new subsection:

"(n) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 110515(b), is amended by adding at the end the following new subsection:

"(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

SEC. 110519. DEFINITION OF ARMOR PIERCING AMMUNITION.

Section 921(a)(17) of title 18, United States Code, is amended by revising subparagraph (B) and adding a new subparagraph (C) to read as follows:

"(B) The term 'armor piercing ammunition' means—

"(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

"(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

"(C) The term 'armor piercing ammunition' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes,

or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.".

TITLE XII—TERRORISM

SEC. 120001. EXTENSION OF THE STATUTE OF LIMITATION FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitation for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply to any offense committed more than 5 years prior to the date of enactment of this Act. 18 USC 3286 note.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitation for certain terrorism offenses.".

SEC. 120002. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 120003. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"A person who, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 if committed within the United States, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new item:

"470. Counterfeit acts committed outside the United States.".

(2) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by amending the item for chapter 25 to read as follows:

"25. Counterfeiting and forgery ..... 470".

28 USC 994 note.

SEC. 120004. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an appropriate enhancement for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 120005. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

"(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title or section 46502 of title 49, or in preparation for or carrying out the concealment of an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) INVESTIGATIONS.—

"(1) IN GENERAL.—Within the United States, an investigation may be initiated or continued under this section only when facts reasonably indicate that—

"(A) in the case of an individual, the individual knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law; and

"(B) in the case of a group of individuals, the group knowingly or intentionally engages, has engaged, or is about to engage in the violation of this or any other Federal criminal law.

"(2) ACTIVITIES PROTECTED BY THE FIRST AMENDMENT.—An investigation may not be initiated or continued under this section based on activities protected by the First Amendment to the Constitution, including expressions of support or the provision of financial support for the nonviolent political, religious, philosophical, or ideological goals or beliefs of any person or group.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding the following new item:

"2339A. Providing material support to terrorists.".

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER. 8 USC 1252 note.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $3,400,000 for fiscal year 1996;

(2) $3,600,000 for fiscal year 1997;

(3) $3,700,000 for fiscal year 1998;

(4) $3,800,000 for fiscal year 1999; and

(5) $3,900,000 for fiscal year 2000.

SEC. 130003. ALIEN WITNESS COOPERATION AND COUNTERTERRORISM INFORMATION.

(a) ESTABLISHMENT OF NEW NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (Q),

(2) by striking the period at the end of subparagraph (R) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(S) subject to section 214(j), an alien—

"(i) who the Attorney General determines—

"(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

"(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

"(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

"(ii) who the Secretary of State and the Attorney General jointly determine—

"(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

"(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

"(III) will be or has been placed in danger as a result of providing such information; and

"(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.".

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney

General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require; Reports.

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

"(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

"(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning— Reports.

"(A) the number of such nonimmigrants admitted;

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

"(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

"(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

"(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Naturalization Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(i)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) If, in the sole discretion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

"(B) the provision of such information has substantially contributed to—

"(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

"(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

"(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(i))" after "five years".

SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

"(B) is not eligible for any relief from deportation under this Act.

"(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that— Regulations.

"(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

"(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proccedings, as the alien shall choose;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and Records.

"(E) the final order of deportation is not entered by the same person who issues the charges.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

"(A) whether the alien is in fact the alien described in the order;

"(B) whether the alien is in fact an alien described in section 242A(b)(2);

"(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

"(D) whether the alien was afforded the procedures required by section 242A(b)(5).

"(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES";

(2) in subsection (a), as designated prior to enactment of this Act, by striking "(a) IN GENERAL.—" and inserting the following:

"(a) DEPORTATION OF CRIMINAL ALIENS.—

"(1) IN GENERAL.—";

(3) in subsection (b), as designated prior to enactment of this Act, by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—";

(4) by striking subsection (c);

(5) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)"; and

(B) by striking "(2)" and inserting "(B)"; and

(6) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

8 USC 1105a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

8 USC 1158 note.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) IN GENERAL.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) EMPLOYMENT AUTHORIZATION.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $64,000,000 for fiscal year 1995;

(2) $90,000,000 for fiscal year 1996;

(3) $93,000,000 for fiscal year 1997; and

(4) $91,000,000 for fiscal year 1998.

8 USC 1101 note.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

(1) $228,000,000 for fiscal year 1995;

(2) $185,000,000 for fiscal year 1996;

(3) $204,000,000 for fiscal year 1997; and

(4) $58,000,000 for fiscal year 1998.

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) REPORT.—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS. 8 USC 1252 note.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) DETENTION AND REMOVAL OF CRIMINAL ALIENS.—Subject to the availability of appropriations, the Attorney General may—

(1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and

(2) provide for the detention and removal of such aliens.

(c) REPORT.—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $55,000,000 for fiscal year 1995;
(2) $54,000,000 for fiscal year 1996;
(3) $49,000,000 for fiscal year 1997; and
(4) $2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE. 8 USC 1252 note.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title, imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544 by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title, imprisoned not more than 10 years";

(3) in section 1545 by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title, imprisoned not more than 10 years";

(4) in section 1546(a) by striking "five years" and inserting "10 years";

(5) in section 1546(b) by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title, imprisoned not more than 5 years"; and

(6) by adding at the end the following new section:

"§ 1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

SEC. 130010. ASYLUM.

(a) FINDINGS.—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

TITLE XIV—YOUTH VIOLENCE

SEC. 140001. PROSECUTION AS ADULTS OF CERTAIN JUVENILES FOR CRIMES OF VIOLENCE.

The 4th undesignated paragraph of section 5032 of title 18, United States Code, is amended by striking "; however" and inserting ". In the application of the preceding sentence, if the crime of violence is an offense under section 113(a), 113(b), 113(c), 1111, 1113, or, if the juvenile possessed a firearm during the offense, section 2111, 2113, 2241(a), or 2241(c), 'thirteen' shall be substituted for 'fifteen' and 'thirteenth' shall be substituted for 'fifteenth'. Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to the preceding sentence for any offense the Federal jurisdiction for which is predicated solely on Indian country (as defined in section 1151), and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that the preceding sentence have effect over land and persons subject to its criminal jurisdiction. However".

SEC. 140002. COMMENCEMENT OF JUVENILE PROCEEDING.

Section 5032 of title 18, United States Code, is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 (disposition after a finding of juvenile delinquency) until".

SEC. 140003. SEPARATION OF JUVENILE FROM ADULT OFFENDERS.

Section 5039 of title 18, United States Code, is amended by inserting ", whether pursuant to an adjudication of delinquency or conviction for an offense," after "committed" the first place it appears.

SEC. 140004. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751), as amended by section 100003, is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(23) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 36 of title 18, United States Code.".

SEC. 140005. AMENDMENT CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

Section 5038 of title 18, United States Code, is amended in subsection (f) by adding "or whenever a juvenille has been found guilty of committing an act after his 13th birthday which if committed by an adult would be an offense described in the second sentence of the fourth paragraph of section 5032 of this title," after "title 21,".

SEC. 140006. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 140007. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 140008. SOLICITATION OF MINOR TO COMMIT CRIME.

28 USC 994 note.

(a) DIRECTIVE TO SENTENCING COMMISSION.—(1) The United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant 21 years of age or older who has been convicted of an offense shall receive an appropriate sentence enhancement if the defendant involved a minor in the commission of the offense.

Guidelines.

(2) The Commission shall provide that the guideline enhancement promulgated pursuant to paragraph (1) shall apply for any offense in relation to which the defendant has solicited, procured, recruited, counseled, encouraged, trained, directed, commanded, intimidated, or otherwise used or attempted to use any person less than 18 years of age with the intent that the minor would commit a Federal offense.

(b) RELEVANT CONSIDERATIONS.—In implementing the directive in subsection (a), the Sentencing Commission shall consider—

(1) the severity of the crime that the defendant intended the minor to commit;

(2) the number of minors that the defendant used or attempted to use in relation to the offense;

(3) the fact that involving a minor in a crime of violence is frequently of even greater seriousness than involving a minor in a drug trafficking offense, for which the guidelines already provide a two-level enhancement; and

(4) the possible relevance of the proximity in age between the offender and the minor(s) involved in the offense.

TITLE XV—CRIMINAL STREET GANGS

SEC. 150001. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"§ 521. Criminal street gangs

"(a) DEFINITIONS.—

"'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony.

"'criminal street gang' means an ongoing group, club, organization, or association of 5 or more persons—

"(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

"(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and

"(C) the activities of which affect interstate or foreign commerce.

"(b) PENALTY.—The sentence of a person convicted of an offense described in subsection (c) shall be increased by up to 10 years if the offense is committed under the circumstances described in subsection (d).

"(c) OFFENSES.—The offenses described in this section are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years;

"(2) a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and

"(3) a conspiracy to commit an offense described in paragraph (1) or (2).

"(d) CIRCUMSTANCES.—The circumstances described in this section are that the offense described in subsection (c) was committed by a person who—

"(1) participates in a criminal street gang with knowledge that its members engage in or have engaged in a continuing series of offenses described in subsection (c);

"(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang, and

"(3) has been convicted within the past 5 years for—

"(A) an offense described in subsection (c);

"(B) a State offense—

"(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years' imprisonment; or

"(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

"(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs ..... 521".

SEC. 150002. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph by inserting "or in section 924(b), (g), or (h) of this title," before "criminal prosecution" the first place it appears; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 150003. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(4)), as amended by section 140004, is amended—

(1) by striking "and" at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(24) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

SEC. 150006. MENTORING PROGRAM.

Section 288C of part G of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended to read as follows: 42 USC 5667e–3.

"REGULATIONS AND GUIDELINES

"SEC. 288C. (a) PROGRAM GUIDELINES.—The Administrator shall issue program guidelines to implement this part. The program guidelines shall be effective only after a period for public notice and comment.

"(b) MODEL SCREENING GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.".

SEC. 150007. JUVENILE ANTI-DRUG AND ANTI-GANG GRANTS IN FEDERALLY ASSISTED LOW-INCOME HOUSING. 42 USC 14061.

Grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted, low-income housing.

42 USC 14062.

SEC. 150008. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1996.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1996.

SEC. 150009. MULTIJURISDICTIONAL GANG TASK FORCES.

42 USC 3754.

Section 504(f) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting "victims assistance programs, or multijurisdictional gang task forces" after "drug task forces".

TITLE XVI—CHILD PORNOGRAPHY

SEC. 160001. PENALTIES FOR INTERNATIONAL TRAFFICKING IN CHILD PORNOGRAPHY.

(a) IMPORT RELATED OFFENSE.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2258. Production of sexually explicit depictions of a minor for importation into the United States

"(a) USE OF MINOR.—A person who, outside the United States, employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor with the intent that the minor engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct, intending that the visual depiction will be imported into the United States or into waters within 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(b) USE OF VISUAL DEPICTION.—A person who, outside the United States, knowingly receives, transports, ships, distributes, sells, or possesses with intent to transport, ship, sell, or distribute any visual depiction of a minor engaging in sexually explicit conduct (if the production of the visual depiction involved the use of a minor engaging in sexually explicit conduct), intending that the visual depiction will be imported into the United States or into waters within a distance of 12 miles of the coast of the United States, shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates subsection (a) or (b), or conspires or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 10 years, or both; and

"(2) if the person has a prior conviction under this chapter or chapter 109A, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—

(1) CHAPTER ANALYSIS.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2258. Production of sexually explicit depictions of a minor for importation into the United States.".

(2) FINE PROVISIONS.—Section 2251(d) of title 18, United States Code, is amended—

(A) by striking "not more than $100,000, or" and inserting "under this title,";

(B) by striking "not more than $200,000, or" and inserting "under this title,"; and

(C) by striking "not more than $250,000" and inserting "under this title".

(c) SECTION 2251 PENALTY ENHANCEMENT.—Section 2251(d) of title 18, United States Code, is amended by striking "this section" the second place it appears and inserting "this chapter or chapter 109A".

(d) SECTION 2252 PENALTY ENHANCEMENT.—Section 2252(b)(1) of title 18, United States Code, is amended by striking "this section" and inserting "this chapter or chapter 109A".

(e) CONSPIRACY AND ATTEMPT.—Sections 2251(d) and 2252(b) of title 18, United States Code, are each amended by inserting ", or attempts or conspires to violate," after "violates" each place it appears.

(f) RICO AMENDMENT.—Section 1961(1) of title 18, United States Code, is amended by striking "2251–2252" and inserting "2251, 2251A, 2252, and 2258".

(g) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(1) by striking "(a) Whoever" and inserting "(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who"; and

(2) by adding at the end the following new subsection:

"(b) TRAVEL WITH INTENT TO ENGAGE IN SEXUAL ACT WITH A JUVENILE.—A person who travels in interstate commerce, or conspires to do so, or a United States citizen or an alien admitted for permanent residence in the United States who travels in foreign commerce, or conspires to do so, for the purpose of engaging in any sexual act (as defined in section 2245) with a person under 18 years of age that would be in violation of chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 160002. SENSE OF CONGRESS CONCERNING STATE LEGISLATION REGARDING CHILD PORNOGRAPHY.

It is the sense of the Congress that each State that has not yet done so should enact legislation prohibiting the production, distribution, receipt, or simple possession of materials depicting a person under 18 years of age engaging in sexually explicit conduct (as defined in section 2256 of title 18, United States Code) and providing for a maximum imprisonment of at least 1 year and

for the forfeiture of assets used in the commission or support of, or gained from, such offenses.

18 USC 2252 note.

SEC. 160003. CONFIRMATION OF INTENT OF CONGRESS IN ENACTING SECTIONS 2252 AND 2256 OF TITLE 18, UNITED STATES CODE.

(a) DECLARATION.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

(1) the scope of "exhibition of the genitals or pubic area" in section 2256(2)(E), in the definition of "sexually explicit conduct", is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

(2) the requirements in section 2252(a) (1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in "sexually explicit conduct" of the kind described in section 2256(2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that in filing its brief in United States v. Knox, No. 92–1183, and thereby depriving the United States Supreme Court of the adverseness necessary for full and fair presentation of the issues arising in the case, the Department of Justice did not accurately reflect the intent of Congress in arguing that "the videotapes in [the Knox case] constitute 'lascivious exhibition[s] of the genitals or pubic area' only if those body parts are visible in the tapes and the minors posed or acted lasciviously.".

TITLE XVII—CRIMES AGAINST CHILDREN

Subtitle A—Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

42 USC 14071.

SEC. 170101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs that require—

(A) a person who is convicted of a criminal offense against a victim who is a minor or who is convicted of a sexually violent offense to register a current address with a designated State law enforcement agency for the time period specified in subparagraph (A) of subsection (b)(6); and

(B) a person who is a sexually violent predator to register a current address with a designated State law enforcement agency unless such requirement is terminated under subparagraph (B) of subsection (b)(6).

(2) COURT DETERMINATION.—A determination that a person is a sexually violent predator and a determination that a person is no longer a sexually violent predator shall be made by

the sentencing court after receiving a report by a State board composed of experts in the field of the behavior and treatment of sexual offenders.

(3) DEFINITIONS.—For purposes of this section:

(A) The term "criminal offense against a victim who is a minor" means any criminal offense that consists of—

(i) kidnapping of a minor, except by a parent;

(ii) false imprisonment of a minor, except by a parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of a minor to engage in sexual conduct;

(v) use of a minor in a sexual performance;

(vi) solicitation of a minor to practice prostitution;

(vii) any conduct that by its nature is a sexual offense against a minor; or

(viii) an attempt to commit an offense described in any of clauses (i) through (vii), if the State—

(I) makes such an attempt a criminal offense; and

(II) chooses to include such an offense in those which are criminal offenses against a victim who is a minor for the purposes of this section.

For purposes of this subparagraph conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(B) The term "sexually violent offense" means any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code) or an offense that has as its elements engaging in physical contact with another person with intent to commit aggravated sexual abuse or sexual abuse (as described in such sections of title 18, United States Code, or as described in the State criminal code).

(C) The term "sexually violent predator" means a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(D) The term "mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

(E) The term "predatory" means an act directed at a stranger, or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—An approved State registration program established under this section shall contain the following elements:

(1) DUTY OF STATE PRISON OFFICIAL OR COURT.—

(A) If a person who is required to register under this section is released from prison, or placed on parole, supervised release, or probation, a State prison officer, or in the case of probation, the court, shall—

(i) inform the person of the duty to register and obtain the information required for such registration;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) inform the person that if the person changes residence to another State, the person shall register the new address with the law enforcement agency with whom the person last registered, and the person is also required to register with a designated law enforcement agency in the new State not later than 10 days after establishing residence in the new State, if the new State has a registration requirement;

(iv) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(v) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) In addition to the requirements of subparagraph (A), for a person required to register under subparagraph (B) of subsection (a)(1), the State prison officer or the court, as the case may be, shall obtain the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation.

(3) VERIFICATION.—

(A) For a person required to register under subparagraph (A) of subsection (a)(1), on each anniversary of the person's initial registration date during the period in which the person is required to register under this section the following applies:

(i) The designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person.

(ii) The person shall mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form.

(iii) The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency.

(iv) If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed the residence address.

(B) The provisions of subparagraph (A) shall be applied to a person required to register under subparagraph (B) of subsection (a)(1), except that such person must verify the registration every 90 days after the date of the initial release or commencement of parole.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—A change of address by a person required to register under this section reported to the designated State law enforcement agency shall be immediately reported to the appropriate law enforcement agency having jurisdiction where the person is residing. The designated law enforcement agency shall, if the person changes residence to another State, notify the law enforcement agency with which the person must register in the new State, if the new State has a registration requirement.

(5) REGISTRATION FOR CHANGE OF ADDRESS TO ANOTHER STATE.—A person who has been convicted of an offense which requires registration under this section shall register the new address with a designated law enforcement agency in another State to which the person moves not later than 10 days after such person establishes residence in the new State, if the new State has a registration requirement.

(6) LENGTH OF REGISTRATION.—

(A) A person required to register under subparagraph (A) of subsection (a)(1) shall continue to comply with this section until 10 years have elapsed since the person was released from prison, placed on parole, supervised release, or probation.

(B) The requirement of a person to register under subparagraph (B) of subsection (a)(1) shall terminate upon a determination, made in accordance with paragraph (2) of subsection (a), that the person no longer suffers from a mental abnormality or personality disorder that would make the person likely to engage in a predatory sexually violent offense.

(c) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in any State in which the person has so failed.

(d) RELEASE OF INFORMATION.—The information collected under a State registration program shall be treated as private data expect that— Privacy.

(1) such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) such information may be disclosed to government agencies conducting confidential background checks; and

(3) the designated State law enforcement agency and any local law enforcement agency authorized by the State agency may release relevant information that is necessary to protect the public concerning a specific person required to register under this section, except that the identity of a victim of an offense that requires registration under this section shall not be released.

(e) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for good faith conduct under this section.

(f) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement this section, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement this section.

(2) INELIGIBILITY FOR FUNDS.—

(A) A State that fails to implement the program as described in this section shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765).

(B) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

Subtitle B—Assaults Against Children

SEC. 170201. ASSAULTS AGAINST CHILDREN.

(a) SIMPLE ASSAULT.—Section 113(e) of title 18, United States Code, is amended by inserting ", or if the victim of the assault is an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 1 year, or both" before the period.

(b) ASSAULTS RESULTING IN SUBSTANTIAL BODILY INJURY.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(7) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by fine under this title or imprisonment for not more than 5 years, or both.".

(c) TECHNICAL AND STYLISTIC CHANGES TO SECTION 113.—Section 113 of title 18, United States Code, is amended—

(1) in paragraph (b), by striking "of not more than $3,000" and inserting "under this title";

(2) in paragraph (c), by striking "of not more than $1,000" and inserting "under this title";

(3) in paragraph (d), by striking "of not more than $500" and inserting "under this title";

(4) by modifying the left margin of each of paragraphs (a) through (f) so that they are indented 2 ems;

(5) by redesignating paragraphs (a) through (f) as paragraphs (1) through (6); and

(6) by inserting "(a)" before "Whoever".

(d) DEFINITIONS.—Section 113 of title 18, United States Code, is amended by adding at the end the following:

"(b) As used in this subsection—

"(1) the term 'substantial bodily injury' means bodily injury which involves—

"(A) a temporary but substantial disfigurement; or

"(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental faculty; and

"(2) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.".

(e) ASSAULTS IN INDIAN COUNTRY.—Section 1153(a) of title 18, United States Code, is amended by inserting "(as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years" after "serious bodily injury".

Subtitle C—Missing and Exploited Children

Morgan P. Hardiman Task Force on Missing and Exploited Children Act. 42 USC 5601 note.

SEC. 170301. SHORT TITLE.

This subtitle may be cited as the "Morgan P. Hardiman Task Force on Missing and Exploited Children Act".

SEC. 170302. PURPOSE.

42 USC 5776a note.

The purpose of this subtitle is to establish a task force comprised of law enforcement officers from pertinent Federal agencies to work with the National Center for Missing and Exploited Children (referred to as the "Center") and coordinate the provision of Federal law enforcement resources to assist State and local authorities in investigating the most difficult cases of missing and exploited children.

SEC. 170303. ESTABLISHMENT OF TASK FORCE.

Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) by redesignating sections 407 and 408 as sections 408 and 409, respectively; and

(2) by inserting after section 406 the following new section:

42 USC 5777, 5778.

"TASK FORCE

"SEC. 407. (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

42 USC 5776a.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

"(A) the Federal Bureau of Investigation;

"(B) the Secret Service;

"(C) the Bureau of Alcohol, Tobacco and Firearms;

"(D) the United States Customs Service;

"(E) the Postal Inspection Service;

"(F) the United States Marshals Service; and

"(G) the Drug Enforcement Administration.

"(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force

selected under paragraph (1)(A)) shall act as chief of the Task Force.

"(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

"(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

"(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

"(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

"(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), 1 member from each agency shall initially serve a 1-year term, and the other member from the same agency shall serve a 1-year term, and may be selected to a renewal of service for 1 additional year; thereafter, each new member to serve on the Task Force shall serve for a 2-year period with the member's term of service beginning and ending in alternate years with the other member from the same agency; the period of service for the chief of the Task Force shall be 3 years.

"(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

"(c) SUPPORT.—

"(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

"(2) LEGAL GUIDANCE.—The Attorney General shall assign an attorney to provide legal guidance, as needed, to members of the Task Force.

"(d) PURPOSE.—

"(1) IN GENERAL.—The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

"(2) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical

assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall not take a leadership role in any such investigation.

"(e) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General may cross-designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.".

TITLE XVIII—RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 180101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows: 42 USC 3793.

"(9) There are authorized to be appropriated to carry out part O—

"(A) $24,000,000 for fiscal year 1996;
"(B) $40,000,000 for fiscal year 1997;
"(C) $50,000,000 for fiscal year 1998;
"(D) $60,000,000 for fiscal year 1999; and
"(E) $66,000,000 for fiscal year 2000.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000". 42 USC 3796bb.

(c) CLARIFICATION.—Section 1501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3796bb(b)) is amended by inserting ", based on the decennial census of 1990 through fiscal year 1997" before the period.

SEC. 180102. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES. 42 USC 14081.

(a) ESTABLISHMENT.—The Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, may establish a Rural Crime and Drug Enforcement Task Force in judicial districts that encompass significant rural lands. Assets seized as a result of investigations initiated by a Rural Crime and Drug Enforcement Task Force and forfeited under Federal law shall be used, consistent with the guidelines on equitable sharing established by the Attorney General and of the Secretary of the Treasury, primarily to enhance the operations of the task force and its participating State and local law enforcement agencies.

(b) TASK FORCE MEMBERSHIP.—The Task Forces established under subsection (a) shall be carried out under policies and procedures established by the Attorney General. The Attorney General may deputize State and local law enforcement officers and may cross-designate up to 100 Federal law enforcement officers, when necessary to undertake investigations pursuant to section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) or offenses punishable by a term of imprisonment of 10 years or more under title 18, United States Code. The task forces—

(1) shall include representatives from—

(A) State and local law enforcement agencies;

(B) the office of the United States Attorney for the judicial district; and

(C) the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, and the United States Marshals Service; and

(2) may include representatives of other Federal law enforcement agencies, such as the United States Customs Service, United States Park Police, United States Forest Service, Bureau of Alcohol, Tobacco, and Firearms, and Bureau of Land Management.

42 USC 14082.

SEC. 180103. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a)—

(1) $1,000,000 for fiscal year 1996;
(2) $1,000,000 for fiscal year 1997;
(3) $1,000,000 for fiscal year 1998;
(4) $1,000,000 for fiscal year 1999; and
(5) $1,000,000 for fiscal year 2000.

Appropriation authorization.
42 USC 14083.

SEC. 180104. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents—

(1) $12,000,000 for fiscal year 1996;
(2) $20,000,000 for fiscal year 1997;
(3) $30,000,000 for fiscal year 1998;
(4) $40,000,000 for fiscal year 1999; and
(5) $48,000,000 for fiscal year 2000.

Subtitle B—Drug Free Truck Stops and Safety Rest Areas

Drug Free Truck Stop Act.
21 USC 801 note.

SEC. 180201. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

21 USC 849.

"SEC. 409. (a) DEFINITIONS.—In this section—

"'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists.

"'truck stop' means a facility (including any parking lot appurtenant thereto) that—

"(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49, United States Code), operating in commerce (as defined in that section); and

"(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

"(b) FIRST OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) twice any term of supervised release authorized by section 401(b) for a first offense.

"(c) SUBSEQUENT OFFENSE.—A person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is subject to—

"(1) 3 times the maximum punishment authorized by section 401(b); and

"(2) 3 times any term of supervised release authorized by section 401(b) for a first offense.".

(2) TECHNICAL AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by inserting "409," before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409 and inserting the following new item:

"Sec. 409. Transportation safety offenses.".

(c) SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide an appropriate enhancement of punishment for a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (b). 28 USC 994 note.

Subtitle C—Sense of Congress Regarding Funding for Rural Areas

SEC. 180301. FUNDING FOR RURAL AREAS.

It is the sense of Congress that—

(1) the Attorney General should ensure that funding for programs authorized by the provisions of this Act and amendments made by this Act is distributed in such a manner that rural areas continue to receive comparable support for their broad-based crime fighting initiatives;

(2) rural communities should not receive less funding than they received in fiscal year 1994 for anti-crime initiatives as a result of any legislative or administrative actions; and

(3) to the maximum extent possible, funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program should be maintained at its fiscal year 1994 level.

TITLE XIX—FEDERAL LAW ENFORCEMENT

SEC. 190001. FEDERAL JUDICIARY AND FEDERAL LAW ENFORCEMENT.

(a) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.—

FEDERAL JUDICIARY.—There are authorized to be appropriated for the activities of the Federal Judiciary to help meet the increased demands for judicial activities, including supervised release, pre-trial and probation services, that will result from enactment into law of this Act—

(A) $30,000,000 for fiscal year 1996;
(B) $35,000,000 for fiscal year 1997;
(C) $40,000,000 for fiscal year 1998;
(D) $40,000,000 for fiscal year 1999; and
(E) $55,000,000 for fiscal year 2000.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE.—There is authorized to be appropriated for the activities and agencies of the Department of Justice, in addition to sums authorized elsewhere in this section, to help meet the increased demands for Department of Justice activities that will result from enactment into law of this Act—

(A) $40,000,000 for fiscal year 1996;
(B) $40,000,000 for fiscal year 1997;
(C) $40,000,000 for fiscal year 1998;
(D) $40,000,000 for fiscal year 1999; and
(E) $39,000,000 for fiscal year 2000.

(c) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for Federal Bureau of Investigation activities that will result from enactment into law of this Act—

(A) $35,000,000 for fiscal year 1996;
(B) $40,000,000 for fiscal year 1997;
(C) $50,000,000 for fiscal year 1998;
(D) $60,000,000 for fiscal year 1999; and
(E) $60,000,000 for fiscal year 2000.

(d) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR UNITED STATES ATTORNEYS.—There is authorized to be appropriated for the account Department of Justice, Legal Activities, "Salaries and expenses, United States Attorneys", to help meet the increased demands for litigation and related activities which will result from enactment into law of this Act—

(A) $5,000,000 for fiscal year 1996;
(B) $8,000,000 for fiscal year 1997;
(C) $10,000,000 for fiscal year 1998;
(D) $12,000,000 for fiscal year 1999; and
(E) $15,000,000 for fiscal year 2000.

(e) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.—There is authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco, and Firearms, the United States Customs Service, the Financial Crimes Enforcement Network, the Federal Law Enforcement Training Center, the Criminal Investigation Division of the Internal Revenue Service, and the United States Secret Service to help meet the increased demands for Department of the Treasury activities that will result from enactment into law of this Act—

(A) $30,000,000 for fiscal year 1995;
(B) $70,000,000 for fiscal year 1996;
(C) $90,000,000 for fiscal year 1997;
(D) $110,000,000 for fiscal year 1998;
(E) $125,000,000 for fiscal year 1999; and
(F) $125,000,000 for fiscal year 2000.

TITLE XX—POLICE CORPS AND LAW ENFORCEMENT OFFICERS TRAINING AND EDUCATION

Subtitle A—Police Corps

Police Corps Act.

SEC. 200101. SHORT TITLE. 42 USC 13701 note.

This subtitle may be cited as the "Police Corps Act".

SEC. 200102. PURPOSES. 42 USC 14091.

The purposes of this subtitle are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 200103. DEFINITIONS. 42 USC 14092.

In this subtitle—

"academic year" means a traditional academic year beginning in August or September and ending in the following May or June.

"dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director.

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 200104.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(B) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"participant" means a participant in the Police Corps program selected pursuant to section 200106.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"State Police Corps program" means a State police corps program that meets the requirements of section 200110.

42 USC 14093.

SEC. 200104. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

42 USC 14094.

SEC. 200105. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under this subtitle shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this subtitle;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program; and

(4) meet the requirements of section 200110.

42 USC 14095.

SEC. 200106. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B), each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year,

the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to reimburse such participant for the costs of educational expenses if the student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study; and

(2) if a participant has enrolled in the program upon or after transfer to a 4-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) AGREEMENT.—(1)(A) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director.

(B) An agreement under subparagraph (A) shall contain assurances that the participant shall—

(i) after successful completion of a baccalaureate program and training as prescribed in section 200108, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(ii) complete satisfactorily—

(I) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having com-

pleted one or more graduate courses (in the case of graduate study); and

(II) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 200108; and

(iii) repay all of the scholarship or payment received plus interest at the rate of 10 percent if the conditions of clauses (i) and (ii) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered to be in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) If a scholarship recipient is unable to comply with the repayment provision set forth in paragraph (1)(B)(ii) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from a participant who violates an agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties, shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

42 USC 14096.

SEC. 200107. SELECTION OF PARTICIPANTS.

Regulations.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 200110(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 200109, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 200109, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this subtitle that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

42 USC 14097.

SEC. 200108. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

Contracts.

(2) The Director may enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director may enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year,

the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 10 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 200109. SERVICE OBLIGATION. 42 USC 14098.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 200108 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 200106, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 200106(d)(1)(B)(iii) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 200106, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service

is satisfactorily completed, section 200106(d)(1)(B)(iii) shall not apply.

42 USC 14099.

SEC. 200110. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 200107;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) ensure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

42 USC 14100.

SEC. 200111. ASSISTANCE TO STATES AND LOCALITIES EMPLOYING POLICE CORPS OFFICERS.

Each jurisdiction directly employing Police Corps participants during the 4-year term of service prescribed by section 200109

shall receive $10,000 on account of each such participant at the completion of each such year of service, but—

(1) no such payment shall be made on account of service in any State or local police force—

(A) whose average size, in the year for which payment is to be made, not counting Police Corps participants assigned under section 106, has declined more than 2 percent since January 1, 1993; or

(B) which has members who have been laid off but not retired; and

(2) no such payment shall be made on account of any Police Corps participant for years of service after the completion of the term of service prescribed in section 200109.

SEC. 200112. AUTHORIZATION OF APPROPRIATIONS. 42 USC 14101.

There are authorized to be appropriated to carry out this subtitle $20,000 for each of the fiscal years 1996 through 2000.

SEC. 200113. REPORTS TO CONGRESS. 42 USC 14102.

(a) IN GENERAL.—Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate.

(b) CONTENTS.—A report under subsection (a) shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic, racial, and gender dispersion of participants in the Police Corps program; and

(3) describe the progress of the Police Corps program and make recommendations for changes in the program.

Subtitle B—Law Enforcement Scholarship Program

Law Enforcement Scholarships and Recruitment Act.

SEC. 200201. SHORT TITLE. 42 USC 13701 note.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 200202. DEFINITIONS. 42 USC 14111.

In this subtitle—

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 200104.

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, and related expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"law enforcement position" means employment as an officer in a State or local police force, or correctional institution.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

42 USC 14112.

SEC. 200203. ALLOTMENT.

From amounts appropriated under section 200210, the Director shall allot—

(1) 80 percent of such amounts to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such amounts to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

42 USC 14113.

SEC. 200204. ESTABLISHMENT OF PROGRAM.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—A State that receives an allotment pursuant to section 200203 shall use the allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment for a period not to exceed 1 year.

(2) EMPLOYMENT.—The employment described in paragraph (1)(B)—

(A) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an institution of higher education and who demonstrate an interest in undertaking a career in law enforcement;

(B) shall not be in a law enforcement position; and

(C) shall consist of performing meaningful tasks that inform students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—Subject to the availability of appropriations, the Director shall pay to each State that receives an allotment under section 200203 the Federal share of the cost of the activities described in the application submitted pursuant to section 200203.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(d) ADMINISTRATIVE EXPENSES.—A State that receives an allotment under section 200203 may reserve not more than 8 percent of the allotment for administrative expenses.

(e) SPECIAL RULE.—A State that receives an allotment under section 200203 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(f) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 200205. SCHOLARSHIPS. 42 USC 14114.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of 1 academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use the scholarship for educational expenses at an institution of higher education.

SEC. 200206. ELIGIBILITY. 42 USC 14115.

(a) SCHOLARSHIPS.—A person shall be eligible to receive a scholarship under this subtitle if the person has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—A person who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 200207. STATE APPLICATION. 42 USC 14116.

(a) IN GENERAL.—Each State desiring an allotment under section 200203 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of persons who receive scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks that students will be assigned to perform;

(B) the compensation that students will be paid to perform such tasks; and

(C) the training that students will receive as part of their participation in the program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

42 USC 14117.

SEC. 200208. LOCAL APPLICATION.

(a) IN GENERAL.—A person who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) CONTENTS.—An application under subsection (a) shall describe—

(1) the academic courses for which a scholarship is sought; or

(2) the location and duration of employment that is sought.

(c) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from persons who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

42 USC 14118.

SEC. 200209. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—A person who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—An agreement described in subsection (a) shall—

(1) provide assurances that the scholarship recipient will work in a law enforcement position in the State that awarded the scholarship in accordance with the service obligation described in subsection (c) after completion of the scholarship

recipient's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the scholarship recipient will repay the entire scholarship in accordance with such terms and conditions as the Director shall prescribe if the requirements of the agreement are not complied with, unless the scholarship recipient—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which the scholarship recipient may seek employment in the field of law enforcement in a State other than the State that awarded the scholarship.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), a person who receives a scholarship under this subtitle shall work in a law enforcement position in the State that awarded the scholarship for a period of 1 month for each credit hour for which funds are received under the scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement of paragraph (1), a scholarship recipient shall work in a law enforcement position in the State that awarded the scholarship for not less than 6 months but shall not be required to work in such a position for more than 2 years.

SEC. 200210. AUTHORIZATION OF APPROPRIATIONS. 42 USC 14119.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle—

(1) $20,000,000 for fiscal year 1996;
(2) $20,000,000 for fiscal year 1997;
(3) $20,000,000 for fiscal year 1998;
(4) $20,000,000 for fiscal year 1999; and
(5) $20,000,000 for fiscal year 2000.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for a fiscal year—

(1) 80 percent shall be available to provide scholarships described in section 200204(a)(1)(A); and

(2) 20 percent shall be available to provide employment described in sections 200204(a)(1)(B) and 200204(a)(2).

TITLE XXI—STATE AND LOCAL LAW ENFORCEMENT

Subtitle A—Byrne Program

SEC. 210101. EXTENSION OF BYRNE GRANT FUNDING. Appropriation authorization.

There is authorized to be appropriated for fiscal years 1995 through 2000 such sums as may be necessary to carry out the programs under parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, of which the following amounts may be appropriated from the Violent Crime Reduction Trust Fund:

(1) $580,000,000 for fiscal year 1995;

(2) $130,000,000 for fiscal year 1996;
(3) $100,000,000 for fiscal year 1997;
(4) $75,000,000 for fiscal year 1998;
(5) $70,000,000 for fiscal year 1999; and
(6) $45,000,000 for fiscal year 2000.

Subtitle B—Law Enforcement Family Support

SEC. 210201. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(a), is amended—

(1) by redesignating part W as part X;
42 USC 3797. (2) by redesignating section 2301 as 2401; and
(3) by inserting after part V the following new part:

"PART W—FAMILY SUPPORT

42 USC 3796jj. **"SEC. 2301. DUTIES.**

"The Attorney General shall—

Guidelines. "(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Department of Justice and by grant recipients.

42 USC 3796jj-1. **"SEC. 2302. GENERAL AUTHORIZATION.**

"The Attorney General may make grants to States and local law enforcement agencies and to organizations representing State or local law enforcement personnel to provide family support services to law enforcement personnel.

42 USC 3796jj-2. **"SEC. 2303. USES OF FUNDS.**

"(a) IN GENERAL.—A State or local law enforcement agency or organization that receives a grant under this Act shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency or organization that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.
"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.
"(4) Stress reduction programs.
"(5) Stress education for law enforcement recruits and families.
"(6) Technical assistance and training programs to support any or all of the services described in paragraphs (1), (2), (3), (4), and (5).

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency or organization that receives funds under this part may provide the following services:
"(1) Post-shooting debriefing for officers and their spouses.
"(2) Group therapy.
"(3) Hypertension clinics.
"(4) Critical incident response on a 24-hour basis.
"(5) Law enforcement family crisis telephone services on a 24-hour basis.
"(6) Counseling for law enforcement personnel exposed to the human immunodeficiency virus.
"(7) Counseling for peers.
"(8) Counseling for families of personnel killed in the line of duty.
"(9) Seminars regarding alcohol, drug use, gambling, and overeating.
"(10) Technical assistance and training to support any or all of the services described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), and (9).

"SEC. 2304. APPLICATIONS. 42 USC 3796jj-3.

"A law enforcement agency or organization desiring to receive a grant under this part shall submit to the Attorney General an application at such time, in such manner, and containing or accompanied by such information as the Attorney General may reasonably require. Such application shall—
"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources; Certification.
"(2) include a statement from the highest ranking law enforcement official from the State or locality or from the highest ranking official from the organization applying for the grant that attests to the need and intended use of services to be provided with grant funds; and
"(3) assure that the Attorney General or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part. Records.

"SEC. 2305. AWARD OF GRANTS; LIMITATION. 42 USC 3796jj-4.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Attorney General shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Attorney General may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency or $250,000 to a law enforcement organization for a period not to exceed 5 years. In any application from a State or local law enforcement agency or organization for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded

to such agency, the Attorney General shall review the progress made toward meeting the objectives of the program. The Attorney General may refuse to award a grant if the Attorney General finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 5 percent of grant funds received by a State or a local law enforcement agency or organization may be used for administrative purposes.

42 USC 3796jj-5. **"SEC. 2306. DISCRETIONARY RESEARCH GRANTS.**

"The Attorney General may reserve 10 percent of funds to award research grants to a State or local law enforcement agency or organization to study issues of importance in the law enforcement field as determined by the Attorney General.

42 USC 3796jj-6. **"SEC. 2307. REPORTS.**

"A State or local law enforcement agency or organization that receives a grant under this part shall submit to the Attorney General an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

42 USC 3796jj-7. **"SEC. 2308. DEFINITIONS.**

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(b), is amended by striking the matter relating to part V and inserting the following:

"PART W—FAMILY SUPPORT

"Sec. 2301. Duties.
"Sec. 2302. General authorization.
"Sec. 2303. Uses of funds.
"Sec. 2304. Applications.
"Sec. 2305. Award of grants; limitation.
"Sec. 2306. Discretionary research grants.
"Sec. 2307. Reports.
"Sec. 2308. Definitions.

"PART V—TRANSITION-EFFECTIVE DATE-REPEALS

"Sec. 2301. Continuation of rules, authorities, and privileges.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 50001(c), is amended— 42 USC 3793.

(1) in paragraph (3) by striking "and V" and inserting "V, and W"; and

(2) by adding at the end the following new paragraph:

"(21) There are authorized to be appropriated to carry out part W—

"(1) $2,500,000 for fiscal year 1996;

"(2) $4,000,000 for fiscal year 1997;
"(3) $5,000,000 for fiscal year 1998;
"(4) $6,000,000 for fiscal year 1999; and
"(5) $7,500,000 for fiscal year 2000.".

Subtitle C—DNA Identification

DNA Identification Act of 1994. Science and technology. 42 USC 13701 note.

SEC. 210301. SHORT TITLE.

This subtitle may be cited as the "DNA Identification Act of 1994".

SEC. 210302. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

(a) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) as amended by section 150003, is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as 'DNA') for identification purposes.".

(b) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of funds received from a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(iii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

"(iv) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303 of the DNA Identification Act of 1994.".

(c) DNA IDENTIFICATION GRANTS.—

(1) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 210201(a), is amended—

(A) by redesignating part X as part Y;

42 USC 3797.

(B) by redesignating section 2401 as section 2501; and

(C) by inserting after part W the following new part:

"PART X—DNA IDENTIFICATION GRANTS

42 USC 3796kk.

"SEC. 2401. GRANT AUTHORIZATION.

"The Attorney General may make funds available under this part to States and units of local government, or combinations thereof, to carry out all or a substantial part of a program or project intended to develop or improve the capability to analyze deoxyribonucleic acid (referred to in this part as 'DNA') in a forensic laboratory.

42 USC 3796kk-1.

"SEC. 2402. APPLICATIONS.

"To request a grant under this part, the chief executive officer of a State or unit of local government shall submit an application in such form as the Attorney General may require.

42 USC 3796kk-2.

"SEC. 2403. APPLICATION REQUIREMENTS.

"No grant may be made under this part unless an application has been submitted to the Attorney General in which the applicant certifies that—

"(1) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994.

"(2) DNA samples obtained by and DNA analyses performed at the laboratory shall be made available only—

"(A) to criminal justice agencies for law enforcement identification purposes;

"(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

"(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

"(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(3) the laboratory and each analyst performing DNA analyses at the laboratory shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program that meets the standards issued under section 210303 of the DNA Identification Act of 1994.

42 USC 3796kk-3.

"SEC. 2404. ADMINISTRATIVE PROVISIONS.

"(a) REGULATION AUTHORITY.—The Attorney General may promulgate guidelines, regulations, and procedures, as necessary to carry out the purposes of this part, including limitations on the number of awards made during each fiscal year, the submission

and review of applications, selection criteria, and the extension or continuation of awards.

"(b) AWARD AUTHORITY.—The Attorney General shall have final authority over all funds awarded under this part.

"(c) TECHNICAL ASSISTANCE.—To assist and measure the effectiveness and performance of programs and activities funded under this part, the Attorney General may provide technical assistance as required.

"SEC. 2405. RESTRICTIONS ON USE OF FUNDS.

42 USC 3796kk-4.

"(a) FEDERAL SHARE.—The Federal share of a grant, contract, or cooperative agreement made under this part may not exceed 75 percent of the total costs of the project described in the application submitted for the fiscal year for which the project receives assistance.

"(b) ADMINISTRATIVE COSTS.—A State or unit of local government may not use more than 10 percent of the funds it receives from this part for administrative expenses.

"SEC. 2406. REPORTS.

42 USC 3796kk-5.

"(a) REPORTS TO ATTORNEY GENERAL.—Each State or unit of local government which receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a report at such time and in such manner as the Attorney General may reasonably require which contains—

"(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application submitted under section 2402; and

"(2) such other information as the Attorney General may require.

"(b) REPORTS TO CONGRESS.—Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Attorney General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report that includes—

"(1) the aggregate amount of grants made under this part to each State or unit of local government for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"SEC. 2407. EXPENDITURE RECORDS.

42 USC 3796kk-6.

"(a) RECORDS.—Each State or unit of local government which receives a grant under this part shall keep records as the Attorney General may require to facilitate an effective audit.

"(b) ACCESS.—The Attorney General, the Comptroller General, or their designated agents shall have access, for the purpose of audit and examination, to any books, documents, and records of States and units of local government which receive grants made under this part if, in the opinion of the Attorney General, the Comptroller General, or their designated agents, such books, documents, and records are related to the receipt or use of any such grant.".

(2) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 210201(b),

is amended by striking the matter relating to part X and inserting the following:

"PART X—DNA IDENTIFICATION GRANTS

"Sec. 2401. Grant authorization.
"Sec. 2402. Applications.
"Sec. 2403. Application requirements.
"Sec. 2404. Administrative provisions.
"Sec. 2405. Restrictions on use of funds.
"Sec. 2406. Reports.
"Sec. 2407. Expenditure records.

"PART Y—TRANSITION-EFFECTIVE DATE-REPEALER

"Sec. 2501. Continuation of rules, authorities, and proceedings.".

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), as amended by section 210201(c), is amended—

(A) in paragraph (3) by striking "and W" and inserting "W, and X"; and

(B) adding at the end the following new paragraph:

"(22) There are authorized to be appropriated to carry out part X—

"(1) $1,000,000 for fiscal year 1996;
"(2) $3,000,000 for fiscal year 1997;
"(3) $5,000,000 for fiscal year 1998;
"(4) $13,500,000 for fiscal year 1999; and
"(5) $17,500,000 for fiscal year 2000.".

42 USC 3751 note.

(4) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of enactment of this Act.

42 USC 14131.

SEC. 210303. QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.

(a) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(1)(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory officials.

(B) The advisory board shall include as members scientists from State, local, and private forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology.

(C) The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(4) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(b) ADMINISTRATION OF THE ADVISORY BOARD.—(1) For administrative purposes, the advisory board appointed under subsection (a) shall be considered an advisory board to the Director of the Federal Bureau of Investigation.

(2) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a).

(3) The DNA advisory board established under this section shall be separate and distinct from any other advisory board administered by the FBI, and is to be administered separately.

(4) The board shall cease to exist on the date 5 years after the initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation. Termination date.

(c) PROFICIENCY TESTING PROGRAM.—(1) Not later than 1 year after the effective date of this Act, the Director of the National Institute of Justice shall certify to the Committees on the Judiciary of the House and Senate that— Certification.

(A) the Institute has entered into a contract with, or made a grant to, an appropriate entity for establishing, or has taken other appropriate action to ensure that there is established, not later than 2 years after the date of enactment of this Act, a blind external proficiency testing program for DNA analyses, which shall be available to public and private laboratories performing forensic DNA analyses;

(B) a blind external proficiency testing program for DNA analyses is already readily available to public and private laboratories performing forensic DNA analyses; or

(C) it is not feasible to have blind external testing for DNA forensic analyses.

(2) As used in this subsection, the term "blind external proficiency test" means a test that is presented to a forensic laboratory through a second agency and appears to the analysts to involve routine evidence.

(3) Notwithstanding any other provision of law, the Attorney General shall make available to the Director of the National Institute of Justice during the first fiscal year in which funds are distributed under this subtitle up to $250,000 from the funds available under part X of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 to carry out this subsection.

SEC. 210304. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION. Records. 42 USC 14132.

(a) ESTABLISHMENT OF INDEX.—The Director of the Federal Bureau of Investigation may establish an index of—

(1) DNA identification records of persons convicted of crimes;

(2) analyses of DNA samples recovered from crime scenes; and

(3) analyses of DNA samples recovered from unidentified human remains.

(b) INFORMATION.—The index described in subsection (a) shall include only information on DNA identification records and DNA analyses that are—

(1) based on analyses performed by or on behalf of a criminal justice agency in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303;

(2) prepared by laboratories, and DNA analysts, that undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303; and

(3) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) FAILURE TO COMPLY.—Access to the index established by this section is subject to cancellation if the quality control and privacy requirements described in subsection (b) are not met.

42 USC 14133.

SEC. 210305. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303.

(B) Within 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory.

(C) In this paragraph, "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(2) REPORT.—For 5 years after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests described in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(A) to criminal justice agencies for law enforcement identification purposes;

(B) in judicial proceedings, if otherwise admissible pursuant to applicable statues or rules; and

(C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(c) CRIMINAL PENALTY.—(1) A person who—

(A) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(B) knowingly discloses such information in any manner to any person or agency not authorized to receive it,

shall be fined not more than $100,000.

(2) A person who, without authorization, knowingly obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

SEC. 210306. AUTHORIZATION OF APPROPRIATIONS. 42 USC 14134.

There are authorized to be appropriated to the Federal Bureau of Investigation to carry out sections 210303, 210304, and 210305—

(1) $5,500,000 for fiscal year 1996;
(2) $8,000,000 for fiscal year 1997;
(3) $8,000,000 for fiscal year 1998;
(4) $2,500,000 for fiscal year 1999; and
(5) $1,000,000 for fiscal year 2000.

Subtitle D—Police Pattern or Practice

SEC. 210401. CAUSE OF ACTION. 42 USC 14141.

(a) UNLAWFUL CONDUCT.—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(b) CIVIL ACTION BY ATTORNEY GENERAL.—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

SEC. 210402. DATA ON USE OF EXCESSIVE FORCE. Records. 42 USC 14142.

(a) ATTORNEY GENERAL TO COLLECT.—The Attorney General shall, through appropriate means, acquire data about the use of excessive force by law enforcement officers.

(b) LIMITATION ON USE OF DATA.—Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of the victim or any law enforcement officer.

Publication.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this section.

Subtitle E—Improved Training and Technical Automation

42 USC 14151.

SEC. 210501. IMPROVED TRAINING AND TECHNICAL AUTOMATION.

(a) GRANTS.—

Native Americans.

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations, make grants to State, Indian tribal, and local criminal justice agencies and to nonprofit organizations for the purposes of improving criminal justice agency efficiency through computerized automation and technological improvements.

(2) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(A) increase use of mobile digital terminals;

(B) improve communications systems, such as computer-aided dispatch and incident reporting systems;

(C) accomplish paper-flow reduction;

(D) establish or improve ballistics identification programs;

(E) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis; and

(F) improve computerized collection of criminal records.

(3) FUNDING.—No funds under this subtitle may be used to implement any cryptographic or digital telephony programs.

(b) TRAINING AND INVESTIGATIVE ASSISTANCE.—

(1) IN GENERAL.—The Attorney General shall, subject to the availability of appropriations—

Native Americans.

(A) expand and improve investigative and managerial training courses for State, Indian tribal, and local law enforcement agencies; and

(B) develop and implement, on a pilot basis with no more than 10 participating cities, an intelligent information system that gathers, integrates, organizes, and analyzes information in active support of investigations by Federal, State, and local law enforcement agencies of violent serial crimes.

(2) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

(3) INTELLIGENT INFORMATION SYSTEM.—The intelligent information system described in paragraph (1)(B) shall be developed and implemented by the Federal Bureau of Investigation and shall utilize the resources of the Violent Criminal Apprehension Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) to carry out subsection (a)—

(A) $10,000,000 for fiscal year 1996;

(B) $20,000,000 for fiscal year 1997;

(C) $23,000,000 for fiscal year 1998;

(D) $23,000,000 for fiscal year 1999; and

(E) $24,000,000 for fiscal year 2000.

(2) to carry out subsection (b)(1)—

(A) $4,000,000 for fiscal year 1996;

(B) $2,000,000 for fiscal year 1997;

(C) $3,000,000 for fiscal year 1998;

(D) $5,000,000 for fiscal year 1999; and

(E) $6,000,000 for fiscal year 2000; and

(3) to carry out subsection (b)(2)—

$10,000,000 for fiscal year 1996.

(d) DEFINITIONS.—In this section—

"Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands.

Subtitle F—Other State and Local Aid

SEC. 210601. REAUTHORIZATION OF OFFICE OF JUSTICE PROGRAMS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) in paragraph (1) by striking "1993 and 1994" and inserting "1994 and 1995";

(2) in paragraph (2) by striking "1993 and 1994" and inserting "1994 and 1995";

(3) in paragraph (3) by striking "1993 and 1994" and inserting "1994 and 1995";

(4) in paragraph (5) by striking "1993 and 1994" and inserting "1994 and 1995";

(5) in paragraph (6) by inserting "and 1995" after "1994";

(6) in paragraph (7) by striking "1991, 1992, 1993, and 1994," and inserting "1994 and 1995";

(7) in paragraph (8) by inserting "and 1995" after "1994"; and

(8) in paragraph (9) by inserting "and 1995" after "1994".

SEC. 210602. FEDERAL ASSISTANCE TO EASE THE INCREASED BURDENS ON STATE COURT SYSTEMS RESULTING FROM ENACTMENT OF THIS ACT.

Grants.
Contracts.
42 USC 14161.

(a) IN GENERAL.—The Attorney General shall, subject to the availability of appropriation, make grants for States and units of local government to pay the costs of providing increased resources for courts, prosecutors, public defenders, and other criminal justice participants as necessary to meet the increased demands for judicial activities resulting from the provisions of this Act and amendments made by this Act.

(b) APPLICATIONS.—In carrying out this section, the Attorney General may make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in this section. The Attorney

General shall have final authority over all funds awarded under this section.

(c) RECORDS.—Each recipient that receives a grant under this section shall keep such records as the Attorney General may require to facilitate an effective audit.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $23,000,000 for fiscal year 1996;
(2) $30,000,000 for fiscal year 1997;
(3) $30,000,000 for fiscal year 1998;
(4) $32,000,000 for fiscal year 1999; and
(5) $35,000,000 for fiscal year 2000,

to remain available for obligation until expended.

SEC. 210603. AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY THE BRADY HANDGUN VIOLENCE PREVENTION ACT AND THE NATIONAL CHILD PROTECTION ACT OF 1993.

18 USC 922 note.

(a) APPROPRIATIONS.—Of the amounts authorized in Sections 103(k) and 106(b)(2) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) and in section 4(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)), a total of $100,000,000 for fiscal year 1995, $25,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997 may be appropriated from the Violent Crime Reduction Trust Fund established by this Act.

(b) TECHNICAL AMENDMENT.—Sections 103(k) and 106(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) are each amended by striking ", which may be appropriated from the Violent Crime Reduction Trust Fund,".

Motor Vehicle Theft Prevention Act.

TITLE XXII—MOTOR VEHICLE THEFT PREVENTION

42 USC 13701 note.

SEC. 220001. SHORT TITLE.

This title may be cited as the "Motor Vehicle Theft Prevention Act".

42 USC 14171.

SEC. 220002. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the "program") under which—

(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

(A) states that the vehicle is not normally operated under certain specified conditions; and

(B) agrees to—

(i) display program decals or devices on the owner's vehicle; and

(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions; and

(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

(b) UNIFORM DECAL OR DEVICE DESIGNS.—

(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

(2) TYPE OF DESIGN.—The uniform design shall—

(A) be highly visible; and

(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

(1) clearly state that participation in the program is voluntary;

(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

(4) include any additional information that the Attorney General may reasonably require.

(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may not be based on race, creed, color, national origin, gender, or age. These conditions may include— Rules.

(A) the operation of the vehicle during certain hours of the day; or

(B) the operation of the vehicle under other circumstances that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design

for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

(e) MOTOR VEHICLES FOR HIRE.—

(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

(2) TYPE OF NOTICE.—The notice required by this subsection shall—

(A) be in writing;

(B) be in a prominent format to be determined by the Attorney General; and

(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

(f) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

(g) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section.

(1) $1,500,000 for fiscal year 1996;

(2) $1,700,000 for fiscal year 1997; and

(3) $1,800,000 for fiscal year 1998.

SEC. 220003. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) A person who—

"(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

"(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511(b) of title 18, United States Code, is amended—

(1) by striking "and" after the semicolon in subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item relating to section 511 the following new item:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 230101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

28 USC 2074 note. Effective date.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the

United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

(b) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended by— 18 USC app.

(1) striking "and" following the semicolon in subdivision (c)(3)(C);

(2) striking the period at the end of subdivision (c)(3)(D) and inserting "; and";

(3) inserting after subdivision (c)(3)(D) the following:

"(E) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.";

(4) in subdivision (c)(3)(D), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (c)(4), striking "and (D)" and inserting "(D), and (E)";

(6) in the last sentence of subdivision (c)(4), inserting "the victim," before "or the attorney for the Government."; and

(7) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on December 1, 1994.

SEC. 230102. SENSE OF THE SENATE CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Senate that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 230201. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48.5 percent shall be available for grants under section 1403;

"(B) 48.5 percent shall be available for grants under section 1404(a); and

"(C) 3 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

SEC. 230202. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay,—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 230203. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 230204. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 230205. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 230206. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

Certification.

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 230207. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

SEC. 230208. AMENDMENT OF THE VICTIMS OF CRIME ACT.

Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended to read as follows:

"(B) $200,000 thereafter.".

TITLE XXIV—PROTECTIONS FOR THE ELDERLY

Voluntary organizations. 42 USC 14181.

SEC. 240001. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall, subject to the availability of appropriations, award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $900,000 for fiscal year 1996;

(2) $900,000 for fiscal year 1997; and

(3) $900,000 for fiscal year 1998.

SEC. 240002. CRIMES AGAINST THE ELDERLY.

28 USC 994 note.

(a) IN GENERAL.—Pursuant to its authority under the Sentencing Reform Act of 1984 and section 21 of the Sentencing Act of 1987 (including its authority to amend the sentencing guidelines and policy statements) and its authority to make such amendments on an emergency basis, the United States Sentencing Commission shall ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense.

(b) CRITERIA.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that—

(1) the guidelines provide for increasingly severe punishment for a defendant commensurate with the degree of physical harm caused to the elderly victim;

(2) the guidelines take appropriate account of the vulnerability of the victim; and

(3) the guidelines provide enhanced punishment for a defendant convicted of a crime of violence against an elderly victim who has previously been convicted of a crime of violence against an elderly victim, regardless of whether the conviction occurred in Federal or State court.

(c) DEFINITIONS.—In this section—

"crime of violence" means an offense under section 113, 114, 1111, 1112, 1113, 1117, 2241, 2242, or 2244 of title 18, United States Code.

"elderly victim" means a victim who is 65 years of age or older at the time of an offense.

TITLE XXV—SENIOR CITIZENS AGAINST MARKETING SCAMS

Senior Citizens Against Marketing Scams Act of 1994.

SEC. 250001. SHORT TITLE.

18 USC 2325 note.

This Act may be cited as the "Senior Citizens Against Marketing Scams Act of 1994".

SEC. 250002. ENHANCED PENALTIES FOR TELEMARKETING FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended—

(1) by redesignating chapter 113A as chapter 113B; and

(2) by inserting after chapter 113 the following new chapter:

"CHAPTER 113A—TELEMARKETING FRAUD

"Sec.
"2325. Definition.
"2326. Enhanced penalties.
"2327. Mandatory restitution.

"§ 2325. Definition

"In this chapter, 'telemarketing'—

"(1) means a plan, program, promotion, or campaign that is conducted to induce—

"(A) purchases of goods or services; or

"(B) participation in a contest or sweepstakes,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant; but

"(2) does not include the solicitation of sales through the mailing of a catalog that—

"(A) contains a written description or illustration of the goods or services offered for sale;

"(B) includes the business address of the seller;

"(C) includes multiple pages of written material or illustration; and

"(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation.

"§ 2326. Enhanced penalties

"A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344 in connection with the conduct of telemarketing—

"(1) may be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

"(2) in the case of an offense under any of those sections that—

"(A) victimized ten or more persons over the age of 55; or

"(B) targeted persons over the age of 55,

may be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

Courts.

"§ 2327. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' means all losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution issued under this section shall be a condition of any probation or supervised release of a defendant. The court may revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, hold the defendant in contempt pursuant to section 3583(e), or suspend the offender's eligibility for any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or with appropriated funds of the United States if the defendant fails to comply with the order. In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera. Records. Privacy.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(b) TECHNICAL AMENDMENTS.—

(1) PART ANALYSIS.—The part analysis for part I of title 18, United States Code, is amended by striking the item relating to chapter 113A and inserting the following:

"113A. Telemarketing fraud 2325
"113B. Terrorism ..... 2331".

(2) CHAPTER 113B.—The chapter heading for chapter 113B of title 18, United States Code, as redesignated by subsection (a)(1), is amended to read as follows:

"CHAPTER 113B—TERRORISM".

SEC. 250003. INCREASED PENALTIES FOR FRAUD AGAINST OLDER VICTIMS. 28 USC 994 note.

(a) REVIEW.—The United States Sentencing Commission shall review and, if necessary, amend the sentencing guidelines to ensure that victim related adjustments for fraud offenses against older victims over the age of 55 are adequate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Sentencing Commission shall report to Congress the result of its review under subsection (a).

SEC. 250004. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 2326 which results in a conviction.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal, State, or local government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of an allegation or transaction that has been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

SEC. 250005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of carrying out this Act and the amendments made by this Act—

(1) for the Federal Bureau of Investigation to hire, equip, and train special agents and support staff to investigate telemarketing fraud cases—

(A) $750,000 for fiscal year 1996;
(B) $1,500,000 for fiscal year 1997;
(C) $1,500,000 for fiscal year 1998;
(D) $1,800,000 for fiscal year 1999; and
(E) $1,950,000 for fiscal year 2000;

(2) to hire, equip, and train Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute telemarketing fraud cases—

(A) $250,000 for fiscal year 1996;
(B) $500,000 for fiscal year 1997;
(C) $500,000 for fiscal year 1998;

(D) $600,000 for fiscal year 1999; and
(E) $650,000 for fiscal year 2000; and

(3) for the Department of Justice to conduct, in cooperation with State and local law enforcement agencies and senior citizen advocacy organizations, public awareness and prevention initiatives for senior citizens, such as seminars and training—

(A) $1,000,000 for fiscal year 1996;
(B) $2,000,000 for fiscal year 1997;
(C) $2,000,000 for fiscal year 1998;
(D) $2,500,000 for fiscal year 1999; and
(E) $2,500,000 for fiscal year 2000.

SEC. 250006. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 250007. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

18 USC 2325 note.

SEC. 250008. INFORMATION NETWORK.

(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

(1) providing general information on telemarketing fraud to interested persons; and

(2) gathering information related to possible violations of this Act.

(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.

TITLE XXVI—COMMISSION MEMBERSHIP AND APPOINTMENT

SEC. 260001. COMMISSION MEMBERSHIP AND APPOINTMENT.

(a) MEMBERSHIP.—Section 211(B)(f) of Public Law 101–515 (104 Stat. 2123) is amended to read as follows:

42 USC 3721 note.

"(f) NUMBER AND APPOINTMENT.—

"(1) IN GENERAL.—The Commission shall be composed of 29 members as follows:

"(A) Nine individuals appointed from national law enforcement organizations representing law enforcement officers, of whom—

"(i) two shall be appointed by the Speaker of the House of Representatives;

"(ii) two shall be appointed by the majority leader of the Senate;

"(iii) two shall be appointed by the minority leader of the House of Representatives;

"(iv) two shall be appointed by the minority leader of the Senate; and

President.

"(v) one shall be appointed by the President.

"(B) Nine individuals appointed from national law enforcement organizations representing law enforcement management, of whom—

"(i) two shall be appointed by the Speaker of the House of Representatives;

"(ii) two shall be appointed by the majority leader of the Senate;

"(iii) two shall be appointed by the minority leader of the House of Representatives;

"(iv) two shall be appointed by the minority leader of the Senate; and

President.

"(v) one shall be appointed by the President.

"(C) Two individuals appointed with academic expertise regarding law enforcement issues, of whom—

"(i) one shall be appointed by the Speaker of the House of Representatives and the majority leader of the Senate; and

"(ii) one shall be appointed by the minority leader of the Senate and the minority leader of the House of Representatives.

"(D) Two Members of the House of Representatives, appointed by the Speaker and the minority leader of the House of Representatives.

"(E) Two Members of the Senate, appointed by the majority leader and the minority leader of the Senate.

"(F) One individual from the Department of Justice, appointed by the President. President.

"(G) Two individuals representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed jointly by the majority leader and the minority leader of the Senate.

"(H) Two individuals representing a State or local governmental entity, such as a Governor, mayor, or State attorney general, to be appointed jointly by the Speaker and the minority leader of the House of Representatives.

"(2) COMPTROLLER GENERAL.—The Comptroller General shall serve in an advisory capacity and shall oversee the methodology and approve of the Commission study.

"(3) CHAIRPERSON.—Upon their appointment the members of the Commission shall select one of their number to act as chairperson.

"(4) APPOINTMENT DATE.—Members of the Commission shall be appointed no later than 90 days after the enactment of this Act.".

(b) REPORT.—Section 211(B)(p) of Public Law 101–515 (104 Stat. 2124) is amended by striking "the expiration" and all that follows through "this Act," and inserting "March 31, 1996,". 42 USC 3721 note.

(c) REIMBURSEMENT.—

(1) Section 211(B)(i) of Public Law 101–515 (104 Stat. 2124) is amended by striking "non-reimbursable" and inserting "a reimbursable".

(2) Section 211(b)(j) of Public Law 101–515 (104 Stat. 2124) is amended by adding after "Commission" the following: ", on a reimbursable basis,".

SEC. 260002. CONFORMING AMENDMENT.

Section 3404(a) of Public Law 101–647 (42 U.S.C. 3721 note) is repealed.

TITLE XXVII—PRESIDENTIAL SUMMIT ON VIOLENCE AND NATIONAL COMMISSION ON CRIME PREVENTION AND CONTROL

SEC. 270001. PRESIDENTIAL SUMMIT. 42 USC 14191.

Congress calls on the President to convene a national summit on violence in America prior to convening the Commission established under this title.

SEC. 270002. ESTABLISHMENT; COMMITTEES AND TASK FORCES; REPRESENTATION. 42 USC 14192.

(a) ESTABLISHMENT AND APPOINTMENT OF MEMBERS.—There is established a commission to be known as the "National Commission on Crime Control and Prevention". The Commission shall be composed of 28 members appointed as follows:

(1) 10 persons by the President, not more than 6 of whom shall be of the same major political party.

(2) 9 persons by the President pro tempore of the Senate, 5 of whom shall be appointed on the recommendation of the Majority Leader of the Senate and the chairman of the Committee on the Judiciary of the Senate, and 4 of whom shall be appointed on the recommendation of the Minority Leader of the Senate and the ranking minority member of the Committee on the Judiciary of the Senate.

(3) 9 persons appointed by the Speaker of the House of Representatives, in consultation with the chairman of the Committee on the Judiciary of the House of Representatives, and 4 of whom shall be appointed on the recommendation of the Minority Leader of the House of Representatives, in consultation with the ranking member of the Committee on the Judiciary.

(b) COMMITTEES AND TASK FORCES.—The Commission shall establish committees or task forces from among its members for the examination of specific subject areas and the carrying out of other functions or responsibilities of the Commission, including committees or task forces for the examination of the subject areas of crime and violence generally, the causes of the demand for drugs, violence in schools, and violence against women, as described in subsections (b) through (e) of section 270004.

(c) REPRESENTATION.—(1) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of crime and violence generally, with education, training, expertise, or experience in such areas as law enforcement, law, sociology, psychology, social work, and ethnography and urban poverty (including health care, housing, education, and employment).

(2) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of the causes of the demand for drugs, with education, training, expertise, or experience in such areas as addiction, biomedicine, sociology, psychology, law, and ethnography and urban poverty (including health care, housing, education, and employment).

(3) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of violence in schools, with education, training, expertise, or experience in such areas as law enforcement, education, school governance policy and teaching, law, sociology, psychology, and ethnography and urban poverty (including health care, housing, education, and employment).

(4) At least 1 member of the Commission appointed by the President, at least 2 members of the Commission appointed by the President pro tempore of the Senate, and at least 2 members

of the Commission appointed by the Speaker of the House of Representatives shall be persons well-qualified to participate in the Commission's examination of the subject area of violence against women, as survivors of violence, or as persons with education, training, expertise, or experience in such areas as law enforcement, law, judicial administration, prosecution, defense, victim services or advocacy in sexual assault or domestic violence cases (including medical services and counseling), and protection of victims' rights.

SEC. 270003. PURPOSES. 42 USC 14193.

The purposes of the Commission are as follows:

(1) To develop a comprehensive proposal for preventing and controlling crime and violence in the United States, including cost estimates for implementing any recommendations made by the Commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas for controlling and preventing crime.

(4) To recommend improvements in the coordination of local, State, Federal, and international crime control and prevention efforts, including efforts relating to crime near international borders.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and violence, including the causes of illicit drug use and other substance abuse, and to develop specific proposals for legislative and administrative actions to reduce crime and violence and the factors that contribute to it.

(6) To recommend means of utilizing criminal justice resources as effectively as possible, including targeting finite correctional facility space to the most serious and violent offenders, and considering increased use of intermediate sanctions for offenders who can be dealt with adequately by such means.

(7) To examine distinctive crime problems and the impact of crime on members of minority groups, Indians living on reservations, and other groups defined by race, ethnicity, religion, age, disability, or other characteristics, and to recommend specific responses to the distinctive crime problems of such groups.

(8) To examine the problem of sexual assaults, domestic violence, and other criminal and unlawful acts that particularly affect women, and to recommend Federal, State, and local strategies for more effectively preventing and punishing such crimes and acts.

(9) To examine the treatment of victims in Federal, State, and local criminal justice systems, and to develop recommendations to enhance and protect the rights of victims.

(10) To examine the ability of Federal, State, and local criminal justice systems to administer criminal law and criminal sanctions impartially without discrimination on the basis of race, ethnicity, religion, gender, or other legally proscribed grounds, and to make recommendations for correcting any deficiencies in the impartial administration of justice on these grounds.

(11) To examine the nature, scope, causes, and complexities of violence in schools and to recommend a comprehensive response to that problem.

42 USC 14194.

SEC. 270004. RESPONSIBILITIES OF THE COMMISSION.

(a) IN GENERAL.—The responsibilities of the Commission shall include such study and consultation as may be necessary or appropriate to carry out the purposes set forth in section 270003, including the specific measures described in subsections (b) through (e) in relation to the subject areas addressed in those subsections.

(b) CRIME AND VIOLENCE GENERALLY.—In addressing the subject of crime and violence generally, the activities of the Commission shall include the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes in Federal and State law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among the Nation's youth.

(4) Examining the problem of youth gangs and providing recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which the use of dangerous weapons in the commission of crime has contributed to violence and murder in the United States.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other persons who wish to participate.

(7) Reviewing all segments of the Nation's criminal justice systems, including the law enforcement, prosecution, defense, judicial, and corrections components in developing the crime control and prevention proposal.

(c) CAUSES OF THE DEMAND FOR DRUGS.—In addressing the subject of the causes of the demand for drugs, the activities of the Commission shall include the following:

(1) Examining the root causes of illicit drug use and abuse in the United States, including by compiling existing research regarding those root causes, and including consideration of the following factors:

(A) The characteristics of potential illicit drug users and abusers or drug traffickers, including age and social, economic, and educational backgrounds.

(B) Environmental factors that contribute to illicit drug use and abuse, including the correlation between unemployment, poverty, and homelessness and drug experimentation and abuse.

(C) The effects of substance use and abuse by a relative or friend in contributing to the likelihood and desire of an individual to experiment with illicit drugs.

(D) Aspects of, and changes in cultural values, attitudes and traditions that contribute to illicit drug use and abuse.

(E) The physiological and psychological factors that contribute to the desire for illicit drugs.

(2) Evaluating Federal, State, and local laws and policies on the prevention of drug abuse, control of unlawful production, distribution and use of controlled substances, and the efficacy of sentencing policies with regard to those laws.

(3) Analyzing the allocation of resources among interdiction of controlled substances entering the United States, enforcement of Federal laws relating to the unlawful production, distribution, and use of controlled substances, education with regard to and the prevention of the unlawful use of controlled substances, and treatment and rehabilitation of drug abusers.

(4) Analyzing current treatment and rehabilitation methods and making recommendations for improvements.

(5) Identifying any existing gaps in drug abuse policy that result from the lack of attention to the root causes of drug abuse.

(6) Assessing the needs of government at all levels for resources and policies for reducing the overall desire of individuals to experiment with and abuse illicit drugs.

(7) Making recommendations regarding necessary improvements in policies for reducing the use of illicit drugs in the United States.

(d) VIOLENCE IN SCHOOLS.—In addressing the subject of violence in schools, the activities of the Commission shall include the following:

(1) Defining the causes of violence in schools.

(2) Defining the scope of the national problem of violence in schools.

(3) Providing statistics and data on the problem of violence in schools on a State-by-State basis.

(4) Investigating the problem of youth gangs and their relation to violence in schools and providing recommendations on how to reduce youth involvement in violent crime in schools.

(5) Examining the extent to which dangerous weapons have contributed to violence and murder in schools.

(6) Exploring the extent to which the school environment has contributed to violence in schools.

(7) Reviewing the effectiveness of current approaches in preventing violence in schools.

(e) VIOLENCE AGAINST WOMEN.—In addressing the subject of sexual assault, domestic violence, and other criminal and unlawful acts that particularly affect women, the activities of the Commission shall include the following:

(1) Evaluating the adequacy of, and making recommendations regarding, current law enforcement efforts at the Federal, State, and local levels to reduce the incidence of such crimes and acts, and to punish those responsible for such crimes and acts.

(2) Evaluating the adequacy of, and making recommendations regarding, the responsiveness of prosecutors and courts to such crimes and acts.

(3) Evaluating the adequacy of rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of perpetrators of such crimes and acts and to protect victims of such crimes and acts from abuse in legal proceedings, making recommendations, where necessary, to improve those rules.

(4) Evaluating the adequacy of pretrial release, sentencing, incarceration, and post-conviction release in relation to such crimes and acts.

(5) Evaluating the adequacy of, and making recommendations regarding, the adequacy of Federal and State laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim.

(6) Evaluating the adequacy of, and making recommendations regarding, the adequacy of Federal and State laws on domestic violence and the need for a more uniform statutory response to domestic violence.

(7) Evaluating the adequacy of, and making recommendations regarding, the adequacy of current education, prevention, and protective services for victims of such crimes and acts.

(8) Assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for their more effective use in domestic violence and stalking cases.

(9) Assessing the problem of stalking and recommending effective means of response to the problem.

(10) Evaluating the adequacy of, and making recommendations regarding, programs for public awareness and public dissemination of information to prevent such crimes and acts.

(11) Evaluating the treatment of victims of such crimes and acts in Federal, State, and local criminal justice systems, and making recommendations designed to improve such treatment.

42 USC 14195.

SEC. 270005. ADMINISTRATIVE MATTERS.

(a) CHAIR.—The President shall designate a member of the Commission to chair the Commission.

(b) NO ADDITIONAL PAY OR BENEFITS; PER DIEM.—Members of the Commission shall receive no pay or benefits by reason of their service on the Commission, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(c) VACANCIES.—Vacancies on the Commission shall be filled in the same manner as initial appointments.

(d) MEETINGS OPEN TO THE PUBLIC.—The Commission shall be considered to be an agency for the purposes of section 552b of title 5, United States Code, relating to the requirement that meetings of Federal agencies be open to the public.

42 USC 14196.

SEC. 270006. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—With the approval of the Commission, the chairperson shall appoint a staff director for the Commission.

(b) STAFF.—With the approval of the Commission, the staff director may appoint and fix the compensation of staff personnel for the Commission.

(c) CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Staff compensation may be set without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but in no event

shall any such personnel be compensated at a rate greater than the rate of basic pay for level ES–4 of the Senior Executive Service Schedule under section 5382 of that title. The staff director shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(d) CONSULTANTS.—With the approval of the Commission, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, personnel of that agency to the Commission to assist in carrying out its duties.

(f) PHYSICAL FACILITIES.—The Administrator of the General Service Administration shall provide suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 270007. POWERS. 42 USC 14197.

(a) HEARINGS.—For the purposes of carrying out this title, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any committee, task force, member, or agent, of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this title.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any Federal agency or entity in the executive or legislative branch such information as is needed to carry out its functions.

(d) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 270008. REPORT; TERMINATION. 42 USC 14198.

Not later than 2 years after the date on which the Commission is fully constituted under section 270001, the Commission shall submit a detailed report to the Congress and the President containing its findings and recommendations. The Commission shall terminate 30 days after the submission of its report.

SEC. 270009. AUTHORIZATION OF APPROPRIATIONS. 42 USC 14199.

There are authorized to be appropriated to carry out this title—

(1) $1,000,000 for fiscal year 1996.

TITLE XXVIII—SENTENCING PROVISIONS

SEC. 280001. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 280002. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

28 USC 994 note.

SEC. 280003. DIRECTION TO UNITED STATES SENTENCING COMMISSION REGARDING SENTENCING ENHANCEMENTS FOR HATE CRIMES.

(a) DEFINITION.—In this section, "hate crime" means a crime in which the defendant intentionally selects a victim, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation of any person.

Guidelines.

(b) SENTENCING ENHANCEMENT.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than 3 offense levels for offenses that the finder of fact at trial determines beyond a reasonable doubt are hate crimes. In carrying out this section, the United States Sentencing Commission shall ensure that there is reasonable consistency with other guidelines, avoid duplicative punishments for substantially the same offense, and take into account any mitigating circumstances that might justify exceptions.

SEC. 280004. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by inserting "that is not a petty offense" before the period.

SEC. 280005. FULL-TIME VICE CHAIRS OF THE UNITED STATES SENTENCING COMMISSION.

(a) ESTABLISHMENT OF POSITIONS.—Section 991 (a) of title 28, United States Code, is amended—

President.

(1) in the second sentence by striking the period and inserting "and three of whom shall be designated by the President as Vice Chairs.";

(2) in the fourth sentence by striking the period and inserting ", and of the three Vice Chairs, no more than two shall be members of the same political party."; and

(3) in the sixth sentence by striking "Chairman" and inserting "Chair, Vice Chairs,".

(b) TERMS AND COMPENSATION.—Section 992(c) of title 28, United States Code, is amended—

(1) by amending the first sentence to read as follows: "The Chair and Vice Chairs of the Commission shall hold full-time

positions and shall be compensated during their terms of office at the annual rate at which judges of the United States courts of appeals are compensated.";

(2) in the second sentence by striking "Chairman" and inserting "Chair and Vice Chairs"; and

(3) in the third sentence by striking "Chairman" and inserting "Chair and Vice Chairs,".

(c) TECHNICAL AMENDMENTS.—Chapter 58 of title 28, United States Code, is amended—

(1) by striking "Chairman" each place it appears and inserting "Chair"; 28 USC 991-993, 995.

(2) in the fifth sentence of section 991(a) by striking "his" and inserting "the Attorney General's"; 28 USC 991.

(3) in the fourth sentence of section 992(c) by striking "his" and inserting "the judge's"; 28 USC 992.

(4) in section 994(i)(2) by striking "he" and inserting "the defendant" and striking "his" and inserting "the defendant's"; and 28 USC 994.

(5) in section 996(a) by striking "him" and inserting "the Staff Director". 28 USC 996.

SEC. 280006. COCAINE PENALTY STUDY.

Reports.

Not later than December 31, 1994, the United States Sentencing Commission shall submit a report to Congress on issues relating to sentences applicable to offenses involving the possession or distribution of all forms of cocaine. The report shall address the differences in penalty levels that apply to different forms of cocaine and include any recommendations that the Commission may have for retention or modification of such differences in penalty levels.

TITLE XXIX—COMPUTER CRIME

Computer Abuse Amendments Act of 1994. Science and technology. 18 USC 1001 note.

SEC. 290001. COMPUTER ABUSE AMENDMENTS ACT OF 1994.

(a) SHORT TITLE.—This subtitle may be cited as the "Computer Abuse Amendments Act of 1994".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code, is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)";

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

TITLE XXX—PROTECTION OF PRIVACY OF INFORMATION IN STATE MOTOR VEHICLE RECORDS

Driver's Privacy Protection Act of 1994.

SEC. 300001. SHORT TITLE.

18 USC 2721 note.

This title may be cited as the "Driver's Privacy Protection Act of 1994".

SEC. 300002. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 123—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

"§ 2721. Prohibition on release and use of certain personal information from State motor vehicle records

"(a) IN GENERAL.—Except as provided in subsection (b), a State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.

"(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act, and may be disclosed as follows:

"(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

"(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor

vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

"(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

"(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

"(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

"(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

"(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

"(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

"(7) For use in providing notice to the owners of towed or impounded vehicles.

"(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

"(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).

"(10) For use in connection with the operation of private toll transportation facilities.

"(11) For any other use in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures.

"(12) For bulk distribution for surveys, marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure that—

"(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

"(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

"(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

"(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

"(c) RESALE OR REDISCLOSURE.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b) (11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

"(d) WAIVER PROCEDURES.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

"§ 2722. Additional unlawful acts

"(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

"(b) FALSE REPRESENTATION.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

"§ 2723. Penalties

"(a) CRIMINAL FINE.—A person who knowingly violates this chapter shall be fined under this title.

"(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than $5,000 a day for each day of substantial noncompliance.

"§ 2724. Civil action

"(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

"(b) REMEDIES.—The court may award—

"(1) actual damages, but not less than liquidated damages in the amount of $2,500;

"(2) punitive damages upon proof of willful or reckless disregard of the law;

"(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(4) such other preliminary and equitable relief as the court determines to be appropriate.

"§ 2725. Definitions

"In this chapter—

"(1) 'motor vehicle record' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

"(2) 'person' means an individual, organization or entity, but does not include a State or agency thereof; and

"(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.".

(b) CLERICAL AMENDMENT.—The table of parts at the beginning of part I of title 18, United States Code, is amended by adding at the end the following new item:

"123. Prohibition on release and use of certain personal information from State motor vehicle records ..... 2271"

18 USC 2721 note.

SEC. 300003. EFFECTIVE DATE.

The amendments made by section 300002 shall become effective on the date that is 3 years after the date of enactment of this Act. After the effective date, if a State has implemented a procedure under section 2721(b) (11) and (12) of title 18, United States Code, as added by section 2902, for prohibiting disclosures or uses of personal information, and the procedure otherwise meets the requirements of subsection (b) (11) and (12), the State shall be in compliance with subsection (b) (11) and (12) even if the procedure is not available to individuals until they renew their license, title, registration or identification card, so long as the State provides some other procedure for individuals to contact the State on their own initiative to prohibit such uses or disclosures. Prior to the effective date, personal information covered by the amendment made by section 300002 may be released consistent with State law or practice.

TITLE XXXI—VIOLENT CRIME REDUCTION TRUST FUND

SEC. 310001. CREATION OF VIOLENT CRIME REDUCTION TRUST FUND.

42 USC 14211.

(a) VIOLENT CRIME REDUCTION TRUST FUND.—There is established a separate account in the Treasury, known as the "Violent Crime Reduction Trust Fund" (referred to in this section as the "Fund") into which shall be transferred, in accordance with subsection (b), savings realized from implementation of section 5 of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 3101 note; Public Law 103-226).

(b) TRANSFERS INTO THE FUND.—On the first day of the following fiscal years (or as soon thereafter as possible for fiscal year 1995), the following amounts shall be transferred from the general fund to the Fund— 42 USC 14211.

(1) for fiscal year 1995, $2,423,000,000;
(2) for fiscal year 1996, $4,287,000,000;
(3) for fiscal year 1997, $5,000,000,000;
(4) for fiscal year 1998, $5,500,000,000;
(5) for fiscal year 1999, $6,500,000,000; and
(6) for fiscal year 2000, $6,500,000,000.

(c) APPROPRIATIONS FROM THE FUND.—(1) Amounts in the Fund may be appropriated exclusively for the purposes authorized in this Act and for those expenses authorized by any Act enacted before this Act that are expressly qualified for expenditure from the Fund. 42 USC 14211.

(2) Amounts appropriated under paragraph (1) and outlays flowing from such appropriations shall not be taken into account for purposes of any budget enforcement procedures under the Balanced Budget and Emergency Deficit Control Act of 1985 except section 251A of that Act as added by subsection (g), or for purposes of section 605(b) of the Congressional Budget Act of 1974. Amounts of new budget authority and outlays under paragraph (1) that are included in concurrent resolutions on the budget shall not be taken into account for purposes of sections 601(b), 606(b), and 606(c) of the Congressional Budget Act of 1974, or for purposes of section 24 of House Concurrent Resolution 218 (One Hundred Third Congress).

(d) LISTING OF THE FUND AMONG GOVERNMENT TRUST FUNDS.—Section 1321(a) of title 31, United States Code, is amended by inserting at the end the following new paragraph:

"(91) Violent Crime Reduction Trust Fund.".

(e) REQUIREMENT FOR THE PRESIDENT TO REPORT ANNUALLY ON THE STATUS OF THE TRUST FUND.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraphs:

"(30) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

"(31) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.".

(f) ALLOCATION AND SUBALLOCATION OF AMOUNTS IN THE FUND.—

(1) IN GENERAL.—Section 602(a) of the Congressional Budget Act of 1974 is amended— 2 USC 665a.

(A) in paragraph (1)(A) by striking "and" at the end of clause (ii), by striking the semicolon and inserting a comma at the end of clause (iii), and by adding after clause (iii) the following:

"(iv) new budget authority from the Violent Crime Reduction Trust Fund, and

"(v) outlays from the Violent Crime Reduction Trust Fund;";

(B) in paragraph (2) by striking "and" at the end of subparagraph (B) and by adding after subparagraph (C) the following:

"(D) new budget authority from the Violent Crime Reduction Trust Fund; and

"(E) outlays from the Violent Crime Reduction Trust Fund;"; and

(C) by adding at the end the following new paragraph:

"(4) NO DOUBLE COUNTING.—Amounts allocated among committees under clause (iv) or (v) of paragraph (1)(A) or under subparagraph (D) or (E) of paragraph (2) shall not be included within any other allocation under that paragraph.".

(2) FISCAL YEAR 1995.—The chairman of the Committee on the Budget shall submit to the House of Representatives or the Senate, as the case may be, appropriately revised allocations under clauses (iv) and (v) of paragraph (1)(A) or subparagraphs (D) and (E) of paragraph (2) of section 602(a) of the Congressional Budget Act of 1974 for fiscal year 1995 to carry out subsection (b)(1).

(g) VIOLENT CRIME REDUCTION TRUST FUND SEQUESTRATION.—

(1) SEQUESTRATION.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 251 the following new section:

2 USC 901a.

"SEC. 251A. SEQUESTRATION WITH RESPECT TO VIOLENT CRIME REDUCTION TRUST FUND.

"(a) SEQUESTRATION.—Within 15 days after Congress adjourns to end a session, there shall be a sequestration to eliminate any budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b).

"(b) ELIMINATING A BUDGETARY EXCESS.—

"(1) IN GENERAL.—Except as provided by paragraph (2), appropriations from the Violent Crime Reduction Trust Fund shall be reduced by a uniform percentage necessary to eliminate any amount by which estimated outlays in the budget year from the Fund exceed the following levels of outlays:

"(A) For fiscal year 1995, $703,000,000.

"(B) For fiscal year 1996, $2,334,000,000.

"(C) For fiscal year 1997, $3,936,000,000.

"(D) For fiscal year 1998, $4,904,000,000.

For fiscal year 1999, the comparable level for budgetary purposes shall be deemed to be $5,639,000,000. For fiscal year 2000, the comparable level for budgetary purposes shall be deemed to be $6,225,000,000.

"(2) SPECIAL OUTLAY ALLOWANCE.—If estimated outlays from the Fund for a fiscal year exceed the level specified in paragraph (1) for that year, that level shall be increased by the lesser of that excess or 0.5 percent of that level.

"(c) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b) for that year (after taking into account any sequestration of amounts under this section), the level set forth in subsection (b) for the next fiscal year shall be reduced by the amount of that excess.

"(d) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for the budget year and before July 1 of that fiscal year) that causes a budgetary excess in the Violent Crime Reduction Trust Fund as described in subsection (b) for that year

(after taking into account any prior sequestration of amounts under this section), 15 days later there shall be a sequestration to eliminate that excess following the procedures set forth in subsection (b).

"(e) PART-YEAR APPROPRIATIONS AND OMB ESTIMATES.—Paragraphs (4) and (7) of section 251(a) shall apply to appropriations from, and sequestration of amounts appropriated from, the Violent Crime Reduction Trust Fund under this section in the same manner as those paragraphs apply to discretionary appropriations and sequestrations under that section.".

(2) REPORTS.—Section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph: 2 USC 904.

"(4) REPORTS ON SEQUESTRATION TO REDUCE THE VIOLENT CRIME REDUCTION TRUST FUND.—The final reports shall set forth for the budget year estimates for each of the following:

"(A) The amount of budget authority appropriated from the Violent Crime Reduction Trust Fund and outlays resulting from those appropriations.

"(B) The sequestration percentage and reductions, if any, required under section 251A.".

SEC. 310002. CONFORMING REDUCTION IN DISCRETIONARY SPENDING LIMITS. 42 USC 14212.

Upon enactment of this Act, the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 665(a)(2)) (as adjusted in conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, and in the Senate, with section 24 of House Concurrent Resolution 218 (103d Congress)) for fiscal years 1995 through 1998 are reduced as follows:

(1) for fiscal year 1995, for the discretionary category: $2,423,000,000 in new budget authority and $703,000,000 in outlays;

(2) for fiscal year 1996, for the discretionary category: $4,287,000,000 in new budget authority and $2,334,000,000 in outlays;

(3) for fiscal year 1997, for the discretionary category: $5,000,000,000 in new budget authority and $3,936,000,000 in outlays; and

(4) for fiscal year 1998, for the discretionary category: $5,500,000,000 in new budget authority and $4,904,000,000 in outlays.

For fiscal year 1999, the comparable amount for budgetary purposes shall be deemed to be $6,500,000,000 in new budget authority and $5,639,000,000 in outlays. For fiscal year 2000, the comparable amount for budgetary purposes shall be deemed to be $6,500,000,000 in new budget authority and $6,225,000,000 in outlays.

SEC. 310003. EXTENSION OF AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS FOR WHICH THE FULL AMOUNT AUTHORIZED IS NOT APPROPRIATED. 42 USC 14213.

If, in making an appropriation under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a certain purpose for a certain fiscal year

in a certain amount, the Congress makes an appropriation for that purpose for that fiscal year in a lesser amount, that provision or amendment shall be considered to authorize the making of appropriations for that purpose for later fiscal years in an amount equal to the difference between the amount authorized to be appropriated and the amount that has been appropriated.

42 USC 14214.

SEC. 310004. FLEXIBILITY IN MAKING OF APPROPRIATIONS.

(a) FEDERAL LAW ENFORCEMENT.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a Federal law enforcement program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other Federal law enforcement program for which appropriations are authorized by any other Federal law enforcement provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular Federal law enforcement program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(b) STATE AND LOCAL LAW ENFORCEMENT.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a State and local law enforcement program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other State and local law enforcement program for which appropriations are authorized by any other State and local law enforcement provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular State and local law enforcement program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(c) PREVENTION.—In the making of appropriations under any provision of this Act or amendment made by this Act that authorizes the making of an appropriation for a prevention program for a certain fiscal year in a certain amount out of the Violent Crime Reduction Trust Fund, not to exceed 10 percent of that amount is authorized to be appropriated for that fiscal year for any other prevention program for which appropriations are authorized by any other prevention provision of this Act or amendment made by this Act. The aggregate reduction in the authorization for any particular prevention program may not exceed 10 percent of the total amount authorized to be appropriated from the Violent Crime Reduction Trust Fund for that program in this Act or amendment made by this Act.

(d) DEFINITIONS.—In this section—"Federal law enforcement program" means a program authorized in any of the following sections:

(1) section 190001(a);
(2) section 190001(b);
(3) section 190001(c);
(4) section 190001(d);

(5) section 190001(e);
(6) section 320925;
(7) section 150008;
(8) section 220002;
(9) section 130002;
(10) section 130005;
(11) section 130006;
(12) section 130007;
(13) section 250005;
(14) sections 210303–210306;
(15) section 180104; and
(16) section 270009.

"State and local law enforcement program" means a program authorized in any of the following sections:

(1) sections 10001–10003;
(2) section 210201;
(3) section 210603;
(4) section 180101;
(5) section 180103;
(6) sections 31701–31708;
(7) section 210602;
(8) sections 30801–30802;
(9) section 210302;
(10) section 210501;
(11) section 210101;
(12) section 320930;
(13) sections 20101–20109;
(14) section 20301;
(15) section 32201; and
(16) section 20201.

"prevention program" means a program authorized in any of the following sections:

(1) section 50001;
(2) sections 30101–30104;
(3) sections 30201–30208;
(4) sections 30301–30307;
(5) sections 30401–30403;
(6) sections 30701–30702;
(7) sections 31001–31002;
(8) sections 31101–31133;
(9) sections 31501–31505;
(10) sections 31901–31922;
(11) section 32001;
(12) section 32101;
(13) section 32401;
(14) section 40114;
(15) section 40121;
(16) section 40151;
(17) section 40152;
(18) section 40155;
(19) section 40156;
(20) section 40211;
(21) section 40231;
(22) section 40241;
(23) section 40251;
(24) section 40261;
(25) section 40292;

(26) section 40293;
(27) section 40295;
(28) sections 40411–40414;
(29) sections 40421–40422;
(30) section 40506;
(31) sections 40601–40611; and
(32) section 24001.

TITLE XXXII—MISCELLANEOUS

Subtitle A—Increases in Penalties

SEC. 320101. INCREASED PENALTIES FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "ten"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 320102. INCREASED PENALTIES FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the first undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 320103. INCREASED PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results";

(4) by striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) by inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) by inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 320104. PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) by striking "$1,000,000" and inserting "$5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) by striking "$5,000,000" and inserting "$15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

SEC. 320105. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 320106. INCREASED PENALTIES FOR ARSON.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (f)—

(A) by striking "not more than ten years, or fined not more than $10,000" and inserting "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,"; and

(B) by striking "not more than twenty years, or fined not more than $10,000" and inserting "not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,";

(2) in subsection (h)—

(A) in the first sentence by striking "five years" and inserting "5 years but not more than 15 years"; and

(B) in the second sentence by striking "ten years" and inserting "10 years but not more than 25 years"; and

(3) in subsection (i)—

(A) by striking "not more than ten years or fined not more than $10,000" and inserting "not more than 20 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,"; and

(B) by striking "not more than twenty years or fined not more than $20,000" and inserting "not more than 40 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,".

SEC. 320107. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 320108. TASK FORCE AND CRIMINAL PENALTIES RELATING TO THE INTRODUCTION OF NONINDIGENOUS SPECIES. Hawaii.

(a) TASK FORCE.— 42 USC 14221.

(1) IN GENERAL.—The Attorney General is authorized to convene a law enforcement task force in Hawaii to facilitate

the prosecution of violations of Federal laws, and laws of the State of Hawaii, relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(2) MEMBERSHIP.—(A) The task force shall be composed of representatives of—

(i) the Office of the United States Attorney for the District of Hawaii;

(ii) the United States Customs Service;

(iii) the Animal and Plant Health Inspection Service;

(iv) the Fish and Wildlife Service;

(v) the National Park Service;

(vi) the United States Forest Service;

(vii) the Military Customs Inspection Office of the Department of Defense;

(viii) the United States Postal Service;

(ix) the office of the Attorney General of the State of Hawaii;

(x) the Hawaii Department of Agriculture;

(xi) the Hawaii Department of Land and Natural Resources; and

(xii) such other individuals as the Attorney General deems appropriate.

(B) The Attorney General shall, to the extent practicable, select individuals to serve on the task force who have experience with the enforcement of laws relating to the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species.

(3) DUTIES.—The task force shall—

(A) facilitate the prosecution of violations of Federal and State laws relating to the conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii; and

(B) make recommendations on ways to strengthen Federal and State laws and law enforcement strategies designed to prevent the introduction of nonindigenous plant and animal species.

(4) REPORT.—The task force shall report to the Attorney General, the Secretary of Agriculture, the Secretary of the Interior, and to the Committee on the Judiciary and Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on the Judiciary, Committee on Agriculture, and Committee on Merchant Marine and Fisheries of the House of Representatives on—

(A) the progress of its enforcement efforts; and

(B) the adequacy of existing Federal laws and laws of the State of Hawaii that relate to the introduction of nonindigenous plant and animal species.

Thereafter, the task force shall make such reports as the task force deems appropriate.

(5) CONSULTATION.—The task force shall consult with Hawaii agricultural interests and representatives of Hawaii conservation organizations about methods of preventing the wrongful conveyance, sale, or introduction of nonindigenous plant and animal species into Hawaii.

(b) CRIMINAL PENALTY.—

(1) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716C the following new section:

"§ 1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants

"A person who knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that section 3015 of title 39 declares to be nonmailable matter shall be fined under this title, imprisoned not more than 1 year, or both.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716C the following new item:

"1716D. Nonmailable injurious animals, plant pests, plants, and illegally taken fish, wildlife, and plants.".

SEC. 320109. MILITARY MEDALS AND DECORATIONS.

Section 704 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting (a) IN GENERAL.—Whoever";

(2) by striking "not more than $250" and inserting "under this title"; and

(3) by adding at the end the following new subsection:

"(b) CONGRESSIONAL MEDAL OF HONOR.—

"(1) IN GENERAL.—If a decoration or medal involved in an offense under subsection (a) is a Congressional Medal of Honor, in lieu of the punishment provided in that subsection, the offender shall be fined under this title, imprisoned not more than 1 year, or both.

"(2) DEFINITIONS.—(A) As used in subsection (a) with respect to a Congressional Medal of Honor, 'sells' includes trades, barters, or exchanges for anything of value.

"(B) As used in this subsection, 'Congressional Medal of Honor' means a medal awarded under section 3741 of title 10.".

Subtitle B—Extension of Protection of Civil Rights Statutes

SEC. 320201. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended—

(1) by striking "inhabitant of" and inserting "person in"; and

(2) by striking "such inhabitant" and inserting "such person".

Records.

Subtitle C—Audit and Report

SEC. 320301. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) STATE REQUIREMENT.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) INCLUSION IN ATTORNEY GENERAL'S REPORT.—Section 524(c)(6)(C) of title 28, United States Code, is amended by adding at the end the following flush sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

SEC. 320302. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

Subtitle D—Coordination

42 USC 14222.

SEC. 320401. COORDINATION OF SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS.

The Attorney General shall consult with the Secretary of the Department of Health and Human Services in establishing and carrying out the substance abuse treatment and prevention components of the programs authorized under this Act, to assure coordination of programs, eliminate duplication of efforts and enhance the effectiveness of such services.

Subtitle E—Gambling

SEC. 320501. CLARIFYING AMENDMENT REGARDING SCOPE OF PROHIBITION AGAINST GAMBLING ON SHIPS IN INTERNATIONAL WATERS.

The paragraph of section 1081 of title 18, United States Code, defining the term "gambling ship" is amended by adding at the end the following: "Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial waters of the United States during a covered voyage (as defined in section

4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994).".

Subtitle F—White Collar Crime Amendments

SEC. 320601. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) PROCEEDS OF EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receiving the proceeds of extortion

"A person who receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end the following new item:

"880. Receiving the proceeds of extortion.".

(b) RANSOM MONEY.—Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) A person who transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 320602. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "whoever" and inserting:

"(a) ASSAULT.—A person who"; and

(2) by adding at the end the following new subsection:

"(b) RECEIPT, POSSESSION, CONCEALMENT, OR DISPOSAL OF PROPERTY.—A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 320603. CRIMES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE WHOSE ACTIVITIES AFFECT INTERSTATE COMMERCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

"(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

"(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

"(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner, shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

"(b)(1) Whoever—

"(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

"(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the

affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

"(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

"(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

"(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

"(f) As used in this section—

"(1) the term 'business of insurance' means—

"(A) the writing of insurance, or

"(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

"(2) the term 'insurer' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

"(3) the term 'interstate commerce' means—

"(A) commerce within the District of Columbia, or any territory or possession of the United States;

"(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

"(C) all commerce between points within the same State through any place outside such State; or

"(D) all other commerce over which the United States has jurisdiction; and

"(4) the term 'State' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"§ 1034. Civil penalties and injunctions for violations of section 1033

"(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of such title is amended by adding at the end the following new items:

"1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
"1034. Civil penalties and injunctions for violations of section 1033.".

SEC. 320604. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce; or".

(b) LIMITATIONS.—Section 3293 of such title is amended by inserting "1033," after "1014,".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever—

"(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

"(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined as provided by this title or imprisoned not more than 5 years, or both.

"(2) As used in paragraph (1), the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.".

SEC. 320605. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 320606. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 320607. ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 320608. DEFINITION OF "SAVINGS AND LOAN ASSOCIATION" FOR PURPOSES OF THE OFFENSE OF BANK ROBBERY AND RELATED OFFENSES.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) a corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 320609. DEFINITION OF 1-YEAR PERIOD FOR PURPOSES OF THE OFFENSE OF OBSTRUCTION OF A FEDERAL AUDIT.

Section 1516(b) of title 18, United States Code, is amended—

(1) by striking "section the term" and inserting "section—

"(1) the term";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(2) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

Subtitle G—Safer Streets and Neighborhoods

Safer Streets and Neighborhoods Act of 1994.

SEC. 320701. SHORT TITLE.

42 USC 3711 note.

This subtitle may be cited as the "Safer Streets and Neighborhoods Act of 1994".

SEC. 320702. LIMITATION ON GRANT DISTRIBUTION.

(a) AMENDMENT.—Section 510(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(b)) is amended by inserting "non-Federal" after "with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

42 USC 3760 note.

Subtitle H—Recreational Hunting Safety

Recreational Hunting Safety and Preservation Act of 1994.

SEC. 320801. SHORT TITLE.

16 USC 5201 note.

This subtitle may be cited as the "Recreational Hunting Safety and Preservation Act of 1994".

SEC. 320802. OBSTRUCTION OF A LAWFUL HUNT.

16 USC 5201.

It is a violation of this section intentionally to engage in any physical conduct that significantly hinders a lawful hunt.

SEC. 320803. CIVIL PENALTIES.

16 USC 5202.

(a) IN GENERAL.—A person who violates section 320802 shall be assessed a civil penalty in an amount computed under subsection (b).

(b) COMPUTATION OF PENALTY.—The penalty shall be—

(1) not more than $10,000, if the violation involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person; and

(2) not more than $5,000 for any other violation.

(c) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 320802.

(d) PROCEDURE.—Upon receipt of—

(1) a written complaint from an officer, employee, or agent of the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service, or other Federal agency that a person violated section 320802; or

(2) a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual allegations to create a reasonable belief that a violation of section 320802 has occurred;

the Secretary may request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty under this section.

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by such Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) on Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives on Federal lands.

16 USC 5203. **SEC. 320804. OTHER RELIEF.**

Injunctive relief against a violation of section 320802 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation.

16 USC 5204. **SEC. 320805. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.**

This subtitle does not preempt a State law or local ordinance that provides for civil or criminal penalties for conduct that violates this subtitle.

16 USC 5205. **SEC. 320806. REGULATIONS.**

The Secretary may issue such regulations as are necessary to carry out this subtitle.

16 USC 5206. **SEC. 320807. RULE OF CONSTRUCTION.**

Nothing in this subtitle shall be construed to impair a right guaranteed to a person under the first article of amendment to the Constitution or limit any legal remedy for forceful interference with a person's lawful participation in speech or peaceful assembly.

16 USC 5207. **SEC. 320808. DEFINITIONS.**

As used in this subtitle:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands;

(C) national parks; and

(D) wildlife refuges.

(2) LAWFUL HUNT.—The term "lawful hunt" means the taking or harvesting (or attempted taking or harvesting) of wildlife or fish, on Federal lands, which—

(A) is lawful under the laws applicable in the place it occurs; and

(B) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(4) NATIONAL PARK.—The term "national park" means lands and waters included in the National Park System (as defined in section 2(a) of the Act entitled "An Act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes", approved August 8, 1953 (16 U.S.C. 1c(a))).

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands;

(ii) national parks; and

(iii) wildlife refuges.

(7) WILDLIFE REFUGE.—The term "wildlife refuge" means lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

(8) CONDUCT.—The term "conduct" does not include speech protected by the first article of amendment to the Constitution.

Subtitle I—Other Provisions

SEC. 320901. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" at the end of paragraph (d); and

(3) by adding after paragraph (d) the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, and (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 320902. THEFT OF MAJOR ARTWORK.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 668. Theft of major artwork

"(a) DEFINITIONS.—In this section—

"'museum' means an organized and permanent institution, the activities of which affect interstate or foreign commerce, that—

"(A) is situated in the United States;

"(B) is established for an essentially educational or aesthetic purpose;

"(C) has a professional staff; and

"(D) owns, utilizes, and cares for tangible objects that are exhibited to the public on a regular schedule.

"'object of cultural heritage' means an object that is—

"(A) over 100 years old and worth in excess of $5,000; or

"(B) worth at least $100,000.".

"(b) OFFENSES.—A person who—

"(1) steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

"(2) knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) PERIOD OF LIMITATION.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3294. Theft of major artwork

"No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense.".

(d) TECHNICAL AMENDMENTS.—

(1) CHAPTER 31.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end the following new item:

"668. Theft of major artwork.".

(2) CHAPTER 213.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3294. Theft of major artwork.".

SEC. 320903. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 320904. GUN-FREE SCHOOL ZONES.

Section 922(q) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting after "(q)" the following new paragraph:

"(1) The Congress finds and declares that—

"(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

"(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

"(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and Judiciary Committee of the Senate;

"(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

"(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

"(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

"(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

"(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves; even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

"(I) Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact meas-

ures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.".

SEC. 320905. INTERSTATE WAGERING.

Section 1301 of title 18, United States Code, is amended by inserting "or, being engaged in the business of procuring for a person in 1 State such a ticket, chance, share, or interest in a lottery, gift, enterprise or similar scheme conducted by another State (unless that business is permitted under an agreement between the States in question or appropriate authorities of those States), knowingly transmits in interstate or foreign commerce information to be used for the purpose of procuring such a ticket, chance, share, or interest;" after "scheme;".

SEC. 320906. SENSE OF CONGRESS WITH RESPECT TO VIOLENCE AGAINST TRUCKERS.

It is the sense of Congress that—

(1) when there is Federal jurisdiction, Federal authorities should prosecute to the fullest extent of the law murders, rapes, burglaries, kidnappings and assaults committed against commercial truckers; and

(2) appropriate Federal agencies should acknowledge this problem and place a priority on evaluating how best to prevent these crimes and apprehend those involved, and continue to coordinate their activities with multi-jurisdictional authorities to combat violent crimes committed against truckers.

SEC. 320907. SENSE OF THE SENATE REGARDING A STUDY ON OUT-OF-WEDLOCK BIRTHS.

It is the sense of the Senate that—

(1) the Secretary of Health and Human Services, in consultation with the National Center for Health Statistics, should prepare an analysis of the causes of the increase in out-of-wedlock births, and determine whether there is any historical precedent for such increase, as well as any equivalent among foreign nations, and

Reports.

(2) the Secretary of Health and Human Services should report to Congress within 12 months after the date of the enactment of this Act on the Secretary's analysis of the out-of-wedlock problem and its causes, as well as possible remedial measures that could be taken.

SEC. 320908. SENSE OF THE SENATE REGARDING THE ROLE OF THE UNITED NATIONS IN INTERNATIONAL ORGANIZED CRIME CONTROL.

It is the sense of the Senate that—

(1) the United States should encourage the development of a United Nations Convention on Organized Crime; and

(2) the United Nations should—

(A) provide significant additional resources to the Commission on Crime Prevention and Criminal Justice;

(B) consider an expansion of the Commission's role and authority; and

(C) seek a cohesive approach to the international organized crime problem.

SEC. 320909. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The item relating to section 3239 in the table of sections of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offenses.".

SEC. 320910. UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"(a) Wherever in this title it is an element of an offense that—

"(1) any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated; and

"(2) the defendant knew that the property was of such character;

such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) For purposes of this section, the term 'official representation' means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 320911. MISUSE OF INITIALS "DEA".

(a) AMENDMENT.—Section 709 of title 18, United States Code, is amended—

(1) in the thirteenth unnumbered paragraph by striking "words—" and inserting "words; or"; and

(2) by inserting after the thirteenth unnumbered paragraph the following new paragraph:

"A person who, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration;".

18 USC 709 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date that is 90 days after the date of enactment of this Act.

SEC. 320912. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following new paragraph:

"'livestock' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof.".

SEC. 320913. ASSET FORFEITURE.

(a) AMENDMENT.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by redesignating subparagraph (H) as subparagraph (I); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and".

28 USC 524 note.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to all claims pending at the time of or commenced subsequent to the date of enactment of this Act.

SEC. 320914. CLARIFICATION OF DEFINITION OF A "COURT OF THE UNITED STATES" TO INCLUDE THE DISTRICT COURTS FOR GUAM, THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 23. Court of the United States defined

"As used in this title, except where otherwise expressly provided the term 'court of the United States' includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"23. Court of the United States defined.".

SEC. 320915. LAW ENFORCEMENT PERSONNEL.

It is the sense of the Senate that law enforcement personnel should not be reduced and calls upon the President of the United States to exempt Federal law enforcement positions from Executive

Order 12839 and other Executive memoranda mandating reductions in the Federal workforce.

SEC. 320916. AUTHORITY TO INVESTIGATE VIOLENT CRIMES AGAINST TRAVELERS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 540A. Investigation of violent crimes against travelers

"(a) IN GENERAL.—At the request of an appropriate law enforcement official of a State or political subdivision, the Attorney General and Director of the Federal Bureau of Investigation may assist in the investigation of a felony crime of violence in violation of the law of any State in which the victim appears to have been selected because he or she is a traveler.

"(b) FOREIGN TRAVELERS.—In a case in which the traveler who is a victim of a crime described in subsection (a) is from a foreign nation, the Attorney General and Director of the Federal Bureau of Investigation, and, when appropriate, the Secretary of State shall assist the prosecuting and law enforcement officials of a State or political subdivision to the fullest extent possible in securing from abroad such evidence or other information as may be needed for the effective investigation and prosecution of the crime.

"(c) DEFINITIONS.—In this section—

"'felony crime of violence' means an offense punishable by more than one year in prison that has as an element the use, attempted use, or threatened use of physical force against the person of another.

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"'traveler' means a victim of a crime of violence who is not a resident of the State in which the crime of violence occurred.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

"540A. Investigation of violent crimes against travelers.".

SEC. 320917. EXTENSION OF STATUTE OF LIMITATIONS FOR ARSON.

(a) IN GENERAL.—Section 844(i) of title 18, United States Code, is amended by adding at the end the following: "No person shall be prosecuted, tried, or punished for any noncapital offense under this subsection unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall not apply to any offense described in the amendment that was committed more than 5 years prior to the date of enactment of this Act. 18 USC 844 note.

SEC. 320918. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

42 USC 14223.

SEC. 320919. EDWARD BYRNE MEMORIAL FORMULA GRANT PROGRAM.

Nothing in this Act shall be construed to prohibit or exclude the expenditure of appropriations to grant recipients that would have been or are eligible to receive grants under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

SEC. 320920. SENSE OF THE SENATE REGARDING LAW DAY, U.S.A.

It is the sense of the Senate that in celebration of "Law Day, U.S.A.", May 1, 1995, the grateful people of this Nation should give special emphasis to all law enforcement personnel of the United States, and the grateful people of this Nation should acknowledge the unflinching and devoted service law enforcement personnel perform as such personnel help preserve domestic tranquillity and guarantee the legal rights of all individuals of this Nation.

SEC. 320921. FIRST TIME DOMESTIC VIOLENCE OFFENDER REHABILITATION PROGRAM.

(a) SENTENCE OF PROBATION.—Section 3561 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

"(b) DOMESTIC VIOLENCE OFFENDERS.—A defendant who has been convicted for the first time of a domestic violence crime shall be sentenced to a term of probation if not sentenced to a term of imprisonment. The term 'domestic violence crime' means a crime of violence for which the defendant may be prosecuted in a court of the United States in which the victim or intended victim is the spouse, former spouse, intimate partner, former intimate partner, child, or former child of the defendant, or any relative defendant, child, or former child of the defendant, or any other relative of the defendant.".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting the following new paragraph:

"(4) for a domestic violence crime as defined in section 3561(b) by a defendant convicted of such an offense for the first time that the defendant attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

(c) SUPERVISED RELEASE.—Section 3583 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b)" after "statute"; and

Courts.

(2) in subsection (d) by inserting the following after the first sentence: "The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime as defined in section 3561(b) that the defendant attend a public, private, or private nonprofit

offender rehabilitation program that has been approved by the court, in consultation with a State Coalition Against Domestic Violence or other appropriate experts, if an approved program is readily available within a 50-mile radius of the legal residence of the defendant.".

SEC. 320922. DISPLAY OF FLAGS AT HALFSTAFF.

(a) PUBLIC LAW 87–726.—The first section of Public Law 87–726 (36 U.S.C. 167) is amended—

(1) by striking "(2)" and inserting "(3)";

(2) by inserting after clause (1) the following new clause: "(2) directing the officials of the Government to display at halfstaff the flag of the United States on all Government buildings on such day, as provided by section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175),";

(3) by striking "(3)" and inserting "(4)"; and

(4) by inserting in paragraph (4) ", including the display at halfstaff of the flag of the United States" after "activities".

(b) ACT OF JUNE 22, 1942.—Section 3(m) of the Act of June 22, 1942 (Chapter 435; 56 Stat. 377; 36 U.S.C. 175) is amended by inserting "The flag shall be flown at halfstaff on Peace Officers Memorial Day, unless that day is also Armed Forces Day." after "a Member of Congress.".

SEC. 320923. FINANCIAL INSTITUTION FRAUD.

Section 528 of Public Law 101–509, approved November 5, 1990, is amended by striking "with the authority of the Resolution Trust Corporation or its successor" at the end of subsection (b)(2) and inserting "on December 31, 2004". 28 USC 509 note.

SEC. 320924. DEFINITION OF "PARENT" FOR THE PURPOSES OF THE OFFENSE OF KIDNAPPING.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'parent' does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.".

SEC. 320926. HATE CRIME STATISTICS ACT.

Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting "disability," after "religion,".

SEC. 320927. EXEMPTION FROM BRADY BACKGROUND CHECK REQUIREMENT OF RETURN OF HANDGUN TO OWNER.

Section 922(s)(1) of title 18, United States Code, is amended in the first sentence by inserting "(other than the return of a handgun to the person from whom it was received)" after "handgun".

SEC. 320928. AMENDMENT OF THE NATIONAL CHILD PROTECTION ACT OF 1993.

(a) PROTECTION OF THE ELDERLY AND INDIVIDUALS WITH DISABILITIES.—

(1) BACKGROUND CHECKS.—Section 3(a)(1) of the National Child Protection Act of 1993 (42 U.S.C. 5119a) is amended by striking "an individual's fitness to have responsibility for the safety and well-being of children" and inserting "the provid-

er's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities".

42 USC 5119a.

(2) GUIDELINES.—Section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)) is amended—

(A) in paragraph (1)(E)—

(i) by striking "child" the first place it appears and inserting "person"; and

(ii) by striking "child" the second place it appears; and

(B) in paragraph (4) by striking "an individual's fitness to have responsibility for the safety and well-being of children" and inserting "the provider's fitness to have responsibility for the safety and well-being of children, the elderly, or individuals with disabilities".

(3) DEFINITION OF CARE.—Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c(5)) is amended—

(A) by amending paragraph (5) to read as follows:

"(5) the term 'care' means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities;"; and

(B) in paragraph (8) by striking "child care" each place it appears and inserting "care".

(b) INFORMATION REQUIRED TO BE REPORTED.—Section 2(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119(a)) is amended by adding at the end "A criminal justice agency may satisfy the requirement of this subsection by reporting or indexing all felony and serious misdemeanor arrests and dispositions.".

(c) CLARIFICATION OF IMMUNITY PROVISION.—Section 3(d) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(d)) is amended by inserting "(other than itself)" after "failure of a qualified entity".

(d) DEFRAYMENT OF COSTS TO VOLUNTEERS OF CONDUCTING BACKGROUND CHECKS.—Section 4(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) to assist the State in paying all or part of the cost to the State of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.".

(e) FEES.—Section 3(e) of the National Child Protection Act of 1993 is amended by striking "the actual cost" and inserting "eighteen dollars, respectively, or the actual cost, whichever is less,".

(f) COSTS OF THE FBI.—Funds authorized to be appropriated to the Federal Bureau of Investigation under section 190001(c) of this Act may be used to pay all or part of the cost to the Federal Bureau of Investigation of carrying out the National Child Protection Act of 1993, including the cost of conducting background checks on persons who are employed by or volunteer with a public, not-for-profit, or voluntary qualified entity to reduce the amount of fees charged for such background checks.

42 USC 5119 note.

(g) GUIDELINES.—

(1) IN GENERAL.—The Attorney General, in consultation with Federal, State, and local officials, including officials

responsible for criminal history record systems, and representatives of public and private care organizations and health, legal, and social welfare organizations, shall develop guidelines for the adoption of appropriate safeguards by care providers and by States for protecting children, the elderly, or individuals with disabilities from abuse.

(2) MATTERS TO BE ADDRESSED.—In developing guidelines under paragraph (1), the Attorney General shall address the availability, cost, timeliness, and effectiveness of criminal history background checks and recommend measures to ensure that fees for background checks do not discourage volunteers from participating in care programs.

(3) DISSEMINATION.—The Attorney General shall, subject to the availability of appropriations, disseminate the guidelines to State and local officials and to public and private care providers.

(h) CHANGE OF REPORT DEADLINE.—Section 2(f)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119(f)(2)) is amended by striking "1 year" and inserting "2 years".

(i) CHANGE OF IMPLEMENTATION DEADLINE.—Section 2(b)(2)(A) of the National Child Protection Act of 1993 (42 U.S.C. 5119(b)(2)(A)) is amended by striking "3 years" and inserting "5 years".

(j) DEFINITION OF CHILD ABUSE CASES AND INDIVIDUALS WITH DISABILITIES.—Section 5 of the National Child Protection Act of 1993 (42 U.S.C. 5119c) is amended—

(1) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (8), (9), (10), and (11), respectively; and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'identifiable child abuse crime case' means a case that can be identified by the authorized criminal justice agency of the State as involving a child abuse crime by reference to the statutory citation or descriptive label of the crime as it appears in the criminal history record;

"(7) the term 'individuals with disabilities' means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks;".

SEC. 320929. TENNESSEE VALLEY AUTHORITY LAW ENFORCEMENT PERSONNEL.

The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by inserting after section 4 the following new section:

"SEC. 4A. LAW ENFORCEMENT.—(a) DESIGNATION OF LAW ENFORCEMENT AGENTS.—The Board may designate employees of the corporation to act as law enforcement agents in the area of jurisdiction described in subsection (c). 16 USC 831c-3.

"(b) DUTIES AND POWERS.—

"(1) DUTIES.—A law enforcement agent designated under subsection (a) shall maintain law and order and protect persons and property in the area of jurisdiction described in subsection (c) and protect property and officials and employees of the corporation outside that area.

"(2) POWERS.—In the performance of duties described in paragraph (1), a law enforcement agent designated under subsection (a) may—

"(A) make arrests without warrant for any offense against the United States committed in the agent's presence, or for any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing such a felony;

"(B) execute any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law or regulation issued pursuant to law in connection with the investigation of an offense described in subparagraph (A);

"(C) conduct an investigation of an offense described in subparagraph (A) in the absence of investigation of the offense by any Federal law enforcement agency having investigative jurisdiction over the offense or with the concurrence of that agency; and

"(D) carry firearms in carrying out any activity described in subparagraph (A), (B), or (C).

"(c) AREA OF JURISDICTION.—A law enforcement agent designated under subsection (a) shall be authorized to exercise the law enforcement duties and powers described in subsection (b)—

"(1) on any lands or facilities owned or leased by the corporation or within such adjoining areas in the vicinities of such lands or facilities as may be determined by the board under subsection (e); and

"(2) on other lands or facilities—

"(A) when the person to be arrested is in the process of fleeing from such lands, facilities, or adjoining areas to avoid arrest;

"(B) in conjunction with the protection of property or officials or employees of the corporation on or within lands or facilities other than those owned or leased by the corporation; or

"(C) in cooperation with other Federal, State, or local law enforcement agencies.

"(d) FEDERAL INVESTIGATIVE JURISDICTION AND STATE CIVIL AND CRIMINAL JURISDICTION NOT PREEMPTED.—Nothing in this section shall be construed to—

"(1) limit or restrict the investigative jurisdiction of any Federal law enforcement agency; or

"(2) affect any right of a State or a political subdivision thereof to exercise civil and criminal jurisdiction on or within lands or facilities owned or leased by the corporation.

"(e) DETERMINATION OF ADJOINING AREAS.—

"(1) IN GENERAL.—The board shall determine and may from time-to-time modify the adjoining areas for each facility or particular area of land, or for individual categories of such facilities or lands, for the purposes of subsection (c)(1).

Federal Register, publication.

"(2) NOTICE.—A notice and description of each adjoining area determination or modification of a determination made under paragraph (1) shall be published in the Federal Register.

"(f) QUALIFICATIONS AND TRAINING.—The board, in consultation with the Attorney General, shall adopt qualification and training standards for law enforcement agents designated under subsection (a).

"(g) RELATION TO OTHER LAW.—A law enforcement agent designated under subsection (a) shall not be considered to be a law

enforcement officer of the United States for the purposes of any other law, and no law enforcement agent designated under subsection (a) or other employee of the corporation shall receive an increase in compensation solely on account of this section.

"(h) RELATIONSHIP WITH ATTORNEY GENERAL.—The duties and powers of law enforcement agents designated under subsection (a) that are described in subsection (b) shall be exercised in accordance with guidelines approved by the Attorney General.".

SEC. 320932. ASSISTANT UNITED STATES ATTORNEY RESIDENCY.

Section 545(a) of title 28, United States Code, is amended—

(1) by striking "and assistant United States attorney"; and

(2) by inserting the following after the first sentence: "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof.".

SEC. 320933. LABELS ON PRODUCTS. 15 USC 45a.

To the extent any person introduces, delivers for introduction, sells, advertises, or offers for sale in commerce a product with a "Made in the U.S.A." or "Made in America" label, or the equivalent thereof, in order to represent that such product was in whole or substantial part of domestic origin, such label shall be consistent with decisions and orders of the Federal Trade Commission issued pursuant to section 5 of the Federal Trade Commission Act. This section only applies to such labels. Nothing in this section shall preclude the application of other provisions of law relating to labeling. The Commission may periodically consider an appropriate percentage of imported components which may be included in the product and still be reasonably consistent with such decisions and orders. Nothing in this section shall preclude use of such labels for products that contain imported components under the label when the label also discloses such information in a clear and conspicuous manner. The Commission shall administer this section pursuant to section 5 of the Federal Trade Commission Act and may from time to time issue rules pursuant to section 553 of title 5, United States Code, for such purpose. If a rule is issued, such violation shall be treated by the Commission as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices. This section shall be effective upon publication in the Federal Register of a Notice of the provisions of this section. The Commission shall publish such notice within six months after the enactment of this section.

Effective date. Federal Register, publication.

SEC. 320934. NON-DISCHARGEABILITY OF PAYMENT OF RESTITUTION ORDER.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for any payment of an order of restitution issued under title 18, United States Code.".

SEC. 320935. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES. 28 USC app.

(a) The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule."

(b) IMPLEMENTATION.—The amendments made by subsection (a) shall become effective pursuant to subsection (d).

(c) RECOMMENDATIONS BY JUDICIAL CONFERENCE.—Not later than 150 days after the date of enactment of this Act, the Judicial Conference of the United States shall transmit to Congress a report containing recommendations for amending the Federal Rules of Evidence as they affect the admission of evidence of a defendant's prior sexual assault or child molestation crimes in cases involving sexual assault and child molestation. The Rules Enabling Act shall not apply to the recommendations made by the Judicial Conference pursuant to this section. Reports.

(d) CONGRESSIONAL ACTION.— Effective date.

(1) If the recommendations described in subsection (c) are the same as the amendment made by subsection (a), then the amendments made by subsection (a) shall become effective 30 days after the transmittal of the recommendations.

(2) If the recommendations described in subsection (c) are different than the amendments made by subsection (a), the amendments made by subsection (a) shall become effective 150 days after the transmittal of the recommendations unless otherwise provided by law.

(3) If the Judicial Conference fails to comply with subsection (c), the amendments made by subsection (a) shall become effective 150 days after the date the recommendations were due under subsection (c) unless otherwise provided by law.

(e) APPLICATION.—The amendments made by subsection (a) shall apply to proceedings commenced on or after the effective date of such amendments.

TITLE XXXIII—TECHNICAL CORRECTIONS

SEC. 330001. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) CROSS REFERENCE CORRECTIONS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended— 42 USC 3762a.

(A) by striking "subsection (a)(1) and (2)" and inserting "paragraphs (1) and (2) of subsection (a)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended— 42 USC 3762b.

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "paragraph (1) or (3) of section 515(a)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

(e) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended— 42 USC 3796.

(1) in section 1201—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) by striking "who was responding to a fire, rescue or police emergency". 42 USC 3796b.

(f) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(g) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(h) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) by striking "crime,," and inserting "crime,"; 42 USC 3722.

(2) in section 302(c)(19) by striking a period at the end and inserting a semicolon; 42 USC 3732.

(3) in section 602(a)(1) by striking "chapter 315" and inserting "chapter 319"; 42 USC 3769a.

(4) in section 603(a)(6) by striking "605" and inserting "606"; 42 USC 3769b.

(5) in section 605 by striking "this section" and inserting "this part"; 42 USC 3769c.

(6) in section 606(b) by striking "and Statistics" and inserting "Statistics"; 42 USC 3769d.

(7) in section 801(b)— 42 USC 3782.

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) by striking "part D," and inserting "subpart 1 of part E or under part"; 42 USC 3783.

(9) in the second sentence of section 804(b) by striking "Prevention or" and inserting "Prevention, or"; 42 USC 3785.

(10) in section 808 by striking "408, 1308," and inserting "507"; 42 USC 3789.

(11) in section 809(c)(2)(H) by striking "805" and inserting "804"; 42 USC 3789d.

(12) in section 811(e) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance"; 42 USC 3789f.

42 USC 3791.

(13) in section 901(a)(3) by striking "and," and inserting ", and";

42 USC 3793.

(14) in section 1001(c) by striking "parts" and inserting "part".

(i) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 330002. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031(g)(2) of title 18, United States Code, is amended by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293 of title 18, United States Code, is amended by striking "1008,".

(f) ELIMINATION OF DUPLICATE SUBSECTION DESIGNATION.—Section 1031 of title 18, United States Code, is amended by redesignating the second subsection (g) as subsection (h).

(g) TECHNICAL AMENDMENT TO PART ANALYSIS FOR PART I.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

(h) AMENDMENT TO SECTION 924(a)(1)(B).—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "(q)" and inserting "(r)".

(i) PUNCTUATION CORRECTION.—Section 207(c)(2)(A)(ii) of title 18, United States Code, is amended by striking the semicolon at the end and inserting a comma.

(j) CHAPTER ANALYSIS CORRECTION.—The chapter analysis for chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Child Victims' and child witnesses' rights.".

(k) Elimination of Superfluous Comma.—Section 3742(b) of title 18, United States Code, is amended by striking "Government," and inserting "Government".

SEC. 330003. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) SECTION 1791 OF TITLE 18.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) SECTION 2703 OF TITLE 18.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(c) SECTION 666 OF TITLE 18.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(d) SECTION 4247 OF TITLE 18.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

(e) SECTION 408 OF THE CONTROLLED SUBSTANCES ACT.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(f) MARITIME DRUG LAW ENFORCEMENT ACT.—(1) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(2) Section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(g) SECTION 2596 OF THE CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting "951(c)(2)". 12 USC 1833a and note.

(h) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 46(i)(1) of the Federal Rules of Criminal Procedure for the United States Courts is amended by striking "18 U.S.C. § 3144" and inserting "18 U.S.C. § 3142". 18 USC app.

SEC. 330004. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analysis for chapter 105 and for 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking the subsections (f) and (g) that were enacted by Public Law 100–690;

(15) in section 3113 by striking the third paragraph;

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939";

(17) in section 443 by striking "or (3) five years after 12 o'clock noon of December 31, 1946,";

(18) in sections 542, 544, and 545 by striking "the Philippine Islands,"; and

(19) in section 1073—

(A) by striking "or which, in the case of New Jersey, is a high misdemeanor under the laws of said State,"; and

(B) by striking "or which in the case of New Jersey, is a high misdemeanor under the laws of said State,".

SEC. 330005. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) is amended by striking "issuer" and inserting "domestic concern".

SEC. 330006. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 330007. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 330008. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking "use" and the quotation mark that immediately follows it and inserting "use;";

(B) by realigning the matter in subsection (a)(2) that begins with "may have installed" and ends with "section 3123 of this title" so that it is flush to the left margin; and

(C) by striking "provider for" and inserting "provider of" in subsection (d);

(4) in section 3731 by striking "order of a district courts" and inserting "order of a district court" in the second undesignated paragraph;

(5) in section 151 by striking "mean" and inserting "means";
(6) in section 208(b) by inserting "if" after "(4)";
(7) in section 209(d) by striking "under the terms of the chapter 41" and inserting "under the terms of chapter 41";
(8) in section 1014 by inserting a comma after "National Credit Union Administration Board"; and
(9) in section 3291 by striking "the afore-mentioned" and inserting "such".

SEC. 330009. OTHER TECHNICAL AMENDMENTS.

(a) SECTION 419 OF CONTROLLED SUBSTANCES ACT.—Section 419(b) of the Controlled Substances Act (21 U.S.C. 860(b)) is amended by striking "years Penalties" and inserting "years. Penalties".

(b) SECTION 667.—Section 667 of title 18, United States Code, is amended by adding at the end the following: "The term 'livestock' has the meaning set forth in section 2311 of this title.".

(c) SECTION 1114.—Section 1114 of title 18, United States Code, is amended by striking "or any other officer, agency, or employee of the United States" and inserting "or any other officer or employee of the United States or any agency thereof".

(d) Section 408 of Controlled Substances Act.—Section 408(q)(8) of the Controlled Substances Act (21 U.S.C. 848(q)(8)) is amended by striking "applications, for writ" and inserting "applications for writ".

SEC. 330010. CORRECTION OF ERRORS FOUND DURING CODIFICATION.

Title 18, United States Code, is amended—
(1) in section 212 by striking "218" and inserting "213";
(2) in section 1917—
(A) by striking "Civil Service Commission" and inserting "Office of Personnel Management"; and
(B) by striking "the Commission" in paragraph (1) and inserting "such Office";
(3) by transferring the subchapter analysis for each subchapter of each of chapters 227 and 229 to follow the heading of that subchapter;
(4) so that the heading of section 1170 reads as follows:

"§ 1170. Illegal trafficking in Native American human remains and cultural items";

(5) so that the item relating to section 1170 in the chapter analysis for chapter 53 reads as follows:

"1170. Illegal trafficking in Native American human remains and cultural items.";

(6) in section 3509(a) by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12), respectively;
(7) in section 3509—
(A) by striking "subdivision" each place it appears and inserting "subsection"; and
(B) by striking "government" each place it appears and inserting "Government";
(8) in section 2252(a)(3)(B) by striking "materails" and inserting "materials";
(9) in section 14 by striking "45," and "608, 611, 612,";
(10) in section 3059A—
(A) in subsection (b) by striking "this subsection" and inserting "subsection"; and

(B) in subsection (c) by striking "this subsection" and inserting "subsection";

(11) in section 1761(c)—

(A) by striking "and" at the end of paragraph (1);

(B) by inserting "and" at the end of paragraph (3); and

(C) by striking the period at the end of paragraph (2)(B) and inserting a semicolon;

(12) in the chapter analysis for chapter 11—

(A) in the item relating to section 203 by inserting a comma after "officers" and by striking the comma after "others"; and

(B) in the item relating to section 204 by inserting "the" before "United States Court of Appeals for the Federal Circuit";

(13) in the chapter analysis for chapter 23, in the item relating to section 437, by striking the period immediately following "Indians";

(14) in the chapter analysis for the beginning of chapter 25, in the item relating to section 491, by striking the period immediately following "paper used as money";

(15) in section 207(a)(3) by striking "Clarification of Restrictions" and inserting "Clarification of restrictions";

(16) in section 176 by striking "the government" and inserting "the Government";

(17) in section 3059A(e)(2)(iii) by striking "backpay" and inserting "back pay"; and

(18) by adding a period at the end of the item relating to section 3059A in the chapter analysis for chapter 203.

SEC. 330011. PROBLEMS RELATED TO EXECUTION OF PRIOR AMENDMENTS.

18 USC prec. 3041.

(a) INCORRECT REFERENCE.—Section 2587(b) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "The chapter heading for" and inserting "The chapter analysis for".

18 USC 201 note.

(b) LACK OF PUNCTUATION IN STRICKEN LANGUAGE.—Section 46(b) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended, effective as of the date on which that section took effect, so that—

(A) in paragraph (1), the matter proposed to be stricken from the beginning of section 201(b) of title 18, United States Code, reads "(b) Whoever, directly"; and

(B) in paragraph (2), a comma, rather than a semicolon, appears after "his lawful duty" in the matter to be stricken from paragraph (3) of section 201(b) of that title.

18 USC 2516.

(c) BIOLOGICAL WEAPONS.—(1) Section 3(b) of the Biological Weapons Anti-Terrorism Act of 1989 is amended, effective as of the date on which that section took effect, by striking "2516(c)" and inserting "2516(1)(c)".

(2) The item in the part analysis for part I of title 18, United States Code, that relates to chapter 10 is amended by striking "Weapons" and inserting "weapons".

18 USC 1169.

(d) PLACEMENT OF NEW SECTION.—Section 404(a) of Public Law 101-630 is amended, effective on the date such section took effect, by striking "adding at the end thereof" each place it appears and inserting "inserting after section 1169".

(e) ELIMINATION OF ERRONEOUS CHARACTERIZATION OF MATTER INSERTED.—Section 225(a) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "new rule". 18 USC 3509.

(f) CLARIFICATION OF PLACEMENT OF AMENDMENT.—Section 1205(c) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by inserting "at the end" after "adding". 18 USC 402.

(g) ELIMINATION OF DUPLICATE AMENDMENT.—Section 1606 of Public Law 101-647 (amending section 1114 of title 18, United States Code) is repealed effective as of the date of enactment of that section. 18 USC 1114.

(h) ERROR IN AMENDMENT PHRASING.—Section 3502 of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "10" and inserting "ten". 18 USC 3.

(i) CLARIFICATION THAT AMENDMENTS WERE TO TITLE 18.—Sections 3524, 3525, and 3528 of Public Law 101-647 are each amended, effective as of the date on which those sections took effect, by inserting "of title 18, United States Code" before "is amended". 18 USC 922-924.

(j) CORRECTION OF PARAGRAPH REFERENCE.—Section 3527 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "4th" and inserting "5th". 18 USC 924.

(k) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1345.—Section 3542 of Public Law 101–647 is repealed, effective as of the date of its enactment. 18 USC 1345.

(l) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective as of the date of its enactment. 18 USC 1956.

(m) CLARIFICATION OF PLACEMENT OF AMENDMENTS.—Public Law 101-647 is amended, effective as of the date of its enactment—

(1) in section 3564(1) by inserting "each place it appears" after the quotation mark following "2251" the first place it appears; and 18 USC 2253.

(2) in section 3565(3)(A) by inserting "each place it appears" after the quotation mark following "subchapter". 18 USC 2254.

(n) CORRECTION OF WORD QUOTED IN AMENDMENT.—Section 3586(1) of Public Law 101-647 is amended, effective as of the date on which that section took effect, by striking "fines" and inserting "fine". 18 USC prec. 3571.

(o) ELIMINATION OF OBSOLETE TECHNICAL AMENDMENT TO SECTION 4013.—Section 3599 of Public Law 101-647 is repealed, effective as of the date of its enactment. 18 USC 4013.

(p) CORRECTION OF DIRECTORY LANGUAGE.—Section 3550 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "not more than". 18 USC 1546.

(q) REPEAL OF DUPLICATE PROVISIONS.—(1) Section 3568 of Public Law 101-647 is repealed, effective as of the date on which that section took effect. 18 USC 2516.

(2) Section 1213 of Public Law 101–647 is repealed, effective as of the date on which that section took effect. 18 USC 3289.

(r) CORRECTION OF WORDS QUOTED IN AMENDMENT.—Section 2531(3) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "1679(c)(2)" and inserting "1679a(c)(2)". 18 USC 2516.

(s) FORFEITURE.—(1) Section 1401 of Public Law 101–647 is amended, effective as of the date on which that section took effect— 18 USC 982.

(A) by inserting a comma after ", 5316"; and

(B) by inserting "the first place it appears" after the quotation mark following "5313(a)".

18 USC 981. (2) Section 2525(a)(2) of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "108(3)" and inserting "2508(3)".

SEC. 330012. AMENDMENT TO SECTION 1956 OF TITLE 18 TO ELIMINATE DUPLICATE PREDICATE CRIMES.

Section 1956 of title 18, United States Code, is amended in subsection (c)(7)(E), by striking the period that follows a period.

SEC. 330013. AMENDMENTS TO PART V OF TITLE 18.

Part V of title 18, United States Code, is amended—

(1) by inserting after the heading for that part the following:

"CHAPTER 601—IMMUNITY OF WITNESSES";

(2) in section 6001(1)—

(A) by striking "Atomic Energy Commission" and inserting "Nuclear Regulatory Commission"; and

(B) by striking "the Subversive Activities Control Board,"

(3) by striking "part" the first place it appears and inserting "chapter"; and

(4) by striking "part" each other place it appears and inserting "title".

SEC. 330014. UPDATE OF CROSS REFERENCE.

21 USC 848. Section 408(n)(11) of the Controlled Substances Act is amended by striking "section 405" and inserting "section 418".

SEC. 330015. CORRECTION OF ERROR IN AMENDATORY LANGUAGE.

21 USC 333. Section 1904 of Public Law 101–647 is amended, effective as of the date on which that section took effect, by striking "by inserting a new subsection (e) as follows" and inserting "so that subsection (e) reads as follows".

SEC. 330016. CORRECTION OF MISLEADING AND OUTMODED FINE AMOUNTS IN OFFENSES UNDER TITLE 18.

Title 18, United States Code, is amended—

(1)(A) in sections 1693, 1694, 1695, and 1696 by striking "not more than $50" and inserting "under this title";

(B) in sections 333, 489, 754, 1303, 1699, 1701, 1703, 1710, 1723, 1726, 1730, and 2390 by striking "not more than $100" and inserting "under this title";

(C) in sections 1697 and 1698 by striking "not more than $150" and inserting "under this title";

(D) in sections 1165 and 2279 by striking "not more than $200" and inserting "under this title";

(E) in sections 701, 702, 703, 704, 705, 706, 707, 708, 710, 711, 711a, 713, 715, 1164, and 1858 by striking "not more than $250" each place it appears and inserting "under this title";

(F) in sections 916, 1501, 1502, 1719, 1725, and 1861 by striking "not more than $300" and inserting "under this title";

(G) in sections 4, 41, 42, 46, 47, 112, 154, 244, 288, 290, 336, 475, 501, 502, 755, 872, 875, 876, 877, 917, 1013, 1018, 1024, 1154, 1155, 1156, 1382, 1541, 1700, 1703, 1704, 1707, 1712, 1713, 1720, 1721, 1722, 1729, 1731, 1734, 1752, 1793, 1856, 1857, 1863, 1912, 1913, 1922, 2074, 2195, and 2511 by striking "not more than $500" each place it appears and inserting "under this title";

(H) in sections 81, 210, 211, 215, 217, 242, 245, 291, 292, 439, 442, 480, 483, 484, 490, 491, 494, 495, 503, 507, 510, 594, 595, 596, 597, 598, 599, 604, 605, 641, 643, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 661, 662, 665, 712, 751, 752, 756, 795, 796, 797, 836, 844, 871, 875, 876, 877, 879, 911, 912, 913, 924, 957, 959, 961, 1003, 1012, 1021, 1025, 1026, 1071, 1112, 1163, 1262, 1263, 1264, 1301, 1302, 1304, 1306, 1341, 1342, 1343, 1361, 1363, 1384, 1504, 1508, 1509, 1657, 1705, 1706, 1707, 1711, 1715, 1716, 1733, 1738, 1761, 1762, 2276, 2277, 2278, 2382, and 2389 by striking "not more than $1,000" each place it appears and inserting "under this title";

(I) in sections 331, 482, 486, 499, 755, 873, 958, 1016, 1154, 1156, 1381, 1542, 1543, 1544, 1545, 1586, 1621, 1622, 1702, 1708, 1709, 1920, 1921, 1923, 2071, 2193, 2233, 2386, and 2424 by striking "not more than $2,000" each place it appears and inserting "under this title";

(J) in sections 431, 432, 479, 960, 1859, 1901, 1911, and 1959 by striking "not more than $3,000" and inserting "under this title";

(K) in sections 35, 81, 112, 152, 153, 155, 212, 213, 214, 285, 334, 351, 435, 436, 438, 471, 472, 473, 476, 477, 478, 481, 485, 487, 488, 497, 498, 505, 506, 508, 509, 541, 542, 543, 544, 546, 547, 548, 549, 550, 551, 552, 592, 593, 602, 603, 606, 607, 642, 655, 658, 659, 660, 661, 663, 751, 799, 844, 872, 874, 875, 876, 877, 878, 914, 915, 924, 953, 954, 956, 1004, 1010, 1011, 1015, 1017, 1025, 1028, 1071, 1073, 1074, 1163, 1169, 1231, 1265, 1363, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1461, 1462, 1463, 1465, 1503, 1505, 1506, 1507, 1510, 1581, 1582, 1583, 1584, 1585, 1588, 1658, 1659, 1717, 1732, 1735, 1737, 1751, 1906, 1907, 1908, 1909, 1915, 1991, 2072, 2073, 2113, 2217, 2152, 2197, 2231, 2244, 2314, 2316, 2317, 2344, and 2701 by striking "not more than $5,000" each place it appears and inserting "under this title";

(L) in sections 33, 224, 231, 241, 245, 246, 286, 289, 332, 335, 337, 351, 371, 437, 440, 441, 493, 496, 500, 510, 545, 595, 599, 600, 601, 641, 664, 665, 667, 757, 792, 793, 798, 844, 892, 893, 894, 924, 952, 955, 962, 963, 964, 965, 966, 967, 970, 1001, 1002, 1003, 1019, 1020, 1022, 1023, 1027, 1082, 1084, 1115, 1202, 1361, 1362, 1364, 1365, 1385, 1461, 1462, 1464, 1587, 1623, 1654, 1656, 1735, 1737, 1751, 1902, 1903, 1904, 1910, 1951, 1952, 1953, 1954, 1958, 1992, 2101, 2113, 2153, 2154, 2155, 2156, 2231, 2232, 2271, 2274, 2275, 2314, 2315, 2383, 2386, 2387, 2388, and 2512 by striking "not more than $10,000" each place it appears and inserting "under this title";

(M) in section 1028 by striking "not more than $15,000" and inserting "under this title";

(N) in sections 844, 878, 1728, 1955, 1958, 2321, 2384, and 2385 by striking "not more than $20,000" each place it appears and inserting "under this title";

(O) in sections 32, 114, 753, 1028, 1365, 1512, 1792, and 2118 by striking "not more than $25,000" each place it appears and inserting "under this title";

(P) in section 2118 by striking "not more than $35,000" and inserting "under this title";

(Q) in sections 1365, 1958, and 2118 by striking "not more than $50,000" and inserting "under this title";

(R) in section 951 by striking "not more than $75,000" and inserting "under this title";

(S) in sections 32, 1167, 1365, 2251, and 2344 by striking "not more than $100,000" each place it appears and inserting "under this title";

(T) in section 2251 by striking "not more than $200,000" and inserting "under this title"; and

(U) in sections 1158, 1167, 1512, 1513, 2251, 2318, 2320, and 2701 by striking "not more than $250,000" and inserting "under this title";

(2)(A) in sections 3 and 373 by inserting "(notwithstanding section 3571)" before "fined not more than one-half";

(B) in section 113 by striking "fine of not more than" through the immediately following dollar amount each place it appears and inserting "a fine under this title";

(C) in sections 115, 513, 709, 831, 1366, 1511 and 1959 by striking "of not more than" through the immediately following dollar amount each place it appears and inserting "under this title";

(D) in section 201 by inserting "under this title or" after "be fined"; and by inserting "whichever is greater," before "or imprisoned";

(E) in section 402 by striking "fine" the first place it appears and inserting "a fine under this title";

(F) in section 443 by striking "shall, if a corporation, be fined not more than $50,000, and, if a natural person, be fined not more than $10,000" and inserting "shall be fined under this title";

(G) in sections 643, 644, 645, 647, 648, 649, 650, 651, 652, 653, and 1711 by inserting "under this title or" after "be fined" the first place it appears; and by inserting ", whichever is greater," before "or imprisoned" the first place it appears;

(H) in sections 646 and 654 by inserting "under this title or" after "be fined" the first place it appears; and by inserting "whichever is greater," before "or imprisoned" the first place it appears;

(I) in section 1029 by striking "of not more than" through the immediately following dollar amount each place it appears and inserting "under this title"; and by inserting ", whichever is greater," before "or imprisonment" each place it appears;

(J) in section 2381 by inserting "under this title but" before "not less than $10,000"; and

(K) in section 3146(b)(1)(A)(iv) by striking "fine under this chapter" and inserting "fined under this title".

SEC. 330017. TECHNICAL CORRECTIONS TO TITLE 31 CRIMES.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting "any violation of" after "causing".

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking "section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325" each place it appears and inserting "section 5313(a) or 5325 or any regulation prescribed under any such section"; and

(B) by striking "with respect to such transaction".

(b) AMENDMENT RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of that Act is amended by striking "5314" and inserting "5318". 31 USC 5318.

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the second subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d). 12 USC 93.

SEC. 330018. REPEAL OF SUPERFLUOUS STATUTE OF LIMITATION AND TRANSFER OF CHILD ABUSE STATUTE OF LIMITATION.

(a) IN GENERAL.—Section 3283 of title 18, United States Code, is amended to read as follows:

"§ 3283. Child abuse offenses

"No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.".

(b) CONFORMING REPEAL.—Section 3509(k) of title 18, United States Code, is amended by striking the subsection heading and the first sentence and inserting "STAY OF CIVIL ACTION.—".

(c) TECHNICAL AMENDMENT.—The item in the chapter analysis for chapter 213 of title 18, United States Code, that relates to section 3283 is amended to read as follows:

"3283. Child abuse offenses.".

SEC. 330019. TECHNICAL ERRORS IN SECTION 1956.

(a) TECHNICAL CORRECTIONS.—Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(B)(iii) by inserting a close parenthesis after "1978";

(2) by redesignating the second subsection (g) as subsection (h); and

(3) in subsection (a)(2) by inserting "not more than" before "$500,000".

(b) CROSS REFERENCE CORRECTION.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 9(c) of the Food Stamp Act of 1977" and inserting "section 15 of the Food Stamp Act of 1977".

SEC. 330020. TECHNICAL ERROR.

Section 1957(f)(1) of title 18, United States Code, is amended by striking the comma that follows a comma.

SEC. 330021. CONFORMING SPELLING OF VARIANTS OF "KIDNAP".

Title 18, United States Code, is amended—

(1) by striking "kidnaping" each place it appears and inserting "kidnapping"; and

(2) by striking "kidnaped" each place it appears and inserting "kidnapped".

SEC. 330022. MARGIN ERROR.

Section 2512(2) of title 18, United States Code, is amended by realigning the matter that begins with "to send through" and ends with "electronic communications" so that it is flush to the left margin.

SEC. 330023. TECHNICAL CORRECTIONS RELATING TO SECTION 248 OF TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 13 of title 18, United States Code, is amended—

(1) in the chapter analysis so that the item relating to section 248 reads as follows:

"248. Freedom of access to clinic entrances.";

(2) so that the heading of section 248 reads as follows:

"§ 248. Freedom of access to clinic entrances"; and

(3) in section 248(b) by inserting ", notwithstanding section 3571," before "be not more than $25,000".

18 USC 248 note.

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall take effect on the date of enactment of the Freedom of Access to Clinic Entrances Act of 1994.

SEC. 330024. TECHNICAL AMENDMENTS NECESSITATED BY THE ENACTMENT OF THE DOMESTIC CHEMICAL DIVERSION CONTROL ACT OF 1993.

(a) MISSING CONJUNCTION.—Section 102(39)(A)(iv) of the Controlled Substances Act (21 U.S.C. 802(39)(A)(iv)) is amended by striking the period at the end and inserting "; or".

21 USC 802.

(b) PUNCTUATION AND INDENTATION CORRECTION.—Section 102(34) of the Controlled Substances Act is amended—

(1) by moving subparagraphs (V) and (W) two ems toward the left margin;

(2) in subparagraph (V) by striking "b" and inserting "B"; and

(3) in subparagraph (W) by striking "n" the first place it appears and inserting "N".

(c) ERRONEOUS CROSS REFERENCES.—

21 USC 971.

(1) Section 5(a) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "section 1505(a)" and inserting "section 4".

21 USC 971.

(2) Section 9(b) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "Controlled Substances Act" and inserting "Controlled Substances Import and Export Act".

(d) CORRECTION OF AMENDATORY LANGUAGE.—

21 USC 802.

(1) Section 2(a)(4)(B) of the Domestic Chemical Diversion Control Act of 1993 is amended by inserting "the first place it appears" before the semicolon.

(2) Section 5(b)(3) of the Domestic Chemical Diversion Control Act of 1993 is amended by striking "at the end" and inserting "after paragraph (4)". 21 USC 960.

(e) MISSING CONFORMING AMENDMENT.—Section 304(g) of the Controlled Substances Act is amended by inserting "or chemical" after "such substance" in the last sentence. 21 USC 824.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date that is 120 days after the date of enactment of the Domestic Chemical Diversion Control Act of 1993. 21 USC 802 note.

SEC. 330025. VICTIMS OF CRIME ACT.

(a) INCORRECT SECTION REFERENCE.—Section 1402(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)) is amended by striking "1404(a)" and inserting "1404A".

(b) MISSING TEXT.—Section 1403(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended by inserting after "domestic violence" the following: "for—

"(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

"(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

"(C) funeral expenses attributable to a death resulting from a compensable crime".

Approved September 13, 1994.

LEGISLATIVE HISTORY—H.R. 3355 (H.R. 4092) (S. 1607):

HOUSE REPORTS: Nos. 103-324 (Comm. on the Judiciary), 103-694 and 103-711 (both from Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 139 (1993): Nov. 3, considered and passed House. S. 1607 considered in Senate.
Nov. 4, 5, 8-10, 16-19, H.R. 3355 considered and passed Senate, amended, in lieu of S. 1607.

Vol. 140 (1994): Mar. 23, Apr. 14, 19, 20, H.R. 4092 considered in House.
Apr. 21, considered and passed House. House concurred in Senate amendment to H.R. 3355 with an amendment.
Aug. 19, House recommitted conference report.
Aug. 21, House agreed to conference report.
Aug. 22-25, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 13, Presidential remarks.

Public Law 103-323
103d Congress

An Act

Sept. 21, 1994
[S. 1066]

To restore Federal services to the Pokagon Band of Potawatomi Indians.

Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

25 USC 1300j.

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The Pokagon Band of Potawatomi Indians is the descendant of, and political successor to, the signatories of the Treaty of Greenville 1795 (7 Stat. 49); the Treaty of Grouseland 1805 (7 Stat. 91); the Treaty of Spring Wells 1815 (7 Stat. 131); the Treaty of the Rapids of the Miami of Lake Erie 1817 (7 Stat. 160); the Treaty of St. Mary's 1818 (7 Stat. 185); the Treaty of Chicago 1821 (7 Stat. 218); the Treaty of the Mississinewa on the Wabash 1826 (7 Stat. 295); the Treaty of St. Joseph 1827 (7 Stat. 305); the Treaty of St. Joseph 1828 (7 Stat. 317); the Treaty of Tippecanoe River 1832 (7 Stat. 399); and the Treaty of Chicago 1833 (7 Stat. 431).

(2) In the Treaty of Chicago 1833, the Pokagon Band of Potawatomi Indians was the only band that negotiated a right to remain in Michigan. The other Potawatomi bands relinquished all lands in Michigan and were required to move to Kansas or Iowa.

(3) Two of the Potawatomi bands later returned to the Great Lakes area, the Forest County Potawatomi of Wisconsin and the Hannahville Indian Community of Michigan.

(4) The Hannahville Indian Community of Michigan, the Forest County Potawatomi Community of Wisconsin, the Prairie Band of Potawatomi Indians of Kansas, and the Citizen Band Potawatomi Indian Tribe of Oklahoma, whose members are also descendants of the signatories to one or more of the aforementioned treaties, have been recognized by the Federal Government as Indian tribes eligible to receive services from the Secretary of the Interior.

(5) Beginning in 1935, the Pokagon Band of Potawatomi Indians petitioned for reorganization and assistance pursuant to the Act of June 18, 1934 (25 U.S.C. 461 et seq., commonly referred to as the "Indian Reorganization Act"). Because of the financial condition of the Federal Government during the

Great Depression it relied upon the State of Michigan to provide services to the Pokagon Band. Other Potawatomi bands, including the Forest County Potawatomi and the Hannahville Indian Community were provided services pursuant to the Indian Reorganization Act.

(6) Agents of the Federal Government in 1939 made an administrative decision not to provide services or extend the benefits of the Indian Reorganization Act to any Indian tribes in Michigan's lower peninsula.

(7) Tribes elsewhere, including the Hannahville Indian Community in Michigan's upper peninsula, received services from the Federal Government and were extended the benefits of the Indian Reorganization Act.

(8) The Pokagon Band of Potawatomi Indians consists of at least 1,500 members who continue to reside close to their ancestral homeland in the St. Joseph River Valley in southwestern Michigan and northern Indiana.

(9) In spite of the denial of the right to organize under the Indian Reorganization Act, the Pokagon Band has continued to carry out its governmental functions through a Business Committee and Tribal Council from treaty times until today.

(10) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Band from 1795 until the present.

SEC. 2. FEDERAL RECOGNITION. 25 USC 1300j-1.

Federal recognition of the Pokagon Band of Potawatomi Indians is hereby affirmed. Except as otherwise provided in this Act, all Federal laws of general application to Indians and Indian tribes, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), shall apply with respect to the Band and its members.

SEC. 3. SERVICES. 25 USC 1300j-2.

Notwithstanding any other provision of law, the Band and its members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes without regard to the existence of a reservation for the Band or the location of the residence of any member on or near an Indian reservation.

SEC. 4. TRIBAL MEMBERSHIP. 25 USC 1300j-3.

Not later than 18 months after the date of the enactment of this Act, the Band shall submit to the Secretary membership rolls consisting of all individuals eligible for membership in such Band. The qualifications for inclusion on the membership rolls of the Band shall be determined by the membership clauses in the Band's governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

Federal Register, publication. Records.

25 USC 1300j-4.

SEC. 5. CONSTITUTION AND GOVERNING BODY.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot and in accordance with the provisions of section 16 of the Act of June 18, 1934 (25 U.S.C. 476), an election to adopt a constitution and bylaws for the Band.

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as a new constitution is adopted under paragraph (1), the governing documents in effect on the date of enactment of this Act shall be the interim governing documents for the Band.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Band adopts a constitution and bylaws pursuant to subsection (a), the Secretary shall conduct elections by secret ballot for the purpose of electing officials for the Band as provided in the Band's constitution. The election shall be conducted according to the procedures described in subsection (a), except to the extent that such procedures conflict with the Band's constitution.

(2) INTERIM GOVERNMENT.—Until such time as the Band elects new officials pursuant to paragraph (1), the Band's governing body shall be the governing body in place on the date of the enactment of this Act, or any new governing body selected under the election procedures specified in the interim governing documents of the Band.

Real property.
25 USC 1300j-5.

SEC. 6. TRIBAL LANDS.

The Band's tribal land shall consist of all real property, including the land upon which the Tribal Hall is situated, now or hereafter held by, or in trust for, the Band. The Secretary shall acquire real property for the Band. Any such real property shall be taken by the Secretary in the name of the United States in trust for the benefit of the Band and shall become part of the Band's reservation.

25 USC 1300j-6.

SEC. 7. SERVICE AREA.

The Band's service area shall consist of the Michigan counties of Allegan, Berrien, Van Buren, and Cass and the Indiana counties of La Porte, St. Joseph, Elkhart, Starke, Marshall, and Kosciusko.

25 USC 1300j-7.

SEC. 8. JURISDICTION.

The Band shall have jurisdiction to the full extent allowed by law over all lands taken into trust for the benefit of the Band by the Secretary. The Band shall exercise jurisdiction over all its members who reside within the service area in matters pursuant to the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), as if the members were residing upon a reservation as defined in that Act.

SEC. 9. DEFINITIONS.

25 USC 1300j-8.

For purposes of this Act—

(1) the term "Band" means the Pokagon Band of Potawatomi Indians;

(2) the term "member" means those individuals eligible for enrollment in the Band pursuant to section 4; and

(3) the term "Secretary" means the Secretary of the Interior.

Approved September 21, 1994.

LEGISLATIVE HISTORY—S. 1066:

HOUSE REPORTS: No. 103-620 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-266 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 10, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 103-324
103d Congress

An Act

Sept. 21, 1994
[S. 1357]

To reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act. Michigan. 25 USC 1300k note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act".

25 USC 1300k.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consists of at least 1,000 eligible members who continue to reside close to their ancestral homeland as recognized in the Little Traverse Reservation in the 1836 Treaty of Washington and 1855 Treaty of Detroit, which area is now known as Emmet and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland as recognized in the Manistee Reservation in the 1836 Treaty of Washington and reservation in the 1855 Treaty of Detroit, which area is now known as Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, attested to the continued social and political existence of the Bands and concluded that the Bands were eligible for reorganization. Due to a lack of Federal appropriations to implement the provi-

sions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out many of their governmental functions through the Northern Michigan Ottawa Association, while retaining individual Band control over local decisions.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

SEC. 3. DEFINITIONS. 25 USC 1300k-1.

For purposes of this Act—

(1) the term "Bands" means the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term "member" means those individuals enrolled in the Bands pursuant to section 7; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION. 25 USC 1300k-2.

(a) FEDERAL RECOGNITION.—Federal recognition of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians is hereby reaffirmed. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), which are not inconsistent with any specific provision of this Act shall be applicable to the Bands and their members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—The Bands and their members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians, and notwithstanding any other provision of law, such services and benefits shall be provided after the date of the enactment of this Act to the Bands and their members without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) SERVICE AREAS.—

(A) LITTLE TRAVERSE BAY BANDS.—For purposes of the delivery of Federal services to the enrolled members of the Little Traverse Bay Bands of Odawa Indians, the area of the State of Michigan within 70 miles of the boundaries of the reservations for the Little Traverse Bay Bands as

set out in Article I, paragraphs "third" and "fourth" of the Treaty of 1855, 11 Stat. 621, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named service area unless prohibited by law or program regulations.

(B) LITTLE RIVER BAND.—For purposes of the delivery of Federal services to enrolled members of the Little River Band of Ottawa Indians, the Counties of Manistee, Mason, Wexford and Lake, in the State of Michigan, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named Counties unless prohibited by law or program regulations.

25 USC 1300k-3.

SEC. 5. REAFFIRMATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Bands, and their members thereof, which may have been abrogated or diminished before the date of the enactment of this Act are hereby reaffirmed.

(b) EXISTING RIGHTS OF TRIBE.—Nothing in this Act shall be construed to diminish any right or privilege of the Bands, or of their members, that existed prior to the date of enactment of this Act. Except as otherwise specifically provided in any other provision of this Act, nothing in this Act shall be construed as altering or affecting any legal or equitable claim the Bands might have to enforce any right or privilege reserved by or granted to the Bands which were wrongfully denied to or taken from the Bands prior to the enactment of this Act.

Real property.
25 USC 1300k-4.

SEC. 6. TRANSFER OF LAND FOR THE BENEFIT OF THE BANDS.

(a) LITTLE TRAVERSE BAY BANDS.—The Secretary shall acquire real property in Emmet and Charlevoix Counties for the benefit of the Little Traverse Bay Bands. The Secretary shall also accept any real property located in those Counties for the benefit of the Little Traverse Bay Bands if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(b) LITTLE RIVER BAND.—The Secretary shall acquire real property in Manistee and Mason Counties for the benefit of the Little River Band. The Secretary shall also accept any real property located in those Counties for the benefit of the Little River Band if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(c) ADDITIONAL LANDS.—The Secretary may accept any additional acreage in each of the Bands' service area specified by section 4(b) of this Act pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act").

(d) RESERVATION.—Subject to the conditions imposed by this section, the land acquired by or transferred to the Secretary under or pursuant to this section shall be taken in the name of the United States in trust for the Bands and shall be a part of the respective Bands' reservation.

SEC. 7. MEMBERSHIP. 25 USC 1300k-5.

Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals currently enrolled for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

Federal Register, publication. Records.

SEC. 8. CONSTITUTION AND GOVERNING BODY. 25 USC 1300k-6.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purposes of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; commonly referred to as the "Indian Reorganization Act").

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Bands.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a), the Bands shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respective governing constitutions. The elections shall be conducted according to the procedures described in the Bands' constitutions and bylaws.

(2) INTERIM GOVERNMENTS.—Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing bodies shall be those governing bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.

Approved September 21, 1994.

LEGISLATIVE HISTORY—S 1357:

HOUSE REPORTS: No. 103-621 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-260 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 25, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 103-325
103d Congress

An Act

Sept. 23, 1994
[H.R. 3474]

To reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Riegle Community Development and Regulatory Improvement Act of 1994. 12 USC 4701 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Riegle Community Development and Regulatory Improvement Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Establishment of National Fund for Community Development Banking.
Sec. 105. Applications for assistance.
Sec. 106. Community partnerships.
Sec. 107. Selection of institutions.
Sec 108. Assistance provided by the Fund.
Sec. 109. Training.
Sec. 110. Encouragement of private entities.
Sec. 111. Collection and compilation of information.
Sec. 112. Investment of receipts and proceeds.
Sec. 113. Capitalization assistance to enhance liquidity.
Sec. 114. Incentives for depository institution participation.
Sec. 115. Recordkeeping.
Sec. 116. Special provisions with respect to institutions that are supervised by Federal banking agencies.
Sec. 117. Studies and reports; examination and audit.
Sec. 118. Inspector General.
Sec. 119. Enforcement.
Sec. 120. Community Development Revolving Loan Fund for credit unions.
Sec. 121. Authorization of appropriations.

Subtitle B—Home Ownership and Equity Protection

Sec. 151. Short title.
Sec. 152. Consumer protections for certain mortgages.
Sec. 153. Civil liability.
Sec. 154. Reverse mortgage disclosure.
Sec. 155. Regulations.
Sec. 156. Applicability.
Sec. 157. Federal Reserve study.
Sec. 158. Hearings on home equity lending.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

Sec. 201. Short title.

Sec. 202. Small business related security.
Sec. 203. Applicability of margin requirements.
Sec. 204. Borrowing in the course of business.
Sec. 205. Small business related securities as collateral.
Sec. 206. Investment by depository institutions.
Sec. 207. Preemption of State law.
Sec. 208. Insured depository institution capital requirements for transfers of small business obligations.
Sec. 209. Joint study on the impact of additional securities based on pooled obligations.
Sec. 210 Consistent use of financial terminology.

Subtitle B—Small Business Capital Enhancement

Sec. 251. Findings and purposes.
Sec. 252. Definitions.
Sec. 253. Approving States for participation.
Sec. 254. Participation agreements.
Sec 255. Terms of participation agreements
Sec. 256. Reports.
Sec. 257. Reimbursement by the Fund.
Sec. 258. Reimbursement to the Fund.
Sec. 259. Regulations.
Sec. 260. Authorization of appropriations.
Sec. 261. Effective date.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

Sec. 301. Incorporated definitions.
Sec. 302. Administrative consideration of burden with new regulations.
Sec. 303. Streamlining of regulatory requirements.
Sec. 304. Elimination of duplicative filings.
Sec. 305. Coordinated and unified examinations.
Sec. 306. Eighteen-month examination rule for certain small institutions.
Sec. 307. Call report simplification.
Sec. 308. Repeal of publication requirements.
Sec. 309. Regulatory appeals process, ombudsman, and alternative dispute resolution.
Sec. 310. Electronic filing of currency transaction reports.
Sec. 311. Bank Secrecy Act publication requirements.
Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.
Sec. 313. Flexibility in choosing boards of directors.
Sec. 314. Holding company audit requirements.
Sec. 315. State regulation of real estate appraisals.
Sec. 316. Acceleration of effective date for interaffiliate transactions.
Sec. 317. Collateralization of public deposits.
Sec. 318. Modification of regulatory provisions.
Sec. 319. Expedited procedures.
Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.
Sec. 321. Reduction of post-approval waiting periods for certain acquisitions and mergers.
Sec. 322. Bankers' banks.
Sec. 323. Bank Service Corporation Act amendment.
Sec. 324. Merger transaction reports.
Sec. 325. Credit card accounts receivable sales.
Sec. 326. Limiting potential liability on foreign accounts
Sec. 327. GAO reports.
Sec. 328. Study and report on capital standards and their impact on the economy.
Sec. 329. Study on the impact of the payment of interest on reserves.
Sec. 330. Study and report on the consumer credit system.
Sec. 331. Clarification of provisions relating to administrative autonomy.
Sec. 332. Exemption for business accounts.
Sec. 333. Study on check-related fraud.
Sec. 334. Insider lending.
Sec. 335. Revisions of standards.
Sec. 336. Alternative rules for radio advertising.
Sec. 337. Deposit broker registration.
Sec. 338. Amendments to the Depository Institution Management Interlocks Act.
Sec. 339. Adverse information about consumers
Sec. 340. Simplified disclosure for existing depositors.
Sec. 341. Feasibility study of data bank.

Sec. 342. Timely completion of CRA review.
Sec. 343. Time limit on agency consideration of completed applications.
Sec. 344. Waiver of right of rescission for certain refinancing transactions.
Sec. 345. Clarification of RESPA disclosure requirements.
Sec. 346. Notice procedures for bank holding companies to seek approval to engage in certain activities.
Sec. 347. Commercial mortgage related securities.
Sec 348 Clarifying amendment relating to data collection.
Sec. 349. Guidelines for examinations.
Sec. 350. Revising regulatory requirements for transfers of all types of assets with recourse.

TITLE IV—MONEY LAUNDERING

Sec. 401. Short title.
Sec. 402. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.
Sec. 403. Single designee for reporting of suspicious transactions.
Sec. 404. Improvement of identification of money laundering schemes.
Sec 405 Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.
Sec. 406. Imposition of civil money penalties by appropriate Federal banking agencies.
Sec. 407. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.
Sec. 408. Registration of money transmitting businesses to promote effective law enforcement.
Sec. 409. Uniform Federal regulation of casinos.
Sec. 410. Authority to grant exemptions to States with effective regulation and enforcement.
Sec. 411. Criminal and civil penalties for structuring domestic and international transactions.
Sec. 412. GAO study of cashiers' checks.
Sec. 413. Technical amendments and corrections.

TITLE V—NATIONAL FLOOD INSURANCE REFORM

Sec. 501. Short title.

Subtitle A—Definitions

Sec. 511. Flood Disaster Protection Act of 1973.
Sec. 512. National Flood Insurance Act of 1968.

Subtitle B—Compliance and Increased Participation

Sec. 521. Nonwaiver of flood purchase requirement for recipients of Federal disaster assistance.
Sec. 522 Expanded flood insurance purchase requirements.
Sec. 523. Escrow of flood insurance payments.
Sec. 524. Placement of flood insurance by lenders.
Sec 525. Penalties for failure to require flood insurance or notify.
Sec. 526. Fees for determining applicability of flood insurance purchase requirements.
Sec. 527. Notice requirements.
Sec. 528. Standard hazard determination forms.
Sec. 529. Examinations regarding compliance.
Sec. 530. Financial Institutions Examination Council.
Sec. 531. Clerical amendment.

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

Sec. 541. Community rating system and incentives for community floodplain management.
Sec. 542. Funding.

Subtitle D—Mitigation of Flood Risks

Sec. 551. Repeal of flooded property purchase and loan program.
Sec. 552. Termination of erosion-threatened structures program.
Sec. 553. Mitigation assistance program.
Sec. 554. Establishment of National Flood Mitigation Fund.
Sec 555. Additional coverage for compliance with land use and control measures.

Subtitle E—Task Forces

Sec. 561. Flood Insurance Interagency Task Force.

Sec. 562. Task Force on Natural and Beneficial Functions of the Floodplain.

Subtitle F—Miscellaneous Provisions

Sec. 571. Extension of flood insurance program.
Sec. 572. Limitation on premium increases.
Sec. 573. Maximum flood insurance coverage amounts.
Sec. 574. Flood insurance program arrangements with private insurance entities.
Sec. 575. Updating of flood maps.
Sec. 576. Technical Mapping Advisory Council.
Sec. 577. Evaluation of erosion hazards.
Sec. 578. Study of economic effects of charging actuarially based premium rates for pre-FIRM structures.
Sec. 579. Effective dates of policies.
Sec. 580. Agricultural structures.
Sec. 581. Implementation review by Director.
Sec. 582. Prohibited flood disaster assistance.
Sec. 583. Regulations.
Sec. 584. Relation to State and local laws.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Oversight hearings.
Sec. 602. Technical amendments to the Federal banking laws.

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

Community Development Banking and Financial Institutions Act of 1994.
12 USC 4701 note.

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Community Development Banking and Financial Institutions Act of 1994".

SEC. 102. FINDINGS AND PURPOSES. 12 USC 4701.

(a) FINDINGS.—The Congress finds that—

(1) many of the Nation's urban, rural, and Native American communities face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other opportunities;

(2) the restoration and maintenance of the economies of these communities will require coordinated development strategies, intensive supportive services, and increased access to equity investments and loans for development activities, including investment in businesses, housing, commercial real estate, human development, and other activities that promote the long-term economic and social viability of the community; and

(3) community development financial institutions have proven their ability to identify and respond to community needs for equity investments, loans, and development services.

(b) PURPOSE.—The purpose of this subtitle is to create a Community Development Financial Institutions Fund to promote economic revitalization and community development through investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.

SEC. 103. DEFINITIONS. 12 USC 4702.

For purposes of this subtitle, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Fund appointed under section 104(b).

(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and also includes the National Credit Union Administration Board with respect to insured credit unions.

(3) AFFILIATE.—The term "affiliate" has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

(4) BOARD.—The term "Board" means the Community Development Advisory Board established under section 104(d).

(5) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term "community development financial institution" means a person (other than an individual) that—

(i) has a primary mission of promoting community development;

(ii) serves an investment area or targeted population;

(iii) provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate;

(iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and

(v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

(B) CONDITIONS FOR QUALIFICATION OF HOLDING COMPANIES.—

(i) CONSOLIDATED TREATMENT.—A depository institution holding company may qualify as a community development financial institution only if the holding company and the subsidiaries and affiliates of the holding company collectively satisfy the requirements of subparagraph (A).

(ii) EXCLUSION OF SUBSIDIARY OR AFFILIATE FOR FAILURE TO MEET CONSOLIDATED TREATMENT RULE.—No subsidiary or affiliate of a depository institution holding company may qualify as a community development financial institution if the holding company and the subsidiaries and affiliates of the holding company do not collectively meet the requirements of subparagraph (A).

(C) CONDITIONS FOR SUBSIDIARIES.—No subsidiary of an insured depository institution may qualify as a community development financial institution if the insured depository institution and its subsidiaries do not collectively meet the requirements of subparagraph (A).

(6) COMMUNITY PARTNER.—The term "community partner" means a person (other than an individual) that provides loans, equity investments, or development services, including a depository institution holding company, an insured depository institution, an insured credit union, a nonprofit organization, a State or local government agency, a quasi-governmental entity, and

an investment company authorized to operate pursuant to the Small Business Investment Act of 1958.

(7) COMMUNITY PARTNERSHIP.—The term "community partnership" means an agreement between a community development financial institution and a community partner to provide development services, loans, or equity investments, to an investment area or targeted population.

(8) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(9) DEVELOPMENT SERVICES.—The term "development services" means activities that promote community development and are integral to lending or investment activities, including—

(A) business planning;

(B) financial and credit counseling; and

(C) marketing and management assistance.

(10) FUND.—The term "Fund" means the Community Development Financial Institutions Fund established under section 104(a).

(11) INDIAN RESERVATION.—The term "Indian reservation" has the same meaning as in section 4(10) of the Indian Child Welfare Act of 1978, and shall include land held by incorporated Native groups, regional corporations, and village corporations, as defined in or established pursuant to the Alaska Native Claims Settlement Act, public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

(12) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) INSURED COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term "insured community development financial institution" means any community development financial institution that is an insured depository institution or an insured credit union.

(14) INSURED CREDIT UNION.—The term "insured credit union" has the same meaning as in section 101(7) of the Federal Credit Union Act.

(15) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(16) INVESTMENT AREA.—The term "investment area" means a geographic area (or areas) including an Indian reservation that—

(A)(i) meets objective criteria of economic distress developed by the Fund, which may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, rural population outmigration, lag in population growth, and extent of blight and disinvestment; and

(ii) has significant unmet needs for loans or equity investments; or

(B) encompasses or is located in an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986.

(17) LOW-INCOME.—The term "low-income" means having an income, adjusted for family size, of not more than—

(A) for metropolitan areas, 80 percent of the area median income; and

(B) for nonmetropolitan areas, the greater of—

(i) 80 percent of the area median income; or

(ii) 80 percent of the statewide nonmetropolitan area median income.

(18) STATE.—The term "State" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(19) SUBSIDIARY.—The term "subsidiary" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that a community development financial institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation.

(20) TARGETED POPULATION.—The term "targeted population" means individuals, or an identifiable group of individuals, including an Indian tribe, who—

(A) are low-income persons; or

(B) otherwise lack adequate access to loans or equity investments.

(21) TRAINING PROGRAM.—The term "training program" means the training program operated by the Fund under section 109.

12 USC 4703.

SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COMMUNITY DEVELOPMENT BANKING.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a corporation to be known as the Community Development Financial Institutions Fund that shall have the duties and responsibilities specified by this subtitle and subtitle B of title II. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

District of Columbia.

(2) WHOLLY OWNED GOVERNMENT CORPORATION.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

(b) MANAGEMENT OF FUND.—

(1) APPOINTMENT OF ADMINISTRATOR.—The management of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator.

(2) CHIEF FINANCIAL OFFICER.—The Administrator shall appoint a chief financial officer, who shall have the authority and functions of an agency Chief Financial Officer under section

902 of title 31, United States Code. In the event of a vacancy in the position of the Administrator or during the absence or disability of the Administrator, the chief financial officer shall perform the duties of the position of Administrator.

(3) OTHER OFFICERS AND EMPLOYEES.—The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

(4) EXPEDITED HIRING.—During the 2-year period beginning on the date of enactment of this Act, the Administrator may—

(A) appoint and terminate the individuals referred to in paragraphs (2) and (3) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (3) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) GENERAL POWERS.—In carrying out the functions of the Fund, the Administrator—

(1) shall have all necessary and proper authority to carry out this subtitle and subtitle B of title II;

(2) shall have the power to adopt, alter, and use a corporate seal for the Fund, which shall be judicially noticed;

(3) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which business of the Fund may be conducted and such rules and regulations as may be necessary or appropriate to implement this subtitle and subtitle B of title II;

(4) may enter into, perform, and enforce such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this subtitle and subtitle B of title II;

(5) may determine the character of and necessity for expenditures of the Fund and the manner in which they shall be incurred, allowed, and paid;

(6) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(7) may execute all instruments necessary or appropriate in the exercise of any of the functions of the Fund under this subtitle and subtitle B of title II and may delegate to the officers of the Fund such of the powers and responsibilities of the Administrator as the Administrator deems necessary or appropriate for the administration of the Fund.

(d) ADVISORY BOARD.—

(1) ESTABLISHMENT.—There is established an advisory board to the Fund to be known as the Community Development Advisory Board, which shall be operated in accordance with the provisions of the Federal Advisory Committee Act, except that section 14 of that Act does not apply to the Board.

(2) MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) the Secretary of Agriculture or his or her designee;

(B) the Secretary of Commerce or his or her designee;

(C) the Secretary of Housing and Urban Development or his or her designee;

(D) the Secretary of the Interior or his or her designee;

(E) the Secretary of the Treasury or his or her designee;

(F) the Administrator of the Small Business Administration or his or her designee; and

(G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and gender diversity, including—

(i) 2 individuals who are officers of existing community development financial institutions;

(ii) 2 individuals who are officers of insured depository institutions;

(iii) 2 individuals who are officers of national consumer or public interest organizations;

(iv) 2 individuals who have expertise in community development; and

(v) 1 individual who has personal experience and specialized expertise in the unique lending and community development issues confronted by Indian tribes on Indian reservations.

(3) CHAIRPERSON.—The members of the Board specified in paragraph (2)(G) shall select, by majority vote, a chairperson of the Board, who shall serve for a term of 2 years.

(4) BOARD FUNCTION.—It shall be the function of the Board to advise the Administrator on the policies of the Fund regarding activities under this subtitle. The Board shall not advise the Administrator on the granting or denial of any particular application.

(5) TERMS OF PRIVATE MEMBERS.—

(A) IN GENERAL.—Each member of the Board appointed under paragraph (2)(G) shall serve for a term of 4 years.

(B) VACANCIES.—Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Members may continue to serve following the expiration of their terms until a successor is appointed.

(6) MEETINGS.—The Board shall meet at least annually and at such other times as requested by the Administrator or the chairperson. A majority of the members of the Board shall constitute a quorum.

(7) REIMBURSEMENT FOR EXPENSES.—The members of the Board may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

(8) COSTS AND EXPENSES.—The Fund shall provide to the Board all necessary staff and facilities.

(e) CONFORMING AMENDMENTS.—Section 9101(3) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (M) as subparagraphs (C) through (N), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) the Community Development Financial Institutions Fund;".

(f) GOVERNMENT CORPORATION CONTROL ACT EXEMPTION.—Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 108.

(g) LIMITATION OF FUND AND FEDERAL LIABILITY.—The liability of the Fund and the United States Government arising out of any investment in a community development financial institution in accordance with this subtitle shall be limited to the amount of the investment. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory, or the District of Columbia. Nothing in this subsection shall affect the application of any Federal tax law.

(h) PROHIBITION ON ISSUANCE OF SECURITIES.—The Fund may not issue stock, bonds, debentures, notes, or other securities.

(i) COMPENSATION.—Title 5, United States Code, is amended in section 5313, by adding at the end the following:

"Administrator of the Community Development Financial Institutions Fund.".

(j) ASSISTED INSTITUTIONS NOT UNITED STATES INSTRUMENTALITIES.—A community development financial institution or other organization that receives assistance pursuant to this subtitle shall not be deemed to be an agency, department, or instrumentality of the United States.

(k) TRANSITION PERIOD.—

(1) IN GENERAL.—During the transition period, the Secretary of the Treasury may—

(A) assist in the establishment of the administrative functions of the Fund listed in paragraph (2); and

(B) hire not more than 6 individuals to serve as employees of the Fund during the transition period.

(2) CONTINUED SERVICE.—Individuals hired in accordance with paragraph (1)(B) may continue to serve as employees of the Fund after the transition period.

(3) ADMINISTRATIVE FUNCTIONS.—The administrative functions referred to in paragraph (1)(A) shall be limited to—

(A) establishing accounting, information, and record-keeping systems for the Fund; and

(B) procuring office space, equipment, and supplies.

(4) EXPEDITED HIRING.—During the transition period, the Secretary of the Treasury may—

(A) appoint and terminate the individuals referred to in paragraph (1)(B) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (1)(B) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CERTAIN EMPLOYEES.—During the transition period, employees of the Department of the Treasury may only comprise less than one-half of the total number of individuals hired in accordance with paragraph (1)(B).

(6) TRANSITION EXPENSES.—Amounts previously appropriated to the Department of the Treasury may be used to pay obligations and expenses of the Fund incurred under this section, and such amounts may be reimbursed by the Fund to the Department of the Treasury from amounts appropriated to the Fund for fiscal year 1995.

(7) DEFINITION.—For purposes of this subsection, the term "transition period" means the period beginning on the date of enactment of this Act and ending on the date on which the Administrator is appointed.

12 USC 4704.

SEC. 105. APPLICATIONS FOR ASSISTANCE.

(a) FORM AND PROCEDURES.—An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

(b) MINIMUM REQUIREMENTS.—Except as provided in sections 106 and 113, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant will be properly managed and will have the capacity to operate as a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area or targeted population; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant's plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subtitle, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subtitle and the assistance agreement; and

(B) will expand its operations into a new investment area or serve a new targeted population, offer more products or services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or targeted populations, to demonstrate that the applicant—

(A) has a record of success in serving investment areas or targeted populations; and

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

(c) PREAPPLICATION OUTREACH PROGRAM.—The Fund shall provide an outreach program to identify and provide information to potential applicants and may provide technical assistance to potential applicants, but shall not assist in the preparation of any application.

SEC. 106. COMMUNITY PARTNERSHIPS. 12 USC 4705.

(a) APPLICATION.—An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

(b) APPLICATION REQUIREMENTS.—The Fund shall require a community partnership application—

(1) to meet the minimum requirements established for community development financial institutions under section 105(b), except that the criteria specified in paragraphs (1) and (2)(A) of section 105(b) shall not apply to the community partner;

(2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

(c) SELECTION CRITERIA.—The Fund shall consider a community partnership application based on—

(1) the community development financial institution coapplicant—

(A) meeting the minimum selection criteria described in section 105; and

(B) satisfying the selection criteria of section 107;

(2) the extent to which the community partner coapplicant will participate in carrying out the partnership;

(3) the extent to which the community partnership will enhance the likelihood of success of the community development financial institution coapplicant's strategic plan; and

(4) the extent to which service to the investment area or targeted population will be better performed by a partnership as opposed to the individual community development financial institution coapplicant.

(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—Assistance provided upon approval of an application under this section shall be distributed only to the community development financial institution coapplicant, and shall not be used to fund any activities carried out directly by the community partner or an affiliate or subsidiary thereof.

(e) OTHER REQUIREMENTS AND LIMITATIONS.—All other requirements and limitations imposed by this subtitle on a community development financial institution assisted under this subtitle shall apply (in the manner that the Fund determines to be appropriate) to assistance provided to carry out community partnerships. The Fund may establish additional guidelines and restrictions on the use of Federal funds to carry out community partnerships.

12 USC 4706.

SEC. 107. SELECTION OF INSTITUTIONS.

(a) SELECTION CRITERIA.—Except as provided in section 113, the Fund shall, in its sole discretion, select community development financial institution applicants meeting the requirements of section 105 for assistance based on—

(1) the likelihood of success of the applicant in meeting the goals of its comprehensive strategic plan;

(2) the experience and background of the management team;

(3) the extent of need for equity investments, loans, and development services within the investment areas or targeted populations;

(4) the extent of economic distress within the investment areas or the extent of need within the targeted populations, as those factors are measured by objective criteria;

(5) the extent to which the applicant will concentrate its activities on serving its investment areas or targeted populations;

(6) the amount of firm commitments to meet or exceed the matching requirements and the likely success of the plan for raising the balance of the match;

(7) the extent to which the matching funds are derived from private sources;

(8) the extent to which the proposed activities will expand economic opportunities within the investment areas or the targeted populations;

(9) whether the applicant is, or will become, an insured community development financial institution;

(10) the extent of support from the investment areas or targeted populations;

(11) the extent to which the applicant is, or will be, community-owned or community-governed;

(12) the extent to which the applicant will increase its resources through coordination with other institutions or participation in a secondary market;

(13) in the case of an applicant with a prior history of serving investment areas or targeted populations, the extent of success in serving them; and

(14) other factors deemed to be appropriate by the Fund.

(b) GEOGRAPHIC DIVERSITY.—In selecting applicants for assistance, the Fund shall seek to fund a geographically diverse group of applicants, which shall include applicants from metropolitan, nonmetropolitan, and rural areas.

12 USC 4707.

SEC. 108. ASSISTANCE PROVIDED BY THE FUND.

(a) FORMS OF ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide—

(A) financial assistance through equity investments, deposits, credit union shares, loans, and grants; and

(B) technical assistance—

(i) directly;

(ii) through grants; or

(iii) by contracting with organizations that possess expertise in community development finance, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(2) EQUITY INVESTMENTS.—

(A) LIMITATION ON EQUITY INVESTMENTS.—The Fund shall not own more than 50 percent of the equity of a community development financial institution and may not control the operations of such institution. The Fund may hold only transferable, nonvoting equity investments in the institution. Such equity investments may provide for convertibility to voting stock upon transfer by the Fund.

(B) FUND DEEMED NOT TO CONTROL.—Notwithstanding any other provision of law, the Fund shall not be deemed to control a community development financial institution by reason of any assistance provided under this subtitle for the purpose of any other applicable law to the extent that the Fund complies with subparagraph (A). Nothing in this subparagraph shall affect the application of any Federal tax law.

(3) DEPOSITS.—Deposits made pursuant to this section in an insured community development financial institution shall not be subject to any requirement for collateral or security.

(4) LIMITATIONS ON OBLIGATIONS.—Direct loan obligations may be incurred by the Fund only to the extent that appropriations of budget authority to cover their cost, as defined in section 502(5) of the Congressional Budget Act of 1974, are made in advance.

(b) USES OF FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Financial assistance made available under this subtitle may be used by assisted community development financial institutions to serve investment areas or targeted populations by developing or supporting—

(A) commercial facilities that promote revitalization, community stability, or job creation or retention;

(B) businesses that—

(i) provide jobs for low-income people or are owned by low-income people; or

(ii) enhance the availability of products and services to low-income people;

(C) community facilities;

(D) the provision of basic financial services;

(E) housing that is principally affordable to low-income people, except that assistance used to facilitate homeownership shall only be used for services and lending products—

(i) that serve low-income people; and

(ii) that—

(I) are not provided by other lenders in the area; or

(II) complement the services and lending products provided by other lenders that serve the investment area or targeted population; and

(F) other businesses and activities deemed appropriate by the Fund.

(2) LIMITATIONS.—No assistance made available under this subtitle may be expended by a community development financial institution (or an organization receiving assistance under section 113) to pay any person to influence or attempt to influence any agency, elected official, officer, or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement (as such terms are defined in section 1352 of title 31, United States Code).

(c) USES OF TECHNICAL ASSISTANCE.—

(1) TYPES OF ACTIVITIES.—Technical assistance may be used for activities that enhance the capacity of a community development financial institution, such as training of management and other personnel and development of programs and investment or loan products.

(2) AVAILABILITY OF TECHNICAL ASSISTANCE.—The Fund may provide technical assistance, regardless of whether or not the recipient also receives financial assistance under this section.

(d) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Fund may provide not more than $5,000,000 of assistance, in the aggregate, during any 3-year period to any 1 community development financial institution and its subsidiaries and affiliates.

(2) EXCEPTION.—The Fund may provide not more than $3,750,000 of assistance in addition to the amount specified in paragraph (1) during the same 3-year period to an existing community development financial institution that proposes to establish a subsidiary or affiliate for the purpose of serving an investment area or targeted population outside of any State and outside of any metropolitan area presently served by the institution, if—

(A) the subsidiary or affiliate—

(i) would be a community development financial institution; and

(ii) independently—

(I) meets the selection criteria described in section 105; and

(II) satisfies the selection criteria of section 107; and

(B) no other application for assistance to serve the investment area or targeted population has been submitted to the Administrator within a reasonable period of time preceding the date of receipt of the application at issue.

(3) TIMING OF ASSISTANCE.—Assistance may be provided as described in paragraphs (1) and (2) in a lump sum or over a period of time, as determined by the Fund.

(e) MATCHING REQUIREMENTS.—

(1) IN GENERAL.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the basis of not less than one dollar for each dollar provided by the Fund. Such matching funds shall be at least comparable in form and value to assistance provided by the Fund. The Fund shall provide no assistance (other than technical assistance) until a community

development financial institution has secured firm commitments for the matching funds required.

(2) EXCEPTION.—In the case of an applicant with severe constraints on available sources of matching funds, the Fund may permit an applicant to comply with the matching requirements of paragraph (1) by—

(A) reducing such matching requirement by 50 percent; or

(B) permitting an applicant to provide matching funds in a form to be determined at the discretion of the Fund, if such applicant—

(i) has total assets of less than $100,000;

(ii) serves nonmetropolitan or rural areas; and

(iii) is not requesting more than $25,000 in assistance.

(3) LIMITATION.—Not more than 25 percent of the total funds disbursed in any fiscal year by the Fund may be matched as authorized under paragraph (2).

(4) CONSTRUCTION OF "FEDERAL GOVERNMENT FUNDS".—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal Government funds.

(f) TERMS AND CONDITIONS.—

(1) SOUNDNESS OF UNREGULATED INSTITUTIONS.—The Fund shall—

(A) ensure, to the maximum extent practicable, that each community development financial institution (other than an insured community development financial institution or depository institution holding company) assisted under this subtitle is financially and managerially sound and maintains appropriate internal controls;

(B) require such institution to submit, not less than once during each 18-month period, a statement of financial condition audited by an independent certified public accountant as part of the report required by section 115(e)(1); and

(C) require that all assistance granted under this section is used by the community development financial institution or community development partnership in a manner consistent with the purposes of this subtitle.

(2) ASSISTANCE AGREEMENT.—

(A) IN GENERAL.—Before providing any assistance under this subtitle, the Fund and each community development financial institution to be assisted shall enter into an agreement that requires the institution to comply with performance goals and abide by other terms and conditions pertinent to assistance received under this subtitle.

(B) PERFORMANCE GOALS.—Performance goals shall be negotiated between the Fund and each community development financial institution receiving assistance based upon the strategic plan submitted pursuant to section 105(b)(2). Such goals may be modified with the consent of the parties, or as provided in subparagraph (C). Performance goals for insured community development financial institutions shall be determined in consultation with the appropriate Federal banking agency.

(C) SANCTIONS.—The agreement shall provide that, in the event of fraud, mismanagement, noncompliance with this subtitle, or noncompliance with the terms of the agreement, the Fund, in its discretion, may—

(i) require changes to the performance goals imposed pursuant to subparagraph (B);

(ii) require changes to the strategic plan submitted pursuant to section 105(b)(2);

(iii) revoke approval of the application;

(iv) reduce or terminate assistance;

(v) require repayment of assistance;

(vi) bar an applicant from reapplying for assistance from the Fund; and

(vii) take such other actions as the Fund deems appropriate.

(D) CONSULTATION WITH TRIBAL GOVERNMENTS.—In reviewing the performance of any assisted community development financial institution, the investment area of which includes an Indian reservation, or the targeted population of which includes an Indian tribe, the Fund shall consult with, and seek input from, any appropriate tribal government.

(g) AUTHORITY TO SELL EQUITY INVESTMENTS AND LOANS.—The Fund may, at any time, sell its equity investments and loans, but the Fund shall retain the power to enforce limitations on assistance entered into in accordance with the requirements of this subtitle until the performance goals related to the investment or loan have been met.

(h) NO AUTHORITY TO LIMIT SUPERVISION AND REGULATION.—Nothing in this subtitle shall affect any authority of the appropriate Federal banking agency to supervise and regulate any institution or company.

12 USC 4708.

SEC. 109. TRAINING.

(a) IN GENERAL.—The Fund may operate a training program to increase the capacity and expertise of community development financial institutions and other members of the financial services industry to undertake community development finance activities.

(b) PROGRAM ACTIVITIES.—The training program shall provide educational programs to assist community development financial institutions and other members of the financial services industry in developing lending and investment products, underwriting and servicing loans, managing equity investments, and providing development services targeted to areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(c) PARTICIPATION.—The training program shall be made available to community development financial institutions and other members of the financial services industry that serve or seek to serve areas of economic distress, low-income persons, and persons who lack adequate access to loans and equity investments.

(d) CONTRACTING.—The Fund may offer the training program described in this section directly or through a contract with other organizations. The Fund may contract to provide the training program through organizations that possess special expertise in community development, without regard to whether the organizations receive or are eligible to receive assistance under this subtitle.

(e) COORDINATION.—The Fund shall coordinate with other appropriate Federal departments or agencies that operate similar training programs in order to prevent duplicative efforts.

(f) REGULATORY FEE FOR PROVIDING TRAINING SERVICES.—

(1) GENERAL RULE.—The Fund may, at the discretion of the Administrator and in accordance with this subsection, assess and collect regulatory fees solely to cover the costs of the Fund in providing training services under a training program operated in accordance with this section.

(2) PERSONS SUBJECT TO FEE.—Fees may be assessed under paragraph (1) only on persons who participate in the training program.

(3) LIMITATION ON MANNER OF COLLECTION.—Fees may be assessed and collected under this subsection only in such manner as may reasonably be expected to result in the collection of an aggregate amount of fees during any fiscal year which does not exceed the aggregate costs of the Fund for such year in providing training services under a training program operated in accordance with this section

(4) LIMITATION ON AMOUNT OF FEE.—The amount of any fee assessed under this subsection on any person may not exceed the amount which is reasonably based on the proportion of the training services provided under a training program operated in accordance with this section which relate to such person.

SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES. 12 USC 4709.

The Fund may facilitate the organization of corporations in which the Federal Government has no ownership interest. The purpose of any such entity shall be to assist community development financial institutions in a manner that is complementary to the activities of the Fund under this subtitle. Any such entity shall be managed exclusively by persons not employed by the Federal Government or any agency or instrumentality thereof, or by any State or local government or any agency or instrumentality thereof.

SEC. 111. COLLECTION AND COMPILATION OF INFORMATION. 12 USC 4710.

The Fund shall—

(1) collect and compile information pertinent to community development financial institutions that will assist in creating, developing, expanding, and preserving such institutions; and

(2) make such information available to promote the purposes of this subtitle.

SEC. 112. INVESTMENT OF RECEIPTS AND PROCEEDS. 12 USC 4711.

(a) ESTABLISHMENT OF ACCOUNT.—Any dividends on equity investments and proceeds from the disposition of investments, deposits, or credit union shares that are received by the Fund as a result of assistance provided pursuant to section 108 or 113, and any fees received pursuant to section 109(f) shall be deposited and accredited to an account of the Fund in the United States Treasury (hereafter in this section referred to as "the account") established to carry out the purpose of this subtitle.

(b) INVESTMENTS.—Upon request of the Administrator, the Secretary of the Treasury shall invest amounts deposited in the account in public debt securities with maturities suitable to the needs of the Fund, as determined by the Administrator, and bearing interest at rates determined by the Secretary of the Treasury,

comparable to current market yields on outstanding marketable obligations of the United States of similar maturities.

(c) AVAILABILITY.—Amounts deposited into the account and interest earned on such amounts pursuant to this section shall be available to the Fund until expended.

12 USC 4712.

SEC. 113. CAPITALIZATION ASSISTANCE TO ENHANCE LIQUIDITY.

(a) ASSISTANCE.—

(1) IN GENERAL.—The Fund may provide assistance for the purpose of providing capital to organizations to purchase loans or otherwise enhance the liquidity of community development financial institutions, if—

(A) the primary purpose of such organizations is to promote community development; and

(B) any assistance received is matched with funds—

(i) from sources other than the Federal Government;

(ii) on the basis of not less than one dollar for each dollar provided by the Fund; and

(iii) that are comparable in form and value to the assistance provided by the Fund.

(2) LIMITATION ON OTHER ASSISTANCE.—An organization that receives assistance under this section may not receive other financial or technical assistance under this subtitle.

(3) CONSTRUCTION OF FEDERAL GOVERNMENT FUNDS.—For purposes of this subsection, notwithstanding section 105(a)(9) of the Housing and Community Development Act of 1974, funds provided pursuant to such Act shall be considered to be Federal Government funds.

(b) SELECTION.—The selection of organizations to receive assistance under this section shall be at the discretion of the Fund and in accordance with criteria established by the Fund. In establishing such criteria, the Fund shall take into account the criteria contained in sections 105(b) and 107, as appropriate.

(c) AMOUNT OF ASSISTANCE.—The Fund may provide a total of not more than $5,000,000 of assistance to an organization or its subsidiaries or affiliates under this section during any 3-year period. Assistance may be provided in a lump sum or over a period of time, as determined by the Fund.

(d) AUDIT AND REPORT REQUIREMENTS.—Organizations that receive assistance from the Fund in accordance with this section shall—

(1) submit to the Fund, not less than once in every 18-month period, financial statements audited by an independent certified public accountant, as part of the report required by paragraph (2);

(2) submit an annual report on its activities; and

Records.

(3) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

(e) LIMITATIONS ON LIABILITY.—

(1) LIABILITY OF FUND.—The liability of the Fund and the United States Government arising out of the provision of assistance to any organization in accordance with this section shall be limited to the amount of such assistance. The Fund shall be exempt from any assessments and any other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, or territory. Nothing

in this paragraph shall affect the application of Federal tax law.

(2) LIABILITY OF GOVERNMENT.—This section does not oblige the Federal Government, either directly or indirectly, to provide any funds to any organization assisted pursuant to this section, or to honor, reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall not be construed to imply that any such organization or any obligations or securities of any such organization are backed by the full faith and credit of the United States.

(f) USE OF PROCEEDS.—Any proceeds from the sale of loans by an organization assisted under this section shall be used by the seller for community development purposes.

SEC. 114. INCENTIVES FOR DEPOSITORY INSTITUTION PARTICIPATION. 12 USC 4713

(a) FUNCTION OF ADMINISTRATOR.—

(1) IN GENERAL.—Of any funds appropriated pursuant to the authorization in section 121(a), the funds made available for use in carrying out this section in accordance with section 121(a)(4) shall be administered by the Administrator of the Fund, in consultation with—

(A) the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the National Credit Union Administration;

(B) the individuals named pursuant to clauses (ii) and (iv) of section 104(d)(2)(G); and

(C) any other representatives of insured depository institutions or other persons as the Administrator may determine to be appropriate.

(2) APPLICABILITY OF BANK ENTERPRISE ACT OF 1991.—Subject to subsection (b) and the consultation requirement of paragraph (1)—

(A) section 233 of the Bank Enterprise Act of 1991 shall be applicable to the Administrator, for purposes of this section, in the same manner and to the same extent that such section is applicable to the Community Enterprise Assessment Credit Board;

(B) the Administrator shall, for purposes of carrying out this section and section 233 of the Bank Enterprise Act of 1991—

(i) have all powers and rights of the Community Enterprise Assessment Credit Board under section 233 of the Bank Enterprise Act of 1991 to administer and enforce any provision of such section 233 which is applicable to the Administrator under this section; and

(ii) shall be subject to the same duties and restrictions imposed on the Community Enterprise Assessment Credit Board; and

(C) the Administrator shall—

(i) have all powers and rights of an appropriate Federal banking agency under section 233(b)(2) of the Bank Enterprise Act of 1991 to approve or disapprove the designation of qualified distressed communities for purposes of this section and provide information and assistance with respect to any such designation; and

(ii) shall be subject to the same duties imposed on the appropriate Federal banking agencies under such section 233(b)(2).

(3) AWARDS.—The Administrator shall determine the amount of assessment credits, and shall make awards of those credits.

(4) REGULATIONS AND GUIDELINES.—The Administrator may prescribe such regulations and issue such guidelines as the Administrator determines to be appropriate to carry out this section.

(5) EXCEPTIONS TO APPLICABILITY.—Notwithstanding paragraphs (1) through (4) of this subsection, subsections (a)(1) and (e)(2) of section 233 of the Bank Enterprise Act of 1991, and any other provision of the Federal Deposit Insurance Act relating to the Bank Enterprise Act of 1991, do not apply to the Administrator for purposes of this subtitle.

(b) PROVISIONS RELATING TO ADMINISTRATION OF THIS SECTION.—

(1) NEW LIFELINE ACCOUNTS.—In applying section 233 of the Bank Enterprise Act of 1991 for purposes of this section, the Administrator shall treat the provision of new lifeline accounts by an insured depository institution as an activity which is qualified to be taken into account under section 233(a)(2)(A) of such Act.

(2) DETERMINATION OF ASSESSMENT CREDIT.—For the purpose of this subtitle, section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(3)) shall be applied by substituting the following text:

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of an assessment credit which may be awarded to an insured depository institution to carry out the qualified activities of the institution or of the subsidiaries of the institution pursuant to this section for any semiannual period shall be equal to the sum of—

"(A) with respect to qualifying activities described in paragraph (2)(A), the amount which is equal to—

"(i) 5 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is not a community development financial institution; or

"(ii) 15 percent of the sum of the amounts determined under such subparagraph, in the case of an institution which is a community development financial institution; and

"(B) with respect to qualifying activities described in paragraph (2)(C), 15 percent of the amounts determined under such subparagraph.".

(3) ADJUSTMENT OF PERCENTAGE.—Section 233(a)(5) of the Bank Enterprise Act of 1991 shall be applied for purposes of this section by—

(A) substituting "institutions which are community development financial institutions" for "institutions which meet the community development organization requirements under section 234"; and

(B) substituting "institutions which are not community development financial institutions" for "institutions which do not meet such requirements".

(4) DESIGNATION OF QDC.—Section 233(b)(2) of the Bank Enterprise Act of 1991 shall be applied for purposes of this section without regard to subparagraph (A)(ii) of such section 233(b)(2).

(5) OPERATION ON ANNUAL BASIS.—The Administrator may, in the Administrator's discretion, apply section 233 of the Bank Enterprise Act of 1991 for purposes of this section by providing community enterprise assessment credits with respect to annual periods rather than semiannual periods.

(6) OUTREACH.—The Administrator shall ensure that information about the Bank Enterprise Act of 1991 under this section is widely disseminated to all interested parties.

(7) QUALIFIED ACTIVITIES.—For the purpose of this subtitle, section 233(a)(2)(A) of the Bank Enterprise Act of 1991 shall be applied by inserting "of the increase" after "the amount".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANK ENTERPRISE ACT OF 1991.—

(1) ASSISTANCE TO CDFI MAY BE TAKEN INTO ACCOUNT AS QUALIFYING ACTIVITY.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(2)) is amended—

(A) in the material preceding subparagraph (A), by striking "shall be eligible" and inserting "may apply for";

(B) in subparagraph (A), by striking "financial assistance" and inserting "assistance";

(C) by striking "and" at the end of subparagraph (A);

(D) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(E) by adding at the end the following new subparagraph:

"(C) any increase during the period in the amount of new equity investments in community development financial institutions.".

(2) ADDITIONAL ASSISTANCE WHICH MAY BE CONSIDERED AS QUALIFYING ACTIVITIES.—Section 233(a)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(4)) is amended—

(A) in the material preceding subparagraph (A), by striking "financial"; and

(B) by adding at the end the following new subparagraphs:

"(L) Loans made for the purpose of developing or supporting—

"(i) commercial facilities that enhance revitalization, community stability, or job creation and retention efforts;

"(ii) business creation and expansion efforts that—

"(I) create or retain jobs for low-income people;

"(II) enhance the availability of products and services to low-income people; or

"(III) create or retain businesses owned by low-income people or residents of a targeted area;

"(iii) community facilities that provide benefits to low-income people or enhance community stability;

"(iv) home ownership opportunities that are affordable to low-income households;

"(v) rental housing that is principally affordable to low-income households; and

"(vi) other activities deemed appropriate by the Board.

"(M) The provision of technical assistance to residents of qualified distressed communities in managing their personal finances through consumer education programs either sponsored or offered by insured depository institutions.

"(N) The provision of technical assistance and consulting services to newly formed small businesses located in qualified distressed communities.

"(O) The provision of technical assistance to, or servicing the loans of low- or moderate-income homeowners and homeowners located in qualified distressed communities.".

(3) RESTRICTION ON ADJUSTMENT OF PERCENTAGES.—Section 233(a)(5) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(5)) is amended by striking "paragraph (3)" and inserting "paragraph (3)(A)".

(4) CREDIT LIMITED TO ORIGINATIONS BY INSTITUTIONS.—Section 233(a)(6) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)(6)) is amended by striking "Investments by any insured depository institution in loans and securities" and inserting "Loans, financial assistance, and equity investments made by any insured depository institution".

(5) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—Section 233(a) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a(a)) is amended by adding at the end the following new paragraph:

"(7) QUANTITATIVE ANALYSIS OF TECHNICAL ASSISTANCE.—The Board may establish guidelines for analyzing the technical assistance described in subparagraphs (M), (N), and (O) of paragraph (4) for the purpose of quantifying the results of such assistance in determining the amount of any community assessment credit under this subsection.".

(6) PROHIBITION ON DOUBLE FUNDING FOR SAME ACTIVITIES.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended—

(A) by redesignating subsection (g) as subsection (j); and

(B) by inserting after subsection (f) the following new subsection:

"(g) PROHIBITION ON DOUBLE FUNDING FOR SAME ACTIVITIES.—No community development financial institution may receive a community enterprise assessment credit if such institution, either directly or through a community partnership—

"(1) has received assistance within the preceding 12-month period, or has an application for assistance pending, under section 105 of the Community Development Banking and Financial Institutions Act of 1994; or

"(2) has ever received assistance, under section 108 of the Community Development Banking and Financial Institutions Act of 1994, for the same activity during the same semiannual period for which the institution seeks a community enterprise assessment credit under this section.".

(7) ADDITIONAL ADMINISTRATIVE REQUIREMENTS.—Section 233 of the Bank Enterprise Act of 1991 (12 U.S.C. 1834a) is amended by inserting after subsection (g) (as added by paragraph (6) of this subsection) the following new subsections:

"(h) PRIORITY OF AWARDS.—

"(1) QUALIFYING LOANS AND SERVICES.—

"(A) IN GENERAL.—If the amount of funds appropriated for purposes of carrying out this section for any fiscal year are insufficient to award the amount of assessment credits for which insured depository institutions have applied and are eligible under this section, the Board shall, in awarding community enterprise assessment credits for qualifying activities under subparagraphs (A) and (B) of subsection (a)(2) for any semiannual period for which such appropriation is available, determine which institutions shall receive an award.

"(B) PRIORITY FOR SUPPORT OF EFFORTS OF CDFI.—The Board shall give priority to institutions that have supported the efforts of community development financial institutions in the qualified distressed community.

"(C) OTHER FACTORS.—The Board may also consider the following factors:

"(i) DEGREE OF DIFFICULTY.—The degree of difficulty in carrying out the activities that form the basis for the institution's application.

"(ii) COMMUNITY IMPACT.—The extent to which the activities that form the basis for the institution's application have benefited the qualified distressed community.

"(iii) INNOVATION.—The degree to which the activities that form the basis for the institution's application have incorporated innovative methods for meeting community needs.

"(iv) LEVERAGE.—The leverage ratio between the dollar amount of the activities that form the basis for the institution's application and the amount of the assessment credit calculated in accordance with this section for such activities.

"(v) SIZE.—The amount of total assets of the institution.

"(vi) NEW ENTRY.—Whether the institution had provided financial services in the designated distressed community before such semiannual period.

"(vii) NEED FOR SUBSIDY.—The degree to which the qualified activity which forms the basis for the application needs enhancement through an assessment credit.

"(viii) EXTENT OF DISTRESS IN COMMUNITY.—The degree of poverty and unemployment in the designated distressed community, the proportion of the total population of the community which are low-income families and unrelated individuals, and the extent of other adverse economic conditions in such community.

"(2) QUALIFYING INVESTMENTS.—If the amount of funds appropriated for purposes of carrying out this section for any fiscal year are insufficient to award the amount of assessment credits for which insured depository institutions have applied and are eligible under this section, the Board shall, in awarding community enterprise assessment credits for qualifying activities under subsection (a)(2)(C) for any semiannual period for which such appropriation is available, determine which institutions shall receive an award based on the leverage ratio between the dollar amount of the activities that form the basis for

the institution's application and the amount of the assessment credit calculated in accordance with this section for such activities.

"(i) DETERMINATION OF AMOUNT OF ASSESSMENT CREDIT.—Notwithstanding any other provision of this section, the determination of the amount of any community enterprise assessment credit under subsection (a)(3) for any insured depository institution for any semiannual period shall be made solely at the discretion of the Board. No insured depository institution shall be awarded community enterprise assessment credits for any semiannual period in excess of an amount determined by the Board.".

(8) ADDITIONAL DEFINITIONS.—Subsection (j) of section 233 of the Bank Enterprise Act of 1991 (as redesignated by paragraph (6) of this subsection) is amended by adding at the end the following new paragraphs:

12 USC 1834a.

"(4) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term 'community development financial institution' has the same meaning as in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994.

"(5) AFFILIATE.—The term 'affiliate' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.".

12 USC 4714.

SEC. 115. RECORDKEEPING.

(a) IN GENERAL.—A community development financial institution receiving assistance from the Fund shall keep such records, for such periods as may be prescribed by the Fund and necessary to disclose the manner in which any assistance under this subtitle is used and to demonstrate compliance with the requirements of this subtitle.

(b) USER PROFILE INFORMATION.—The Fund shall require each community development financial institution or other organization receiving assistance from the Fund to compile such data, as is determined to be appropriate by the Fund, on the gender, race, ethnicity, national origin, or other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.

(c) ACCESS TO RECORDS.—The Fund shall have access on demand, for the purpose of determining compliance with this subtitle, to any records of a community development financial institution or other organization that receives assistance from the Fund.

(d) REVIEW.—Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

(e) REPORTING.—

(1) ANNUAL REPORTS.—The Fund shall require each community development financial institution receiving assistance under this subtitle to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subtitle, in such form and manner as the Fund shall specify.

(2) AVAILABILITY OF REPORTS.—The Fund, after deleting or redacting any material as appropriate to protect privacy

or proprietary interests, shall make such reports submitted under paragraph (1) available for public inspection.

SEC. 116. SPECIAL PROVISIONS WITH RESPECT TO INSTITUTIONS THAT ARE SUPERVISED BY FEDERAL BANKING AGENCIES.

12 USC 4715.

(a) CONSULTATION WITH APPROPRIATE AGENCIES.—The Fund shall consult with and consider the views of the appropriate Federal banking agency prior to providing assistance under this subtitle to—

(1) an insured community development financial institution;

(2) any community development financial institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency; or

(3) any community development financial institution that has as its community partner an institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(b) REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.—

(1) IN GENERAL.—Except as provided in paragraph (4), notwithstanding any other provisions of this subtitle, prior to directly requesting information from or imposing reporting or recordkeeping requirements on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, the Fund shall consult with the appropriate Federal banking agency to determine if the information requested is available from or may be obtained by such agency in the form, format, or detail required by the Fund.

(2) TIMING OF RESPONSE FROM APPROPRIATE FEDERAL BANKING AGENCY.—If the information, reports, or records requested by the Fund pursuant to paragraph (1) are not provided by the appropriate Federal banking agency in less than 15 calendar days after the date on which the material is requested, the Fund may request the information from or impose the recordkeeping or reporting requirements directly on such institutions with notice to the appropriate Federal banking agency.

(3) ELIMINATION OF DUPLICATIVE INFORMATION AND REPORTING REQUIREMENTS.—The Fund shall use any information provided the appropriate Federal banking agency under this section to the extent practicable to eliminate duplicative requests for information and reports from, and recordkeeping by an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(4) EXCEPTION.—Notwithstanding paragraphs (1) and (2), the Fund may require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency to provide information with respect to the institution's implementation of its strategic plan or compliance with the terms of its assistance agreement under this subtitle, after providing notice to the appropriate Federal banking agency.

(c) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this section shall be construed to permit the Fund to require an insured

community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, to obtain, maintain, or furnish an examination report of any appropriate Federal banking agency or records contained in or related to such a report.

(d) SHARING OF INFORMATION.—The Fund and the appropriate Federal banking agency shall promptly notify each other of material concerns about an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, and share appropriate information relating to such concerns.

(e) DISCLOSURE PROHIBITED.—Neither the Fund nor the appropriate Federal banking agency shall disclose confidential information obtained pursuant to this section from any party without the written consent of that party.

(f) PRIVILEGE MAINTAINED.—The Fund, the appropriate Federal banking agency, and any other party providing information under this section shall not be deemed to have waived any privilege applicable to any information or data, or any portion thereof, by providing such information or data to the other party or by permitting such data or information, or any copies or portions thereof, to be used by the other party.

(g) EXCEPTIONS.—Nothing in this section shall authorize the Fund or the appropriate Federal banking agency to withhold information from the Congress or prevent it from complying with a request for information from a Federal department or agency in compliance with applicable law.

(h) SANCTIONS.—

(1) NOTIFICATION.—The Fund shall notify the appropriate Federal banking agency before imposing any sanction pursuant to the authority in section 108(f)(2)(C) on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of that agency.

(2) EXCEPTIONS.—The Fund shall not impose a sanction referred to in paragraph (1) if the appropriate Federal banking agency, in writing, not later than 30 calendar days after receiving notice from the Fund—

(A) objects to the proposed sanction;

(B) determines that the sanction would—

(i) have a material adverse effect on the safety and soundness of the institution; or

(ii) impede or interfere with an enforcement action against that institution by that agency;

(C) proposes a comparable alternative action; and

(D) specifically explains—

(i) the basis for the determination under subparagraph (B) and, if appropriate, provides documentation to support the determination; and

(ii) how the alternative action suggested pursuant to subparagraph (C) would be as effective as the sanction proposed by the Fund in securing compliance with this subtitle and deterring future noncompliance.

(i) SAFETY AND SOUNDNESS CONSIDERATIONS.—The Fund and each appropriate Federal banking agency shall cooperate and respond to requests from each other and from other appropriate Federal banking agencies in a manner that ensures the safety

and soundness of the insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

SEC. 117. STUDIES AND REPORTS; EXAMINATION AND AUDIT. 12 USC 4716.

(a) ANNUAL REPORT BY THE FUND.--The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions and other organizations assisted pursuant to this subtitle, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (f).

(b) OPTIONAL STUDIES.—The Fund may conduct such studies as the Fund determines necessary to further the purpose of this subtitle and to facilitate investment in distressed communities. The findings of any studies conducted pursuant to this subsection shall be included in the report required by subsection (a).

(c) NATIVE AMERICAN LENDING STUDY.—

(1) IN GENERAL.—The Fund shall conduct a study on lending and investment practices on Indian reservations and other land held in trust by the United States. Such study shall—

(A) identify barriers to private financing on such lands; and

(B) identify the impact of such barriers on access to capital and credit for Native American populations.

(2) REPORT.—Not later than 12 months after the date on which the Administrator is appointed, the Fund shall submit a report to the President and the Congress that—

(A) contains the findings of the study conducted under paragraph (1);

(B) recommends any necessary statutory and regulatory changes to existing Federal programs; and

(C) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and other private sector capital institutions to better serve such populations.

(d) INVESTMENT, GOVERNANCE, AND ROLE OF FUND.—Thirty months after the appointment and qualification of the Administrator, the Comptroller General of the United States shall submit to the President and the Congress a study evaluating the structure, governance, and performance of the Fund.

(e) CONSULTATION.—In the conduct of the studies required under this section, the Fund shall consult, as appropriate, with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Farm Credit Administration, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, Indian tribal governments, community reinvestment organizations, civil rights organizations, consumer organizations, financial organizations, and such representatives of agencies or other persons, at the discretion of the Fund.

(f) EXAMINATION AND AUDIT.—The financial statements of the Fund shall be audited in accordance with section 9105 of title

31, United States Code, except that audits required by section 9105(a) of such title shall be performed annually.

SEC. 118. INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App. 11) is amended—

(1) in paragraph (1), by inserting "; the Administrator of the Community Development Financial Institutions Fund;" before "and the chief"; and

(2) in paragraph (2), by inserting "the Community Development Financial Institutions Fund," after "the Agency for International Development,".

5 USC app. 11 note.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendments made by subsection (a).

12 USC 4717.

SEC. 119. ENFORCEMENT.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the appointment and qualification of the Administrator, the Fund shall promulgate such regulations as may be necessary to carry out this subtitle.

(2) REGULATIONS REQUIRED.—The regulations promulgated under paragraph (1) shall include regulations applicable to community development financial institutions that are not insured depository institutions to—

(A) prevent conflicts of interest on the part of directors, officers, and employees of community development financial institutions as the Fund determines to be appropriate; and

(B) establish such standards with respect to loans by a community development financial institution to any director, officer, or employee of such institution as the Fund determines to be appropriate, including loan amount limitations.

(b) ADMINISTRATIVE ENFORCEMENT.—The provisions of this subtitle, and regulations prescribed and agreements entered into under this subtitle, shall be enforced under section 8 of the Federal Deposit Insurance Act by the appropriate Federal banking agency, in the case of an insured community development financial institution. A violation of this subtitle, or any regulation prescribed under or any agreement entered into under this subtitle, shall be treated as a violation of the Federal Deposit Insurance Act.

(c) CRIMINAL PROVISION.—Section 657 of title 18, United States Code, is amended by inserting "or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994," after "small business investment company,".

SEC. 120. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS.

(a) REPEAL.—Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by striking subsection (k).

(b) REVOLVING LOAN FUND.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after section 129 the following new section:

"SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS. 12 USC 1772c-1.

"(a) IN GENERAL.—The Board may exercise the authority granted to it by the Community Development Credit Union Revolving Loan Fund Transfer Act, including any additional appropriation made or earnings accrued, subject only to this section and to regulations prescribed by the Board.

"(b) INVESTMENT.—The Board may invest any idle Fund moneys in United States Treasury securities. Any interest accrued on such securities shall become a part of the Fund.

"(c) LOANS.—The Board may require that any loans made from the Fund be matched by increased shares in the borrower credit union.

"(d) INTEREST.—Interest earned by the Fund may be allocated by the Board for technical assistance to community development credit unions, subject to an appropriations Act.

"(e) DEFINITION.—As used in this section, the term 'Fund' means the Community Development Credit Union Revolving Loan Fund.".

SEC. 121. AUTHORIZATION OF APPROPRIATIONS. 12 USC 4718.

(a) FUND AUTHORIZATION.—

(1) IN GENERAL.—To carry out this subtitle, there are authorized to be appropriated to the Fund, to remain available until expended—

(A) $60,000,000 for fiscal year 1995;
(B) $104,000,000 for fiscal year 1996;
(C) $107,000,000 for fiscal year 1997; and
(D) $111,000,000 for fiscal year 1998;

or such greater sums as may be necessary to carry out this subtitle.

(2) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Of amounts authorized to be appropriated to the Fund pursuant to this section, not more than $5,550,000 may be used by the Fund in each fiscal year to pay the administrative costs and expenses of the Fund. Costs associated with the training program established under section 109 and the technical assistance program established under section 108 shall not be considered to be administrative expenses for purposes of this paragraph.

(B) CALCULATIONS.—The amounts referred to in paragraphs (3) and (4) shall be calculated after subtracting the amount referred to in subparagraph (A) of this paragraph from the total amount appropriated to the Fund in accordance with paragraph (1) in any fiscal year.

(3) CAPITALIZATION ASSISTANCE.—Not more than 5 percent of the amounts authorized to be appropriated under paragraph (1) may be used as provided in section 113.

(4) AVAILABILITY FOR FUNDING SECTION 114.—33⅓ percent of the amounts appropriated to the Fund for any fiscal year pursuant to the authorization in paragraph (1) shall be available for use in carrying out section 114.

(5) SUPPORT OF COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.—The Administrator shall allocate funds authorized under this section, to the maximum extent practicable, for the support of community development financial institutions.

(b) COMMUNITY DEVELOPMENT CREDIT UNION REVOLVING LOAN FUND.—There are authorized to be appropriated for the purposes of the Community Development Credit Union Revolving Loan Fund—

(1) $4,000,000 for fiscal year 1995;
(2) $2,000,000 for fiscal year 1996;
(3) $2,000,000 for fiscal year 1997; and
(4) $2,000,000 for fiscal year 1998.

(c) BUDGETARY TREATMENT.—Amounts authorized to be appropriated under this section shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

Home Ownership and Equity Protection Act of 1994.
15 USC 1601 note.

Subtitle B—Home Ownership and Equity Protection

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Home Ownership and Equity Protection Act of 1994".

SEC. 152. CONSUMER PROTECTIONS FOR CERTAIN MORTGAGES.

(a) MORTGAGE DEFINITION.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

"(A) the annual percentage rate at consummation of the transaction will exceed by more than 10 percentage points the yield on Treasury securities having comparable periods of maturity on the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

"(B) the total points and fees payable by the consumer at or before closing will exceed the greater of—

"(i) 8 percent of the total loan amount; or
"(ii) $400.

"(2)(A) After the 2-year period beginning on the effective date of the regulations promulgated under section 155 of the Riegle Community Development and Regulatory Improvement Act of 1994, and no more frequently than biennially after the first increase or decrease under this subparagraph, the Board may by regulation increase or decrease the number of percentage points specified in paragraph (1)(A), if the Board determines that the increase or decrease is—

"(i) consistent with the consumer protections against abusive lending provided by the amendments made by subtitle B of title I of the Riegle Community Development and Regulatory Improvement Act of 1994; and

"(ii) warranted by the need for credit.

"(B) An increase or decrease under subparagraph (A) may not result in the number of percentage points referred to in subparagraph (A) being—

"(i) less that 8 percentage points; or

"(ii) greater than 12 percentage points.

"(C) In determining whether to increase or decrease the number of percentage points referred to in subparagraph (A), the Board shall consult with representatives of consumers, including low-income consumers, and lenders.

"(3) The amount specified in paragraph (1)(B)(ii) shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index, as reported on June 1 of the year preceding such adjustment.

"(4) For purposes of paragraph (1)(B), points and fees shall include—

"(A) all items included in the finance charge, except interest or the time-price differential;

"(B) all compensation paid to mortgage brokers;

"(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes), unless—

"(i) the charge is reasonable;

"(ii) the creditor receives no direct or indirect compensation; and

"(iii) the charge is paid to a third party unaffiliated with the creditor; and

"(D) such other charges as the Board determines to be appropriate.

"(5) This subsection shall not be construed to limit the rate of interest or the finance charge that a person may charge a consumer for any extension of credit.".

(b) MATERIAL DISCLOSURES.—Section 103(u) of the Truth in Lending Act (15 U.S.C. 1602(u)) is amended—

(1) by striking "and the due dates" and inserting "the due dates"; and

(2) by inserting before the period ", and the disclosures required by section 129(a)".

(c) DEFINITION OF CREDITOR CLARIFIED.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by adding at the end the following: "Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period or any person who originates 1 or more such mortgages through a mortgage broker shall be considered to be a creditor for purposes of this title.".

(d) DISCLOSURES REQUIRED AND CERTAIN TERMS PROHIBITED.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 128 the following new section:

"SEC. 129. REQUIREMENTS FOR CERTAIN MORTGAGES. 15 USC 1639

"(a) DISCLOSURES.—

"(1) SPECIFIC DISCLOSURES.—In addition to other disclosures required under this title, for each mortgage referred to in section 103(aa), the creditor shall provide the following disclosures in conspicuous type size:

"(A) 'You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.'.

"(B) 'If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.'.

"(2) ANNUAL PERCENTAGE RATE.—In addition to the disclosures required under paragraph (1), the creditor shall disclose—

"(A) in the case of a credit transaction with a fixed rate of interest, the annual percentage rate and the amount of the regular monthly payment; or

"(B) in the case of any other credit transaction, the annual percentage rate of the loan, the amount of the regular monthly payment, a statement that the interest rate and monthly payment may increase, and the amount of the maximum monthly payment, based on the maximum interest rate allowed pursuant to section 1204 of the Competitive Equality Banking Act of 1987.

"(b) TIME OF DISCLOSURES.—

"(1) IN GENERAL.—The disclosures required by this section shall be given not less than 3 business days prior to consummation of the transaction.

"(2) NEW DISCLOSURES REQUIRED.—

"(A) IN GENERAL.—After providing the disclosures required by this section, a creditor may not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided that meet the requirements of this section.

"(B) TELEPHONE DISCLOSURE.—A creditor may provide new disclosures pursuant to subparagraph (A) by telephone, if—

"(i) the change is initiated by the consumer; and

"(ii) at the consummation of the transaction under which the credit is extended—

"(I) the creditor provides to the consumer the new disclosures, in writing; and

"(II) the creditor and consumer certify in writing that the new disclosures were provided by telephone, by not later than 3 days prior to the date of consummation of the transaction.

"(3) MODIFICATIONS.—The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

"(c) NO PREPAYMENT PENALTY.—

"(1) IN GENERAL.—

"(A) LIMITATION ON TERMS.—A mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal before the date on which the principal is due.

"(B) CONSTRUCTION.—For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

"(2) EXCEPTION.—Notwithstanding paragraph (1), a mortgage referred to in section 103(aa) may contain a prepayment penalty (including terms calculating a refund by a method that is not prohibited under section 933(b) of the Housing

and Community Development Act of 1992 for the transaction in question) if—

"(A) at the time the mortgage is consummated—

"(i) the consumer is not liable for an amount of monthly indebtedness payments (including the amount of credit extended or to be extended under the transaction) that is greater than 50 percent of the monthly gross income of the consumer; and

"(ii) the income and expenses of the consumer are verified by a financial statement signed by the consumer, by a credit report, and in the case of employment income, by payment records or by verification from the employer of the consumer (which verification may be in the form of a copy of a pay stub or other payment record supplied by the consumer);

"(B) the penalty applies only to a prepayment made with amounts obtained by the consumer by means other than a refinancing by the creditor under the mortgage, or an affiliate of that creditor;

"(C) the penalty does not apply after the end of the 5-year period beginning on the date on which the mortgage is consummated; and

"(D) the penalty is not prohibited under other applicable law.

"(d) LIMITATIONS AFTER DEFAULT.—A mortgage referred to in section 103(aa) may not provide for an interest rate applicable after default that is higher than the interest rate that applies before default. If the date of maturity of a mortgage referred to in subsection 103(aa) is accelerated due to default and the consumer is entitled to a rebate of interest, that rebate shall be computed by any method that is not less favorable than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

"(e) NO BALLOON PAYMENTS.—A mortgage referred to in section 103(aa) having a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.

"(f) NO NEGATIVE AMORTIZATION.—A mortgage referred to in section 103(aa) may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

"(g) NO PREPAID PAYMENTS.—A mortgage referred to in section 103(aa) may not include terms under which more than 2 periodic payments required under the loan are consolidated and paid in advance from the loan proceeds provided to the consumer.

"(h) PROHIBITION ON EXTENDING CREDIT WITHOUT REGARD TO PAYMENT ABILITY OF CONSUMER.—A creditor shall not engage in a pattern or practice of extending credit to consumers under mortgages referred to in section 103(aa) based on the consumers' collateral without regard to the consumers' repayment ability, including the consumers' current and expected income, current obligations, and employment.

"(i) REQUIREMENTS FOR PAYMENTS UNDER HOME IMPROVEMENT CONTRACTS.—A creditor shall not make a payment to a contractor under a home improvement contract from amounts extended as credit under a mortgage referred to in section 103(aa), other than—

"(1) in the form of an instrument that is payable to the consumer or jointly to the consumer and the contractor; or

"(2) at the election of the consumer, by a third party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor before the date of payment.

"(j) CONSEQUENCE OF FAILURE TO COMPLY.—Any mortgage that contains a provision prohibited by this section shall be deemed a failure to deliver the material disclosures required under this title, for the purpose of section 125.

"(k) DEFINITION.—For purposes of this section, the term 'affiliate' has the same meaning as in section 2(k) of the Bank Holding Company Act of 1956.

"(l) DISCRETIONARY REGULATORY AUTHORITY OF BOARD.—

"(1) EXEMPTIONS.—The Board may, by regulation or order, exempt specific mortgage products or categories of mortgages from any or all of the prohibitions specified in subsections (c) through (i), if the Board finds that the exemption—

"(A) is in the interest of the borrowing public; and

"(B) will apply only to products that maintain and strengthen home ownership and equity protection.

"(2) PROHIBITIONS.—The Board, by regulation or order, shall prohibit acts or practices in connection with—

"(A) mortgage loans that the Board finds to be unfair, deceptive, or designed to evade the provisions of this section; and

"(B) refinancing of mortgage loans that the Board finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower.".

(e) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking the item relating to section 129 and inserting the following:

"129. Requirements for certain mortgages.".

(2) TRUTH IN LENDING ACT.—The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

15 USC 1604.

(A) in the second sentence of section 105(a), by striking "These" and inserting "Except in the case of a mortgage referred to in section 103(aa), these";

15 USC 1610.

(B) in section 111(a)(2), by inserting before the period the following: ", and such State-required disclosure may not be made in lieu of the disclosures applicable to certain mortgages under section 129"; and

(C) in section 111(b)—

(i) by striking "This" and inserting "Except as provided in section 129, this"; and

(ii) by adding at the end the following: "The provisions of section 129 do not annul, alter, or affect the applicability of the laws of any State or exempt any person subject to the provisions of section 129 from complying with the laws of any State, with respect to the requirements for mortgages referred to in section 103(aa), except to the extent that those State laws are inconsistent with any provisions of section 129, and then only to the extent of the inconsistency.".

SEC. 153. CIVIL LIABILITY.

(a) DAMAGES.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by striking "and" at the end of paragraph (2)(B);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a failure to comply with any requirement under section 129, an amount equal to the sum of all finance charges and fees paid by the consumer, unless the creditor demonstrates that the failure to comply is not material.".

(b) STATE ATTORNEY GENERAL ENFORCEMENT.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by adding at the end the following: "An action to enforce a violation of section 129 may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction, not later than 3 years after the date on which the violation occurs. The State attorney general shall provide prior written notice of any such civil action to the Federal agency responsible for enforcement under section 108 and shall provide the agency with a copy of the complaint. If prior notice is not feasible, the State attorney general shall provide notice to such agency immediately upon instituting the action. The Federal agency may—

"(1) intervene in the action;

"(2) upon intervening—

"(A) remove the action to the appropriate United States district court, if it was not originally brought there; and

"(B) be heard on all matters arising in the action; and

"(3) file a petition for appeal.".

(c) ASSIGNEE LIABILITY.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following new subsection:

"(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORTGAGES.—

"(1) IN GENERAL.—Any person who purchases or is otherwise assigned a mortgage referred to in section 103(aa) shall be subject to all claims and defenses with respect to that mortgage that the consumer could assert against the creditor of the mortgage, unless the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising ordinary due diligence, could not determine, based on the documentation required by this title, the itemization of the amount financed, and other disclosure of disbursements that the mortgage was a mortgage referred to in section 103(aa). The preceding sentence does not affect rights of a consumer under subsection (a), (b), or (c) of this section or any other provision of this title.

"(2) LIMITATION ON DAMAGES.—Notwithstanding any other provision of law, relief provided as a result of any action made permissible by paragraph (1) may not exceed—

"(A) with respect to actions based upon a violation of this title, the amount specified in section 130; and

"(B) with respect to all other causes of action, the sum of—

"(i) the amount of all remaining indebtedness; and

"(ii) the total amount paid by the consumer in connection with the transaction.

"(3) OFFSET.—The amount of damages that may be awarded under paragraph (2)(B) shall be reduced by the amount of any damages awarded under paragraph (2)(A).

"(4) NOTICE.—Any person who sells or otherwise assigns a mortgage referred to in section 103(aa) shall include a prominent notice of the potential liability under this subsection as determined by the Board.".

SEC. 154. REVERSE MORTGAGE DISCLOSURE.

(a) DEFINITION OF REVERSE MORTGAGE.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

"(bb) The term 'reverse mortgage transaction' means a nonrecourse transaction in which a mortgage, deed of trust, or equivalent consensual security interest is created against the consumer's principal dwelling—

"(1) securing one or more advances; and

"(2) with respect to which the payment of any principal, interest, and shared appreciation or equity is due and payable (other than in the case of default) only after—

"(A) the transfer of the dwelling;

"(B) the consumer ceases to occupy the dwelling as a principal dwelling; or

"(C) the death of the consumer.".

(b) DISCLOSURE.—Chapter 2 of title I of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

15 USC 1648.

"SEC. 138. REVERSE MORTGAGES.

"(a) IN GENERAL.—In addition to the disclosures required under this title, for each reverse mortgage, the creditor shall, not less than 3 days prior to consummation of the transaction, disclose to the consumer in conspicuous type a good faith estimate of the projected total cost of the mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future credit extension balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include—

"(1) statements of the annual interest rates for not less than 3 projected appreciation rates and not less than 3 credit transaction periods, as determined by the Board, including—

"(A) a short-term reverse mortgage;

"(B) a term equaling the actuarial life expectancy of the consumer; and

"(C) such longer term as the Board deems appropriate; and

"(2) a statement that the consumer is not obligated to complete the reverse mortgage transaction merely because the consumer has received the disclosure required under this section or has signed an application for the reverse mortgage.

"(b) PROJECTED TOTAL COST.—In determining the projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into account—

"(1) any shared appreciation or equity that the lender will, by contract, be entitled to receive;

"(2) all costs and charges to the consumer, including the costs of any associated annuity that the consumer elects or is required to purchase as part of the reverse mortgage transaction;

"(3) all payments to and for the benefit of the consumer, including, in the case in which an associated annuity is purchased (whether or not required by the lender as a condition of making the reverse mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, instead of the proceeds used to finance the annuity; and

"(4) any limitation on the liability of the consumer under reverse mortgage transactions (such as nonrecourse limits and equity conservation agreements).".

(c) HOME EQUITY PLAN EXEMPTION.—Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) is amended by adding at the end the following:

"This subsection does not apply to reverse mortgage transactions.".

(d) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 137 the following:

"138. Reverse mortgages.".

SEC. 155. REGULATIONS.

15 USC 1602 note.

Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to carry out this subtitle, and such regulations shall become effective on the date on which disclosure regulations are required to become effective under section 105(d) of the Truth in Lending Act.

SEC. 156. APPLICABILITY.

15 USC 1602 note.

This subtitle, and the amendments made by this subtitle, shall apply to every mortgage referred to in section 103(aa) of the Truth in Lending Act (as added by section 152(a) of this Act) consummated on or after the date on which regulations issued under section 155 become effective.

SEC. 157. FEDERAL RESERVE STUDY.

15 USC 1601 note. Reports.

During the period beginning 180 days after the date of enactment of this Act and ending 2 years after that date of enactment, the Board of Governors of the Federal Reserve System shall conduct a study and submit to the Congress a report, including recommendations for any appropriate legislation, regarding—

(1) whether a consumer engaging in an open end credit transaction (as defined in section 103 of the Truth in Lending Act) secured by the consumer's principal dwelling is provided adequate protections under Federal law, including section 127A of the Truth in Lending Act; and

(2) whether a more appropriate interest rate index exists for purposes of subparagraph (A) of section 103(aa)(1) of the Truth in Lending Act (as added by section 152(a) of this Act) than the yield on Treasury securities referred to in that subparagraph.

SEC. 158. HEARINGS ON HOME EQUITY LENDING.

15 USC 1601 note.

(a) HEARINGS.—Not less than once during the 3-year period beginning on the date of enactment of this Act, and regularly

thereafter, the Board of Governors of the Federal Reserve System, in consultation with the Consumer Advisory Council of the Board, shall conduct a public hearing to examine the home equity loan market and the adequacy of existing regulatory and legislative provisions and the provisions of this subtitle in protecting the interests of consumers, and low-income consumers in particular.

(b) PARTICIPATION.—In conducting hearings required by subsection (a), the Board of Governors of the Federal Reserve System shall solicit participation from consumers, representatives of consumers, lenders, and other interested parties.

TITLE II—SMALL BUSINESS CAPITAL FORMATION

Subtitle A—Small Business Loan Securitization

Small Business Loan Securitization and Secondary Market Enhancement Act of 1994.
15 USC 78a note.

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Small Business Loan Securitization and Secondary Market Enhancement Act of 1994".

SEC. 202. SMALL BUSINESS RELATED SECURITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraph:

"(53)(A) The term 'small business related security' means a security that is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization, and either—

"(i) represents an interest in 1 or more promissory notes or leases of personal property evidencing the obligation of a small business concern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or a finance company or leasing company; or

"(ii) is secured by an interest in 1 or more promissory notes or leases of personal property (with or without recourse to the issuer or lessee) and provides for payments of principal in relation to payments, or reasonable projections of payments, on notes or leases described in clause (i).

"(B) For purposes of this paragraph—

"(i) an 'interest in a promissory note or a lease of personal property' includes ownership rights, certificates of interest or participation in such notes or leases, and rights designed to assure servicing of such notes or leases, or the receipt or timely receipt of amounts payable under such notes or leases;

"(ii) the term 'small business concern' means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act;

"(iii) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(iv) the term 'insured credit union' has the same meaning as in section 101 of the Federal Credit Union Act.".

SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.

Section 7(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(g)) is amended by inserting "or a small business related security" after "mortgage related security".

SEC. 204. BORROWING IN THE COURSE OF BUSINESS.

Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended in the last sentence by inserting "or a small business related security" after "mortgage related security".

SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COLLATERAL.

Clause (ii) of section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by inserting "or any small business related security" after "mortgage related security".

SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

"(S) SMALL BUSINESS RELATED SECURITIES.—Investments in small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Director may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.".

(b) CREDIT UNIONS.—Section 107(15) of the Federal Credit Union Act (12 U.S.C. 1757(15)) is amended—

(1) in subparagraph (A), by striking "or" at the end;

(2) in subparagraph (B), by inserting "or" at the end; and

(3) by adding at the end the following new subparagraph:

"(C) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), subject to such regulations as the Board may prescribe, including regulations prescribing the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both;".

(c) NATIONAL BANKING ASSOCIATIONS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the last sentence in the first full paragraph of paragraph Seventh, by striking "or (B) are mortgage related securities" and inserting the following: "(B) are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934); or (C) are mortgage related securities".

SEC. 207. PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Section 106(a)(1) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(b) OBLIGATIONS OF THE UNITED STATES.—Section 106(a)(2) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934), or".

(c) PREEMPTION OF STATE LAWS.—Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1(c)) is amended—

(1) in the first sentence, by striking "or that" and inserting ", that"; and

(2) by inserting ", or that are small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934)" before "shall be exempt".

(d) IMPLEMENTATION.—Section 106 of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r–1) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—

"(1) LIMITATION.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this subsection, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) STATE REGISTRATION OR QUALIFICATION REQUIREMENTS.—Any State may, not later than 7 years after the date of enactment of this subsection, enact a statute that specifically refers to this section and requires registration or qualification of any small business related securities on terms that differ from those applicable to any obligation issued by the United States.".

SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL REQUIREMENTS FOR TRANSFERS OF SMALL BUSINESS OBLIGATIONS. 12 USC 1835.

(a) ACCOUNTING PRINCIPLES.—The accounting principles applicable to the transfer of a small business loan or a lease of personal property with recourse contained in reports or statements required to be filed with Federal banking agencies by a qualified insured depository institution shall be consistent with generally accepted accounting principles.

(b) CAPITAL AND RESERVE REQUIREMENTS.—With respect to the transfer of a small business loan or lease of personal property with recourse that is a sale under generally accepted accounting principles, each qualified insured depository institution shall—

(1) establish and maintain a reserve equal to an amount sufficient to meet the reasonable estimated liability of the institution under the recourse arrangement; and

(2) include, for purposes of applicable capital standards and other capital measures, only the amount of the retained recourse in the risk-weighted assets of the institution.

(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is—

(1) well capitalized; or

(2) with the approval, by regulation or order, of the appropriate Federal banking agency, adequately capitalized.

(d) AGGREGATE AMOUNT OF RECOURSE.—The total outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of small business loans and leases of personal property under subsections (a) and (b) shall not exceed—

(1) 15 percent of the risk-based capital of the institution; or

(2) such greater amount, as established by the appropriate Federal banking agency by regulation or order.

(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR EXCEED AGGREGATE LIMITS.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section shall remain applicable to any transfers of small business loans or leases of personal property that occurred during the time that the institution was qualified and did not exceed such limit.

(f) PROMPT CORRECTIVE ACTION NOT AFFECTED.—The capital of an insured depository institution shall be computed without regard to this section in determining whether the institution is adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized under section 38 of the Federal Deposit Insurance Act.

(g) REGULATIONS REQUIRED.—Not later than 180 days after the date of enactment of this Act each appropriate Federal banking agency shall promulgate final regulations implementing this section.

(h) ALTERNATIVE SYSTEM PERMITTED.—

(1) IN GENERAL.—At the discretion of the appropriate Federal banking agency, this section shall not apply if the regulations of the agency provide that the aggregate amount of capital and reserves required with respect to the transfer of small

business loans and leases of personal property with recourse does not exceed the aggregate amount of capital and reserves that would be required under subsection (b).

(2) EXISTING TRANSACTIONS NOT AFFECTED.—Notwithstanding paragraph (1), this section shall remain in effect with respect to transfers of small business loans and leases of personal property with recourse by qualified insured depository institutions occurring before the effective date of regulations referred to in paragraph (1).

(i) DEFINITIONS.—For purposes of this section—

(1) the term "adequately capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act;

(2) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(3) the term "capital standards" has the same meaning as in section 38(c) of the Federal Deposit Insurance Act;

(4) the term "Federal banking agencies" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(5) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(6) the term "other capital measures" has the meaning as in section 38(c) of the Federal Deposit Insurance Act;

(7) the term "recourse" has the meaning given to such term under generally accepted accounting principles;

(8) the term "small business" means a business that meets the criteria for a small business concern established by the Small Business Administration under section 3(a) of the Small Business Act; and

(9) the term "well capitalized" has the same meaning as in section 38(b) of the Federal Deposit Insurance Act.

15 USC 78b note.

SEC. 209. JOINT STUDY ON THE IMPACT OF ADDITIONAL SECURITIES BASED ON POOLED OBLIGATIONS.

(a) JOINT STUDY REQUIRED.—The Board and the Commission shall conduct a joint study of the impact of the provisions of this subtitle (including the amendments made by this subtitle) on the credit and securities markets. Such study shall evaluate—

(1) the impact of the provisions of this subtitle on the availability of credit for business and commercial enterprises in general, and the availability of credit in particular for—

(A) businesses in low- and moderate-income areas;

(B) businesses owned by women and minorities;

(C) community development efforts;

(D) community development financial institutions;

(E) businesses in different geographical regions; and

(F) a diversity of types of businesses;

(2) the structure and operation of the markets that develop for small business related securities and commercial mortgage related securities, including the types of entities (such as pension funds and insurance companies) that are significant purchasers of such securities, the extent to which such entities are sophisticated investors, the use of credit enhancements in obtaining investment-grade ratings, any conflicts of interest that arise in such markets, and any adverse effects of such markets on commercial real estate ventures, pension funds, or pension fund beneficiaries;

(3) the extent to which the provisions of this subtitle with regard to margin requirements, the number of eligible investment rating categories, preemption of State law, and the treatment of such securities as government securities for the purpose of State investment limitations, affect the structure and operation of such markets; and

(4) in view of the findings made pursuant to paragraphs (2) and (3), any additional suitability or disclosure requirements or other investor protections that should be required.

(b) REPORTS.—

(1) IN GENERAL.—The Board and the Commission shall submit to the Congress a report on the results of the study required by subsection (a) before the end of—

(A) the 2-year period beginning on the date of enactment of this Act;

(B) the 4-year period beginning on such date of enactment; and

(C) the 6-year period beginning on such date of enactment.

(2) CONTENTS OF REPORT.—Each report required under paragraph (1) shall contain or be accompanied by such recommendations for administrative or legislative action as the Board and the Commission consider appropriate and may include recommendations regarding the need to develop a system for reporting additional information concerning investments by the entities described in subsection (a)(2).

(c) DEFINITIONS.—As used in this section—

(1) the term "Board" means the Board of Governors of the Federal Reserve System; and

(2) the term "Commission" means the Securities and Exchange Commission.

SEC. 210. CONSISTENT USE OF FINANCIAL TERMINOLOGY.

12 USC 3305 note. Reports.

Not later than 2 years after the date of enactment of this Act, the Financial Institutions Examination Council shall report to the Congress on its recommendations for the use of consistent financial terminology by depository institutions for small business loans or leases of personal property which are sold for the creation of small business related securities (as defined in section 3(a)(53)(A) of the Securities Exchange Act of 1934).

Subtitle B—Small Business Capital Enhancement

SEC. 251. FINDINGS AND PURPOSES.

12 USC 4741.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns are a vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to debt capital is a critical component for small business development, productivity, expansion, and success in the United States;

(3) commercial banks are the most important suppliers of debt capital to small business concerns in the United States;

(4) commercial banks and other depository institutions have various incentives to minimize their risk in financing small business concerns;

(5) as a result of such incentives, many small business concerns with economically sound financing needs are unable to obtain access to needed debt capital;

(6) the small business capital access programs implemented by certain States are a flexible and efficient tool to assist financial institutions in providing access to needed debt capital for many small business concerns in a manner consistent with safety and soundness regulations;

(7) a small business capital access program would complement other programs which assist small business concerns in obtaining access to capital; and

(8) Federal policy can stimulate and accelerate efforts by States to implement small business capital access programs by providing an incentive to States, while leaving the administration of such programs to each participating State.

(b) PURPOSES.—By encouraging States to implement administratively efficient capital access programs that encourage commercial banks and other depository institutions to provide access to debt capital for a broad portfolio of small business concerns, and thereby promote a more efficient and effective debt market, the purposes of this subtitle are—

(1) to promote economic opportunity and growth;

(2) to create jobs;

(3) to promote economic efficiency;

(4) to enhance productivity; and

(5) to spur innovation.

12 USC 4742

SEC. 252. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Fund" means the Community Development Financial Institutions Fund established under section 104;

(2) the term "appropriate Federal banking agency"—

(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act;

(3) the term "early loan" means a loan enrolled at a time when the aggregate covered amount of loans previously enrolled under the Program by a particular participating financial institution is less than $5,000,000;

(4) the term "enrolled loan" means a loan made by a participating financial institution that is enrolled by a participating State in accordance with this subtitle;

(5) the term "financial institution" means any federally chartered or State-chartered commercial bank, savings association, savings bank, or credit union;

(6) the term "participating financial institution" means any financial institution that has entered into a participation agreement with a participating State in accordance with section 254;

(7) the term "participating State" means any State that has been approved for participation in the Program in accordance with section 253;

(8) the term "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, except that such term shall not include—

(A) the ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate (other than the business of passive ownership of real estate); or

(B) the ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase;

(9) the term "Program" means the Small Business Capital Enhancement Program established under this subtitle;

(10) the term "reserve fund" means a fund, established by a participating State, earmarked for a particular participating financial institution, for the purposes of—

(A) depositing all required premium charges paid by the participating financial institution and by each borrower receiving a loan under the Program from a participating financial institution;

(B) depositing contributions made by the participating State; and

(C) covering losses on enrolled loans by disbursing accumulated funds; and

(11) the term "State" means—

(A) a State of the United States;

(B) the District of Columbia;

(C) any political subdivision of a State of the United States, which subdivision has a population in excess of the population of the least populated State of the United States; and

(D) any other political subdivision of a State of the United States that the Fund determines has the capacity to participate in the program.

SEC. 253. APPROVING STATES FOR PARTICIPATION. 12 USC 4743

(a) APPLICATION.—Any State may apply to the Fund for approval to be a participating State under the Program and to be eligible for reimbursement by the Fund pursuant to section 257.

(b) APPROVAL CRITERIA.—The Fund shall approve a State to be a participating State, if—

(1) a specific department or agency of the State has been designated to implement the Program;

(2) all legal actions necessary to enable such designated department or agency to implement the Program have been accomplished;

(3) funds in the amount of at least $1 for every 2 people residing in the State (as of the last decennial census for which data have been released) are available and have been legally committed to contributions by the State to reserve funds, with such funds being available without time limit and without requiring additional legal action, except that such requirements shall not be construed to limit the authority of the State to

take action at a later time that results in the termination of its obligation to enroll loans and make contributions to reserve funds;

(4) the State has prescribed a form of participation agreement to be entered into between it and each participating financial institution that is consistent with the requirements and purposes of this subtitle; and

(5) the State and the Fund have executed a reimbursement agreement that conforms to the requirements of this subtitle.

(c) EXISTING STATE PROGRAMS.—

(1) IN GENERAL.—A State that is not a participating State, but that has its own capital access program providing portfolio insurance for business loans (based on a separate loss reserve fund for each financial institution), may apply at any time to the Fund to be approved to be a participating State. The Fund shall approve such State to be a participating State, and to be eligible for reimbursements by the Fund pursuant to section 257, if the State—

(A) satisfies the requirements of subsections (a) and (b); and

(B) certifies that each affected financial institution has satisfied the requirements of section 254.

(2) APPLICABLE TERMS OF PARTICIPATION.—

(A) STATUS OF INSTITUTIONS.—If a State is approved for participation under paragraph (1), each financial institution with a participation agreement in effect with the participating State shall immediately be considered a participating financial institution. Reimbursements may be made under section 237 in connection with all contributions made to the reserve fund by the State in connection with lending that occurs on or after the date on which the Fund approves the State for participation.

(B) EFFECTIVE DATE OF PARTICIPATION.—If an amended participation agreement that conforms with section 255 is required in order to secure participation approval by the Fund, contributions subject to reimbursement under section 257 shall include only those contributions made to a reserve fund with respect to loans enrolled on or after the date that an amended participation agreement between the participating State and the participating financial institution becomes effective.

(C) USE OF ACCUMULATED RESERVE FUNDS.—A State that is approved for participation in accordance with this subsection may continue to implement the program utilizing the reserve funds accumulated under the State program.

(d) PRIOR APPROPRIATIONS REQUIREMENT.—The Fund shall not approve a State for participation in the Program until at least $50,000,000 has been appropriated to the Fund (subject to an appropriations Act), without fiscal year limitation, for the purpose of making reimbursements pursuant to section 257 and otherwise carrying out this subtitle.

(e) AMENDMENTS TO AGREEMENTS.—If a State that has been approved to be a participating State wishes to amend its form of participation agreement and continue to be a participating State, such State shall submit such amendment for review by the Fund

in accordance with subsection (b)(4). Any such amendment shall become effective only after it has been approved by the Fund.

SEC. 254. PARTICIPATION AGREEMENTS. 12 USC 4744.

(a) IN GENERAL.—A participating State may enter into a participation agreement with any financial institution determined by the participating State, after consultation with the appropriate Federal banking agency, to have sufficient commercial lending experience and financial and managerial capacity to participate in the Program. The determination by the State shall not be reviewable by the Fund.

(b) PARTICIPATING FINANCIAL INSTITUTIONS.—Upon entering into the participation agreement with the participating State, the financial institution shall become a participating financial institution eligible to enroll loans under the Program.

SEC. 255. TERMS OF PARTICIPATION AGREEMENTS. 12 USC 4745.

(a) IN GENERAL.—The participation agreement to be entered into by a participating State and a participating financial institution shall include all provisions required by this section, and shall not include any provisions inconsistent with the provisions of this section.

(b) ESTABLISHMENT OF SEPARATE RESERVE FUNDS.—A separate reserve fund shall be established by the participating State for each participating financial institution. All funds credited to a reserve fund shall be the exclusive property of the participating State. Each reserve fund shall be an administrative account for the purposes of—

(1) receiving all required premium charges to be paid by the borrower and participating financial institution and contributions by the participating State; and

(2) disbursing funds, either to cover losses sustained by the participating financial institution in connection with loans made under the Program, or as contemplated by subsections (d) and (r).

(c) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the participating financial institution in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(d) EARNED INCOME AND INTEREST.—Interest or income earned on the funds credited to a reserve fund shall be deemed to be part of the reserve fund, except that a participating State may, as further specified in the participation agreement, provide authority for the participating State to withdraw some or all of such interest or income earned.

(e) LOAN TERMS AND CONDITIONS.—

(1) IN GENERAL.—A loan to be filed for enrollment under the Program may be made with such interest rate, fees, and other terms and conditions as agreed upon by the participating financial institution and the borrower, consistent with applicable law.

(2) LINES OF CREDIT.—If a loan to be filed for enrollment is in the form of a line of credit, the amount of the loan shall be considered to be the maximum amount that can be drawn by the borrower against the line of credit.

(f) ENROLLMENT PROCESS.—

(1) FILING.—

(A) IN GENERAL.—A participating financial institution shall file each loan made under the Program for enrollment by completing and submitting to the participating State a form prescribed by the participating State.

(B) FORM.—The form referred to in subparagraph (A) shall include a representation by the participating financial institution that it has complied with the participation agreement in enrolling the loan with the State.

(C) PREMIUM CHARGES.—Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.

(D) SUBMISSION.—The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.

(2) ENROLLMENT BY STATE.—Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has not complied with the participation agreement in enrolling the loan.

(g) COVERAGE AMOUNT.—In filing a loan for enrollment under the Program, the participating financial institution may specify an amount to be covered under the Program that is less than the full amount of the loan.

(h) PREMIUM CHARGES.—

(1) MINIMUM AND MAXIMUM AMOUNTS.—The premium charges payable to the reserve fund by the borrower and the participating financial institution shall be prescribed by the participating financial institution, within minimum and maximum limits set forth in the participation agreement. The participation agreement shall establish minimum and maximum limits whereby the sum of the premium charges paid in connection with a loan by the borrower and the participating financial institution is not less than 3 percent nor more than 7 percent of the amount of the loan covered under the Program.

(2) ALLOCATION OF PREMIUM CHARGES.—The participation agreement shall specify terms for allocating premium charges between the borrower and the participating financial institution. However, if the participating financial institution is required to pay any of the premium charges, the participation agreement shall authorize the participating financial institution to recover from the borrower the cost of the payment of the participating financial institution, in any manner on which the participating financial institution and the borrower agree.

(i) RESTRICTIONS.—

(1) ACTIONS PROHIBITED.—Except as provided in subsection (h) and paragraph (2) of this subsection, the participating State may not—

(A) impose any restrictions or requirements, relating to the interest rate, fees, collateral, or other business terms and conditions of the loan; or

(B) condition enrollment of a loan in the Program on the review by the State of the risk or creditworthiness of a loan.

(2) EFFECT ON OTHER LAW.—Nothing in this subtitle shall affect the applicability of any other law to the conduct by a participating financial institution of its business.

(j) STATE CONTRIBUTIONS.—In enrolling a loan under the Program, the participating State shall contribute to the reserve fund an amount, as provided for in the participation agreement, which shall not be less than the sum of the amount of premium charges paid by the borrower and the participating financial institution.

(k) ELEMENTS OF CLAIMS.—

(1) FILING.—If a participating financial institution charges off all or part of an enrolled loan, such participating financial institution may file a claim for reimbursement with the participating State by submitting a form that—

(A) includes the representation by the participating financial institution that it is filing the claim in accordance with the terms of the applicable participation agreement; and

(B) contains such other information as may be required by the participating State.

(2) TIMING.—Any claim filed under paragraph (1) shall be filed contemporaneously with the action of the participating financial institution to charge off all or part of an enrolled loan. The participating financial institution shall determine when and how much to charge off on an enrolled loan, in a manner consistent with its usual method for making such determinations on business loans that are not enrolled loans under this subtitle.

(l) ELEMENTS OF CLAIMS.—A claim filed by a participating financial institution may include the amount of principal charged off, not to exceed the covered amount of the loan. Such claim may also include accrued interest and out-of-pocket expenses, if and to the extent provided for under the participation agreement.

(m) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—Except as provided in subsection (n) and paragraph (2) of this subsection, upon receipt of a claim filed in accordance with this section and the participation agreement, the participating State shall promptly pay to the participating financial institution, from funds in the reserve fund, the full amount of the claim as submitted.

(2) INSUFFICIENT RESERVE FUNDS.—If there are insufficient funds in the reserve fund to cover the entire amount of a claim of a participating financial institution, the participating State shall pay to the participating financial institution an amount equal to the current balance in the reserve fund. If the enrolled loan for which the claim has been filed—

(A) is not an early loan, such payment shall be deemed fully to satisfy the claim, and the participating financial institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim; or

(B) is an early loan, such payment shall not be deemed fully to satisfy the claim of the participating financial institution, and at such time as the remaining balance of the claim does not exceed 75 percent of the balance in the reserve fund, the participating State shall, upon the request of the participating financial institution, pay any remaining amount of the claim.

(n) DENIAL OF CLAIMS.—A participating State may deny a claim if a representation or warranty made by the participating financial institution to the participating State at the time that the loan was filed for enrollment or at the time that the claim was submitted was known by the participating financial institution to be false.

(o) SUBSEQUENT RECOVERY OF CLAIM AMOUNT.—If, subsequent to payment of a claim by the participating State, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the participating financial institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any expenses incurred by the institution in collection of such amount.

(p) PARTICIPATION AGREEMENT TERMS.—

(1) IN GENERAL.—In connection with the filing of a loan for enrollment in the Program, the participation agreement—

(A) shall require the participating financial institution to obtain an assurance from each borrower that—

(i) the proceeds of the loan will be used for a business purpose;

(ii) the loan will not be used to finance passive real estate ownership; and

(iii) the borrower is not—

(I) an executive officer, director, or principal shareholder of the participating financial institution;

(II) a member of the immediate family of an executive officer, director, or principal shareholder of the participating financial institution; or

(III) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(B) shall require the participating financial institution to provide assurances to the participating State that the loan has not been made in order to place under the protection of the Program prior debt that is not covered under the Program and that is or was owed by the borrower to the participating financial institution or to an affiliate of the participating financial institution;

(C) may provide that if—

(i) a participating financial institution makes a loan to a borrower that is a refinancing of a loan previously made to the borrower by the participating financial institution or an affiliate of the participating financial institution;

(ii) such prior loan was not enrolled in the Program; and

(iii) additional or new financing is extended by the participating financial institution as part of the refinancing,

the participating financial institution may file the loan for enrollment, with the amount to be covered under the Program not to exceed the amount of any additional or new financing; and

(D) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this subtitle.

(2) DEFINITIONS.—For purposes of this subsection, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a participating financial institution as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(q) TERMINATION CLAUSE.—In each participation agreement, the participating State shall reserve for itself the ability to terminate its obligation to enroll loans under the Program. Any such termination shall be prospective only, and shall not apply to amounts of loans enrolled under the Program prior to such termination.

(r) ALLOWABLE WITHDRAWALS FROM FUND.—The participation agreement may provide that, if, for any consecutive period of not less than 24 months, the aggregate outstanding balance of all enrolled loans for a participating financial institution is continually less than the outstanding balance in the reserve fund for that participating financial institution, the participating State, in its discretion, may withdraw an amount from the reserve fund to bring the balance in the reserve fund down to the outstanding balance of all such enrolled loans.

(s) GRANDFATHERED PROVISION.—

(1) SPECIAL TREATMENT OF PREMIUM CHARGES.—Notwithstanding subsection (b) or (d), the participation agreement, if explicitly authorized by a statute enacted by the State before the date of enactment of this Act, may allow a participating financial institution to treat the premium charges paid by the participating financial institution and the borrower into the reserve fund, and interest or income earned on funds in the reserve fund that are deemed to be attributable to such premium charges, as assets of the participating financial institution for accounting purposes, subject to withdrawal by the participating financial institution only—

(A) for the payment of claims approved by the participating State in accordance with this section; and

(B) upon the participating financial institution's withdrawal from authority to make new loans under the Program.

(2) PAYMENT OF POST-WITHDRAWAL CLAIMS.—After any withdrawal of assets from the reserve fund pursuant to paragraph (1)(B), any future claims filed by the participating financial institution on loans remaining in its capital access program portfolio shall only be paid from funds remaining in the reserve fund to the extent that, in the aggregate, such claims exceed the sum of the amount of such withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.

(3) CONDITIONS FOR TERMINATING SPECIAL AUTHORITY.—If the Fund determines that the inclusion in a participation agreement of the provisions authorized by this subsection is

resulting in the enrollment of loans under the Program that are likely to have been made without assistance provided under this subtitle, the Fund may notify the participating State that henceforth, the Fund will only make reimbursements to the State under section 257 with respect to a loan if the participation agreement between the participating State and each participating financial institution has been amended to conform with this section, without exercise of the special authority granted by this subsection.

12 USC 4746.

SEC. 256. REPORTS.

(a) RESERVE FUNDS REPORT.—On or before the last day of each calendar quarter, a participating State shall submit to the Fund a report of contributions to reserve funds made by the participating State during the previous calendar quarter. If the participating State has made contributions to one or more reserve funds during the previous quarter, the report shall—

(1) indicate the total amount of such contributions;

(2) indicate the amount of contributions which is subject to reimbursement, which shall be equal to the total amount of contributions, unless one of the limitations contained in section 257 is applicable;

(3) if one of the limitations in section 257 is applicable, provide documentation of the applicability of such limitation for each loan for which the limitation applies; and

(4) include a certification by the participating State that—

(A) the information provided in accordance with paragraphs (1), (2), and (3) is accurate;

(B) funds in an amount meeting the minimum requirements of section 253(b)(3) continue to be available and legally committed to contributions by the State to reserve funds, less any amount that has been contributed by the State to reserve funds subsequent to the State being approved for participation in the Program;

(C) there has been no unapproved amendment to any participation agreement or the form of participation agreements; and

(D) the participating State is otherwise implementing the Program in accordance with this subtitle and regulations issued pursuant to section 259.

(b) ANNUAL DATA.—Not later than March 31 of each year, each participating State shall submit to the Fund annual data indicating the number of borrowers financed under the Program, the total amount of covered loans, and breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers financed.

(c) FORM.—The reports and data filed pursuant to subsections (a) and (b) shall be in such form as the Fund may require.

12 USC 4747.

SEC. 257. REIMBURSEMENT BY THE FUND.

(a) REIMBURSEMENTS.—Not later than 30 calendar days after receiving a report filed in compliance with section 256, the Fund shall reimburse the participating State in an amount equal to 50 percent of the amount of contributions by the participating State to the reserve funds that are subject to reimbursement by the Fund pursuant to section 256 and this section. The Fund shall reimburse participating States, as it receives reports pursuant to section 256(a), until available funds are expended.

(b) SIZE OF ASSISTED BORROWER.—The Fund shall not provide any reimbursement to a participating State with respect to an enrolled loan made to a borrower that has 500 or more employees at the time that the loan is enrolled in the Program.

(c) THREE-YEAR MAXIMUM.—The amount of reimbursement to be provided by the Fund to a participating State over any 3-year period in connection with loans made to any single borrower or any group of borrowers among which a common enterprise exists shall not exceed $75,000. For purposes of this subsection, "common enterprise" shall have the same meaning as in part 32 of title 12 of the Code of Federal Regulations, or any successor to that part.

(d) LOANS TOTALING LESS THAN $2,000,000.—In connection with a loan in which the covered amount of the loan plus the covered amount of all previous loans enrolled by a participating financial institution does not exceed $2,000,000, the amount of reimbursement by the Fund to the participating State shall not exceed the lesser of—

(1) 75 percent of the sum of the premium charges paid to the reserve fund by the borrower and the participating financial institution; or

(2) 5.25 percent of the covered amount of the loan.

(e) LOANS TOTALING MORE THAN $2,000,000.—In connection with a loan in which the sum of the covered amounts of all previous loans enrolled by the participating financial institution in the Program equals or exceeds $2,000,000, the amount of reimbursement to be provided by the Fund to the participating State shall not exceed the lesser of—

(1) 50 percent of the sum of the premium charges paid by the borrower and the participating financial institution; or

(2) 3.5 percent of the covered amount of the loan.

(f) OTHER AMOUNTS.—In connection with the enrollment of a loan that will cause the aggregate covered amount of all enrolled loans to exceed $2,000,000, the amount of reimbursement by the Fund to the participating State shall be determined—

(1) by applying subsection (d) to the portion of the loan, which when added to the aggregate covered amount of all previously enrolled loans equals $2,000,000; and

(2) by applying subsection (e) to the balance of the loan.

SEC. 258. REIMBURSEMENT TO THE FUND. 12 USC 4748.

(a) IN GENERAL.—If a participating State withdraws funds from a reserve fund pursuant to terms of the participation agreement permitted by subsection (d) or (r) of section 255, such participating State shall, not later than 15 calendar days after such withdrawal, submit to the Fund an amount computed by multiplying the amount withdrawn by the appropriate factor, as determined under subsection (b).

(b) FACTOR.—The appropriate factor shall be obtained by dividing the total amount of contributions that have been made by the participating State to all reserve funds which were subject to reimbursement—

(1) by 2; and

(2) by the total amount of contributions made by the participating State to all reserve funds, including if applicable, contributions that have been made by the State prior to becoming

a participating State if the State continued its own capital access program in accordance with section 253(b).

(c) USE OF REIMBURSEMENTS.—The Fund may use funds reimbursed pursuant to this section to make reimbursements under section 257.

12 USC 4749

SEC. 259. REGULATIONS.

The Fund shall promulgate appropriate regulations to implement this subtitle.

12 USC 4750.

SEC. 260. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are authorized to be appropriated to the Fund $50,000,000 to carry out this subtitle.

(b) BUDGETARY TREATMENT.—The amount authorized to be appropriated under subsection (a) shall be subject to discretionary spending caps, as provided in section 601 of the Congressional Budget Act of 1974, and therefore shall reduce by an equal amount funds made available for other discretionary spending programs.

12 USC 4741 note.

SEC. 261. EFFECTIVE DATE.

This subtitle shall become effective on January 6, 1996.

TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

12 USC 4801.

SEC. 301. INCORPORATED DEFINITIONS.

Unless otherwise specifically provided in this title, for purposes of this title—

(1) the terms "appropriate Federal banking agency", "Federal banking agencies", "insured depository institution", and "State bank supervisor" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(2) the term "insured credit union" has the same meaning as in section 101 of the Federal Credit Union Act.

12 USC 4802

SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN WITH NEW REGULATIONS.

(a) AGENCY CONSIDERATIONS.—In determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency shall consider, consistent with the principles of safety and soundness and the public interest—

(1) any administrative burdens that such regulations would place on depository institutions, including small depository institutions and customers of depository institutions; and

(2) the benefits of such regulations.

(b) ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.—

Effective date.

(1) IN GENERAL.—New regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless—

(A) the agency determines, for good cause published with the regulation, that the regulation should become effective before such time;

(B) the regulation is issued by the Board of Governors of the Federal Reserve System in connection with the implementation of monetary policy; or

(C) the regulation is required to take effect on a date other than the date determined under this paragraph pursuant to any other Act of Congress.

(2) EARLY COMPLIANCE.—Any person who is subject to a regulation described in paragraph (1) may comply with the regulation before the effective date of the regulation.

SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS. 12 USC 4803.

(a) REVIEW OF REGULATIONS; REGULATORY UNIFORMITY.—During the 2-year period beginning on the date of enactment of this Act, each Federal banking agency shall, consistent with the principles of safety and soundness, statutory law and policy, and the public interest—

(1) conduct a review of the regulations and written policies of that agency to—

(A) streamline and modify those regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability;

(B) remove inconsistencies and outmoded and duplicative requirements; and

(C) with respect to regulations prescribed pursuant to section 18(o) of the Federal Deposit Insurance Act, consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities;

(2) work jointly with the other Federal banking agencies to make uniform all regulations and guidelines implementing common statutory or supervisory policies; and

(3) submit a joint report to the Congress at the end of such 2-year period detailing the progress of the agencies in carrying out this subsection. Reports.

(b) REVIEW OF DISCLOSURES.—The Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested persons, shall—

(1) review the regulations and written policies of the Board with respect to disclosures pursuant to the Truth in Lending Act with regard to variable-rate mortgages in order to simplify the disclosures, if necessary, and make the disclosures more meaningful and comprehensible to consumers;

(2) implement any necessary regulatory changes, consistent with applicable law; and

(3) not later than 2 years after completion of the review required by paragraph (1), submit a report to the Congress on the results of its actions taken in accordance with this subsection and any recommended legislative actions. Reports.

SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS. 12 USC 4804.

The Federal banking agencies shall work jointly—

(1) to eliminate, to the extent practicable, duplicative or otherwise unnecessary requests for information in connection with applications or notices to the agencies; and

(2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.

SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.

(a) IN GENERAL.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraphs:

"(6) COORDINATED EXAMINATIONS.—To minimize the disruptive effects of examinations on the operations of insured depository institutions—

"(A) each appropriate Federal banking agency shall, to the extent practicable and consistent with principles of safety and soundness and the public interest—

"(i) coordinate examinations to be conducted by that agency at an insured depository institution and its affiliates;

"(ii) coordinate with the other appropriate Federal banking agencies in the conduct of such examinations;

"(iii) work to coordinate with the appropriate State bank supervisor—

"(I) the conduct of all examinations made pursuant to this subsection; and

"(II) the number, types, and frequency of reports required to be submitted to such agencies and supervisors by insured depository institutions, and the type and amount of information required to be included in such reports; and

"(iv) use copies of reports of examinations of insured depository institutions made by any other Federal banking agency or appropriate State bank supervisor to eliminate duplicative requests for information; and

"(B) not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the Federal banking agencies shall jointly establish and implement a system for determining which one of the Federal banking agencies shall be the lead agency responsible for managing a unified examination of each insured depository institution and its affiliates, as required by this subsection.

"(7) SEPARATE EXAMINATIONS PERMITTED.—Notwithstanding paragraph (6), each appropriate Federal banking agency may conduct a separate examination in an emergency or under other exigent circumstances, or when the agency believes that a violation of law may have occurred.

"(8) REPORT.—At the time the system provided for in paragraph (6) is established, the Federal banking agencies shall submit a joint report describing the system to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Thereafter, the Federal banking agencies shall annually submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the

House of Representatives regarding the progress of the agencies in implementing the system and indicating areas in which enhancements to the system, including legislature improvements, would be appropriate.".

(b) STATE ACCESS TO FEDERAL AGENCY REPORTS.—The first sentence of section 7(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)(A)) is amended by inserting "and, with respect to any State depository institution, any appropriate State bank supervisor for such institution," after "The Corporation".

SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CERTAIN SMALL INSTITUTIONS.

(a) IN GENERAL.—Section 10(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)) is amended—

(1) in subparagraph (A), by striking "$100,000,000" and inserting "$250,000,000";

(2) in subparagraph (C), by striking "and its composite condition was found to be outstanding; and" and inserting "and its composite condition—

"(i) was found to be outstanding; or

"(ii) was found to be outstanding or good, in the case of an insured depository institution that has total assets of not more than $100,000,000;";

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) the insured institution is not currently subject to a formal enforcement proceeding or order by the Corporation or the appropriate Federal banking agency; and".

(b) AGENCY DISCRETION TO RAISE ASSET LIMIT.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(8) AGENCIES AUTHORIZED TO INCREASE MAXIMUM ASSET AMOUNT OF INSTITUTIONS FOR CERTAIN PURPOSES.—At any time after the end of the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, the appropriate Federal banking agency, in the agency's discretion, may increase the maximum amount limitation contained in paragraph (4)(C)(ii), by regulation, from $100,000,000 to an amount not to exceed $175,000,000 for purposes of such paragraph, if the agency determines that the greater amount would be consistent with the principles of safety and soundness for insured depository institutions.".

SEC. 307. CALL REPORT SIMPLIFICATION. 12 USC 4805.

(a) MODERNIZATION OF CALL REPORT FILING AND DISCLOSURE SYSTEM.—In order to reduce the administrative requirements pertaining to bank reports of condition, savings association financial reports, and bank holding company consolidated and parent-only financial statements, and to improve the timeliness of such reports and statements, the Federal banking agencies shall—

(1) work jointly to develop a system under which—

(A) insured depository institutions and their affiliates may file such reports and statements electronically; and

(B) the Federal banking agencies may make such reports and statements available to the public electronically; and

(2) not later than 1 year after the date of enactment of this Act, report to the Congress and make recommendations for legislation that would enhance efficiency for filers and users of such reports and statements.

(b) UNIFORM REPORTS AND SIMPLIFICATION OF INSTRUCTIONS.—The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly—

(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a); and

(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) REVIEW OF CALL REPORT SCHEDULE.—Each Federal banking agency shall—

(1) review the information required by schedules supplementing the core information referred to in subsection (b); and

(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.

(a) REVISED STATUTES.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) in the 5th sentence of subsection (a), by striking "; and the statement of resources" and all that follows through "as may be required by the Comptroller"; and

(2) in subsection (c), by striking the 4th sentence.

(b) FDIA.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the 4th sentence.

(c) FEDERAL RESERVE ACT.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended in the last sentence of the 6th undesignated paragraph, by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

12 USC 4806.

SEC. 309. REGULATORY APPEALS PROCESS, OMBUDSMAN, AND ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the agency supervises.

(b) REVIEW PROCESS.—In establishing the independent appellate process under subsection (a), each agency shall ensure that—

(1) any appeal of a material supervisory determination by an insured depository institution or insured credit union is heard and decided expeditiously; and

(2) appropriate safeguards exist for protecting the appellant from retaliation by agency examiners.

Public notice.

(c) COMMENT PERIOD.—Not later than 90 days after the date of enactment of this Act, each appropriate Federal banking agency

and the National Credit Union Administration Board shall provide public notice and opportunity for comment on proposed guidelines for the establishment of an appellate process under this section.

(d) AGENCY OMBUDSMAN.—

(1) ESTABLISHMENT REQUIRED.—Not later than 180 days after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall appoint an ombudsman.

(2) DUTIES OF OMBUDSMAN.—The ombudsman appointed in accordance with paragraph (1) for any agency shall—

(A) act as a liaison between the agency and any affected person with respect to any problem such party may have in dealing with the agency resulting from the regulatory activities of the agency; and

(B) assure that safeguards exist to encourage complainants to come forward and preserve confidentiality.

(e) ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal banking agency and the National Credit Union Administration Board shall develop and implement a pilot program for using alternative means of dispute resolution of issues in controversy (hereafter in this section referred to as the "alternative dispute resolution program") that is consistent with the requirements of subchapter IV of chapter 5 of title 5, United States Code, if the parties to the dispute, including the agency, agree to such proceeding.

(2) STANDARDS.—An alternative dispute resolution pilot program developed under paragraph (1) shall—

(A) be fair to all interested parties to a dispute;

(B) resolve disputes expeditiously; and

(C) be less costly than traditional means of dispute resolution, including litigation.

(3) INDEPENDENT EVALUATION.—Not later than 18 months after the date on which a pilot program is implemented under paragraph (1), the Administrative Conference of the United States shall submit to the Congress a report containing— Reports.

(A) an evaluation of that pilot program;

(B) the extent to which the pilot programs meet the standards established under paragraph (2);

(C) the extent to which parties to disputes were offered alternative means of dispute resolution and the frequency with which the parties, including the agencies, accepted or declined to use such means; and

(D) any recommendations of the Conference to improve the alternative dispute resolution procedures of the Federal banking agencies and the National Credit Union Administration Board.

(4) IMPLEMENTATION OF PROGRAM.—At any time after completion of the evaluation under paragraph (3)(A), any Federal banking agency and the National Credit Union Administration Board may implement an alternative dispute resolution program throughout the agency, taking into account the results of that evaluation.

(5) COORDINATION WITH EXISTING AGENCY ADR PROGRAMS.—

(A) EVALUATION REQUIRED.—If any Federal banking agency or the National Credit Union Administration maintains an alternative dispute resolution program as of the

date of enactment of this Act under any other provision of law, the Administrative Conference of the United States shall include such program in the evaluation conducted under paragraph (3)(A).

(B) MULTIPLE ADR PROGRAMS.—No provision of this section shall be construed as precluding any Federal banking agency or the National Credit Union Administration Board from establishing more than 1 alternative means of dispute resolution.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) MATERIAL SUPERVISORY DETERMINATIONS.—The term "material supervisory determinations"—

(A) includes determinations relating to—

(i) examination ratings;

(ii) the adequacy of loan loss reserve provisions; and

(iii) loan classifications on loans that are significant to an institution; and

(B) does not include a determination by a Federal banking agency or the National Credit Union Administration Board to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act or section 212 of the Federal Credit Union Act, as appropriate.

(2) INDEPENDENT APPELLATE PROCESS.—The term "independent appellate process" means a review by an agency official who does not directly or indirectly report to the agency official who made the material supervisory determination under review.

(3) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—The term "alternative means of dispute resolution" has the meaning given to such term in section 571 of title 5, United States Code.

(4) ISSUES IN CONTROVERSY.—The term "issues in controversy" means—

(A) any final agency decision involving any claim against an insured depository institution or insured credit union for which the agency has been appointed conservator or receiver or for which a liquidating agent has been appointed, as the case may be;

(B) any final action taken by an agency in the agency's capacity as conservator or receiver for an insured depository institution or by the liquidating agent appointed for an insured credit union; and

(C) any other issue for which the appropriate Federal banking agency or the National Credit Union Administration Board determines that alternative means of dispute resolution would be appropriate.

(g) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall affect the authority of an appropriate Federal banking agency or the National Credit Union Administration Board to take enforcement or supervisory action.

SEC. 310. ELECTRONIC FILING OF CURRENCY TRANSACTION REPORTS.

Section 123 of Public Law 91–508 (12 U.S.C. 1953) is amended by adding at the end the following new subsection:

"(c) ACCEPTANCE OF AUTOMATED RECORDS.—The Secretary shall permit an uninsured bank or financial institution to retain or maintain records referred to in subsection (a) in electronic or automated form, subject to terms and conditions established by the Secretary.".

SEC. 311. BANK SECRECY ACT PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

"SEC. 5329. STAFF COMMENTARIES.

"The Secretary shall—

"(1) publish all written rulings interpreting this subchapter; and

"(2) annually issue a staff commentary on the regulations issued under this subchapter.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5328 the following new item:

"5329. Staff commentaries.".

SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ESTATE SETTLEMENT PROCEDURES ACT REQUIREMENTS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 6 the following new section:

"SEC. 7. EXEMPTED TRANSACTIONS. 12 USC 2606.

"This Act does not apply to credit transactions involving extensions of credit—

"(1) primarily for business, commercial, or agricultural purposes; or

"(2) to government or governmental agencies or instrumentalities.".

SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.

(a) IN GENERAL.—Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A) and indenting appropriately;

(2) by striking "Except with respect" and inserting the following:

"(1) IN GENERAL.—Except with respect"; and

(3) by striking paragraph (2) and inserting the following:

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(ii) has—

"(I) total assets, as of the beginning of such fiscal year, of $5,000,000,000, or more; and

"(II) a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(2) LARGE INSTITUTIONS.—For purposes of this subsection, in the case of an insured depository institution described in paragraph (1)(B)(ii) that the Corporation determines to be a large institution, the audit committee of the holding company of such an institution shall not include any large customers of the institution.

"(3) APPLICABILITY BASED ON RISK TO FUND.—The appropriate Federal banking agency may require an institution with total assets in excess of $9,000,000,000 to comply with this section, notwithstanding the exemption provided by this subsection, if it determines that such exemption would create a significant risk to the affected deposit insurance fund if applied to that institution.".

(b) WRITTEN NOTICE OF REQUIREMENT FOR AUDIT OF QUARTERLY REPORTS.—Section 36(g)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(g)(2)) is amended by adding at the end the following new subparagraph:

"(D) NOTICE TO INSTITUTION.—The Corporation shall promptly notify an insured depository institution, in writing, of a determination pursuant to subparagraph (A) to require a review of such institution's quarterly financial reports.".

SEC. 315. STATE REGULATION OF REAL ESTATE APPRAISALS.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements that readily authorize appraisers who are licensed or certified in one State (and who are in good standing with their State appraiser certifying or licensing agency) to perform appraisals in other States."; and

(3) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(B) by striking "A State" and inserting the following: "(1) IN GENERAL.—A State"; and

(C) by adding at the end the following new paragraph:

"(2) FEES FOR TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall not impose excessive fees or burdensome requirements, as determined by the Appraisal Subcommittee, for temporary practice under this subsection.".

SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR INTERAFFILIATE TRANSACTIONS.

(a) HOME OWNERS' LOAN ACT AMENDMENT.—Section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) is amended by adding at the end the following new subparagraph:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 5(e)(9) of the Federal Deposit Insurance Act), shall be subject to subsection (e) of section 5 of the Federal Deposit Insurance Act as if paragraph (6) of that subsection did not apply.".

(b) REPEAL PROVISION.—Effective on January 1, 1995, subparagraph (C) of section 11(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1468(a)(2)) (as added by subsection (a) of this section) is repealed.

Effective date. 12 USC 1468 note.

SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indent appropriately;

(2) by striking "No agreement" and inserting the following: "(1) IN GENERAL.—No agreement"; and

(3) by adding at the end the following new paragraph:

"(2) PUBLIC DEPOSITS.—An agreement to provide for the lawful collateralization of deposits of a Federal, State, or local governmental entity or of any depositor referred to in section 11(a)(2) shall not be deemed to be invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or with any changes in the collateral made in accordance with such agreement.".

SEC. 318. MODIFICATION OF REGULATORY PROVISIONS.

(a) IN GENERAL.—Section 39(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(b), as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall prescribe standards, by regulation or guideline, for all insured depository institutions relating to asset quality, earnings, and stock valuation that the agency determines to be appropriate.".

(b) ESTABLISHING STANDARDS.—Section 39(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(d), as added by section

132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in the subsection heading, by striking "BY REGULATION"; and

(2) in paragraph (1)—

(A) in the 1st sentence, by inserting "or guideline" before the period; and

(B) in the 2d sentence, by inserting "or guidelines" after "Such regulations".

(c) HOLDING COMPANIES EXCLUDED FROM SCOPE OF STANDARDS.—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1, as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subsections (a), by striking "and depository institution holding companies"; and

(2) in subsection (e)—

(A) by striking "or company" each place such term appears;

(B) in paragraphs (1)(A) and (2), by striking "or depository institution holding company";

(C) in paragraph (1)(A)—

(i) by striking "or (b) the agency shall require" and inserting the following: "or (b)—

"(i) if such standard is prescribed by regulation of the agency, the agency shall require"; and

(ii) by striking the period at the end and inserting the following: "; and

"(ii) if such standard is prescribed by guideline, the agency may require the institution to submit a plan described in clause (i).."; and

(D) in paragraph (1)(C)(i), by striking "and companies".

12 USC 1831p–1 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall be construed to have the same effective date as section 39 of the Federal Deposit Insurance Act, as provided in section 132(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 319. EXPEDITED PROCEDURES.

(a) AMENDMENTS TO THE BANK HOLDING COMPANY ACT.—The 2d sentence of section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking "or (B)" and inserting "(B)"; and

(2) by inserting before the period the following: "; or (C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchanges their shares of the bank for shares of a newly formed bank holding company and receives after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition—

"(I) the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company; and

"(II) the bank is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act);

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization;

"(iii) the company provides 30 days prior notice to the Board and the Board does not object to such transaction during such 30-day period; and

"(iv) the holding company will not acquire control of any additional bank as a result of the reorganization.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) CONVERSIONS ALLOWED.—Notwithstanding paragraph (2)(A), and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).";

(2) in subparagraph (E)—

(A) in clause (i), by striking "(and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board)";

(B) in clause (ii), by striking "or Board"; and

(C) in clause (iv)—

(i) by striking ", and the appropriate Federal banking agency for any depository institution holding company,";

(ii) by striking "each"; and

(iii) by striking ", and any depository institution holding company which controls such institution,";

(3) in subparagraph (F)—

(A) by striking "The Board" and all that follows through "a Bank" and inserting "A Bank"; and

(B) by striking "unless the Board determines that" and inserting "may not be the acquiring, assuming, or resulting depository institution in a transaction under subparagraph (A) unless"; and

(4) by striking subparagraph (K).

SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph:

"(12) Any equity security issued in connection with the acquisition by a holding company of a bank under section 3(a) of the Bank Holding Company Act of 1956 or a savings association under section 10(e) of the Home Owners' Loan Act, if—

"(A) the acquisition occurs solely as part of a reorganization in which security holders exchange their shares

of a bank or savings association for shares of a newly formed holding company with no significant assets other than securities of the bank or savings association and the existing subsidiaries of the bank or savings association;

"(B) the security holders receive, after that reorganization, substantially the same proportional share interests in the holding company as they held in the bank or savings association, except for nominal changes in shareholders' interests resulting from lawful elimination of fractional interests and the exercise of dissenting shareholders' rights under State or Federal law;

"(C) the rights and interests of security holders in the holding company are substantially the same as those in the bank or savings association prior to the transaction, other than as may be required by law; and

"(D) the holding company has substantially the same assets and liabilities, on a consolidated basis, as the bank or savings association had prior to the transaction.

For purposes of this paragraph, the term 'savings association' means a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation.".

SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIODS FOR CERTAIN ACQUISITIONS AND MERGERS.

(a) ACQUISITIONS.—Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting before the period at the end of the 4th sentence the following: "or, if the Board has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

(b) MERGERS.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence the following: "or, if the agency has not received any adverse comment from the Attorney General of the United States relating to competitive factors, such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 15 calendar days after the date of approval".

SEC. 322. BANKERS' BANKS.

(a) OWNERSHIP BY BANKERS' BANKS.—

(1) SECTION 5136.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the 5th proviso—

(A) by inserting "or depository institution holding companies (as defined in section 3 of the Federal Deposit Insurance Act)" after "(except to the extent directors' qualifying shares are required by law) by depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at

the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')".

(2) SECTION 5169.—Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended—

(A) by inserting "or depository institution holding companies" after "(except to the extent directors' qualifying shares are required by law) by other depository institutions"; and

(B) by striking "services for other depository institutions and their officers, directors and employees" and inserting the following: "services to or for other depository institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing correspondent banking services at the request of other depository institutions or their holding companies (also referred to as a 'banker's bank')".

(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended by adding at the end the following new subparagraph:

"(E) BANKERS' BANKS.—A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes or in section 5169(b) of the Revised Statutes, on the same terms and conditions as a national bank may purchase such shares.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK HOLDING COMPANY ACT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking the 2d sentence.

(2) MANAGEMENT INTERLOCKS ACT.—Section 202(3)(D) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by striking "the voting securities" the first place such term appears and all that follows through the end of the subparagraph and inserting "and is a bankers' bank, described in Paragraph Seventh of section 5136 of the Revised Statutes; or".

(d) LENDING LIMIT FOR LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" each place such term appears and inserting "15 percent".

SEC. 323. BANK SERVICE CORPORATION ACT AMENDMENT.

Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended—

(1) in subsection (a), by striking "the prior approval of" and inserting "prior notice, as determined by"; and

(2) in subsection (c), by inserting "or whether to approve or disapprove any notice" after "approval".

SEC. 324. MERGER TRANSACTION REPORTS.

Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, a banking agency shall not be required to file a report requested by the responsible agency under this paragraph if such banking agency advises the responsible agency by the applicable date under the preceding sentence that the report is not necessary because none of the effects described in paragraph (5) are likely to occur as a result of the transaction.".

SEC. 325. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from the waiver of or failure to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement

negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list, except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 326. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS. 12 USC 633.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 25B the following new section:

"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

"(a) EXCEPTIONS FROM REPAYMENT REQUIREMENT.—A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(1) an act of war, insurrection, or civil strife; or

"(2) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located;

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances.

"(b) REGULATIONS.—The Board and the Comptroller of the Currency may jointly prescribe such regulations as they deem necessary to implement this section.".

(b) CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (p) the following new subsection:

"(q) SOVEREIGN RISK.—Section 25C of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—Section 25C of the Federal Reserve Act (as added by subsection (a)) shall not be applied retroactively and shall not be construed to affect or apply to any claim or cause of action addressed by that section arising from 12 USC 633 note

events or circumstances that occurred before the date of enactment of this Act.

SEC. 327. GAO REPORTS.

Section 102(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1825 note) is amended to read as follows:

"(1) QUARTERLY REPORTING.—Not later than 90 days after the end of any calendar quarter in which the Federal Deposit Insurance Corporation (hereafter in this section referred to as the 'Corporation') has any obligations pursuant to section 14 of the Federal Deposit Insurance Act outstanding, the Comptroller General of the United States shall submit a report on the Corporation's compliance at the end of that quarter with section 15(c) of the Federal Deposit Insurance Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such report shall be included in the Comptroller General's audit report for that year, as required by section 17 of the Federal Deposit Insurance Act.".

12 USC 4801 note.

SEC. 328. STUDY AND REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal banking agencies, shall conduct a study of the effect that the implementation of risk-based capital standards for depository institutions, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions;

(2) the availability of credit, particularly to individuals and small businesses; and

(3) economic growth.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report shall contain any recommendations with respect to capital standards that the Secretary of the Treasury may determine to be appropriate.

Reports. 12 USC 4801 note.

SEC. 329. STUDY ON THE IMPACT OF THE PAYMENT OF INTEREST ON RESERVES.

(a) FEDERAL RESERVE STUDY.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation and the National Credit Union Administration Board, shall conduct a study and report to the Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying a market rate of interest to insured depository institutions on sterile reserves or, in the alternative, providing for payment of such interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and the potential income lost by insured depository institutions; and

(4) the impact that the failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, in consultation with the Committees on the Budget of the Senate and the House of Representatives, shall jointly conduct a study and report to the Congress on the budgetary impact of—

(1) paying a market rate of interest to insured depository institutions on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

SEC. 330. STUDY AND REPORT ON THE CONSUMER CREDIT SYSTEM.

12 USC 4801 note.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Board of Governors of the Federal Reserve System, the Administrator of the Small Business Administration, the Secretary of Housing and Urban Development, and the other Federal banking agencies, shall conduct a study of the process, including any Federal laws, by which credit is made available for consumers and small businesses in order to identify procedures, including any Federal laws, which have the effect of—

(1) reducing the amount of credit available for such purposes or the number of persons eligible for such credit;

(2) increasing the level of consumer inconvenience, cost, and time delays in connection with the extension of consumer and small business credit without corresponding benefit with respect to the protection of consumers or small businesses or the safety and soundness of insured depository institutions; and

(3) increasing costs and burdens on insured depository institutions, insured credit unions, and other lenders without corresponding benefit with respect to the protection of consumers or small business concerns or to the safety and soundness of insured institutions.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the findings and conclusions of the Secretary with respect to the study conducted under subsection (a).

(2) RECOMMENDATIONS.—The report required by paragraph (1) shall contain any recommendations for administrative action or statutory changes that the Secretary of the Treasury may determine to be appropriate.

(c) PUBLIC PARTICIPATION.—In conducting the study required by subsection (a), comments shall be solicited from consumers, representatives of consumers, insured depository institutions, insured credit unions, other lenders, and other interested parties.

SEC. 331. CLARIFICATION OF PROVISIONS RELATING TO ADMINISTRATIVE AUTONOMY.

(a) PUBLIC LAW 93–495.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by inserting "the Comptroller of the Currency," after "Federal Deposit Insurance Corporation,".

(b) REVISED STATUTES.—

(1) SECTION 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended by inserting "or section 301(f)(1) of title 31, United States Code," after "provisions of this section".

(2) SECTION 324.—Section 324 of the Revised Statutes (12 U.S.C. 1) is amended by adding at the end the following: "The Comptroller of the Currency shall have the same authority over matters within the jurisdiction of the Comptroller as the Director of the Office of Thrift Supervision has over matters within the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency.".

(3) SECTION 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following new subsection:

"(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

(c) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 3(b) of the Home Owners' Loan Act (12 U.S.C. 1462a(b)) is amended—

(1) in paragraph (3), by striking "unless otherwise provided by law" and inserting "(including agency enforcement actions) unless otherwise specifically provided by law"; and

(2) by adding at the end the following new paragraph:

"(4) BANKING AGENCY RULEMAKING.—The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Director.".

(d) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY.—The Board may act in its own name and through its own attorneys in enforcing any provision of this title, regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), or other entity, or the administration of its operations.".

(e) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 9(a) of the Federal Deposit Insurance Act (12 U.S.C. 1819(a)) is amended in paragraph Fourth, by inserting "by and through its own attorneys," after "complain and defend,".

SEC. 332. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274(1) of the Truth in Savings Act (12 U.S.C. 4313(1)) is amended to read as follows:

"(1) ACCOUNT.—The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes that is offered by a depository institution into which a consumer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 333. STUDY ON CHECK-RELATED FRAUD.

12 USC 4801 note.

(a) STUDY.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") shall conduct a study on the advisability of extending the 1-business-day period specified in section 603(b)(1) of the Expedited Funds Availability Act, regarding availability of funds deposited by local checks, to 2 business days.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Board shall consider—

(1) whether there is a pattern of significant increases in check-related losses at depository institutions attributable to the provisions of the Expedited Funds Availability Act; and

(2) whether extension of the time period referred to in subsection (a) is necessary to diminish the volume of any such check-related losses.

(c) REPORT TO THE CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Board shall submit a report to the Congress concerning the results of the study conducted under this section and including any recommendations for legislative action.

SEC. 334. INSIDER LENDING.

(a) LOANS TO EXECUTIVE OFFICERS BY MEMBER BANKS.—Section 22(g)(2) of the Federal Reserve Act (12 U.S.C. 375a(2)) is amended by striking "With the specific prior approval of its board of directors, a member" and inserting "A member".

(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)) is amended—

(1) by striking "MEMBER BANK.—FOR" and inserting the following: "MEMBER BANK.—

"(A) IN GENERAL.—For"; and

(2) by adding at the end the following:

"(B) EXCEPTION.—The Board may, by regulation, make exceptions to subparagraph (A), except as that subparagraph makes applicable paragraph (2), for an executive officer or director of a subsidiary of a company that controls the member bank, if that executive officer or director does not have authority to participate, and does not participate, in major policymaking functions of the member bank.".

SEC. 335. REVISIONS OF STANDARDS.

Section 305(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) take into account the size and activities of the institutions and do not cause undue reporting burdens.".

SEC. 336. ALTERNATIVE RULES FOR RADIO ADVERTISING.

(a) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 184 of the Truth in Lending Act (15 U.S.C. 1667c) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) RADIO ADVERTISEMENTS.—

"(1) IN GENERAL.—An advertisement by radio broadcast to aid, promote, or assist, directly or indirectly, any consumer lease shall be deemed to be in compliance with the requirements of subsection (a) if such advertisement clearly and conspicuously—

"(A) states the information required by paragraphs (1) and (2) of subsection (a);

"(B) states the number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;

"(C) includes—

"(i) a referral to—

"(I) a toll-free telephone number established in accordance with paragraph (2) that may be used by consumers to obtain the information required under subsection (a); or

"(II) a written advertisement that—

"(aa) appears in a publication in general circulation in the community served by the radio station on which such advertisement is broadcast during the period beginning 3 days before any such broadcast and ending 10 days after such broadcast; and

"(bb) includes the information required to be disclosed under subsection (a); and

"(ii) the name and dates of any publication referred to in clause (i)(II); and

"(D) includes any other information which the Board determines necessary to carry out this chapter.

"(2) ESTABLISHMENT OF TOLL-FREE NUMBER.—

"(A) IN GENERAL.—In the case of a radio broadcast advertisement described in paragraph (1) that includes a referral to a toll-free telephone number, the lessor who offers the consumer lease shall—

"(i) establish such a toll-free telephone number not later than the date on which the advertisement including the referral is broadcast;

"(ii) maintain such telephone number for a period of not less than 10 days, beginning on the date of any such broadcast; and

"(iii) provide the information required under subsection (a) with respect to the lease to any person who calls such number.

"(B) FORM OF INFORMATION.—The information required to be provided under subparagraph (A)(iii) shall be provided verbally or, if requested by the consumer, in written form.

"(3) NO EFFECT ON OTHER LAW.—Nothing in this subsection shall affect the requirements of Federal law as such requirements apply to advertisement by any medium other than radio broadcast.".

(b) STUDY OF ADVERTISING RULES.—Not later than 365 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a report to the Congress on— Reports. 15 USC 1667c note.

(1) the current rules applicable to credit advertising;

(2) how such rules could be modified to increase consumer benefit and decrease creditor costs; and

(3) how such rules could be modified, if at all, for radio advertisements without diminishing consumer protection.

SEC. 337. DEPOSIT BROKER REGISTRATION.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "that is not well capitalized (as defined in section 38)" after "includes any insured depository institution";

(2) by striking "of any insured depository" and inserting "of such";

(3) by striking "(with respect to such deposits)"; and

(4) by striking "having the same type of charter".

SEC. 338. AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

(a) MANAGEMENT EXEMPTION.—Section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) is amended—

(1) in subsections (a) and (b), by striking "15 years after the date of enactment of this title" each place it appears and inserting ", subject to the requirements of subsection (c), 20 years after the date of enactment of this title"; and

(2) by adding at the end the following new subsection:

"(c) REVIEW OF EXISTING MANAGEMENT INTERLOCKS.—Upon the timely filing of a submission by a person petitioning to serve as a management official in more than 1 position pursuant to subsection (a) or (b), each appropriate Federal depository institutions regulatory agency shall, not later than 6 months after the date of enactment of this Act—

"(1) review, on a case-by-case basis, the circumstances under which such person has served as a management official under the provisions of subsection (a) or (b); and

"(2) permit the management official to continue to serve in such position only if—

"(A) such person has provided a resolution from the boards of directors of each affected depository institution, depository holding company, or company described in subsection (b), certifying to the appropriate Federal depository institutions regulatory agency for each of the institutions involved that there is no other qualified candidate from the community described in paragraph (1) or (2) of section 203 who—

"(i) possesses the level of expertise necessary for such service with respect to the affected depository institution, depository holding company, or company described in subsection (b); and

"(ii) is willing to serve as a management official at the affected depository institution, depository holding company, or company described in subsection (b); and

"(B) the appropriate Federal depository institutions regulatory agency determines that continuation of service by the management official does not produce an anticompetitive effect with respect to each affected depository institution, depository holding company, or company described in subsection (b).".

(b) AMENDMENTS TO SECTION 209.—Section 209 of the Depository Institution Management Interlocks Act (12 U.S.C. 3207) is amended—

(1) by striking "Rules" and inserting "(a) IN GENERAL.—Rules";

(2) by striking ", including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204,"; and

(3) by adding at the end the following new subsections:

"(b) REGULATORY STANDARDS.—An appropriate Federal depository institution regulatory agency may permit, on a case-by-case basis, service by a management official which would otherwise be prohibited by section 203 or 204 only if—

"(1) the board of directors of the affected depository institution, depository institution holding company, or company described in section 206(b), provides a resolution to the appropriate Federal depository institutions regulatory agency certifying that there is no other candidate from the community described in paragraph (1) or (2) of section 203 who—

"(A) possesses the level of expertise necessary for such service with respect to the affected depository institution, depository institution holding company, or company described in section 206(b) and is not prohibited from service under section 203 or 204; and

"(B) is willing to serve as a management official at the affected depository institution, depository institution holding company, or company described in section 206(b); and

"(2) the appropriate Federal depository institutions regulatory agency determines that—

"(A) the management official is critical to the safe and sound operations of the affected depository institution, depository institution holding company, or company described in section 206(b);

"(B) continuation of service by the management official does not produce an anticompetitive effect with respect to the affected depository institution, depository institution holding company, or company described in section 206(b); and

"(C) the management official meets such additional requirements as the agency may impose.

"(c) LIMITED EXCEPTION FOR MANAGEMENT OFFICIAL CONSIGNMENT PROGRAM.—

"(1) IN GENERAL.—Notwithstanding the requirements of subsection (b), an appropriate Federal depository institutions regulatory agency may establish a program to permit, on a case-by-case basis, service by a management official which would otherwise be prohibited by section 203 or 204, for a period of not more than 2 years, if the agency determines that such service would—

"(A) improve the provision of credit to low- and moderate-income areas;

"(B) increase the competitive position of minority- and woman-owned institutions; or

"(C) strengthen the management of newly chartered institutions that are in an unsafe or unsound condition.

"(2) EXTENSION OF SERVICE PERIOD.—The appropriate Federal depository institutions regulatory agency may extend the 2-year period referred to in paragraph (1) for one additional period of not more than 2 years, subject to making a new determination described in subparagraphs (A) through (C) of paragraph (1).".

SEC. 339. ADVERSE INFORMATION ABOUT CONSUMERS.

Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:

"(4) The dates, original payees, and amounts of any checks upon which is based any adverse characterization of the consumer, included in the file at the time of the disclosure.".

SEC. 340. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSITORS.

(a) IN GENERAL.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

"(3) ACKNOWLEDGEMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS.—With respect to any depositor who was not a depositor at the depository institution before June 19, 1994, receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) CURRENT DEPOSITORS.—Receive any deposit after the effective date of this paragraph for the account of any depositor who was a depositor before June 19, 1994, only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution has complied with the provisions of subparagraph (C) which are applicable as of the date of the deposit.

"(C) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

"(i) IN GENERAL.—Transmit to each depositor who was a depositor before June 19, 1994, and has not signed a written acknowledgement described in subparagraph (A)—

"(I) a card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

"(ii) MANNER AND TIMING OF NOTICE.—

"(I) FIRST NOTICE.—Make the transmission described in clause (i) via first class mail not later than September 12, 1994.

"(II) SECOND NOTICE.—Make a second transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.

"(III) THIRD NOTICE.—Make a third transmission described in clause (i) via first class mail not less than 30 days and not more than 45 days after a transmission to the depositor in accordance with subclause (II), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.".

12 USC 1831t note.

(b) EFFECTIVE DATE.—Section 43(b)(3) of the Federal Deposit Insurance Act, as amended by subsection (a), shall take effect in accordance with section 151(a)(2)(D) of the Federal Deposit Insurance Corporation Improvement Act of 1991.

12 USC 4801 note.

SEC. 341. FEASIBILITY STUDY OF DATA BANK.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall—

(1) study the feasibility, including the costs and benefits to insured depository institutions, of establishing and maintaining a data bank for reports submitted by any depository institution to a Federal banking agency; and

Reports.

(2) report the results of such study to the Congress.

(b) ADDITIONAL FACTORS.—The study required under subsection (a) shall consider the feasibility of—

(1) permitting depository institutions to file reports directly with the data bank; and

(2) permitting Federal banking agencies, State bank supervisors, and the public to obtain access to any appropriate report on file with the data bank which such agency or supervisor or the public is otherwise authorized to receive.

12 USC 4801 note.

SEC. 342. TIMELY COMPLETION OF CRA REVIEW.

The comprehensive regulatory review of the Community Reinvestment Act of 1977 that, as of the date of enactment of this Act, is being conducted by the Federal banking agencies, shall be completed at the earliest practicable time.

12 USC 4807.

SEC. 343. TIME LIMIT ON AGENCY CONSIDERATION OF COMPLETED APPLICATIONS.

(a) IN GENERAL.—Each Federal banking agency shall take final action on any application to the agency before the end of the 1-year period beginning on the date on which a completed application is received by the agency.

(b) WAIVER BY APPLICANT AUTHORIZED.—Any person submitting an application to a Federal banking agency may waive the applicability of subsection (a) with respect to such application at any time.

SEC. 344. WAIVER OF RIGHT OF RESCISSION FOR CERTAIN REFINANCING TRANSACTIONS.

12 USC 4801 note.

Not later than 6 months after the date of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the consumer advisory council to such Board, consumers, representatives of consumers, lenders, and other interested parties, shall submit recommendations to the Congress regarding whether a waiver or modification, at the option of a consumer, of the right of rescission under section 125 of the Truth in Lending Act with respect to transactions which constitute a refinancing or consolidation (with no new advances) of the principal balance then due, and any accrued and unpaid finance charges of an existing extension of credit by a different creditor secured by an interest in the same property, would benefit consumers.

SEC. 345. CLARIFICATION OF RESPA DISCLOSURE REQUIREMENTS.

Section 6(a)(1)(B) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(a)(1)(B)) is amended—

(1) by striking "(B) for each of the most recent" and inserting "(B) at the choice of the person making a federally related mortgage loan—

"(i) for each of the most recent";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and indenting appropriately;

(3) by striking "and" at the end of subclause (II) (as redesignated by paragraph (2)) and inserting "or"; and

(4) by inserting after clause (i) (as redesignated by paragraph (1)) the following new clause:

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

SEC. 346. NOTICE PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN CERTAIN ACTIVITIES.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end the following new subsection:

"(j) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No bank holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in activities based on subsection (c)(8) or (a)(2) without providing the Board with written notice of the proposed transaction or activity at least 60 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice. Regulations.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 60-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board

issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 60-day period referred to in clause (i) for an additional 30 days. The Board may further extend the period with the agreement of the bank holding company submitting the notice pursuant to this subsection.

"(iii) DETERMINATION OF PERIOD IN CASE OF PUBLIC HEARING.—In the event a hearing is requested or the Board determines that a hearing is warranted, the Board may extend the notice period provided in this subsection for such time as is reasonably necessary to conduct a hearing and to evaluate the hearing record. Such extension shall not exceed the 91-day period beginning on the date that the hearing record is complete.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for a shorter notice period with respect to particular activities or transactions.

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire or retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) or (a)(2) that has not been previously approved by regulation, the Board may extend the notice period under this subsection for an additional 90 days. The Board may further extend the period with the agreement of the bank holding company submitting the notice pursuant to this subsection.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board shall consider whether performance of the activity by a bank holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) GROUNDS FOR DISAPPROVAL.—The Board may deny any proposed transaction or activity for which notice has been submitted pursuant to this subsection if the bank holding company submitting such notice neglects, fails, or refuses to furnish the Board all the information required by the Board.

"(C) CONDITIONAL ACTION.—Nothing in this subsection limits the authority of the Board to impose conditions in connection with an action under this section."; and

(2) in subsection (c), by striking the penultimate sentence.

SEC. 347. COMMERCIAL MORTGAGE RELATED SECURITIES.

(a) IN GENERAL.—Section 3(a)(41)(A)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i)) is amended—

(1) by striking "or on a residential" and inserting "on a residential"; and

(2) by inserting before the semicolon ", or on one or more parcels of real estate upon which is located one or more commercial structures".

(b) AMENDMENT TO THE REVISED STATUTES.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the twelfth sentence, by striking "(15 U.S.C. 78c(a)(41))), subject to such regulations" and inserting "(15 U.S.C. 78c(a)(41)). The exception provided for the securities described in subparagraphs (A), (B), and (C) shall be subject to such regulations".

(c) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Comptroller of the Currency shall promulgate final regulations, in accordance with the thirteenth sentence of Paragraph Seventh of section 5136 of the Revised Statutes (as amended by subsection (b)), to carry out the amendments made by this section. 12 USC 24 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of promulgation of final regulations under subsection (c). 12 USC 24 note.

(e) STATE OPT OUT.—Notwithstanding the amendments made by this section, a note that is directly secured by a first lien on one or more parcels of real estate upon which is located one or more commercial structures shall not be considered to be a mortgage related security under section 3(a)(41) of the Securities Exchange Act of 1934 in any State that, prior to the expiration of 7 years after the date of enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided by the amendments made by this subsection. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto, and shall not require the sale or other disposition of any securities acquired prior thereto. 15 USC 78c note.

SEC. 348. CLARIFYING AMENDMENT RELATING TO DATA COLLECTION.

Section 7(a)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(9)) is amended by adding at the end the following: "In prescribing reporting and other requirements for the collection of actual and accurate information pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions that are well capitalized (as defined in section 38) while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution for purposes of compliance with this Act.".

SEC. 349. GUIDELINES FOR EXAMINATIONS.

(a) ADEQUACY OF STATE EXAMINATIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end the following new paragraph:

"(9) STANDARDS FOR DETERMINING ADEQUACY OF STATE EXAMINATIONS.—The Federal Financial Institutions Examination Council shall issue guidelines establishing standards to be used at the discretion of the appropriate Federal banking agency for purposes of making a determination under paragraph (3).".

12 USC 1820 note.

(b) EFFECTIVE DATE OF INITIAL GUIDELINES.—The initial guidelines required to be issued pursuant to the amendment made by subsection (a) shall become effective not later than 1 year after the date of enactment of this Act.

12 USC 4808.

SEC. 350. REVISING REGULATORY REQUIREMENTS FOR TRANSFERS OF ALL TYPES OF ASSETS WITH RECOURSE.

(a) REVIEW AND REVISION OF REGULATIONS.—

(1) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, consistent with the principles of safety and soundness and the public interest—

(A) review the agency's regulations and written policies relating to transfers of assets with recourse by insured depository institutions; and

(B) in consultation with the other Federal banking agencies, promulgate regulations that better reflect the exposure of an insured depository institution to credit risk from transfers of assets with recourse.

(2) REGULATIONS REQUIRED.—Before the end of the 180-day period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall prescribe the regulations developed pursuant to paragraph (1)(B).

(b) REGULATIONS REQUIRED.—

(1) IN GENERAL.—After the end of the 180-day period beginning on the date of enactment of this Act, the amount of risk-based capital required to be maintained, under regulations prescribed by the appropriate Federal banking agency, by any insured depository institution with respect to assets transferred with recourse by such institution may not exceed the maximum amount of recourse for which such institution is contractually liable under the recourse agreement.

(2) EXCEPTION FOR SAFETY AND SOUNDNESS.—The appropriate Federal banking agency may require any insured depository institution to maintain risk-based capital in an amount greater than the amount determined under paragraph (1), if the agency determines, by regulation or order, that such higher amount is necessary for safety and soundness reasons.

(c) COORDINATION WITH SECTION 208(b).—This section shall not be construed as superseding the applicability of section 208(b).

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "Federal banking agency", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

TITLE IV—MONEY LAUNDERING

Money Laundering Suppression Act of 1994.
31 USC 5301 note

SEC. 401. SHORT TITLE.

This title may be cited as the "Money Laundering Suppression Act of 1994".

SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO REDUCE NUMBER AND SIZE OF REPORTS CONSISTENT WITH EFFECTIVE LAW ENFORCEMENT.

(a) IN GENERAL.—Section 5313 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(d) MANDATORY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and the following categories of entities:

"(A) Another depository institution.

"(B) A department or agency of the United States, any State, or any political subdivision of any State.

"(C) Any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between 2 or more States, which exercises governmental authority on behalf of the United States or any such State or political subdivision.

"(D) Any business or category of business the reports on which have little or no value for law enforcement purposes.

"(2) NOTICE OF EXEMPTION.—The Secretary of the Treasury shall publish in the Federal Register at such times as the Secretary determines to be appropriate (but not less frequently than once each year) a list of all the entities whose transactions with a depository institution are exempt under this subsection from the reporting requirements of subsection (a).

Federal Register, publication

"(e) DISCRETIONARY EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of the Treasury may exempt, pursuant to section 5318(a)(6), a depository institution from the reporting requirements of subsection (a) with respect to transactions between the depository institution and a qualified business customer of the institution on the basis of information submitted to the Secretary by the institution in accordance with procedures which the Secretary shall establish.

"(2) QUALIFIED BUSINESS CUSTOMER DEFINED.—For purposes of this subsection, the term 'qualified business customer' means a business which—

"(A) maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) at the depository institution;

"(B) frequently engages in transactions with the depository institution which are subject to the reporting requirements of subsection (a); and

"(C) meets criteria which the Secretary determines are sufficient to ensure that the purposes of this subchapter

are carried out without requiring a report with respect to such transactions.

Regulations.

"(3) CRITERIA FOR EXEMPTION.—The Secretary of the Treasury shall establish, by regulation, the criteria for granting and maintaining an exemption under paragraph (1).

"(4) GUIDELINES.—

"(A) IN GENERAL.—The Secretary of the Treasury shall establish guidelines for depository institutions to follow in selecting customers for an exemption under this subsection.

"(B) CONTENTS.—The guidelines may include a description of the types of businesses or an itemization of specific businesses for which no exemption will be granted under this subsection to any depository institution.

Regulations.

"(5) ANNUAL REVIEW.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to—

"(A) review, at least once each year, the qualified business customers of such institution with respect to whom an exemption has been granted under this subsection; and

"(B) upon the completion of such review, resubmit information about such customers, with such modifications as the institution determines to be appropriate, to the Secretary for the Secretary's approval.

"(6) 2-YEAR PHASE-IN PROVISION.—During the 2-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, this subsection shall be applied by the Secretary on the basis of such criteria as the Secretary determines to be appropriate to achieve an orderly implementation of the requirements of this subsection.

"(f) PROVISIONS APPLICABLE TO MANDATORY AND DISCRETIONARY EXEMPTIONS.—

"(1) LIMITATION ON LIABILITY OF DEPOSITORY INSTITUTIONS.—No depository institution shall be subject to any penalty which may be imposed under this subchapter for the failure of the institution to file a report with respect to a transaction with a customer for whom an exemption has been granted under subsection (d) or (e) unless the institution—

"(A) knowingly files false or incomplete information to the Secretary with respect to the transaction or the customer engaging in the transaction; or

"(B) has reason to believe at the time the exemption is granted or the transaction is entered into that the customer or the transaction does not meet the criteria established for granting such exemption.

"(2) COORDINATION WITH OTHER PROVISIONS.—Any exemption granted by the Secretary of the Treasury under section 5318(a) in accordance with this section, and any transaction which is subject to such exemption, shall be subject to any other provision of law applicable to such exemption, including—

"(A) the authority of the Secretary, under section 5318(a)(6), to revoke such exemption at any time; and

"(B) any requirement to report, or any authority to require a report on, any possible violation of any law or regulation or any suspected criminal activity.

"(g) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution'—

"(1) has the meaning given to such term in section 19(b)(1)(A) of the Federal Reserve Act; and

"(2) includes—

"(A) any branch, agency, or commercial lending company (as such terms are defined in section 1(b) of the International Banking Act of 1978);

"(B) any corporation chartered under section 25A of the Federal Reserve Act; and

"(C) any corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.".

(b) REPORT REDUCTION GOAL; REPORTS.— 31 USC 5313 note.

(1) IN GENERAL.—In implementing the amendment made by subsection (a), the Secretary of the Treasury shall seek to reduce, within a reasonable period of time, the number of reports required to be filed in the aggregate by depository institutions pursuant to section 5313(a) of title 31, United States Code, by at least 30 percent of the number filed during the year preceding the date of enactment of this Act.

(2) INTERIM REPORT.—The Secretary of the Treasury shall submit a report to the Congress not later than the end of the 180-day period beginning on the date of enactment of this Act on the progress made by the Secretary in implementing the amendment made by subsection (a).

(3) ANNUAL REPORT.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports filed with the Secretary pursuant to section 5313(a) of title 31, United States Code, consistent with the purposes of such section and effective law enforcement.

(c) STREAMLINED CURRENCY TRANSACTION REPORTS.—The Secretary of the Treasury shall take such action as may be appropriate to— 31 USC 5313 note.

(1) redesign the format of reports required to be filed under section 5313(a) of title 31, United States Code, by any financial institution (as defined in section 5312(a)(2) of such title) to eliminate the need to report information which has little or no value for law enforcement purposes; and

(2) reduce the time and effort required to prepare such report for filing by any such financial institution under such section.

SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUSPICIOUS TRANSACTIONS.

(a) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) SINGLE DESIGNEE FOR REPORTING SUSPICIOUS TRANSACTIONS.—

"(A) IN GENERAL.—In requiring reports under paragraph (1) of suspicious transactions, the Secretary of the Treasury shall designate, to the extent practicable and appropriate, a single officer or agency of the United States to whom such reports shall be made.

"(B) DUTY OF DESIGNEE.—The officer or agency of the United States designated by the Secretary of the Treasury

pursuant to subparagraph (A) shall refer any report of a suspicious transaction to any appropriate law enforcement or supervisory agency.

"(C) COORDINATION WITH OTHER REPORTING REQUIREMENTS.—Subparagraph (A) shall not be construed as precluding any supervisory agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency pursuant to any other applicable provision of law.".

31 USC 5318 note.

(b) REPORTS.—

(1) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under paragraph (2) on the number of suspicious transactions reported to the officer or agency designated under section 5318(g)(4)(A) of title 31, United States Code, during the period covered by the report and the disposition of such reports.

(2) TIME FOR SUBMITTING REPORTS.—The 1st report required under paragraph (1) shall be filed before the end of the 1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994 and each subsequent report shall be filed within 90 days after the end of each of the 5 calendar years which begin after such date of enactment.

31 USC 5318 note.

(c) DESIGNATION REQUIRED TO BE MADE EXPEDITIOUSLY.—The initial designation of an officer or agency of the United States pursuant to the amendment made by subsection (a) shall be made before the end of the 180-day period beginning on the date of enactment of this Act.

31 USC 5318 note.

SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY LAUNDERING SCHEMES.

(a) ENHANCED TRAINING, EXAMINATIONS, AND REFERRALS BY BANKING AGENCIES.—Before the end of the 6-month period beginning on the date of enactment of this Act, each appropriate Federal banking agency shall, in consultation with the Secretary of the Treasury and other appropriate law enforcement agencies—

(1) review and enhance training and examination procedures to improve the identification of money laundering schemes involving depository institutions; and

(2) review and enhance procedures for referring cases to any appropriate law enforcement agency.

(b) IMPROVED REPORTING OF CRIMINAL SCHEMES BY LAW ENFORCEMENT AGENCIES.—The Secretary of the Treasury and each appropriate law enforcement agency shall provide, on a regular basis, information regarding money laundering schemes and activities involving depository institutions to each appropriate Federal banking agency in order to enhance each agency's ability to examine for and identify money laundering activity.

(c) REPORT TO CONGRESS.—The Financial Institutions Examination Council shall submit a report on the progress made in carrying out subsection (a) and the usefulness of information received pursuant to subsection (b) to the Congress by the end of the 1-year period beginning on the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN BANKS SUBJECT TO RECORDKEEPING AND REPORTING REQUIREMENTS.

Section 5312(a)(3) of title 31, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph: Regulations.

"(C) as the Secretary of the Treasury shall provide by regulation for purposes of section 5316, checks, drafts, notes, money orders, and other similar instruments which are drawn on or by a foreign financial institution and are not in bearer form.".

SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY APPROPRIATE FEDERAL BANKING AGENCIES.

Section 5321 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) DELEGATION OF ASSESSMENT AUTHORITY TO BANKING AGENCIES.—

"(1) IN GENERAL.—The Secretary of the Treasury shall delegate, in accordance with section 5318(a)(1) and subject to such terms and conditions as the Secretary may impose in accordance with paragraph (3), any authority of the Secretary to assess a civil money penalty under this section on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) to the appropriate Federal banking agencies (as defined in such section 3).

"(2) AUTHORITY OF AGENCIES.—Subject to any term or condition imposed by the Secretary of the Treasury under paragraph (3), the provisions of this section shall apply to an appropriate Federal banking agency to which is delegated any authority of the Secretary under this section in the same manner such provisions apply to the Secretary.

"(3) TERMS AND CONDITIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe by regulation the terms and conditions which shall apply to any delegation under paragraph (1).

"(B) MAXIMUM DOLLAR AMOUNT.—The terms and conditions authorized under subparagraph (A) may include, in the Secretary's sole discretion, a limitation on the amount of any civil penalty which may be assessed by an appropriate Federal banking agency pursuant to a delegation under paragraph (1).".

SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING, CURRENCY EXCHANGE, AND MONEY TRANSMITTING BUSINESSES. 31 USC 5311 note.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing, currency exchange, or money transmitting or remittance services, or issue or redeem

money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 5313(g) of title 31, United States Code); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any business described in subsection (a)(1) be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any business described in subsection (a)(1) to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

(3) REPORTING REQUIREMENTS.—A requirement that any business described in subsection (a)(1)—

(A) disclose to the appropriate State agency the fees charged to consumers for services described in subsection (a)(1)(A); and

(B) conspicuously disclose to the public, at each location of such business, the fees charged to consumers for such services.

(4) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(5) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Not later than the end of the 3-year period beginning on the date of enactment of this Act and not later than the end of each of the first two 1-year periods beginning after the end of such 3-year period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate.

(e) RECOMMENDATIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has been unable to—

(1) enact a statute which meets the requirements described in subsection (b);

(2) undertake adequate activity to enforce such statute; or

(3) make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations of the Secretary which are designed to facilitate the enactment and enforcement by the State of such a statute.

(f) FEDERAL FUNDING STUDY.—

(1) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study to identify possible available sources of Federal funding to cover costs which will be incurred by the States in carrying out the purposes of this section.

(2) REPORT.—The Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to paragraph (1) not later than the end of the 18-month period beginning on the date of enactment of this Act.

SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSINESSES TO PROMOTE EFFECTIVE LAW ENFORCEMENT.

31 USC 5330 note.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress hereby finds the following:

(A) Money transmitting businesses are subject to the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code.

(B) Money transmitting businesses are largely unregulated businesses and are frequently used in sophisticated schemes to—

(i) transfer large amounts of money which are the proceeds of unlawful enterprises; and

(ii) evade the requirements of such subchapter II, the Internal Revenue Code of 1986, and other laws of the United States.

(C) Information on the identity of money transmitting businesses and the names of the persons who own or control, or are officers or employees of, a money transmitting business would have a high degree of usefulness in criminal, tax, or regulatory investigations and proceedings.

(2) PURPOSE.—It is the purpose of this section to establish a registration requirement for businesses engaged in providing check cashing, currency exchange, or money transmitting or remittance services, or issuing or redeeming money orders, travelers' checks, and other similar instruments to assist the Secretary of the Treasury, the Attorney General, and other supervisory and law enforcement agencies to effectively enforce the criminal, tax, and regulatory laws and prevent such money transmitting businesses from engaging in illegal activities.

(b) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end the following new section:

31 USC 5330.

"§ 5330. Registration of money transmitting businesses

"(a) REGISTRATION WITH SECRETARY OF THE TREASURY REQUIRED.—

"(1) IN GENERAL.—Any person who owns or controls a money transmitting business shall register the business (whether or not the business is licensed as a money transmitting business in any State) with the Secretary of the Treasury not later than the end of the 180-day period beginning on the later of—

"(A) the date of enactment of the Money Laundering Suppression Act of 1994; or

"(B) the date on which the business is established.

Regulations.

"(2) FORM AND MANNER OF REGISTRATION.—Subject to the requirements of subsection (b), the Secretary of the Treasury shall prescribe, by regulation, the form and manner for registering a money transmitting business pursuant to paragraph (1).

"(3) BUSINESSES REMAIN SUBJECT TO STATE LAW.—This section shall not be construed as superseding any requirement of State law relating to money transmitting businesses operating in such State.

"(4) FALSE AND INCOMPLETE INFORMATION.—The filing of false or materially incomplete information in connection with the registration of a money transmitting business shall be considered as a failure to comply with the requirements of this subchapter.

"(b) CONTENTS OF REGISTRATION.—The registration of a money transmitting business under subsection (a) shall include the following information:

"(1) The name and location of the business.

"(2) The name and address of each person who—

"(A) owns or controls the business;

"(B) is a director or officer of the business; or

"(C) otherwise participates in the conduct of the affairs of the business.

"(3) The name and address of any depository institution at which the business maintains a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act).

"(4) An estimate of the volume of business in the coming year (which shall be reported annually to the Secretary). Reports.

"(5) Such other information as the Secretary of the Treasury may require.

"(c) AGENTS OF MONEY TRANSMITTING BUSINESSES.—

"(1) MAINTENANCE OF LISTS OF AGENTS OF MONEY TRANSMITTING BUSINESSES.—Pursuant to regulations which the Secretary of the Treasury shall prescribe, each money transmitting business shall— Regulations.

"(A) maintain a list containing the names and addresses of all persons authorized to act as an agent for such business in connection with activities described in subsection (d)(1)(A) and such other information about such agents as the Secretary may require; and

"(B) make the list and other information available on request to any appropriate law enforcement agency.

"(2) TREATMENT OF AGENT AS MONEY TRANSMITTING BUSINESS.—The Secretary of the Treasury shall prescribe regulations establishing, on the basis of such criteria as the Secretary determines to be appropriate, a threshold point for treating an agent of a money transmitting business as a money transmitting business for purposes of this section. Regulations.

"(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) MONEY TRANSMITTING BUSINESS.—The term 'money transmitting business' means any business other than the United States Postal Service which—

"(A) provides check cashing, currency exchange, or money transmitting or remittance services, or issues or redeems money orders, travelers' checks, and other similar instruments;

"(B) is required to file reports under section 5313; and

"(C) is not a depository institution (as defined in section 5313(g)).

"(2) MONEY TRANSMITTING SERVICE.—The term 'money transmitting service' includes accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network.

"(e) CIVIL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—

"(1) IN GENERAL.—Any person who fails to comply with any requirement of this section or any regulation prescribed

under this section shall be liable to the United States for a civil penalty of $5,000 for each such violation.

"(2) CONTINUING VIOLATION.—Each day a violation described in paragraph (1) continues shall constitute a separate violation for purposes of such paragraph.

"(3) ASSESSMENTS.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary of the Treasury in the manner provided in section 5321 and any such assessment shall be subject to the provisions of such section.".

(c) CRIMINAL PENALTY FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.—Section 1960(b)(1) of title 18, United States Code, is amended to read as follows:

"(1) the term 'illegal money transmitting business' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

"(A) is intentionally operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law; or

"(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section;".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5329 (as added by section 311) the following new item:

"5330. Registration of money transmitting businesses.".

SEC. 409. UNIFORM FEDERAL REGULATION OF CASINOS.

Section 5312(a)(2) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (X) and (Y) as subparagraphs (Y) and (Z), respectively; and

(2) by inserting after subparagraph (W) the following new subparagraph:

"(X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 which—

"(i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or

"(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act);".

SEC. 410. AUTHORITY TO GRANT EXEMPTIONS TO STATES WITH EFFECTIVE REGULATION AND ENFORCEMENT.

(a) IN GENERAL.—Section 5318(a) of title 31, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) exempt from the requirements of this subchapter any class of transactions within any State if the Secretary determines that—

"(A) under the laws of such State, that class of transactions is subject to requirements substantially similar to those imposed under this subchapter; and

"(B) there is adequate provision for the enforcement of such requirements; and".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The penultimate sentence of section 5318(a)(6) of title 31, United States Code (as so redesignated by the amendment made by subsection (a) of this section) is amended by inserting "under this paragraph or paragraph (5)" after "exemption".

SEC. 411. CRIMINAL AND CIVIL PENALTIES FOR STRUCTURING DOMESTIC AND INTERNATIONAL TRANSACTIONS.

(a) CRIMINAL PENALTY.—Section 5324 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(c) CRIMINAL PENALTY.—

"(1) IN GENERAL.—Whoever violates this section shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.

"(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.".

(b) AMENDMENT RELATING TO CIVIL PENALTY.—Section 5321(a)(4)(A) of title 31, United States Code, is amended by striking "willfully".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (a) and (b) of section 5322 of title 31, United States Code, are amended by inserting "or 5324" after "section 5315" each place such term appears.

(2) The following sections are each amended by striking "section 5322 of title 31" and inserting "section 5322 or 5324 of title 31" each place such term appears in such sections:

(A) Sections 8(g)(1)(A)(ii), 8(w)(1)(B), and 11(c)(5)(M) of the Federal Deposit Insurance Act. 12 USC 1818, 1821.

(B) Sections 131(a)(2), 206(h)(1)(C), 206(i)(1)(A)(ii), and 206(v)(1)(B) of the Federal Credit Union Act. 12 USC 1772d, 1786.

(C) Section 5239(d)(1)(B) of the Revised Statutes of the United States (as redesignated by section 413(b)(2) of this Act). 12 USC 93.

(D) Section 5(w)(1)(B) of the Home Owners' Loan Act. 12 USC 1464.

(E) Sections 984(a), 986(a), and 1956(g) (the first place it appears) of title 18, United States Code.

SEC. 412. GAO STUDY OF CASHIERS' CHECKS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to—

(1) determine the extent to which the practice of issuing of cashiers' checks by financial institutions is vulnerable to money laundering schemes;

(2) determine the extent to which additional recordkeeping requirements should be imposed on financial institutions which issue cashiers' checks; and

(3) analyze such other factors relating to the use and regulation of cashiers' checks as the Comptroller General determines to be appropriate.

(b) REPORT REQUIRED.—Before the end of the 6-month period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a); and

(2) such recommendations for legislative and administrative action as the Comptroller General may determine to be appropriate.

SEC. 413. TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TITLE 31, U.S.C., AMENDMENTS.—

(1) Section 5321(a)(5)(A) of title 31, United States Code, is amended by inserting "any violation of" after "causing".

(2) Section 5324(a) of title 31, United States Code, is amended—

(A) by striking "section 5313(a), section 5325, or the regulations issued thereunder or section 5325 or regulations prescribed under such section 5325" each place such term appears and inserting "section 5313(a) or 5325 or any regulation prescribed under any such section"; and

(B) by striking "with respect to such transaction".

(b) AMENDMENTS RELATING TO TITLE 31, U.S.C.—

(1) Effective as of the date of enactment of the Annunzio-Wylie Anti-Money Laundering Act, section 1517(b) of such Act is amended by striking "5314" and inserting "5318".

31 USC 5318.

(2) Section 5239 of the Revised Statutes of the United States is amended by redesignating the 2d subsection (c) (as added by section 1502(a) of the Annunzio-Wylie Anti-Money Laundering Act) as subsection (d).

12 USC 93.

(c) TITLE 18, U.S.C., AMENDMENTS.—

(1) Section 1956 of title 18, United States Code, is amended—

(A) in subsection (a)(2)—

(i) by inserting "not more than" before "$500,000"; and

(ii) by striking "transfer." each place such term appears and inserting "transfer";

(B) in subsection (b)—

(i) by inserting "or (a)(3)" after "(a)(1)"; and

(ii) by striking "transfer." and inserting "transfer";

(C) in subsection (c)(7)(B)(iii), by inserting a close parenthesis after "1978";

(D) in subsection (c)(7)(D), by striking "section 9(c) of the Food Stamp Act of 1977" and inserting "section 15 of the Food Stamp Act of 1977";

(E) in subsection (c)(7)(E), by striking the period which follows a period;

(F) in subsection (e), by striking "Evironmental" and inserting "Environmental"; and

(G) by redesignating subsection (g), the second place it appears, as subsection (h).

(2) Section 1957(f)(1) of title 18, United States Code, is amended by striking the comma which follows a comma.

(d) REPEAL OF OBSOLETE TECHNICAL CORRECTION TO SECTION 1956 OF TITLE 18, U.S.C.—Section 3557(2)(E) of Public Law 101–647 is repealed, effective on the date of enactment of such Public Law.

18 USC 1956 and note.

TITLE V—NATIONAL FLOOD INSURANCE REFORM

National Flood Insurance Reform Act of 1994.

SEC. 501. SHORT TITLE.

42 USC 4001 note.

This title may be cited as the "National Flood Insurance Reform Act of 1994".

Subtitle A—Definitions

SEC. 511. FLOOD DISASTER PROTECTION ACT OF 1973.

(a) IN GENERAL.—Section 3(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—

(1) by striking paragraph (5) and inserting the following new paragraph:

"(5) 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;";

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

"(8) the term 'improved real estate' means real estate upon which a building is located;

"(9) 'lender' means a regulated lending institution or Federal agency lender;

"(10) 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

"(11) 'servicer' means the person responsible for receiving any scheduled periodic payments from a borrower pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

Regulations.

(b) CONFORMING AMENDMENT.—Section 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106(b)) is amended by striking "Federal instrumentality described in such section shall by regulation require the institutions" and inserting "Federal entity for lending regulation shall by regulation require the regulated lending institutions described in such section, and each Federal agency lender shall issue regulations requiring the Federal agency lender,".

SEC. 512. NATIONAL FLOOD INSURANCE ACT OF 1968.

(a) IN GENERAL.—Section 1370(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) the term 'repetitive loss structure' means a structure covered by a contract for flood insurance under this title that has incurred flood-related damage on 2 occasions during a 10-year period ending on the date of the event for which a second claim is made, in which the cost of repair, on the average, equaled or exceeded 25 percent of the value of the structure at the time of each such flood event;

"(8) the term 'Federal agency lender' means a Federal agency that makes direct loans secured by improved real estate or a mobile home, to the extent such agency acts in such capacity;

"(9) the term 'Federal entity for lending regulation' means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Farm Credit Administration, and with respect to a particular regulated lending institution means the entity primarily responsible for the supervision of the institution;

"(10) the term 'improved real estate' means real estate upon which a building is located;

"(11) the term 'lender' means a regulated lending institution or Federal agency lender;

"(12) the term 'natural and beneficial floodplain functions' means—

"(A) the functions associated with the natural or relatively undisturbed floodplain that (i) moderate flooding, retain flood waters, reduce erosion and sedimentation, and mitigate the effect of waves and storm surge from storms, and (ii) reduce flood related damage; and

"(B) ancillary beneficial functions, including maintenance of water quality and recharge of ground water, that reduce flood related damage;

"(13) the term 'regulated lending institution' means any bank, savings and loan association, credit union, farm credit bank, Federal land bank association, production credit association, or similar institution subject to the supervision of a Federal entity for lending regulation; and

"(14) the term 'servicer' means the person responsible for receiving any scheduled periodic payments from a borrower

pursuant to the terms of a loan, including amounts for taxes, insurance premiums, and other charges with respect to the property securing the loan, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

(b) CONFORMING AMENDMENT.—Section 1322(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4029(d)) is amended by striking "federally supervised, approved, regulated or insured financial institution" and inserting "regulated lending institution or Federal agency lender".

Subtitle B—Compliance and Increased Participation

Loans.
Real property.

SEC. 521. NONWAIVER OF FLOOD PURCHASE REQUIREMENT FOR RECIPIENTS OF FEDERAL DISASTER ASSISTANCE.

Section 311(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5154(b)) is amended by adding at the end the following new sentence: "The requirements of this subsection may not be waived under section 301.".

SEC. 522. EXPANDED FLOOD INSURANCE PURCHASE REQUIREMENTS.

(a) IN GENERAL.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended to read as follows:

"(b) REQUIREMENT FOR MORTGAGE LOANS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council established under the Federal Financial Institutions Examination Council Act of 1974) shall by regulation direct regulated lending institutions not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or the maximum limit of coverage made available under the Act with respect to the particular type of property, whichever is less.

"(2) FEDERAL AGENCY LENDERS.—A Federal agency lender may not make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1). Each Federal agency lender shall issue any regulations necessary to carry out this paragraph. Such regulations shall be consistent with and substantially identical to the regulations issued under paragraph (1).

Regulations.

"(3) GOVERNMENT-SPONSORED ENTERPRISES FOR HOUSING.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall implement procedures reasonably designed to ensure that, for any loan that is—

"(A) secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, and

"(B) purchased by such entity,

the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in the amount provided in paragraph (1).

"(4) APPLICABILITY.—

"(A) EXISTING COVERAGE.—Except as provided in subparagraph (B), paragraph (1) shall apply on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

"(B) NEW COVERAGE.—Paragraphs (2) and (3) shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994. Paragraph (1) shall apply with respect to any loan made, increased, extended, or renewed by any lender supervised by the Farm Credit Administration only after the expiration of the period under this subparagraph.

"(C) CONTINUED EFFECT OF REGULATIONS.—Notwithstanding any other provision of this subsection, the regulations to carry out paragraph (1), as in effect immediately before the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, shall continue to apply until the regulations issued to carry out paragraph (1) as amended by section 522(a) of such Act take effect.".

(b) EXEMPTION FOR SMALL LOANS.—Section 102(c) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(c)) is amended—

(1) by striking "(c) Notwithstanding" and inserting the following:

"(c) EXCEPTIONS TO PURCHASE REQUIREMENTS.—

"(1) STATE-OWNED PROPERTY.—Notwithstanding"; and

(2) by adding at the end the following new paragraph:

"(2) SMALL LOANS.—Notwithstanding any other provision of this section, subsections (a) and (b) shall not apply to any loan having—

"(A) an original outstanding principal balance of $5,000 or less; and

"(B) a repayment term of 1 year or less.".

SEC. 523. ESCROW OF FLOOD INSURANCE PAYMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by adding at the end the following new subsection:

"(d) ESCROW OF FLOOD INSURANCE PAYMENTS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordina-

tion with the Financial Institutions Examination Council) shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential improved real estate or a mobile home, then all premiums and fees for flood insurance under the National Flood Insurance Act of 1968 for the real estate or mobile home shall be paid to the regulated lending institution or other servicer for the loan in a manner sufficient to make payments as due for the duration of the loan. Upon receipt of the premiums, the regulated lending institution or servicer of the loan shall deposit the premiums in an escrow account on behalf of the borrower. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums are due, the regulated lending institution or servicer shall pay from the escrow account to the provider of the insurance the amount of insurance premiums owed.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require and provide for escrow and payment of any flood insurance premiums and fees relating to residential improved real estate and mobile homes securing loans made by the Federal agency lender under the circumstances and in the manner provided under paragraph (1). Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1). Regulations.

"(3) APPLICABILITY OF RESPA.—Escrow accounts established pursuant to this subsection shall be subject to the provisions of section 10 of the Real Estate Settlement Procedures Act of 1974.

"(4) DEFINITION.—For purposes of this subsection, the term 'residential improved real estate' means improved real estate for which the improvement is a residential building.

"(5) APPLICABILITY.—This subsection shall apply only with respect to any loan made, increased, extended, or renewed after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 524. PLACEMENT OF FLOOD INSURANCE BY LENDERS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(e) PLACEMENT OF FLOOD INSURANCE BY LENDER.—

"(1) NOTIFICATION TO BORROWER OF LACK OF COVERAGE.—If, at the time of origination or at any time during the term of a loan secured by improved real estate or by a mobile home located in an area that has been identified by the Director (at the time of the origination of the loan or at any time during the term of the loan) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968, the lender or servicer for the loan determines that the building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by such insurance in an amount less than the amount required for the property pursuant to

paragraph (1), (2), or (3) of subsection (b), the lender or servicer shall notify the borrower under the loan that the borrower should obtain, at the borrower's expense, an amount of flood insurance for the building or mobile home and such personal property that is not less than the amount under subsection (b)(1), for the term of the loan.

"(2) PURCHASE OF COVERAGE ON BEHALF OF BORROWER.—If the borrower fails to purchase such flood insurance within 45 days after notification under paragraph (1), the lender or servicer for the loan shall purchase the insurance on behalf of the borrower and may charge the borrower for the cost of premiums and fees incurred by the lender or servicer for the loan in purchasing the insurance.

"(3) REVIEW OF DETERMINATION REGARDING REQUIRED PURCHASE.—

"(A) IN GENERAL.—The borrower and lender for a loan secured by improved real estate or a mobile home may jointly request the Director to review a determination of whether the building or mobile home is located in an area having special flood hazards. Such request shall be supported by technical information relating to the improved real estate or mobile home. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide to the borrower and the lender with a letter stating whether or not the building or mobile home is in an area having special flood hazards. The determination of the Director shall be final.

"(B) EFFECT OF DETERMINATION.—Any person to whom a borrower provides a letter issued by the Director pursuant to subparagraph (A), stating that the building or mobile home securing the loan of the borrower is not in an area having special flood hazards, shall have no obligation under this title to require the purchase of flood insurance for such building or mobile home during the period determined by the Director, which shall be specified in the letter and shall begin on the date on which such letter is provided.

"(C) EFFECT OF FAILURE TO RESPOND.—If a request under subparagraph (A) is made in connection with the origination of a loan and the Director fails to provide a letter under subparagraph (A) before the later of (i) the expiration of the 45-day period under such subparagraph, or (ii) the closing of the loan, no person shall have an obligation under this title to require the purchase of flood insurance for the building or mobile home securing the loan until such letter is provided.

"(4) APPLICABILITY.—This subsection shall apply to all loans outstanding on or after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 525. PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsections:

"(f) CIVIL MONETARY PENALTIES FOR FAILURE TO REQUIRE FLOOD INSURANCE OR NOTIFY.—

"(1) CIVIL MONETARY PENALTIES AGAINST REGULATED LENDERS.—Any regulated lending institution that is found to have a pattern or practice of committing violations under paragraph (2) shall be assessed a civil penalty by the appropriate Federal entity for lending regulation in the amount provided under paragraph (5).

"(2) LENDER VIOLATIONS.—The violations referred to in paragraph (1) shall include—

"(A) making, increasing, extending, or renewing loans in violation of—

"(i) the regulations issued pursuant to subsection (b) of this section;

"(ii) the escrow requirements under subsection (d) of this section; or

"(iii) the notice requirements under section 1364 of the National Flood Insurance Act of 1968; or

"(B) failure to provide notice or purchase flood insurance coverage in violation of subsection (e) of this section.

"(3) CIVIL MONETARY PENALTIES AGAINST GSE'S.—

"(A) IN GENERAL.—If the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation is found by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development to have a pattern or practice of purchasing loans in violation of the procedures established pursuant to subsection (b)(3), the Director of such Office shall assess a civil penalty against such enterprise in the amount provided under paragraph (5) of this subsection.

"(B) DEFINITION.—For purposes of this subsection, the term 'enterprise' means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

"(4) NOTICE AND HEARING.—A penalty under this subsection may be issued only after notice and an opportunity for a hearing on the record.

"(5) AMOUNT.—A civil monetary penalty under this subsection may not exceed $350 for each violation under paragraph (2) or paragraph (3). The total amount of penalties assessed under this subsection against any single regulated lending institution or enterprise during any calendar year may not exceed $100,000.

"(6) LENDER COMPLIANCE.—Notwithstanding any State or local law, for purposes of this subsection, any regulated lending institution that purchases flood insurance or renews a contract for flood insurance on behalf of or as an agent of a borrower of a loan for which flood insurance is required shall be considered to have complied with the regulations issued under subsection (b).

"(7) EFFECT OF TRANSFER ON LIABILITY.—Any sale or other transfer of a loan by a regulated lending institution that has committed a violation under paragraph (1), that occurs subsequent to the violation, shall not affect the liability of the transferring lender with respect to any penalty under this subsection. A lender shall not be liable for any violations relat-

ing to a loan committed by another regulated lending institution that previously held the loan.

"(8) DEPOSIT OF PENALTIES.—Any penalties collected under this subsection shall be paid into the National Flood Mitigation Fund under section 1367 of the National Flood Insurance Act of 1968.

"(9) ADDITIONAL PENALTIES.—Any penalty under this subsection shall be in addition to any civil remedy or criminal penalty otherwise available.

"(10) STATUTE OF LIMITATIONS.—No penalty may be imposed under this subsection after the expiration of the 4-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this subsection.

"(g) OTHER ACTIONS TO REMEDY PATTERN OF NONCOMPLIANCE.—

"(1) AUTHORITY OF FEDERAL ENTITIES FOR LENDING REGULATION.—A Federal entity for lending regulation may require a regulated lending institution to take such remedial actions as are necessary to ensure that the regulated lending institution complies with the requirements of the national flood insurance program if the Federal agency for lending regulation makes a determination under paragraph (2) regarding the regulated lending institution.

"(2) DETERMINATION OF VIOLATIONS.—A determination under this paragraph shall be a finding that—

"(A) the regulated lending institution has engaged in a pattern and practice of noncompliance in violation of the regulations issued pursuant to subsection (b), (d), or (e) or the notice requirements under section 1364 of the National Flood Insurance Act of 1968; and

"(B) the regulated lending institution has not demonstrated measurable improvement in compliance despite the assessment of civil monetary penalties under subsection (f).".

SEC. 526. FEES FOR DETERMINING APPLICABILITY OF FLOOD INSURANCE PURCHASE REQUIREMENTS.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(h) FEE FOR DETERMINING LOCATION.—Notwithstanding any other Federal or State law, any person who makes a loan secured by improved real estate or a mobile home or any servicer for such a loan may charge a reasonable fee for the costs of determining whether the building or mobile home securing the loan is located in an area having special flood hazards, but only in accordance with the following requirements:

"(1) BORROWER FEE.—The borrower under such a loan may be charged the fee, but only if the determination—

"(A) is made pursuant to the making, increasing, extending, or renewing of the loan that is initiated by the borrower;

"(B) is made pursuant to a revision or updating under section 1360(f) of the floodplain areas and flood-risk zones or publication of a notice or compendia under subsection

(h) or (i) of section 1360 that affects the area in which the improved real estate or mobile home securing the loan is located or that, in the determination of the Director, may reasonably be considered to require a determination under this subsection; or

"(C) results in the purchase of flood insurance coverage pursuant to the requirement under subsection (e)(2).

"(2) PURCHASER OR TRANSFEREE FEE.—The purchaser or transferee of such a loan may be charged the fee in the case of sale or transfer of the loan.".

SEC. 527. NOTICE REQUIREMENTS.

Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a) is amended to read as follows:

"NOTICE REQUIREMENTS

"SEC. 1364. (a) NOTIFICATION OF SPECIAL FLOOD HAZARDS.—

"(1) REGULATED LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home that the regulated lending institution determines is located or is to be located in an area that has been identified by the Director under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan of such special flood hazards, in writing, a reasonable period in advance of the signing of the purchase agreement, lease, or other documents involved in the transaction. The regulations shall also require that the regulated lending institution retain a record of the receipt of the notices by the purchaser or lessee and the servicer. Records.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation require notification in the manner provided under paragraph (1) with respect to any loan that is made by the Federal agency lender and secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Director under this title or the Flood Disaster Protection Act of 1973 as an area having special flood hazards. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1). Regulations.

"(3) CONTENTS OF NOTICE.—Written notification required under this subsection shall include—

"(A) a warning, in a form to be established by the Director, stating that the building on the improved real estate securing the loan is located, or the mobile home securing the loan is or is to be located, in an area having special flood hazards;

"(B) a description of the flood insurance purchase requirements under section 102(b) of the Flood Disaster Protection Act of 1973;

"(C) a statement that flood insurance coverage may be purchased under the national flood insurance program and is also available from private insurers; and

"(D) any other information that the Director considers necessary to carry out the purposes of the national flood insurance program.

"(b) NOTIFICATION OF CHANGE OF SERVICER.—

Regulations.

"(1) LENDING INSTITUTIONS.—Each Federal entity for lending regulation (after consultation and coordination with the Financial Institutions Examination Council) shall by regulation require regulated lending institutions, in connection with the making, increasing, extending, renewing, selling, or transferring any loan described in subsection (a)(1), to notify the Director (or the designee of the Director) in writing during the term of the loan of the servicer of the loan. Such institutions shall also notify the Director (or such designee) of any change in the servicer of the loan, not later than 60 days after the effective date of such change. The regulations under this subsection shall provide that upon any change in the servicing of a loan, the duty to provide notification under this subsection shall transfer to the transferee servicer of the loan.

Regulations.

"(2) FEDERAL AGENCY LENDERS.—Each Federal agency lender shall by regulation provide for notification in the manner provided under paragraph (1) with respect to any loan described in subsection (a)(1) that is made by the Federal agency lender. Any regulations issued under this paragraph shall be consistent with and substantially identical to the regulations issued under paragraph (1) of this subsection.

"(c) NOTIFICATION OF EXPIRATION OF INSURANCE.—The Director (or the designee of the Director) shall, not less than 45 days before the expiration of any contract for flood insurance under this title, issue notice of such expiration by first class mail to the owner of the property covered by the contract, the servicer of any loan secured by the property covered by the contract, and (if known to the Director) the owner of the loan.".

SEC. 528. STANDARD HAZARD DETERMINATION FORMS.

Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:

"STANDARD HAZARD DETERMINATION FORMS

42 USC 4104b.

"SEC. 1365. (a) DEVELOPMENT.—The Director, in consultation with representatives of the mortgage and lending industry, the Federal entities for lending regulation, the Federal agency lenders, and any other appropriate individuals, shall develop a standard form for determining, in the case of a loan secured by improved real estate or a mobile home, whether the building or mobile home is located in an area identified by the Director as an area having special flood hazards and in which flood insurance under this title

Regulations.

is available. The form shall be established by regulations issued not later than 270 days after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.

"(b) DESIGN AND CONTENTS.—

"(1) PURPOSE.—The form under subsection (a) shall be designed to facilitate compliance with the flood insurance purchase requirements of this title.

"(2) CONTENTS.—The form shall require identification of the type of flood-risk zone in which the building or mobile home is located, the complete map and panel numbers for the improved real estate or property on which the mobile home is located, the community identification number and community participation status (for purposes of the national flood insurance program) of the community in which the improved real estate or such property is located, and the date of the map used for the determination, with respect to flood hazard information on file with the Director. If the building or mobile home is not located in an area having special flood hazards the form shall require a statement to such effect and shall indicate the complete map and panel numbers of the improved real estate or property on which the mobile home is located. If the complete map and panel numbers are not available because the building or mobile home is not located in a community that is participating in the national flood insurance program or because no map exists for the relevant area, the form shall require a statement to such effect. The form shall provide for inclusion or attachment of any relevant documents indicating revisions or amendments to maps.

"(c) REQUIRED USE.—The Federal entities for lending regulation shall by regulation require the use of the form under this section by regulated lending institutions. Each Federal agency lender shall by regulation provide for the use of the form with respect to any loan made by such Federal agency lender. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the Government National Mortgage Association shall require the use of the form with respect to any loan purchased by such entities. A lender or other person may comply with the requirement under this subsection by using the form in a printed, computerized, or electronic manner. Regulations.

"(d) GUARANTEES REGARDING INFORMATION.—In providing information regarding special flood hazards on the form developed under this section, any lender (or other person required to use the form) who makes, increases, extends, or renews a loan secured by improved real estate or a mobile home may provide for the acquisition or determination of such information to be made by a person other than such lender (or other person), only to the extent such person guarantees the accuracy of the information.

"(e) RELIANCE ON PREVIOUS DETERMINATION.—Any person increasing, extending, renewing, or purchasing a loan secured by improved real estate or a mobile home may rely on a previous determination of whether the building or mobile home is located in an area having special flood hazards (and shall not be liable for any error in such previous determination), if the previous determination was made not more than 7 years before the date of the transaction and the basis for the previous determination has been set forth on a form under this section, unless—

"(1) map revisions or updates pursuant to section 1360(f) after such previous determination have resulted in the building or mobile home being located in an area having special flood hazards; or

"(2) the person contacts the Director to determine when the most recent map revisions or updates affecting such property occurred and such revisions and updates have occurred after such previous determination.

Regulations.

"(f) EFFECTIVE DATE.—The regulations under this section requiring use of the form established pursuant to this section shall be issued together with the regulations required under subsection (a) and shall take effect upon the expiration of the 180-day period beginning on such issuance.".

SEC. 529. EXAMINATIONS REGARDING COMPLIANCE.

(a) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(i) FLOOD INSURANCE COMPLIANCE BY INSURED DEPOSITORY INSTITUTIONS.—

"(1) EXAMINATIONS.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the national flood insurance program.

"(2) REPORT.—

"(A) REQUIREMENT.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to the Congress on compliance by insured depository institutions with the requirements of the national flood insurance program.

"(B) CONTENTS.—Each report submitted under this paragraph shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found not to be in compliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(b) AMENDMENT TO FEDERAL CREDIT UNION ACT.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding at the end the following new subsection:

"(e) FLOOD INSURANCE COMPLIANCE BY INSURED CREDIT UNIONS.—

"(1) EXAMINATION.—The Board shall, during each examination conducted under this section, determine whether the insured credit union is complying with the requirements of the national flood insurance program.

"(2) REPORT.—

"(A) REQUIREMENT.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter for the next 4 years, the Board shall submit a report to the Congress on compliance by insured credit unions with the requirements of the national flood insurance program.

"(B) CONTENTS.—The report shall include a description of the methods used to determine compliance, the number of insured credit unions examined during the reporting year, a listing and total number of insured credit unions found not to be in compliance, actions taken to correct

incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

(c) AMENDMENT TO FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319B(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of—

"(A) whether the procedures established by each enterprise pursuant to section 102(b)(3) of the Flood Disaster Protection Act of 1973 are adequate and being complied with, and

"(B) the results and conclusions of any examination, as determined necessary by the Director, to determine the compliance of the enterprises with the requirements of section 102(b)(3) of such Act, which shall include a description of the methods used to determine compliance and the types and sources of deficiencies (if any), and identify any corrective measures that have been taken to remedy any such deficiencies,

except that the information described in this paragraph shall be included only in each of the first, third, and fifth annual reports under this subsection required to be submitted after the expiration of the 1-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

SEC. 530. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

"(g) FLOOD INSURANCE.—The Council shall consult with and assist the Federal entities for lending regulation, as such term is defined in section 1370(a) of the National Flood Insurance Act of 1968, in developing and coordinating uniform standards and requirements for use by regulated lending institutions under the national flood insurance program.".

SEC. 531. CLERICAL AMENDMENT.

Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) is amended by striking the section heading and inserting the following new section heading:

"FLOOD INSURANCE PURCHASE AND COMPLIANCE REQUIREMENTS AND ESCROW ACCOUNTS".

Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

SEC. 541. COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.

Section 1315 of the National Flood Insurance Act of 1968 (42 U.S.C. 4022) is amended—

(1) by striking "After December" and inserting the following:

"(a) REQUIREMENT FOR PARTICIPATION IN FLOOD INSURANCE PROGRAM.—

"(1) IN GENERAL.—After December"; and

(2) by adding at the end the following new subsection:

"(b) COMMUNITY RATING SYSTEM AND INCENTIVES FOR COMMUNITY FLOODPLAIN MANAGEMENT.—

"(1) AUTHORITY AND GOALS.—The Director shall carry out a community rating system program, under which communities participate voluntarily—

"(A) to provide incentives for measures that reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361 and evaluate such measures;

"(B) to encourage adoption of more effective measures that protect natural and beneficial floodplain functions;

"(C) to encourage floodplain and erosion management; and

"(D) to promote the reduction of Federal flood insurance losses.

"(2) INCENTIVES.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Director determines have adopted and enforced measures that reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the Director may provide for credits to flood insurance premium rates in communities that the Director determines have implemented measures that protect natural and beneficial floodplain functions.

"(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community under this program. If a community has received mitigation assistance under section 1366, the credits shall be phased in a manner, determined by the Director, to recover the amount of such assistance provided for the community.

"(4) REPORTS.—Not later than 2 years after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and not less than every 2 years thereafter, the Director shall submit a report to the Congress regarding the program under this subsection. Each report shall include an analysis of the cost-effectiveness of

the program, any other accomplishments or shortcomings of the program, and any recommendations of the Director for legislation regarding the program.".

SEC. 542. FUNDING.

Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) for carrying out the program under section 1315(b);".

Subtitle D—Mitigation of Flood Risks

SEC. 551. REPEAL OF FLOODED PROPERTY PURCHASE AND LOAN PROGRAM.

(a) REPEAL.—Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) is hereby repealed.

(b) TRANSITION PHASE.—Notwithstanding subsection (a), during the 1-year period beginning on the date of enactment of this Act, the Director of the Federal Emergency Management Agency may enter into loan and purchase commitments as provided under section 1362 of the National Flood Insurance Act of 1968 (as in effect immediately before the enactment of this Act).

(c) SAVINGS PROVISION.—Notwithstanding subsection (a), the Director shall take any action necessary to comply with any purchase or loan commitment entered into before the expiration of the period referred to in subsection (b) pursuant to authority under section 1362 of the National Flood Insurance Act of 1968 or subsection (b). 42 USC 4103 note.

SEC. 552. TERMINATION OF EROSION-THREATENED STRUCTURES PROGRAM.

(a) IN GENERAL.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013) is amended by striking subsection (c).

(b) TRANSITION PHASE.—Notwithstanding subsection (a), during the 1-year period beginning on the date of enactment of this Act, the Director of the Federal Emergency Management Agency may pay amounts under flood insurance contracts for demolition or relocation of structures as provided in section 1306(c) of the National Flood Insurance Act of 1968 (as in effect immediately before the enactment of this Act). 42 USC 4013 note.

(c) SAVINGS PROVISION.—Notwithstanding subsection (a), the Director shall take any action necessary to make payments under flood insurance contracts pursuant to any commitments made before the expiration of the period referred to in subsection (b) pursuant to the authority under section 1306(c) of the National Flood Insurance Act of 1968 or subsection (b). 42 USC 4013 note.

(d) REPEAL OF FINDINGS PROVISION.—Section 1302 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001) is amended by striking subsection (g).

SEC. 553. MITIGATION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"MITIGATION ASSISTANCE

42 USC 4104c.

"SEC. 1366. (a) AUTHORITY.—The Director shall carry out a program to provide financial assistance to States and communities, using amounts made available from the National Flood Mitigation Fund under section 1367, for planning and carrying out activities designed to reduce the risk of flood damage to structures covered under contracts for flood insurance under this title. Such financial assistance shall be made available to States and communities in the form of grants under subsection (b) for planning assistance and in the form of grants under this section for carrying out mitigation activities.

"(b) PLANNING ASSISTANCE GRANTS.—

"(1) IN GENERAL.—The Director may make grants under this subsection to States and communities to assist in developing mitigation plans under subsection (c).

"(2) FUNDING.—Of any amounts made available from the National Flood Mitigation Fund for use under this section in any fiscal year, the Director may use not more than $1,500,000 to provide planning assistance grants under this subsection.

"(3) LIMITATIONS.—

"(A) TIMING.—A grant under this subsection may be awarded to a State or community not more than once every 5 years and each grant may cover a period of 1 to 3 years.

"(B) SINGLE GRANTEE AMOUNT.—A grant for planning assistance may not exceed—

"(i) $150,000, to any State; or

"(ii) $50,000, to any community.

"(C) CUMULATIVE STATE GRANT AMOUNT.—The sum of the amounts of grants made under this subsection in any fiscal year to any one State and all communities located in such State may not exceed $300,000.

"(c) ELIGIBILITY FOR MITIGATION ASSISTANCE.—To be eligible to receive financial assistance under this section for mitigation activities, a State or community shall develop, and have approved by the Director, a flood risk mitigation plan (in this section referred to as a 'mitigation plan'), that describes the mitigation activities to be carried out with assistance provided under this section, is consistent with the criteria established by the Director under section 1361, and provides protection against flood losses to structures for which contracts for flood insurance are available under this title. The mitigation plan shall be consistent with a comprehensive strategy for mitigation activities for the area affected by the mitigation plan, that has been adopted by the State or community following a public hearing.

"(d) NOTIFICATION OF APPROVAL AND GRANT AWARD.—

"(1) IN GENERAL.—The Director shall notify a State or community submitting a mitigation plan of the approval or

disapproval of the plan not later than 120 days after submission of the plan.

"(2) NOTIFICATION OF DISAPPROVAL.—If the Director does not approve a mitigation plan submitted under this subsection, the Director shall notify, in writing, the State or community submitting the plan of the reasons for such disapproval.

"(e) ELIGIBLE MITIGATION ACTIVITIES.—

"(1) USE OF AMOUNTS.—Amounts provided under this section (other than under subsection (b)) may be used only for mitigation activities specified in a mitigation plan approved by the Director under subsection (d). The Director shall provide assistance under this section to the extent amounts are available in the National Flood Mitigation Fund pursuant to appropriation Acts, subject only to the absence of approvable mitigation plans.

"(2) DETERMINATION OF ELIGIBLE PLANS.—The Director may approve only mitigation plans that specify mitigation activities that the Director determines are technically feasible and cost-effective and only such plans that propose activities that are cost-beneficial to the National Flood Mitigation Fund.

"(3) STANDARD FOR APPROVAL.—The Director shall approve mitigation plans meeting the requirements for approval under paragraph (1) that will be most cost-beneficial to the National Flood Mitigation Fund.

"(4) PRIORITY.—The Director shall make every effort to provide mitigation assistance under this section for mitigation plans proposing activities for repetitive loss structures and structures that have incurred substantial damage.

"(5) ELIGIBLE ACTIVITIES.—The Director shall determine whether mitigation activities described in a mitigation plan submitted under subsection (d) comply with the requirements under paragraph (1). Such activities may include—

"(A) demolition or relocation of any structure located on land that is along the shore of a lake or other body of water and is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or flooding;

"(B) elevation, relocation, demolition, or floodproofing of structures (including public structures) located in areas having special flood hazards or other areas of flood risk;

"(C) acquisition by States and communities of properties (including public properties) located in areas having special flood hazards or other areas of flood risk and properties substantially damaged by flood, for public use, as the Director determines is consistent with sound land management and use in such area;

"(D) minor physical mitigation efforts that do not duplicate the flood prevention activities of other Federal agencies and that lessen the frequency or severity of flooding and decrease predicted flood damages, which shall not include major flood control projects such as dikes, levees, seawalls, groins, and jetties unless the Director specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;

"(E) beach nourishment activities;

"(F) the provision of technical assistance by States to communities and individuals to conduct eligible mitigation activities;

"(G) other activities that the Director considers appropriate and specifies in regulation; and

"(H) other mitigation activities not described in subparagraphs (A) through (F) or the regulations issued under subparagraph (G), that are described in the mitigation plan of a State or community.

"(f) LIMITATIONS ON AMOUNT OF ASSISTANCE.—

"(1) AMOUNT.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period may not exceed—

"(A) $10,000,000, to any State; or

"(B) $3,300,000, to any community.

"(2) GEOGRAPHIC.—The sum of the amounts of mitigation assistance provided under this section during any 5-year period to any one State and all communities located in such State may not exceed $20,000,000.

"(3) WAIVER.—The Director may waive the dollar amount limitations under paragraphs (1) and (2) for any State or community for any 5-year period during which a major disaster or emergency declared by the President (pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act) as a result of flood conditions is in effect with respect to areas in the State or community.

"(g) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—The Director may not provide mitigation assistance under this section to a State or community in an amount exceeding 3 times the amount that the State or community certifies, as the Director shall require, that the State or community will contribute from non-Federal funds to develop a mitigation plan under subsection (c) and to carry out mitigation activities under the approved mitigation plan. In no case shall any in-kind contribution by any State or community exceed one-half of the amount of non-Federal funds contributed by the State or community.

"(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term 'non-Federal funds' includes State or local agency funds, in-kind contributions, any salary paid to staff to carry out the mitigation activities of the recipient, the value of the time and services contributed by volunteers to carry out such activities (at a rate determined by the Director), and the value of any donated material or building and the value of any lease on a building.

"(h) OVERSIGHT OF MITIGATION PLANS.—The Director shall conduct oversight of recipients of mitigation assistance under this section to ensure that the assistance is used in compliance with the approved mitigation plans of the recipients and that matching funds certified under subsection (g) are used in accordance with such certification.

"(i) RECAPTURE.—

"(1) NONCOMPLIANCE WITH PLAN.—If the Director determines that a State or community that has received mitigation assistance under this section has not carried out the mitigation activities as set forth in the mitigation plan, the Director shall

recapture any unexpended amounts and deposit the amounts in the National Flood Mitigation Fund under section 1367.

"(2) FAILURE TO PROVIDE MATCHING FUNDS.—If the Director determines that a State or community that has received mitigation assistance under this section has not provided matching funds in the amount certified under subsection (g), the Director shall recapture any unexpended amounts of mitigation assistance exceeding 3 times the amount of such matching funds actually provided and deposit the amounts in the National Flood Mitigation Fund under section 1367.

"(j) REPORTS.—Not later than 1 year after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994 and biennially thereafter, the Director shall submit a report to the Congress describing the status of mitigation activities carried out with assistance provided under this section.

"(k) DEFINITION OF COMMUNITY.—For purposes of this section, the term 'community' means—

"(1) a political subdivision that (A) has zoning and building code jurisdiction over a particular area having special flood hazards, and (B) is participating in the national flood insurance program; or

"(2) a political subdivision of a State, or other authority, that is designated to develop and administer a mitigation plan by political subdivisions, all of which meet the requirements of paragraph (1).".

(b) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall issue regulations to carry out section 1366 of the National Flood Insurance Act of 1968, as added by subsection (a). 42 USC 4104c note.

SEC. 554. ESTABLISHMENT OF NATIONAL FLOOD MITIGATION FUND.

(a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"NATIONAL FLOOD MITIGATION FUND

"SEC. 1367. (a) ESTABLISHMENT AND AVAILABILITY.—The Director shall establish in the Treasury of the United States a fund to be known as the National Flood Mitigation Fund, which shall be credited with amounts described in subsection (b) and shall be available, to the extent provided in appropriation Acts, for providing assistance under section 1366. 12 USC 4104d note.

"(b) CREDITS.—The National Flood Mitigation Fund shall be credited with—

"(1) amounts from the National Flood Insurance Fund, in amounts not exceeding—

"(A) $10,000,000 in the fiscal year ending September 30, 1994;

"(B) $15,000,000 in the fiscal year ending September 30, 1995;

"(C) $20,000,000 in the fiscal year ending September 30, 1996; and

"(D) $20,000,000 in each fiscal year thereafter;

"(2) any penalties collected under section 102(f) of the Flood Disaster Protection Act of 1973; and

"(3) any amounts recaptured under section 1366(i).

"(c) INVESTMENT.—If the Director determines that the amounts in the National Flood Mitigation Fund are in excess of amounts needed under subsection (a), the Director may invest any excess amounts the Director determines advisable in interest-bearing obligations issued or guaranteed by the United States.

"(d) REPORT.—The Director shall submit a report to the Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act and not less than once during each successive 2-year period thereafter. The report shall describe the status of the Fund and any activities carried out with amounts from the Fund.".

(b) NATIONAL FLOOD INSURANCE FUND AS SEPARATE ACCOUNT.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "is authorized to" and inserting "shall"; and

(B) by inserting after "which shall be" the following: "an account separate from any other accounts or funds available to the Director and shall be"; and

(2) by adding after paragraph (6) (as added by the preceding provisions of this title) the following new paragraph:

"(7) for transfers to the National Flood Mitigation Fund, but only to the extent provided in section 1367(b)(1); and".

SEC. 555. ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) ADDITIONAL COVERAGE FOR COMPLIANCE WITH LAND USE AND CONTROL MEASURES.—The national flood insurance program established pursuant to subsection (a) shall enable the purchase of insurance to cover the cost of compliance with land use and control measures established under section 1361 for—

"(1) properties that are repetitive loss structures;

"(2) properties that have flood damage in which the cost of repairs equals or exceeds 50 percent of the value of the structure at the time of the flood event; and

"(3) properties that have sustained flood damage on multiple occasions, if the Director determines that it is cost-effective and in the best interests of the National Flood Insurance Fund to require compliance with the land use and control measures.

The Director shall impose a surcharge on each insured of not more than $75 per policy to provide cost of compliance coverage in accordance with the provisions of this subsection.".

42 USC 4011 note.

(b) APPLICABILITY.—The provisions of subsection (a) shall apply only to properties that sustain flood-related damage after the date of enactment of this Act.

Subtitle E—Task Forces

SEC. 561. FLOOD INSURANCE INTERAGENCY TASK FORCE.

42 USC 4011 note.

(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Flood Insurance Task Force (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, who shall be the designees of—

(A) the Federal Insurance Administrator;

(B) the Federal Housing Commissioner;

(C) the Secretary of Veterans Affairs;

(D) the Administrator of the Farmers Home Administration;

(E) the Administrator of the Small Business Administration;

(F) the Chairman of the Board of Directors of the Farm Credit Administration;

(G) a designee of the Financial Institutions Examination Council;

(H) the Director of the Office of Federal Housing Enterprise Oversight;

(I) the chairman of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(J) the chairman of the Board of Directors of the Federal National Mortgage Association.

(2) QUALIFICATIONS.—Members of the Task Force shall be designated for membership on the Task Force by reason of demonstrated knowledge and competence regarding the national flood insurance program.

(c) DUTIES.—The Task Force shall carry out the following duties:

(1) RECOMMENDATIONS OF STANDARDIZED ENFORCEMENT PROCEDURES.—Make recommendations to the head of each Federal agency and enterprise referred to under subsection (b)(1) regarding establishment or adoption of standardized enforcement procedures among such agencies and corporations responsible for enforcing compliance with the requirements under the national flood insurance program to ensure fullest possible compliance with such requirements.

(2) STUDY OF COMPLIANCE ASSISTANCE.—Conduct a study of the extent to which Federal agencies and the secondary mortgage market can provide assistance in ensuring compliance with the requirements under the national flood insurance program and submit to the Congress a report describing the study and any conclusions.

(3) STUDY OF COMPLIANCE MODEL.—Conduct a study of the extent to which existing programs of Federal agencies and corporations for compliance with the requirements under the national flood insurance program can serve as a model for other Federal agencies responsible for enforcing compliance, and submit to the Congress a report describing the study and any conclusions.

(4) RECOMMENDATIONS FOR ENFORCEMENT AND COMPLIANCE PROCEDURES.—Develop recommendations regarding enforce-

ment and compliance procedures, based on the studies and findings of the Task Force, and publish such recommendations.

(5) STUDY OF DETERMINATION FEES.—Conduct a study of—

(A) the reasonableness of fees charged pursuant to 102(h) of the Flood Disaster Protection Act of 1973 for costs of determining whether the property securing a loan is located in an area having special flood hazards; and

(B) whether the fees charged pursuant to such section by lenders and servicers are greater than the amounts paid by such lenders and servicers to persons actually conducting such determinations and the extent to which the fees exceed such amounts.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairman or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b)(1) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b)(1).

42 USC 4102 note.

SEC. 562. TASK FORCE ON NATURAL AND BENEFICIAL FUNCTIONS OF THE FLOODPLAIN.

(a) ESTABLISHMENT.—There is hereby established an interagency task force to be known as the Task Force on Natural and Beneficial Functions of the Floodplain (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—The Task Force shall be composed of 5 members, who shall be the designees of—

(1) the Under Secretary of Commerce for Oceans and Atmosphere;

(2) the Director of the United States Fish and Wildlife Service;

(3) the Administrator of the Environmental Protection Agency;

(4) the Secretary of the Army, acting through the Chief of Engineers; and

(5) the Director of the Federal Emergency Management Agency.

(c) DUTIES.—The Task Force shall—

(1) conduct a study to—

(A) identify the natural and beneficial functions of the floodplain that reduce flood-related losses; and

(B) develop recommendations on how to reduce flood losses by protecting the natural and beneficial functions of the floodplain; and

(2) make the information and recommendations under subparagraphs (A) and (B) publicly available.

(d) NONCOMPENSATION.—Members of the Task Force shall receive no additional pay by reason of their service on the Task Force.

(e) CHAIRPERSON.—The members of the Task Force shall elect one member as chairperson of the Task Force.

(f) MEETINGS AND ACTION.—The Task Force shall meet at the call of the chairperson or a majority of the members of the Task Force and may take action by a vote of the majority of the members. The Federal Insurance Administrator shall coordinate and call the initial meeting of the Task Force.

(g) OFFICERS.—The chairperson of the Task Force may appoint any officers to carry out the duties of the Task Force under subsection (c).

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Task Force, the head of any of the Federal agencies and entities referred to under subsection (b) may detail, on a nonreimbursable basis, any of the personnel of such agency to the Task Force to assist the Task Force in carrying out its duties under this section.

(i) POWERS.—In carrying out this section, the Task Force may hold hearings, sit and act at times and places, take testimony, receive evidence and assistance, provide information, and conduct research as the Task Force considers appropriate.

(j) TERMINATION.—The Task Force shall terminate upon the expiration of the 24-month period beginning upon the designation of the last member to be designated under subsection (b).

Subtitle F—Miscellaneous Provisions

SEC. 571. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) IN GENERAL.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

(b) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1995" and inserting "September 30, 1996".

SEC. 572. LIMITATION ON PREMIUM INCREASES.

(a) PROPERTY-SPECIFIC LIMITATION.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended— 42 USC 4015.

(1) in subsection (c), by striking "Notwithstanding any other provision of this title" and inserting "Subject only to the limitation under subsection (e)"; and

(2) by inserting after subsection (d) the following new subsection:

"(e) ANNUAL LIMITATION ON PREMIUM INCREASES.—Notwithstanding any other provision of this title, the chargeable risk premium rates for flood insurance under this title for any properties within any single risk classification may not be increased by an amount that would result in the average of such rate increases for properties within the risk classification during any 12-month period exceeding 10 percent of the average of the risk premium rates for properties within the risk classification upon the commencement of such 12-month period.".

(b) REPEAL OF PROGRAM-WIDE LIMITATION.—Subsection (d) of section 541 of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is hereby repealed.

SEC. 573. MAXIMUM FLOOD INSURANCE COVERAGE AMOUNTS.

(a) IN GENERAL.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended as follows:

(1) RESIDENTIAL PROPERTY.—In paragraph (2), by striking "an amount of $150,000 under the provisions of this clause" and inserting the following: "a total amount (including such limits specified in paragraph (1)(A)(i)) of $250,000".

(2) RESIDENTIAL PROPERTY CONTENTS.—In paragraph (3), by striking "an amount of $50,000 under the provisions of this clause" and inserting the following: "a total amount (including such limits specified in paragraph (1)(A)(ii)) of $100,000".

(3) NONRESIDENTIAL PROPERTY AND CONTENTS.—By striking paragraph (4) and inserting the following new paragraph:

"(4) in the case of any nonresidential property, including churches, for which the risk premium rate is determined in accordance with the provisions of section 1307(a)(1), additional flood insurance in excess of the limits specified in subparagraphs (B) and (C) of paragraph (1) shall be made available to every insured upon renewal and every applicant for insurance, in respect to any single structure, up to a total amount (including such limit specified in subparagraph (B) or (C) of paragraph (1), as applicable) of $500,000 for each structure and $500,000 for any contents related to each structure; and".

(b) REMOVAL OF CEILING ON COVERAGE REQUIRED.—Section 1306(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (5), by striking "; and" at the end and inserting a period; and

(2) by striking paragraph (6).

SEC. 574. FLOOD INSURANCE PROGRAM ARRANGEMENTS WITH PRIVATE INSURANCE ENTITIES.

Section 1345(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4081(b)) is amended by striking the period at the end and inserting the following: "and without regard to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 575. UPDATING OF FLOOD MAPS.

Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsections:

"(e) REVIEW OF FLOOD MAPS.—Once during each 5-year period (the 1st such period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994) or more often as the Director determines necessary, the

Director shall assess the need to revise and update all floodplain areas and flood risk zones identified, delineated, or established under this section, based on an analysis of all natural hazards affecting flood risks.

"(f) UPDATING FLOOD MAPS.—The Director shall revise and update any floodplain areas and flood-risk zones—

"(1) upon the determination of the Director, according to the assessment under subsection (e), that revision and updating are necessary for the areas and zones; or

"(2) upon the request from any State or local government stating that specific floodplain areas or flood-risk zones in the State or locality need revision or updating, if sufficient technical data justifying the request is submitted and the unit of government making the request agrees to provide funds in an amount determined by the Director, but which may not exceed 50 percent of the cost of carrying out the requested revision or update.

"(g) AVAILABILITY OF FLOOD MAPS.—To promote compliance with the requirements of this title, the Director shall make flood insurance rate maps and related information available free of charge to the Federal entities for lending regulation, Federal agency lenders, State agencies directly responsible for coordinating the national flood insurance program, and appropriate representatives of communities participating in the national flood insurance program, and at a reasonable cost to all other persons. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

"(h) NOTIFICATION OF FLOOD MAP CHANGES.—The Director shall cause notice to be published in the Federal Register (or shall provide notice by another comparable method) of any change to flood insurance map panels and any change to flood insurance map panels issued in the form of a letter of map amendment or a letter of map revision. Such notice shall be published or otherwise provided not later than 30 days after the map change or revision becomes effective. Notice by any method other than publication in the Federal Register shall include all pertinent information, provide for regular and frequent distribution, and be at least as accessible to map users as notice in the Federal Register. All notices under this subsection shall include information on how to obtain copies of the changes or revisions.

Federal Register, publication.

"(i) COMPENDIA OF FLOOD MAP CHANGES.—Every 6 months, the Director shall publish separately in their entirety within a compendium, all changes and revisions to flood insurance map panels and all letters of map amendment and letters of map revision for which notice was published in the Federal Register or otherwise provided during the preceding 6 months. The Director shall make such compendia available, free of charge, to Federal entities for lending regulation, Federal agency lenders, and States and communities participating in the national flood insurance program pursuant to section 1310 and at cost to all other parties. Any receipts resulting from this subsection shall be deposited in the National Flood Insurance Fund, pursuant to section 1310(b)(6).

Public information.

"(j) PROVISION OF INFORMATION.—In the implementation of revisions to and updates of flood insurance rate maps, the Director shall share information, to the extent appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere and representatives from State coastal zone management programs.".

42 USC 4101 note.

SEC. 576. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the "Council").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director of the Federal Emergency Management Agency (in this section referred to as the "Director"), or the Director's designee, and 10 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or his or her designee);

(B) a member of recognized surveying and mapping professional associations and organizations;

(C) a member of recognized professional engineering associations and organizations;

(D) a member of recognized professional associations or organizations representing flood hazard determination firms;

(E) a representative of the United States Geologic Survey;

(F) a representative of State geologic survey programs;

(G) a representative of State national flood insurance coordination offices;

(H) a representative of a regulated lending institution;

(I) a representative of the Federal Home Loan Mortgage Corporation; and

(J) a representative of the Federal National Mortgage Association.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) make recommendations to the Director on how to improve in a cost-effective manner the accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps;

(2) recommend to the Director mapping standards and guidelines for flood insurance rate maps; and

Reports.

(3) submit an annual report to the Director that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as established pursuant to the amendment made by section 675; and

(C) a summary of recommendations made by the Council to the Director.

(d) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the "Chairperson").

(e) COORDINATION.—To ensure that the Council's recommendations are consistent to the maximum extent practicable with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal

Geographic Data Committee (established pursuant to OMB Circular A–16).

(f) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(g) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less than twice each year at the request of the Chairperson or a majority of its members and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(h) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(i) STAFF OF FEMA.—Upon the request of the Chairperson, the Director may detail, on a nonreimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(j) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research as it considers appropriate.

(k) TERMINATION.—The Council shall terminate 5 years after the date on which all members of the Council have been appointed under subsection (b)(1).

SEC. 577. EVALUATION OF EROSION HAZARDS.

42 USC 4001 note.

(a) REPORT REQUIREMENT.—The Director of the Federal Emergency Management Agency (in this section referred to as the "Director") shall submit a report under this section to the Congress that—

(1) lists all communities that are likely to be identified as having erosion hazard areas;

(2) estimates the amount of flood insurance claims under the national flood insurance program that are attributable to erosion;

(3) states the amount of flood insurance claims under such program that are attributable to claims under section 1306(c) of the National Flood Insurance Act of 1968;

(4) assesses the full economic impact of erosion on the National Flood Insurance Fund; and

(5) determines the costs and benefits of expenditures necessary from the National Flood Insurance Fund to complete mapping of erosion hazard areas.

(b) ESTIMATE OF FLOOD CLAIMS.—In developing the estimate under subsection (a)(2)—

(1) the Director may map a statistically valid and representative number of communities with erosion hazard areas throughout the United States, including coastal, Great Lakes, and, if technologically feasible, riverine areas; and

(2) the Director shall take into consideration the efforts of State and local governments to assess, measure, and reduce erosion hazards.

(c) ECONOMIC IMPACT.—

(1) IN GENERAL.—The assessment under subsection (a)(4) shall assess the economic impact of—

(A) erosion on communities listed pursuant to subsection (a)(1);

(B) the denial of flood insurance for all structures in communities listed pursuant to subsection (a)(1);

(C) the denial of flood insurance for structures that are newly constructed in whole in communities listed pursuant to subsection (a)(1);

(D) the establishment of (i) actuarial rates for existing structures in communities listed pursuant to subsection (a)(1), and (ii) actuarial rates for such structures in connection with the denial of flood insurance as described in subparagraph (C);

(E) the establishment of actuarial rates for structures newly constructed in whole in erosion hazard areas in communities listed pursuant to subsection (a)(1);

(F) the denial of flood insurance pursuant to existing requirements for coverage under the national flood insurance program;

(G) erosion hazard assessment, measurement, and management activities undertaken by State and local governments, including building restrictions, beach nourishment, construction of sea walls and levees, and other activities that reduce the risk of damage due to erosion; and

(H) the mapping and identifying of communities (or subdivisions thereof) having erosion hazard areas.

(2) SCOPE.—In assessing the economic impact of the activities under subparagraphs (A) through (H) of paragraph (1), the assessment under subsection (a)(4) shall address such impact on all significant economic factors, including the impact on—

(A) the value of residential and commercial properties in communities with erosion hazards;

(B) community tax revenues due to potential changes in property values or commercial activity;

(C) employment, including the potential loss or gain of existing and new jobs in the community;

(D) existing businesses and future economic development;

(E) the estimated cost of Federal and State disaster assistance to flood victims; and

(F) the mapping and identifying of communities (or subdivisions thereof) having erosion hazard areas.

(3) PREPARATION.—The assessment required under subsection (a)(4) shall be conducted by a private independent entity selected by the Director. The private entity shall consult with a statistically valid and representative number of communities listed pursuant to subsection (a)(1) in conducting the assessment.

(d) COSTS AND BENEFITS OF MAPPING.—The determination under subsection (a)(5) shall—

(1) determine the costs and benefits of mapping erosion hazard areas, based upon the Director's estimate of the actual and prospective amount of flood insurance claims attributable to erosion;

(2) if the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas, further assess whether using flood insurance premiums for costs of mapping erosion hazard areas is

cost-beneficial compared to alternative uses of such amounts, including—

(A) funding the mitigation assistance program under section 1366 of the National Flood Insurance Act of 1968 (as added by section 553 of this Act);

(B) funding the program under section 1304(b) of the National Flood Insurance Act of 1968 (as added by section 555(a) of this Act) that provides additional coverage under the national flood insurance program for compliance with land use and control measures; and

(C) reviewing, revising, and updating flood insurance rate maps under subsections (e) and (f) of section 1360 of the National Flood Insurance Act of 1968 (as added by the amendment made by section 575 of this Act);

(3) if the Director determines under subsection (b)(1) that mapping of riverine areas for erosion hazard areas is technologically feasible, determine the costs and benefits of conducting the mapping of erosion hazards in riverine areas (A) separately from the mapping of other erosion hazard areas, and (B) together with the mapping of other such areas;

(4) if the Director determines that the savings to the National Flood Insurance Fund will exceed the cost of mapping erosion hazard areas in riverine areas, assess whether using flood insurance premiums for costs of mapping erosion hazard areas in riverine areas is cost-beneficial compared to alternative uses of such amounts, including the uses under subparagraphs (A) through (C) of paragraph (2); and

(5) determine the costs and benefits of mapping erosion, other than those directly related to the financial condition of the National Flood Insurance Program, and the costs of not mapping erosion.

(e) DEFINITION.—For purposes of this section, the term "erosion hazard area" means, based on erosion rate information and other historical data available, an area where erosion or avulsion is likely to result in damage to or loss of buildings and infrastructure within a 60-year period.

(f) CONSULTATION.—In preparing the report under this section, the Director shall consult with—

(1) representatives from State coastal zone management programs approved under section 306 of the Coastal Zone Management Act of 1972;

(2) the Administrator of the National Oceanic and Atmospheric Administration; and

(3) any other persons, officials, or entities that the Director considers appropriate.

(g) SUBMISSION.— The Director shall submit the report to the Congress as soon as practicable, but not later than 2 years after the date of enactment of this Act. Reports.

(h) AVAILABILITY OF NATIONAL FLOOD INSURANCE FUND.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "(except as otherwise provided in this section)" after "without fiscal year limitation"; and

(2) by inserting after paragraph (7) (as added by the preceding provisions of this title) the following new paragraph:

"(8) for costs of preparing the report under section 577 of the Riegle Community Development and Regulatory Improvement Act of 1994, except that the fund shall be available for the purpose under this paragraph in an amount not to exceed an aggregate of $5,000,000 over the 2-year period beginning on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994.".

42 USC 4014 note.

SEC. 578. STUDY OF ECONOMIC EFFECTS OF CHARGING ACTUARIALLY BASED PREMIUM RATES FOR PRE-FIRM STRUCTURES.

(a) STUDY.—The Director of the Federal Emergency Management Agency (in this section referred to as the "Director") shall conduct a study of the economic effects that would result from increasing premium rates for flood insurance coverage made available under the national flood insurance program for pre-FIRM structures to the full actuarial risk based premium rate determined under section 1307(a)(1) of the National Flood Insurance Act of 1968 for the area in which the property is located. In conducting the study, the Director shall—

(1) determine each area that would be subject to such increased premium rates; and

(2) for each such area, determine—

(A) the amount by which premium rates would be increased;

(B) the number and types of properties affected and the number and types of properties covered by flood insurance under this title likely to cancel such insurance if the rate increases were made;

(C) the effects that the increased premium rates would have on land values and property taxes; and

(D) any other effects that the increased premium rates would have on the economy and homeowners.

(b) DEFINITION OF PRE-FIRM STRUCTURE.—For purposes of subsection (a), the term "pre-FIRM structure" means a structure that was not constructed or substantially improved after the later of—

(1) December 31, 1974; or

(2) the effective date of the initial rate map published by the Director under section 1360(a)(2) of the National Flood Insurance Act of 1968 for the area in which such structure is located.

(c) REPORT.—The Director shall submit a report to the Congress describing and explaining the findings of the study conducted under this section. The report shall be submitted not later than 12 months after the date of enactment of this Act.

SEC. 579. EFFECTIVE DATES OF POLICIES.

(a) 30-DAY DELAY.—Section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

"(c) EFFECTIVE DATE OF POLICIES.—

"(1) WAITING PERIOD.—Except as provided in paragraph (2), coverage under a new contract for flood insurance coverage under this title entered into after the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, and any modification to coverage under an existing flood insurance contract made after such date, shall become effective upon the expiration of the 30-day period

beginning on the date that all obligations for such coverage (including completion of the application and payment of any initial premiums owed) are satisfactorily completed.

"(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to—

"(A) the initial purchase of flood insurance coverage under this title when the purchase of insurance is in connection with the making, increasing, extension, or renewal of a loan; or

"(B) the initial purchase of flood insurance coverage pursuant to a revision or updating of floodplain areas or flood-risk zones under section 1360(f), if such purchase occurs during the 1-year period beginning upon publication of notice of the revision or updating under section 1360(h).".

(b) STUDY.—The Director of the Federal Emergency Management Agency shall conduct a study to determine the appropriateness of existing requirements regarding the effective date and time of coverage under flood insurance contracts obtained through the national flood insurance program. In conducting the study, the Director shall determine whether any delay between the time of purchase of flood insurance coverage and the time of initial effectiveness of the coverage should differ for various classes of properties (based upon the type of property, location of the property, or any other factors related to the property) or for various circumstances under which such insurance was purchased. Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Director shall submit to the Congress a report on the results of the study. Reports.

SEC. 580. AGRICULTURAL STRUCTURES.

Section 1315(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4022(a)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

"(2) AGRICULTURAL STRUCTURES.—

"(A) ACTIVITY RESTRICTIONS.—Notwithstanding any other provision of law, the adequate land use and control measures required to be adopted in an area (or subdivision thereof) pursuant to paragraph (1) may provide, at the discretion of the appropriate State or local authority, for the repair and restoration to predamaged conditions of an agricultural structure that—

"(i) is a repetitive loss structure; or

"(ii) has incurred flood-related damage to the extent that the cost of restoring the structure to its predamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"(B) PREMIUM RATES AND COVERAGE.—To the extent applicable, an agricultural structure repaired or restored pursuant to subparagraph (A) shall pay chargeable premium rates established under section 1308 at the estimated risk premium rates under section 1307(a)(1). If resources are available, the Director shall provide technical assistance and counseling, upon request of the owner of the structure, regarding wet flood-proofing and other flood damage reduction measures for agricultural structures. The

Director shall not be required to make flood insurance coverage available for such an agricultural structure unless the structure is wet flood-proofed through permanent or contingent measures applied to the structure or its contents that prevent or provide resistance to damage from flooding by allowing flood waters to pass through the structure, as determined by the Director.

"(C) PROHIBITION ON DISASTER RELIEF.—Notwithstanding any other provision of law, any agricultural structure repaired or restored pursuant to subparagraph (A) shall not be eligible for disaster relief assistance under any program administered by the Director or any other Federal agency.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'agricultural structure' means any structure used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities; and

"(ii) the term 'agricultural commodities' means agricultural commodities and livestock.".

SEC. 581. IMPLEMENTATION REVIEW BY DIRECTOR.

Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027) is amended—

(1) by striking "The Director" and inserting "(a) IN GENERAL.—The Director"; and

(2) by adding at the end the following new subsection:

Reports. "(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The Director shall include, as part of the biennial report submitted under subsection (a), a chapter reporting on the effects on the flood insurance program observed through implementation of requirements under the Riegle Community Development and Regulatory Improvement Act of 1994.".

42 USC 5154a. **SEC. 582. PROHIBITED FLOOD DISASTER ASSISTANCE.**

(a) GENERAL PROHIBITION.—Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) TRANSFER OF PROPERTY.—

(1) DUTY TO NOTIFY.—In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) FAILURE TO NOTIFY.—If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) PROPERTY DESCRIBED.—For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

(1) by striking ", during the anticipated economic or useful life of the project,"; and

(2) by adding at the end the following: "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.".

(d) DEFINITION.—For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to disasters declared after the date of enactment of this Act.

SEC. 583. REGULATIONS.

42 USC 4001 note.

The Director of the Federal Emergency Management Agency and any appropriate Federal agency may each issue any regulations necessary to carry out the applicable provisions of this title and the applicable amendments made by this title.

SEC. 584. RELATION TO STATE AND LOCAL LAWS.

42 USC 4001 note.

This title and the amendments made by this title may not be construed to preempt, annul, alter, amend, or exempt any person from compliance with any law, ordinance, or regulation of any State or local government with respect to land use, management, or control.

TITLE VI—GENERAL PROVISIONS

SEC. 601. OVERSIGHT HEARINGS.

It is the sense of the Senate that—

(a) Congress has a constitutional obligation to conduct oversight of matters relating to the operations of the Government, including matters related to any governmental investigations which may, from time to time, be undertaken.

George J. Mitchell. Bob Dole.

(b) The Majority Leader and the Republican Leader should meet and determine the appropriate timetable, procedures, and forum for appropriate Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and Loan Association ('MGS&L'), Whitewater Development Corporation and Capital Management Services Inc. ('CMS').".

Robert B. Fiske, Jr.

(c) No witness called to testify at these hearings shall be granted immunity under sections 6002 and 6005 of title 18, United States Code, over the objection of Special Counsel Robert B. Fiske, Jr.

(d) The hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

SEC. 602. TECHNICAL AMENDMENTS TO THE FEDERAL BANKING LAWS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

12 USC 1813.

(1) in section 3—

(A) in subsection (i)(1), by striking "(11)(h)" and inserting "(11)(m)";

(B) in subsection (l)(4), by striking "bank's or" and inserting "a bank's or a"; and

(C) in subsection (q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966";

12 USC 1815.

(2) in section 5(b)(5), by striking the semicolon at the end and inserting a comma;

(3) in section 5(e)(4), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B) respectively, and indenting appropriately;

12 USC 1817.

(4) in section 7(a)(3), by striking "Chairman of the" before "Director of the Office of Thrift Supervision";

(5) in section 7(b)(3)(C), by striking the first period at the end;

(6) in section 7(j)(2)(A), in the third sentence—

(A) by striking "this section (j)(2)" and inserting "this paragraph"; and

(B) by striking "this subsection (j)(2)" and inserting "this paragraph";

(7) in section 7(j)(7)(A), by striking "monoplize" and inserting "monopolize";

(8) in section 7(l)(7), by striking "the ratio of the value of" and inserting "the ratio of";

(9) in section 7(m)(5)(A) by striking "savings association institution" and inserting "such institution";

(10) in section 7(m)(7), by inserting "the" before "Federal";

(11) in section 8(a)(3), by striking "subparagraph (B) of this subsection" and inserting "paragraph (2)(B)"; 12 USC 1818.

(12) in section 8(a)(7)—

(A) by inserting a comma after "Board of Directors"; and

(B) by striking "the period the period" and inserting "the period";

(13) in section 8(b)(4), by striking "subparagraph (3)" and inserting "paragraph (3)";

(14) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(15) in section 8(g)(2), by striking "depository institution" each place such term appears and inserting "bank";

(16) in section 8(o)—

(A) in the second sentence, by striking "subsection (b)" and inserting "subsection (d)"; and

(B) by striking "board of directors" each place such term appears and inserting "Board of Directors";

(17) in section 8(p), by striking "banking" each place such term appears and inserting "depository";

(18) in section 8(r)(2), by striking "therof" and inserting "thereof";

(19) in section 10(b)(1), by striking "claim" and inserting "claims"; 12 USC 1820.

(20) in section 10(b)(2)(B), by adding "and" at the end;

(21) in the section heading for paragraph (4) of section 11(a), by striking "PROVISIONS" and inserting "PROVISIONS"; 12 USC 1821.

(22) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(23) in section 11(d)(8)(B)(ii), by inserting "provide" before "a statement";

(24) in section 11(d)(14)(B), by striking "statute of limitation" and inserting "statute of limitations";

(25) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(26) in section 11(e)(8)(D)(v)(I), by inserting a closing parenthesis after "1934";

(27) in section 11(e)(12)(B), by striking "directors or officers" and inserting "director's or officer's";

(28) in section 11(f)(3)(A), by striking "TO" in the heading and inserting "WITH";

(29) in the second sentence of section 11(i)(3)(A), by striking "other claimant or category or claimants" and inserting "other claimant or category of claimants";

(30) in section 11(n)(4)(E)(i), by adding "and" at the end;

(31) in section 11(n)(12)(A), by striking "subparagraphs" and inserting "subparagraph";

(32) in the second sentence of section 11(q)(1), by striking "decided" and inserting "held";

(33) in section 11(u)(3)(B), by striking "subsection (c)(9)" and inserting "section 40(p)";

(34) in section 13(c)(1)(B)— 12 USC 1823.

(A) by striking "a in default insured bank" and inserting "an insured bank in default"; and

(B) by striking "such in default insured bank" and inserting "such insured bank";

(35) in section 13(c)(2)(A)—

(A) by striking "with an insured institution" and inserting "with another insured depository institution"; and

(B) by striking "by an insured institution" and inserting "by another insured depository institution";

12 USC 1823. (36) in section 13(f)(2)(B)(i), by striking "the in default insured bank" and inserting "the insured bank in default";

(37) in section 13(f)(2)(B)(iii), by striking "of of" and inserting "of";

(38) in section 13(f)(3), by striking "CLOSING" in the heading and inserting "DEFAULT";

(39) in section 13(f)(6)(A), by striking "bank that has in default" and inserting "bank that is in default";

(40) in section 13(f)(6)(B)(i), by striking the semicolon at the end and inserting a period;

(41) in section 13(f)(7)—

(A) in subparagraph (A), by striking "or" at the end; and

(B) in subparagraph (B), by striking the period at the end and inserting "; or";

(42) in section 13(f)(12)(A), by striking "is less than" and inserting "are less than";

12 USC 1825. (43) in section 15(c)(1), by striking "OBLIGATIONS LIABILITIES" in the heading and inserting "OBLIGATIONS, GUARANTEES, AND LIABILITIES";

12 USC 1828. (44) in section 18(b), by striking ", if such bank shall deposit" and inserting "if the insured depository institution deposits";

(45) in section 18(c)(1)(B), by inserting "or" at the end;

(46) in section 18(c)(4), by striking "other two banking agencies" each place such term appears and inserting "other Federal banking agencies";

(47) in section 18(c)(6), by striking "other two banking agencies" and inserting "other Federal banking agencies";

(48) in section 18(c)(9), by striking "with the following information:" and inserting "with—";

(49) in section 18(f)—

(A) by striking "such bank" and inserting "such insured depository institution"; and

(B) by striking "the bank" and inserting "the insured depository institution";

(50) in section 18(k)(4)(A)(ii)(II), by striking "or" at the end;

12 USC 1829a. (51) in section 20(a)(3), by inserting "or" at the end;

12 USC 1829b. (52) in section 21(c), by striking "the bank" and inserting "the insured depository institution";

(53) in section 21(d)(2), by striking "the bank" and inserting "the insured depository institution";

(54) in section 21(e), by striking "the bank" and inserting "the insured depository institution";

12 USC 1831b. (55) in section 25(a), by striking "the bank" each place it appears and inserting "the insured depository institution, insured branch, or bank";

12 USC 1831e. (56) in section 28(c)(2)(A)(i) by striking ", or" and inserting "; or";

(57) in section 28(d)(4)(C), by striking "subparagraphs" and inserting "subparagraph";

(58) in section 28(e)(4), by striking "any other" and inserting "and any other"; 12 USC 1831e.

(59) in section 30(e)(1)(A), by striking "venders" and inserting "the vendors"; 12 USC 1831g.

(60) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors"; 12 USC 1831h.

(61) in section 33(c)(1), by striking the comma at the end and inserting a semicolon; 12 USC 1831j.

(62) in section 34(a)(1)(A)(iii)— 12 USC 1831k.

(A) by striking "sections" and inserting "section"; and

(B) by striking "and" and inserting "or";

(63) in section 34(a)(2), by adding a period at the end; 12 USC 1831o.

(64) in section 38(f)(6), by striking "Commisssion" and inserting "Commission";

(65) in section 40(c)(4)(A), by striking "subsections (p)(12)(B) and (C)" and inserting "subparagraphs (B) and (C) of subsection (p)(12)"; and 12 USC 1831q.

(66) in section 40(d)(8)(A), by striking "meeting" and inserting "meeting the".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (a)(11), by striking "a United States District Court" and inserting "a United States district court";

(2) in subsection (b)(11)(B)(iii), by striking the comma after "chapter 5";

(3) in subsection (b)(11)(E)(iv)(II), by striking "knowledgable" and inserting "knowledgeable";

(4) in subsection (b)(11)(G), by inserting "ADVISORY PERSONNEL.—" before "The Corporation shall";

(5) in subsection (r)(4), by striking "subsection.—" and inserting "subsection, the following definitions shall apply:";

(6) in subsection (s)(2), by striking "subsection—" and inserting "subsection, the following definitions shall apply:"; and

(7) in subsection (u)(5), by striking "subsection—" and inserting "subsection, the following definitions shall apply:".

(c) RESOLUTION TRUST CORPORATION COMPLETION ACT.—Section 21(a) of the Resolution Trust Corporation Completion Act (107 Stat. 2406) is amended— 12 USC 1831j.

(1) by striking "33(a)" and inserting "33";

(2) by striking "1831j(a)" and inserting "1831j";

(3) in paragraph (1), by striking "paragraph (1)" and inserting "subsection (a)(1)"; and

(4) in paragraph (2), by striking "paragraph (2)" and inserting "subsection (a)(2)".

(d) FEDERAL RESERVE ACT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289) is amended—

(1) in paragraph (1)(B), by inserting "(A)" after "subparagraph"; and

(2) in paragraph (2), by striking "subparagraph (A)" and inserting "paragraph (1)(A)".

(e) REPEAL OF PROVISIONS IN THE REVISED STATUTES.—The following sections of the Revised Statutes are hereby repealed:

(1) Section 5170 (12 U.S.C. 28).

(2) Section 5203 (12 U.S.C. 87).

(3) Section 5206 (12 U.S.C. 88).

(4) Section 5196 (12 U.S.C. 89).

(5) Section 5158 (12 U.S.C. 102).
(6) Section 5159 (12 U.S.C. 101a).
(7) Section 5172 (12 U.S.C. 104).
(8) Section 5173 (12 U.S.C. 107).
(9) Section 5174 (12 U.S.C. 108).
(10) Section 5182 (12 U.S.C. 109).
(11) Section 5183 (12 U.S.C. 110).
(12) Section 5195 (12 U.S.C. 123).
(13) Section 5184 (12 U.S.C. 124).
(14) Section 5226 (12 U.S.C. 131).
(15) Section 5227 (12 U.S.C. 132).
(16) Section 5228 (12 U.S.C. 133).
(17) Section 5229 (12 U.S.C. 134).
(18) Section 5230 (12 U.S.C. 137).
(19) Section 5231 (12 U.S.C. 138).
(20) Section 5232 (12 U.S.C. 135).
(21) Section 5233 (12 U.S.C. 136).
(22) Section 5185 (12 U.S.C. 151).
(23) Section 5186 (12 U.S.C. 152).
(24) Section 5160 (12 U.S.C. 168).
(25) Section 5161 (12 U.S.C. 169).
(26) Section 5162 (12 U.S.C. 170).
(27) Section 5163 (12 U.S.C. 171).
(28) Section 5164 (12 U.S.C. 172).
(29) Section 5165 (12 U.S.C. 173).
(30) Section 5166 (12 U.S.C. 174).
(31) Section 5167 (12 U.S.C. 175).
(32) Section 5222 (12 U.S.C. 183).
(33) Section 5223 (12 U.S.C. 184).
(34) Section 5224 (12 U.S.C. 185).
(35) Section 5225 (12 U.S.C. 186).
(36) Section 5237 (12 U.S.C. 195).

(f) REPEAL OF OTHER OBSOLETE PROVISIONS IN BANKING LAWS.—The following provisions of law are hereby repealed:

(1) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c).

(2) Section 12 of the Act entitled "An Act To define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States, to refund the public debt, and for other purposes." and approved March 14, 1900 (12 U.S.C. 101).

(3) Section 3 of the Act entitled "An Act To amend the laws relating to the denominations of circulating notes by national banks and to permit the issuance of notes of small denominations, and for other purposes." and approved October 5, 1917 (12 U.S.C. 103).

(4) The following sections of the Act entitled "An Act fixing the amount of United States notes, providing for a redistribution of the national-bank currency, and for other purposes." and approved June 20, 1874:

(A) Section 5 (12 U.S.C. 105).
(B) Section 3 (12 U.S.C. 121).
(C) Section 8 (12 U.S.C. 126).
(D) Section 4 (12 U.S.C. 176).

(5) The following sections of the Act entitled "An Act to enable national-banking associations to extend their corporate existence, and for other purposes." and approved July 12, 1882:

(A) Section 8 (12 U.S.C. 177).

(B) Section 9 (12 U.S.C. 178).

(6) The Act entitled "An Act to amend the national bank act in providing for the redemption of national bank notes stolen from or lost by banks of issue." and approved July 28, 1892 (12 U.S.C. 125).

(7) The Act entitled "An Act authorizing the conversion of national gold banks." and approved February 14, 1880 (12 U.S.C. 153).

(g) AMENDMENTS TO OTHER LAWS.—

(1) The 8th paragraph of the 4th undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 341) is amended by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury".

(2) Section 11(d) of the Federal Reserve Act (12 U.S.C. 248(d)) is amended—

(A) by striking "bureau under the charge of the Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Comptroller" and inserting "Secretary of the Treasury".

(3) The 1st sentence of the 8th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 418) is amended by striking "the Comptroller of the Currency shall under the direction of the Secretary of the Treasury," and inserting "the Secretary of the Treasury shall".

(4) The 9th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 419) is amended to read as follows:

"When such notes have been prepared, the notes shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury for the delivery of such notes in accordance with this Act.".

(5) The 10th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 420) is amended—

(A) by striking "Comptroller of the Currency" and inserting "Secretary of the Treasury"; and

(B) by striking "Federal Reserve Board" and inserting "Board of Governors of the Federal Reserve System".

(6) The 11th undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 421) is amended to read as follows:

"The Secretary of the Treasury may examine the plates, dies, bed pieces, and other material used in the printing of Federal Reserve notes and issue regulations relating to such examinations.".

(7) The 6th undesignated paragraph of section 18 of the Federal Reserve Act (38 Stat. 269) is amended— 12 USC 445.

(A) by striking "Comptroller of the Currency" each place it appears and inserting "Secretary of the Treasury"; and

(B) in the 7th sentence, by striking "Comptroller" and inserting "Secretary of the Treasury".

(8) The Act entitled "An Act to provide for the redemption of national-bank notes, Federal Reserve bank notes, and Federal Reserve notes which cannot be identified as to the bank of issue." and approved June 13, 1933, is amended—

(A) in the 1st section (12 U.S.C. 121a)—

(i) by striking "whenever any national-bank notes, Federal Reserve bank notes," and inserting "whenever any Federal Reserve bank notes"; and

(ii) by striking ", and the notes, other than Federal Reserve notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction"; and

(B) in section 2 (12 U.S.C. 122a)—

(i) by striking "National-bank notes and"; and

(ii) by striking "national-bank notes and".

(9) The 1st section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes." and approved March 3, 1875, is amended in the 1st paragraph which appears under the heading "NATIONAL CURRENCY" by striking "Secretary of the Treasury: *Provided*, That" and all that follows through the period and inserting "Secretary of the Treasury.". 12 USC 106.

(10) The Act entitled "An Act to simplify the accounts of the Treasurer of the United States, and for other purposes." and approved October 10, 1940 (12 U.S.C. 177a) is amended by striking all after the enacting clause and inserting the following: "That the cost of transporting and redeeming outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriation for the Department of the Treasury.".

(11) Section 5234 of the Revised Statutes (12 U.S.C. 192) is amended by striking "has refused to pay its circulating notes as therein mentioned, and".

(12) Section 5236 of the Revised Statutes (12 U.S.C. 194) is amended by striking ", after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association".

(13) Section 5238 of the Revised Statutes (12 U.S.C. 196) is amended by striking the 1st sentence.

(14) Section 5119(b)(2) of title 31, United States Code, is amended by adding at the end the following: "The Secretary shall not be required to reissue United States currency notes upon redemption.".

(h) AMENDMENTS TO OUTDATED DIVIDEND PROVISIONS.—

(1) WITHDRAWAL OF CAPITAL.—Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(A) in the 2d sentence, by striking "net profits then on hand, deducting therefrom its losses and bad debts" and inserting "undivided profits, subject to other applicable provisions of law"; and

(B) by striking the 3d sentence.

(2) DECLARATION OF DIVIDENDS.—Section 5199 of the Revised Statutes (12 U.S.C. 60) is amended—

(A) in the 1st sentence, by striking "net profits of the association" and inserting "undivided profits of the association, subject to the limitations in subsection (b),";

(B) by striking "net profits" each subsequent place such term appears and inserting "net income"; and

(C) by striking subsection (c).

(i) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 1 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5156 the following new item:

"5156A. Mergers, consolidations, and other acquisitions authorized.";

and

(B) by striking the items relating to sections 5141 and 5151.

(2) The table of sections for chapter 2 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections: 12 USC 28, 101a, 102, 104, 107-110, 124, 151, 152, 165-175, 581.

(A) Section 5158.
(B) Section 5159.
(C) Section 5160.
(D) Section 5161.
(E) Section 5162.
(F) Section 5163.
(G) Section 5164.
(H) Section 5165.
(I) Section 5166.
(J) Section 5167.
(K) Section 5170.
(L) Section 5171.
(M) Section 5172.
(N) Section 5173.
(O) Section 5174.
(P) Section 5175.
(Q) Section 5176.
(R) Section 5177.
(S) Section 5178.
(T) Section 5179.
(U) Section 5180.
(V) Section 5181.
(W) Section 5182.
(X) Section 5183.
(Y) Section 5184.
(Z) Section 5185.
(AA) Section 5186.
(BB) Section 5187.
(CC) Section 5188.
(DD) Section 5189.

(3) The table of sections for chapter 3 of title LXII of the Revised Statutes of the United States is amended by striking the item relating to each of the following sections: 12 USC 82, 87-89, 123, 163, 592.

(A) Section 5193.
(B) Section 5194.
(C) Section 5195.
(D) Section 5196.
(E) Section 5202.
(F) Section 5203.
(G) Section 5206.
(H) Section 5209.
(I) Section 5212.

(4) The table of sections for chapter 4 of title LXII of the Revised Statutes of the United States is amended—

(A) by inserting after the item relating to section 5239 the following new item:

"5239A. Regulatory authority.";

and

(B) by striking the items relating to the following sections:

12 USC 131-138, 183-186, 195, 583.

(i) Section 5222.
(ii) Section 5223.
(iii) Section 5224.
(iv) Section 5225.
(v) Section 5226.
(vi) Section 5227.
(vii) Section 5228.
(viii) Section 5229.
(ix) Section 5230.
(x) Section 5231.
(xi) Section 5232.
(xii) Section 5233.
(xiii) Section 5237.
(xiv) Section 5243.

Approved September 23, 1994.

LEGISLATIVE HISTORY—H.R. 3474 (S. 1275):

HOUSE REPORTS: No. 103-652 (Comm. of Conference).
SENATE REPORTS: No. 103-169 accompanying S. 1275 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 21, considered and passed House.
Vol. 140 (1994): Mar. 16, 17, considered and passed Senate, amended, in lieu of S. 1275.
Aug. 4, House agreed to conference report.
Aug. 9, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 23, Presidential remarks.

Public Law 103-326
103d Congress

An Act

To reduce the restrictions on lands conveyed by deed under the Act of June 8, 1926.

Sept. 23, 1994
[S. 859]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of June 8, 1926 (ch. 498; 44 Stat. 708), is amended by—

(1) inserting "(a)" before "The conveyance";

(2) striking "States." at the end of the first sentence and inserting in lieu thereof "States, except that such restrictions on conveyances and uses shall not apply to those lands upon which communication facilities were located as of January 1, 1993."; and

(3) adding at the end thereof the following new subsections:

"(b) Reasonable use of an access route in existence on June 1, 1994, across National Forest lands shall be allowed for the repair, maintenance, or improvement of the communication facilities referred to in subsection (a), but the Secretary of Agriculture shall not be required to improve the condition of any such access route or to provide any additional access route for such purposes.

"(c) Recreational activities on the lands identified in section 1, totaling approximately one thousand four hundred and forty acres, may be allowed so long as such recreational use is consistent both with the protection of the watershed and water supply system of the city and with the management objectives for adjacent National Forest System lands. Construction of structures or other improvements associated with such recreational activities shall be permitted only to the extent that the Secretary of Agriculture has determined that such construction would be consistent with protection of watershed and would not adversely affect the resources and values of adjacent National Forest System lands.".

Approved September 23, 1994.

LEGISLATIVE HISTORY—S. 859:

HOUSE REPORTS: No. 103-590 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-245 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 12, considered and passed Senate.
July 12, considered and passed House, amended.
Aug. 25, Senate concurred in House amendment.

Public Law 103-327
103d Congress

An Act

Sept. 28, 1994
[H.R. 4624]

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFERS OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $17,626,892,000, to remain available until expended: *Provided,* That not to exceed $25,750,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508, and in the Veterans' Benefits Act of 1992, Public Law 102–568, the funding source for which is specifically provided as the "Compensation and pensions" appropriation: *Provided further,* That $6,000,000 of the amount appropriated shall be transferred to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing

home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992, Public Law 102–568.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,286,600,000, to remain available until expended: *Provided,* That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,760,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $59,371,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That during 1995, within the resources available, not to exceed

$1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,020,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,061, as authorized by 38 U.S.C. 3698, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,034.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $767,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by section 38, U.S.C. chapter 37, subchapter V, as amended, $218,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support

of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,232,756,000, plus reimbursements: *Provided*, That of the funds made available under this heading, $771,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1995, and shall remain available for obligation until September 30, 1996: *Provided further*, That of the $15,622,452,000 made available under this heading for fiscal year 1994 in Public Law 103–124, the $9,863,265,000 restricted by section 509 of Public Law 103–124 for personnel compensation and benefits expenditures is reduced to $9,813,265,000.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1996, $252,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,386,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $69,808,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1996.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $890,600,000, of which $25,500,000, for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration, shall not become available for obligation until September 1, 1995, and shall remain available for obligation until September 30, 1996.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,663,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,819,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated

cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $355,612,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation for fiscal year 1995, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1995, and (2) by the awarding of a construction contract by September 30, 1996: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only.

Reports.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $153,540,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), $16,300,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $47,397,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,378,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1995 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1995 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1994.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1995 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Of the budgetary resources available to the Department of Veterans Affairs during fiscal year 1995, $20,742,000 are permanently canceled. The Secretary of Veterans Affairs shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of

determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the homeownership and opportunity for people everywhere (HOPE grants) program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitles A, B, and C of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $50,000,000, to remain available until expended, of which up to one and one-half percent may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this head as authorized under subtitle E of title I of the Housing and Community Development Act of 1992.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,400,000,000, to remain available until expended.

NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION PROGRAM

For the National Homeownership Trust Demonstration program, as authorized by title III of the National Affordable Housing Act, as amended by section 182 of the Housing and Community Development Act of 1992, $50,000,000, to remain available until expended.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFERS OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $11,083,000,000, to remain available until expended: *Provided,* That to be added to and merged with the foregoing amounts there shall be up to $400,000,000 of amounts of budget authority (and contract authority) reserved or obligated in prior years for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as herein provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1995 or are unobligated as of September 30, 1994; and up to $100,000,000 of transfers of unobligated balances from the Urban Development Action Grants program: *Provided further,* That of the total amount provided under this head, $282,000,000 shall be for the development or acquisition cost of public housing for

Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); and $598,000,000 shall be for the development or acquisition cost of public housing, of which up to .67 per centum shall be available for technical assistance and inspection of public housing agencies by the Secretary: *Provided further,* That of the total amount provided under this head, $3,700,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to $15,000,000 for the inspection of modernization units and provision of technical assistance by the Secretary and contract expertise to assist in the oversight and management of the public and Indian housing modernization program, including an annual resident survey: *Provided further,* That of the amounts provided under this head for modernization of existing public housing projects, $25,000,000 may be used for the Tenant Opportunity Program: *Provided further,* That of the total amount provided under this head, $2,785,582,000 shall be for rental assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) and the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further,* That of the total amount provided for rental assistance, a total of up to $400,000,000 may be made available for new programs subject to enactment into law of applicable authorizing legislation: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b), 8(o), and 8(e)(2) shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the total amount provided under this head, $17,300,000 shall be available for fees for coordinators under section 23(h)(1) for the family self-sufficiency program (42 U.S.C. 1437u): *Provided further,* That of the total amount provided under this head, $735,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, and $555,000,000 shall be for section 8 assistance for property disposition, and $175,000,000 shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intention to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Emergency Low-Income Housing Preservation Act of 1987, as amended: *Provided further,* That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further,* That of the total amount provided under this head, $186,000,000 shall be for housing opportunities for persons with

AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; $100,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992; and $30,000,000 shall be for service coordinators in public housing pursuant to section 9(a)(1)(B)(ii) of the United States Housing Act of 1937; and $30,000,000 shall be for service coordinators in project-based section 8 housing, pursuant to section 8(d)(2)(F)(1) of the Act, tenant-based section 8 housing, pursuant to section 8(q) of the Act and, for service coordinators in multifamily housing assisted under the National Housing Act, pursuant to section 676 of the Housing and Community Development Act of 1992: *Provided further,* That notwithstanding the language preceding the first proviso of this paragraph, $289,500,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in the committee of conference report and statement of the managers (H. Rept. 103–715) accompanying H.R. 4624, except for the grant of $500,000 for the Earth Conservatory for the acquisition of land near Wilkes-Barre, Pennsylvania.

Of the total amount provided under this head, $1,279,000,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959: *Provided,* That $22,000,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959 and subtitle E of title VI of the Housing and Community Development Act of 1992, other than section 676 of such Act and section 8(d)(2)(F)(i) of the Act.

Of the total amount provided under this head, $387,000,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $2,536,000,000, to remain available until expended: *Provided,* That to the extent the amount in this appropriation is insufficient to fund all expiring section 8 contracts, the Secretary may transfer to and merge with this appropriation such amounts from the "Annual contributions for assisted housing" appropriation as the Secretary shall determine, and amounts earmarked in the foregoing account may be reduced accordingly, at the Secretary's discretion: *Provided further,* That the Secretary may maintain consolidated accounting data for funds disbursed at the public housing agency or Indian housing authority

or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1995 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided,* That up to $66,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 1995.

HOMEOWNERSHIP ASSISTANCE

(INCLUDING RESCISSION OF FUNDS)

For payments under section 235(r) of the National Housing Act, as amended (12 U.S.C. 1715z) for incentives to mortgagors to refinance mortgages that are insured under such section 235 and for closing and other costs in connection with such refinancing, $6,875,000, to remain available until expended: *Provided,* That up to $50,000,000 of recaptured section 235 budget authority resulting from reducing the interest rate on such refinanced mortgages shall be reused for payments under this heading: *Provided further,* That up to $184,000,000 of additional recaptured section 235 budget authority from refinancing section 235 mortgages shall be rescinded in fiscal year 1995.

CONGREGATE SERVICES

For contracts with payments to public housing agencies and nonprofit corporations for congregate services programs, $25,000,000, to remain available until September 30, 1995, of which up to $6,267,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,900,000,000.

SEVERELY DISTRESSED PUBLIC HOUSING

42 USC 1437*l* note.

For the HOPE VI/urban revitalization demonstration program under the third paragraph under the head "Homeownership and Opportunity for People Everywhere grants (HOPE grants)" in the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public

Law 102–389, 106 Stat. 1571, 1579, $500,000,000, to remain available until expended: *Provided,* That notwithstanding the first proviso of such third paragraph, the Secretary shall have discretion to approve funding for more than fifteen applicants: *Provided further,* That notwithstanding the third proviso of such third paragraph, the Secretary may provide funds for more than 500 units for each participating city: *Provided further,* That in selecting HOPE VI implementation grants recipients in fiscal year 1995, the Secretary must first award such grants to those cities or jurisdictions which have received HOPE VI planning grants in fiscal year 1993 or fiscal year 1994: *Provided further,* That the requirement of the immediately proceeding proviso shall not limit the Secretary's discretion to limit funding to amounts he deems appropriate, nor shall it prevent the Secretary from guaranteeing that all implementation grant recipients conform with the requirements of the HOPE VI/urban revitalization demonstration program: *Provided further,* That of the foregoing $500,000,000, the Secretary may use up to $2,500,000 for technical assistance under such urban revitalization demonstration, to be made available directly, or indirectly, under contracts or grants, as appropriate: *Provided further,* That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $290,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training).

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): *Provided,* That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $22,388,000.

YOUTHBUILD PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For youthbuild program activities authorized by subtitle D of title IV of the Crantson-Gonzalez National Affordable Housing Act, as amended, $50,000,000, to remain available until expended. In addition, the unexpended balances from the $28,000,000 made available for subtitle D of title IV of such Act under the head "Homeownership and opportunity for people everywhere grants (HOPE Grants)" in the Departments of Veterans Affairs and

Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 shall be transferred to and merged with this appropriation.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $50,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $50,000,000, and all uncommitted balances of excess rental charges as of September 30, 1994, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1995, to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1995, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1995, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $180,000,000: *Provided,* That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $308,846,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $302,056,000 shall be transferred

to the appropriation for salaries and expenses; and of which not to exceed $6,790,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), $188,395,000, to remain available until September 30, 1996, of which up to $132,903,000 is to be derived from the FHA—general and special risk, negative subsidies receipt account: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $20,885,072,000: *Provided further*, That of the foregoing amount provided to subsidize program costs, not more than $47,098,750 may be obligated by January 1, 1995, not more than $94,197,500 may be obligated by April 1, 1995, not more than $160,135,750 may be obligated by July 1, 1995.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(d) of the National Housing Act, shall not exceed $220,000,000; of which not to exceed $200,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $197,470,000, of which $193,299,000 shall be transferred to the appropriation for salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $142,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $8,824,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $8,824,000 shall be transferred to the appropriation for salaries and expenses.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; the shelter plus care program (as authorized under subtitle F of title IV of such Act); and the innovative homeless initiatives demonstration program (as authorized under section 2 of the HUD Demonstration Act of 1993 (Public Law 103–120)), $1,120,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1997: *Provided,* That $46,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and $44,000,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* That $20,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note), including services for families that are homeless or at risk of becoming homeless: *Provided further,* That $5,000,000 shall be made available from the total amount provided to carry out a neighborhood development program under section 123 of said Act (42 U.S.C. 5318 note).

During fiscal year 1995, new commitments to issue guarantees to carry out the purposes of section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $2,054,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not

otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $42,000,000, to remain available until September 30, 1996.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, as amended, $33,375,000, to remain available until September 30, 1996: *Provided,* That $26,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $955,398,000, of which $495,355,000 shall be provided from the various funds of the Federal Housing Administration, and $8,824,000 shall be provided from funds of the Government National Mortgage Association.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,388,000, of which $10,961,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $15,451,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: *Provided,* That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f).

ADMINISTRATIVE PROVISIONS

None of the funds provided under this title to the Department of Housing and Urban Development, which are obligated to State

or local governments or to housing finance agencies or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

Of the budgetary resources available to the Department of Housing and Urban Development during fiscal year 1995, $3,538,000 are permanently canceled. The Secretary of Housing and Urban Development shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purpose of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout as specified in 41 U.S.C. 403(2).

Of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 745), $1,000,000 made available to the Pennsylvania Housing Finance Agency to complete renovation and revitalization of the Saquoit Silk Mills in Scranton into low-income elderly apartments shall instead be made available for such low-income elderly apartments on the site of the existing Lackawanna Junior College in Lackawanna County, Pennsylvania.

Notwithstanding any provision of law or regulation thereunder, the requirement that an amendment to an urban development action grant agreement must be integrally related to the approved project is hereby waived for project numbers B87AA360540 and B87AA360521.

None of the funds made available in this Act may be used in violation of section 214 of the Housing and Community Development Act of 1980 or of any applicable Federal law or regulation of the United States.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking clause (ii) and all that follows through "May 12, 1992;" and inserting the following:

> "(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;
>
> except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994 or 38 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;".

Notwithstanding subsection 306(g)(3) of the National Housing Act, as amended, fees charged for the guaranty of, or commitment to guaranty, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Government National Mortgage Association prior to February 1, 1993, and other related fees, shall be charged in an amount the Association deems appropriate.

Beginning fiscal year 1995, the Government National Mortgage Association shall permit Ginnie Mae II mortgage-backed securities to be eligible as collateral for multiclass securities that such Association guarantees, in accordance with the Notice published at 59 Fed. Reg. 27290 (May 26, 1994) and successor Notices. Securities.

Section 8(c)(2)(A) of the United States Housing Act of 1937 is amended by inserting at the end the following: "However, where the maximum monthly rent, for a unit in a new construction, substantial rehabilitation, or moderate rehabilitation project, to be adjusted using an annual adjustment factor exceeds the fair market rental for an existing dwelling unit in the market area, the Secretary shall adjust the rent only to the extent that the owner demonstrates that the adjusted rent would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary. The immediately foregoing sentence shall be effective only during fiscal year 1995.". 42 USC 1437f. Effective date.

The immediately foregoing amendment shall apply to all contracts for new construction, substantial rehabilitation, and moderate rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of such Act by applying an annual adjustment factor. 42 USC 1437f note.

Section 8(c)(2)(A) of the United States Housing Act of 1937, as amended by the immediately foregoing amendment to such section, is further amended by inserting at the end the following: "For any unit occupied by the same family at the time of the last annual rental adjustment, where the assistance contract provides for the adjustment of the maximum monthly rent by applying an annual adjustment factor and where the rent for a unit is otherwise eligible for an adjustment based on the full amount of the factor, 0.01 shall be subtracted from the amount of the factor, except that the factor shall not be reduced to less than 1.0. The immediately foregoing sentence shall be effective only during fiscal year 1995.".

The immediately foregoing shall hereafter apply to all contracts that are subject to section 8(c)(2)(A) of such Act and that provide for rent adjustments using an annual adjustment factor. 42 USC 1437f note.

The United States Housing Act of 1937 is amended in each of sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by striking "and (V)" and inserting in lieu thereof the following: "(V) assisting families that include one or more adult members who are employed; and (VI)"; and in sections 6(c)(4)(A)(ii) and 8(d)(1)(A)(ii), by inserting after the final semicolon in each the following: "subclause (V) shall be effective only during fiscal year 1995;". 42 USC 1437d, 1437f.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(aa) REFINANCING INCENTIVE.—

"(1) IN GENERAL.—The Secretary may pay all or a part of the up front costs of refinancing for each project that—

"(A) is constructed, substantially rehabilitated, or moderately rehabilitated under this section;

"(B) is subject to an assistance contract under this section; and

"(C) was subject to a mortgage that has been refinanced under section 223(a)(7) or section 223(f) of the National Housing Act to lower the periodic debt service payments of the owner.

"(2) SHARE FROM REDUCED ASSISTANCE PAYMENTS.—The Secretary may pay the up front cost of refinancing only—

"(A) to the extent that funds accrue to the Secretary from the reduced assistance payments that results from the refinancing; and

"(B) after the application of amounts in accordance with section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

12 USC 1715n.

Section 223(a)(7) of the National Housing Act (42 U.S.C. 1751n(a)(7)) is amended in subparagraph (B), by striking "and" at the end; and by inserting, before ": *Provided further*" in said paragraph, the following: "; and (D) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract".

Effective date.
12 USC 1715n note.

The amendments of the two immediately preceding paragraphs shall be effective only during fiscal year 1995.

12 USC 4112 note, 4112, 4119.

Section 601 of title VI of S. 2281 (103d Cong., 2d Sess), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103–307), is hereby incorporated into this Act, and such section 601 is deemed enacted into law upon enactment of this Act: *Provided*, That the provisions of such section 601 shall be effective only during fiscal year 1995.

12 USC 3751–3768.

Title VIII of S. 2281 (103d Cong., 2d Sess), as reported to the Senate on July 13 (legislative day, July 11), 1994 (S. Rep. 103–307), is hereby incorporated into this Act, and such title VIII is deemed enacted into law upon enactment of this Act.

Notwithstanding any other provision of law, the New York City Housing Authority is authorized to use not more than $12,420,000, from development reservation number NY36P005324 for 100 public housing units previous awarded from funds appropriated under Public Law 101–507 (Nov. 5, 1990), for the purpose of completing a homeownership program involving not more than 463 dwelling units located in Bronx County, in the City of New York, in accordance with a certain submission dated November 16, 1993 made in response to a Notice of Funding Availability issued at 58 Fed. Reg. 41127. The Secretary of Housing and Urban Development shall thereafter add a similar number of existing non-Federal public housing units, designated by the Authority, to the agency's inventory of federally-assisted public housing developments and said units shall, for all purposes other than the repayment of any debt associated with their development or rehabilitation, be considered as if initially developed under title I of the Housing Act of 1937.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and posses-

sions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal travel regulations.

36 USC 121b.

36 USC 122.

36 USC 122a.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 103–124, $1,730,000 are rescinded immediately upon enactment of this Act.

For necessary expenses in carrying out activities pursuant to section 112(r)(6) of the Clean Air Act, including hire of passenger vehicles, and for services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent to the maximum rate payable for senior level positions under 5 U.S.C. 5376, $500,000.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development lenders, and administrative expenses of the Fund, $125,000,000, to remain available until September 30, 1996: *Provided,* That of the funds made available under this heading, up to $10,000,000 may be used for the cost of direct loans, and up to $1,000,000 may be used for administrative expenses to carry out the direct loan program: *Provided further,* That the cost of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed

$75,815,000: *Provided further,* That not more than $39,000,000 of the funds made available under this heading may be used for programs and activities authorized in section 114 of the Community Development Banking and Financial Institutions Act of 1994.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $42,509,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service in carrying out the programs, activities, and initiatives under the National and Community Service Act of 1990, as amended (Public Law 103–82) (hereinafter referred to as "the Act"), $575,000,000, of which $386,212,000 is available for obligation for the period September 1, 1995 through August 31, 1996: *Provided,* That not more than $29,400,000 is available for administrative expenses authorized under section 501(a)(4) of the Act, of which not more than $14,700,000 shall be for administrative expenses for State commissions pursuant to section 126(a) of subtitle C of title I of the Act: *Provided further,* That not more than $2,500 shall be for official reception and representation expenses: *Provided further,* That not more than $145,900,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust Fund for educational awards as authorized under subtitle D of title I of the Act: *Provided further,* That not more than $14,175,000 of the $145,900,000 for the National Service Trust shall be for educational awards authorized under section 129(b) of the subtitle C of title I of the Act: *Provided further,* That $6,500,000 shall be made available for the Points of Light Foundation for purposes authorized under title III of the Act: *Provided further,* That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the National Civilian Community Corps, or any portion of any of the Corporation's field offices or staff working on National and Community Service or National Civilian Community Corps programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $2,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $9,429,000, to be available without regard to section 509 of this Act, of which not to exceed $790,000, to remain available until September 30, 1996, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of two passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,017,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For research and development activities, including procurement of laboratory equipment and supplies; other operating expenses in support of research and development; and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $350,000,000, to remain available until September 30, 1996: *Provided,* That not more than $55,000,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,417,000,000, to remain available until September 30, 1996: *Provided,* That not more than $304,722,500 of these funds shall be available for operating expenses: *Provided further,* That none of

the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel and related costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; and for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; $922,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,542,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or for use by, the Environmental Protection Agency, $43,870,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; $1,435,000,000 to remain available until expended, consisting of $1,185,000,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $229,391,000 during fiscal year 1995: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further,* That $15,384,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995: *Provided further,* That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $69,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the

funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1995: *Provided further,* That no more than $308,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency: *Provided further,* That none of the funds appropriated in this Act may be made available for program management of Alternative Remedial Contracting Strategy (ARCS) contracts exceeding 11 percent of the total cost of such contract.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $70,000,000, to remain available until expended: *Provided,* That no more than $8,150,000 shall be available for administrative expenses: *Provided further,* That $669,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1995.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $20,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: *Provided,* That not more than $8,420,000 of these funds shall be available for administrative expenses.

WATER INFRASTRUCTURE/STATE REVOLVING FUND

For necessary expenses for capitalization grants for State revolving funds to support water infrastructure financing, and to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,962,000,000, to remain available until expended, of which $22,500,000 shall be for making grants under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $100,000,000 shall be for making grants under section 319 of the Federal Water Pollution Control Act, as amended, and shall be available only upon enactment of clean water authorizing legislation, but if no such legislation is enacted by November 1, 1994, these funds shall immediately be available; $52,500,000 shall be for section 510 of the Water Quality Act of 1987; $70,000,000 shall be for making grants under section 1443(a) of the Public Health Service Act; and, notwithstanding any other provision of law, $781,800,000 shall be available upon enactment of clean water authorizing legislation, but if no such legislation is enacted by November 1, 1994, the funds shall then be available for making grants for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in House Report 103-715: *Provided,* That notwithstanding any other provision of law, $500,000,000 made

available under this heading in Public Law 103–124, and earmarked to not become available until May 31, 1994, which date was extended to September 30, 1994, in Public Law 103–211, shall be available upon enactment of clean water authorizing legislation, but if no such legislation is enacted by September 30, 1994, these funds shall then be available for making grants for the construction of wastewater treatment facilities in accordance with the terms and conditions specified for such grants in House Report 103–715: *Provided further,* That notwithstanding any other provision of law, $1,235,200,000 shall be available upon enactment of clean water state revolving fund authorizing legislation, but if no such legislation is enacted by November 1, 1994, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended: *Provided further,* That the grant awarded from funds appropriated under the paragraph with the heading "Construction grants" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (103 Stat. 858), for construction of wastewater treatment facilities for the towns of Ware Shoals and Honea Path, South Carolina, and would include, but would not be limited to, the construction of a connector sewer line, consisting of a main trunk line and four pump stations for the town of Honea Path, South Carolina, to the wastewater treatment facility in the town of Ware Shoals, South Carolina, the upgrade and expansion of the Ware Shoals wastewater treatment plant, and the demolition of the Chiquala Mill Lagoon, the Clatworthy Lagoon, the Corner Creek Lagoon, and the Still Branch Lagoon.

ADMINISTRATIVE PROVISIONS

Of the budgetary resources available to the Environmental Protection Agency during fiscal year 1995, $7,525,000 are permanently canceled. The Administrator of the Environmental Protection Agency shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation of a rule concerning any new standard for radon in drinking water.

None of the funds provided in this Act may be used during fiscal year 1995 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $997,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $320,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,418,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $175,000,000 under section 319 of the Stafford Act: *Provided further,* That any unused portion of the direct loan limitation and subsidy shall be available until expended.

In addition, for administrative expenses to carry out the direct loan program, $95,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government

programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $162,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,400,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $215,960,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $130,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $14,913,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $49,229,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1996. In fiscal year 1995, no funds in excess of (1) $32,000,000 for operating expenses, (2) $253,641,000 for agents' commissions and taxes, and (3) $12,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

Regulations.

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected in fiscal year 1995 applicable to persons subject to the Federal Emergency Management Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1995 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1995.

Of the budgetary resources available to the Federal Emergency Management Agency during fiscal year 1995, $1,441,000 are permanently canceled. The Director of the Federal Emergency Management Agency shall allocate the amount of budgetary resources canceled among the Agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,008,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1995 shall not exceed $2,454,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1995 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,166,000: *Provided,* That notwithstanding any other provision of law, that Office

may solicit, accept and deposit to this account, during fiscal year 1995, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts: *Provided further,* That none of the funds provided under this heading may be made available for any other activities within the Department of Health and Human Services.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,573,900,000, to remain available until September 30, 1996.

SCIENCE, AERONAUTICS AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,901,200,000, to remain available until September 30, 1996.

Of the amounts provided under the heading, "CONSTRUCTION OF FACILITIES", for the Consortium for International Earth Science Information Network in Public Law 102–389, $10,000,000 are rescinded.

NATIONAL AERONAUTICAL FACILITIES

(INCLUDING RESCISSION)

For construction of new national wind tunnel facilities, including final design, modification of existing facilities, necessary equipment, and for acquisition or condemnation of real property as authorized by law, for the National Aeronautics and Space Administration, $400,000,000, to remain available until March 31, 1997: *Provided,* That the funds made available under this heading shall be rescinded on July 15, 1995, unless the President requests at least $400,000,000 in the fiscal year 1996 budget request for the

National Aeronautics and Space Administration for continuation of this wind tunnel initiative.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $2,554,587,000, to remain available until September 30, 1996: *Provided,* That of the amounts made available under the heading "Research and program management" in Public Law 103–211, $18,000,000 are rescinded immediately upon enactment of this Act: *Provided further,* That an additional $18,000,000, to remain available until September 30, 1995, shall be immediately available for research and program management activities, contingent upon the enactment of the rescission in the preceding proviso before October 1, 1994.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $16,000,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Of the budgetary resources available to the National Aeronautics and Space Administration during fiscal year 1995, $59,003,000 are permanently canceled. The Administrator of the National Aeronautics and Space Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account. For the purposes of this paragraph, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or service and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount avail-

able for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1997.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1995 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.

No amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act. The Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

The fourth proviso in the paragraph under the heading "Science, space, and technology education trust fund" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 101–404, 102 Stat. 1014, 1028) is amended by striking out "for a ten-year period" and inserting in lieu thereof "hereafter".

42 USC 2467.

Notwithstanding any other provision of law or regulation, the National Aeronautics and Space Administration shall convey, without reimbursement, to the City of Slidell, Louisiana, all rights, title, and interest of the United States in the property, including all improvements thereon, known as the Slidell Computer Complex, and consisting of approximately 14 acres in the City of Slidell, St. Tammany Parish, Louisiana: *Provided,* That appropriated funds may be used to effect this conveyance: *Provided further,* That in consideration of this conveyance, the National Aeronautics and Space Administration may require such other terms and conditions

as the Administrator deems appropriate to protect the interests of the United States.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1995, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1995 shall not exceed $901,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,280,000,000, of which not to exceed $225,430,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1996: *Provided,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further,* That amounts appropriated in prior fiscal years for the United States Polar Research Programs, the United States Antarctic Logistical Support Activities, and the Critical Technologies Institute shall be transferred to and merged with this appropriation and remain available until expended.

Of the amounts made available under this heading in Public Law 103–124, $35,000,000 are rescinded.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction and procurement projects pursuant to the purposes of the National Science Foundation Act of 1950, as amended, $126,000,000, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $250,000,000, to remain available until September 30, 1996: *Provided,* That $131,867,000 of the funds under this heading are available for obligation for the period September 1, 1995 through August 31, 1996: *Provided further,* That the funds made available in the preceding proviso shall be rescinded on July 15, 1995, unless the President requests at least $250,000,000 in the fiscal year 1996 budget request for the National Science Foundation for academic research infrastructure activities.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $605,974,000, to remain available until September 30, 1996: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $123,966,000: *Provided,* That contracts may be entered into under salaries and expenses in fiscal year 1995 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,380,000.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: *Provided,* That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1995 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $827,000,000, to remain available until expended.

FDIC AFFORDABLE HOUSING PROGRAM

For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $15,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds. The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $32,000,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without

regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Public information. Contracts.

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts. Reports.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Reports.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 517. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 518. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees

for indirect costs, except as published in Office of Management and Budget Circular A–21.

TITLE VI

EMERGENCY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Community development grants", as authorized under title I of the Housing and Community Development Act of 1974, for emergency expenses resulting from the January 1994 earthquake in Southern California, $225,000,000, to remain available until September 30, 1996, of which $50,000,000 shall be derived by transfer from funds provided under the head "Department of Education, Impact aid" in the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211): *Provided*, That of the foregoing amount, $200,000,000 and $25,000,000 shall be for the cities of Los Angeles and Santa Monica, California, respectively: *Provided further*, That in administering these funds, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for statutory requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Community development grants", for grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development program as authorized by title I of the Housing and Community Development Act of 1974, to be used to assist States, local communities, and businesses in recovering from the flooding and damage caused by Tropical Storm Alberto and other disasters, $180,000,000, to remain available until expended: *Provided*, That the Secretary of Housing and Urban Development may waive any provision of law (except for provisions relating to fair housing, the environment, or labor standards) if the Secretary determines such waiver is necessary to facilitate the obligation of the entire amount: *Provided further*, That the Secretary of Housing and Urban Development may transfer up to $50,000,000 to the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, to be used for purposes related to flooding and damage caused by Tropical Storm Alberto and other disasters: *Provided further*, That the entire amount, including transfers, is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency

Deficit Control Act of 1985: *Provided further*, That the entire amount, including transfers, shall be available only to the extent of an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

INDEPENDENT AGENCY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For an additional amount for "Disaster assistance direct loan program account" for the cost of direct loans, $12,500,000, as authorized by section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to be used to assist local governments in recovering from flooding and damage caused by Tropical Storm Alberto and other disasters: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $50,000,000 under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act: *Provided further*, That any unused portion of the direct loan limitation and subsidy shall be available until expended: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the entire amount shall be available only to the extent of an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

Ante, p. 9.

The matter under the heading in the Emergency Supplemental Appropriations Act of 1994 (Public Law 103–211) is amended by deleting "$950,000,000" and inserting in lieu thereof "$775,000,000".

This Act may be cited as the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.

Approved September 28, 1994.

LEGISLATIVE HISTORY—H.R. 4624:

HOUSE REPORTS: Nos. 103-555 (Comm. on Appropriations) and 103-715 (Comm. of Conference).
SENATE REPORTS: No. 103-311 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 29, considered and passed House.
Aug. 2-4, considered and passed Senate, amended.
Sept. 12, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 22, 26, 27, Senate considered and agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 28, Presidential statement.

Public Law 103-328
103d Congress

An Act

Sept. 29, 1994
[H.R. 3841]

To amend the Bank Holding Company Act of 1956, the Revised Statutes of the United States, and the Federal Deposit Insurance Act to provide for interstate banking and branching.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994.
12 USC 1811 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—INTERSTATE BANKING AND BRANCHING

Sec. 101. Interstate banking.
Sec. 102. Interstate bank mergers.
Sec. 103. State "opt-in" election to permit interstate branching through de novo branches.
Sec. 104. Branching by foreign banks.
Sec. 105. Coordination of examination authority.
Sec. 106. Branch closures.
Sec. 107. Equalizing competitive opportunities for United States and foreign banks.
Sec. 108. Federal Reserve Board study on bank fees.
Sec. 109. Prohibition against deposit production offices.
Sec. 110. Community Reinvestment Act evaluation of banks with interstate branches.
Sec. 111. Restatement of existing law.
Sec. 112. GAO report on data collection under interstate branching.
Sec. 113. Maximum interest rate on certain FMHA loans.
Sec. 114. Notice requirements for banking agency decisions preempting State law.
Sec. 115. Moratorium on examination fees under the International Banking Act of 1978.

TITLE II—GENERAL PROVISIONS

Sec. 201. Amendments to Federal Deposit Insurance Act and Federal Home Loan Bank Act.
Sec. 202. Sense of the Senate concerning multilateral export controls.
Sec. 203. Amendments relating to silver medals for Persian Gulf veterans.
Sec. 204. Commemoration of 1995 Special Olympic World Games.
Sec. 205. National Community Service Commemorative Coins.
Sec. 206. Robert F. Kennedy Memorial Commemorative Coins.
Sec. 207. United States Military Academy Bicentennial Commemorative Coins.
Sec. 208. United States Botanic Garden Commemorative Coins.
Sec. 209. Mount Rushmore Commemorative Coins.
Sec. 210. Study and report on the United States financial services system.
Sec. 211. Flexibility in choosing boards of directors.

TITLE I—INTERSTATE BANKING AND BRANCHING

SEC. 101. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE BANKING.—

"(1) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF BANKS.—The Board may approve an application under this section by a bank holding company that is adequately capitalized and adequately managed to acquire control of, or acquire all or substantially all of the assets of, a bank located in a State other than the home State of such bank holding company, without regard to whether such transaction is prohibited under the law of any State.

"(B) PRESERVATION OF STATE AGE LAWS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), the Board may not approve an application pursuant to such subparagraph that would have the effect of permitting an out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

"(ii) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.—Notwithstanding clause (i), the Board may approve, pursuant to subparagraph (A), the acquisition of a bank that has been in existence for at least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

"(C) SHELL BANKS.—For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired.

"(D) EFFECT ON STATE CONTINGENCY LAWS.—No provision of this subsection shall be construed as affecting the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(i) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or bank holding companies;

"(ii) that State law was in effect as of the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994;

"(iii) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(iv) the appropriate Federal banking agency for such bank has not found that compliance with such

State law would place the bank in an unsafe or unsound condition.

"(2) CONCENTRATION LIMITS.—

"(A) NATIONWIDE CONCENTRATION LIMITS.—The Board may not approve an application pursuant to paragraph (1)(A) if the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the acquisition for which such application is filed would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

"(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.—The Board may not approve an application pursuant to paragraph (1)(A) if—

"(i) immediately before the consummation of the acquisition for which such application is filed, the applicant (including any insured depository institution affiliate of the applicant) controls any insured depository institution or any branch of an insured depository institution in the home State of any bank to be acquired or in any host State in which any such bank maintains a branch; and

"(ii) the applicant (including all insured depository institutions which are affiliates of the applicant), upon consummation of the acquisition, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

"(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.—No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(D) EXCEPTIONS TO SUBPARAGRAPH (B).—The Board may approve an application pursuant to paragraph (1)(A) without regard to the applicability of subparagraph (B) with respect to any State if—

"(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

"(ii) the acquisition is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(E) DEPOSIT DEFINED.—For purposes of this paragraph, the term 'deposit' has the same meaning as in section 3(l) of the Federal Deposit Insurance Act.

"(3) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under paragraph (1)(A), the Board shall—

"(A) comply with the responsibilities of the Board regarding such application under section 804 of the Community Reinvestment Act of 1977; and

"(B) take into account the applicant's record of compliance with applicable State community reinvestment laws.

"(4) APPLICABILITY OF ANTITRUST LAWS.—No provision of this subsection shall be construed as affecting—

"(A) the applicability of the antitrust laws; or

"(B) the applicability, if any, of any State law which is similar to the antitrust laws.

"(5) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.—The Board may approve an application pursuant to paragraph (1)(A) which involves—

"(A) an acquisition of 1 or more banks in default or in danger of default; or

"(B) an acquisition with respect to which assistance is provided under section 13(c) of the Federal Deposit Insurance Act;

without regard to subparagraph (B) or (D) of paragraph (1) or paragraph (2) or (3).".

(b) STATE TAXATION AUTHORITY NOT AFFECTED.—Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended—

(1) by striking "No provision" and inserting "(a) IN GENERAL.—No provision"; and

(2) by adding at the end the following new subsection:

"(b) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

(c) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(n) INCORPORATED DEFINITIONS.—For purposes of this Act, the terms 'insured depository institution', 'appropriate Federal banking agency', 'default', 'in danger of default', and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(o) OTHER DEFINITIONS.—For purposes of this Act, the following definitions shall apply:

"(1) ADEQUATELY CAPITALIZED.—The term 'adequately capitalized' means a level of capitalization which meets or exceeds all applicable Federal regulatory capital standards.

"(2) ANTITRUST LAWS.—Except as provided in section 11, the term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

"(3) BRANCH.—The term 'branch' means a domestic branch (as defined in section 3 of the Federal Deposit Insurance Act).

"(4) HOME STATE.—The term 'home State' means—

"(A) with respect to a national bank, the State in which the main office of the bank is located;

"(B) with respect to a State bank, the State by which the bank is chartered; and

"(C) with respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of—

"(i) July 1, 1966; or

"(ii) the date on which the company becomes a bank holding company under this Act.

"(5) HOST STATE.—The term 'host State' means—

"(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

"(B) with respect to a bank holding company, a State, other than the home State of the company, in which the company controls, or seeks to control, a bank subsidiary.

"(6) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(7) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.".

(d) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(r) SUBSIDIARY DEPOSITORY INSTITUTIONS AS AGENTS FOR CERTAIN AFFILIATES.—

"(1) IN GENERAL.—Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations as an agent for a depository institution affiliate.

"(2) BANK ACTING AS AGENT IS NOT A BRANCH.—Notwithstanding any other provision of law, a bank acting as an agent in accordance with paragraph (1) for a depository institution affiliate shall not be considered to be a branch of the affiliate.

"(3) PROHIBITIONS ON ACTIVITIES.—A depository institution may not—

"(A) conduct any activity as an agent under paragraph (1) or (6) which such institution is prohibited from conducting as a principal under any applicable Federal or State law; or

"(B) as a principal, have an agent conduct any activity under paragraph (1) or (6) which the institution is prohibited from conducting under any applicable Federal or State law.

"(4) EXISTING AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting—

"(A) the authority of any depository institution to act as an agent on behalf of any other depository institution under any other provision of law; or

"(B) whether a depository institution which conducts any activity as an agent on behalf of any other depository institution under any other provision of law shall be considered to be a branch of such other institution.

"(5) AGENCY RELATIONSHIP REQUIRED TO BE CONSISTENT WITH SAFE AND SOUND BANKING PRACTICES.—An agency relationship between depository institutions under paragraph (1) or (6) shall be on terms that are consistent with safe and sound banking practices and all applicable regulations of any appropriate Federal banking agency.

"(6) AFFILIATED INSURED SAVINGS ASSOCIATIONS.—An insured savings association which was an affiliate of a bank on July 1, 1994, may conduct activities as an agent on behalf of such bank in the same manner as an insured bank affiliate of such bank may act as agent for such bank under this subsection to the extent such activities are conducted only in—

"(A) any State in which—

"(i) the bank is not prohibited from operating a branch under any provision of Federal or State law; and

"(ii) the savings association maintained an office or branch and conducted business as of July 1, 1994; or

"(B) any State in which—

"(i) the bank is not expressly prohibited from operating a branch under a State law described in section 44(a)(2); and

"(ii) the savings association maintained a main office and conducted business as of July 1, 1994.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act. 12 USC 1828 note.

SEC. 102. INTERSTATE BANK MERGERS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 44. INTERSTATE BANK MERGERS. 12 USC 1831u.

"(a) APPROVAL OF INTERSTATE MERGER TRANSACTIONS AUTHORIZED.—

"(1) IN GENERAL.—Beginning on June 1, 1997, the responsible agency may approve a merger transaction under section 18(c) between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State.

"(2) STATE ELECTION TO PROHIBIT INTERSTATE MERGER TRANSACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a merger transaction may not be approved pursuant to paragraph (1) if the transaction involves a bank the home State of which has enacted a law after the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 and before June 1, 1997, that—

"(i) applies equally to all out-of-State banks; and

"(ii) expressly prohibits merger transactions involving out-of-State banks.

"(B) NO EFFECT ON PRIOR APPROVALS OF MERGER TRANSACTIONS.—A law enacted by a State pursuant to subparagraph (A) shall have no effect on merger transactions that were approved before the effective date of such law.

"(3) STATE ELECTION TO PERMIT EARLY INTERSTATE MERGER TRANSACTIONS.—

"(A) IN GENERAL.—A merger transaction may be approved pursuant to paragraph (1) before June 1, 1997, if the home State of each bank involved in the transaction has in effect, as of the date of the approval of such transaction, a law that—

"(i) applies equally to all out-of-State banks; and

"(ii) expressly permits interstate merger transactions with all out-of-State banks.

"(B) CERTAIN CONDITIONS ALLOWED.—A host State may impose conditions on a branch within such State of a bank resulting from an interstate merger transaction if—

"(i) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or any subsidiary of such bank or company (other than on the basis of a nationwide reciprocal treatment requirement);

"(ii) the imposition of the conditions is not preempted by Federal law; and

"(iii) the conditions do not apply or require performance after May 31, 1997.

"(4) INTERSTATE MERGER TRANSACTIONS INVOLVING ACQUISITIONS OF BRANCHES.—

"(A) IN GENERAL.—An interstate merger transaction may involve the acquisition of a branch of an insured bank without the acquisition of the bank only if the law of the State in which the branch is located permits out-of-State banks to acquire a branch of a bank in such State without acquiring the bank.

"(B) TREATMENT OF BRANCH FOR PURPOSES OF THIS SECTION.—In the case of an interstate merger transaction which involves the acquisition of a branch of an insured bank without the acquisition of the bank, the branch shall be treated, for purposes of this section, as an insured bank the home State of which is the State in which the branch is located.

"(5) PRESERVATION OF STATE AGE LAWS.—

"(A) IN GENERAL.—The responsible agency may not approve an application pursuant to paragraph (1) that would have the effect of permitting an out-of-State bank or out-of-State bank holding company to acquire a bank in a host State that has not been in existence for the minimum period of time, if any, specified in the statutory law of the host State.

"(B) SPECIAL RULE FOR STATE AGE LAWS SPECIFYING A PERIOD OF MORE THAN 5 YEARS.—Notwithstanding subparagraph (A), the responsible agency may approve a merger transaction pursuant to paragraph (1) involving the acquisition of a bank that has been in existence at

least 5 years without regard to any longer minimum period of time specified in a statutory law of the host State.

"(6) SHELL BANKS.—For purposes of this subsection, a bank that has been chartered solely for the purpose of, and does not open for business prior to, acquiring control of, or acquiring all or substantially all of the assets of, an existing bank or branch shall be deemed to have been in existence for the same period of time as the bank or branch to be acquired.

"(b) PROVISIONS RELATING TO APPLICATION AND APPROVAL PROCESS.—

"(1) COMPLIANCE WITH STATE FILING REQUIREMENTS.—

"(A) IN GENERAL.—Any bank which files an application for an interstate merger transaction shall—

"(i) comply with the filing requirements of any host State of the bank which will result from such transaction to the extent that the requirement—

"(I) does not have the effect of discriminating against out-of-State banks or out-of-State bank holding companies or subsidiaries of such banks or bank holding companies; and

"(II) is similar in effect to any requirement imposed by the host State on a nonbanking corporation incorporated in another State that engages in business in the host State; and

"(ii) submit a copy of the application to the State bank supervisor of the host State.

"(B) PENALTY FOR FAILURE TO COMPLY.—The responsible agency may not approve an application for an interstate merger transaction if the applicant materially fails to comply with subparagraph (A).

"(2) CONCENTRATION LIMITS.—

"(A) NATIONWIDE CONCENTRATION LIMITS.—The responsible agency may not approve an application for an interstate merger transaction if the resulting bank (including all insured depository institutions which are affiliates of the resulting bank), upon consummation of the transaction, would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States.

"(B) STATEWIDE CONCENTRATION LIMITS OTHER THAN WITH RESPECT TO INITIAL ENTRIES.—The responsible agency may not approve an application for an interstate merger transaction if—

"(i) any bank involved in the transaction (including all insured depository institutions which are affiliates of any such bank) has a branch in any State in which any other bank involved in the transaction has a branch; and

"(ii) the resulting bank (including all insured depository institutions which would be affiliates of the resulting bank), upon consummation of the transaction, would control 30 percent or more of the total amount of deposits of insured depository institutions in any such State.

"(C) EFFECTIVENESS OF STATE DEPOSIT CAPS.—No provision of this subsection shall be construed as affecting the authority of any State to limit, by statute, regulation, or

order, the percentage of the total amount of deposits of insured depository institutions in the State which may be held or controlled by any bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to the extent the application of such limitation does not discriminate against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(D) EXCEPTIONS TO SUBPARAGRAPH (B).—The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) without regard to the applicability of subparagraph (B) with respect to any State if—

"(i) there is a limitation described in subparagraph (C) in a State statute, regulation, or order which has the effect of permitting a bank or bank holding company (including all insured depository institutions which are affiliates of the bank or bank holding company) to control a greater percentage of total deposits of all insured depository institutions in the State than the percentage permitted under subparagraph (B); or

"(ii) the transaction is approved by the appropriate State bank supervisor of such State and the standard on which such approval is based does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries of such banks or holding companies.

"(E) EXCEPTION FOR CERTAIN BANKS.—This paragraph shall not apply with respect to any interstate merger transaction involving only affiliated banks.

"(3) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application for an interstate merger transaction in which the resulting bank would have a branch or bank affiliate immediately following the transaction in any State in which the bank submitting the application (as the acquiring bank) had no branch or bank affiliate immediately before the transaction, the responsible agency shall—

"(A) comply with the responsibilities of the agency regarding such application under section 804 of the Community Reinvestment Act of 1977;

"(B) take into account the most recent written evaluation under section 804 of the Community Reinvestment Act of 1977 of any bank which would be an affiliate of the resulting bank; and

"(C) take into account the record of compliance of any applicant bank with applicable State community reinvestment laws.

"(4) ADEQUACY OF CAPITAL AND MANAGEMENT SKILLS.—The responsible agency may approve an application for an interstate merger transaction pursuant to subsection (a) only if—

"(A) each bank involved in the transaction is adequately capitalized as of the date the application is filed; and

"(B) the responsible agency determines that the resulting bank will continue to be adequately capitalized and

adequately managed upon the consummation of the transaction.

"(5) SURRENDER OF CHARTER AFTER MERGER TRANSACTION.—The charters of all banks involved in an interstate merger transaction, other than the charter of the resulting bank, shall be surrendered, upon request, to the Federal banking agency or State bank supervisor which issued the charter.

"(c) APPLICABILITY OF CERTAIN LAWS TO INTERSTATE BANKING OPERATIONS.—

"(1) STATE TAXATION AUTHORITY NOT AFFECTED.—

"(A) IN GENERAL.—No provision of this section shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(B) IMPOSITION OF SHARES TAX BY HOST STATES.—In the case of a branch of an out-of-State bank which results from an interstate merger transaction, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by the host State, or any political subdivision of such host State that imposes such tax based upon a method adopted by the host State, which may include allocation and apportionment.

"(2) APPLICABILITY OF ANTITRUST LAWS.—No provision of this section shall be construed as affecting—

"(A) the applicability of the antitrust laws; or

"(B) the applicability, if any, of any State law which is similar to the antitrust laws.

"(3) RESERVATION OF CERTAIN RIGHTS TO STATES.—No provision of this section shall be construed as limiting in any way the right of a State to—

"(A) determine the authority of State banks chartered by that State to establish and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(4) STATE-IMPOSED NOTICE REQUIREMENTS.—A host State may impose any notification or reporting requirement on a branch of an out-of-State bank if the requirement—

"(A) does not discriminate against out-of-State banks or bank holding companies; and

"(B) is not preempted by any Federal law regarding the same subject.

"(d) OPERATIONS OF THE RESULTING BANK.—

"(1) CONTINUED OPERATIONS.—A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate, as a main office or a branch, any office that any bank involved in an interstate merger transaction was operating as a main office or a branch immediately before the merger transaction.

"(2) ADDITIONAL BRANCHES.—Following the consummation of any interstate merger transaction, the resulting bank may establish, acquire, or operate additional branches at any loca-

tion where any bank involved in the transaction could have established, acquired, or operated a branch under applicable Federal or State law if such bank had not been a party to the merger transaction.

"(3) CERTAIN CONDITIONS AND COMMITMENTS CONTINUED.—If, as a condition for the acquisition of a bank by an out-of-State bank holding company before the date of the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994—

"(A) the home State of the acquired bank imposed conditions on such acquisition by such out-of-State bank holding company; or

"(B) the bank holding company made commitments to such State in connection with the acquisition,

the State may enforce such conditions and commitments with respect to such bank holding company or any affiliated successor company which controls a bank or branch in such State as a result of an interstate merger transaction to the same extent as the State could enforce such conditions or commitments against the bank holding company before the consummation of the merger transaction.

"(e) EXCEPTION FOR BANKS IN DEFAULT OR IN DANGER OF DEFAULT.—If an application under subsection (a)(1) for approval of a merger transaction which involves 1 or more banks in default or in danger of default or with respect to which the Corporation provides assistance under section 13(c), the responsible agency may approve such application without regard to subsection (b), or paragraph (2), (4), or (5) of subsection (a).

"(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) ADEQUATELY CAPITALIZED.—The term 'adequately capitalized' has the same meaning as in section 38.

"(2) ANTITRUST LAWS.—The term 'antitrust laws'—

"(A) has the same meaning as in subsection (a) of the first section of the Clayton Act; and

"(B) includes section 5 of the Federal Trade Commission Act to the extent such section 5 relates to unfair methods of competition.

"(3) BRANCH.—The term 'branch' means any domestic branch.

"(4) HOME STATE.—The term 'home State'—

"(A) means—

"(i) with respect to a national bank, the State in which the main office of the bank is located; and

"(ii) with respect to a State bank, the State by which the bank is chartered; and

"(B) with respect to a bank holding company, has the same meaning as in section 2(o)(4) of the Bank Holding Company Act of 1956.

"(5) HOST STATE.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

"(6) INTERSTATE MERGER TRANSACTION.—The term 'interstate merger transaction' means any merger transaction approved pursuant to subsection (a)(1).

"(7) MERGER TRANSACTION.—The term 'merger transaction' has the meaning determined under section 18(c)(3).

"(8) OUT-OF-STATE BANK.—The term 'out-of-State bank' means, with respect to any State, a bank whose home State is another State.

"(9) OUT-OF-STATE BANK HOLDING COMPANY.—The term 'out-of-State bank holding company' means, with respect to any State, a bank holding company whose home State is another State.

"(10) RESPONSIBLE AGENCY.—The term 'responsible agency' means the agency determined in accordance with section 18(c)(2) with respect to a merger transaction.

"(11) RESULTING BANK.—The term 'resulting bank' means a bank that has resulted from an interstate merger transaction under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REVISED STATUTES.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(A) by redesignating subsections (d) through (h) as subsections (h) through (l), respectively; and

(B) by inserting after subsection (c) the following new subsections:

"(d) BRANCHES RESULTING FROM INTERSTATE MERGER TRANSACTIONS.—A national bank resulting from an interstate merger transaction (as defined in section 44(f)(6) of the Federal Deposit Insurance Act) may maintain and operate a branch in a State other than the home State (as defined in subsection (g)(3)(B)) of such bank in accordance with section 44 of the Federal Deposit Insurance Act.

"(e) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—

"(1) IN GENERAL.—Effective June 1, 1997, a national bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in subsection (g)(3)(B)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of such branch in such State by such national bank is authorized under this section or section 13(f), 13(k), or 44 of the Federal Deposit Insurance Act.

"(2) RETENTION OF BRANCHES.—In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if—

"(A) the bank had no branches in such State; or

"(B) the branch resulted from—

"(i) an interstate merger transaction approved pursuant to section 44 of the Federal Deposit Insurance Act; or

"(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 13(c) of such Act.

"(f) LAW APPLICABLE TO INTERSTATE BRANCHING OPERATIONS.—

"(1) LAW APPLICABLE TO NATIONAL BANK BRANCHES.—

"(A) IN GENERAL.—The laws of the host State regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches shall apply to any branch in the host State of an out-of-State national bank to the same extent as such State laws apply to a branch of a bank chartered by that State, except—

"(i) when Federal law preempts the application of such State laws to a national bank; or

"(ii) when the Comptroller of the Currency determines that the application of such State laws would have a discriminatory effect on the branch in comparison with the effect the application of such State laws would have with respect to branches of a bank chartered by the host State.

"(B) ENFORCEMENT OF APPLICABLE STATE LAWS.—The provisions of any State law to which a branch of a national bank is subject under this paragraph shall be enforced, with respect to such branch, by the Comptroller of the Currency.

"(2) TREATMENT OF BRANCH AS BANK.—All laws of a host State, other than the laws regarding community reinvestment, consumer protection, fair lending, establishment of intrastate branches, and the application or administration of any tax or method of taxation, shall apply to a branch (in such State) of an out-of-State national bank to the same extent as such laws would apply if the branch were a national bank the main office of which is in such State.

"(3) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as affecting the legal standards for preemption of the application of State law to national banks.".

(2) ACT OF MAY 1, 1886.—Section 2 of the Act entitled "An Act to enable national banking associations to increase their capital stock and to change their names and locations." and approved May 1, 1886 (12 U.S.C. 30) is amended by adding at the end the following new subsection:

"(c) COORDINATION WITH REVISED STATUTES.—In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent authorized in section 5155(e)(2) of the Revised Statutes.".

(3) FEDERAL DEPOSIT INSURANCE ACT.—

(A) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES OF STATE NONMEMBER BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

"(3) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—

"(A) IN GENERAL.—Effective June 1, 1997, a State nonmember bank may not acquire, establish, or operate a branch in any State other than the bank's home State (as defined in section 44(f)(4)) or a State in which the bank already has a branch unless the acquisition, establishment, or operation of a branch in such State by a State nonmember bank is authorized under this subsection or section 13(f), 13(k), or 44.

"(B) RETENTION OF BRANCHES.—In the case of a State nonmember bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in section 44(f)(4)) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in subparagraph (A), to acquire, establish, or commence to operate a branch in such State if—

"(i) the bank had no branches in such State; or

"(ii) the branch resulted from—

"(I) an interstate merger transaction approved pursuant to section 44; or

"(II) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Corporation under section 13(c).".

(B) ACTIVITIES OF BRANCHES OF STATE BANKS RESULTING FROM INTERSTATE MERGER TRANSACTIONS.—Section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) is amended by adding at the end the following new subsection:

"(j) ACTIVITIES OF BRANCHES OF OUT-OF-STATE BANKS.—

"(1) IN GENERAL.—The laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch of a bank chartered by that State.

"(2) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch in a host State may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(3) DEFINITIONS.—The terms 'host State', 'interstate merger transaction', and 'out-of-State bank' have the same meanings as in section 44(f).".

(4) ACT OF NOVEMBER 7, 1918.—The Act entitled "An Act to provide for the consolidation of the national banking associations." and approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(A) by redesignating section 2 as section 3; 12 USC 215a.

(B) by redesignating section 3 as section 5; 12 USC 215b.

(C) in the 1st section, by striking "That (a) any national banking association" and inserting the following: 12 USC 215 note.

"SECTION 1. SHORT TITLE. National Bank Consolidation and Merger Act.

"This Act may be cited as the 'National Bank Consolidation and Merger Act'.

"SEC. 2. CONSOLIDATION OF BANKS WITHIN THE SAME STATE. 12 USC 215.

"(a) IN GENERAL.—Any national bank"; and

(D) by inserting after section 3 (as so redesignated under subparagraph (A) of this paragraph) the following new section:

"SEC. 4. INTERSTATE CONSOLIDATIONS AND MERGERS. 12 USC 215a-1.

"(a) IN GENERAL.—A national bank may engage in a consolidation or merger under this Act with an out-of-State bank if the

consolidation or merger is approved pursuant to section 44 of the Federal Deposit Insurance Act.

"(b) SCOPE OF APPLICATION.—Subsection (a) shall not apply with respect to any consolidation or merger before June 1, 1997, unless the home State of each bank involved in the transaction has in effect a law described in section 44(a)(3) of the Federal Deposit Insurance Act.

"(c) DEFINITIONS.—The terms 'home State' and 'out-of-State bank' have the same meaning as in section 44(f) of the Federal Deposit Insurance Act.".

(5) HOME OWNERS' LOAN ACT.—Section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) is amended—

(A) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(B) by inserting after subsection (e), the following new subsection:

"(f) STATE HOMESTEAD PROVISIONS.—No provision of this Act or any other provision of law administered by the Director shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on the date of enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on such date, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.".

SEC. 103. STATE "OPT-IN" ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.

(a) NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by inserting after subsection (f) (as added by section 102(b)) the following new subsection:

"(g) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Comptroller of the Currency may approve an application by a national bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

"(A) there is in effect in the host State a law that—

"(i) applies equally to all banks; and

"(ii) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(B) the conditions established in, or made applicable to this paragraph by, paragraph (2) are met.

"(2) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.—

"(A) ESTABLISHMENT.—An application by a national bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

"(B) OPERATION.—Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with

respect to each branch of a national bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section 44 apply to a branch of a national bank which resulted from an interstate merger transaction approved pursuant to such section 44.

"(3) DEFINITIONS.—The following definitions shall apply for purposes of this section:

"(A) DE NOVO BRANCH.—The term 'de novo branch' means a branch of a national bank which—

"(i) is originally established by the national bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(B) HOME STATE.—The term 'home State' means the State in which the main office of a national bank is located.

"(C) HOST STATE.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

(b) STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (3) (as added by section 102(b)(3) of this title) the following new paragraph:

"(4) STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE BRANCHING THROUGH DE NOVO BRANCHES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Corporation may approve an application by an insured State nonmember bank to establish and operate a de novo branch in a State (other than the bank's home State) in which the bank does not maintain a branch if—

"(i) there is in effect in the host State a law that—

"(I) applies equally to all banks; and

"(II) expressly permits all out-of-State banks to establish de novo branches in such State; and

"(ii) the conditions established in, or made applicable to this paragraph by, subparagraph (B) are met.

"(B) CONDITIONS ON ESTABLISHMENT AND OPERATION OF INTERSTATE BRANCH.—

"(i) ESTABLISHMENT.—An application by an insured State nonmember bank to establish and operate a de novo branch in a host State shall be subject to the same requirements and conditions to which an application for a merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b).

"(ii) OPERATION.—Subsections (c) and (d)(2) of section 44 shall apply with respect to each branch of an insured State nonmember bank which is established and operated pursuant to an application approved under this paragraph in the same manner and to the

same extent such provisions of such section apply to a branch of a State bank which resulted from a merger transaction under such section 44.

"(C) DE NOVO BRANCH DEFINED.—For purposes of this paragraph, the term 'de novo branch' means a branch of a State bank which—

"(i) is originally established by the State bank as a branch; and

"(ii) does not become a branch of such bank as a result of—

"(I) the acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

"(II) the conversion, merger, or consolidation of any such institution or branch.

"(D) HOME STATE DEFINED.—The term 'home State' means the State by which a State bank is chartered.

"(E) HOST STATE DEFINED.—The term 'host State' means, with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.".

SEC. 104. BRANCHING BY FOREIGN BANKS.

(a) IN GENERAL.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) INTERSTATE BRANCHING AND AGENCY OPERATIONS.—

"(1) FEDERAL BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the Comptroller of the Currency of an application, a foreign bank may establish and operate a Federal branch or agency in any State outside the home State of such foreign bank to the extent that the establishment and operation of such branch would be permitted under section 5155(g) of the Revised Statutes or section 44 of the Federal Deposit Insurance Act if the foreign bank were a national bank whose home State is the same State as the home State of the foreign bank.

"(2) STATE BRANCH OR AGENCY.—Subject to the provisions of this Act and with the prior written approval by the Board and the appropriate State bank supervisor of an application, a foreign bank may establish and operate a State branch or agency in any State outside the home State of such foreign bank to the extent that such establishment and operation would be permitted under section 18(d)(4) or 44 of the Federal Deposit Insurance Act if the foreign bank were a State bank whose home State is the same State as the home State of the foreign bank.

"(3) CRITERIA FOR DETERMINATION.—In approving an application under paragraph (1) or (2), the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(A) shall apply the standards applicable to the establishment of a foreign bank office in the United States under section 7(d);

"(B) may not approve an application unless the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency—

"(i) determine that the foreign bank's financial resources, including the capital level of the bank, are equivalent to those required for a domestic bank to be approved for branching under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act; and

"(ii) consult with the Secretary of the Treasury regarding capital equivalency; and

"(C) shall apply the same requirements and conditions to which an application for an interstate merger transaction is subject under paragraphs (1), (3), and (4) of section 44(b) of the Federal Deposit Insurance Act.

"(4) OPERATION.—Subsections (c) and (d)(2) of section 44 of the Federal Deposit Insurance Act shall apply with respect to each branch and agency of a foreign bank which is established and operated pursuant to an application approved under this subsection in the same manner and to the same extent such provisions of such section apply to a domestic branch of a national or State bank (as such terms are defined in section 3 of such Act) which resulted from a merger transaction under such section 44.

"(5) EXCLUSIVE AUTHORITY FOR ADDITIONAL BRANCHES.—Except as provided in this section, a foreign bank may not, directly or indirectly, acquire, establish, or operate a branch or agency in any State other than the home State of such bank.

"(6) REQUIREMENT FOR A SEPARATE SUBSIDIARY.—If the Board or the Comptroller of the Currency, taking into account differing regulatory or accounting standards, finds that adherence by a foreign bank to capital requirements equivalent to those imposed under section 5155 of the Revised Statutes and section 44 of the Federal Deposit Insurance Act could be verified only if the banking activities of such bank in the United States are carried out in a domestic banking subsidiary within the United States, the Board and (in the case of an application under paragraph (1)) the Comptroller of the Currency may approve an application under paragraph (1) or (2) subject to a requirement that the foreign bank or company controlling the foreign bank establish a domestic banking subsidiary in the United States.

"(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.—Notwithstanding paragraphs (1) and (2), a foreign bank may, with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

"(A) the establishment and operation of a branch or agency is expressly permitted by the State in which the branch or agency is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25A of the Federal Reserve Act.

"(9) HOME STATE OF DOMESTIC BANK DEFINED.—For purposes of this subsection, the term 'home State' means—

"(A) with respect to a national bank, the State in which the main office of the bank is located; and

"(B) with respect to a State bank, the State by which the bank is chartered.".

(b) CONTINUED AUTHORITY FOR LIMITED BRANCHES, AGENCIES, OR COMMERCIAL LENDING COMPANIES.—Section 5(b) of the International Banking Act of 1978 (12 U.S.C. 3103(b)) is amended by adding at the end the following new sentence: "Notwithstanding subsection (a), a foreign bank may continue to operate, after the enactment of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, any Federal branch, State branch, Federal agency, State agency, or commercial lending company subsidiary which such bank was operating on the day before the date of the enactment of such Act to the extent the branch, agency, or subsidiary continues, after the enactment of such Act, to engage in operations which were lawful under the laws in effect on the day before such date.".

(c) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(d) CLARIFICATION OF BRANCHING RULES IN THE CASE OF A FOREIGN BANK WITH A DOMESTIC BANK SUBSIDIARY.—In the case of a foreign bank that has a domestic bank subsidiary within the United States—

"(1) the fact that such bank controls a domestic bank shall not affect the authority of the foreign bank to establish Federal and State branches or agencies to the extent permitted under subsection (a); and

"(2) the fact that the domestic bank is controlled by a foreign bank which has Federal or State branches or agencies in States other than the home State of such domestic bank shall not affect the authority of the domestic bank to establish branches outside the home State of the domestic bank to the extent permitted under section 5155(g) of the Revised Statutes or section 18(d)(4) or 44 of the Federal Deposit Insurance Act, as the case may be.".

(d) HOME STATE DETERMINATIONS.—Section 5(c) of the International Banking Act of 1978 (12 U.S.C. 3103(c)) is amended to read as follows:

"(c) DETERMINATION OF HOME STATE OF FOREIGN BANK.—For the purposes of this section—

"(1) in the case of a foreign bank that has any branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the 1 State of such States which is selected to be the home State by the foreign bank or, in default of any such selection, by the Board; and

"(2) in the case of a foreign bank that does not have a branch, agency, subsidiary commercial lending company, or subsidiary bank in more than 1 State, the home State of the foreign bank is the State in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank.".

SEC. 105. COORDINATION OF EXAMINATION AUTHORITY.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (g) the following new subsection:

"(h) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) IN GENERAL.—The appropriate State bank supervisor of a host State may examine a branch operated in such State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or a branch established in such State pursuant to section 5155(g) of the Revised Statutes or section 18(d)(4)—

"(A) for the purpose of determining compliance with host State laws, including those that govern banking, community reinvestment, fair lending, consumer protection, and permissible activities; and

"(B) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

"(2) ENFORCEMENT.—If the State bank supervisor of a host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in paragraph (1) or that the branch is being operated in an unsafe and unsound manner, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a State law enforcement officer may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(3) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(4) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of an appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.".

SEC. 106. BRANCH CLOSURES.

Section 42 of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1) is amended by adding at the end the following new subsection:

"(d) BRANCH CLOSURES IN INTERSTATE BANKING OR BRANCHING OPERATIONS.—

"(1) NOTICE REQUIREMENTS.—In the case of an interstate bank which proposes to close any branch in a low- or moderate-income area, the notice required under subsection (b)(2) shall contain the mailing address of the appropriate Federal banking agency and a statement that comments on the proposed closing of such branch may be mailed to such agency.

"(2) ACTION REQUIRED BY APPROPRIATE FEDERAL BANKING AGENCY.—If, in the case of a branch referred to in paragraph (1)—

"(A) a person from the area in which such branch is located—

"(i) submits a written request relating to the closing of such branch to the appropriate Federal banking agency; and

"(ii) includes a statement of specific reasons for the request, including a discussion of the adverse effect of such closing on the availability of banking services in the area affected by the closing of the branch; and

"(B) the agency concludes that the request is not frivolous,

the agency shall consult with community leaders in the affected area and convene a meeting of representatives of the agency and other interested depository institution regulatory agencies with community leaders in the affected area and such other individuals, organizations, and depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act) as the agency may determine, in the discretion of the agency, to be appropriate, to explore the feasibility of obtaining adequate alternative facilities and services for the affected area, including the establishment of a new branch by another depository institution, the chartering of a new depository institution, or the establishment of a community development credit union, following the closing of the branch.

"(3) NO EFFECT ON CLOSING.—No action by the appropriate Federal banking agency under paragraph (2) shall affect the authority of an interstate bank to close a branch (including the timing of such closing) if the requirements of subsections (a) and (b) have been met by such bank with respect to the branch being closed.

"(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) INTERSTATE BANK DEFINED.—The term 'interstate bank' means a bank which maintains branches in more than 1 State.

"(B) LOW- OR MODERATE-INCOME AREA.—The term 'low- or moderate-income area' means a census tract for which the median family income is—

"(i) less than 80 percent of the median family income for the metropolitan statistical area (as designated by the Director of the Office of Management and Budget) in which the census tract is located; or

"(ii) in the case of a census tract which is not located in a metropolitan statistical area, less than 80 percent of the median family income for the State in which the census tract is located, as determined without taking into account family income in metropolitan statistical areas in such State.".

SEC. 107. EQUALIZING COMPETITIVE OPPORTUNITIES FOR UNITED STATES AND FOREIGN BANKS.

(a) REGULATORY OBJECTIVES.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(2) by inserting after "SEC. 6" the following new subsection:

"(a) OBJECTIVE.—In implementing this section, the Comptroller and the Federal Deposit Insurance Corporation shall each, by affording equal competitive opportunities to foreign and United States

banking organizations in their United States operations, ensure that foreign banking organizations do not receive an unfair competitive advantage over United States banking organizations.".

(b) REVIEW OF REGULATIONS.— 12 USC 3104 note.

(1) IN GENERAL.—Each Federal banking agency, after consultation with the other Federal banking agencies to assure uniformity, shall revise the regulations adopted by such agency under section 6 of the International Banking Act of 1978 to ensure that the regulations are consistent with the objective set forth in section 6(a) of the International Banking Act of 1978.

(2) SPECIFIC FACTORS.—In carrying out paragraph (1), each Federal banking agency shall consider whether to permit an uninsured branch of a foreign bank to accept initial deposits of less than $100,000 only from—

(A) individuals who are not citizens or residents of the United States at the time of the initial deposit;

(B) individuals who—

(i) are not citizens of the United States;

(ii) are residents of the United States; and

(iii) are employed by a foreign bank, foreign business, foreign government, or recognized international organization;

(C) persons to whom the branch or foreign bank has extended credit or provided other nondeposit banking services;

(D) foreign businesses and large United States businesses;

(E) foreign governmental units and recognized international organizations; and

(F) persons who are depositing funds in connection with the issuance of a financial instrument by the branch for the transmission of funds.

(3) REDUCTION IN REGULATORY DE MINIMIS EXEMPTION.—In carrying out paragraph (1), each Federal banking agency shall limit any exemption which is—

(A) available under any regulation prescribed pursuant to section 6(d) of the International Banking Act of 1978 providing for the acceptance of initial deposits of less than $100,000 by an uninsured branch of a foreign bank; and

(B) based on a percentage of the average deposits at such branch;

to not more than 1 percent of the average deposits at such branch.

(4) ADDITIONAL RELEVANT CONSIDERATIONS.—In carrying out paragraph (1), each Federal banking agency shall also consider the importance of maintaining and improving the availability of credit to all sectors of the United States economy, including the international trade finance sector of the United State economy.

(5) DEADLINE FOR PRESCRIBING REVISED REGULATIONS.—Each Federal banking agency—

(A) shall publish final regulations under paragraph (1) in the Federal Register not later than 12 months after the date of enactment of this Act; and Federal Register, publication.

(B) may establish reasonable transition rules to facilitate any termination of any deposit-taking activities that

were permissible under regulations that were in effect before the date of enactment of this Act.

(6) DEFINITIONS.—For purposes of this subsection—

(A) the term "Federal banking agency" means—

(i) the Comptroller of the Currency with respect to Federal branches of foreign banks; and

(ii) the Federal Deposit Insurance Corporation with respect to State branches of foreign banks; and

(B) the term "uninsured branch" means a branch of a foreign bank that is not an insured branch, as defined in section 3(s)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)(3)).

(c) AMENDMENT AFFIRMING THAT CONSUMER PROTECTION LAWS APPLY TO FOREIGN BANKS.—Section 9(b) of the International Banking Act of 1978 (12 U.S.C. 3106a) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after "which—" the following new subparagraph:

"(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting after "which—" the following new subparagraph:

"(A) impose requirements that protect the rights of consumers in financial transactions, to the extent that the branch, agency, or commercial lending company engages in activities that are subject to such laws;".

(d) INSURED BANKS IN TERRITORIES NOT TREATED AS FOREIGN BANKS FOR PURPOSES OF RETAIL DEPOSIT-TAKING RULE.—Section 6(d) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) (as so redesignated by subsection (a)(1) of this section) is amended by adding at the end the following new paragraph:

"(3) INSURED BANKS IN U.S. TERRITORIES.—For purposes of this subsection, the term 'foreign bank' does not include any bank organized under the laws of any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.".

(e) AMENDMENT RELATING TO SHELL BRANCHES.—

(1) IN GENERAL.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(k) MANAGEMENT OF SHELL BRANCHES.—

"(1) TRANSACTIONS PROHIBITED.—A branch or agency of a foreign bank shall not manage, through an office of the foreign bank which is located outside the United States and is managed or controlled by such branch or agency, any type of activity that a bank organized under the laws of the United States, any State, or the District of Columbia is not permitted

to manage at any branch or subsidiary of such bank which is located outside the United States.

"(2) REGULATIONS.—Any regulations promulgated to carry out this section—

"(A) shall be promulgated in accordance with section 13; and

"(B) shall be uniform, to the extent practicable.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall become effective at the end of the 180-day period beginning on the date of enactment of this Act. 12 USC 3105 note.

(f) MEETING COMMUNITY CREDIT NEEDS.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) (as amended by section 104 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

"(8) CONTINUING REQUIREMENT FOR MEETING COMMUNITY CREDIT NEEDS AFTER INITIAL INTERSTATE ENTRY BY ACQUISITION.—

"(A) IN GENERAL.—If a foreign bank acquires a bank or a branch of a bank, in a State in which the foreign bank does not maintain a branch, and such acquired bank is, or is part of, a regulated financial institution (as defined in section 803 of the Community Reinvestment Act of 1977), the Community Reinvestment Act of 1977 shall continue to apply to each branch of the foreign bank which results from the acquisition as if such branch were a regulated financial institution.

"(B) EXCEPTION FOR BRANCH THAT RECEIVES ONLY DEPOSITS PERMISSIBLE FOR AN EDGE ACT CORPORATION.—Paragraph (1) shall not apply to any branch that receives only such deposits as are permissible for a corporation organized under section 25A of the Federal Reserve Act to receive.".

SEC. 108. FEDERAL RESERVE BOARD STUDY ON BANK FEES.

(a) IN GENERAL.—Section 1002 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended to read as follows:

"SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

"(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of the institution, of—

"(1) certain retail banking services provided by insured depository institutions; and

"(2) the fees, if any, which are imposed by such institutions for providing any such service, including fees imposed for not sufficient funds, deposit items returned, and automated teller machine transactions.

"(b) ANNUAL REPORT TO CONGRESS REQUIRED.—

"(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

"(2) CONTENTS OF THE REPORT.—Each report prepared pursuant to paragraph (1) shall include—

"(A) a description of any discernible trend, in the Nation as a whole and in each region, in the cost and availability of retail banking services which delineates dif-

ferences on the basis of size of the institution and engagement in multistate activity; and

"(B) a description of the correlation, if any, among the following factors:

"(i) An increase or decrease in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions.

"(ii) An increase or decrease in the amount of the fees imposed by such institutions for providing retail banking services.

"(iii) A decrease in the availability of such services.

"(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than September 1, 1995, and not later than June 1 of each subsequent year.".

12 USC 1811 note.

(b) SUNSET.—The requirements of subsection (a) shall not apply after the end of the 7-year period beginning on the date of enactment of this Act.

12 USC 1835a.

SEC. 109. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.—The appropriate Federal banking agencies shall prescribe uniform regulations effective June 1, 1997, which prohibit any out-of-State bank from using any authority to engage in interstate branching pursuant to this title, or any amendment made by this title to any other provision of law, primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Regulations issued under subsection (a) shall include guidelines to ensure that interstate branches operated by an out-of-State bank in a host State are reasonably helping to meet the credit needs of the communities which the branches serve.

(c) LIMITATION ON OUT-OF-STATE LOANS.—

(1) LIMITATION.—Regulations issued under subsection (a) shall require that, beginning no earlier than 1 year after establishment or acquisition of an interstate branch or branches in a host State by an out-of-State bank, if the appropriate Federal banking agency for the out-of-State bank determines that the bank's level of lending in the host State relative to the deposits from the host State (as reasonably determinable from available information including the agency's sampling of the bank's loan files during an examination or such data as is otherwise available) is less than half the average of total loans in the host State relative to total deposits from the host State (as determinable from relevant sources) for all banks the home State of which is such State—

(A) the appropriate Federal banking agency for the out-of-State bank shall review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank in the host State; and

(B) if the agency determines that the out-of-State bank is not reasonably helping to meet those needs—

(i) the agency may order that an interstate branch or branches of such bank in the host State be closed unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency

that the bank has an acceptable plan that will reasonably help to meet the credit needs of the communities served by the bank in the host State, and

(ii) the out-of-State bank may not open a new interstate branch in the host State unless the bank provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(2) CONSIDERATIONS.—In making a determination under paragraph (1)(A), the appropriate Federal banking agency shall consider—

(A) whether the interstate branch or branches of the out-of-State bank were formerly part of a failed or failing depository institution;

(B) whether the interstate branch was acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(C) whether the interstate branch or branches of the out-of-State bank have a higher concentration of commercial or credit card lending, trust services, or other specialized activities;

(D) the ratings received by the out-of-State bank under the Community Reinvestment Act of 1977;

(E) economic conditions, including the level of loan demand, within the communities served by the interstate branch or branches of the out-of-State bank; and

(F) the safe and sound operation and condition of the out-of-State bank.

(3) BRANCH CLOSING PROCEDURE.—

(A) NOTICE REQUIRED.—Before exercising any authority under paragraph (1)(B)(i), the appropriate Federal banking agency shall issue to the bank a notice of the agency's intention to close an interstate branch or branches and shall schedule a hearing.

(B) HEARING.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding brought under this paragraph.

(d) APPLICATION.—This section shall apply with respect to any interstate branch established or acquired in a host State pursuant to this title or any amendment made by this title to any other provision of law.

(e) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY, BANK, STATE, AND STATE BANK.—The terms "appropriate Federal banking agency", "bank", "State", and "State bank" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) HOME STATE.—The term "home State" means—

(A) in the case of a national bank, the State in which the main office of the bank is located; and

(B) in the case of a State bank, the State by which the bank is chartered.

(3) HOST STATE.—The term "host State" means a State in which a bank establishes a branch other than the home State of the bank.

(4) INTERSTATE BRANCH.—The term "interstate branch" means a branch established pursuant to this title or any amendment made by this title to any other provision of law.

(5) OUT-OF-STATE BANK.—The term "out-of-State bank" means, with respect to any State, a bank the home State of which is another State and, for purposes of this section, includes a foreign bank, the home State of which is another State.

SEC. 110. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

"(e) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area,

as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.

"(3) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "The public" and inserting the following:

"(A) CONTENTS OF WRITTEN EVALUATION.—The public"; and

(3) by adding at the end the following new subparagraph:

"(B) METROPOLITAN AREA DISTINCTIONS.—The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.".

SEC. 111. RESTATEMENT OF EXISTING LAW.

12 USC 1811 note.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way—

(1) the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any such bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law;

(2) the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code; or

(3) the applicability of section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.

SEC. 112. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that the implementation of the interstate branching provisions contained in this title will result in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 113. MAXIMUM INTEREST RATE ON CERTAIN FMHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following new subparagraph:

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

7 USC 1927 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

SEC. 114. NOTICE REQUIREMENTS FOR BANKING AGENCY DECISIONS PREEMPTING STATE LAW.

Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by adding at the end the following new section:

"SEC. 5244. INTERPRETATIONS CONCERNING PREEMPTION OF CERTAIN STATE LAWS. 12 USC 43.

"(a) NOTICE AND OPPORTUNITY FOR COMMENT REQUIRED.—Before issuing any opinion letter or interpretive rule, in response to a request or upon the agency's own motion, that concludes that Federal law preempts the application to a national bank of any State law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, or before making a determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall—

"(1) publish in the Federal Register notice of the preemption or discrimination issue that the agency is considering (including a description of each State law at issue); Federal Register, publication.

"(2) give interested parties not less than 30 days in which to submit written comments; and

"(3) in developing the final opinion letter or interpretive rule issued by the agency, or making any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes, consider any comments received.

"(b) PUBLICATION REQUIRED.—The appropriate Federal banking agency shall publish in the Federal Register— Federal Register, publication.

"(1) any final opinion letter or interpretive rule concluding that Federal law preempts the application of any State law regarding community reinvestment, consumer protection, fair lending, or establishment of intrastate branches to a national bank; and

"(2) any determination under section 5155(f)(1)(A)(ii) of the Revised Statutes.

"(c) EXCEPTIONS.—

"(1) NO NEW ISSUE OR SIGNIFICANT BASIS.—This section shall not apply with respect to any opinion letter or interpretive rule that—

"(A) raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts or on which the agency has previously issued an opinion letter or interpretive rule; or

"(B) responds to a request that contains no significant legal basis on which to make a preemption determination.

"(2) JUDICIAL, LEGISLATIVE, OR INTRAGOVERNMENTAL MATERIALS.—This section shall not apply with respect to materials prepared for use in judicial proceedings or submission to Congress or a Member of Congress, or for intragovernmental use.

"(3) EMERGENCY.—The appropriate Federal banking agency may make exceptions to subsection (a) if—

"(A) the agency determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank; or

"(B) the opinion letter or interpretive rule is issued in connection with—

"(i) an acquisition of 1 or more banks in default or in danger of default (as such terms are defined in section 3 of the Federal Deposit Insurance Act); or

"(ii) an acquisition with respect to which the Federal Deposit Insurance Corporation provides assistance

under section 13(c) of the Federal Deposit Insurance Act.".

SEC. 115. MORATORIUM ON EXAMINATION FEES UNDER THE INTERNATIONAL BANKING ACT OF 1978.

12 USC 3105 note.

(a) BRANCHES, AGENCIES, AND AFFILIATES.—Section 7(c)(1)(D) of the International Banking Act of 1978 shall not apply with respect to any examination under section 7(c)(1)(A) of such Act which begins before or during the 3-year period beginning on July 25, 1994.

12 USC 3107 note.

(b) REPRESENTATIVE OFFICES.—The provision of section 10(c) of the International Banking Act of 1978 relating to the cost of examinations under such section shall not apply with respect to any examination under such section which begins before or during the 3-year period beginning on July 25, 1994.

TITLE II—GENERAL PROVISIONS

SEC. 201. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND FEDERAL HOME LOAN BANK ACT.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended by adding at the end the following new subparagraph:

"(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

"(i) IN GENERAL.—In the case of any tort claim described in clause (ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.

"(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution.".

(b) FEDERAL HOME LOAN BANK ACT.—Section 21A(b)(14) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(14)) is amended by adding at the end the following new subparagraph:

"(E) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—In the case of any tort claim described in subparagraph (A)(ii) for which the statute of limitation applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Corporation as conservator or receiver, the Corporation may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitation applicable under State law.".

SEC. 202. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled

strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

SEC. 203. AMENDMENTS RELATING TO SILVER MEDALS FOR PERSIAN GULF VETERANS.

Title III of Public law 102–281 (31 U.S.C. 5111 note) is amended—

(1) in section 303(b), by striking "entitlement" and inserting "enactment"; and

(2) in section 307 by striking subsection (b) and inserting the following:

"(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS.—The Secretary of the Treasury shall begin minting and issuing the medals described in section 302 whenever there are any funds available to cover the cost of minting and issuing any such medals from amounts received by the Secretary under section 305 and donations by private persons, and shall continue minting and issuing such medals, subject to the availability of funds to cover the costs, until all of the medals authorized have been issued.".

SEC. 204. COMMEMORATION OF 1995 SPECIAL OLYMPIC WORLD GAMES. 31 USC 5112 note.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall issue not more than 800,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be emblematic of the 1995 Special Olympics World Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins authorized by this section shall be selected by the Secretary after consultation with the 1995 Special Olympics World Games Organizing Committee, Inc. and the Commission of Fine Arts. As required by section 5135 of title 31, United States Code, the design shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY OF COINS.—The coins authorized under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section during the period beginning on January 15, 1995, and ending on December 31, 1995.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(5) INTERNATIONAL SALES.—The Secretary, in cooperation with the 1995 Special Olympics World Games Organizing Committee, shall develop an international marketing program to promote and sell coins outside of the United States.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the 1995 Special Olympics World Games Organizing Committee, Inc. Such amounts shall be used to—

(1) provide a world class sporting event for athletes with mental retardation;

(2) demonstrate to a global audience the extraordinary talents, dedication, and courage of persons with mental retardation; and

(3) underwrite the cost of staging and promoting the 1995 Special Olympics World Games.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the 1995 Special Olympics World Games Organizing Committee, Inc. as may be related to the expenditure of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 205. NATIONAL COMMUNITY SERVICE COMMEMORATIVE COINS. 31 USC 5112 note.

(a) COIN SPECIFICATIONS.—

(1) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins to commemorate students who volunteer to perform community service, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

(c) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of community services provided by student volunteers.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

(i) a designation of the value of the coin;

(ii) an inscription of the year "1996"; and

(iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins authorized by this section shall be—

(A) selected by the Secretary after consultation with the National Community Service Trust and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section shall be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than September 1, 1996.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts

shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Community Service Trust for the purpose of funding innovative community service programs at American universities, including the service, research, and teaching activities of faculty and students involved in such programs.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Community Service Trust as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS.—A coin shall not be issued under this section unless the Secretary has received—

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 206. ROBERT F. KENNEDY MEMORIAL COMMEMORATIVE COINS. 31 USC 5112 note.

(a) COIN SPECIFICATIONS.—

(1) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins to commemorate the life and work of Robert F. Kennedy, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

(c) DESIGN OF COINS.—

(1) DESIGN REQUIREMENTS.—

(A) IN GENERAL.—The design of the coins minted under this section shall be emblematic of the life and work of Robert F. Kennedy.

(B) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this section there shall be—

(i) a designation of the value of the coin;

(ii) an inscription of the year "1998"; and

(iii) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION.—The design for the coins authorized by this section shall be—

(A) selected by the Secretary after consultation with the Robert F. Kennedy Memorial and the Commission of Fine Arts; and

(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section shall be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section for a period of not less than 6 months and not more than 12 months, beginning no later than January 1, 1998.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of—

(A) the face value of the coins;

(B) the surcharge provided in paragraph (4) with respect to such coins; and

(C) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this section available at a reasonable discount.

(3) PREPAID ORDERS.—

(A) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this section before the issuance of such coins.

(B) DISCOUNT.—Sale prices with respect to prepaid orders under subparagraph (A) shall be at a reasonable discount.

(4) SURCHARGES.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—

(1) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this section shall be

promptly paid by the Secretary to the Robert F. Kennedy Memorial for the purpose of improving the endowment of the Robert F. Kennedy Memorial.

(2) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Robert F. Kennedy Memorial as may be related to the expenditures of amounts paid under paragraph (1).

(h) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this section will not result in any net cost to the United States Government.

(2) PAYMENT FOR COINS.—A coin shall not be issued under this section unless the Secretary has received—

(A) full payment for the coin;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 207. UNITED STATES MILITARY ACADEMY BICENTENNIAL COMMEMORATIVE COINS. 31 USC 5112 note.

(a) COIN SPECIFICATIONS.—

(1) ONE DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary shall issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the $1 coins shall be emblematic of the United States Military Academy and its motto "Duty, Honor, Country". On each such coin there shall be a designation of the value of the coin, an inscription of the year "2002", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender as provided in section 5103 of title 31, United States Code.

(b) SOURCES OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design of the coins minted under this section shall be selected by the Secretary after consultation with the Commission of Fine Arts and the Bicentennial Steering Group, Association of Graduates, United States Military Academy. As required by section 5135 of title 31, United States Code, the designs shall also be reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF THE COINS.—

(1) QUALITY AND MINT FACILITY.—The coins authorized under this section may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(2) PERIOD FOR ISSUANCE.—The Secretary shall issue coins minted under this section during the period beginning on March 16, 2002, and ending on March 16, 2003.

(3) SUNSET PROVISION.—No coins shall be minted under this section after December 31, 2002.

(e) SALE OF THE COINS.—

(1) SALE PRICE.—The coins issued under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section. Nothing in this subsection shall relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—The total surcharges collected by the Secretary from the sale of the coins issued under this section shall be promptly paid by the Secretary to the Association of Graduates, United States Military Academy to assist the Association of Graduates' efforts to provide direct support to the academic, military, physical, moral, and ethical development programs of the Corps of Cadets, United States Military Academy.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Association of Graduates, United States Military Academy as may be related to the expenditure of amounts paid under subsection (g).

(i) NUMISMATIC PUBLIC ENTERPRISE FUND.—The coins issued under this section are subject to the provisions of section 5134 of title 31, United States Code, relating to the Numismatic Public Enterprise Fund.

(j) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 208. UNITED STATES BOTANIC GARDEN COMMEMORATIVE COINS. 31 USC 5112 note.

(a) COIN SPECIFICATIONS.—

(1) ONE-DOLLAR SILVER COINS.—

(A) ISSUANCE.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall mint and issue not more than 500,000 $1 coins, which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper.

(B) DESIGN.—The design of the coins issued under this section shall be a rose, the national floral emblem, and a frontal view of the French facade of the United States Botanic Garden. On each coin there shall be a designation of the value of the coin, an inscription of the years "1820–1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) LEGAL TENDER.—The coins issued under this section shall be legal tender, as provided in section 5103 of title 31, United States Code.

(3) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this section shall be considered to be numismatic items.

(b) SOURCE OF BULLION.—The Secretary shall obtain silver for the coins minted under this section only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(c) SELECTION OF DESIGN.—The design for the coins minted under this section shall be—

(1) selected by the Secretary after consultation with the National Fund for the United States Botanic Garden and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

(d) ISSUANCE OF COINS.—

(1) QUALITY OF COINS.—Coins minted under this section may be issued in uncirculated and proof qualities.

(2) MINT FACILITY.—Not more than 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this section.

(3) PERIOD OF ISSUANCE.—The Secretary may issue coins minted under this section during the period beginning on January 1, 1997, and ending on December 31, 1997.

(e) SALE OF COINS.—

(1) SALE PRICE.—The coins authorized under this section shall be sold by the Secretary at a price equal to the sum of the face value of the coins, the surcharge provided in paragraph (4) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(2) BULK SALES.—The Secretary shall make bulk sales available at a reasonable discount.

(3) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under this section prior to the issuance of such coins. Sales under this paragraph shall be at a reasonable discount.

(4) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

(f) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this section.

(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract under the authority of this section from complying with any law relating to equal employment opportunity.

(g) DISTRIBUTION OF SURCHARGES.—All surcharges received by the Secretary from the sale of coins issued under this section shall be promptly paid by the Secretary to the National Fund for the United States Botanic Garden.

(h) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the National Fund for the United States Botanic Garden as may be related to the expenditures of amounts paid under subsection (g).

(i) FINANCIAL ASSURANCES.—

(1) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this section shall result in no net cost to the United States Government.

(2) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this section unless the Secretary has received—

(A) full payment therefor;

(B) security satisfactory to the Secretary to indemnify the United States for full payment; or

(C) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 209. MOUNT RUSHMORE COMMEMORATIVE COINS.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

31 USC 5112 note.

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

31 USC 5112 note.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in

supporting the United States Mint's numismatic operations and programs, or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

SEC. 210. STUDY AND REPORT ON THE UNITED STATES FINANCIAL SERVICES SYSTEM. 12 USC 1811 note.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall, after consultation with the Advisory Commission on Financial Services established under subsection (b), and consultation in accordance with paragraph (3), conduct a study of matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of the system's users, including the needs of—

(A) individual consumers and households;

(B) communities;

(C) agriculture;

(D) small-, medium-, and large-sized businesses;

(E) governmental and nonprofit entities; and

(F) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and how those changes affect the financial services system's ability to efficiently meet the needs of the national economy and the system's users during the next 10 years and beyond; and

(B) the adequacy of existing statutes and regulations, and the existing regulatory structure, to meet the needs of the financial services system's users effectively, efficiently, and without unfair, anticompetitive, or discriminatory practices.

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Commodity Futures Trading Commission;

(C) the Comptroller of the Currency;

(D) the Director of the Office of Thrift Supervision;

(E) the Federal Deposit Insurance Corporation;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities and Exchange Commission;

(H) the Director of the Congressional Budget Office; and

(I) the Comptroller General of the United States.

(b) ADVISORY COMMISSION ON FINANCIAL SERVICES.—

(1) ESTABLISHMENT.—There is established the Advisory Commission on Financial Services (hereafter in this section referred to as the "Advisory Commission").

(2) MEMBERSHIP OF COMMISSION.—The Advisory Commission—

(A) shall consist of not less than 9 nor more than 14 members appointed by the Secretary from among individuals—

(i) who are—

(I) users of the financial services system; or

(II) experts in finance or on the financial services system; and

(ii) who are not employees of the Federal Government; and

(B) shall include representatives of business, agriculture, and consumers.

(3) CHAIRPERSON.—The Secretary or the Secretary's designee shall serve as Chairperson of the Advisory Commission.

(4) TRAVEL EXPENSES.—Members of the Advisory Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in performing services for the Advisory Commission.

(5) TERMINATION.—The Advisory Commission shall terminate 30 days after the date of submission of the report required under subsection (d).

(c) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Secretary shall develop such recommendations as may be appropriate for changes in statutes, regulations, and policies to improve the operation of the financial services system, including changes to better—

(1) meet the needs of, and assure access to the system for, current and potential users;

(2) promote economic growth;

(3) protect consumers;

(4) promote competition and efficiency;

(5) avoid risk to the taxpayers;

(6) control systemic risk; and

(7) eliminate discrimination.

(d) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report describing the study conducted under subsection (a) and any recommendations developed under subsection (c).

SEC. 211. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

(a) IN GENERAL.—Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the 1st sentence, by striking "two thirds" and inserting "a majority".

(b) PROVISION REPEAL.—Effective on the date of enactment of the Riegle Community Development and Regulatory Improvement Act of 1994, this section and the amendment made by this section are repealed. Effective date.

Approved September 29, 1994.

LEGISLATIVE HISTORY—H.R. 3841 (S. 1963):

HOUSE REPORTS: Nos. 103-448 (Comm. on Banking, Finance and Urban Affairs) and 103-651 (Comm. of Conference).
SENATE REPORTS: No. 103-240 accompanying S. 1963 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Mar. 22, considered and passed House.
Apr. 25, 26, H.R. 3841 considered and passed Senate, amended, in lieu of S. 1963.
Aug. 4, House agreed to conference report.
Sept. 13, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 29, Presidential remarks.

Public Law 103-329
103d Congress

An Act

Sept. 30, 1994
[H.R. 4539]

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

Treasury, Postal Service and General Government Appropriations Act, 1995.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes, namely:

Treasury Department Appropriations Act, 1995.

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $3,101,000 to remain available until September 30, 1997, shall be available for information technology modernization requirements; of which not less than $6,443,000 and 85 full-time equivalent positions shall be available for enforcement activities; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $490,000, to remain available until September 30, 1997, for repairs and improvements to the Main Treasury Building and Annex; $104,479,000: *Provided,* That of the offsetting collections credited to this account, $79,000 are permanently canceled.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $2,000,000 for official travel expenses; not to exceed $100,000 for

unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $29,700,000.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; not to exceed $4,000 for official reception and representation expenses; $19,823,000: *Provided,* That of the offsetting collections credited to this account, $1,000 are permanently canceled.

TREASURY FORFEITURE FUND

(LIMITATION OF AVAILABILITY OF DEPOSITS)

For necessary expenses of the Treasury Forfeiture Fund, as authorized by Public Law 102–393, not to exceed $15,000,000, to be derived from deposits in the Fund.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed fifty-two for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for training United States Postal Service law enforcement personnel and Postal police officers, at the discretion of the Director; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local

Gifts and property. 42 USC 3771 note.

Housing.

course development meetings at the Center: *Provided further,* That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training at the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further,* That the Federal Law Enforcement Training Center is authorized to provide first-aid and emergency medical services for students undergoing training at the Center; $46,713,000, of which $8,821,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 1997.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $16,815,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $183,889,000, of which not to exceed $13,459,000 shall remain available until expended for systems modernization initiatives. In addition, $90,000, to be derived from the Oil Spill Liability Trust Fund, to reimburse the Service for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380: *Provided,* That of the offsetting collections credited to this account, $192,000 are permanently canceled.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; of which $22,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1995; $385,315,000, of which no less than $134,847,000 and 1,140 full-time equivalent positions shall be available for enforcing the Armed Career Criminal Act, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall

be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided,* That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c): *Provided further,* That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. section 925(c): *Provided further,* That no funds made available by this or any other Act may be used to implement any reorganization of the Bureau of Alcohol, Tobacco and Firearms or transfer of the Bureau's functions, missions, or activities to other agencies or Departments in the fiscal year ending on September 30, 1995: *Provided further,* That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further,* That of the offsetting collections credited to this account, $4,000 are permanently canceled: *Provided further,* That funds made available shall be used to achieve a minimum staffing level of 4,215 full-time equivalent positions during fiscal year 1995.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,394,793,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000 shall be available until expended for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That $750,000 shall be available for additional part-time and temporary positions in the Honolulu Customs District: *Provided further,* That $10,000,000 shall be available for the Center for Study of Western Hemispheric Trade as authorized by Public Law 103–182: *Provided further,* That of the offsetting collections credited to this account, $410,000 are permanently canceled: *Provided further,* That Customs shall achieve a minimum full-time equivalent staffing level of 17,524 during fiscal year 1995: *Provided further,* That $500,000 shall remain available until expended for the construction of a replace-

ment fence within the city limits of Nogales, Arizona under the authority of section 69, title 19, United States Code.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs; $89,041,000, of which $7,233,000 shall remain available until September 30, 1997: *Provided,* That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements, and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury, during fiscal year 1995, without the prior approval of the House and Senate Committees on Appropriations.

CUSTOMS FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For acquisition of necessary additional real property, facilities, construction, improvements, and related expenses of the United States Customs Service, $1,000,000, to remain available until expended.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $1,406,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98–573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $55,740,000, of which $1,540,000 shall remain available until September 30, 1997, for expansion and improvements.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

31 USC 3121 note.

For necessary expenses connected with any public-debt issues of the United States; $183,458,000: *Provided,* That in fiscal year 1995 and thereafter, the Secretary is authorized to collect fees of not less than $46 for each definitive security issue provided to customers, and an annual maintenance fee of not less than

$25 for each Treasury Direct Investor Account exceeding $100,000 in par value: *Provided further,* That in fiscal year 1995 and thereafter, of the definitive security fees collected, not to exceed $600,000, and of the annual maintenance fees for Treasury Direct Investor Account collected, not to exceed $2,500,000, shall be retained and used in the current fiscal year for the specific purpose of offsetting costs of Bureau of the Public Debt's marketable security activities, and any fees collected in excess of said amounts shall be deposited as miscellaneous receipts in the Treasury: *Provided further,* That the sum appropriated herein from the General Fund for fiscal year 1995 shall be reduced by not more than $600,000 as definitive security issue fees are collected and not more than $2,500,000 as Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1995 appropriation from the General Fund estimated at $180,358,000.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

Beginning in fiscal year 1995 and thereafter, there are appropriated such sums as may be necessary to make payments for the replacement of valuables, or the value thereof, lost, destroyed, or damaged in the course of shipments effected pursuant to section 1 of the Government Losses in Shipment Act, as amended. 40 USC 722a.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; management services, and inspection; including purchase (not to exceed 125 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $225,632,000, of which not to exceed $25,000 for official reception and representation expenses.

PROCESSING TAX RETURNS AND ASSISTANCE

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; providing assistance to taxpayers; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,511,266,000, of which $3,700,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; statistics of income and compliance research; the purchase (for police-type use, not to exceed 600, of which not to exceed 450 shall be for replacement only), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as

may be determined by the Commissioner: *Provided,* That additional amounts above fiscal year 1994 levels for international tax enforcement shall be used for the continued operation of a task force comprised of senior Internal Revenue Service Attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in non-compliance with the Internal Revenue Code of 1986; $4,385,459,000, of which not to exceed $1,000,000 shall remain available until September 30, 1997 for research: *Provided further,* That the $405,000,000 made available for the fiscal year 1995 tax compliance initiative shall not be expended for any other purposes: *Provided further,* That no funds shall be transferred from this account during fiscal year 1995.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: tax systems modernization (modernized developmental systems), modernized operational systems, services and compliance, and support systems; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: $1,388,000,000 of which no less than $650,000,000 shall be available for tax systems modernization, of which up to $185,000,000 for tax and information systems development projects shall remain available until September 30, 1997: *Provided,* That none of the funds appropriated for tax systems modernization may be obligated until the Commissioner of the Internal Revenue Service reports to the Committees on Appropriations of the House and Senate on the implementation of Tax Systems Modernization.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations: *Provided,* That notwithstanding any other provision of this Act, the Internal Revenue Service is authorized to transfer such sums as may be necessary between appropriations with advance approval of the House and Senate Appropriations Committees: *Provided further,* That no funds shall be transferred from the "Tax Law Enforcement" account during fiscal year 1995.

26 USC 7803 note.

SEC. 2. The Internal Revenue Service shall institute and maintain a training program to insure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

26 USC 7801 note.

SEC. 3. The Secretary of the Treasury may establish new fees or raise existing fees for services provided by the Internal Revenue Service to increase receipts, where such fees are authorized by another law. The Secretary of the Treasury may spend the new or increased fee receipts to supplement appropriations made available to the Internal Revenue Service appropriations accounts in fiscal years 1995 and thereafter: *Provided,* That the Secretary shall base such fees on the costs of providing specified services to persons paying such fees: *Provided further,* That the Secretary

Reports.

shall provide quarterly reports to the Congress on the collection of such fees and how they are being expended by the Service: *Provided further,* That the total expenditures from such fees shall not exceed $119,000,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $476,931,000: *Provided further,* That of the offsetting collections credited to this account, $43,000 are permanently canceled.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SECTION 101. Of the funds appropriated by this or any other Act to the Internal Revenue Service, amounts attributable to efficiency savings for fiscal year 1995 shall be identified as such by the Commissioner during that fiscal year: *Provided,* That in the fiscal year when the savings are realized, the amount of efficiency savings shall be non-recurred from the Internal Revenue Service budget base: *Provided further,* That on an annual basis, the Internal Revenue Service shall report to the House and Senate Appropriations Committees on the status of the program. Reports.

SEC. 102. Any obligation or expenditure by the Secretary in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1995, shall be

made in compliance with the reprogramming guidelines contained in the House and Senate reports accompanying this Act.

SEC. 103. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 104. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. Notwithstanding any authority to transfer funds between appropriations contained in this or any other Act, no transfer may increase or decrease any appropriation in this Act by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

31 USC 3321 note.

SEC. 105. Notwithstanding any other provision of law, beginning in fiscal year 1995 and thereafter, the Financial Management Service (FMS) shall be reimbursed, for postage incurred by FMS to make check payments on their behalf, by: the Department of Veterans Affairs, for the mailing of Compensation and Pension benefit payments; the Department of Health and Human Services, for the mailing of Supplemental Security Income payments; and the Office of Personnel Management, for the mailing of Retirement payments. Such reimbursement shall be due beginning with checks mailed on October 1, 1994, and such reimbursement shall occur on a monthly basis.

SEC. 106. (a) Of the budgetary resources available to the Department of the Treasury during fiscal year 1995, $33,437,000 are permanently canceled.

(b) The Secretary of the Treasury shall allocate the amount of budgetary resources canceled among the Department's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 107. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

Confidential information. 26 USC 6103 note.

SEC. 108. The Internal Revenue Service shall institute policies and procedures which will safeguard the confidentiality of taxpayer information.

SEC. 109. The funds provided to the Bureau of Alcohol, Tobacco and Firearms for fiscal year 1995 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

West Virginia.

SEC. 110. (a) The Secretary of the Treasury shall implement the plan announced by the Bureau of the Public Debt on March 19, 1991, to consolidate such Bureau's operations in Parkersburg, West Virginia.

(b) The consolidation referred to in subsection (a) shall be completed by December 31, 1995, in accordance with the plan of the Bureau of the Public Debt.

SEC. 111. Notwithstanding any other provision of law, Customs personnel funded through reimbursement from the Puerto Rico Trust Fund shall not be reduced as the result of workforce reductions required under Executive order or other guidance to Executive branch agencies in fiscal year 1995 and hereafter.

SEC. 112. Subsection (a) of section 9703 of title 31, United States Code, is amended—

(a) by redesignating subparagraphs (G) and (J) of paragraph (2) as (I) and (J) of paragraph (1), respectively; and

(b) by redesignating in paragraph (2) subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

SEC. 113. (a) The Director of the United States Secret Service shall direct and apply appropriate agency personnel and resources for the purpose of conducting a security survey of the Bureau of Engraving and Printing.

(b) Such security survey shall include a review of all general security provisions, including—

(1) the security and safeguarding of currency;

(2) personnel screening and employee background check procedures;

(3) access control and identification procedures;

(4) the security and safeguarding of currency materials, supplies and related items; and

(5) other security areas of concern as deemed relevant and appropriate by the agency.

(c) The Bureau of Engraving and Printing and the Federal agencies which participated in any investigations or arrest of person(s) for theft of currency from the Bureau of Engraving and Printing are directed to—

(1) provide any assistance and cooperation to the United States Secret Service for the purpose of the security survey;

(2) provide Secret Service personnel, in accordance with all laws, with access to person(s) arrested in connection with theft or removal of currency from the Bureau of Engraving and Printing; and

(3) provide access to all relevant investigative reports and materials: *Provided,* That access to such persons is approved by the appropriate United States Attorney.

Reports.

(d) The Director of the United States Secret Service shall provide a preliminary report to the Congress no later than 90 days from the date of enactment of this Act, and a final report containing specific findings and recommendations to the Congress within 180 days of enactment of this Act.

This title may be cited as the "Treasury Department Appropriations Act, 1995".

Postal Service Appropriations Act, 1995.

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code; $92,317,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1995.

39 USC 403 note.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $37,776,000.

This title may be cited as the "Postal Service Appropriations Act, 1995".

Executive Office Appropriations Act, 1995.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note

Taxes.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $19,000 for official entertain-

ment expenses, to be available for allocation within the Executive Office of the President; $40,193,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,827,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $324,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,280,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,439,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $5,058,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $6,648,000.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $26,217,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles: *Provided,* That of the budgetary resources available in fiscal year 1995 in this account, $117,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $57,754,000, of which not to exceed $5,000,000, shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $9,942,000: *Provided,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

Gifts and property.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, secu-

rity, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, $98,000,000, for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, of which no less than $55,000,000 shall be transferred to State and local entities for drug control activities; and of which up to $52,000,000 may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided,* That an additional $9,000,000 shall be made available for drug control activities in Puerto Rico and the United States Virgin Islands only if the Director of the Office of National Drug Control Policy designates such area as a High Intensity Drug Trafficking Area: *Provided further,* That the funds made available under this head shall be obligated within 90 days of the date of enactment of this Act.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100–690, $41,900,000, which shall be derived from deposits in the Special Forfeiture Fund; of which $1,800,000 shall be transferred to the Drug Enforcement Administration for the El Paso Intelligence Center; of which $15,000,000 shall be available to the Director of the Office of National Drug Control Policy for enhancing anti-drug control activities, upon the advance approval of the House and Senate Committees on Appropriations; of which $3,100,000 shall be available to the Director of the Office of National Drug Control Policy for ballistics technologies, upon the advance approval of the House and Senate Committees on Appropriations; of which $14,000,000 shall be transferred to the Substance Abuse and Mental Health Services Administration, and of which $10,000,000 shall be available to the Center for Substance Abuse Treatment for the residential women and children's program, and of which $4,000,000 shall be available to the Center for Substance Abuse Treatment for community drug treatment programs; of which $8,000,000, to remain available until expended, shall be transferred to the Counter-Drug Technology Assessment Center for counternarcotics research and development projects and shall be available for transfer to other Federal departments or agencies.

This title may be cited as the "Executive Office Appropriations Act, 1995".

Independent Agencies Appropriations Act, 1995.

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses, $1,800,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271–79); $1,000,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28; $1,682,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $27,106,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $21,341,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further,* That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $310,197,000, to be deposited into said Fund. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of Federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of Federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $4,932,322,000, of which (1) not to exceed $601,702,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses and associated design and construction services) as follows:

New Construction:

Alabama:

Montgomery, U.S. Courthouse Annex, $40,547,000

Arizona:

Bullhead City, a grant to the Federal Aviation Administration for a runway protection zone, $2,200,000

Tucson, a grant to the Arizona Historical Documents Education Foundation, $2,000,000

Tucson, U.S. Courthouse, $81,708,000

Florida:

Jacksonville, U.S. Courthouse, $4,600,000

Georgia:

Albany, U.S. Courthouse, $5,640,000

Savannah, U.S. Courthouse Annex, $3,000,000

Hawaii:

Consolidation, University of Hawaii-Hilo, $12,000,000

Kentucky:

Covington, U.S. Courthouse, $2,914,000

London, U.S. Courthouse, $1,523,000

Louisiana:

Lafayette, U.S. Courthouse, $5,042,000

Maryland:

Beltsville, Secret Service Building, $2,400,000

Montgomery and Prince Georges Counties, Food and Drug Administration consolidation, $45,000,000
Beltsville, a transfer to the Rowley Secret Service Training Center, $5,000,000
Missouri:
Kansas City, Federal Building and U.S. Courthouse, $84,895,000
St. Louis, Federal Building and U.S. Courthouse, $171,863,000
New Mexico:
Albuquerque, U.S. Courthouse, $44,342,000
New York:
Long Island, U.S. Courthouse, $23,200,000
Nevada:
Las Vegas, U.S. Courthouse, $4,230,000
Ohio:
Cleveland, U.S. Courthouse, $28,246,000
Steubenville, U.S. Courthouse, $2,820,000
Tennessee:
Greeneville, U.S. Courthouse, $2,936,000
Texas:
Brownsville, Federal Building and U.S. Courthouse, $5,980,000
Corpus Christi, U.S. Courthouse, $6,446,000
El Paso, Federal Office Building, Claim, $327,000
Washington:
Blaine, Border Station, $4,472,000
Point Roberts, Border Station, $698,000
West Virginia:
Martinsburg, Internal Revenue Service Computer Center, $7,547,000

Non-prospectus construction projects, $126,000: *Provided,* That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 per centum unless advanced approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1996, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $250,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $720,564,000, which shall remain available until expended, for repairs and alterations which, beginning with fiscal year 1995 and in subsequent fiscal years, includes associated design and construction services: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:

Claims.

Repairs and Alterations:

California:
Los Angeles, U.S. Courthouse, $22,420,000
Menlo Park, U.S. Geological Survey Building #3, $6,868,000
Sacramento, Federal Building, $14,914,000
San Pedro, Custom House, $4,887,000
Colorado:
Denver, Federal Building and Custom House, $8,006,000
District of Columbia:
Ariel Rios, Facades, $3,551,000
Customs/ICC/Connecting Wing Complex, (phase I), $8,696,000
National Courts, $4,129,000
Illinois:
Chicago, Federal Center, $47,682,000
Maryland:
Baltimore, George H. Fallon Federal Building (phase 3), $15,459,000
Woodlawn, SSA East High-Low Buildings, $17,292,000
New Jersey:
Trenton, Clarkson S. Fisher Courthouse, $14,107,000
New York:
Holtsville, IRS Service Center, $19,183,000
New York, Jacob K. Javits Federal Building, $2,602,000
New York, Silvio V. Mollo Federal Building, $953,000
North Carolina:
Asheville, Federal Building and U.S. Courthouse, $6,347,000
Ohio:
Cleveland, Anthony J. Celebreeze Federal Building, $10,972,000
Oklahoma:
Oklahoma City, Alfred P. Murrah Federal Building, $5,290,000
Pennsylvania:
Harrisburg, Federal Building and U.S. Courthouse, $15,213,000
Philadelphia, Byrne-Green Complex, $30,628,000
Philadelphia, R.N.C. Nix, Sr., Federal Building and U.S. Courthouse (phase 3), $13,257,000
Rhode Island:
Providence, Kennedy Plaza Federal Courthouse, $7,740,000
Texas:
Lubbock, Federal Building and U.S. Courthouse, $12,167,000
Virginia:
Richmond, U.S. Courthouse and Annex, $12,509,000
Washington:
Walla Walla, Corps of Engineers Building, $2,800,000
Nationwide:
Chlorofluorocarbons Program, $90,035,000
Energy Program, $45,723,000
Advance Design, $19,515,000

Minor Repairs and Alterations, $257,619,000: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That the difference

between the funds appropriated and expended on any projects in this or any prior Act, under the heading "Repairs and Alterations", may be transferred to Minor Repairs and Alterations or used to fund authorized increases in prospectus projects: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1996, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That the amount provided in this or any prior Act for Minor Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations" or used to fund authorized increases in prospectus projects; (3) not to exceed $127,531,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended; (4) not to exceed $2,173,000,000 for rental of space which shall remain available until expended and (5) not to exceed $1,309,525,000 for building operations which shall remain available until expended of which $3,400,000 shall be available for essential functional requirements for primary structural, electrical, and security systems of the Bureau of Census, New Computer Center: *Provided further,* That of the funds available to the General Services Administration for the U.S. Courthouse in Albany, Georgia; the Federal building consolidation in Hilo, Hawaii; the U.S. Courthouse in Covington, Kentucky; the U.S. Courthouse, London, Kentucky; the Secret Service building, Beltsville, Maryland; the U.S. Courthouse, Albuquerque, New Mexico; the U.S. Courthouse, Long Island, New York; the U.S. Courthouse, Las Vegas, Nevada; the U.S. Courthouse, Jacksonville, Florida; the U.S. Courthouse, Corpus Christi, Texas; the U.S. Courthouse, Steubenville, Ohio; the U.S. Courthouse, Greeneville, Tennessee; the Kennedy Plaza Federal Courthouse, Providence, Rhode Island; the Corps of Engineers building, Walla Walla, Washington; and the construction funds only for the U.S. Courthouse, Tucson, Arizona; shall not be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That not to exceed $5,000,000 of the funds appropriated for the Food and Drug Administration consolidation may be used for necessary infrastructure improvements: *Provided further,* That of the $6,000,000 made available in Public Laws 102–93 and 103–123 for the acquisition, lease, construction and equipping of flexiplace work telecommuting centers, not to exceed $1,300,000 shall be available for payment to a public entity in the State of Maryland to provide facilities, equipment and other services to the General Services Administration for purposes of establishing telecommuting work centers in Southern Maryland (Waldorf, Prince Frederick, and St. Mary's County) for use by government agencies designated by the Administrator of General Services: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connec-

tion with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1995, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $4,932,322,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available under this heading in Public Law 100–440, Public Law 101–136, Public Law 101–509, Public Law 102–141, Public Law 102–393, and Public Law 103–123, $84,120,000 are rescinded from the following projects in the following amounts:

California:
Menlo Park, U.S. Geological Survey Office and Laboratory Buildings, $783,000
District of Columbia:
United States Secret Service, Headquarters, $13,958,000
White House Remote Delivery and Vehicle Maintenance Facility, $4,918,000
Federal Bureau of Investigation, Field Office, $4,419,000
Federal Office Building No. 6, $8,583,000
Florida:
Ft. Myers, U.S. Courthouse, $654,000
Hollywood, Federal Building, $1,000,000
Lakeland, Federal Building, $4,400,000
Indiana:
Hammond, U.S. Courthouse, $2,500,000
Iowa:
Burlington, Parking Facility, $2,400,000
Maryland:
Bowie, Bureau of Census, Computer Center, $660,000
New Carrollton, Internal Revenue Service, Headquarters, $30,100,000
New Hampshire:
Concord, U.S. Courthouse, $867,000
New Jersey:

Newark, Federal Building, 20 Washington Plaza, $327,000
New Mexico:
Santa Teresa, Border Station, $4,044,000
North Dakota:
Fargo, U.S. Courthouse, $2,000,000
Tennessee:
Knoxville, U.S. Courthouse, $800,000
Texas:
Del Rio, Border Station, $1,707,000.

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for asset management activities; utilization of excess and disposal of surplus personal property; transportation management activities; procurement and supply management activities; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities; the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; $130,036,000: *Provided,* That of the offsetting collections credited to this account, $172,000 are permanently canceled: *Provided further,* That no less than $825,000 shall be available for personnel and associated costs in support of Congressional District and Senate State offices without reimbursement from these offices.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $33,090,000: *Provided,* That not to exceed $5,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138; $2,215,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES OF TRANSPORTATION AUDIT CONTRACTS AND CONTRACT ADMINISTRATION

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $30,000.

GENERAL SUPPLY FUND

Of the offsetting collections credited to this account, $1,009,000 are permanently canceled.

INFORMATION RESOURCES MANAGEMENT SERVICE INFORMATION TECHNOLOGY FUND

Of the offsetting collections credited to this account, $609,000 are permanently canceled.

WORKING CAPITAL FUND

Amounts received for administrative support services provided under this head shall be credited to and merged with the Fund, to remain available until expended, for operating costs and capital outlays of the Fund and for the necessary expenses of administrative support services including accounting, budget, personnel, legal support and other related services; and the maintenance and operation of printing and reproduction facilities in support of the functions of the General Services Administration, other Federal agencies, and other entities; and other such administrative and management services that the Administrator of GSA deems appropriate and advantageous (subject to prior notice to the Office of Management and Budget): *Provided,* That entities for which such services are performed shall be charged at rates which will return in full the cost of operations.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Funds in the Federal Buildings Fund made available for fiscal year 1995 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 4. (a) Of the budgetary resources available to the General Services Administration during fiscal year 1995, $8,959,000 are permanently canceled.

(b) The Administrator of the General Services Administration shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

Rent.

SEC. 5. Rent rates charged by the General Services Administration for fiscal year 1995 shall reflect the reductions contained in the President's budget amendment dated March 16, 1994, Estimate No. 9, 103rd Congress, 2nd Session.

Arkansas.

SEC. 6. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 7. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 8. No funds made available by this Act shall be used to transmit a fiscal year 1996 request for United States Courthouse construction that does not meet the standards for construction as established by the General Services Administration and the Office of Management and Budget.

SEC. 9. The Administrator of the General Services Administration is directed to obligate the funds appropriated in Public Law 103–123 for the purposes stated in section 804 of that Act.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $24,549,000, together with not to exceed $2,250,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

FEDERAL PAYMENT TO MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

For payment by the Secretary of the Treasury to the Morris K. Udall Scholarship and Excellence in National Environmental Trust Fund, to be available for purposes as authorized by the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (Public Law 102–259), $10,000,000, to remain available until expended.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $195,238,000: *Provided,* That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to move into the facility: *Provided further,* That of the budgetary resources available in fiscal year 1995 in this account, $325,000 are permanently canceled: *Provided further,* That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further,* That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2): *Provided further,* That of the offsetting collections credited to this account, $441,000 are permanently canceled.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, $9,000,000 to remain available until expended: *Provided,* That $2,000,000 shall be a grant to the Thomas P. O'Neill, Jr. Library: *Provided further,* That $2,000,000 shall be a grant to the Robert H. and Corinne W. Michel Congressional Education Fund.

JOHN F. KENNEDY ASSASSINATION RECORDS REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses to carry out the John F. Kennedy Assassination Records Collection Act of 1992, $2,150,000, to remain available until expended.

NATIONAL ARCHIVES TRUST FUND

Amounts otherwise available for obligation in fiscal year 1995 are reduced by $16,000.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100–598, and the Ethics Reform Act of 1989, Public Law 101–194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $8,104,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $115,139,000, of which not to exceed $1,000,000 shall be made available for the establishment of health promotion and disease prevention programs for Federal employees, and in addition $93,934,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs, of which $10,956,000 shall be transferred at such times as the Office of Personnel Management deems appropriate, and shall remain available until expended for the costs of automating the retirement recordkeeping systems, together with remaining amounts authorized in previous Acts for the recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further,* That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a–7–1320a–7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1995, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

Gifts and property.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles; $4,009,000, and in addition, not to exceed $6,156,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere. Rent.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $4,210,560,000 to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $19,159,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 33 USC 776.

REVOLVING FUND

Of the offsetting collections credited to this account, $649,000 are permanently canceled.

OFFICE OF PERSONNEL MANAGEMENT

GENERAL PROVISIONS

SECTION 1. (a) Of the budgetary resources available to the Office of Personnel Management during fiscal year 1995, $1,256,000 are permanently canceled.

(b) The Director of the Office of Personnel Management shall allocate the amount of budgetary resources canceled among the agency's accounts available for procurement and procurement-

related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), and the Whistleblower Protection Act of 1989 (Public Law 101–12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $7,955,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $34,039,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

26 USC 7443 note.

This title may be cited as the "Independent Agencies Appropriations Act, 1995".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts. Public information.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services

or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6–104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 505. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any guard, elevator operator, messenger or custodial services if any permanent veterans preference employee of the General Services Administration at said date, would be terminated as a result of the procurement of such services, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92–28. Only if such workshops decline to contract for the provision of the covered services may the General Services Administration procure the services by competitive contract, for a period not to exceed 5 years. At such time as such competitive contract expires or is terminated for any reason, the General Services Administration shall again offer to contract for the services from a sheltered workshop prior to offering such services for competitive procurement.

40 USC 490c.

Contracts.

SEC. 506. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 507. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Tucson, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 508. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 509. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 510. Funds under this Act shall be available as authorized by sections 4501–4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1995.

SEC. 511. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 512. The Office of Personnel Management may, during the fiscal year ending September 30, 1995, accept donations of supplies, services, land and equipment for the Federal Executive Institute, the Federal Quality Institute, and Management Development Centers to assist in enhancing the quality of Federal management.

SEC. 513. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

Gifts and property.

SEC. 514. The United States Secret Service may, during the fiscal year ending September 30, 1995, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 515. None of the funds made available by this Act for "Allowances and Office Staff for Former Presidents" may be used for partisan political activities.

SEC. 516. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

SEC. 517. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

New Mexico. Mail. Computer technology.

SEC. 518. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

SEC. 519. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

SEC. 520. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 521. (a) None of the funds appropriated by this Act may, with respect to an individual employed by the Bureau of the Public Debt in the Washington Metropolitan Region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to a position outside such region, pursuant to a transfer of any such Bureau's operations or functions to Parkersburg, West Virginia.

(b) Subsection (a) shall not apply with respect to any individual who, on or after the date of enactment of this Act, declines an offer of another position in the Department of the Treasury which is of at least equal pay and which is within the Washington Metropolitan Region.

SEC. 522. None of the funds made available in this Act may be used to provide any non-public information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the House and Senate Committees on Appropriations.

SEC. 523. COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 524. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall

provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

Labeling.

SEC. 525. PROHIBITION OF CONTRACTS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 526. No funds appropriated by this Act may be used to relocate any Federal agency, bureau, office or other entity funded in this Act if the sole reason for the relocation is that locality pay was increased.

SEC. 527. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1995 from appropriations made available for salaries and expenses for fiscal year 1995 in this Act, shall remain available through September 30, 1996 for each such account for the purposes authorized: *Provided,* That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the expenditure of such funds.

SEC. 528. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards in the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools separately set forth in the budget schedules.

SEC. 529. LAW ENFORCEMENT EXCLUSION FROM WORKFORCE RESTRUCTURING.—(a) For the fiscal year beginning on October 1, 1994, no reductions pursuant to section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226) may be made in the number of full-time equivalent employees classified as law enforcement and law enforcement support personnel in the Department of the Treasury.

(b) During the period specified in subsection (a), no law, regulation, Executive order, guidance, or other directive imposing a restriction on hiring by executive agencies for the purpose of achieving workforce reductions shall apply to employees classified as law enforcement and law enforcement support personnel in the Department of the Treasury.

(c) Section 5(f) paragraph (3) of the Federal Workforce Restructuring Act shall not apply with respect to any instances of voluntary separation incentive payments made to Treasury law enforcement personnel.

SEC. 530. (a) Section 3056 paragraph (a), subparagraph (3) of title 18, United States Code, is amended by adding to subpara-

graph (3) following the word "remarriage", "unless the former President did not serve as President prior to January 1, 1997, in which case, former Presidents and their spouses for a period of not more than ten years from the date a former President leaves office, except that—

"(1) protection of a spouse shall terminate in the event of remarriage or the divorce from, or death of a former President; and

"(2) should the death of a President occur while in office or within one year after leaving office, the spouse shall receive protection for one year from the time of such death:

Provided, That the Secretary of the Treasury shall have the authority to direct the Secret Service to provide temporary protection for any of these individuals at any time if the Secretary of the Treasury or designee determines that information or conditions warrant such protection".

(b) Section 3056, paragraph (a) subparagraph (4) of title 18, United States Code, is amended by inserting to the text of paragraph (4), following the word "age" the following, "for a period not to exceed ten years or upon the child becoming 16 years of age, whichever comes first".

SEC. 531. The Act entitled "An Act to provide retirement, clerical assistants, and free mailing privileges to former Presidents of the United States, and for other purposes", approved August 25, 1958 (Public Law 85–745; 72 Stat. 838; 3 United States Code 102 note), is amended by adding at the end thereof the following new subsection:

"(g) There are authorized to be appropriated to the Administrator of General Services up to $1,000,000 for each former President and up to $500,000 for the spouse of each former President each fiscal year for security and travel related expenses: *Provided,* That under the provisions set forth in section 3056, paragraph (a), subparagraph (3) of title 18, United States Code, the former President and/or spouse was not receiving protection for a lifetime provided by the United States Secret Service under section 3056 paragraph (a) subparagraph (3) of title 18, United States Code; the protection provided by the United States Secret Service expired at its designated time; or the protection provided by the United States Secret Service was declined prior to authorized expiration in lieu of these funds.".

SEC. 532. Section 1 under the subheading "General Provision" under the heading "Office of Personnel Management" under title IV of the Treasury, Postal Service and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 861; 5 U.S.C. 5941 note), is amended—

(1) by striking "1995" both places it appears and inserting in lieu thereof "1996"; and

(2) by striking "adjustments" and the remainder of the sentence and inserting in lieu thereof "appropriate changes in the method of fixing compensation for affected employees, including any necessary legislative changes. Such study shall include—

"(1) an examination of the pay practices of other employers in the affected areas;

"(2) a consideration of alternative approaches to dealing with the unusual and unique circumstances of the affected areas, including modifications to the current methodology for

calculating allowances to take into account all cost of living in the geographic areas of the affected employee; and

"(3) an evaluation of the likely impact of the different approaches on the Government's ability to recruit and retain a well-qualified workforce.

For the purpose of conducting such study and preparing such report, the Office may accept and utilize (without regard to any restriction on unanticipated travel expenses imposed in an Appropriations Act) funds made available to the Office pursuant to court approval.".

Arizona. Federal buildings and facilities.

SEC. 533. (a) Facilities or buildings located at Safford, Graham County, Arizona and constructed with Federal funds made available to the General Services Administration for the United States Forest Service Administrative Offices and Cultural Center, shall be designated in honor of "Ora Webster DeConcini". Any reference to such facilities or buildings in a law, map, regulation, document, record, or other paper of the United States shall be a reference to the "Ora Webster DeConcini building(s) or facilities".

(b) The Federal Building and United States Courthouse to be located in Tucson, Arizona is hereby designated as the "Evo A. DeConcini Federal Building and United States Courthouse". Any reference to such building in a law, map, regulation, document, record, or other paper of the United States shall be a reference to the "Evo A. DeConcini Federal Building and United States Courthouse".

Arizona. Federal buildings and facilities.

SEC. 534. Notwithstanding any other provision of law, the Administrator of General Services is authorized to execute a lease, of no less than twenty years, with the city of Tucson, Arizona, or a subdivision thereof, for space to house the United States Department of Agriculture's Forest Service and other Federal tenants in an office complex to be developed by the city of Tucson on a site or sites owned by the city of Tucson and located near the intersection of Interstate Highway 10 and Congress Street in the city of Tucson, county of Pima, State of Arizona. The Administrator shall negotiate an operating lease that he deems to be in the best interests of the United States and necessary for the accommodation of Federal agencies.

Law enforcement officers. District of Columbia. Federal buildings and facilities.

SEC. 535. Notwithstanding any other provision of law or regulation: (1) The authority of the special police officers of the Bureau of Engraving and Printing, in the Washington, DC Metropolitan area, extends to buildings and land under the custody and control of the Bureau; to buildings and land acquired by or for the Bureau through lease, unless otherwise provided by the acquisition agency; to the streets, sidewalks and open areas immediately adjacent to the Bureau along Wallenberg Place (15th Street) and 14th Street between Independence and Maine Avenues and C and D Streets between 12th and 14th Streets; to areas which include surrounding parking facilities used by Bureau employees, including the lots at 12th and C Streets, SW., Maine Avenue and Water Streets, SW., Maiden Lane, the Tidal Basin and East Potomac Park; to the protection in transit of United States securities, plates and dies used in the production of United States securities, or other products or implements of the Bureau of Engraving and Printing which the Director of that agency so designates; (2) The exercise of police authority by Bureau officers, with the exception of the exercise of authority upon property under the custody and control of the Bureau, shall be deemed supplementary to the Federal police force with primary jurisdictional responsibility. This authority shall

be in addition to any other law enforcement authority which has been provided to these officers under other provisions of law or regulations.

SEC. 536. Of the unobligated balance of funds made available until expended to the United States Mint in Public Law 103–123 and in prior Appropriations Acts, not to exceed $2,066,000 shall also be available in the fiscal year ending September 30, 1994 for all purposes for which funds are appropriated under the heading "United States Mint, Salaries and expenses".

SEC. 537. Of the funds appropriated to the Office of Policy Development in title III of this Act, not to exceed $800,000 may be transferred to the "Council on Environmental Quality and Office of Environmental Quality".

SEC. 538. Notwithstanding any other provision of this Act, the Internal Revenue Service is authorized to replace no more than 850 vehicles for the criminal investigation division in fiscal year 1995. Motor vehicles.

SEC. 539. The activity referenced in section 5 of GSA's General Provisions in Public Law 103–123 (107 Stat. 1246) "Major equipment acquisitions and development activity" of the Salaries and expenses, General Management and Administration appropriation account for transfer of prior year unobligated balances of operating expenses and salaries and expenses appropriation accounts may be separately accounted for under the new Working Capital Fund enacted in this Act.

SEC. 540. Notwithstanding any other provision of law, the review being conducted by the Secretary of the Treasury regarding the September 12, 1994, air incursion into the White House complex shall be exempt from the Federal Advisory Committee Act, Public Law 92–463 (codified at title 5, United States Code, appendix 2) as amended.

SEC. 541. Section 1(a)(1) of Public Law 101–509 is amended by deleting subsection (a)(1) and inserting in lieu thereof the following: 44 USC 2102 note.

"(a)(1) The Director of the Center for Legislative Archives within the National Archives and Records Administration shall be established without regard to chapter 51 of title 5 and shall be paid at a rate determined without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 governing General Schedule classification and pay rates: *Provided,* That such pay shall be no less than 120 percent of the rate of pay for GS–15, step 1 of the General Schedule nor more than the rate of pay in effect for level one of the Senior Executive Schedule.".

TITLE VI—GOVERNMENTWIDE GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1995 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy

designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding 31 U.S.C. 1345, any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

31 USC 1343 note.

SEC. 604. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may not be exceeded by more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further,* That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 605. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

5 USC 3101 note.

SEC. 606. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975, or (6) nationals of the People's Republic of China that qualify for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements

of this section with respect to his or her status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

Law enforcement and crime.

SEC. 607. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 608. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

Recycling. Environmental protection.

(1) Acquisition, waste reduction and prevention and recycling programs as described in Executive Order 12873 (October 20, 1993), including any such programs adopted prior to the effective date of the Executive Order.

(2) Other Federal agency environmental management programs, including but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

The Administrator of General Services or his designee is authorized to transfer funds received into the Federal Buildings Fund pursuant to section 11 of GSA—General Provisions, Public Law 102-141, October 28, 1991, 105 Stat. 856, 40 U.S.C., sec. 490(f)(7) and (8), or sec. 490g, prior to the effective date of this legislation, to other Federal agencies for use by those agencies for the purposes set forth in those statutes. Such funds shall be available until expended and shall be in addition to any amounts appropriated for such purposes.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the

event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. Any department or agency to which the Administrator of General Services has delegated the authority to operate, maintain or repair any building or facility pursuant to section 205(d) of the Federal Property and Administrative Services Act of 1949, as amended, shall retain that portion of the GSA rental payment available for operation, maintenance or repair of the building or facility, as determined by the Administrator, and expend such funds directly for the operation, maintenance or repair of the building or facility. Any funds retained under this section shall remain available until expended for such purposes.

SEC. 612. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 613. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 614. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 615. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 616. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 617. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal year ending on September 30, 1995, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code— 5 USC 5343 note.

(1) during the period from the date of expiration of the limitation imposed by section 615 of the Treasury, Postal Service and General Government Appropriations Act, 1994, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 1995, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 615; and

(2) during the period consisting of the remainder of fiscal year 1995, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 1995 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 1995 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1994 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1994, shall be determined under regulations prescribed by the Office of Personnel Management. Regulations.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1994, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1994. Effective date.

(f) For the purpose of administering any provision of law (including section 8431 of title 5, United States Code, and any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 618. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate. For the purposes of this section the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

Reports.
5 USC note prec. 3341.

SEC. 619. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, the Department of Transportation, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied

to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code, shall not apply), and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 620. No funds appropriated in this or any other Act for fiscal year 1995 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.".

SEC. 621. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

Telecommunications.

SEC. 622. (a) None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89–306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

(b) After July 31, 1995, subsection (a) shall apply only if the Administrator of General Services has reported that the FTS2000 procurement is producing prices that allow the Government to satisfy its requirements for such procurement in the most cost-effective manner.

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 624. Notwithstanding section 1346 of title 31, United States Code, funds made available for fiscal year 1995 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 625. Notwithstanding any provisions of this or any other Act, during the fiscal year ending September 30, 1995, any department, division, bureau, or office may use funds appropriated by this or any other Act to install telephone lines, and necessary equipment, and to pay monthly charges, in any private residence or private apartment of an employee who has been authorized to work at home in accordance with guidelines issued by the Office of Personnel Management: *Provided,* That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

SEC. 626. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 627. None of the funds appropriated by this or any other Act may be used to relocate the Department of Justice Immigration Judges from offices located in Phoenix, Arizona to new quarters in Florence, Arizona without the prior approval of the House and Senate Committees on Appropriations.

SEC. 628. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1995 shall obligate or expend any such funds, unless such department, agency or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 629. (a)(1) Subchapter II of chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"§ 6327. Absence in connection with serving as a bone-marrow or organ donor

"(a) An employee in or under an Executive agency is entitled to leave without loss of or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance or efficiency rating, for the time necessary to permit such employee to serve as a bone-marrow or organ donor.

"(b) Not to exceed 7 days of leave may be used under this section by an employee in a calendar year.

"(c) The Office of Personnel Management may prescribe regulations for the administration of this section.".

(2)(A) Section 6129 of title 5, United States Code, is amended by inserting "6327," after "6326,".

(B) The table of sections for chapter 63 of title 5, United States Code, is amended by adding after the item relating to section 6326 the following:

"6327. Absence in connection with serving as a bone-marrow or organ donor.".

(b)(1) Section 6307 of title 5, United States Code, is amended—

(A) by redesignating subsection (c) as subsection (d);

(B) by inserting after subsection (b) the following:

"(c) Sick leave provided by this section may be used for purposes relating to the adoption of a child."; and

Government employees. Adoption.

(C) in subsection (d) (as so redesignated by subparagraph (A)) by inserting "or for purposes relating to the adoption of a child," after "ailment,".

(2) Section 6129 of title 5, United States Code, is amended by striking "6307 (a) and (c)," and inserting "6307 (a) and (d),".

(3)(A) The Office of Personnel Management shall prescribe regulations under which any employee who used or uses annual leave for an adoption-related purpose, after September 30, 1991, and before the date as of which sick leave first becomes available for such purpose as a result of the enactment of this subsection may,

Regulations. 5 USC 6307 note.

upon appropriate written application, elect to have such employee's leave accounts adjusted to reflect the amount of annual leave and sick leave, respectively, which would remain had sick leave been used instead of all or any portion of the annual leave actually used, as designated by the employee.

(B) An application under this paragraph may not be approved unless it is submitted—

(i) within 1 year after the date of the enactment of this Act or such later date as the Office may prescribe;

(ii) in such form and manner as the Office shall require; and

(iii) by an individual who is an employee as of the time of application.

(C) For the purpose of this paragraph, the term "employee" has the meaning given such term by section 6301(2) of title 5, United States Code.

Wages. Government employees. 5 USC 5303 note.

SEC. 630. (a)(1) The adjustment in rates of basic pay for the statutory pay systems that takes effect in fiscal year 1995 under section 5303 of title 5, United States Code, shall be an increase of 2 percent.

(2) For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1995 in the rates of basic pay for the statutory pay systems.

(3) For purposes of this subsection, the term "statutory pay system" shall have the meaning given such term by section 5302(1) of title 5, United States Code.

5 USC 5304 note.

(b) For purposes of any locality-based comparability payments taking effect in fiscal year 1995 under subchapter I of chapter 53 of title 5, United States Code (whether by adjustment or otherwise), section 5304(a) of such title shall be deemed to be without force or effect.

5 USC 5304 note.

(c) Notwithstanding section 5304(a)(3)(B) of title 5, United States Code, the annualized cost of pay adjustments made under section 5304 of such title in calendar year 1995 shall be equal to 0.6 percent of the estimated aggregate fiscal year 1995 executive branch civilian payroll—

(1) as determined by the pay agent (within the meaning of section 5302 of such title); and

(2) determined as if the rates of pay and comparability payments payable on September 30, 1994, had remained in effect.

5 USC 3101 note.

SEC. 631. Section 5(f) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226) is amended by adding at the end the following new paragraph:

"(3) APPLICABILITY OF BACKFILL PREVENTION PROVISIONS TO AGENCIES OTHERWISE EXEMPTED FROM FTE REDUCTION.—

"(A) IN GENERAL.—If any agency is otherwise exempted by any law from the limitations on full-time equivalent positions or the restrictions on hiring established by this section—

"(i) paragraph (1) shall apply to vacancies created in such agency; and

"(ii) the reductions required pursuant to clause (i) shall be made in the number of funded employee positions in such agency.

"(B) WAIVER AUTHORITY.—In the case of a particular position in an agency, subparagraph (A) may be waived upon a determination by the head of the agency that the performance of a critical agency mission requires the waiver.

"(C) RELATION TO OTHER LAW.—No law may be construed as suspending or modifying this paragraph unless such law specifically amends this paragraph.".

3 USC note prec. 101.

SEC. 632. (a) IN GENERAL.—Hereafter, the employment of any individual within the Executive Office of the President shall be placed on leave without pay status if the individual—

(1) has not, within 30 days of commencing such employment or by October 31, 1994 (whichever occurs later), submitted a completed questionnaire for sensitive positions (SF–86) or equivalent form; or

(2) has not, within 6 months of commencing such employment or by October 31, 1994 (whichever occurs later), had his or her background investigation, if completed, forwarded by the counsel to the President to the United States Secret Service for issuance of the appropriate access pass.

(b) EXEMPTION.—Subsection (a) shall not apply to any individual specifically exempted from such subsection by the President or his designee.

SEC. 633. LAW ENFORCEMENT AVAILABILITY PAY.

Law Enforcement Availability Pay Act of 1994.
5 USC 5541 note.

(a) SHORT TITLE.—This section may be cited as the "Law Enforcement Availability Pay Act of 1994".

(b) LAW ENFORCEMENT AVAILABILITY PAY.—

(1) IN GENERAL.—Chapter 55 of title 5, United States Code, is amended by inserting after section 5545 the following new section:

"§ 5545a. Availability pay for criminal investigators

"(a) For purposes of this section—

"(1) the term 'available' refers to the availability of a criminal investigator and means that an investigator shall be considered generally and reasonably accessible by the agency employing such investigator to perform unscheduled duty based on the needs of an agency;

"(2) the term 'criminal investigator' means a law enforcement officer as defined under section 5541(3) (other than an officer occupying a position under title II of Public Law 99–399) is required to—

"(A) possess a knowledge of investigative techniques, laws of evidence, rules of criminal procedure, and precedent court decisions concerning admissibility of evidence, constitutional rights, search and seizure, and related issues;

"(B) recognize, develop, and present evidence that reconstructs events, sequences and time elements for presentation in various legal hearings and court proceedings;

"(C) demonstrate skills in applying surveillance techniques, undercover work, and advising and assisting the United States Attorney in and out of court;

"(D) demonstrate the ability to apply the full range of knowledge, skills, and abilities necessary for cases which are complex and unfold over a long period of time (as

distinguished from certain other occupations that require the use of some investigative techniques in short-term situations that may end in arrest or detention);

"(E) possess knowledge of criminal laws and Federal rules of procedure which apply to cases involving crimes against the United States, including—

"(i) knowledge of the elements of a crime;

"(ii) evidence required to prove the crime;

"(iii) decisions involving arrest authority;

"(iv) methods of criminal operations; and

"(v) availability of detection devices;

"(F) possess the ability to follow leads that indicate a crime will be committed rather than initiate an investigation after a crime is committed;

"(3) the term 'unscheduled duty' means hours of duty a criminal investigator works, or is determined to be available for work, that are not—

"(A) part of the 40 hours in the basic work week of the investigator; or

"(B) overtime hours paid under section 5542; and

"(4) the term 'regular work day' means each day in the investigator's basic work week during which the investigator works at least 4 hours that are not overtime hours paid under section 5542 or hours considered part of section 5545a.

"(b) The purpose of this section is to provide premium pay to criminal investigators to ensure the availability of criminal investigators for unscheduled duty in excess of a 40 hour work week based on the needs of the employing agency.

"(c) Each criminal investigator shall be paid availability pay as provided under this section. Availability pay shall be paid to ensure the availability of the investigator for unscheduled duty. The investigator is generally responsible for recognizing, without supervision, circumstances which require the investigator to be on duty or be available for unscheduled duty based on the needs of the agency. Availability pay provided to a criminal investigator for such unscheduled duty shall be paid instead of premium pay provided by other provisions of this subchapter, except premium pay for regularly scheduled overtime work as provided under section 5542, night duty, Sunday duty, and holiday duty.

"(d)(1) A criminal investigator shall be paid availability pay, if the average of hours described under paragraph (2) (A) and (B) is equal to or greater than 2 hours.

"(2) The hours referred to under paragraph (1) are—

"(A) the annual average of unscheduled duty hours worked by the investigator in excess of each regular work day; and

"(B) the annual average of unscheduled duty hours such investigator is available to work on each regular work day upon request of the employing agency.

"(3) Unscheduled duty hours which are worked by an investigator on days that are not regular work days shall be considered in the calculation of the annual average of unscheduled duty hours worked or available for purposes of certification.

"(4) An investigator shall be considered to be available when the investigator cannot reasonably and generally be accessible due to a status or assignment which is the result of an agency direction, order, or approval as provided under subsection (f)(1).

"(e)(1) Each criminal investigator receiving availability pay under this section and the appropriate supervisory officer, to be designated by the head of the agency, shall make an annual certification to the head of the agency that the investigator has met, and is expected to meet, the requirements of subsection (d). The head of a law enforcement agency may prescribe regulations necessary to administer this subsection.

"(2) Involuntary reduction in pay resulting from a denial of certification under paragraph (1) shall be a reduction in pay for purposes of section 7512(4) of this title.

"(f)(1) A criminal investigator who is eligible for availability pay shall receive such pay during any period such investigator is—

"(A) attending agency sanctioned training;

"(B) on agency approved sick leave or annual leave;

"(C) on agency ordered travel status; or

"(D) on excused absence with pay for relocation purposes.

"(2) Notwithstanding paragraph (1)(A), agencies or departments may provide availability pay to investigators during training which is considered initial, basic training usually provided in the first year of service.

"(3) Agencies or departments may provide availability pay to investigators when on excused absence with pay, except as provided in paragraph (1)(D).

"(g) Section 5545(c) shall not apply to any criminal investigator who is paid availability pay under this section.

"(h) Availability pay under this section shall be—

"(1) 25 percent of the rate of basic pay for the position; and

"(2) treated as part of the basic pay for purposes of—

"(A) sections 5595(c), 8114(e), 8331(3), 8431, and 8704(c); and

"(B) such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.".

(2) LIMITATION ON PREMIUM PAY.—Section 5547(a) of title 5, United States Code, is amended in the first sentence by inserting "5545a," after "5545 (a), (b), and (c),".

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5545 the following new item:

"5545a. Availability pay for criminal investigators.".

(c) COMPUTATION OF OVERTIME RATES.—Section 5542 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In applying subsection (a) of this section with respect to any criminal investigator who is paid availability pay under section 5545a—

"(1) such investigator shall be compensated under such subsection (a), at the rates there provided, for overtime work which is scheduled in advance of the administrative workweek—

"(A) in excess of 10 hours on a day during such investigator's basic 40 hour workweek; or

"(B) on a day outside such investigator's basic 40 hour workweek; and

"(2) such investigator shall be compensated for all other overtime work under section 5545a.".

(d) EXEMPTIONS FROM CERTAIN FAIR LABOR STANDARDS.—Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended—

(1) in subsection (a)—

(A) in paragraph (15) by striking out the period and inserting in lieu thereof a semicolon and "or"; and

(B) by adding at the end thereof the following new paragraph:

"(16) a criminal investigator who is paid availability pay under section 5545a of title 5, United States Code."; and

(2) in subsection (b)—

(A) in paragraph (28) by striking out "or" after the semicolon;

(B) in paragraph (29) by striking out the period and inserting in lieu thereof a semicolon and "or"; and

(C) by adding at the end thereof the following new paragraph:

"(30) a criminal investigator who is paid availability pay under section 5545a of title 5, United States Code.".

5 USC 5545a note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period which begins on or after the later of October 1, 1994, or the 30th day following the date of enactment of this Act, except that:

(1) Criminal investigators, employed in Offices of Inspectors General, who are not receiving administratively uncontrollable overtime compensation or who are receiving such premium pay at a rate less than 25 percent prior to the date of enactment of this Act, may implement availability pay at any time prior to September 30, 1995, after which date availability pay as authorized under this section shall be provided to such criminal investigators.

(2) Criminal investigators, employed by Offices of Inspectors General, who are receiving administratively uncontrollable overtime at a rate less than 25 percent, shall continue to receive this compensation at the same rate or higher until availability pay compensation is provided, which shall be no later than the last pay period ending on or before September 30, 1995.

5 USC 5345a note.

(f) Not later than the effective date of this section, each criminal investigator under section 5545a of title 5, United States Code, as added by this section, and the appropriate supervisory officer, to be designated by the head of the agency, shall make an initial certification to the head of the agency that the criminal investigator is expected to meet the requirements of subsection (d) of such section 5545a. The head of a law enforcement agency may prescribe procedures necessary to administer this paragraph.

SEC. 634. (a) Section 5704 of title 5, United States Code, is amended to read as follows:

"(a)(1) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of a privately owned automobile when that mode of transportation is authorized or approved as more advantageous to the Government. In any year in which the Internal

Revenue Service establishes a single standard mileage rate for optional use by taxpayers in computing the deductible costs of operating their automobiles for business purposes, the rate per mile established by the Administrator shall not exceed the single standard mileage rate established by the Internal Revenue Service.

"(2) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of a privately owned airplane or a privately owned motorcycle when that mode of transportation is authorized or approved as more advantageous to the Government.

"(b) A determination that travel by a privately owned vehicle is more advantageous to the Government is not required under subsection (a) of this section when payment on a mileage basis is limited to the cost of travel by common carrier including per diem.

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section, in any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by a Government vehicle.

"(d) In addition to the rate per mile authorized under subsection (a) of this section, the employee may be reimbursed for—

"(1) parking fees;

"(2) ferry fees;

"(3) bridge, road, and tunnel costs; and

"(4) airplane landing and tie-down fees.".

(b) Section 5707(b) of title 5, United States Code, is amended to read as follows:

"(b) The Administrator of General Services shall prescribe the mileage reimbursement rates for use on official business of privately owned airplanes, privately owned automobiles, and privately owned motorcycles while engaged on official business as provided for in section 5704 of this title as follows:

Reports.

"(1)(A) The Administrator of General Services, in consultation with the Comptroller General of the United States, the Secretary of Transportation, the Secretary of Defense, and representatives of organizations of employees of the Government, shall conduct periodic investigations of the cost of travel and the operation of privately owned vehicles to employees while engaged on official business, and shall report the results of such investigations to Congress at least once a year.

"(B) In conducting the periodic investigations, the Administrator shall review and analyze among other factors—

"(i) depreciation of original vehicle cost;

"(ii) gasoline and oil (excluding taxes);

"(iii) maintenance, accessories, parts, and tires;

"(iv) insurance; and

"(v) State and Federal taxes.

Regulations.

"(2)(A) The Administrator shall issue regulations under this section which—

"(i) shall prescribe a mileage reimbursement rate which reflects the current costs as determined by the Administrator of operating privately owned automobiles, and which shall not exceed, as provided in section 5704(a)(1) of this

title, the single standard mileage rate established by the Internal Revenue Service, and

"(ii) shall prescribe mileage reimbursement rates which reflect the current costs as determined by the Administrator of operating privately owned airplanes and motorcycles.

"(B) At least once each year after the issuance of the regulations described in subparagraph (A) of this paragraph, the Administrator shall determine, based upon the results of the cost investigation, specific figures, each rounded to the nearest half cent, of the average, actual cost per mile during the period for the use of a privately owned airplane, automobile, and motorcycle.

Reports.

"(C) The Administrator shall report the specific figures to Congress not later than five working days after the Administrator makes the cost determination. Each such report shall be printed in the Federal Register.

Federal Register, publication.

"(D) The mileage reimbursement rates contained in the regulations prescribed under this section shall be adjusted within thirty days following the submission of the report under subparagraph (C) of this paragraph.".

(c) Section 5707 of title 5, United States Code, is amended by striking paragraph (c)(2), and redesignating (c)(1) as subsection (c).

SEC. 635. SENSE OF THE SENATE REGARDING CANADA'S RESTRICTIONS ON IMPORTS OF UNITED STATES CHICKENS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The United States chicken industry is a highly competitive and growing industry which employs over 200,000 people, has over 25,000 family farms, and has significant production in over 28 States.

(2) United States exports of chickens grew by 32 percent in volume in 1993 and exports are increasingly important to the continued economic vitality of the chicken industry.

(3) Canada's chicken supply management system has severely limited the importation of United States chickens to Canada since it was imposed over 15 years ago, and its elimination would lead to between $350,000,000 and $700,000,000 in new exports to Canada and between 7,000 and 14,000 new jobs in the United States.

(4) Canada's chicken supply management system protects Canadian chicken growers while seriously hurting both United States and Canadian food processors, retailers, and consumers.

(5) The United States and Canada have a free trade agreement which calls for the elimination of all tariffs and prohibits the imposition of new tariffs on any goods traded bilaterally.

(6) The goals of the Uruguay Round Agreement on Agriculture are to liberalize and expand trade in agriculture and to eliminate distortions to such trade.

(7) Canada refused to negotiate the issue of elimination of its severe trade restrictions on the importation of United States chickens as part of the North American Free Trade Agreement (hereafter referred to as "NAFTA") because the issue was part of the global trade negotiations under the Uruguay Round.

(8) The Uruguay Round has now concluded and the former and current United States Trade Representative, as well as other key cabinet-level officials, have stated that Canada will be in violation of its NAFTA obligations if it does not eliminate its newly imposed tariffs on chickens.

(9) The United States chicken industry has waited patiently for access to Canadian markets, which would be the United States largest export market for chickens if it were fully open.

(10) NAFTA should lead to free and completely open trade for the chicken industry between the United States and Canada, as it will between the United States and Mexico.

(11) The United States and Canada are currently holding discussions to resolve this and other bilateral agricultural matters.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the United States should reserve all current and future rights to bring Canada into compliance with its tariff obligations under NAFTA, including the use of bilateral or multilateral dispute settlement proceedings; and

(2) any agreement that is negotiated between the United States and Canada on chickens should lead to—

(A) substantial and immediate new market access opportunities for United States chicken exports in excess of the levels that have already been achieved; and

(B) a commitment from Canada before the effective date of the Uruguay Round Agreements which—

(i) establishes a timeframe for the elimination of all of Canada's tariffs on chickens; and

(ii) provides for growth in market access levels for United States chicken exports to Canada during the period such tariffs are being phased out.

SEC. 636. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly responsible for the discharge of official governmental tasks and duties: *Provided,* That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designee(s), persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 637. CONGRESSIONAL AWARD PROGRAM MEDALS.—Section 3 of the Congressional Award Act (2 U.S.C. 802) is amended—

(1) in subsection (a)—

(A) by striking "gold, silver, and bronze"; and

(B) by striking the last sentence and inserting the following: "Each medal shall consist of gold-plate over bronze, rhodium over bronze, or bronze and shall be struck in accordance with subsection (f)."; and

(2) by adding at the end the following new subsection:

"(f) CONGRESSIONAL AWARD PROGRAM MEDALS.—

"(1) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medals described in subsection (a) and awarded by the Board under this Act. Subject to subsection (a), the medals shall be of such quantity, design, and specifications as the Secretary of the Treasury may determine, after consultation with the Board.

"(2) NATIONAL MEDALS.—The medals struck pursuant to this Act are National medals for purposes of chapter 51 of title 31, United States Code.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be charged against the Numismatic Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.".

5 USC 7301 note.

SEC. 638. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

SEC. 639. Section 3626, paragraph (j)(1), subparagraph (D), of title 39, United States Code is amended by—

(a) deleting the final "." from (II) and adding "; and"; and

(b) adding "(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications: *Provided,* That such changes in law shall take effect immediately and shall stay in effect hereafter unless the Congress enacts legislation on this matter prior to October 1, 1995.

Effective date.

Claims.

SEC. 640. In the administration of section 3702 of title 31, United States Code, the Comptroller General of the United States shall apply a 6-year statute of limitations to any claim of a Federal employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) for claims filed before June 30, 1994.

SEC. 641. The Bureau of the Public Debt is authorized to pay in advance or reimburse any Treasury organization, an amount not to exceed one year of salary and benefits for each Public Debt employee hired by that organization described in section 521(a) of this Act.

SEC. 642. Chapter 63 of title 5 of the United States Code is amended by adding, following the word "Forces" in section 6326, a new section 6327 to read as follows:

"§ 6327. Absence in connection with funerals of fellow Federal law enforcement officers

"A Federal law enforcement officer or a Federal firefighter may be excused from duty without loss of, or reduction in, pay or leave to which such officer is otherwise entitled, or credit for time or service, or performance or efficiency rating, to attend the funeral of a fellow Federal law enforcement officer or Federal firefighter, who was killed in the line of duty. When so excused from duty, attendance at such service shall for the purposes of section 1345(a) of title 31, be considered to be an official duty of the officer or firefighter.".

SEC. 643. Of the amount appropriated for "Government Payment for Annuitants, Employee Life Insurance" under this Act, such sums as may be necessary for such payments for the period September 15 through 30, 1994 shall become available upon enactment of this Act.

Reports.

SEC. 644. (a) The Office of Management and Budget shall report to the Congress no later than November 1, 1994, for each

agency for which the budgetary resources available to the agency in fiscal year 1995 would be canceled in an appropriations Act to achieve savings in procurement and procurement-related expenses, of the manner in which these savings are to be achieved.

(b) Notwithstanding any other provision of law, each agency for which the budgetary resources available to the agency in fiscal year 1995 would be canceled in an appropriations Act to achieve savings in procurement and procurement-related expenses, such cancellation shall occur on November 30, 1994, or 30 days after the Office of Management and Budget submits the report required by subsection (a) of this section, whichever date is earlier.

TITLE VII

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT FUNDING

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Office of Enforcement to oversee the implementation of the Violent Crime Control and Law Enforcement Act of 1994 as it relates to the jurisdiction of the Department of the Treasury, $2,400,000, to remain available until expended, to be derived from balances available in the Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For salaries and expenses to implement the gateway network and other related financial intelligence and enforcement activities, $2,700,000, to remain available until expended to be derived from balances available in the Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For salaries and expenses for enforcing Federal firearms provisions and Public Law 103–159, $7,000,000 to be derived from balances available in the Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

GANG RESISTANCE EDUCATION AND TRAINING

For grants to communities and police agencies for the establishment of gang resistance education and training programs to be designated by the Director of the Bureau of Alcohol, Tobacco and Firearms, $9,000,000 to be derived from balances available in the

Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For salaries and expenses for expanding border and port enforcement activities, $4,000,000 to be derived from balances available in the Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

INTERNAL REVENUE SERVICE

TAX LAW ENFORCEMENT

For tax law enforcement for combating public corruption and enhancing illegal tax enforcement activities, $7,000,000 to be derived from balances available in the Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For salaries and expenses $6,600,000, of which $5,000,000 shall be available for combating the counterfeiting of United States currency, and of which $1,600,000, to remain available until expended, shall be available for the hiring, training, and equipping of 18 additional full-time equivalent positions for improving forensic capabilities which will assist in the investigations of missing and exploited children to be derived from balances available in the Violent Crime Reduction Trust Fund, as authorized by title XXXI of the Violent Crime Control and Law Enforcement Act of 1994.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1995".

Approved September 30, 1994.

LEGISLATIVE HISTORY—H.R. 4539:

HOUSE REPORTS: Nos. 103-534 and Pt. 2 both from (Comm. on Appropriations) and 103-729 and 103-741 both from (Comm. of Conference)
SENATE REPORTS: No. 103-286 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 15, considered and passed House.
June 20-22, considered and passed Senate, amended.
Sept. 22, House recommitted conference report.
Sept. 27, House agreed to conference report.
Sept. 28, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement

Public Law 103-330
103d Congress

An Act

Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes.

Sept. 30, 1994
[H.R. 4554]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes, namely:

Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $75,000 for employment under 5 U.S.C. 3109, $2,801,000: *Provided,* That not to exceed $11,000 of this amount, along with any unobligated balances of representation funds in the Foreign Agricultural Service shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further,* That the Secretary may transfer salaries and expenses funds in this Act sufficient to finance a total of not to exceed 35 staff years between agencies of the Department of Agriculture to meet workload requirements.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,795,000.

CHIEF FINANCIAL OFFICER

For necessary expenses of the Chief Financial Officer to carry out the mandates of the Chief Financial Officers Act of 1990, $580,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $596,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Department of Agriculture which are included in this Act, $106,571,000, of which $18,614,000 shall be retained by the Department of Agriculture for the operation, maintenance, and repair of Agriculture buildings: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 5 per centum of the funds made available for space rental and related costs to or from this account. In addition, for construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the programs of the Department, where not otherwise provided, $28,622,000, to remain available until expended; making a total appropriation of $135,193,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of advisory committees of the Department of Agriculture which are included in this Act, $928,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of advisory committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $15,700,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Finance and Management, $4,477,000, for Personnel, Operations, Information Resources Management, Civil Rights Enforcement, Small and Disadvantaged Business Utilization, Administrative Law Judges and Judicial Officer, and Emergency

Programs, $21,710,000; making a total of $26,187,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $1,764,000.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,198,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $63,418,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $25,992,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $540,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $53,936,000; of which $500,000 shall be available for investigation, determination, and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $81,424,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)), $2,498,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $520,000.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5908), $6,500,000 is appropriated to the Alternative Agricultural Research and Commercialization Revolving Fund.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $696,382,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations shall not apply to the purchase of land at Parlier, California, Beckley, West Virginia and Grand Forks, North Dakota: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establish-

7 USC 2254.

7 USC 225..

ing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $43,718,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $171,304,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $20,809,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a–582–a7), as amended, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $28,157,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $52,295,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); $103,123,000 for competitive research grants under section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), including administrative expenses; $5,551,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95–113, including administrative expenses; $1,318,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319d); $500,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $8,990,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i(c)); $3,500,000 for higher education graduate fellowships grants under section 1417(b)(6) of the National Agricultural Research, Extension, and

Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)), including administrative expenses, to remain available until expended (7 U.S.C. 2209b); $4,350,000 for higher education challenge grants under section 1417(b)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(1)), including administrative expenses; $1,000,000 for a higher education minority scholars program under section 1417(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(5)), including administrative expenses, to remain available until expended (7 U.S.C. 2209b); $4,000,000 for aquaculture grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322), and other Acts; $8,112,000 for sustainable agriculture research and education, as authorized by section 1621 of Public Law 101–624 (7 U.S.C. 5811), including administrative expenses; and $19,954,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $9,917,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, to remain available until expended (7 U.S.C. 2209b), of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $433,438,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension, and teaching programs of the Department of Agriculture, where not otherwise provided, $62,744,000, to remain available until expended (7 U.S.C. 2209b).

EXTENSION SERVICE

Payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $272,582,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $61,431,000; payments for the pest management program under section 3(d) of the Act, $10,947,000, of which up to $125,000 may be transferred to the Cooperative State Research Service; payments for the farm safety and rural health programs under section 3(d) of the Act, $2,988,000; payments for the pesticide impact assessment program under sec-

tion 3(d) of the Act, $3,363,000; payments to upgrade 1890 land-grant college research and extension facilities as authorized by section 1447 of Public Law 95–113, as amended (7 U.S.C. 3222b), $7,901,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for a groundwater quality program under section 3(d) of the Act, $11,234,000; payments for the Agricultural Telecommunications Program, as authorized by Public Law 101–624 (7 U.S.C. 5926), $1,221,000; payments for youth-at-risk programs under section 3(d) of the Act, $10,000,000; payments for a Nutrition Education Initiative under section 3(d) of the Act, $4,265,000; payments for a food safety program under section 3(d) of the Act, $2,475,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $3,341,000; payments for Indian reservation agents under section 3(d) of the Act, $1,750,000; payments for sustainable agriculture programs under section 3(d) of the Act, $3,463,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,750,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $25,472,000; and for Federal administration and coordination including administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $12,611,000; in all, $438,744,000: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $18,307,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $900,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $462,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818), in addition to other funds available in this appropriation for grants under this section.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection

Service, Federal Grain Inspection Service, Agricultural Marketing Service, and Packers and Stockyards Administration, $605,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $443,651,000, of which $96,660,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account, and of which $4,938,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That, if the demand for Agricultural Quarantine Inspection (AQI) user fee financed services is greater than expected and/or other uncontrollable events occur, the Agency may exceed the AQI User Fee limitation by up to 20 per centum, provided such funds are available in the Agricultural Quarantine Inspection User Fee Account, and with notification to the Appropriations Committees: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 21 USC 129.

In fiscal year 1995 the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods,

or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $6,973,000, to remain available until expended.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $516,738,000, and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1017 of Public Law 102–237: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $11,325,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $42,784,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur,

this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, agricultural cooperatives, and regulatory programs, as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $56,591,000; including funds for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $57,054,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,309,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

In fiscal year 1996, section 32 funds shall be used to promote sunflower and cottonseed oil exports to the full extent authorized by section 1541 of Public Law 101–624 (7 U.S.C. 1464 note), and such funds shall be used to facilitate additional sales of such oils in world markets.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activi-

ties under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,200,000.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $11,989,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, and the Commodity Credit Corporation, $549,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970, as amended (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); title XII of the Food Security Act of 1985, as amended (16 U.S.C. 3811 et seq.); and laws pertaining to the Commodity Credit Corporation, $717,958,000; of which $716,333,000 is hereby appropriated, and $1,036,000 is transferred from the Public Law 480 Program Account in this Act and $589,000 is transferred from the Commodity Credit Corporation Program Account in this Act: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no

part of the funds made available under this Act shall be used: (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $68,884,000: *Provided,* That until October 1, 1995, the Secretary of Agriculture may collect and use such sums as may be necessary for the delivery of catastrophic risk protection under subsections (b) and (c) of section 508 of the Federal Crop Insurance Act, as that Act would be amended by section 6(a)(3) of H.R. 4217 as passed by the House on August 5, 1994, if such provision or similar provision is enacted into law: *Provided further*, That in addition to amounts otherwise appropriated in this Act, there are hereby appropriated such sums as may be necessary to carry out the purposes of the crop insurance fund established under section 516 of the Federal Crop Insurance Act, as that Act would be amended by sections 8 (b) and (c) of H.R. 4217, if such provision or similar provision is enacted into law: *Provided further,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i): *Provided further,* That none of the funds in this Act may be used to offer a Federal crop insurance policy in counties on crops where a loss ratio, that has already been recalculated pursuant to law to reflect the premium rates issued by the Corporation for the 1994 crop year, is in excess of 1.10 more than 70 percent of the years that a policy has been offered since 1980: *Provided further,* That none of the funds in this Act may be used to pay operating and administrative costs that exceed 31 per centum of premium to insurers of policies on which the Corporation provides reinsurance, except to reimburse said insurers for excess loss adjustment expenses as provided for in the Standard Reinsurance Agreement issued by the Corporation: *Provided further,* That the fourth proviso shall not apply in any county affected if the Corporation has implemented a nonstandard classification system in such county for those individual farms that have experienced excessive losses since 1980 under which the premium rates, notwithstanding the provision of section

508(d) of the Federal Crop Insurance Act, are increased over comparable rates effective for the 1994 crop, or the insured yields are decreased from comparable yields for the 1994 crop, or a combination of both, by an amount or amounts sufficient to ensure that an estimated loss ratio will not exceed 1.1 for the crop produced on such farms during the 1995 crop year.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $219,107,000, to remain available until expended (7 U.S.C. 2209b).

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1995, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $15,500,000,000 in the President's fiscal year 1995 Budget Request (H. Doc. 103–179)), but not to exceed $15,500,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1995, the Commodity Credit Corporation shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided,* That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation in this Act.

DISASTER ASSISTANCE

Such sums as may be necessary from the Commodity Credit Corporation shall be available, through July 15, 1995, to producers under the same terms and conditions authorized in chapter 3, subtitle B, title XXII of Public Law 101–624 for 1994 crops, including aquaculture and excluding ornamental fish, affected by natural disasters: *Provided,* That these funds shall be made available upon enactment of this Act: *Provided further,* That such funds shall also be available for payments to producers for 1995 through 1996 orchard crop losses, if the losses are due to freezing conditions incurred between January 1, 1994 and March 31, 1994, and Federal crop insurance is not available for affected orchard crop producers: *Provided further,* That such funds shall also be available to fund the costs of replanting, reseeding, or repairing damage to commercial trees, including orchard and nursery inventory, as a result of 1994 weather-related damages: *Provided further,* That the terms and conditions of section 521, paragraphs (a) (3) and (4), paragraph (b)(3), subparagraph (c)(2)(C), and subsections (d) and (e), as amended in section 201 of S. 2095 (as reported by the Committee on

Agriculture, Nutrition, and Forestry on June 22, 1994) shall apply to all claims for assistance made under this paragraph: *Provided further*, That such amounts and uses of funds made available under this paragraph are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, and that such funds and uses shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

TITLE II—CONSERVATION PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $677,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $556,062,000, and the unobligated and uncommitted portion of the fiscal year 1994 appropriation for the Conservation Reserve Program shall be transferred to this account, to remain available until expended (7 U.S.C. 2209b); of which not less than $5,756,000 is for snow survey and water forecasting and not less than $8,070,000 is for operation and establishment of the plant materials centers: *Provided,* That except for $3,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal

16 USC 590e-1.

land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service.

16 USC 590e-2

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $12,970,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $10,546,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $70,000,000, to remain available until expended (7 U.S.C. 2209b) (of which $10,000,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That, for fiscal year 1995 only, not to exceed 10 per centum of the foregoing amounts shall be available for allocation to any one State: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other

suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $32,845,000, to remain available until expended (7 U.S.C. 2209): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $15,172,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $100,000,000, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers,

lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That not to exceed $15,000,000 of the amount appropriated shall be used for water quality payments and practices in the same manner as permitted under the program for water quality authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985, as amended (16 U.S.C. 3838 et seq.).

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $6,625,000, to remain available until expended, as authorized by that Act.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $4,500,000 to remain available until expended (7 U.S.C. 2209b), to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated

costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831–3845), $1,743,274,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, and for annual rental payments provided in such contracts, and for technical assistance.

WETLANDS RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Wetlands Reserve Program pursuant to subchapter C of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837), $93,200,000, to remain available until expended: *Provided,* That the Secretary is authorized to use the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of carrying out the Wetlands Reserve Program.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $568,000.

RURAL DEVELOPMENT ADMINISTRATION

The Secretary may transfer funds from the Farmers Home Administration in this Act to fund the Rural Development Administration, as authorized by law.

RURAL DEVELOPMENT ADMINISTRATION AND FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the Rural Housing Insurance Fund, as follows: $2,200,000,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,000,000,000 shall be for unsubsidized guaranteed loans; $35,000,000 for section 504 housing repair loans; $15,915,000 for section 514 farm labor housing; $220,000,000 for section 515 rental housing; and $632,000 for site loans: *Provided,* That up to $48,650,000 of these funds shall be made available for section 502(g), Deferral Mortgage Demonstration.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: low-income section 502 loans, $244,720,000 of which $17,200,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $11,690,000; section 514 farm labor housing, $7,911,000; and section 515 rental housing, $115,500,000.

In addition, for the cost (as defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans under a demonstration program of loan guarantees for multifamily rental housing in rural areas, $1,000,000, to be derived from the amount made available under this heading for the cost of low-income section 502 loans and to become available for obligation only upon the enactment of authorizing legislation.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $389,818,000.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, as amended, $523,008,000; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the Rental Assistance Program under section 521(a)(2) of the Act: *Provided,* That of this amount not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further,* That agreements entered into or renewed during fiscal year 1995 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

SELF-HELP HOUSING LAND DEVELOPMENT FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct loans, as authorized by section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $603,000.

For the cost of direct loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, $11,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $14,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $618,755,000, of which $540,674,000 shall be for guaranteed loans; operating loans, $2,465,000,000, of which $1,735,000,000 shall be for unsubsidized guaranteed loans and $230,000,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; and for emergency insured loans, $100,000,000 to meet the needs resulting from natural disasters.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $31,853,000, of which $20,870,000 shall be for guaranteed loans; operating loans, $95,340,000, of which $9,360,000 shall be for unsubsidized guaranteed loans and $29,425,000 shall be for subsidized guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $123,000; and for emergency insured loans, $26,290,000 to meet the needs resulting from natural disasters.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $243,766,000.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661–664, as amended, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $905,523,000; community facility loans, $300,000,000, of which $75,000,000 shall be for guaranteed loans; and guaranteed industrial development loans, $500,000,000: *Provided,* That none of the funds made available in this Act may be used to make transfers between the above limitations: *Provided further,* That of the amounts appropriated above, $17,000,000 of direct water and sewer facility, $7,800,000 of direct community facility, and $11,000,000 of guaranteed industrial development loan funds shall be available through July 30, 1995, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct water and sewer facility loans, $126,502,000; direct community facility loans, $21,375,000; guaranteed community facility loans, $3,728,000; and

guaranteed industrial development loans, $4,750,000: *Provided,* That of the amounts appropriated in this paragraph, $2,360,000 for direct water and sewer facility loans, $741,000 for direct community facility, and $103,000 for guaranteed industrial development loans shall be available through July 30, 1995, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $57,294,000.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For the cost of direct loans, $46,000,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of $88,038,000: *Provided further,* That through July 30, 1995, of these amounts, $5,519,000 shall be available for the cost of direct loans, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, to subsidize gross obligations for the principal amount of direct loans, $10,565,000.

In addition, for administrative expenses necessary to carry out the direct loan programs, $1,476,000.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,000,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to section 306(a)(2) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $500,000,000, to remain available until expended, pursuant to section 306(d) of the above Act of which $19,047,000 shall be available, through July 30, 1995, for empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993, and of which $25,000,000 shall be available for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C: *Provided,* That, with the exception of the foregoing $19,047,000, and the foregoing $25,000,000, these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $24,900,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the

Housing Act of 1949, as amended (42 U.S.C. 1486), $10,900,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $12,650,000, to remain available until expended (7 U.S.C. 2209b).

RURAL WATER AND WASTE DISPOSAL GRANTS

Notwithstanding any other provision of law, the Secretary may use 1980 or 1990 census information for grant eligibility of projects submitted to the agency prior to the availability of 1990 census information in amounts not to exceed total project cost overruns.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,400,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $495,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98–181), $22,000,000.

RURAL BUSINESS ENTERPRISE GRANTS

For grants authorized under section 310B(c) and 310B(j) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act to any qualified public or private nonprofit organization, $47,500,000, of which $1,000,000 shall be available to carry out the Northern Great Plains Rural Development Act (if enacted); and of which $9,500,000 shall be available through July 30, 1995, for assistance to empowerment zones and enterprise communities, as authorized by title XIII of the Omnibus Budget Reconciliation Act of 1993: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance and training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development.

SOLID WASTE MANAGEMENT GRANTS

For grants for pollution abatement and control projects authorized under section 310B(b) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act, $2,995,000: *Provided,* That such assistance shall include regional technical assistance for improvement of solid waste management.

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $2,995,000, to remain available until expended.

RURAL TECHNOLOGY AND COOPERATIVE DEVELOPMENT GRANTS

For grants pursuant to section 310(f) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)), $1,750,000.

LOCAL TECHNICAL ASSISTANCE AND PLANNING GRANTS

For grants pursuant to section 306(a)(11)(A) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)), $1,750,000.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title III–A of the Economic Opportunity Act of 1964 (Public Law 88–452 approved August 20, 1964), as amended; the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451–457); and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), and such other programs which the Farmers Home Administration has the responsibility for administering, $700,585,000; of which $37,811,000 is hereby appropriated, $374,255,000 shall be derived by transfer from the Rural Housing Insurance Fund Program Account in this Act and merged with this account, $229,735,000 shall be derived by transfer from the Agriculture Credit Insurance Fund Program Account in this Act and merged with this account, $57,294,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account in this Act and merged with this account, $1,476,000 shall be derived by transfer from the Rural Development Loan Fund Program Account in this Act and merged with this account, and $14,000 shall be derived by transfer from the Self-Help Housing Land Development Fund Program Account in this Act and merged with this account: *Provided,* That not to exceed $515,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $4,263,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That not to exceed $2,000,000 shall be available through

cooperative agreements to assist in developing efforts to provide information and technical assistance to traditionally underrepresented communities to encourage business community development.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: 5 percent rural electrification loans, $100,000,000; 5 percent rural telephone loans, $75,000,000; cost of money rural telephone loans, $297,000,000; municipal rate rural electric loans, $575,250,000; and loans made pursuant to section 306 of that Act, $420,000,000, to remain available until expended.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), as follows: cost of direct loans, $15,200,000; cost of municipal rate loans, $46,020,000; cost of money rural telephone loans, $60,000; cost of loans guaranteed pursuant to section 306, $450,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,982,000.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1995 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $175,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $770,000.

In addition, for administrative expenses necessary to carry out the loan programs, $8,794,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

For necessary expenses to carry into effect the programs authorized in sections 2331–2335 of Public Law 101–624, $7,500,000, to remain available until expended.

REA ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

For gross obligations for the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $12,865,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $3,077,000.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), and for which commitments were made prior to fiscal year 1994, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $38,776,000; of which $29,982,000 shall be derived by transfer from the Rural Electrification and Telephone Loans Program Account in this Act and $8,794,000 shall be derived by transfer from the Rural Telephone Bank Program Account in this Act: *Provided,* That none of the funds in this Act may be used to authorize the transfer of additional funds to this account from the Rural Telephone Bank.

TITLE IV—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $540,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789); $7,451,351,000, to remain available through September 30, 1996, of which $2,202,274,000 is hereby appropriated and $5,249,077,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That up to $3,849,000 shall be available for independent verification of school food service claims: *Provided further,* That $1,853,000 shall be available to provide financial and other assistance to operate the Food Service Management Institute: *Provided further,* That $500,000 shall be available to provide grants to States for non-recurring costs in providing for the special dietary needs of children with disabilities.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966

(42 U.S.C. 1772), $18,089,000, to remain available through September 30, 1996.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $3,470,000,000, to remain available through September 30, 1996, of which up to $6,750,000 may be used to carry out the farmers' market coupon program: *Provided,* That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $84,500,000, to remain available through September 30, 1996: *Provided,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2029), and section 601 of Public Law 96–597 (48 U.S.C. 1469d), $28,830,710,000: *Provided,* That funds provided herein shall remain available through September 30, 1995, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That $2,500,000,000 of the foregoing amount shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $1,143,000,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028, of which $12,472,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project: *Provided further,* That none of the funds in this Act shall be used to cash out food stamp benefits beyond a total of 25 projects and the total participation in such projects shall not exceed 3 per centum of the estimated national household level participating in the Food Stamp Program.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013(b)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C.

3030a), $183,154,000, to remain available through September 30, 1996.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $40,000,000.

THE EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Emergency Food Assistance Act of 1983, as amended, $40,000,000: *Provided,* That, in accordance with section 202 of Public Law 98–92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Emergency Food Assistance Act of 1983, as amended, $25,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $106,465,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $128,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $118,011,000, of which $4,914,000 may be transferred from Commodity Credit Corporation funds, $2,792,000 may be transferred from the Commodity Credit Corporation Program Account in this Act, and $1,425,000 may be transferred from the Public Law 480 Program Account in this Act: *Provided,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Service may

utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

None of the funds in the foregoing paragraph shall be available to promote the sale or export of tobacco or tobacco products.

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

LIMITATION ON ADMINISTRATIVE EXPENSES

For payments in foreign currencies owed to or owned by the United States for research activities authorized by section 104(c)(7) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(c)(7)), not to exceed $1,062,000: *Provided,* That not to exceed $25,000 of these funds shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

PUBLIC LAW 480 PROGRAM ACCOUNTS

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $291,342,000 for Public Law 480 title I credit, including Food for Progress programs; (2) $29,000,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $821,100,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $157,442,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided,* That not to exceed 15 per centum of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further,* That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $236,162,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $2,461,000.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit

guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING DEMOCRACIES EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its Export Guarantee Program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging democracies, as authorized by section 1542 of Public Law 101–624 (7 U.S.C. 5622 note).

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out CCC's Export Guarantee Program, GSM 102 and GSM 103, $3,381,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which not to exceed $2,792,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Foreign Agricultural Service, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Agricultural Stabilization and Conservation Service.

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $899,394,000, of which not to exceed $79,423,000 in fees pursuant to section 736 of the Federal Food, Drug, and Cosmetic Act may be credited to this appropriation and remain available until expended: *Provided,* That fees derived from applications received during fiscal year 1995 shall be subject to the fiscal year 1995 limitation.

In addition, of the foregoing amount such sums as may be necessary may be used for the inspection of mammography facilities, notwithstanding section 354(r) of the Public Health Service Act. Fees collected under said Act shall be credited to the foregoing account and shall remain available until expended.

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed without a hearing from his or her position because of remarks made during personal time regarding Departmental policies or proposed policies.

The stay (published at 58 Fed. Reg. 47962) of the 1987 food additive regulation relating to selenium (21 Code of Federal Regulations 573.920) is suspended until December 31, 1995.

In addition to amounts provided, proceeds from the sale of any animals that are surplus to FDA's needs shall be retained by the Food and Drug Administration and credited to the salaries and expenses appropriation for 1995.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $18,150,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That the Food and Drug Administration may accept donated land in Montgomery and/or Prince George's Counties, Maryland.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act, $46,294,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 5 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1994, as authorized, $57,026,000.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $49,144,000, including not to exceed $1,000 for official reception and representation expenses: *Provided*, That the Commission is authorized to charge reasonable fees to attendees of Commission sponsored educational events and symposia to cover the Commission's costs of providing those events and symposia, and notwithstanding 31 U.S.C. 3302, said fees shall be credited to this account, to be available without further appropriation.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $40,420,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1995 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 706 passenger motor vehicles, of which 705 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

7 USC 1623a.

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28, 1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

7 USC 2209b.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, and Integrated Systems Acquisition Project; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; Foreign Agricultural Service, Middle-Income Country Training Program; higher education graduate fellowships grants under section 1417(b)(6) of the National Agricul-

tural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)); and capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University.

New obligational authority for the Boll Weevil Program; up to 10 per centum of the Screwworm Program of the Animal and Plant Health Inspection Service; funds appropriated for Rental Payments; and higher education minority scholars programs under section 1417(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(5)) shall remain available until expended.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture. 7 USC 612c note.

SEC. 710. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1994 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 711. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 712. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total Federal funds provided under each award.

SEC. 713. Notwithstanding any other provisions of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 714. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in fiscal year 1995 shall remain available until expended to cover obligations made in fiscal year 1995 for the following accounts: Rural Development Insurance Fund Program Account; Rural Development Loan Fund Program Account; the Rural Telephone Bank Program Account; the Rural Electrification and Telephone Loans Program Account; and the REA Economic Development Loans Program Account.

SEC. 715. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a Market Promotion Program pursuant to section 203 (7 U.S.C. 5623) of the Agricultural Trade Act of 1978, with respect to tobacco or if the aggregate amount of funds and/or commodities under such program exceeds $85,500,000.

SEC. 716. None of the funds appropriated or otherwise made available by this Act shall be used to enroll in excess of 100,000 acres in the fiscal year 1995 Wetlands Reserve Program, as authorized by 16 U.S.C. 3837, unless additional acres in excess of the 100,000 acre limitation can be enrolled without exceeding $93,200,000: *Provided*, That the unobligated portion of the fiscal year 1994 appropriation shall be transferred to and merged with the appropriation for the Soil Conservation Service, Conservation Operations.

SEC. 717. None of the funds appropriated or otherwise made available by this Act shall be used to enroll additional acres in the Conservation Reserve Program authorized by 16 U.S.C. 3831–3845.

SEC. 718. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 719. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any

inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 720. Notwithstanding the Federal Grant and Cooperative Agreement Act, marketing services of the Agricultural Marketing Service may use cooperative agreements to reflect a relationship between Agricultural Marketing Service and a State or Cooperator to carry out agricultural marketing programs.

SEC. 721. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $1,000,000,000 in the President's fiscal year 1995 Budget Request (H. Doc. 103–179)) if the aggregate amount of funds and/or commodities under such program exceeds $800,000,000.

SEC. 722. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a sunflower and cottonseed oil export program authorized by section 1541 of Public Law 101–624 if the aggregate amount of funds and/or commodities under such program exceeds $25,650,000.

SEC. 723. PROHIBITION ON USE OF FUNDS FOR HONEY PAYMENTS OR LOAN FORFEITURES.—Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act shall be used by the Secretary of Agriculture to provide for a total amount of payments and/or total amount of loan forfeitures to a person to support the price of honey under section 207 of the Agriculture Act of 1949 (7 U.S.C. 1446h) and section 405A of such Act (7 U.S.C. 1425a) in excess of zero dollars in the 1994 and 1995 crop years. 7 USC 1446h note.

SEC. 724. No funds shall be available in fiscal year 1995 and thereafter for payments under the Act of August 30, 1890 and the tenth and eleventh paragraphs under the heading "Emergency Appropriations" of the Act of March 4, 1907 (7 U.S.C. 321 et seq.). 7 USC 322 note.

SEC. 725. The Secretary shall take reasonable steps to ensure that no funds made available under this Act be used to provide any direct individual Federal benefit or assistance to any individual applying for such benefit or assistance unless said individual meets all eligibility criteria for the benefit or assistance.

SEC. 726. (a) In addition to funds made available elsewhere in this Act, there are hereby appropriated as of the date of enactment of this Act the following, to remain available through September 30, 1995:

Emergency Community Water Assistance Grants, $10,000,000

Very Low-Income Housing Repair Grants, $15,000,000

Agricultural Credit Insurance Fund Program Account: For the cost of direct loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: emergency loans, $7,670,000.

(b) Of the amount appropriated in the Emergency Supplemental Appropriations Act of 1994, Public Law 103–211, for Watershed and Flood Prevention Operations, $23,000,000 is transferred to the Emergency Conservation Program.

(c) These amounts are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and that such amounts shall be available only to the extent the President designates such use as emergency requirements pursuant to such Act.

SEC. 727. REPAYMENT OF DEFICIENCY PAYMENTS.—In any case in which the Secretary of Agriculture finds that the farming, ranching, or aquaculture operations of producers on a farm have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary of Agriculture shall not require any repayment under subparagraph (G) or (H) of section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the 1993 crop of a commodity prior to March 1, 1995.

This Act may be cited as the "Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995".

Approved September 30, 1994.

LEGISLATIVE HISTORY—H.R. 4554:

HOUSE REPORTS: Nos. 103-542 (Comm. on Appropriations) and 103-734 (Comm. of Conference).
SENATE REPORTS: No. 103-290 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 17, considered and passed House.
July 18-20, considered and passed Senate, amended.
Sept. 26, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 27, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement.

Public Law 103-331
103d Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

Sept. 30, 1994
[H.R. 4556]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriations Act, 1995.

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $58,094,000, of which $3,962,000 shall remain available until expended; and of which not to exceed $40,000 shall be available as the Secretary may determine for allocation within the Department for official reception and representation expenses: *Provided*, That in addition to this amount and notwithstanding any other provision of law, of the funds provided in this or any other Act for the Department of Transportation, the Secretary may transfer not to exceed $5,376,000 from accounts otherwise available for carrying out civil rights functions within the Department of Transportation to this account for carrying out internal civil rights functions through a consolidated departmental Office of Civil Rights within the Office of the Secretary: *Provided further*, That in addition, for transfer of civil rights and legal support activities related to the Federal Highway Administration, $809,000 to be derived from "Federal-aid Highways" subject to the "Limitation on General Operating Expenses": *Provided further*, That notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $8,293,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

OPERATIONS AND RESEARCH

For necessary expenses for operations and research activities related to commercial space transportation, $6,060,000, of which $3,833,000 shall remain available until expended.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $93,000,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

PAYMENTS TO AIR CARRIERS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For liquidation of obligations incurred for payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $33,423,000, to remain available until expended and to be derived from the Airport and Airway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $33,423,000 for the Payments to Air Carriers program in fiscal year 1995: *Provided further,* That none of the funds in this Act shall be used by the Secretary of Transportation to make payment of compensation under section 419 of the Federal Aviation Act of 1958, as amended, in excess of the appropriation in this Act for liquidation of obligations incurred under the "Payments to air carriers" program: *Provided further,* That none of the funds in this Act shall be used for the payment of claims for such compensation except in accordance with this provision: *Provided further,* That none of the funds in this Act shall be available for service to communities in the forty-eight contiguous States that are located fewer than seventy highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than two hundred and ten miles from the nearest large or medium hub airport: *Provided further,* That of funds provided for "Small Community Air Service" by Public Law 101–508, $4,000,000 in fiscal year 1995 is hereby rescinded.

RENTAL PAYMENTS

For necessary expenses for rental of headquarters and field space and related services assessed by the General Services Administration, $144,419,000: *Provided,* That of this amount, $1,976,000 shall be derived from the Highway Trust Fund, $39,426,000 shall be derived from the Airport and Airway Trust Fund, $713,000 shall be derived from the Pipeline Safety Fund, and $181,000 shall be

derived from the Harbor Maintenance Trust Fund: *Provided further,* That in addition, for assessments by the General Services Administration related to the space needs of the Federal Highway Administration, $18,044,000, to be derived from "Federal-aid Highways", subject to the "Limitation on General Operating Expenses".

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $15,000,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed fifteen passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,598,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and of which $25,000,000 shall be expended from the Boat Safety Account: *Provided,* That the number of aircraft on hand at any one time shall not exceed two hundred and eighteen, exclusive of aircraft and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further,* That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839. 14 USC 92 note.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $362,950,000, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund; of which $187,900,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 1999; $11,800,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 1997; $29,700,000 shall be available for other equipment, to remain available until September 30, 1997; $89,350,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 1997; and $44,200,000 shall be available for personnel compensation and benefits and related costs, to remain

available until September 30, 1995: *Provided,* That funds received from the sale of the VC–11A and HU–25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $23,500,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $562,585,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $64,981,000: *Provided,* That funds provided under this head shall support a selected reserve force of 8,000 members.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $20,310,000, to remain available until expended, of which $3,150,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92–75, as amended, $25,000,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of the Airport and Airway Improvement Act of 1982, as amended, or other provisions of law authorizing

the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of four passenger motor vehicles for replacement only, $4,595,394,000, of which $2,450,250,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of aviation services, including the maintenance and operation of air navigation facilities and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further,* That, of the funds available under this head, $17,500,000 is available only for permanent change of station moves for members of the air traffic workforce: *Provided further,* That funds may be used to enter into a grant agreement with a nonprofit standard setting organization to assist in the development of aviation safety standards: *Provided further,* That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further,* That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized by the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $2,087,489,000, of which $1,878,989,000 shall remain available until September 30, 1997, and of which $208,500,000 shall remain available until September 30, 1996: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That none of the funds under this head for the Advanced Automation System may be obligated until the Federal Aviation Administration submits to the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and the Senate Committee on Commerce, Science, and Transportation a comprehensive program plan and up to date estimate of the fiscal year 1995 budget requirement for this program.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $259,192,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs under the Airport and Airway Improvement Act of 1982, as amended, and under other law authorizing such obligations, $1,500,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,450,000,000 in fiscal year 1995 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under title XIII of the Federal Aviation Act of 1958.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

None of the funds in this Act shall be available for activities under this head the obligations for which are in excess of $9,970,000 during fiscal year 1995.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration not to exceed $525,341,000 shall be paid in accordance with law from appropriations made available by

this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $218,158,000 of the amount provided herein shall remain available until September 30, 1997.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402 administered by the Federal Highway Administration, to remain available until expended, $10,800,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,800,000 in fiscal year 1995 for "Highway-Related Safety Grants": *Provided further,* That of the funds authorized for section 402 highway safety programs in section 1003(a)(7) of Public Law 102–240, $20,000,000 in unobligated contract authority is rescinded.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $17,160,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1995. 23 USC 104 note.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $17,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1995 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97–424, $73,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $74,000,000 for "Motor Carrier Safety Grants".

SURFACE TRANSPORTATION PROJECTS

For up to 80 percent or as specified in authorizing legislation, of the expenses necessary for certain highway and surface transportation projects and parking facilities, including feasibility and environmental studies, that advance methods of improving safety, reducing congestion, or otherwise improving surface transportation, $352,055,000, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended) and the National Traffic and Motor Vehicle Safety Act (Public Law 89–563, as amended), $79,556,000, of which $42,965,000 shall remain available until September 30, 1997.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403 and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991, to be derived from the Highway Trust Fund, $46,997,000, of which $30,310,000 shall remain available until September 30, 1997.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 408, and 410, section 211(b) of the National Driver Register Act of 1982, as amended, and section 209 of Public Law 95–599, as amended, to remain available until expended, $151,000,000, to be derived from the Highway Trust Fund: *Provided,* That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1995, are in excess of $151,400,000 for programs authorized under 23 U.S.C. 402 and 410, as amended, of which $123,000,000 shall be for "State and community highway safety grants", $3,400,000 shall be for the "National Driver Register", and $25,000,000 shall be for section 410 "Alcohol-impaired driving countermeasures programs": *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That not to exceed $5,153,000 of the funds made available for section 402 may be available for administering "State and community highway safety grants": *Provided further,* That not to exceed $500,000 of the funds made available for section 410 may be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $13,090,000, of which $1,508,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

40 USC 817 note.

LOCAL RAIL FREIGHT ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $17,000,000, to remain available until expended.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $47,729,000, of which $2,600,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses including grants for railroad research and development, $20,500,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $200,000,000, to remain available until September 30, 1997.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1995: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of title V of such Act shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the planning or execution of the National Magnetic Levitation Prototype Development program as defined in subsections 1036(b) and 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991.

NEXT GENERATION HIGH SPEED RAIL

For necessary expenses for Next Generation High Speed Rail studies, corridor planning, development, demonstration, and implementation, $20,000,000, to remain available until expended: *Provided,* That funds under this head may be made available for grants to states for high speed rail corridor design, feasibility studies, environmental analyses and track and signal improvements.

TRUST FUND SHARE OF NEXT GENERATION HIGH SPEED RAIL

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For grants and payment of obligations incurred in carrying out the provisions of the High-Speed Ground Transportation program as defined in subsections 1036(c) and 1036(d)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, including planning and environmental analyses, $3,400,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $5,000,000.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation authorized by 45 U.S.C. 601, to remain available until expended, $772,000,000, of which $542,000,000 shall be available for operating losses incurred by the Corporation, for mandatory passenger rail service payments, and for labor protection costs, and of which $230,000,000, not to become available until July 1, 1995, shall be available for capital improvements: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That of the funds provided under this head for operating losses, $8,000,000 is available only for the National Railroad Passenger Corporation's share of short-term avoidable losses for state-supported rail services authorized under section 403(b) of the Rail Passenger Service Act, as amended.

RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, $5,000,000, to be matched by the State of Rhode Island or its designee on a dollar for dollar basis and to remain available until expended: *Provided,* That as a condition of accepting such funds, the Providence and Worcester (P&W) Railroad shall enter into an agreement with the Secretary to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first $5,000,000 in damages resulting from any

Contracts.

legal action initiated by the P&W Railroad under its existing contracts with Amtrak relating to the provision of vertical clearances between Davisville and Central Falls in excess of those required for present freight operations.

PENNSYLVANIA STATION REDEVELOPMENT PROJECT

For grants to the National Railroad Passenger Corporation, $40,000,000, to remain available until expended, for engineering, design and construction activities to enable the James A. Farley Post Office in New York City to be used as a train station and commercial center: *Provided,* That the Secretary may retain from these funds such amounts as the Secretary shall deem appropriate to undertake the environmental and historic preservation analyses associated with this project: *Provided further,* That none of these funds may be expended for construction activities (except for emergency and short-term and related repairs and environmental restoration) until the participants have entered into a binding agreement satisfactory to the Secretary that contains financial and related commitments from the participants sufficient to ensure the completion of the project: *Provided further,* That no funds provided under this head shall be available until authorized by law.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by the Federal Transit Act and 23 U.S.C. chapter 1 in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $43,060,000.

FORMULA GRANTS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 9, 16(b)(2), and 18 of the Federal Transit Act, to remain available until expended, $1,350,000,000: *Provided,* That no more than $2,500,000,000 of budget authority shall be available for these purposes: *Provided further,* That of the funds provided under this head for formula grants no more than $710,000,000 may be used for operating assistance under section 9(k)(2) of the Federal Transit Act: *Provided further,* That of the funds provided under this head, $16,000,000 shall be available for grants for the costs of planning, delivery and temporary use of transit vehicles for special transportation needs of the XXVth Summer Olympiad and the Xth Paralympiad for the Disabled, to be held in Atlanta, Georgia, of which $5,600,000 shall be available for the Paralympic Games: *Provided further,* That in allocating the funds designated in the preceding proviso, the Secretary may make grants to any public body the Secretary deems appropriate, and such grants shall not be subject to any local share requirement or limitation on operating assistance under this Act or the Federal Transit Act: *Provided further,* That of the funds made available under this head, $8,000,000 shall be transferred to the Federal Transit Administration's Transit Planning and Research account and be administered

in accordance with section 26(b) of the Federal Transit Act, as amended.

UNIVERSITY TRANSPORTATION CENTERS

For necessary expenses for university transportation centers as authorized by section 11(b) of the Federal Transit Act, to remain available until expended, $6,000,000.

TRANSIT PLANNING AND RESEARCH

For necessary expenses for transit planning and research as authorized by section 26 of the Federal Transit Act, to remain available until expended, $92,250,000.

TRUST FUND SHARE OF TRANSIT PROGRAMS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a) of the Federal Transit Act, $1,150,000,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided,* That $1,150,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $1,725,000,000 in fiscal year 1995 for grants under the contract authority in section 21(b) of the Federal Transit Act: *Provided,* That notwithstanding any provision of law, there shall be available for fixed guideway modernization, $725,000,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $353,330,000; and there shall be available for new fixed guideway systems, $646,670,000, to be available as follows:

$24,000,000 for the South Boston Piers transitway project;

$25,000,000 for the Chicago central area circulator project;

$16,925,000 for the Dallas South Oak Cliff LRT project;

$2,500,000 for the DART North Central light rail extension project;

$3,000,000 for the Dallas-Fort Worth RAILTRAN project;

$10,000,000 for the Florida Tri-County commuter rail project;

$30,000,000 for the Houston Regional Bus Plan program;

$165,000,000 for the Los Angeles Metro Rail (MOS–3) project;

$1,000,000 for the Miami Metrorail north corridor extension project;

$107,000,000 for the New Jersey Urban Core project;

$10,000,000 for the New Orleans Canal Street Corridor project;

$55,000,000 for the New York Queens Connection project;
$1,200,000 for the Cincinnati Northeast/Northern Kentucky rail line project;
$5,000,000 for the Orange County Transitway project;
$10,000,000 for the Pittsburgh Busway projects;
$98,000,000 for the Portland Westside LRT project;
$5,000,000 for the Salt Lake City light rail project: *Provided,* That such funding may be made available for related high-occupancy vehicle lane and intermodal corridor design costs: *Provided further,* That notwithstanding the provisions of Public Law 103–122, funds provided for the Salt Lake City light rail project in that Act may be used for final design;
$20,150,000 for the San Francisco BART Extension/Tasman corridor project;
$5,000,000 for the San Juan, Puerto Rico Tren Urbano project;
$2,350,000 for the Seattle-Renton-Tacoma commuter rail project;
$12,095,000 for the St. Louis Metro Link LRT project;
$3,000,000 for the Maryland Central Corridor LRT project;
$3,600,000 for the Boston, Massachusetts to Portland, Maine Transportation Corridor Program;
$14,000,000 for the MARC Commuter Rail project;
$500,000 for the Tampa to Lakeland commuter rail project;
$5,000,000 for the Twin Cities central corridor project;
$2,500,000 for the Wisconsin central commuter project;
$2,500,000 for the Whitehall ferry terminal, New York, New York.
$1,100,000 for the Boston metropolitan "Urban Ring" project;
$1,500,000 for the Burlington to Gloucester, New Jersey line;
$750,000 for the New Bedford and Fall River, Massachusetts commuter rail extensions; and
$4,000,000 for the West Shore Line, New Jersey.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(b) of the Federal Transit Act, administered by the Federal Transit Administration, $1,500,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $48,030,000, to remain available until expended: *Provided,* That notwithstanding the formula for apportionment under 23 U.S.C. 103(e)(4)(J), of the amount made available under this head, only $9,500,000 shall be available for the substitute transit project approved under section 1045 of Public Law 102–240.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $200,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,251,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $26,238,000, of which $185,000 shall be derived from the Pipeline Safety Fund, and of which $2,468,000 shall remain available until September 30, 1997: *Provided,* That up to $1,000,000 in fees collected under section 106(c)(11) of the Hazardous Materials Transportation Act, as amended (49 U.S.C. App. 1805(c)(11)) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further,* That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received from user fees established to support the electronic tariff filing system: *Provided further,* That there may be credited to this appropriation funds received from user fees established to defray the costs of obtaining, preparing, and publishing in automatic data processing tape format the United States International Air Travel Statistics data base published by the Department.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of 1979, as amended, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $37,424,000; of which $2,432,500 shall be derived from the Oil

Spill Liability Trust Fund and shall remain available until September 30, 1997; and of which $34,991,500 shall be derived from the Pipeline Safety Fund, of which $16,317,500 shall remain available until September 30, 1997: *Provided,* That from amounts made available herein from the Pipeline Safety Fund, not to exceed $750,000 shall be available for grants to States for the development and establishment of one-call notification systems.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out section 117A(i)(3)(B) of the Hazardous Materials Transportation Act, as amended, $400,000 to be derived from the Emergency Preparedness Fund, to remain available until September 30, 1997: *Provided,* That not more than $10,800,000 shall be made available for obligation in fiscal year 1995 from amounts made available by section 117A(h)(6)(B) and (i) (1), (2) and (4) of the Hazardous Materials Transportation Act, as amended: *Provided further,* That no such funds shall be made available for obligation by individuals other than the Secretary of Transportation, the Director of the National Institute of Environmental Health Sciences, or their designees.

ALASKA PIPELINE TASK FORCE

(RESCISSION)

(OIL SPILL LIABILITY TRUST FUND)

Of the funds made available under this heading in Public Law 102–388, $544,000 are rescinded.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $40,000,000: *Provided,* That of such amount, $180,000 shall be available for employment by the Inspector General of independent legal counsel at the Department of Transportation.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,350,000: *Provided,* That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $37,392,000, of which not to exceed $1,000 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109 and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b), $30,302,000: *Provided,* That $8,300,000 in fees collected in fiscal year 1995 by the Interstate Commerce Commission pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1995.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $11,000 for official reception and representation expenses of the Board; not to exceed $5,000 for official reception and representation expenses of the Secretary; and not to exceed $30,000 for official reception and representation expenses of the Administrator, $50,030,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for the planning or execution of nonadministrative and capital programs the obligations for which are in excess of $540,000,000 in fiscal year 1995: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-three passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama), the purchase price of which shall not exceed $19,500 per vehicle.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS AND REPAYMENTS OF PRINCIPAL

For payment of obligations incurred pursuant to Public Law 96–184 and the Initial Bond Repayment Participation Agreement,

$664,666,667, to remain available until expended, which shall be used only to repay principal to the Federal Financing Bank for the Washington Metrorail construction loan; and in addition, such amounts as are necessary for payment to the Federal Financing Bank, of accrued interest and premium, if any, for such loan.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding 31 U.S.C. 1341 to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the government in comparable positions.

20 USC 241 note.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. None of the funds in this Act shall be available for the planning or implementation of any change in the current Federal status of the Volpe National Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center: *Provided,* That the Secretary may plan for further development of the Volpe National Transportation Systems Center and for other compatible uses of the Center's real property: *Provided further,* That any such planning does not alter the Federal status of the Center's research and development operation: *Provided further*, That employment at the Center shall not exceed 550 full-time equivalent staff years in fiscal year 1995

Contracts. Public information.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

23 USC 104 note.

SEC. 310. (a) For fiscal year 1995 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1994, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 15 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State;

(2) after August 1, 1995, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104, and 144, of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240;

(3) not distribute amounts authorized for administrative expenses and funded from the administrative takedown authorized by section 104(a), title 23 U.S.C., the Federal lands highway program, the intelligent vehicle highway systems program, and amounts made available under sections 1040, 1047, 1064, 6001, 6005, 6006, 6023, and 6024, of Public Law 102–240: *Provided,* That amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway safety construction

programs under the head "Federal-Aid Highways" in this Act; and

(4) notwithstanding subsection (a), the Secretary shall withhold from initial distribution the fiscal year 1995 Federal-aid highways obligation limitation set aside for Interstate Construction Discretionary projects: *Provided,* That the Secretary shall distribute only after August 1, 1995, such obligation limitation withheld in accordance with this section to those States receiving Interstate Construction Discretionary allocations.

(d) During the period October 1 through December 31, 1994, the aggregate amount of obligations under section 157 of title 23, United States Code, for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, sections 1061, 1103 through 1108, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102–240, and for projects authorized by Public Law 99–500 and Public Law 100–17, shall not exceed $325,155,150.

(e) During the period August 2 through September 30, 1995, the aggregate amount which may be obligated by all States pursuant to paragraph (d) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which would not be obligated in fiscal year 1995 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(f) Paragraph (e) shall not apply to any State which on or after August 1, 1995, has the amount distributed to such State under paragraph (a) for fiscal year 1995 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred and ten political and Presidential appointees in the Department of Transportation: *Provided,* That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 312. Not to exceed $850,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

49 USC 5338 note.

SEC. 313. The limitation on obligations for the programs of the Federal Transit Administration shall not apply to any authority under section 21 of the Federal Transit Act, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program.

SEC. 314. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 314A. For the purpose of carrying out a demonstration of the construction of highways in high priority corridors, authorized by section 1105(f) of Public Law 102–240, there is hereby appropriated $6,000,000 for the Secretary to enter into an agreement to make a loan or loans not to exceed $40,000,000 to the public entity or entities with the statutory duty to construct such facilities: *Provided,* That such loan or loans shall be repaid by direct repay-

ment no later than the fifth Federal fiscal year following the year in which a loan was made. Funds made available by this section shall not be subject to any limitation.

SEC. 315. Such sums as may be necessary for fiscal year 1995 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 316. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 317. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to Federal Aviation Administration design and performance specifications, the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria. 49 USC 44502 note.

SEC. 318. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided,* That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 319. None of the funds provided in this Act shall be made available for planning and executing a passenger manifest program by the Department of Transportation that only applies to United States flag carriers.

SEC. 320. None of the funds made available in this Act may be used to implement, administer, or enforce the provisions of section 1038(d) of Public Law 102–240.

SEC. 321. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Discretionary grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 1997, shall be made available for other projects under section 3 of the Federal Transit Act, as amended.

SEC. 322. Notwithstanding any other provision of law, any funds appropriated before October 1, 1993, under any section of the Federal Transit Act, as amended, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 323. (a) Of the budgetary resources available to the Department of Transportation (excluding the Maritime Administration) during fiscal year 1995, $65,120,000 are permanently canceled.

(b) The Secretary of Transportation shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Maritime Administration) available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 324. Of the funds appropriated in Public Law 103–122 for railroad-highway crossings projects, $20,000,000 shall be available for costs, not to exceed 80 percent, of a project to reduce rail-highway conflicts on M–59 near Pontiac, Michigan, and a project on Bristol Road near Flint, Michigan, including $500,000 which shall be made available to improve and upgrade Maple Road at Bishop Airport, Michigan: *Provided,* That of the funds appropriated in Public Law 94–387 for railroad-highway demonstration projects, $486,000 in unobligated balances shall be made available for the rail relocation project in Lafayette, Indiana.

SEC. 324A. For necessary expenses to carry out a pilot project to provide direct financial assistance by contract, to a community group incorporated for the purpose of protecting the scenic qualities of a designated scenic byway, to demonstrate the effect of alternative highway designs on the scenic and historic qualities of a scenic byway, a sum of $100,000: *Provided,* That such amount be derived from moneys available for contract programs for a national scenic byways study made available by Public Law 101–164 (Federal Highway Administration Limitation on General Operating Expenses) as further referenced by Conference Report 101–315 and not expended as of the date of this Act.

SEC. 325. None of the funds provided by this Act shall be made available to any State, municipality or subdivision thereof that diverts revenue generated by a public airport in violation of the provisions of the Airport and Airway Improvement Act of 1982, as amended.

SEC. 326. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O'Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

SEC. 327. None of the funds made available by this Act may be obligated or expended to design, construct, erect, modify or otherwise place any sign in any State relating to any speed limit, distance, or other measurement on any highway if such sign establishes such speed limit, distance, or other measurement using the metric system.

SEC. 327A. Notwithstanding any other provisions of law, tolls collected for motor vehicles on any bridge connecting the boroughs of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.

SEC. 328. None of the funds provided by this Act shall be made available for any airport development project, or projects, proposed in any grant application submitted in accordance with title V of Public Law 97-248 (96 Stat. 671; 49 U.S.C. App. 2201 et seq.) to any public agency, public authority, or public airport that imposes a fee for any passenger enplaning at the airport in any instance where the passenger did not pay for the air transportation which resulted in such enplanement, including any case in which the passenger obtained the ticket for the air transportation with a frequent flyer award coupon.

SEC. 329. None of the funds in this Act may be used to compensate in excess of 335 technical staff years under the federally-funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1995.

SEC. 329A. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided,* That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 330. Funds provided in this Act for the Department of Transportation working capital fund (WCF) shall be reduced by $7,000,000, which limits fiscal year 1995 WCF obligational authority for elements of the Department of Transportation funded in this Act to no more than $93,000,000: *Provided,* That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included from each account for the working capital fund.

SEC. 331. Funds provided in this Act for bonuses and cash awards for employees of the Department of Transportation shall be reduced by $5,590,000, which limits fiscal year 1995 obligational authority to no more than $25,922,000: *Provided,* That this provision shall be applied to funds for Senior Executive Service bonuses, merit pay, and other bonuses and cash awards.

SEC. 332. Section 127(a) of title 23, United States Code, is amended by adding at the end the following: "With respect to the State of Maryland, laws and regulations in effect on June 1, 1993, shall be applicable for the purposes of this subsection.". 23 USC 127.

SEC. 332A. The Federal Aviation Administration is directed to install a Terminal Doppler Weather Radar at Charlotte, North Carolina in fiscal year 1995, and to commission that radar no later than December 31, 1995.

SEC. 333. Funds received by the Research and Special Programs Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for reports' publication and dissemination may be credited to the Research and Special Programs account.

SEC. 334. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administra-

tion's "Limitation on General Operating Expenses" account, the Federal Transit Administration's "Transit Planning and Research" account, and to the Federal Railroad Administration's "Railroad Safety" account, except for State rail safety inspectors participating in training pursuant to section 206 of the Federal Railroad Safety Act of 1970.

SEC. 335. (a) Subsection (b) of section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1994) is amended to read as follows:

"(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—

"(1) GENERAL RULE.—Upon approval of any substitute project or projects under subsection (a)—

"(A) the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(B) a sum equal to the amount that would have been apportioned to the State of Wisconsin on October 1, 1994, under section 104(b)(5)(A) of title 23, United States Code, if the Secretary had not approved such project or projects shall be available to the Secretary from the Highway Trust Fund to incur obligations for the Federal share of the costs of such substitute project or projects.

"(2) AVAILABILITY.—Amounts made available under paragraph (1)(B) shall be available for obligation on and after October 1, 1994. Amounts made available under paragraph (1)(B) shall remain available until expended and shall be subject to any limitation on obligations for Federal-aid highways established by law.

"(3) APPLICABILITY OF TITLE 23 U.S.C.— Amounts made available under paragraph (1)(B) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project carried out with such funds shall be determined in accordance with section 103(e)(4)(D) of such title.".

(b) CONFORMING AMENDMENTS.—

(1) SUBSECTION (c).—The second sentence of subsection (c) of section 1045 of such Act is amended by striking "the authority of section 103(e)(4) of title 23, United States Code," and inserting "section 21(a)(2) of the Federal Transit Act".

(2) SUBSECTION (d)(1).—Subsection (d)(1) of section 1045 of such Act is amended by striking "project for" and all that follows through the period at the end thereof and inserting "transit project.". 105 Stat. 1995.

(3) SUBSECTION (d).—Subsection (d) of section 1045 of such Act is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) REDUCTION OF INTERSTATE CONSTRUCTION AUTHORIZATION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by striking "$1,800,000,000 for the fiscal year ending September 30, 1996" and inserting "$1,800,000,000, reduced by the amount made available under section 1045(b)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, for the fiscal year ending September 30, 1996". 23 USC 101 note.

SEC. 335A. Section 5302(a)(1) of title 49, United States Code, is amended by inserting "payments for the capital portions of rail trackage rights agreements," after "rights-of-way,".

SEC. 336. (a) FEDERAL LINE OF CREDIT.—For the purpose of carrying out a demonstration of the construction of public toll roads in Orange County, California, authorized by section 129(d) of title 23, United States Code, there is hereby appropriated $8,000,000 for the Secretary to enter into an agreement to make a line of credit available, with a principal amount not to exceed $120,000,000 to the public entity or entities with the statutory authority to construct such facilities.

(b) EFFECTIVE PERIOD.—The line of credit under this section shall be available for draws during the period beginning on the date of completion of construction and ending on the last day of the tenth calendar year following the date construction of the facilities is completed.

(c) PURPOSES.—The line of credit under this section shall be available to pay the costs of extraordinary repair and replacement of the facilities, unexpected Federal or State environmental restrictions, operation and maintenance expenses of the facilities, and debt service on tax-exempt or taxable obligations financing the facilities.

(d) LIMITATIONS.—

(1) CAPITAL EXPENDITURES.—With respect to capital expenditures, draws on the line of credit under this section shall only be made if and to the extent proceeds from the sale of the obligations issued by the public entity or entities which otherwise would be available for such purposes are exhausted, or are otherwise unavailable for the payment of such capital expenditures.

(2) EXPENSES.—With respect to expenses, including operation and maintenance expenses and debt service, a draw on the line of credit under this section shall only be made if revenues from toll operations and capitalized interest are insufficient (or are otherwise unavailable) for such purposes.

(3) PER YEAR.—No more than 10 percent of the total principal amount of the line of credit under this section shall be available for draws in any one year.

(4) THIRD PARTY CREDITOR RIGHTS.—No third party creditor of the public entity or entities shall have any right against the Federal Government with respect to draws on the line of credit under this section.

(5) AVAILABILITY FOR PARTICULAR COSTS.—There is no guaranteed availability of proceeds of the line of credit under this section for the payment of any particular cost of the public entity or entities which might be financed under this section.

(e) INTEREST RATE AND REPAYMENT PERIOD.—Any draws (except for operation and maintenance expenses) on the line of credit under this section shall accrue interest at the 30-year United States Treasury bond rate beginning on the date such draws are made and shall be repaid in not more than 30 years; except that any draws under the line of credit for operation and maintenance expenses shall accrue interest at the 3-year United States Treasury note rate beginning on the date such draws are made and shall be repaid in not more than 3 years.

SEC. 337. In addition to amounts otherwise provided by this Act, $2,900,000 shall be available for "Interstate Commerce

Commission, Salaries and Expenses" for the discharge of liabilities, including severance pay, under title 5 of the United States Code to employees separated from the Interstate Commerce Commission on or after October 1, 1994.

SEC. 338. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 339. SAINT LAWRENCE SEAWAY TOLL COLLECTION.—(a) Section 13 of the Act of May 13, 1954, ch. 201 (33 U.S.C. 988a), added by section 805(a)(4) of title XIV of the Water Resources Development Act of 1986, Public Law 99–662 (100 Stat. 4272), is amended to read as follows:

"SEC. 13. WAIVER OF COLLECTION OF CHARGES OR TOLLS.

"(a) Notwithstanding section 12 of this Act or any other provision of law, the Corporation shall not collect any charge or toll established pursuant to section 12 of this Act with respect to a commercial vessel (as defined in section 4462(a)(4) of the Internal Revenue Code of 1986).

Records. "(b) The Corporation will maintain a record of the annual amount of each charge or toll that would have been collected with respect to each such commercial vessel if it were not for paragraph (a) of this section.".

(b) The table of sections at the beginning of chapter 19 of title 33 is amended by striking:

"Sec. 988a Rebate of charges and tolls.
"(a) Transfer of revenues to Harbor Maintenance Trust Fund.
"(b) Certifications to Secretary of the Treasury."

and adding in lieu thereof:

"Sec. 988a Waiver of Collection of Charges or Tolls.
"(a) Waiver of collection of charges or tolls.
"(b) Record of annual amount.".

SEC. 340. The unspent balance of funds previously appropriated for the Meadowbrook Parkway project shall be available for the Loop Parkway Bridge rehabilitation project.

SEC. 341. Amounts not to exceed $3,000,000 available in the obligation guarantee fund established under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, and received from the Delaware and Hudson Railroad, shall be transferred to the Federal Railroad Administration, "Office of the administrator" for necessary expenses of the Federal Railroad Administration.

SEC. 342. Notwithstanding any other provision of law, funds made available under Public Law 103–122, the Fiscal Year 1994 Transportation Appropriations Act, for the domestic fuel cell development program under the Federal Transit Administration's Discretionary Grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended.

SEC. 343. Section 30308(a) of title 49, United States Code, is amended by inserting after "1994" "and $2,550,000 for fiscal year 1995".

SEC. 344. Notwithstanding 15 U.S.C. 631, et seq. and 10 U.S.C. 2301, et seq. as amended, the United States Coast Guard acquisition of 47-foot Motor Life Boats for fiscal years 1995 through 2000 shall be subject to full and open competition for all U.S. shipyards. Accordingly, the Federal Acquisition Regulations (FAR) (including but not limited to FAR Part 19), shall not apply to the extent they are inconsistent with a full and open competition.

SEC. 345. None of the funds appropriated by this Act may be used for planning, engineering, design, or construction of a sixth runway at the new Denver International Airport, Denver, Colorado: *Provided,* That this provision shall not apply in any case where the Administrator of the Federal Aviation Administration determines, in writing, that safety conditions warrant obligation of such funds.

SEC. 346. (a) UNIFORM HOV–2 DEMONSTRATION PROJECT ON I–66 IN VIRGINIA.—Notwithstanding any other law or any prior decision of the Secretary of Transportation, the Governor of Virginia shall have the authority to carry out a 1-year demonstration project on Interstate Highway 66 (I–66) inside the Capital Beltway, to determine the impact of applying a uniform high-occupancy vehicle restriction to the portion of I–66 that is between the District of Columbia and Interstate Highway 495 (I–495) and the portion of I–66 that is west of I–495.

(b) PROJECT REQUIREMENTS.—

(1) UNIFORM HOV RESTRICTION.—Except as provided in paragraph (2), under the demonstration project established under this section, the uniform high-occupancy vehicle restriction applied to the two portions of I–66 described in subsection (a) shall be vehicles carrying two or more persons.

(2) AUTHORITY OF GOVERNOR OF VIRGINIA.—During the 1-year demonstration period under this section, the Governor of Virginia shall retain the flexibility to return the high-occupancy vehicle restriction applicable to the portion of I–66 that is between the District of Columbia and I–495 to vehicles carrying three or more persons, or to make any other revisions in the demonstration project that the Governor determines are necessary.

(3) APPROVAL.—The 1-year demonstration shall begin after approval by the Virginia delegation of the National Capital Region Transportation Planning Board, based on a one-member, one-vote process with the allowance for authorized alternates if necessary and inclusion of the general manager of the Washington Metropolitan Area Transit Authority, but not before January 1, 1995.

(c) STUDY AND REPORT.—If the Governor of Virginia makes use of the authority granted in subsection (a), the Governor shall—

(1) consult with interested parties to develop level of service standards, enforcement standards and assessment criteria;

(2) carry out an assessment of the effects of the uniform high-occupancy vehicle restriction under the demonstration project established under this section;

(3) carry out a study and assessment of the enforcement of the modified high-occupancy vehicle restriction under the demonstration project established under this section;

(4) within 6 months from beginning the demonstration project provide an interim assessment of the effects of the demonstration project to interested parties; and

(5) upon completion of the assessment, submit to the Congress and to the Secretary of Transportation a report setting forth the results of the assessment and the demonstration project.

(d) UNIFORM HOV–2 RESTRICTION.—Upon completion of the assessment described in subsection (c), the Governor of Virginia shall have the authority to apply a uniform HOV–2 restriction to Interstate 66 on a permanent basis following the formal approval process.

SEC. 347. The Eastport Port Authority facility at Estes Head in Eastport, Maine, is eligible for funding under section 1064 of Public Law 102–240.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1995".

Approved September 30, 1994.

LEGISLATIVE HISTORY—H.R. 4556:

HOUSE REPORTS: Nos. 103-543, Pts. 1 and 2 (both from Comm. on Appropriations) and 103-752 (Comm. of Conference).
SENATE REPORTS: No. 103-310 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 16, considered and passed House.
June 21, considered and passed Senate, amended.
Sept. 28, House agreed to conference report.
Sept. 29, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement.

Public Law 103-332
103d Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

Sept. 30, 1994
[H.R. 4602]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, namely:

Department of the Interior and Related Agencies Appropriations Act, 1995.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $598,449,000, to remain available until expended, including $1,462,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)): *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $21,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $598,449,000: *Provided further,* That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and shall remain available until expended.

FIRE PROTECTION

For necessary expenses for fire use and management, and fire preparedness by the Department of the Interior, $114,968,000, to remain available until expended.

EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

For emergency rehabilitation, severity presuppression, and wildfire operations of the Department of the Interior, $121,176,000, to remain available until expended: *Provided,* That such funds also are available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further,* That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: *Provided further,* That only amounts for emergency rehabilitation and wildfire operations that are in excess of the average of such costs for the previous ten years shall be considered "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CENTRAL HAZARDOUS MATERIALS FUND

For expenses necessary for use by the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $13,435,000, to remain available until expended: *Provided,* That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9607 or 9613(f)), shall be credited to this account and shall be available without further appropriation and shall remain available until expended: *Provided further,* That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary of the Interior and which shall be credited to this account.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $12,091,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $104,108,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $14,785,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $97,550,000, to remain available until expended: *Provided,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,350,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise,

43 USC 1735 note.

or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $513,815,000, of which $11,732,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $3,000,000 shall be provided to the National Fish and Wildlife Foundation for endangered species activities: *Provided,* That the amount provided to the National Fish and Wildlife Foundation shall be matched by at least an equal amount by the National Fish and Wildlife Foundation: *Provided further,* That sums may be made available to the

States of Washington, Oregon, and California to conduct monitoring activities related to the President's Forest Plan.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $53,914,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $6,700,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, any amounts appropriated or credited in fiscal year 1992 and thereafter, may be transferred to any account to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337) for damage assessment activities: *Provided further,* That sums provided by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities. 43 USC 1474b-1.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, and for activities authorized under Public Law 98–244 to be carried out by the National Fish and Wildlife Foundation, $67,410,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $9,000,000 for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $12,000,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,169,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, $9,000,000.

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $1,000,000, to remain available until expended, to be available for carrying out the Partnerships for Wildlife Act only to the extent such funds are matched as provided in section 7105 of said Act.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 127 passenger motor vehicles, of which 106 are for replacement only (including 44 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further,* That nothwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards.

NATIONAL BIOLOGICAL SURVEY

RESEARCH, INVENTORIES, AND SURVEYS

For authorized expenses necessary for scientific research relating to species biology, population dynamics, and ecosystems; inventory and monitoring activities; technology development and transfer; the operation of Cooperative Research Units; and for the general administration of the National Biological Survey, $167,209,000, of which $166,909,000 shall remain available until September 30, 1996, and of which $300,000 shall remain available until expended for construction: *Provided,* That none of the funds under this head shall be used to conduct new surveys on private property unless specifically authorized in writing by the property owner.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,599,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $1,079,963,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $79,900,000, to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203: *Provided,* That should any increase in fees be enacted after enactment of this Act but prior to September 30, 1995, that would be available for the programs under this heading, the Secretary of the Interior shall make available under this heading an amount equal to the amount collected by such fee increase to the "Operation of the National Park System" account for purposes for which such fees are authorized, as approved by the Secretary and subject to the reprogramming guidelines of the House and Senate Committees on Appropriations: *Provided further,* That these funds shall be used for one-time, non-recurring purposes only.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $43,023,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $41,500,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1996.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, $184,941,000, to remain available until expended: *Provided,* That not to exceed $4,500,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: *Provided further,* That $256,000 for rehabilitation of the William McKinley Tomb and $500,000 for the Penn Center shall be derived from the Historic Preservation Fund pursuant to 16 U.S.C. 470a: *Provided further,* That notwithstanding any other provision of law, a single procurement for the construction of the vessel exhibit at Salem Maritime National Historic Site may be issued which includes the full scope of the project: *Provided further,* That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (16 U.S.C. 2501–2514), $7,500,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460*l*–10a note.

The contract authority provided for fiscal year 1995 by 16 U.S.C. 460l–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $87,936,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $4,800,000 is provided for Federal assistance to the State of Florida pursuant to Public Law 103–219, and of which $28,000,000 is for the State assistance program including $3,250,000 to administer the State assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $415,000 shall be available in 1995 for administrative expenses of the State grant program.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 467 passenger motor vehicles, of which 338 shall be for replacement only, including not to exceed 360 for police-type use, 12 buses, and 5 ambulances: *Provided,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the

expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That the first proviso under this head in Public Law 102–381 (106 Stat. 1384) is amended by inserting ", not to exceed $250,000 per incident," after the word "funds" and by inserting ": *Provided further*, That any exercise of this authority must be replenished by a supplemental appropriation which must be requested as promptly as possible" after the word "System". 16 USC 14d.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $572,556,000, of which $62,130,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That of the offsetting collections credited to this account $546,000 are permanently canceled. 43 USC 50.

WORKING CAPITAL FUND

The first paragraph under this head in Public Law 101–512 is amended as follows: in the second sentence after "work," insert "facilities,"; and in the third sentence after "include" insert "laboratory modernization and equipment replacement,", after "operations" insert ", maintenance,", and after "replacement of computer," insert "publications, scientific instrumentation,". 43 USC 50a.

The second paragraph under this head in Public Law 101–512 is amended as follows: in the second proviso after "depreciation of equipment" insert "and facilities,". 43 USC 50a.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facili-

ties; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $189,056,000, of which not less than $68,184,000 shall be available for royalty management activities; and an amount not to exceed $8,800,000 for the Technical Information Management System of Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: *Provided,* That $1,500,000 for computer acquisitions shall remain available until September 30, 1996: *Provided further,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further,* That the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases: *Provided further,* That the fifth proviso under the heading "Leasing and Royalty Management" for the Minerals Management Service in Public Law 101–512 (104 Stat. 1926) is amended by striking the words "or payment of civil penalty" after the words "result of the forfeiture of a bond or other security" and striking the words "or imposition of the civil penalty" after the words "rendered necessary by the action or inaction that led to the forfeiture": *Provided further,* That where the account title "Leasing and Royalty Management" appears in any public law, the words "Leasing and Royalty Management" beginning in fiscal year 1995 and thereafter

43 USC 1338a.

43 USC 1338a note.

shall be construed to mean "Royalty and Offshore Minerals Management".

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,452,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $152,719,000, of which $100,065,000, shall remain available until expended.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to The University of Alabama; and in Rolla, Missouri, to the University of Missouri-Rolla. 43 USC 1473a note.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $110,006,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1995: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1995 pursuant

to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That notwithstanding any other provision of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

30 USC 1211 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, $182,772,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That grants to minimum program States will be $1,500,000 per State in fiscal year 1995: *Provided further,* That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: *Provided further,* That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: *Provided further,* That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $1,526,778,000, of which $208,000 shall be for cyclical maintenance of tribally owned fish hatcheries and related facilities; and of which $297,000 shall be for a grant to the Close

Up Foundation; and of which not to exceed $95,823,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts authorized by the Indian Self-Determination Act of 1975, as amended: *Provided*, That tribes and tribal contractors may use their tribal priority allocations for unmet contract support costs of ongoing contracts, grants or compact agreements; and of which not to exceed $330,111,000 shall be for school operations costs of Bureau-funded schools and other education programs which shall become available for obligation on July 1, 1995, and shall remain available for obligation until September 30, 1996; and of which not to exceed $72,580,000 shall be for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), which shall remain available for obligation until September 30, 1996; and of which $75,902,000 shall remain available until expended, including $16,206,000 for trust funds management, $19,083,000 for housing improvement, $30,169,000 for road maintenance, $2,332,000 for attorney fees, $1,983,000 for litigation support, $4,934,000 for self-governance tribal compacts, and $1,195,000 for the Navajo-Hopi Settlement Program: *Provided*, That payments of funds obligated as grants to schools pursuant to Public Law 100–297 shall be made not later than July 15 and December 1 in lieu of the payments authorized to be made on October 1 and January 1 of each calendar year: *Provided further*, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1995 as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: *Provided further*, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act: *Provided further*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further*, That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than

one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further,* That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further,* That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further,* That any such change must be part of a comprehensive tribal plan for reducing the long-term need for general assistance payments: *Provided further,* That any such tribal plan must incorporate, to the greatest extent feasible, currently existing social service, educational training, and employment assistance resources prior to changing general assistance eligibility or payment standards which would have the effect of increasing the cost of general assistance: *Provided further,* That any net increase in costs to the Federal government which result solely from tribally increased payment levels and which are not part of such a comprehensive tribal plan shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further,* That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1995, may be transferred during fiscal year 1996 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: *Provided further,* That any such unobligated balances not so transferred shall expire on September 30, 1996: *Provided further,* That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs, other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1995: *Provided further,* That within the funds contained in this Act, only the following new schools may receive initial funding pursuant to the provisions of 25 U.S.C. 2001(k) or 2505(a)(1)(C) and (D): Trenton and Sault Ste. Marie: *Provided further,* That the Secretary shall establish a Joint Working Group on ISEP Funds Allocation to consult with Indian tribes and schools on improving the basis for allocating Indian School Equalization Program funds: *Provided further,* That funds made available in this or any other Act for expenditure through September 30, 1996 for schools funded by the Bureau of Indian Affairs shall be available only to the 187 schools which will be in the Bureau of Indian Affairs school system as of September 1, 1995.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $130,270,000, to remain available until expended: *Provided,* That $1,500,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available

for the construction of the Navajo Indian Irrigation Project and for other water resource development activities related to the Southern Arizona Water Rights Settlement Act may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: *Provided further,* That not to exceed $6,000,000 of contract authority and liquidating cash available in fiscal year 1995 from the Federal Highway Trust Fund may be used for the acquisition of road construction equipment: *Provided further,* That funds currently obligated for rehabilitation and construction on the Gila River Indian Reservation may be used to purchase and pump water during fiscal year 1995: *Provided further,* That for the fiscal year ending September 30, 1995, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: *Provided further,* That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed; and the funds shall be disbursed in not more than two payments per year: *Provided further,* That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: *Provided further,* That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): *Provided further,* That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $77,096,000, to remain available until expended; of which $73,051,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 87–483, 97–293, 101–618, 102–374, 102–441, 102–575, and 103–116, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $1,045,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580; and of which $3,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), (2) to restore to Individual Indian Monies trust funds,

Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, including any interest on these amounts that may have been earned, but was not because of the default, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgment or settlement agreement approved by the Department of Justice.

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93–531, as amended (25 U.S.C. 640d–30), including necessary administrative expenses, $2,000,000, to remain available until expended.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $1,970,000.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of expert assistance loans authorized by the Act of November 4, 1963, as amended, and the cost of direct loans authorized by the Indian Financing Act of 1974, as amended, $2,484,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $10,890,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans, $8,784,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided,* That such costs including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: *Provided further,* That these funds are available to subsidize total loan principal any part of which is to be guaranteed not to exceed $46,900,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $906,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 255 passenger carrying motor vehicles, of which not to exceed 210 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $80,239,000 of which (1) $75,962,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, drug interdiction and abuse prevention, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,277,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands Covenant grant funding, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99–396: *Provided further,* That $1,025,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further,* That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

48 USC 1469b.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), and grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions, $19,838,000 to be available until expended, including $18,464,000 for operations of the Government of Palau: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1995, except for $692,000 for special programs, shall be credited as an off-set against fiscal year 1995 payments made pursuant to the Compact of Free Association (Public Law 99–658), if such Compact is implemented before October 1, 1995: *Provided further,* That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

48 USC 1683.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, $24,602,000, to remain available until expended, as authorized by Public Law 99–239: *Provided,* That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99–658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101–219.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $62,599,000 of which not to exceed $7,500 may be for official reception and representation expenses: *Provided,* That of the offsetting collections credited to this account, $1,184,000 are permanently canceled.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $34,674,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,985,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,000,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 18 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms,

or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further,* That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or

rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 111. None of the funds in this Act may be used to publish a National final rule defining the term "valid existing rights" for purposes of section 522(e) of the Surface Mining Control and Reclamation Act of 1977 or to publish a final rule disapproving any existing State definition of valid existing rights.

SEC. 112. If the House-Senate Conference Committee on H.R. 322 fails to report legislation which is enacted prior to the adjournment of the 103d Congress sine die, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws.

SEC. 113. The provisions of section 112 shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

SEC. 114. Of the offsetting collections credited to public enterprise fund numbered 14–4053 in fiscal year 1995, $38,000 is permanently canceled as a result of procurement cost savings.

SEC. 115. Notwithstanding any other provision of law, in fiscal year 1995 and thereafter, appropriations made to the Department of the Interior in this title may be used to fund incrementally research work orders for cooperative agreements with colleges and universities, State agencies, and nonprofit organizations that overlap fiscal years: *Provided,* That such cooperative agreements shall

43 USC 1471f.

contain a statement that "the obligation of funds for future incremental payments shall be subject to the availability of funds.".

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $200,130,000, to remain available until September 30, 1996.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $161,264,000, to remain available until expended, as authorized by law.

EMERGENCY PEST SUPPRESSION FUND

For necessary expenses for emergency suppression of pests, $17,000,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available in fiscal year 1995 only to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

INTERNATIONAL FORESTRY

For necessary expenses of international forestry as authorized by Public Laws 101–513 and 101–624, $7,000,000, to remain available until September 30, 1996.

NATIONAL FOREST SYSTEM

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Fire Protection", "Emergency Forest Service Firefighting Fund", and "Land Acquisition" $1,345,112,000, to remain available for obligation until September 30, 1996, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided,* That unobligated and unexpended balances in the National Forest System account at

the end of fiscal year 1994, shall be merged with and made a part of the fiscal year 1995 National Forest System appropriation, and shall remain available for obligation until September 30, 1996: *Provided further,* That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed: *Provided further,* That funds in the amount of $12,000,000 provided under this head in prior years' appropriations Acts for fire management are rescinded: *Provided further,* That timber volume authorized or scheduled for sale during fiscal year 1994, but which remains unsold at the end of fiscal year 1994, shall be offered for sale during fiscal year 1995 in addition to the fiscal year 1995 timber sale volume to the extent possible.

FOREST SERVICE FIRE PROTECTION

For necessary expenses for firefighting on or adjacent to National Forest System lands or other lands under fire protection agreement, and for forest fire management and presuppression on National Forest System lands, $159,590,000, to remain available until expended: *Provided,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Forest Service Firefighting", Forest Service, may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For necessary expenses for emergency rehabilitation, presuppression due to emergencies or economic efficiency, and wildfire suppression activities of the Forest Service, $226,200,000, to remain available until expended: *Provided,* That such funds are available for repayment of advances from other appropriation accounts previously transferred for such purposes.

For an additional amount to cover necessary expenses for emergency rehabilitation, presuppression due to emergencies, and wildfire suppression activities of the Forest Service, $200,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 252(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

In addition, for necessary expenses for emergency rehabilitation, presuppression due to emergencies, and wildfire suppression activities of the Forest Service, $250,000,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available only (1) to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $203,186,000, to remain available until expended, of which $71,443,000 is for construction and acquisition of buildings and other facilities; and $131,743,000 is for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1994 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $65,436,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,252,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $89,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 156 passenger motor vehicles of which 15 will be used primarily for law enforcement purposes and of which 148 shall be for replacement only; acquisition of 79 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 14 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided,* That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in the report accompanying this Act.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided,* That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further,* That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

None of the funds made available in this Act shall be used for timber sale planning or scoping using clearcutting in the Ouachita and Ozark-St. Francis National Forests in Arkansas, except for sales that are necessary as a result of natural disaster or a threat to forest health, or for maintaining or enhancing wildlife

habitat, or habitat for endangered and threatened species, or for research purposes.

Pursuant to section 405(b), and section 410(b) of Public Law 101–593, of the funds available to the Forest Service, up to $1,000,000 for matching funds shall be available for the National Forest Foundation.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The first paragraph under this head in Public Law 101–512, as amended, is further amended by striking the phrase "$100,000,000 on October 1, 1994, and $50,000,000 on October 1, 1995" and inserting "$18,000,000 on October 1, 1994, $100,000,000 on October 1, 1995, and $32,000,000 on October 1, 1996"; and by striking the phrase "$275,000,000 on October 1, 1994, and $100,000,000 on October 1, 1995" and inserting "$19,121,000 on October 1, 1994, $100,000,000 on October 1, 1995, and $255,879,000 on October 1, 1996": *Provided,* That not to exceed $18,000,000 available in fiscal year 1995 may be used for administrative oversight of the Clean Coal Technology program. 104 Stat. 1944.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $442,614,000, to remain available until expended, of which $17,000,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account": *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1994, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $187,406,000, to remain available until expended: *Provided,* That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply in fiscal year 1995. 10 USC 7430 note.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $793,194,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1995 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided,* That $278,399,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: $226,800,000 for the weatherization assistance program, $22,539,000 for the State energy conservation program, and $29,060,000 for the institutional conservation program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $12,437,000, to remain available until expended.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $8,249,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $244,011,000, to remain available until expended, of which $90,764,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account": *Provided,* That appropriations herein made shall not be available for leasing of facilities for the storage of crude oil for the Strategic Petroleum Reserve unless the quantity of oil stored in or deliverable to Government-owned storage facilities by virtue of contractual obligations is equal to 700,000,000 barrels.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided,* That outlays in fiscal year 1995 resulting from the use of funds in this account shall not exceed $9,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $84,728,000, to remain available until expended: *Provided,* That, notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)) or any other provision of law, funds appropriated under this heading may

be used to enter into a contract for end use consumption surveys for a term not to exceed eight years.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project. Reports.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVII and section 208 of the Public Health Service Act with respect to the Indian Health

Service, $1,713,052,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: *Provided,* That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further,* That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further,* That $351,258,000 for contract medical care shall remain available for obligation until September 30, 1996: *Provided further,* That of the funds provided, not less than $11,603,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act, as amended: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further,* That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1996: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act, as amended, shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVII and section 208 of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $253,767,000, to remain available until expended: *Provided,* That

notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further,* That notwithstanding any other provision of law a single procurement for the construction of the Fort Belknap, Montana health center and satellite clinic and a single procurement for construction of the White Earth, Minnesota health center may be issued which includes the full scope of the project: *Provided further,* That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That the Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That, notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant or agreement authorized by title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal

25 USC 1681.

year limitation: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further,* That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further,* That the appropriation structure for the Indian Health Service may not be altered without the advance approval of the House and Senate Committees on Appropriations: *Provided further,* That in fiscal year 1995 and thereafter (a) the Secretary may enter into personal services contracts with entities, either individuals or organizations, for the provision of services in facilities owned, operated or constructed under the jurisdiction of the Indian Health Service; (b) the Secretary may exempt such a contract from competitive contracting requirements upon adequate notice of contracting opportunities to individuals and organizations residing in the geographic vicinity of the health facility; (c) consideration of individuals and organizations shall be based solely on the qualifications established for the contract and the proposed contract price; and (d) individuals providing health care services pursuant to these contracts are covered by the Federal Tort Claims Act: *Provided further,* That notwithstanding any other provision of law, the Indian Health Service clinic in Stilwell, Oklahoma shall be known and designated as the "Wilma P. Mankiller Indian Health Clinic": *Provided further,* That any reference in a law, regulation, document, record, map, or other paper of the United States to the clinic referenced in the preceding proviso shall be deemed to be a reference to the "Wilma P. Mankiller Indian Health Clinic": *Provided further,* That funds appropriated in fiscal year 1994 to increase the level of need funded for the Ponca Tribe of Nebraska may be used to purchase land with an existing improvement to be used as a tribally owned health care facility: *Provided further,* That the Secretary, acting through the Indian Health Service, may contract with the Southcentral Foundation for the operation of the Dena A Coy substance abuse treatment program in Anchorage, Alaska under the authority of Public Law 93-638, the Indian Self-Determination Act, 25 U.S.C. 450: *Provided further,* That money heretofore and hereafter collected for meals served at Indian Health Service facilities will be credited to the appropriations from which the services were furnished and shall be credited to the appropriation when received.

25 USC 1638c.

25 USC 1638d.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title VI of the Elementary and Secondary Education Act of 1965, as amended, including, to the extent determined necessary by the Secretary, continuing projects begun under the Indian Edu-

cation Act of 1988, $83,500,000: *Provided,* That $1,735,000 available pursuant to section 6203 of the Act shall remain available for obligation until September 30, 1996.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $24,936,000, to remain available until expended: *Provided,* That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further,* That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99–498, as amended (20 U.S.C. 56, Part A), $11,213,000: *Provided,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further,* That the Institute shall act as its own certifying officer.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for

5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $53,003,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized $4,431,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $10,343,000.

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $9,000,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $9,878,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $141,950,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1996.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $29,150,000, to remain available until September 30, 1996, to the National Endowment for the Arts, of which $12,750,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

REDUCTION OF FUNDING

Each amount appropriated or otherwise made available by this title for "National Endowment for the Arts" is hereby reduced by 2.0 percent.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $151,420,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1996.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $25,963,000, to remain available until September 30, 1996, of which $14,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $28,770,000.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National

Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $834,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $7,500,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89–665, as amended, $2,947,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109, $5,655,000: *Provided,* That all appointed members will be compensated at a rate equivalent to the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $48,000, to remain available until September 30, 1996.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92–578, as amended, $2,738,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92–578, as amended, $4,084,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, $26,660,000; of which $2,700,000 shall be for repair and rehabilitation projects and shall remain available until expended.

TITLE III—GENERAL PROVISIONS

Contracts. Public information

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. The Forest Service and Bureau of Land Management may offer for sale salvageable timber in the Pacific Northwest in fiscal year 1995: *Provided,* That for public lands known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl: *Provided further,* That timber salvage activity in spotted owl habitat is to be done in full compliance with all existing environmental and forest management laws.

Environmental protection.

Forests and forest products.

SEC. 309. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1994.

SEC. 310. None of the funds appropriated in this Act may be used to implement any increase in government housing rental rates in excess of 10 per centum more than the rental rates which were in effect on September 1, 1994, for such housing.

SEC. 311. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 312. Notwithstanding any other provision of law in fiscal year 1995 and thereafter, appropriations made available to any department or agency in a Department of the Interior and Related Agencies Appropriations Act shall be available to that department or agency to reimburse the representative (as that term is defined by applicable law) of employees killed in the line of duty after January 1, 1994, and in subsequent fiscal years, for burial costs and related out-of-pocket expenses: *Provided,* That the amount of such reimbursement may exceed the $800 limitation in 5 U.S.C. 8134(a): *Provided further,* That funds provided pursuant to this authority may not exceed $10,000 per employee.

5 USC 8134 note.

SEC. 313. With the exception of budget authority for "Miscellaneous payments to Indians", Bureau of Indian Affairs, Department of the Interior; "Salaries and expenses", National Indian Gaming Commission, Department of the Interior; "Payment to the Institute", Institute of American Indian and Alaska Native Culture and Arts Development; "Salaries and expenses", Woodrow Wilson International Center for Scholars; "Salaries and expenses" and "National capital arts and cultural affairs", Commission of Fine

Arts; "Salaries and expenses", Advisory Council on Historic Preservation; "Salaries and expenses", National Capital Planning Commission; "Salaries and expenses", Franklin Delano Roosevelt Memorial Commission; and "Salaries and expenses", "Public development", Pennsylvania Avenue Development Corporation, each amount of budget authority for the fiscal year ending September 30, 1995, provided in this Act, for payments not required by law is hereby reduced by 0.191 per centum: *Provided,* That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1995".

Approved September 30, 1994.

LEGISLATIVE HISTORY—H.R. 4602:

HOUSE REPORTS: Nos. 103-551 (Comm. on Appropriations) and 103-740 (Comm. of Conference).
SENATE REPORTS: No. 103-294 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 22, 23, considered and passed House.
July 25, 26, considered and passed Senate, amended.
Sept. 27, House agreed to conference report.
Sept. 28, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement.

Public Law 103-333
103d Congress

An Act

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

Sept. 30, 1994
[H.R. 4606]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1995, and for other purposes, namely:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995.
Department of Labor Appropriations Act 1995.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $90,276,000, together with not to exceed $45,073,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSION)

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; title II of the Civil Rights Act of 1991; title XV, part A of Public Law 102–325; title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act; the Women in Apprenticeship and Nontraditional Occupations Act; Goals 2000: Educate America Act; and the School-to-Work Opportunities Act; $5,505,885,000 plus reimbursements, of which $5,181,250,000 is available for obligation for the period July 1, 1995 through June 30, 1996; of which $142,029,000 is available for the period July 1, 1995 through June 30, 1998 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, including $46,404,000 for new centers; and of which $125,000,000 shall be available for obligation from July 1, 1995 through September 30, 1996, for carrying out activities of the School-to-Work Opportunities Act: *Provided,* That $64,080,000 shall be for carrying out section 401 of the Job Training

Partnership Act, $85,710,000 shall be for carrying out section 402 of such Act, $8,880,000 shall be for carrying out section 441 of such Act, $2,223,000 shall be for the National Commission for Employment Policy, $6,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $3,861,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of such Act in addition to amounts otherwise provided under sections 202, 252 and 262 of the Act, $1,054,813,000 shall be for carrying out title II, part A of such Act, and $598,682,000 shall be for carrying out title II, part C of such Act: *Provided further,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further,* That funds used from this Act to carry out title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver allowing a reduction in the cost limitation relating to retraining services described in subsection (a)(2) of such section 315 may be granted with respect to funds used from this Act if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services; and that funds used from this Act to carry out the Secretary's discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the requirements relating to enrollment in training under section 314(e) of such Act, are enrolled in training by the end of the sixth week after grant funds have been awarded.

Of the amounts made available in fiscal year 1994 under the Job Training Partnership Act, title II–C, $50,000,000 are hereby rescinded.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $320,190,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $90,310,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95–250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $274,400,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49l–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235, 243–244, and 250(d)(1), 250(d)(3), title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $147,188,000, together with not to exceed $3,269,097,000 (including not to exceed $1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $1,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1995, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1997; and of which $145,254,000 together with not to exceed $820,658,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1995, through June 30, 1996, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $223,837,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided,* That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1995 is projected by the Department of Labor to exceed 2.772 million, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further,* That funds appropriated in this Act and in Public Law 103–112 which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: *Provided further,* That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost

allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1996, $686,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1995, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

OFFICE OF THE AMERICAN WORKPLACE

SALARIES AND EXPENSES

For necessary expenses for the Office of the American Workplace, $31,471,000.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $69,454,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1995, for such Corporation: *Provided,* That not to exceed $11,493,000 shall be available for administrative expenses of the Corporation: *Provided further,* That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $248,667,000, together with $1,059,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $258,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1994, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1995: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $5,299,000 shall be made

available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under subchapter 5, U.S.C., chapter 81, or under subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $994,864,000, of which $943,005,000 shall be available until September 30, 1996, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $28,216,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $23,333,000 for transfer to Departmental Management, Salaries and Expenses, and $310,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $312,500,000, including not to exceed $70,615,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $500,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who

29 USC 670 note.

is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $201,238,000, of which $5,851,000 shall be for the State Grants Program, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115

30 USC 962.

of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $298,761,000, of which $5,134,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1996, together with not to exceed $54,102,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of five sedans, and including up to $4,392,000 for the President's Committee on Employment of People With Disabilities, and including $2,100,000 for the International Program on the Elimination of Child Labor notwithstanding any other provision of law, $154,827,000 together with not to exceed $328,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $185,281,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $48,106,000, together with not to exceed $3,913,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. DETERRENCE OF FRAUD AND ABUSE IN THE FEDERAL EMPLOYEE'S WORKER COMPENSATION PROGRAM.

(a) IN GENERAL.—(1) Chapter 81 of title 5, United States Code, is amended by inserting after section 8147 the following new section:

"§ 8148. Forfeiture of benefits by convicted felons

"(a) Any individual convicted of a violation of section 1920 of title 18, or any other Federal or State criminal statute relating to fraud in the application for a receipt of any benefit under this subchapter or subchapter III of this chapter, shall forfeit (as of

the date of such conviction) any entitlement to any benefit such individual would otherwise be entitled to under this subchapter or subchapter III for any injury occurring on or before the date of such conviction. Such forfeiture shall be in addition to any action the Secretary may take under section 8106 or 8129.

"(b)(1) Notwithstanding any other provision of this chapter (except as provided under paragraph (3)), no benefits under this subchapter or subchapter III of this chapter shall be paid or provided to any individual during any period during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to that individual's conviction of an offense that constituted a felony under applicable law.

"(2) Such individual shall not be entitled to receive the benefits forfeited during the period of incarceration under paragraph (1), after such period of incarceration ends.

"(3) If an individual has one or more dependents as defined under section 8110(a), the Secretary of Labor may, during the period of incarceration, pay to such dependents a percentage of the benefits that would have been payable to such individual computed according to the percentages set forth in section 8133(a)(1) through (5).

"(c) Notwithstanding the provision of section 552a of this title, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Secretary of Labor, upon written request, the names and Social Security account numbers of individuals who are confined in a jail, prison, or other penal institution or correctional facility under the jurisdiction of such agency, pursuant to such individuals' conviction of an offense that constituted a felony under applicable law, which the Secretary of Labor may require to carry out the provisions of this section.".

(2) The table of sections for chapter 81 of title 5, United States Code, is amended by inserting after the item relating to section 8147 the following new item:

"8148. Forfeiture of benefits by convicted felons.".

(b) CRIMINAL PENALTIES.—(1) Section 1920 of title 18, United States Code, is amended to read as follows:

"§ 1920. False statement or fraud to obtain Federal employee's compensation

"Whoever knowingly and willfully falsifies, conceals, or covers up a material fact, or makes a false, fictitious, or fraudulent statement or representation, or makes or uses a false statement or report knowing the same to contain any false, fictitious, or fraudulent statement or entry in connection with the application for or receipt of compensation or other benefit or payment under subchapter I or III of chapter 81 of title 5, shall be guilty of perjury, and on conviction thereof shall be punished by a fine of not more than $250,000, or by imprisonment for not more than 5 years, or both; but if the amount of the benefits falsely obtained does not exceed $1,000, such person shall be punished by a fine of not more than $100,000, or by imprisonment for not more than 1 year, or both.".

(2) The table of sections for chapter 93 of title 18, United States Code, is amended by amending the item relating to section 1920 to read as follows:

"1920. False statement or fraud to obtain Federal employee's compensation.".

5 USC 8148 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. The amendments made by subsection (a) shall apply to claims filed before, on, or after the date of enactment of this Act, and shall apply only to individuals convicted after such date of enactment.

SEC. 102. None of the funds appropriated under this Act shall be expended by the Secretary of Labor to implement or administer either the final or proposed regulations referred to in section 303 of Public Law 102–27.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Labor in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 104 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 104. (a) None of the funds provided under this Act to the Department of Labor shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act to the Department of Labor shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

29 USC 568.

SEC. 105. The Secretary of Labor is authorized to accept, in the name of the Department of Labor, and employ or dispose of in furtherance of authorized activities of the Department of Labor, during the fiscal year ending September 30, 1995, and each fiscal year thereafter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

SEC. 106. Section 5315 of title 5, United States Code, is amended by inserting at the end thereof: "The Commissioner of Labor Statistics, Department of Labor.".

Section 5316 of title 5, United States Code, is amended by striking: "Commissioner of Labor Statistics, Department of Labor.".

SEC. 107. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of $125,000.

This title may be cited as the "Department of Labor Appropriations Act, 1995".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Department of Health and Human Services Appropriations Act, 1995.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, and the Native Hawaiian Health Care Act of 1988, as amended, $3,056,203,000, of which $411,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further,* That of the funds made available under this heading, $933,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further,* That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: *Provided further,* That of the amounts available for Area Health Education Centers, $24,625,000 shall be for section 746(i)(1)(A) of the Health Professions Education Extension Amendments of 1992, notwithstanding section 746(i)(1)(C): *Provided further,* That no more than $5,000,000 is available for carrying out the provisions of Public Law 102–501.

Public information.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $9,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $375,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,946,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided,* That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, $110,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, and XIX of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $2,089,443,000, of which $3,575,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided,* That for fiscal year 1995 and subsequent fiscal years training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading for fiscal year 1995 and subsequent fiscal years shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That for fiscal year 1995 and

42 USC 243 note.

Alabama.

42 USC 242k note.

subsequent fiscal years amounts received by the National Center for Health Statistics from reimbursements and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $27,862,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,919,419,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,259,590,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $162,832,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $728,284,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $628,301,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $536,416,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $877,113,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $513,409,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $291,600,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $267,566,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $432,698,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $228,521,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $166,886,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $48,237,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $181,445,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $290,280,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $543,550,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $294,877,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That $20,000,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $152,010,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $14,697,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $126,274,000.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $218,367,000, of which $3,375,000 shall be transferred to the National Institute of General Medical Sciences: *Provided,* That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further,* That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further,* That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer.

OFFICE OF AIDS RESEARCH

(INCLUDING TRANSFER OF FUNDS)

For carrying out part D of title XXIII of the Public Health Service Act, $1,337,606,000: *Provided,* That the Director of the Office of AIDS Research shall transfer from this appropriation the amounts necessary to carry out section 2353(d) of the Act.

BUILDINGS AND FACILITIES

For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $114,120,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out the Public Health Service Act with respect to substance abuse and mental health services, section 612 of Public Law 100–77, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $2,181,407,000: *Provided,* That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of $3,750,000 from amounts appropriated to carry out section 510 of that Act.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(INCLUDING TRANSFER OF FUNDS)

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX and XXI of the Public Health Service Act, $65,267,000, together with $1,500,000 which shall be only for employee buyouts, terminal leave, severance pay, and other costs related to the reduction of the number of employees in the Office of the Assistant Secretary for Health, and, in addition, amounts received from Freedom of Information Act fees and reimbursable and interagency agreements shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $138,642,000, together with not to exceed $5,796,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by sections 1142 and 201(g) of the Social Security Act; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $18,300,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $62,640,775,000, to remain available until expended.

For making, after May 31, 1995, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1995 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1996, $27,047,717,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $37,546,758,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101–508, and section 4005(e) of Public Law 100–203, not to exceed $2,207,135,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the $2,207,135,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided,* That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, $15,000,000 together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1995, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $25,094,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $527,874,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1996, $180,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $21,225,101,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1996, $7,060,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $5,159,785,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 as such sections were in effect on January 1, 1993, from any one or all of the trust funds referred to therein: *Provided,* That reimbursement to the Trust Funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1996.

In addition to funding already available under this heading, and subject to the same terms and conditions, $320,000,000, for disability caseload processing.

In addition to funding already available under this heading, and subject to the same terms and conditions, $97,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $12,761,788,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and D, X, XI, XIV, and XVI of the Social Security Act, for the last

three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1996, $4,400,000,000, to remain available until expended.

The Secretary shall provide payments under titles IV–A and XIX of the Social Security Act to carry out a demonstration project for a qualified program in accordance with this section which shall take effect on January 1, 1995. For each calendar quarter in which there is a qualified program as defined below, the Secretary shall pay to the State for the purpose of transmittal to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to the participants in the program for such a calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance. The term "qualified program" means a program operated by the New Hope Project, Inc., which assists low-income residents of Milwaukee, Wisconsin, move from welfare to work, in accordance with an application to be prepared by the operator to the qualified program, transmitted by the State to the Secretary, and defined by and approved by the Secretary. The application shall provide for evaluation of the demonstration project; funds provided herein may not be used for said evaluation.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,300,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

(INCLUDING RESCISSION)

Of the funds made available beginning on October 1, 1994 under this heading in Public Law 103–112, $155,796,000 are hereby rescinded.

The funds remaining after said rescission shall be available for obligation through September 30, 1995.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,319,204,000, to be available for obligation in the period October 1, 1995 through September 30, 1996.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $600,000,000: *Provided*, That all of the funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $399,779,000: *Provided,* That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 102–394 for fiscal year 1993 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1994 and 1995.

STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS

(INCLUDING RESCISSION)

Funds not obligated by the States by June 29, 1995, under section 204(b)(4) of the Immigration Reform and Control Act of 1986 are hereby rescinded.

For Federal administration and allotments of funds to the States made by the Secretary of Health and Human Services for the purpose of making payments to public and private nonprofit organizations for public information and outreach activities; and English language and civics instruction provided to any adult eligible legalized alien who has not met the requirements of section 312 of the Immigration and Nationality Act for purposes of becoming naturalized as a citizen of the United States, $6,000,000: *Provided,* That the Secretary of Health and Human Services shall allocate such amount among the States not later than August 15, 1995: *Provided further,* That each State's share of these funds shall be equal to that State's percentage share of the total costs of administering and providing educational services to eligible legalized aliens in all States through fiscal year 1994, as determined by the Secretary: *Provided further,* That the definition of "eligible legalized alien" contained in section 204(j)(4) of the Immigration Reform and Control Act of 1986 is amended by inserting before the period at the end ", except that the five-year limitation shall not apply for the purposes of making payments from funds appropriated under the fiscal year 1995 Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act for providing public information and outreach activities regarding naturalization and citizenship; and English language and civics instruction to any adult eligible legalized alien who has not met the requirements of section 312 of the Immigration and Nationality Act for purposes of becoming naturalized as a citizen of the United States": *Provided further,* That each State may designate the appropriate agency or agencies to administer funds under this heading: *Provided further,* That section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by striking the fourth sentence and inserting the following: "Funds made available to a State pursuant to the preceding sentence of this paragraph shall be utilized by the State to reimburse all allowable costs within 90 days after a State has received a reallocation of funds from the Secretary, but in no event later than July 31, 1995.".

8 USC 1255a note.

8 USC 1255a note.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99–425, and the Stewart

B. McKinney Homeless Assistance Act, $472,920,000, of which $12,000,000 shall be for carrying out the National Youth Sports Program: *Provided,* That payments from such amount to the grantee and subgrantees administering the National Youth Sports Program may not exceed the aggregate amount contributed in cash or in kind by the grantee and subgrantee: *Provided further,* That amounts in excess of $9,400,000 of such amount may not be made available to the grantee and subgrantees administering the National Youth Sports Program unless the grantee agrees to provide contributions in cash to such program in an amount that equals 29 percent of such excess amount.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $934,656,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $2,800,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Abandoned Infants Assistance Act of 1988, subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act, and part B of title IV and section 1110 of the Social Security Act, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100–77, and section 126 and titles IV and V of Public Law 100–485, $4,419,888,000.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $150,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV–E of the Social Security Act, $3,597,371,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 10404 of Public Law 101–239 (volunteer senior aides demonstration), $877,223,000.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $91,247,000, together with $31,008,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $63,585,000, together with not to exceed $37,060,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, together with any funds, to remain available until expended, that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated and which are transferred to the Office of the Inspector General by the Department of Justice or the Department of the Treasury.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,409,000 together with not to exceed $3,874,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $13,659,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

Labor and employment. Children and youth. Diseases.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1911(d) and section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds made available by this Act may be used to withhold payment to any State under the Child Abuse Prevention and Treatment Act by reason of a determination that the State is not in compliance with section 1340.2(d)(2)(ii) of title 45 of the Code of Federal Regulations. This provision expires upon the date of enactment of the reauthorization of the Child Abuse Prevention and Treatment Act or upon September 30, 1995, whichever occurs first.

Termination date.

SEC. 205. (a) Of the budgetary resources available to the Department of Health and Human Services (excluding the Food and Drug Administration and the Indian Health Service) during fiscal year 1995, $37,125,000 are permanently canceled.

(b) The Secretary of Health and Human Services shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Food and Drug Administration and the Indian Health Service) available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 206. None of the funds appropriated in this title for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 207. (a) Of the budgetary resources available to the Department of Health and Human Services for space rental charges (excluding Food and Drug Administration and the Indian Health Service) during fiscal year 1995, $4,505,000 are permanently canceled.

(b) The Secretary of Health and Human Services shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Food and Drug Administration and the Indian Health Service) available for space rental charges. Amounts available for space rental charges in each such account shall be reduced by the amount allocated to such account.

SEC. 208. Taps and other assessments made by any office located in the Department of Health and Human Services shall be treated as a reprogramming of funds except that this provision shall not apply to assessments required by authorizing legislation, or related to working capital funds or other fee-for-service activities.

SEC. 209. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1995, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses with respect to the provision of security protection for the Secretary of Health and Human Services.

SEC. 210. Of the funds made available under this title, under the heading Low Income Home Energy Assistance, for fiscal year 1996, the Secretary shall receive assurances from States that funds will assist low-income households with their home energy needs,

Disadvantaged persons. Energy.

particularly those with the lowest incomes that pay a high proportion of household income for home energy.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1995".

Department of Education Appropriations Act, 1995.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles II, III, and IV of the Goals 2000: Educate America Act and titles II, III, and IV of the School-to-Work Opportunities Act, $528,400,000 of which $503,670,000 shall become available on July 1, 1995, and remain available through September 30, 1996.

EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as enacted into law, and by section 418A of the Higher Education Act, $7,232,722,000, of which $7,214,160,000 shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided,* That $6,698,356,000 shall be available for grants to local education agencies, not less than $41,434,000 shall be available for capital expenses, $102,024,000 shall be available for the Even Start program, $305,475,000 shall be available for title I migrant education activities, not less than $39,311,000 shall be available for title I delinquent and high-risk youth education activities, no more than $27,560,000 shall be for program improvement activities, and $8,270,000 shall be for evaluation.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by the Improving America's Schools Act as enacted into law, $728,000,000 of which $40,000,000, to remain available until expended, shall be for payments for heavily impacted districts under section 8004(f), 9004(f), or the relevant citation which may be designated in the Act: *Provided,* That should the Improving America's Schools Act not be enacted into law for fiscal year 1995 funds for impact aid shall be made available under the provisions of Public Laws 81–815 and 81–874 with amounts allocated proportionately and under the same timeframes as provided in fiscal year 1994.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, III, IV, V, VII, VIII, IX, and XV (or under the comparable citations which may be designated) of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as enacted into law; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; and title V of the Higher Education Act; $1,564,877,000, of which $1,268,418,000 shall become available on July 1, 1995, and remain available through September 30, 1996: *Provided,* That $5,899,000 shall be for law related education; $12,000,000 shall be for arts education activities; $28,000,000 shall be for dropout prevention assistance, if author-

ized; $4,185,000 shall be for Ellender Fellowships; $12,000,000 shall be for education for Native Hawaiians; $10,912,000 shall be for foreign language assistance, if authorized; and $100,000,000 shall be for new education infrastructure improvement grants, if authorized.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual and immigrant education activities authorized by titles VII and IX of the Elementary and Secondary Education Act as amended by the Improving America's Schools Act, as enacted into law, and by title IV of the Carl D. Perkins Vocational and Applied Technology Education Act, $245,200,000, of which $25,180,000 shall be for training activities under part C or under subpart 3 of part A of title VII or under the comparable citation which may be designated by amendments to the authorizing legislation, and $50,000,000 shall be for the immigrant education program.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $3,252,846,000, of which $2,998,812,000 shall become available for obligation on July 1, 1995, and shall remain available through September 30, 1996, of which $292,125,000 for section 686 shall become available for obligation on September 30, 1995, and shall remain available through September 30, 1996.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, $2,393,352,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,680,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $43,191,000, of which $336,000 shall be for the endowment program as authorized under section 207 and shall be available until expended and $150,000 shall be for construction and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $80,030,000, of which $1,000,000 shall be for the endowment program as authorized under section 207 and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, the National Literacy Act of 1991, and the Stewart B. McKinney Homeless Assistance Act, $1,473,175,000, of which $1,470,256,000 shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $400,000 of the amount available for Tech-Prep shall be for evaluation of the program and $34,535,000 shall be for national programs under title IV, including $7,851,000 for research, of which $6,000,000 shall be for the National Center for Research on Vocational Education; $20,684,000 for demonstrations, notwithstanding section 411(b); and $6,000,000 for data systems: *Provided further*, That of the amounts made available under the Adult Education Act, $3,900,000 shall be for national programs under section 383, and $4,869,000 shall be for the National Institute for Literacy under section 384.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, and parts C, E, and H of title IV of the Higher Education Act of 1965, as amended, including, notwithstanding section 401(a)(1), not to exceed 3,930,000 Pell Grant recipients in award year 1994–1995, $7,702,970,000, which shall remain available through September 30, 1996, and of which $63,375,000 shall be for State Student Incentive Grants under subpart 4 of part A.

20 USC 1070a note.

The maximum Pell Grant for which a student shall be eligible during award year 1995–1996 shall be $2,340: *Provided*, That notwithstanding section 401(g) of the Act, as amended, if the Secretary determines, prior to publication of the payment schedule for award year 1995–1996, that the $6,247,180,000 included within this appropriation for Pell Grant awards for award year 1995–1996, and any funds available from the FY 1994 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $62,191,000.

FEDERAL DIRECT STUDENT LOAN PROGRAM ACCOUNT

For the cost of direct loans authorized by title IV, part D, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purposes of the program, including such sums as may be derived from negative subsidy receipts: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV, including chapter 2 of subpart 2 of part A, V, VI, VII, IX, VIII, part A, subpart 1 of part B, and part D of title X, and XI, without regard to section 1151, of the Higher Education Act of 1965, as amended; the Mutual Educational and Cultural Exchange Act of 1961; title VI, including part C, of the Excellence in Mathematics, Science and Engineering Education Act of 1990; section 1521 of the Higher Education Amendments of 1986 as amended by Public Law 103–239, to be administered by the Secretary of Education; part E of title XV of the Higher Education Amendments of 1992; and Public Law 102–423, $962,842,000 of which $8,060,000 for endowment activities under section 331 of part C of title III and $17,512,000 for interest subsidies under title VII of the Higher Education Act, as amended, and $4,000,000 for Public Law 102–423 shall remain available until expended, and $1,000,000 of the amount provided herein for title III shall be available for an evaluation of the title III programs.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $206,463,000, of which $3,530,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98–480), $5,000,000, to remain available until expended, shall be for general construction needs at the University and $5,500,000, to remain available until expended, shall be for the establishment of a Law School Clinical Center to be administered under the same terms and conditions as the Centers established and funded under Public Laws 99–88 and 100–517 with not more than $1,000,000 to be used for construction.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part C, of the Higher Education Act, as amended, $168,000: *Provided,* That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $10,000,000: *Provided further,* That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101–510. In addition, for administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $1,022,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $347,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act; the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as enacted into law; the National Education Statistics Act of 1994, as enacted into law; the Education Council Act, as amended; part F of the General Education Provisions Act; and title VI of Public Law 103–227, $354,892,000: *Provided,* That $86,200,000 shall be for education research of which $41,000,000 shall be for regional laboratories, including rural initiatives and network activities, $33,000,000 shall be for research centers, and $3,200,000, to remain available until expended, shall be for school finance equalization research; $36,750,000 shall be for the Fund for the Improvement of Education; $3,000,000 shall be for the international education exchange program; $750,000 shall be for 21st Century Community Learning Centers, if authorized; $4,463,000 shall be for civic education activities; $14,480,000 shall be for the National Diffusion Network; $36,356,000 shall be for Eisenhower professional development Federal activities, including not less than $5,472,000 for the National Clearinghouse for Science and Mathematics and $15,000,000 for regional consortia; $2,250,000 shall be for a mathematics telecommunications demonstration, if authorized; $40,000,000 shall be for education technology activities, if authorized; and $7,000,000 shall be for Ready to Learn television, including funds to be awarded to the Corporation for Public Broadcasting in such amounts as the Secretary determines appropriate.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act,

$144,161,000, of which $17,792,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended; and $4,916,000 shall be for section 222 and $6,500,000 shall be for section 223 of the Higher Education Act, of which $5,000,000 shall be for additional awards for demonstration of on-line access to statewide, multitype library bibliographic data bases using fiber optic networks and $1,500,000 shall be for a demonstration project making Federal information and other data bases available for public use by connecting a multistate consortium of public and private colleges and universities to a public library and an historic library.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $356,021,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $58,325,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $30,437,000.

GENERAL PROVISIONS

Schools.
Busing.
Desegregation.

SEC. 301. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Busing.
Desegregation.

SEC. 302. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Desegregation.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transpor-

tation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 303. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

School prayer.

SEC. 304. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 305. None of the funds appropriated under this Act may be used to publish, release, report or finalize the designation of institutions to be reviewed under subpart 1 of part H of title IV of the Higher Education Act of 1965, as amended, until the State postsecondary review entity responsible for evaluating those institutions has received the Secretary's approval for its institutional review standards.

This title may be cited as the "Department of Education Appropriations Act, 1995".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $59,317,000, of which $2,906,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $214,710,000.

CORPORATION FOR PUBLIC BROADCASTING

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 102–394, $7,000,000 are hereby rescinded. For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1997, $315,000,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $31,344,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,200,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $901,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management

Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $176,047,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $8,519,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $7,595,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,176,000 to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,667,000 to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $261,000,000, which shall include amounts becoming available in fiscal year 1995 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $261,000,000: *Provided,* That the total amount

provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1996, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $73,881,000, to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That for fiscal year 1995 only, notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231–231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,031,000 shall be apportioned for fiscal year 1995 from moneys credited to the railroad unemployment insurance administration fund.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $1,640,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided,* That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,682,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,500,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 502. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 504. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 505. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 506. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law 102–321).

SEC. 507. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 508. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 509. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest. Abortion.

SEC. 510. No funds appropriated herein shall be used to implement any regulation promulgated under section 481(b)(6) of the Higher Education Act of 1965, as amended, prior to July 1, 1995.

SEC. 511. None of the funds appropriated or otherwise made available under this Act may be obligated in violation of existing Federal law or regulation already prohibiting such benefit or assistance. None of the funds appropriated under this Act may be used by any Federal official, or any State or local official, to induce undocumented immigrants to apply for Federal benefits for which such officials know or should know such undocumented immigrants are not eligible. In no case, however, shall Federal, State, or local officials be penalized for efforts to ensure that eligible persons are not excluded from participation in, denied the benefits of, or subjected to discrimination by any program receiving funds under this Act, on the grounds of race, color, or national origin-based traits, including language. Each State agency and each other entity administering a program under which verification of immigration status is required by section 121 of the Immigration Reform and Control Act of 1986 shall participate in the system for the verification of such status established by the Commissioner of the Immigration and Naturalization Service pursuant to section 121(c) of that Act, unless an alternative system is available and employed for such purposes which is found to meet the criteria for waiver under section 121(c)(4).

SEC. 512. Notwithstanding any other provision of law, monthly benefit rates during fiscal year 1995 and thereafter under part B or part C of the Black Lung Benefits Act shall continue to be based on the benefit rates in effect in September, 1994 and be paid in accordance with the Act, until exceeded by the benefit rate specified in section 412(a)(1) of the Act. 30 USC 922 note

SEC. 513. No more than one percent of salaries appropriated for each Agency in this Act may be expended by that Agency on cash performance awards: *Provided*, That of the budgetary resources available to Agencies in this Act for salaries and expenses during fiscal year 1995, $30,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: *Provided further*, That the foregoing proviso shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 514. Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 1118. Protection against the human immunodeficiency virus

"(a) IN GENERAL.—Whoever, after testing positive for the Human Immunodeficiency Virus (HIV) and receiving actual notice of that fact, knowingly donates or sells, or knowingly attempts to donate or sell, blood, semen, tissues, organs, or other bodily fluids for use by another, except as determined necessary for medical research or testing, shall be fined or imprisoned in accordance with subsection (c).

"(b) TRANSMISSION NOT REQUIRED.—Transmission of the Human Immunodeficiency Virus does not have to occur for a person to be convicted of a violation of this section.

"(c) PENALTY.—Any person convicted of violating the provisions of subsection (a) shall be subject to a fine of not less than $10,000 nor more than $20,000, imprisoned for not less than 1 year nor more than 10 years, or both.".

31 USC 1301 note.

SEC. 515. Notwithstanding any other provision of law—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purposes for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this or any subsequent appropriation act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

TITLE VI—EMERGENCY APPROPRIATIONS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For the Public Health and Social Services Emergency Fund to be used to assist States and local communities in recovering from the flooding caused by tropical storm Alberto and other emer-

gencies, $35,000,000 to remain available until expended: *Provided,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 as amended, is transmitted by the President to the Congress.

TITLE VII—CRIME REDUCTION PROGRAMS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

CHILDREN AND FAMILIES SERVICES PROGRAMS

In addition to amounts otherwise appropriated in this Act, $26,900,000, to be derived from the Violent Crime Reduction Trust Fund, including $1,000,000 for a domestic violence hotline as authorized by the Safe Homes for Women Act of 1994 and $25,900,000 for carrying out the Community Schools Youth Services and Supervision Grant Program Act of 1994.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

In addition to amounts otherwise appropriated in this Act, $11,100,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out the Family and Community Endeavor Schools Act.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995".

Approved September 30, 1994.

LEGISLATIVE HISTORY—H.R. 4606:

HOUSE REPORTS: Nos. 103-533 (Comm. on Appropriations) and 103-733 (Comm. of Conference).
SENATE REPORTS: No. 103-318 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 28, 29, considered and passed House.
Aug. 5, 8, 10, considered and passed Senate, amended
Sept. 22, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 27, 28, Senate considered and agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement.

Public Law 103-334
103d Congress

An Act

Sept. 30, 1994
[H.R. 4649]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1995, and for other purposes, namely:

District of Columbia Appropriations Act, 1995.

TITLE I

FISCAL YEAR 1995 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1995, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $81,159,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding

any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds $12,432,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues. Reports.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $56,343,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

HUMAN RESOURCES DEVELOPMENT

Human resources development, $41,046,000.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $884,926,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths

of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1995, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1995, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1995, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1995, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emer-

Reports.

Communications.
Prisons.
Virginia.

gencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $720,258,000, to be allocated as follows: $542,682,000, of which $1,500,000 shall be used to provide additional support to title I (chapter I) of the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.) and $910,000 shall be available for the National Learning Center, Options School ($750,000) and Model Early Learning Center ($160,000), for the public schools of the District of Columbia; $87,100,000 shall be allocated for the District of Columbia Teachers' Retirement Fund; $60,348,000 for the University of the District of Columbia; $21,260,000 for the Public Library, of which $200,000 shall be transferred to the Children's Museum; $3,301,000 for the Commission on the Arts and Humanities; and $5,567,000 for the District of Columbia School of Law: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1995, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $898,034,000: *Provided,* That $20,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $195,002,000: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $12,850,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $306,768,000.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

SHORT-TERM BORROWING

For short-term borrowing, $5,000,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,312,000.

PAY ADJUSTMENT

For pay increases and related costs, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for fiscal year 1995 from which employees are properly payable, $106,095,000.

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

For the purpose of reimbursing the General Fund for costs incurred for the operation of the D.C. General Hospital pursuant to D.C. Law 1–134, the D.C. General Hospital Commission Act of 1977, $10,000,000.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $22,508,000: *Provided,* That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1995 or not later than 15 days after the last amount remaining in the fund is disbursed. Reports.

JOB-PRODUCING ECONOMIC DEVELOPMENT INCENTIVES

For tax incentive programs to be enacted by the Council targeted specifically to stimulating job-producing economic development in the District, $22,600,000.

CASH RESERVE FUND

For the purpose of a cash reserve fund to replenish the consolidated cash balances of the District of Columbia, $3,957,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $13,632,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $5,600,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,*

That $140,000 shall be available for project management and $110,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1996, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1996: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $265,653,000, of which $40,160,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects: *Provided,* That of the amounts appropriated under this heading in prior fiscal years for construction projects from the water and sewer enterprise fund for the Washington Aqueduct, $21,365 are rescinded.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,318,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,353,000, of which $140,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act to Establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): *Provided,* That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

GENERAL PROVISIONS

Public information.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the require-

ment of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

District of Columbia budget.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1996, shall be transmitted to the Congress no later than April 15, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided,* That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

Reports.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the

procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

Salaries.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1994 shall be deemed to be the rate of pay payable for that position for September 30, 1994.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations

of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1995, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1995 revenue estimates as of the end of the first quarter of fiscal year 1995. These estimates shall be used in the budget request for the fiscal year ending September 30, 1996. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93–198; D.C. Code, sec. 47–326), as amended, is amended by striking "sold before October 1, 1994" and inserting "sold before October 1, 1995".

SEC. 125. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 126. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

Sequestration.

SEC. 128. Effective as if included in the enactment of the District of Columbia Appropriations Act, 1990, section 133(e) of such Act is amended by striking "shall take effect" and all that follows and inserting "shall apply with respect to water and sanitary sewer services furnished on or after January 1, 1990.".

103 Stat. 1280.

Housing.
Prisons.

SEC. 129. For the fiscal year ending September 30, 1995, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 130. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1994, of the required reorganization plans.

SEC. 131. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1995 if—

(1) the Mayor approves the acceptance and use of the gift or donation: *Provided,* That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

Records.
Public information.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 132. Notwithstanding any other provision of law, each agency, office, and instrumentality of the District shall implement a hiring freeze and shall fill only vacancies in essential positions, and to the extent practicable, shall fill essential positions from among employees holding non-essential positions. A non-essential position that becomes vacant, other than by termination for cause, shall not be filled. The Council shall enact legislation to implement this title, which may include, but shall not be limited to, procedures for identifying essential and non-essential positions, for filling vacant essential positions from among employees holding non-essential positions, and for reporting on implementation of the hiring freeze required by this section.

SEC. 133. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representatives under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

Abortion.

SEC. 134. None of the Federal funds appropriated under this Act shall be expended for any abortion except when it is made known to the entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

INDEPENDENT AUDIT OF RETIREMENT BOARD

Contracts.

SEC. 135. (a) IN GENERAL.—The District of Columbia Retirement Board shall enter into an agreement with an independent firm meeting the qualifications described in subsection (b) to prepare and submit to the Retirement Board a written set of findings and recommendations not later than 6 months after the date of the enactment of this Act regarding the appropriateness and adequacy of the Retirement Board's fiduciary, management, and investment practices and procedures.

(b) QUALIFICATIONS FOR FIRM.—A firm meets the qualifications described in this subsection if the firm has a demonstrated expertise in the areas of investment and investment consulting, including but not limited to—

(1) the review and analysis of the investment portfolios of large public pension funds;

(2) the investment practices of the managers of such funds;

(3) the relationship of such practices to the fiduciary responsibilities of the managers of such funds; and

(4) the analysis of the investment returns achieved by such funds on both an absolute and risk-adjusted basis.

(c) REPORT TO CONGRESS.—Not later than 30 days after receiving the findings and recommendations provided under subsection (a), the Retirement Board shall submit a report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on the findings and recommendations.

(d) EXPENDITURE OF FUNDS.—The Retirement Board shall spend not to exceed $250,000 from investment earnings to carry out this section. No additional funds may be provided by the Mayor of the District of Columbia to the Retirement Board to carry out this section.

MUNICIPAL FISH WHARF

SEC. 136. None of the funds appropriated in this Act shall be obligated or expended on any proposed change in either the use or configuration of, or on any proposed improvement to, the Municipal Fish Wharf until such proposed change or improvement has been reviewed and approved by Federal and local authorities including, but not limited to, the National Capital Planning Commission, the Commission of Fine Arts, and the Council of the District of Columbia, in compliance with applicable local and Federal laws which require public hearings, compliance with applicable environmental regulations including, but not limited to, any amendments to the Washington, D.C. urban renewal plan which must be approved by both the Council of the District of Columbia and the National Capital Planning Commission.

FINANCIAL REPORTING

SEC. 137. (a) SUBMISSION OF QUARTERLY FINANCIAL REPORTS.—Not later than fifteen days after the end of every calendar quarter (beginning October 1, 1994), the Mayor shall submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Subcommittees on District of Columbia Appropriations of the House of Representatives and the Senate a report on the financial and budgetary status of the government of the District of Columbia for the previous quarter.

(b) CONTENTS OF REPORT.—Each report submitted under subsection (a) with respect to a quarter shall include the following information:

(1) A comparison of actual to forecasted cash receipts and disbursements for each month of that quarter, as presented in the District's fiscal year consolidated cash forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds other than the capital projects fund and trust and agency funds;

(2) A projection of the remaining months' cash forecast for that fiscal year;

(3) Explanations of (A) the differences between actual and forecasted cash amounts for each of the months in the quarter, and (B) the changes in the remaining months' forecast as compared to the original forecast for those months of that fiscal year;

(4) The effect of these changes, actual and projected, on the total cash balance of the remaining months and for the fiscal year;

(5) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy decisions may be necessary which may require the agencies to reduce expenditures in other areas; and

(6) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements.

(c) REPORTING ON NONAPPROPRIATED FUNDS.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1994, the Mayor shall submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report on all revenues and expenditures of the general fund of the District that are characterized as nonappropriated in the Comprehensive Annual Financial Report. The report required by this subsection shall include the following information for each category of nonappropriated funds:

(1) The source of revenues;

(2) The object of the expenditures;

(3) An aging of outstanding accounts receivable and accounts payable;

(4) The statutory or other legal authority under which such category of funds may be expended without having been

appropriated as part of the District's annual budget and appropriations process;

(5) The date when such category of funds was first expended on a nonappropriated basis;

(6) The policy or rationale for why the revenues and expenditures of such funds should not be part of the District's annual budget and appropriations process; and

(7) A reconciliation of the amounts reported under this subsection with the amounts characterized as nonappropriated in the Comprehensive Annual Financial Report.

SPENDING REDUCTIONS

SEC. 138. (a) REDUCTION IN FISCAL YEAR 1995 EXPENSES.—

(1) IN GENERAL.—In addition to any other reduction required by this Act, the total amount appropriated in this title for the District of Columbia for fiscal year 1995 under the caption "Division of Expenses" is hereby reduced by $140,000,000. The reduction shall be allocated by the Mayor of the District among the various appropriation headings under such caption (excluding the "Rainy Day Fund") and shall be taken only from expenses for personal and nonpersonal services.

(2) REPORTING REQUIREMENTS.—

(A) IMPLEMENTATION PLAN.—Not later than 30 days after the date of the enactment of this Act, the Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report setting forth a detailed plan for the implementation of the reduction made by paragraph (1).

(B) PLAN REVISIONS.—The Mayor of the District of Columbia may at any time revise the implementation plan submitted under subparagraph (A). Not later than 30 days after making any such revision, the Mayor shall submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report setting forth a detailed description and justification of such revision.

(C) REVISED CASH FORECASTS.—Each report required by subparagraph (A) or (B) shall include revisions to the forecasts reported in accordance with subsection (b) of section 137 of this Act that incorporate the reduction made by paragraph (1) and the allocation of the reduction under the plan or plan revisions submitted under this paragraph.

(D) SUPPLEMENTAL BUDGET SUBMISSION.—Any supplemental budget request for fiscal year 1995 submitted by the District to the Congress shall incorporate the reduction made by paragraph (1) and the allocation of the reduction under the plan or plan revisions submitted under this paragraph.

(b) ANNUAL LIMITATION ON DISBURSEMENTS.—

(1) AGGREGATE LIMITATION.—The total disbursements and net payables of the government of the District of Columbia from the funds covered by paragraph (2) during fiscal year

1995 shall not exceed the total receipts collected by the government and available for such funds during fiscal year 1995.

(2) INDIVIDUAL FUND LIMITATIONS.—The disbursements and net payables of the government of the District of Columbia from the general fund and from each of the government's other funds not covered by paragraph (3) during fiscal year 1995 shall not exceed the receipts collected by the government and available for the general fund and for each such fund during fiscal year 1995.

(3) CAPITAL PROJECTS, TRUST AND AGENCY FUNDS LIMITATIONS.—The disbursements and net payables of the government of the District of Columbia from each of the government's capital projects, trust and agency funds during fiscal year 1995 shall not exceed the total of the cash available to each such fund at the beginning of fiscal year 1995 plus the receipts of each such fund during fiscal year 1995.

(c) ENFORCEMENT.—

(1) PLACEMENT IN ESCROW OF PORTION OF ANNUAL FEDERAL PAYMENT.—Upon receipt of the annual Federal payment for fiscal year 1996 authorized by sections 502(a) or 503 of the District of Columbia Self-Government and Governmental Reorganization Act or made pursuant to any other provision of law authorizing a Federal payment to the general fund of the District of Columbia for fiscal year 1996, the Mayor of the District of Columbia shall place in escrow—

(A) 10 percent of the Federal payment, for purposes of enforcement of subsection (a); and

(B) an additional 10 percent of the Federal payment, for purposes of enforcement of subsection (b)(1).

(2) AVAILABILITY OF ESCROWED AMOUNTS.—No portion of the funds placed in escrow under paragraph (1) of this subsection shall be available for use by the government of the District of Columbia until the Mayor submits to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate two reports, each certified by an independent public accountant, on (A) the spending reductions required by subsection (a) of this section, and (B) the disbursements, net payables, and receipts covered by paragraph (1) of subsection (b) of this section. In no event shall the reports required by this paragraph be submitted later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995.

(3) AMOUNT OF ESCROWED FUNDS AVAILABLE.—Fifteen days after submitting the reports required by paragraph (2), the funds placed in escrow under paragraph (1) shall be available for use by the government of the District of Columbia only if—

(A) the Mayor pays to the Treasury of the United States the sum of—

(i) the amount (if any) by which the actual reduction implemented under subsection (a) fails to achieve the reduction made by paragraph (1) of such subsection; and

(ii) the amount (if any) by which the disbursements and net payables described in subsection (b)(1) exceed the receipts described in such subsection; and

(B) such payment is made by the Mayor within such fifteen-day period from the escrowed funds or, if such escrowed funds are insufficient, from other funds available to the government of the District.

(d) VIOLATION REPORTS.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995, the Mayor, Deputy Mayor for Financial Management, and Controller shall jointly submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a separate report on each fund described in paragraphs (2) and (3) of subsection (b) of this section that violated the limitation applicable to the fund. Each report shall contain, but not be limited to—

(1) the amount of the violation;

(2) an analysis of the difference between the budgeted and actual disbursements, payables, and receipts for fiscal year 1995;

(3) an explanation of policies, events, or other factors that caused or contributed to the violation;

(4) actions taken or to be taken against government officials or employees for causing or contributing to the violation; and

(5) actions taken or to be taken to prevent recurrence of the violation in fiscal year 1996.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "net payables" means the difference in the amount of payables for a fund at the beginning of a fiscal year and the amount of such payables for such fund at the end of the fiscal year;

(2) the term "payables" means accounts payables and compensation payables; and

(3) the terms "disbursements", "accounts payables", "compensation payables", "receipts", "capital projects fund", "trust funds", and "agency funds" shall have the same meaning as such terms had for purposes of the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1993.

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 139. (a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each agency of the Federal or District of Columbia government, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 140. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited

to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS

SEC. 141. (a) REDUCTION.—The total number of full-time equivalent positions financed from District of Columbia appropriated funds shall not exceed 33,588.

(b) MONITORING AND NOTIFICATION.—The Mayor of the District of Columbia shall—

(1) regularly monitor the total number of full-time equivalent positions financed from District of Columbia appropriated funds and make a determination on the first date of each quarter of the fiscal year of whether the requirements under subsection (a) are met; and

(2) notify the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the first day of each quarter of the fiscal year of the determinations made under paragraph (1).

SEC. 142. (a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the Washington Aqueduct. The study shall be conducted in consultation with the Environmental Protection Agency, the Office of Management and Budget, and the non-Federal public water supply customers of the Washington Aqueduct.

(b) STUDY CONTENTS.—The study required by subsection (a) shall include analyses of—

(1) the current condition of the Washington Aqueduct;

(2) the operation and maintenance activities and capital improvements required at the Washington Aqueduct facility to ensure the availability of an uninterruptible supply of potable drinking water sufficient to meet the current and future needs of the District of Columbia and its environs;

(3) alternative methods of financing such operation and maintenance activities and capital improvements; and

(4) alternative arrangements for ownership of the Washington Aqueduct facility, including the operation of establishing a non-Federal regional water authority and transferring ownership and operating responsibility from the Department of the Army to such regional authority or to another appropriate non-Federal entity.

(c) REPORT.—Not later than February 1, 1995, the Secretary of the Army, acting through the Chief of Engineers, shall submit to the Congress a report setting forth the findings of the study required by subsection (a) and any recommendations as a result of the findings. The report shall include a recommendation on the advisability of establishing a non-Federal regional water authority and transferring ownership of and operating responsibility for the Washington Aqueduct facility from the Department of the Army to such regional authority.

(d) DEFINITION.—For purposes of this section, the term "non-Federal public water supply customers of the Washington Aqueduct"

means the District of Columbia, Arlington County, Virginia, and the City of Falls Church, Virginia.

ANNUAL BOARD OF EDUCATION REPORT AND BUDGET REVISION

SEC. 143. (a) ANNUAL REPORT ON POSITIONS AND EMPLOYEES.—Hereafter, the Board of Education of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system of the District. The first such annual report shall be verified by independent auditors.

(b) REQUIRED CONTENTS OF ANNUAL REPORT.—The annual report required by subsection (a) shall set forth—

(1) the number of validated schedule A positions in the public school system of the District of Columbia for the following fiscal year on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the public school system of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee is actually performing, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(c) SUBMISSION OF ANNUAL REPORT.—

(1) FIRST REPORT.—The first annual report required by subsection (a) shall include the information required by subsection (b)(1) for each of the fiscal years 1993, 1994, and 1995, and shall be submitted to the Congress, and to the Mayor and Council of the District of Columbia, by not later than October 1, 1994.

(2) SUBSEQUENT REPORTS.—Except as provided in paragraph (1), the annual report required by subsection (a) shall be submitted to the Congress, and to the Mayor and Council of the District of Columbia, by not later than April 15 of each year.

(d) ANNUAL BUDGET REVISION.—

(1) IN GENERAL.—Not later than October 1, 1994, and each succeeding year or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act for the fiscal year beginning on such October 1 (whichever occurs first), the Board of Education of the District of Columbia shall submit to the Congress, and to the Mayor and Council of the District, a revised appropriated funds operating budget for the public school system of the District for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(2) REQUIRED FORMAT.—The revised budget required by paragraph (1) shall be submitted in the format of the budget that the Board of Education of the District of Columbia submits to the Mayor of the District for inclusion in the Mayor's budget submission to the Council of the District pursuant to section 442 of the District of Columbia Self-Government and Govern-

mental Reorganization Act (Public Law 93–198; D.C. Code, sec. 47–301).

This title may be cited as the "District of Columbia Appropriations Act, 1995".

TITLE II

District of Columbia Supplemental Appropriations and Rescissions Act, 1994.

FISCAL YEAR 1994 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support" $164,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1337), $18,797,000 are rescinded for a net decrease of $18,633,000.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $1,311,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1337), $31,697,000 are rescinded for a net decrease of $30,386,000.

HUMAN RESOURCES DEVELOPMENT

Human resources development, $42,801,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $16,398,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1338), $4,742,000 are rescinded for a net increase of $11,656,000.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $17,243,000 for public schools of the District of Columbia and $735,000 for the University of the District of Columbia: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1339), $487,000 for the Education Licensure Commission, $91,000 for the Commission on the Arts and Human-

ities, $30,000 for the District of Columbia Law School and $245,000 for the District of Columbia Public Library are rescinded for a net increase of $17,125,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $38,961,000: *Provided,* That $4,657,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1340), $831,000 are rescinded for a net increase of $38,130,000.

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1340), $6,592,000 are rescinded.

WASHINGTON CONVENTION CENTER FUND

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127, 107 Stat. 1340), $338,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1340 and 1341), $15,161,000 are rescinded.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For an additional amount for "Repayment of General Fund Recovery Debt", $312,000.

OPTICAL AND DENTAL BENEFITS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1341), $11,000 are rescinded.

SEVERANCE PAY

For an additional amount for "Severance pay", $6,000,000.

D.C. GENERAL HOSPITAL DEFICIT PAYMENT

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1341), $5,500,000 are rescinded.

CASH RESERVE FUND

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1341), $3,957,000 are rescinded.

SHORT-TERM BORROWING

For "Short-term borrowing", $3,500,000.

WATER AND SEWER ENTERPRISE FUND

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1994 in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1343), $9,411,000 are rescinded: *Provided,* That $37,436,000 of the amounts available for fiscal year 1994 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $40,438,000 as provided under this heading in the District of Columbia Appropriations Act, 1994, approved October 29, 1993 (Public Law 103–127; 107 Stat. 1343).

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For an additional amount for "Lottery and Charitable Games Enterprise Fund", $1,235,000.

CABLE TELEVISION ENTERPRISE FUND

The paragraph under the heading "Cable Television Enterprise Fund" in the District of Columbia Appropriations Act, 1994, approved October 29, 1993, is amended by inserting after the figure "$2,353,000" the following: "of which $140,000 shall be transferred to the General Fund of the District of Columbia.".

STARPLEX FUND

The paragraph under the heading "Starplex Fund" in the District of Columbia Appropriations Act, 1994, approved October 29, 1993, is amended by inserting after the phrase "Television" the

following: "and an additional $1,400,000 shall be transferred to the General Fund of the District of Columbia.".

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1994.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1994".

Approved September 30, 1994.

LEGISLATIVE HISTORY—H.R. 4649:

HOUSE REPORTS: Nos. 103-558 (Comm. on Appropriations) and 103-671 (Comm. of Conference).
SENATE REPORTS: No. 103-313 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 13, considered and passed House.
July 20, 21 considered and passed Senate, amended.
Aug. 8, House agreed to conference report; receded and concurred in a certain Senate amendment, in others with an amendment.
Sept. 21, 28, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement.

Public Law 103-335
103d Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

Sept. 30, 1994
[H.R. 4650]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1995, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of Defense Appropriations Act, 1995.
Post, p. 2659.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,609,770,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,569,137,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of

temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,774,871,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $17,181,479,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $2,161,620,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,401,809,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and

expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $348,748,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $768,834,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $3,339,505,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund; $1,233,429,000.

TITLE II

Short title.
Post, p. 2659.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority

of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $17,507,088,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided,* That of the funds appropriated in this paragraph, not less than $388,599,000 shall be made available only for conventional ammunition care and maintenance: *Provided further,* That of the funds appropriated in this paragraph, $5,800,000 shall be made available only for the removal of equipment and the repair and restoration of structures at the National Center for Toxicological Research, Jefferson, Arkansas: *Provided further,* That of the funds appropriated under this heading, not less than $5,000,000 shall be made available only for payment to the DOD 50th Anniversary of World War II Commemoration Appropriation: *Provided further,* That of the funds appropriated under this heading, $9,500,000 shall be made available only to purchase an easement for use by the Army's Schofield Barracks Military Reservation for the purpose of waste water disposal: *Provided further,* That notwithstanding Army Regulation 200–1, the Secretary of the Army may obligate not to exceed $2,000,000 through the Army Corps of Engineers to contribute to a multi-party remediation effort at the Alaska Roundhouse site at Cordova, Alaska: *Provided further,* That such funds may only be obligated to match contributions made by other private, State or Municipal authorities to the remediation effort.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,301,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,054,470,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided,* That of the funds appropriated under this heading, not less than $45,874,000 shall be made available only for the Pacific Missile Range Facility, Hawaii: *Provided further,* That of the funds appropriated under this heading, $46,300,000 shall be made available only for naval shipyard modernization projects to remain available for obligation until September 30, 1996.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,988,215,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,762,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority

of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,763,427,000 and, in addition, $50,000,000 shall be derived by transfer from the National Defense Stockpile Transaction Fund: *Provided,* That the Secretary of the Air Force may acquire all right, title and interest of any party in and to two parcels of real property, including improvements thereon, consisting of approximately 27 acres, located near King Salmon Air Force Station: *Provided further,* That this authority may be exercised only for the purpose of conducting a response action in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601–9675) and the Air Force Installation Restoration Program.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $10,500,104,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $23,768,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided,* That of the funds appropriated under this heading, $20,000,000 shall be made available only for the repair and maintenance of federally owned education facilities located on military installations.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,243,209,000: *Provided,* That the Undersecretary of Defense for Policy, shall, not later than October 15, 1994, transmit, in unclassified and classified forms, the Rand Corporation Study, published on or about December 1993, on The United States Role in Possible Middle East Peace Settlements to the congressional defense, intelligence and foreign affairs committees.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $831,219,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities

and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $81,862,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,471,505,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,440,288,000: *Provided,* That of the funds appropriated in this paragraph, $10,000,000 shall be made available only for a National Guard Outreach Program in the Los Angeles School District.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,772,928,000: *Provided,* That of the funds appropriated under this heading, $9,200,000 shall be made available only for the operation of Air National Guard C–130 operational support aircraft of the 159th Air National Guard Fighter Group, the 146th Airlift Wing, and the South Carolina Air National Guard 169th Fighter Group unit.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for operation and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the sale of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $2,544,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $6,126,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,780,200,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

SUMMER OLYMPICS

For logistical support and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the 1996 Games of the XXVI Olympiad and the X Paralympiad to be held in Atlanta, Georgia) provided by any component of the Department of Defense to the 1996 Games of the XXVI Olympiad and the X Paralympiad; $14,400,000: *Provided,* That funds appropriated under this heading shall remain available for obligation until September 30, 1997.

1995 SPECIAL OLYMPICS WORLD GAMES

For logistical support and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the 1995 Special Olympics World Games to be held in New Haven, Connecticut) provided by any component of the Department of Defense to the 1995 Special Olympics World Games; $3,000,000.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for the people of Afghanistan, the Kurdish population and other minorities of northern Iraq, and the people of sub-Saharan Africa, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian relief supplies, and excess non-lethal property; $65,000,000 of which $10,000,000 shall be made available only for activities to support the clearing of landmines for humanitarian purposes.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for providing incentives for demilitarization; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; for supporting the demilitarization of military technologies and production infrastructure; $400,000,000 to remain available until expended: *Provided,* That of the funds appropriated under this heading, $10,000,000 shall be made available only for the continuing study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic and North Pacific regions.

Short title.
Post, p. 2659.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,063,164,000, to remain available for obligation until September 30, 1997: *Provided,* That the Secretary of the Army will report to the House and

Reports.

Senate Committees on Appropriations on the concept, organization, requirements, and mission need documents for the High Capacity Air Ambulance, utilizing low cost fixed wing aircraft, no later than April 15, 1995.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $813,795,000, to remain available for obligation until September 30, 1997.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,151,914,000, to remain available for obligation until September 30, 1997.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,181,221,000, to remain available for obligation until September 30, 1997: *Provided,* That of the amounts appropriated for the ARMS program in "Procurement of Ammunition, Army, 1993/1995", $43,000,000 may be available to fund subsidy costs of loan guarantees authorized to be made under that program.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat

vehicles; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,673,148,000, to remain available for obligation until September 30, 1997.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $4,627,645,000, to remain available for obligation until September 30, 1997.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $2,159,080,000, to remain available for obligation until September 30, 1997: *Provided,* That, in addition to the foregoing purposes, funds appropriated under this heading shall be available to liquidate deficiencies in appropriations provided under this heading in prior Department of Defense appropriations Acts without regard to any provision of law limiting or restricting amounts which may be charged to currently available appropriations with respect to funds provided in prior appropriations Acts.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other

expenses necessary for the foregoing purposes; $417,779,000, to remain available for obligation until September 30, 1997.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier replacement program, $2,284,925,000;

CVN Refuelings, $38,328,000;

DDG–51 destroyer program, $2,660,690,000;

LHD–1 amphibious assault ship program, $50,000,000: *Provided,* That such funds shall not be obligated or expended until such time that there are sufficient funds made available for the LHD ship program to execute an existing contract option or any extension thereto for LHD–7: *Provided further,* That such funds shall not be transferred, reprogrammed, or used for any purpose other than the LHD ship program: *Provided further,* That such funds shall remain available for obligation until expended: *Provided further,* That the Secretary of the Navy shall extend this existing contract option for the LHD–7 ship for not less than one year and shall negotiate any change in option price made necessary by such extension; Contracts.

Nuclear submarine main steam condenser industrial base, $1,000,000;

For craft, outfitting, post delivery, conversions, and first destination transportation, $377,521,000;

In all: $5,412,464,000, and, in addition, $1,200,000,000 shall be derived by transfer from the National Defense Sealift Fund for additional funding for the Carrier replacement program, all to remain available for obligation until September 30, 1999: *Provided,* That additional obligations may be incurred after September 30, 1999, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 262 passenger motor vehicles, of which 162 shall be for replacement only; expansion of public and private plants, including the land necessary therefor,

and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,329,171,000, to remain available for obligation until September 30, 1997: *Provided*, That of the funds appropriated under this heading, not less than $23,900,000 shall be made available only for the Pacific Missile Range Facility, Hawaii.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 103 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $422,410,000, to remain available for obligation until September 30, 1997.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $6,379,962,000, to remain available for obligation until September 30, 1997: *Provided*, That the Department of the Air Force shall initiate procurement of non-developmental airlift aircraft no later than September 30, 1995.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $3,650,262,000, to remain available for obligation until September 30, 1997.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $288,401,000, to remain available for obligation until September 30, 1997.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 678 passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $6,965,201,000, to remain available for obligation until September 30, 1997.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 437 passenger motor vehicles, of which 431 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,088,230,000, to remain available for obligation until September 30, 1997.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $800,000,000, to remain available for obligation until September 30, 1997.

Short title.
Post, p. 2659.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,521,413,000, to remain available for obligation until September 30, 1996.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,796,168,000, to remain available for obligation until September 30, 1996: *Provided,* That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced antisubmarine warfare acoustics issues with focus on ocean bottom acoustics, seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide special equipment as may be required for particular projects: *Provided further,* That none of the funds appropriated in this paragraph may be obligated or expended to develop or purchase equipment for an Aegis destroyer variant (commonly known as "Flight IIA") whose initial operating capability is budgeted to be achieved prior to the initial operating capability of the Ship Self-Defense program, nor to develop sensor, processor, or display capabilities which duplicate in any way those being developed in the Ship Self-Defense program: *Provided further,* That funds appropriated in this paragraph for development of the LPD–17 ship may not be obligated unless the baseline design of the ship includes cooperative engagement capability and sufficient own-ship self-defense capability against advanced sea-skimming antiship cruise missiles in the baseline design to achieve an estimated probability of survival from attack by such missiles at a level no less than any other Navy ship.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $12,202,572,000, to remain available for obligation until September 30, 1996: *Provided,* That not less than $12,000,000 of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program and Global Seismic Network administrated by the Incorporated Research Institutions for Seismology: *Provided further,* That not less than $20,000,000 of the funds appropriated in this paragraph shall be

made available only for the National Center for Manufacturing Sciences: *Provided further,* That not less than $13,000,000 of the funds appropriated in this paragraph shall be made available only to continue the establishment and operation of an image information processing center supporting the Air Force Maui Space Surveillance Site.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,099,387,000, to remain available for obligation until September 30, 1996: *Provided,* That not less than $75,000,000 of the funds appropriated in this paragraph shall be made available only for the Sea-Based Wide Area Defense (Navy Upper-Tier) program: *Provided further,* That $50,000,000 shall be made available only to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued pursuant to subsection (b)(3) of such section: *Provided further,* That of the funds appropriated in this paragraph, $15,000,000 shall be transferred to the Department of Energy to address environmental restoration and management needs through the Center for Bioenvironmental Research: *Provided further,* That not less than $20,000,000 of the funds appropriated in this paragraph shall be made available only for an Experimental Program to Stimulate Competitive Research (EPSCOR) in the Department of Defense which shall include all states eligible as of the date of enactment of this Act for the National Science Foundation Experimental Program to Stimulate Competitive Research.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director, Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $238,003,000, to remain available for obligation until September 30, 1996.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $12,501,000, to remain available for obligation until September 30, 1996.

Short title.
Post, p. 2659.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

For the Defense Business Operations Fund; $945,238,000.

NATIONAL DEFENSE SEALIFT FUND

(INCLUDING TRANSFER OF FUNDS)

For National Defense Sealift Fund programs, projects, and activities, $724,400,000, to remain available until expended: *Provided*, That $25,000,000 shall be transferred to the Secretary of Transportation for title XI loan guarantees: *Provided further*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all ship-board services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That not to exceed $43,000,000 may be used for the purchase or construction of vessels for the Ready Reserve Force component of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744): *Provided further*, That $110,000,000 may be used for the acquisition and conversion of one maritime prepositioning ship for use by the Marine Corps MPS Enhancement Program, and notwithstanding any other provision of law, that such conversion shall be performed in a United States shipyard.

Short title.
Post, p. 2659.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $9,930,759,000, of which $9,601,170,000 shall be for Operation and maintenance, of which $329,589,000, to remain available for obligation until September 30, 1997, shall be for Procurement: *Provided*, That the Department shall continue to competitively contract during fiscal year 1995 for mail service pharmacy for at least two multi-state regions in addition to the ongoing solicitations for Florida, South Carolina, Georgia, Delaware, New Jersey, Penn-

Contracts.
Health care.
State listing.

sylvania, and Hawaii, as well as each base closure area not supported by an at-risk managed care plan; that such services shall be procured independent of any other Department managed care contracts; that one multi-state region shall include the State of Kentucky and that one multi-state region shall include the State of New Mexico: *Provided further,* That of the funds appropriated under this heading, $5,000,000 shall be made available only for nursing research: *Provided further,* That of the funds appropriated under this heading, $14,500,000 shall be made available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross as authorized by law: *Provided further,* That until the end of September 30, 1995, the Secretary of the Air Force shall, through contract or otherwise, continue to provide health care in the base hospital at Plattsburgh Air Force Base, New York, to persons entitled to health care in facilities of the uniformed services: *Provided further,* That of the funds appropriated under this heading, not more than $3,400,000 shall be made available to permit private sector or non-Federal physicians, who have used and will use the antibacterial treatment method based upon the excretion of dead and decaying spherical bacteria, to work in conjunction with the Walter Reed Army Medical Center on a treatment protocol and related studies for Desert Storm Syndrome-affected veterans.

Contracts.
Health care.
New York.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $575,449,000, of which $355,784,000 shall be for Operation and maintenance, $198,965,000 shall be for Procurement to remain available until September 30, 1997, and $20,700,000 shall be for Research, development, test and evaluation to remain available until September 30, 1996.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $721,266,000, of which $10,000,000 is hereby transferred to the "Military Construction, Navy" appropriation for construction of a Relocatable Over-the-Horizon Radar in Puerto Rico: *Provided,* That section 9136 of Public Law 102–396 is amended by adding the words "purchasing or" before the word "leasing" and by changing the designation "T–47" to "OT–47B": *Provided further,* That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further,* That the transfer authority

106 Stat. 1938.

provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $140,872,000, of which $139,872,000 shall be for Operation and maintenance, of which not to exceed $400,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 1997, shall be for Procurement.

Short title.
Post, p. 2659.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $198,000,000.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102–183, $8,500,000 to be derived from the National Security Education Trust Fund, to remain available until expended.

COMMUNITY MANAGEMENT ACCOUNT

For necessary expenses of the Community Management Account; $92,684,000: *Provided,* That of the funds appropriated in this paragraph, no more than $2,000,000 may be available for the purchase of information system upgrades at the Department of State Bureau of Intelligence and Research.

KAHO'OLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION TRUST FUND

For payment to the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, as authorized by law, $50,000,000 to remain available until expended.

Short title.
Post, p. 2659.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

10 USC 1584 note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary

Wages.
Government employees.

increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey. Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds and the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts

appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided,* That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further,* That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

Germany.
Defense installations.
Energy.

SEC. 8008. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8009. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1994 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on allowable payments under title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent (except that the reduction may be waived if the Secretary determines that it would impair adequate access to health care services for beneficiaries). The Secretary shall solicit public comment prior to promulgating regulations to implement this section. Such regulations shall include a limitation, similar to that used under title XVIII of the Social Security Act, on the extent to which a provider may bill a beneficiary an actual charge in excess of the allowable amount.

Regulations.

SEC. 8010. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate

Contracts.

multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

MK19–3 grenade machine guns;
M16A2 rifles;
M249 Squad Automatic Weapons;
M4 carbine rifles.

SEC. 8011. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam. 10 USC 401 note.

SEC. 8012. Notwithstanding any other provision of law, a qualified Indian Tribal corporation or Alaska Native Corporation furnishing the product of a responsible small business concern shall not be denied the opportunity to compete for and be awarded a procurement contract pursuant to section 2323 of title 10, United States Code, solely because the Indian Tribal corporation or Alaska Native Corporation is not the actual manufacturer or processor of the product to be supplied under the contract.

SEC. 8013. (a) The provisions of section 115(a)(4) of title 10, United States Code, shall not apply with respect to fiscal year 1995 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1995, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1996 budget request for the Department of Defense as well as all justification material and other documenta-

tion supporting the fiscal year 1996 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1996.

SEC. 8013A. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further,* That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

Labor and employment. Children and youth. Disadvantaged persons.

SEC. 8014. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8015. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8016. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any person who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

Securities. 10 USC 1074 note.

SEC. 8017. Notwithstanding any other provision of law, during the current fiscal year and hereafter, proceeds from the investment of the Fisher House Investment Trust Fund will be used to support the operation and maintenance of Fisher Houses associated with Army medical treatment facilities.

SEC. 8018. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided,* That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1,

1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further,* That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this subsection applies only to active components of the Army.

SEC. 8019. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8020. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

Contracts.
Computer technology.

SEC. 8021. All new Department of Defense procurements shall separately identify software costs in the work breakdown structure defined by MIL–STD–881 in those instances where software is considered to be a major category of cost.

SEC. 8021A. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8022. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships

to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8023. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8024. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1995, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes and reports, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action: *Provided,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act: *Provided further,* That at the time the President submits his budget for fiscal year 1996, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 1996.

SEC. 8025. Of the funds appropriated to the Army, $203,736,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended—

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(4) unless the Program Manager (PM) charter makes the PM accountable to the Chief of the National Guard Bureau

and fully defines his authority, responsibility, reporting channels and organizational structure;

(5) to pay the salaries of individuals assigned to the RCAS program management office unless such organization is comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(6) to pay contracted costs for the acquisition of RCAS unless RCAS is an integrated system consisting of software, hardware, and communications equipment and unless such contract continues to preclude the use of Government furnished equipment, operating systems, and executive applications software; and

(7) unless RCAS performs its own classified information processing:

Provided further, That notwithstanding any other provision of law, none of the funds appropriated shall be available for procurement of computers for the Army Reserve Component which are used to network or expand the capabilities of existing or future information systems or duplicate functions to be provided under the RCAS contract unless the procurement meets the following criteria: (A) at sites scheduled to receive RCAS equipment prior to September 30, 1995, RCAS ADP equipment may be procured and only in the numbers and types allocated by the RCAS program to each site; and at sites scheduled to receive RCAS equipment after September 30, 1995, RCAS ADP equipment or ADP equipment from a list of RCAS compatible equipment approved by the Chief of the National Guard Bureau or his designee, may be procured and only in the numbers and types allocated by the RCAS program to each site; (B) the requesting organizational element has insufficient ADP equipment to perform administrative functions but not to exceed the number of work stations determined by the RCAS program for that site; (C) replacement equipment will not exceed the minimum required to maintain the reliability of existing capabilities; (D) replacement will be justified on the basis of cost and feasibility of repairs and maintenance of present ADP equipment as compared to the cost of replacement; and (E) the procurement under this policy must be approved by the Chief of the National Guard Bureau or his designee, provided that the procurement is a one for one replacement action of existing equipment.

SEC. 8025A. Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

Contracts.
Regulations.

SEC. 8026. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided,* That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further,*

That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further,* That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

Arms and munitions.

SEC. 8026A. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns or defensive handgun ammunition unless such handguns or handgun ammunition are the M9 9mm Department of Defense standard handgun or ammunition for such handguns, or (2) offensive handguns and ammunition except for the Special Operations Forces: *Provided,* That the foregoing shall not apply to handguns and ammunition for marksmanship competitions.

(TRANSFER OF FUNDS)

SEC. 8027. Notwithstanding any other provision of law, the Department of Defense may transfer prior year, unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508) as that granted the other military personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508): *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty calendar days in session before any such transfer of funds under this provision.

SEC. 8028. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8029. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement

of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided,* That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

Mental health Regulations.

SEC. 8030. Notwithstanding any other provision of law, none of the funds appropriated in this Act may be used to purchase, install, replace, or otherwise repair any lock on a safe or security container which protects information critical to national security or any other classified materials and which has not been certified as passing the security lock specifications contained in regulation FF–L–2740 dated October 12, 1989, and has not passed all testing criteria and procedures established through February 28, 1992: *Provided,* That the Director of Central Intelligence may waive this provision, on a case-by-case basis only, upon certification that the above cited locks are not adequate for the protection of sensitive intelligence information.

SEC. 8031. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8032. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa: *Provided,* That notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8033. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided,* That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further,* That the Department of Defense's budget submission for fiscal year 1996 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through

such credits: *Provided further,* That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further,* That each such Executive Agreement with a NATO member host nation shall be reported to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

Reports.

SEC. 8034. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 8035. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8036. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. 8037. Of the funds appropriated by this Act, no more than $18,500,000 shall be available for the mental health care demonstration project at Fort Bragg, North Carolina: *Provided,* That adjustments may be made for normal and reasonable price and program growth.

SEC. 8038. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act: *Provided,* That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8039. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at any Army Research Laboratory until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

Base closure.
10 USC 2687 note.

SEC. 8040. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five-year period beginning on October 1, 1994, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assess-

ment of the economic impact in each area in which a military installation is to be realigned or closed.

SEC. 8041. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further,* That no funds appropriated or made available in this Act shall be used for the relocation into the National Capital Region of the Air Force Office of Medical Support located at Brooks Air Force Base.

Contracts.

SEC. 8041A. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1995 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8042. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave: *Provided,* That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

Government employees.

SEC. 8043. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 8044. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8045. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8046. Of the funds made available in this Act, not less than $24,565,000 shall be available for the Civil Air Patrol, of which $13,105,000 shall be available for Operation and Maintenance.

SEC. 8047. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8048. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

Contracts. Small business. Handicapped persons.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

SEC. 8049. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8050. Notwithstanding any other provision of law or regulation, ships designated T–AGS 63, T–AGS 64 and T–AGS 65 must utilize remanufactured milspec SASS multibeam sonars: *Provided,* That the Secretary of the Navy may waive this restriction by certifying in writing to the Committees on Appropriations that an alternative acquisition must be made in order to acquire capability for national security purposes.

SEC. 8050A. None of the funds available to the Department of Defense during fiscal year 1995 may be obligated for low rate initial production of the ALR–67(V)3 Advanced Special Receiver

(ASR) until 30 days after the congressional defense committees have received the following:

(1) A certification by the Director, Operational Test and Evaluation, Defense, that, based on the results of the joint Developmental Test/Operational Test flight tests and of the Operational Assessment intended to address the readiness of the ASR for low rate initial production, ASR is potentially operationally effective and potentially operationally suitable and ready to enter low rate initial production;

(2) A comprehensive report by the Commander, Navy Operational Test and Evaluation Force as to the test objectives and results of the joint Developmental Test/Operational Test flight tests and of the Operational Assessment intended to address the readiness of the ASR for low rate initial production;

(3) A comprehensive report by the Assistant Secretary of the Navy (Research, Development and Acquisition) as to the test objectives and results of the Developmental Flight Tests and Technical Evaluation, along with her certification that, based on these results, the ASR is ready to enter low rate initial production.

SEC. 8051. Section 8060 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139) is hereby repealed, which contained authority for acquisition of LANDSAT 7. 15 USC 5611 note.

SEC. 8052. Notwithstanding any other provision of law, of the funds appropriated for the Defense Health Program during this fiscal year and hereafter, the amount payable for services provided under this section shall not be less than the amount calculated under the coordination of benefits reimbursement formula utilized when CHAMPUS is a secondary payor to medical insurance programs other than Medicare, and such appropriations as necessary shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, or any other beneficiary described by section 1086(c) of title 10, United States Code, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) solely on the grounds of physical disability, or end stage renal disease: *Provided,* That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act and are otherwise covered under CHAMPUS: *Provided further,* That no reimbursement shall be made for services provided prior to October 1, 1991. 10 USC 1086 note.

SEC. 8053. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $250,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided,* That, upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriation or fund which incurred such obligations. Kuwait.

SEC. 8054. (a) Funds appropriated in this Act to finance activities of Department of Defense (DoD) Federally Funded Research and Development Centers (FFRDCs) may not be obligated or

expended for a FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DoD approved conflict of interest policy for its members.

(b) None of the funds appropriated in this Act are available to establish a new FFRDC, either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(c) The Secretary of Defense may not obligate more than one-half of the funds available for each defense FFRDC, and more than one-half of the total amount available for defense FFRDCs, until the congressional defense committees receive the annual funding ceilings for fiscal year 1995 for each defense FFRDC and each subcomponent of a defense FFRDC identified as a separate subentity due to the significantly unique nature of its functions.

(d) LIMITATION ON COMPENSATION.—No employee or executive officer of a defense FFRDC may be compensated at a rate exceeding Executive Schedule Level I by that FFRDC: *Provided,* That the restriction contained in this subsection shall not take effect until July 1, 1995.

Effective date.

(e) LIMITATION ON COMPENSATION.—No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC may be compensated for his or her services as a member of such entity except under the same conditions, and to the same extent, as members of the Defense Science Board: *Provided,* That a member of any such entity shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties: *Provided further,* That the restriction contained in this subsection shall not take effect until July 1, 1995.

Effective date.

(f) Notwithstanding any other provision of law, none of the funds available to the Department of Defense from any source during fiscal year 1995 may be used by a defense FFRDC, through a fee or other payment mechanism, for charitable contributions, for construction of new buildings, for payment of cost sharing for projects funded by government grants, or for absorption of contract overruns.

(g) Notwithstanding any other provision of law, of the amounts available to the Department of Defense during fiscal year 1995, not more than $1,252,650,000 may be obligated for financing activities of FFRDCs: *Provided,* That the total amount appropriated in title IV of this Act is hereby reduced by $100,000,000 to reflect the funding ceiling contained in this subsection.

(h) The total amount appropriated to or for the use of the Department of Defense in title IV of this Act is reduced by an additional $251,534,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense.

(i) The total amount appropriated to or for the use of the Department of Defense in title IV of this Act is reduced by an additional $19,055,000 to reflect savings from the decreased use of major nonprofit federally funded research institutions and university-affiliated research centers by the Department of Defense.

SEC. 8055. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel

plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided,* That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further,* That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further,* That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8055A. None of the unobligated balances available in the National Defense Stockpile Transaction Fund during the current fiscal year may be obligated or expended to finance any grant or contract to conduct research, development, test and evaluation activities for the development or production of advanced materials, unless amounts for such purposes are specifically appropriated in a subsequent appropriations Act.

SEC. 8056. For the purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services, the Committees on Appropriations, and the subcommittees on Defense of the Committee on Appropriations, of the Senate and the House of Representatives.

SEC. 8057. Notwithstanding any other provision of law, during the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided,* That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further,* That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8058. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country. 41 USC 10b–2.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1995. Such report shall separately indicate Reports.

the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

10 USC 2488 note.

SEC. 8058A. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Alcohol and alcohol abuse.

SEC. 8059. (a) Of the funds made available in this Act in title II, Operation and Maintenance, Army, $1,000,000 shall be available only to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) Notwithstanding any other provision of law, in the event that the purchaser of the Sale Parcel exercises its option to withdraw from all or a portion of the sale, as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, as amended, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification, as amended, shall come from the funds made available to the Department of Defense by this Act.

Real property. California.

(c) In the event that the purchaser purchases only a portion of the Sale Parcel and exercises its option to withdraw from the sale as to the rest of the Sale Parcel, the portion of the Sale Parcel that is not purchased (other than Landfill 26 and an appropriate buffer area around it and the groundwater treatment facility site), together with any of the land referred to in section 9099(e) of Public Law 102–396 that is not purchased by the purchaser, shall be sold to the City of Novato, in the State of California, for the sum of One Dollar as a public benefit transfer for school, classroom or other educational use, for use as a public park or recreation area or for further conveyance as provided herein, subject to the following restrictions: (1) if the City sells any portion of such land to any third party within ten years after the transfer to the City, which sale may be made without the foregoing use restrictions, any proceeds received by the City in connection with

such sale, minus the demonstrated reasonable costs of conducting the sale and of any improvements made by the City to the land following its acquisition of the land (but only to the extent such improvements increase the value of the portion sold), shall be immediately turned over to the Army in reimbursement of the withdrawal payment made by the Army to the contract purchaser and the costs of cleaning up the Landfill and (2) until one year following completion of the cleanup of contaminated soil in the Landfill and completion of the groundwater treatment facilities, the sale must be at a per-acre price for the portion sold that is at least equal to the per-acre contract price paid by the purchaser for the portion of the Sale Parcel purchased under the Agreement and Modification, as amended, and thereafter must be at a price at least equal to the fair market value of the portion sold. The foregoing restrictions shall not apply to a transfer to another public or quasi-public agency for public uses of the kind described above. The deed to the City shall contain a clause providing that, if any of the proceeds referred to in clause (1) are not delivered to the Army within 30 days after sale, or any portion of the land not sold as provided herein is used for other than educational, park or recreational uses, title to the applicable portion of such land shall revert to the United States Government at the election of the General Services Administration. The Army shall agree to deliver into the applicable closing escrow an acknowledgement of receipt of any proceeds described in clause (1) above and a release of the reverter right as to the affected land, effective upon such receipt.

(d) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of any portion of the Sale Parcel purchased by the contract purchaser under the Agreement and Modification, as amended.

(e) Notwithstanding any other provision of law, the purchaser's reimbursement claims shall be audited by the Defense Contract Audit Agency for reasonableness and accuracy before the Department of Defense provides any funds under the purchaser's withdrawal and reimbursement rights. Claims.

SEC. 8060. Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: *Provided,* That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member. 10 USC 2774 note.

SEC. 8061. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8062. During the current fiscal year, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such

amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1).

(INCLUDING TRANSFER OF FUNDS)

SEC. 8063. Amounts deposited during fiscal years 1994 and 1995 to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

Energy.

SEC. 8064. In order to maintain an electric furnace capacity in the United States, preference for the purchase of chromite ore and manganese ore authorized for disposal from the National Defense Stockpile shall be given to domestic producers of high carbon ferrochromium and high carbon ferromanganese—

(A) whose primary output during the three preceding years has been ferrochromium or ferromanganese; and

(B) who guarantee to use the chromite and manganese ore for domestic purposes.

SEC. 8064A. Notwithstanding any other provision of law, any statutorily-required analysis of the impact on the defense technology and industrial base of terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense shall address only those actions recommended by the Defense Department in its annual budget request and amendments thereto, supplemental requests, or proposed rescissions.

SEC. 8065. None of the funds in this or any other Act shall be available for the preparation of studies on—

(a) the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States: *Provided,* That this prohibition shall not apply to non-stockpile material in the United States or to studies needed for environmental analysis required by the National Environmental Policy Act, or for General Accounting Office studies requested by a Member of Congress or a Congressional Committee; and

(b) the potential future uses of the nine chemical disposal facilities other than for the destruction of stockpile chemical munitions and as limited by section 1412(c)(2), Public Law 99–145: *Provided,* That this prohibition does not apply to future use studies for the CAMDS facility at Tooele, Utah.

SEC. 8066. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided,* That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further,* That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid

directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

SEC. 8067. For fiscal year 1995, the total amount appropriated to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97–99 (42 U.S.C. 248c), is limited to $329,000,000, of which not more than $300,000,000 may be provided by the funds appropriated by this Act.

SEC. 8068. None of the funds available in this Act may be used to support in any manner, including travel or other related expenses, the "Tailhook Association": *Provided,* That investigations by the Secretary of the Navy or consultation with the Tailhook Association are not prohibited by this provision.

SEC. 8069. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

President.
Federal budget.
Wages.
10 USC 221 note.

SEC. 8070. None of the funds available to the Department of Defense may be obligated or expended for construction of Ground Wave Emergency Network (GWEN) sites in Fiscal Year 1995.

SEC. 8071. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8072. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8073. During the current fiscal year, annual payments granted under the provisions of section 4416 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–428; 106 Stat. 2714) shall be made from appropriations in this Act which are available for the pay of reserve component personnel.

SEC. 8074. Of the funds appropriated or otherwise made available by this Act, not more than $119,200,000 shall be available for payment of the operating costs of NATO Headquarters.

SEC. 8075. None of the funds appropriated by this Act shall be used to procure aircraft fuel cells unless the fuel cells are produced or manufactured in the United States by a domestic-operated entity: *Provided,* That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8075A. None of the funds available to the Department of the Air Force shall be available to establish or support any organic depot maintenance support activity for the B–2 bomber until the Under Secretary of Defense, Acquisition and Technology reviews the existing infrastructure for the private sector and Air Force Depot support and maintenance of the B–2 and reports to

the Congressional Defense Committees the most efficient and cost effective utilization of public and private facilities to support the B–2.

SEC. 8076. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $50,000.

SEC. 8077. During the current fiscal year, appropriations available for the pay and allowances of active duty members of the Armed Forces shall be available to pay the retired pay which is payable pursuant to section 4403 of Public Law 102–484 (10 U.S.C. 1293 note) under the terms and conditions provided in section 4403.

SEC. 8078. (a) During the current fiscal year, none of the appropriations or funds available to the Defense Business Operations Fund shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Defense Business Operations Fund if such an item would not have been chargeable to the Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 1996 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1996 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 1996 procurement appropriation and not in the supply management business area or any other area or category of the Defense Business Operations Fund.

SEC. 8079. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided,* That this prohibition shall not apply to safety modifications: *Provided further,* That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the United States to provide such waiver and so notifies the congressional defense committees in writing.

SEC. 8080. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8081. None of the funds appropriated by this Act shall be available for payment of the compensation of personnel assigned to or serving in the National Foreign Intelligence Program in excess of 94 percent of such personnel actually assigned to or serving in the National Foreign Intelligence Program on September 30, 1992: *Provided,* That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to Senior Intelligence Service positions

Labor and employment.

shall be equal to or exceed the percentage of reductions to non-Senior Intelligence Service positions: *Provided further,* That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to positions in the National Capital Region shall be equal to or exceed the percentage of reductions to positions outside of the National Capital Region.

SEC. 8081A. In addition to amounts appropriated or otherwise made available by this Act, $67,000,000 is hereby appropriated and shall be made available only for liquidating deficiencies in the amounts specified in the appropriations "National Guard Personnel, Army, 1993", $55,000,000; and "Reserve Personnel, Army, 1993", $12,000,000.

SEC. 8082. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of obligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8083. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1996.

SEC. 8084. The classified Annex prepared by the Committee on Appropriations to accompany the report on the Department of Defense Appropriations Act, 1995 is hereby incorporated into this Act: *Provided,* That the amounts specified in the classified Annex are not in addition to amounts appropriated by other provisions of this Act: *Provided further,* That the President shall provide for appropriate distribution of the classified Annex, or of appropriate portions of the classified Annex, within the executive branch of the Government.

Incorporation.
10 USC 114 note.

SEC. 8085. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8086. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

SEC. 8087. Notwithstanding any other provision of law, reimbursements received from the North Atlantic Treaty Organization for the E–3 Airborne Warning and Control System (AWACS) Radar System Improvement Program (RSIP) attributable to development work for fiscal years 1987 through 1992 shall be available to the Air Force until September 30, 1995, for meeting that service's financial commitments for the AWACS RSIP.

SEC. 8088. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

SEC. 8089. Notwithstanding any other provision of law, funds made available in this Act and in the fiscal year 1994 Department of Defense Appropriations Act (Public Law 103–139) under the heading "Procurement, Defense-Wide" shall be available to pay equitable adjustments to which the contractor is legally entitled for Coastal Patrol Craft that were procured in prior fiscal years.

SEC. 8090. Notwithstanding any other provision of law, funds appropriated in this Act for the High Performance Computing Modernization Program shall be made available only for the upgrade, purchase, or modernization of supercomputing capability and capacity at Department of Defense (DoD) science and technology sites under the cognizance of the Director of Defense Research and Engineering and DoD test and evaluation facilities under the Director of Test and Evaluation, OUSD (A&T): *Provided*, That the contracts, contract modifications, contract options, or other agreements are awarded as the result of full and open competition based upon the requirements of the user.

SEC. 8091. Amounts collected for the use of the facilities of the National Science Center for Communications and Electronics during the current fiscal year pursuant to section 1459(g) of the Department of Defense Authorization Act, 1986 and deposited to the special account established under subsection 1459(g)(2) of that Act are appropriated and shall be available until expended for the operation and maintenance of the Center as provided for in subsection 1459(g)(2).

Reports.

SEC. 8092. The Secretary of Defense and the Director of Central Intelligence shall deliver, no later than January 1, 1995, a report providing the following information about all research and development projects involving the implementation, monitoring, or verification of current and projected international arms control agreements: (a) annual and total budgets, goals, schedules, and priorities; (b) relationships among related projects being funded by the Department of Defense, the National Foreign Intelligence Program, and other departments and agencies of the Federal Government; and (c) comments by the Arms Control and Disarmament Agency about the relevance of each project to the arms control priorities of the United States.

SEC. 8093. Notwithstanding any other provision of law, none of the funds appropriated in this or any other Act shall be used for the purchase of a totally enclosed lifeboat survival system, which consists of the lifeboat and associated davits and winches, if less than 50 percent of the entire system's components are manufactured in the United States, and if less than 50 percent of the labor in the manufacture and assembly of the entire system is performed in the United States.

SEC. 8093A. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical

facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 8094. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

Labeling.

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

SEC. 8094A. Of the funds appropriated to the Department of Defense (DOD) for Operation and Maintenance, Defense-Wide, not less than $8,000,000 shall be made available until expended to the Administration for Native Americans within 90 days of enactment of this Act: *Provided,* That such funds shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation, on Indian lands resulting from Department of Defense activities: *Provided further,* That the Department of Defense shall provide to the Committees on Appropriations of the Senate and House of Representatives by September 30, 1995, a summary report of all environmental damage that has occurred on Indian land as a result of DOD activities, to include, to the extent feasible, a list of all documents and records known to the Department that describe the activity or action causing or relating to such environmental damage.

Reports.
Records.

SEC. 8095. None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8096. None of the funds appropriated or otherwise made available by this Act may be used for a defense technology reinvestment project that is not selected pursuant to the applicable competitive selection and other procedures set forth in chapter 148 of title 10, United States Code: *Provided,* That notwithstanding any other provision of law, funds appropriated for the Advanced Research Projects Agency defense reinvestment program element under the heading "Research, Development, Test and Evaluation, Defense-Wide" shall not be obligated until the Secretary of Defense has ensured that the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments are full members of the Defense Technology Conversion Council and are fully integrated into the process of selecting dual-use technology focus areas for such programs and evaluating proposals for such projects: *Provided further,* That notwithstanding any other provision of law, of the funds appropriated for defense reinvestment programs under the heading "Research, Development, Test and Evaluation,

Defense-Wide", $75,000,000 may only be obligated for projects selected as a result of a competition held by the Advanced Research Projects Agency in focus areas selected exclusively by the Assistant Secretaries for Research, Development, and Acquisition of the separate Military Departments: *Provided further,* That in addition to the restriction contained in the preceding provisos, the competition in focus areas shall be conducted in accordance with other unaffected statutory provisions of the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993.

SEC. 8097. None of the funds appropriated in this Act are available for development of bi-static active capability in SURTASS unless the acoustic signal processing for this capability is hosted exclusively on the AN/UYS–2 in the operational system.

SEC. 8097A. (a) Not later than April 1, 1995, the Secretary of Defense shall submit to the Congressional defense committees a management plan for the major university-affiliated research centers which support the Department of Defense.

(b) The master plan required by the preceding subsection shall—

(1) establish annual funding and manpower ceilings for each institution, and a total annual funding and manpower ceiling;

(2) describe in detail what specific actions are being taken to increase management of these institutions by the Office of the Secretary of Defense, and to reduce future annual funding; and

(3) explain the contracting arrangement with each institution, including an evaluation of whether contracts for future efforts should be competitively awarded.

(c) For the purposes of this section, the term "major" shall apply to institutions which receive more than $2,000,000 annually from the Department of Defense.

SEC. 8098. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

(TRANSFER OF FUNDS)

SEC. 8099. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further,* That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

CG–47 cruiser program, $6,000,000;

LSD–41 landing ship dock program, $1,700,000;

T–AGOS ocean surveillance ship program, $5,000,000;

For craft, outfitting, post delivery, and cost growth, $2,438,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

SSN–688 attack submarine program, $11,719,000;

MSH coastal mine hunter program, $3,419,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

TRIDENT ballistic missile submarine program, $650,000;

DDG–51 destroyer program, $633,000;

CG–47 cruiser program, $283,000;

T–AO fleet oiler program, $2,800,000;

AO conversion program, $400,000;

For craft, outfitting, and post delivery, $5,900,000;

Weapons Procurement, Navy, 1993/1995, $18,069,000;

National Guard and Reserve Equipment, 1994/1996, $5,145,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

SSN–688 attack submarine program, $18,496,000;

AOE fast combat support ship program, $15,384,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

CG–47 cruiser program, $15,351,000;

LSD–41 cargo variant ship program, $4,773,000;

LHD–1 amphibious assault ship program, $7,028,000;

AO conversion program, $1,900,000;

Aircraft Procurement, Navy, 1993/1995, $100,642,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

TRIDENT ballistic missile submarine program, $6,035,000;

SSN–688 attack submarine program, $19,659,000;

CVN nuclear aircraft carrier program, $104,000,000;

From:
Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":
LHD–1 amphibious assault ship program, $3,400,000;
T–AO fleet oiler program, $3,488,000;
T–AGOS surveillance ship program, $3,197,000;
AO conversion program, $1,300,000;
Weapons Procurement, Navy, 1993/1995, $178,000;
Other Procurement, Navy, 1993/1995, $22,400,000;
Research, Development, Test and Evaluation, Navy, 1994/1995, $41,700,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":
SSN–688 attack submarine program, $18,939,000;
SSN–21 attack submarine program, $37,123,000;
MHC coastal mine hunter program, $1,700,000;
AOE combat support ship program, $17,901,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":
TRIDENT ballistic missile submarine program, $2,400,000;
Aircraft carrier service life extension program, $346,000;
MCM mine countermeasures program, $657,000;
Oceanographic ship program, $3,964,000;
LCAC landing craft air cushion program, $1,188,000;
Aircraft Procurement, Navy, 1993/1995, $6,000,000;
Weapons Procurement, Navy, 1993/1995, $6,753,000;
Other Procurement, Navy, 1994/1996, $1,297,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":
SSN–688 attack submarine program, $9,046,000;
MHC coastal mine hunter program, $3,575,000;
AOE combat support ship program, $9,984,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":
TRIDENT ballistic missile submarine program, $39,500,000;
DDG–51 destroyer program, $8,200,000;
LSD–41 dock landing ship cargo variant ship program, $22,427,000;
Aircraft Procurement, Navy, 1994/1996, $17,000,000;
Other Procurement, Navy, 1994/1996, $666,000;
Procurement, Marine Corps, 1993/1995, $6,600,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":
SSN–21 attack submarine program, $48,240,000;
LHD–1 amphibious assault ship program, $43,600,000;
MHC coastal mine hunter program, $2,553,000;
From:
Aircraft Procurement, Navy, 1993/1995, $42,000,000;
Other Procurement, Navy, 1994/1996, $29,261,000;

National Guard and Reserve equipment, 1994/1996, $5,183,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
DDG–51 destroyer program, $64,958,000;
MHC coastal mine hunter program, $11,486,000;
From:
Weapons Procurement, Navy, 1993/1995, $30,000,000;
Other Procurement, Navy, 1994/1996, $38,438,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1993/1997":
DDG–51 destroyer program, $26,894,000;
LSD–41 cargo variant ship program, $5,663,000;
MHC coastal mine hunter program, $7,615,000;
AOE combat support ship program, $28,266,000;
From:
Weapons Procurement, Navy, 1994/1996, $14,000,000;
Other Procurement, Navy, 1994/1996, $763,000;
National Guard and Reserve Equipment, 1994/1996, $4,672,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1994/1998":
LHD–1 amphibious assault ship program, $15,131,000;
Oceanographic ship program, $4,304,000.

SEC. 8100. It is the sense of Congress that none of the funds appropriated or otherwise made available by this Act should be available for the purposes of deploying United States Armed Forces to participate in the implementation of a peace settlement in Bosnia-Herzegovina, unless previously authorized by the Congress.

SEC. 8101. Not later than May 1, 1995, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate an independent cost effectiveness study of Air Force bomber programs: *Provided,* That of the total amounts available to the Department of Defense for financing the activities of defense federally funded research and development centers during fiscal year 1995, $4,500,000 shall be made available within 30 days after the enactment of this Act for the purposes of the aforementioned study.

SEC. 8102. Funds appropriated by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 1995 until the enactment of the Intelligence Authorization Act for fiscal year 1995.

SEC. 8103. (1) Except as provided in subsection (C) below, it is the sense of the Congress that none of the funds appropriated by this Act should be obligated or expended for costs incurred by the United States Armed Forces units serving in any international peacekeeping or peace-enforcement operations under the authority of Chapter VI or Chapter VII of the United Nations Charter and under the authority of a United Nations Security Council Resolution, or for costs incurred by United States Armed Forces serving in any significant international humanitarian, peacekeeping or peace-enforcement operations, unless—

(a) the President initiates consultations with the bipartisan leadership of Congress, including the leadership of the relevant committees, regarding such operations; these consultations should be initiated at least fifteen days prior to the initial deployment of United States Armed Forces units to participate in such an operation, whenever possible, but in no case later than forty-eight hours after such a deployment; and these consultations should continue on a periodic basis throughout the period of the deployment;

(b) such consultation should include discussion of—

(1) the goals of the operation and the mission of any United States Armed Forces units involved in the operation;

(2) the United States interests that will be served by the operation;

(3) the estimated cost of the operation;

(4) the strategy by which the President proposes to fund the operation, including possible supplemental appropriations or payments from international organizations, foreign countries or other donors;

(5) the extent of involvement of armed forces and other contributions of personnel from other nations; and

(6) the operation's anticipated duration and scope;

(c) subsection (a) does not apply with respect to an international humanitarian assistance operation carried out in response to natural disasters; or to any other international humanitarian assistance operation if the President reports to Congress that the estimated cost of such operation is less than $50,000,000.

(2) Further, it is the sense of the Congress that the President should seek supplemental appropriations for any significant deployment of United States Armed Forces when such forces are to perform or have been performing international humanitarian, peacekeeping or peace-enforcement operations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8104. Balances of the funds appropriated in Public Laws 102–172, 102–396, and 103–139, under the headings "World University Games", "Summer Olympics", and "World Cup USA 1994" in title II of those Acts shall be merged with the appropriation heading entitled "Summer Olympics" appearing under title II of this Act and shall be available only for purposes described under that heading.

SEC. 8104A. The Secretary of Defense shall ensure that all applicable DOD regulations and component command, installation, or agency policies and procedures governing temporary duty travel on official military business to the States of Hawaii and Alaska require no higher levels of approval or stricter controls than travel within the continental United States.

SEC. 8105. None of the funds available to the Department of Defense may be used to support the relocation of P–3 aircraft squadrons or other aircraft or units from the Naval Air Station at Barbers Point, Hawaii unless such relocation was specifically stated in the 1993 Report to the President of the Defense Base Closure and Realignment Commission.

SEC. 8106. (a) None of the funds made available by this Act may be obligated for design, development, acquisition, or operation

of more than 47 Titan IV expendable launch vehicles, or for satellite mission-model planning for a Titan IV requirement beyond 47 vehicles.

(b) Of the funds provided in the Department of Defense Appropriations Act, 1994 (Public Law 103–139), the Secretary of Defense shall transfer a total of $60,000,000 to the National Aeronautics and Space Administration (NASA): *Provided,* That of that amount, $25,000,000 shall be transferred from Procurement, Defense-Wide, 1994/1996, and shall only be used for LANDSAT 7: *Provided further,* That of that amount, $35,000,000 shall be transferred from Research, Development, Test and Evaluation, Defense-Wide, 1994/1995, and shall only be used for Single-Stage-to-Orbit research and development at Phillips Laboratory, Albuquerque, New Mexico and, pursuant to the President's call for a supporting role for DOD in this technology, the funds shall be used in activities to support NASA-led construction of an Advanced Technology Demonstrator X-vehicle and to finish the original flight test program of the DC–X1 test vehicle.

(c) $30,000,000 made available in this Act for Research, Development, Test and Evaluation, Air Force and $10,000,000 made available in the Department of Defense Appropriations Act, 1994 (Public Law 103–139) for Research, Development, Test and Evaluation, Defense-Wide, 1994/1995, may only be obligated for development of a new family of medium-lift and heavy-lift expendable launch vehicles evolved from existing technologies: *Provided,* That the $30,000,000 in fiscal year 1995 funds shall not be available for obligation until the Secretary of Defense submits a detailed plan describing the proposed development program for the new family of expendable launch vehicles.

10 USC 1174a note.

SEC. 8106A. In the case of members who separate from active duty or full-time National Guard duty in a military department pursuant to a Special Separation Benefits program (10 U.S.C. 1174a) or a Voluntary Separation Incentive program (10 U.S.C. 1175) at any time after the enactment of this Act, the separation payments paid such members who are also paid any bonus provided for in chapter 5, title 37, United States Code, during the same years in which they separate shall be reduced (but in no event to an amount less than zero) by an amount equal to any such bonus: *Provided,* That any future bonus payments to which such members would otherwise be entitled are rescinded: *Provided further,* That this measure will not apply to members who separate during the last year of a bonus paid pursuant to chapter 5, title 37, United States Code: *Provided further,* That civilian employees of the Department of Defense are prohibited from receiving voluntary separation payments if such employees are rehired by any agency of the Federal Government within one hundred and eighty days of separating from the Department of Defense: *Provided further,* That members who separate from active duty or full-time National Guard duty in a military department at any time after the enactment of this Act, are prohibited from receiving Special Separation Benefits program (10 U.S.C. 1174a) or Voluntary Separation Incentive program (10 U.S.C. 1175) payments if rehired in a civilian position by the Department of Defense within one hundred and eighty days of separating from active duty or full-time National Guard duty.

SEC. 8107. Notwithstanding any other provision of law, of the funds appropriated to the Department of the Navy for Operation

and Maintenance, not less than $4,500,000 shall be obligated and expended only for operation and maintenance, automatic data processing equipment, transition assistance or in-house central design development and activities for the Naval Reserve Force Information Systems Office, the Naval Reserve Personnel Center, the Enlisted Personnel Management Center, and the collocated Naval Computer and Telecommunications Station: *Provided,* That notwithstanding any other provision of law, of the funds appropriated to the Department of Defense for Procurement and Operation and Maintenance, Defense-Wide not less than $18,000,000 shall be obligated and expended only for automatic data processing equipment or software, in-house central design development and activities, and transition assistance for the Naval Reserve Force Information Systems Office, the Naval Reserve Personnel Center, the Enlisted Personnel Management Center and the collocated Naval Computer and Telecommunications Station, of which $8,000,000 shall be available in procurement funds and $5,000,000 shall be available in operation and maintenance funds only for the establishment of a Continuity of Operations (COOP) center that shall be collocated with the Naval Reserve Force Information Systems Office, the Enlisted Personnel Management Center, and the collocated Naval Computer and Telecommunications Station for the contingency preservation of computer data for the Department of Defense Data and Megacenter consolidation initiative: *Provided further,* That the Secretary of the Navy shall establish the Naval Reserve Force Information Systems Office and the Enlisted Personnel Management Center, supported by the collocated Naval Computer and Telecommunications Station, as the central design activities for development, integration, coding, documentation, and system management for the software development and maintenance of the Naval active and reserve single Source Data Collection System: *Provided further,* That the Bureau of Naval Personnel shall remain as the Program Manager for definition of functional requirements and priorities: *Provided further,* That the last proviso of section 8023 of Public Law 103–139, is hereby repealed.

Establishment.

107 Stat. 1443.

(TRANSFER OF FUNDS)

SEC. 8107A. In addition to amounts appropriated or otherwise made available in this Act, $8,000,000 shall be made available for pay and allowances for the Office of the Assistant Secretary of Defense for Reserve Affairs to be available only for support of Civil-Military Cooperation program operations, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code: *Provided,* That the funds made available by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

SEC. 8108. No funds available to the Department of Defense in this Act may be used to establish additional field operating agencies of any element of the Department during fiscal year 1995, except for field operating agencies funded within the National Foreign Intelligence Program.

Colleges and universities.
10 USC note prec. 2161.

SEC. 8108A. Notwithstanding any other provision of law, for resident classes entering the war colleges after September 30, 1996,

the Department of Defense shall require that not less than 20 percent of the total of United States military students at each war college shall be from military departments other than the hosting military department: *Provided,* That each military department will recognize the attendance at a sister military department war college as the equivalent of attendance at its own war college for promotion and advancement of personnel.

SEC. 8109. None of the funds provided in this Act may be expended for the refurbishment of M61/20 mm Gatling Gun assets for domestic or foreign military sales unless the Department of the Air Force competes this work among qualified depots and commercial contractors.

SEC. 8110. None of the funds provided in this Act may be obligated or expended for the sale of zinc in the National Defense Stockpile if zinc commodity prices decline more than five percent below the London Metals Exchange market price reported on the date of enactment of this Act.

SEC. 8111. Funds made available to the Department of the Navy for the EA–6B program in this Act and prior Department of Defense Appropriations Acts may be used to procure any lower costs alternative to the ADVCAP upgrade program considered by the Department of the Navy to be appropriate and cost effective.

(TRANSFER OF FUNDS)

SEC. 8112. For the rehabilitation of damage caused to Rongelap Atoll by the nuclear testing program and for the resettlement of Rongelap Atoll, $5,000,000 is appropriated to the Department of Defense, which shall be transferred to the Department of the Interior for deposit into the Rongelap Resettlement Trust Fund.

SEC. 8113. PROHIBITION ON USE OF FUNDS FOR CERTAIN ACTIVITIES AT CAMERON STATION, VIRGINIA.—(a) PROHIBITION.—None of the funds appropriated in this Act or otherwise made available to the Department of Defense may be obligated or expended by the Secretary of Defense for the execution pursuant to subsection (f) of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) of a lease, permit, or deed of conveyance for use to assist the homeless of any property described in subsection (b) until the Secretary of Health and Human Services, appropriate representatives of the City of Alexandria, Virginia, and representatives of the homeless whose applications for use of such property to assist the homeless have been approved by the Secretary of Health and Human Services under subsection (e)(3) of such section jointly determine that such use is reasonable under the redevelopment plan for Cameron Station, Virginia.

Homeless persons. Real property.

(b) COVERED PROPERTY.—Subsection (a) applies to the public buildings and real property located at Cameron Station, Virginia, which installation was approved for closure pursuant to the provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

SEC. 8114. The Assistant Secretary of Defense for Command, Control, Communications and Intelligence shall establish and implement a master plan for all acquisitions of automated document conversion systems, equipment, and technologies: *Provided,* That none of the funds in this Act may be used to develop technologies or to acquire new automated document conversion equipment, services, or systems which cost more than $5,000,000 after April 1,

1995 unless such acquisitions are approved in advance by the Assistant Secretary or his designee: *Provided further,* That of the funds appropriated to the Department of Defense for Procurement, Defense-Wide, not less than $20,000,000 shall be used only to integrate the Automated Document Conversion System into the Joint Engineering Data Management and Information Control System.

10 USC 1401a note.

SEC. 8114A. (a) FISCAL YEAR 1995 COST-OF-LIVING ADJUSTMENT FOR MILITARY RETIREES.—(1) The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(2) For the purposes of subsection (a):

(A) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to paragraph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(B) The term "retired pay" includes retainer pay.

(b) FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES.—

(1) Subject to paragraph (2), subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(A) in the heading, by striking out "THROUGH 1998" and inserting in lieu thereof "THROUGH 1996"; and

(B) in clause (ii)—

(i) by striking out "THROUGH 1998" and inserting in lieu thereof "AND 1996";

(ii) by striking out "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1994 or 1995"; and

(iii) by striking out "September" and inserting in lieu thereof "March".

(2) Paragraph (1) shall be effective only if—

(A) the President, in the budget of the President for fiscal year 1996, proposes legislation which if enacted would be qualifying offsetting legislation; and

(B) there is enacted during the first session of the 104th Congress qualifying offsetting legislation.

Effective date.

(3) If the conditions in paragraph (2) are met, then the amendments by paragraph (1) shall take effect on January 1, 1996.

(4) For purposes of this subsection:

(A) The term "qualifying offsetting legislation" means legislation (other than an appropriations Act) that includes provisions that—

(i) offset fully the increased outlays for each of fiscal years 1996, 1997, and 1998 to be made from the Department of Defense Military Retirement Fund by reason of the amendment made by paragraph (1);

(ii) expressly state that they are enacted for the purpose of the offset described in clause (i); and

(iii) are included in full on the PayGo scorecard.

(B) The term "PayGo scorecard" means the estimates that are made with respect to fiscal years through fiscal year 1998 by the Director of the Congressional Budget Office and the Director of the Office of Management and Budget under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 8115. Notwithstanding any other provision of law, none of the funds provided in this Act may be used to procure vessel propellers six feet in diameter and greater unless such propellers are manufactured in the United States incorporating only castings which are poured and finished in the United States. Nor may any of the funds provided in this Act be used to procure ship propulsion shafting unless such ship propulsion shafting is manufactured in the United States: *Provided,* That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 8115A. In addition to amounts appropriated or otherwise made available by this Act, $11,200,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard for a 2.6 percent pay increase for uniformed members.

SEC. 8116. Such additional sums as may be necessary for fiscal year 1995 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 8117. After April 15, 1995, none of the funds provided in this Act may be obligated for payment on new contracts on which allowable costs charged to the government include payments for individual compensation at a rate in excess of $250,000 per year.

SEC. 8118. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure: *Provided,* That the Department of Defense shall prepare and submit to the Congressional defense committees a report on reductions of civilian technicians which may be required to align civilian technician positions with force structure changes in the Reserve component. Reports.

SEC. 8119. During the current fiscal year and hereafter, the Department of State and the Department of Defense are authorized to provide interagency courier service on a non-reimbursable basis. 10 USC 2241 note.

SEC. 8120. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States.

SEC. 8121. (a) STUDY.—The Secretary of Defense shall conduct a study of the receipt of benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) by the members of the Armed Forces. The study shall include the following elements:

(1) The number of members of the Armed Forces who are eligible to receive benefits under that Act.

(2) The number of such members who receive benefits under that Act.

(3) The location by State and region of the members referred to in paragraphs (1) and (2).

(4) An estimate of the cost of raising the rate of basic pay of members of the Armed Forces to a rate at which such members would no longer be eligible to receive benefits under that Act.

(b) REPORT.—The Secretary shall submit to Congress a report on the study required under subsection (b) not later than 180 days after the date of the enactment of this Act.

Reports.

SEC. 8122. (a) The Secretary of Defense shall submit, on a quarterly basis, a report to the appropriate congressional committees setting forth all costs (including incremental costs) incurred by the Department of Defense during the preceding quarter in implementing or supporting resolutions of the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, and humanitarian missions undertaken by the Department of Defense. The quarterly report shall include an aggregate of all such Department of Defense costs by operation or mission.

(b) The Secretary of Defense shall detail in the quarterly reports all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(c) As used in this section, the term "appropriate congressional committees" means—

(1) the Committees on Appropriations of the House of Representatives and the Senate;

(2) the Committees on Armed Services of the House of Representatives and the Senate; and

(3) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 8123. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided,* That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further,* That such duty shall be treated as full-time National Guard duty for purposes of sections 3686(2) and 8686(2) of title 10, United States Code.

SEC. 8124. SENSE OF THE CONGRESS CONCERNING THE REPUBLIC OF BULGARIA.

(a) FINDINGS.—The Congress finds that:

(1) In the spring of 1990, Bulgaria held its first roundtable discussions and held its first free, democratic elections in June 1990;

(2) In August 1990, the Bulgarian Grand National Assembly elected Dr. Zhelyu Zhelev as President of the Republic;

(3) On July 12, 1991 the Parliament of Bulgaria adopted the new Constitution of the Republic of Bulgaria, which proclaims that Bulgaria is governed by the rule of law;

(4) In addition, the Bulgarian Constitution establishes the principles of a market economy in Bulgaria, including Article 17 which guarantees and protects the right to property and inheritance and proclaims the inviolability of private property,

and Article 19 which states that the economy of Bulgaria is based on free economic enterprise;

(5) In October 1991, Bulgaria held its second parliamentary elections;

(6) Since 1990, the Bulgarian Parliament has passed more than 220 laws establishing legal protections for a free market economy including the Law on Land Ownership, the Law on the Protection of Competition, the Law on Commerce, the Law on Privatization, the Law on Accounting and the Law on Banking;

(7) The Bulgarian private sector has grown from 5 percent of GNP in 1990 to 22 percent of GNP in 1993, and by the end of 1993, 47 percent of Bulgarian farm land had been returned to its owners prior to 1948;

(8) In June 1990, Bulgaria established diplomatic relations with NATO and on February 14, 1994, joined the Partnership for Peace;

(9) Since October 1991, the Bulgarian minister of defense has been a civilian and this practice is scheduled to be institutionalized when the Bulgarian Law on Armed Forces is adopted in September 1994.

(b) SENSE OF CONGRESS.—Therefore, it is the sense of the Congress that:

(1) The Republic of Bulgaria is making swift and important progress to join the West and should be strongly commended for its efforts;

(2) The Republic of Bulgaria is making significant progress toward establishing democratic institutions, a free market economy, civilian control of the armed forces and the rule of law;

(3) As the President evaluates increased defense cooperation with central and eastern Europe, Bulgaria's extensive reform efforts should be given every possible consideration.

SEC. 8125. STUDY OF C–130s.—(a) REPORT.—Within six months of enactment of this Act, the Chairman of the Joint Chiefs of Staff (JCS) shall recommend to the Secretary of Defense a master stationing plan for C–130 aircraft for the active and reserve components based on the National Military Strategy and current contingency plans of the Joint Chiefs of Staff. The report shall include:

(1) a review of existing Air Reserve Component C–130s; and

(2) a master plan for basing future Air Reserve Component C–130s over the next twenty years.

(b) INTERIM REDUCTIONS.—No reductions of primary authorized C–130 aircraft (PAA) shall be permitted until after completion of the report.

(c) APPROVAL.—Within 2 months of receipt of the report from the Chairman of the JCS, the Secretary of Defense shall approve the final master stationing plan for C–130 aircraft and shall provide it to the congressional defense committees. The Secretary shall also provide the final report to the Air Force and to the National Guard Bureau for implementation. Aircraft. Reports.

SEC. 8126. Funds appropriated for the Army by this Act may not be expended to deactivate or to take any action necessary to deactivate any Army Reserve Officers' Training Corps unit, or to reduce any such unit for the purpose of eventually deactivating that unit, unless the Secretary of the Army has determined that the unit has been placed in, and has been evaluated for a full

evaluation period under, the Effective Management Program of the Army Cadet Command.

SEC. 8127. PREFERENCE FOR LOCAL AND SMALL BUSINESSES TO CARRY OUT ENVIRONMENTAL RESTORATION AND REMEDIATION OF KAHO'OLAWE ISLAND, HAWAII.

Contracts.

(a) PREFERENCE REQUIRED.—In entering into contracts with private entities to carry out environmental restoration and remediation of Kaho'olawe Island, Hawaii, and the waters surrounding that island, the Secretary of the Navy shall, to the maximum extent practicable, give a preference to small business concerns and small disadvantaged business concerns located in the State of Hawaii. In giving the preference, the Secretary shall give especial preference to businesses owned by Native Hawaiians.

(b) DEFINITIONS.—In this section:

(1) The term "small business concern" means a business concern meeting the requirements of section 3 of the Small Business Act (15 U.S.C. 632).

(2) The term "small disadvantaged business concern" means the business concerns referred to in section 7(d)(1) of such Act (15 U.S.C. 637(d)(1)).

(3) The term "Native Hawaiian" means any individual who is a descendent of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

Reports.

SEC. 8128. The Secretary of Defense shall report to the congressional defense committees the existing standards for the provision of concurrent retirement and disability benefits to members of the Armed Forces with not less than twenty years of service: *Provided*, That this evaluation will address the number of individuals retired from the Armed Forces under conditions of total disability; the cost of extending concurrent benefits to these individuals; the comparability of the policy to Office of Personnel Management guidelines for civilian Federal employees; the comparability of this policy to prevailing private sector standards; the number of individuals potentially eligible for concurrent benefits who now receive other forms of Federal assistance and the cost of that assistance: *Provided further*, That the Secretary shall submit this report not later than March 15, 1995.

10 USC 12681 note.

SEC. 8129. IMPLEMENTATION OF AGREEMENT ON THE RESTRUCTURING OF THE ARMY NATIONAL GUARD AND THE ARMY RESERVE.

(a) FINDING.—Congress finds that the implementation of the off-site agreement may result in the loss to the Armed Forces of military personnel who have significant military experience and expertise.

(b) REASSIGNMENT OF MEMBERS.—(1) To the maximum extent practicable, the Secretary of the Army shall ensure that members of the Armed Forces who would otherwise be separated from service as a result of the deactivation of military units of the Army National Guard and the Army Reserve under the off-site agreement be reassigned instead to units that are not being deactivated.

(2) The reassignment of a member under paragraph (1) shall not affect the grade or rank in grade of the member.

(c) REPORTS.—Not later than April 15 and October 15 of each calendar year while the off-site agreement is in effect, the Secretary of the Army shall submit to the congressional defense committees

a semi-annual report on the number of members of the Armed Forces who were reassigned under subsection (b)(1) during the preceding six months.

(d) DEFINITIONS.—In this section:

(1) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(2) The term "off-site agreement" means the agreement on the restructuring of the Army National Guard and the Army Reserve.

SEC. 8130. Funds appropriated in this Act for operation and maintenance of the Military Departments, Unified and Specified Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence support to Unified Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the General Defense Intelligence Program and the Consolidated Cryptologic Program: *Provided,* That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8131. (a) No project for the construction of any facility, or improvement to any facility, having an estimated Federal cost in excess of $300,000, may be undertaken in any fiscal year unless specifically identified as a separate item in the President's annual fiscal year budget request or otherwise specifically authorized and appropriated if such facility or improvement would be used primarily by personnel of the intelligence community. 50 USC 403-2a.

(b) As used in this section, the term "intelligence community" has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 8132. The Secretary of Defense, from within funds provided in this Act, may obligate not to exceed $75,000 to fulfill Department of Defense obligations under the Educational Loan Repayment Programs for State-sponsored student loan programs not covered under title IV, part B or E of the Higher Education Act of 1965 (title 20 U.S.C. 1071–1087).

SEC. 8133. Notwithstanding any other provision of law, the Secretary of the Navy shall obligate, within sixty days of this Act becoming law, not less than $39,750,000 from the funds appropriated in this Act or previous Acts under the heading "Aircraft Procurement, Navy", solely to procure, integrate, and install, on an urgent basis, AN/USH–42 mission recorders modified for use in S–3B aircraft.

SEC. 8134. Subparagraph (B) of section 7306(d)(1) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7306(a) of such title of the aircraft carrier U.S.S. Saratoga (CV–60) to the U.S.S. Saratoga Museum Foundation, Inc., a foundation organized under the laws of the State of Florida.

RESTRICTION ON FUNDING UNITED STATES MILITARY PERSONNEL IN SOMALIA

SEC. 8135. None of the funds appropriated by this Act may be used for the continuous presence in Somalia of United States

military personnel, except for the protection of United States personnel, after September 30, 1994.

SEC. 8136. SENATE ADVICE AND CONSENT TO CHANGES IN OBLIGATIONS UNDER THE CFE TREATY.

(a) FINDINGS.—

(1) On November 25, 1991, the Senate gave its advice and consent to ratification of the CFE Treaty.

(2) The President would need to seek the Senate's advice and consent to any change in obligation of the States parties under the CFE Treaty, unless such change were a minor matter of an administrative or technical nature.

(3) A change in the allowed holdings of treaty limited equipment in the area of application or any geographic subzone of the area of application would constitute a change in obligation for which the Senate's advice and consent would be required.

(b) REAFFIRMATION OF SENATE'S TREATY-MAKING POWERS.—The President shall submit for the Senate's advice and consent any change in the obligations of any State party under the CFE Treaty, unless such change is a minor matter of an administrative or technical nature.

(c) CFE TREATY DEFINED.—For the purpose of this section, the CFE Treaty means the Treaty on Conventional Armed Forces in Europe, signed in Paris on November 19, 1990, and associated protocols.

10 USC 113 note.

SEC. 8137. (a)(1) The Secretary of Defense shall develop a plan for establishing and implementing a requirement for disbursing officials of the Department of Defense to match disbursements to particular obligations before making the disbursements. The Secretary shall transmit the plan to Congress not later than March 1, 1995.

(2) The Inspector General of the Department of Defense shall review the plan and submit the Inspector General's independent assessment of the plan to the congressional defense committees.

(b)(1) Not later than July 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $5,000,000 be matched to a particular obligation before the disbursement is made.

(2) Not later than October 1, 1995, the Secretary of Defense shall require that each disbursement by the Department of Defense in an amount in excess of $1,000,000 be matched to a particular obligation before the disbursement is made.

(c) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under subsection (b) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such subsection to that disbursement.

(d) The Secretary of Defense may waive a requirement for advance matching of a disbursement of the Department of Defense with a particular obligation in the case of (1) a disbursement involving deployed forces, (2) a disbursement for an operation in a war declared by Congress or a national emergency declared by the President or Congress, or (3) a disbursement under any other circumstances for which the waiver is necessary in the national security interests of the United States, as determined by the Sec-

retary and certified by the Secretary to the congressional defense committees.

(e) This section shall not be construed to limit the authority of the Secretary of Defense to require that a disbursement not in excess of the amount applicable under subsection (b) be matched to a particular obligation before the disbursement is made.

SEC. 8138. SENSE OF SENATE ON NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

(a) FINDINGS.—The Senate finds the following:

(1) On January 25, 1994, the United States joined with 37 other nations to begin negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President decided to extend the current United States nuclear testing moratorium at least through September 1995.

(3) Germany and the Group of 21 Non-Aligned States have publicly stated their support for the completion of a comprehensive nuclear test ban treaty by 1995.

(4) On June 6, 1994, the People's Republic of China conducted its second nuclear weapons test explosion since the United States, Russia, and France initiated their current nuclear test moratoria.

(5) On September 7, 1994, the third and final test ban negotiating session of the year will end.

(6) While some progress toward a comprehensive nuclear test ban treaty has been achieved, there is little chance that an agreement will be reached before April 1995 at the current rate of negotiation.

(7) The United States is seeking to extend indefinitely the Non-Proliferation Treaty at the April 1995 Extension Conference.

(8) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Non-Proliferation Treaty.

(9) Agreements to eliminate nuclear testing and control the spread of nuclear weapons could contribute to national security of the United States, its allies, and other nations around the world.

(b) SENSE OF SENATE.—The Senate—

(1) applauds the President for maintaining the United States nuclear testing moratorium and for supporting the negotiation of a comprehensive nuclear test ban treaty;

(2) encourages the People's Republic of China and all other nuclear powers to refrain from conducting nuclear explosions prior to conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the President and the other nuclear powers to take measures necessary to achieve a multilateral comprehensive nuclear test ban treaty before the Non-Proliferation Treaty Extension Conference.

(c) DEFINITION.—As used in this section, the term "Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968 (21 U.S.T. 483).

SEC. 8139. Notwithstanding any other provision of law, the Secretary of a military department may enter into a contract for

use of commercial or proprietary credit card services for augmenting or replacing any in-house account receivable system in use by a nonappropriated fund instrumentality under the jurisdiction of that Secretary if the Secretary determines that such contract is in the best interest of that department: *Provided,* That any Department of Defense initiative to contract for credit card services shall require full and open competitive procedures and be based on the program concepts determined by the military department(s) morale, welfare and recreation (MWR) and service division(s) affected by such initiative.

Contracts. Banks and banking.

Daniel K. Inouye. Federal buildings and facilities.

SEC. 8140. It is the sense of the Congress that the Secretary of Defense should name the new research facility under construction to house the Walter Reed Army Institute of Research, in honor of Senator Daniel K. Inouye.

SEC. 8141. Notwithstanding any other provision of law, within the funds made available by this Act, the Department of Defense shall pay the appropriate amount of Aviation Continuation Pay authorized by 37 U.S.C. 301(b) to the survivors of persons who have signed reenlistment contracts on or after January 1, 1994, but whose service connected death predates the effective date of such reenlistment contract by less than 14 days.

Chemicals. Biological warfare.

SEC. 8142. It is the sense of the Congress that not later than 90 days after the enactment of this Act, the Department of Defense shall submit all documents pertaining to any and all Department of Defense chemical and biological warfare tests involving the use of zinc cadmium sulfide conducted anywhere in the United States.

SEC. 8143. None of the funds made available under this Act may be obligated or expended for the relocation or reduction of the functions specified in the 1991 and 1993 Reports to the President of the Defense Base Closure and Realignment Commission to be maintained at Fort Chaffee, Arkansas, including all civilian management, support personnel and operations associated with these functions that were in existence as of September 30, 1994.

SEC. 8144. All refunds or other amounts collected in the administration of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be credited to current year appropriations.

SEC. 8145. SENSE OF THE SENATE CONCERNING LOWRY AFB.

It is the sense of the Senate that—

(1) in issuing any lease, permit or deed of conveyance for use to assist the homeless under the Stewart B. McKinney Homeless Assistance Act concerning Lowry Air Force Base, Colorado, the Secretary of Health and Human Services, representatives of the city of Denver, Colorado, representatives of the city of Aurora, Colorado and representatives of homeless providers whose applications have been approved by the Secretary of Health and Human Services should jointly determine that such use is reasonable under the redevelopment plan for Lowry Air Force Base, Colorado; and

(2) the Department of Defense and the Department of Health and Human Services, in coordination with the appropriate committees of Congress and appropriate State and local authorities, should develop a reform proposal to address the many difficulties created for local communities by existing laws relating to the loan, lease or conveyance for use of government property during the base closure process.

SEC. 8146. (a) None of the funds appropriated in this Act for a second low rate initial production (LRIP) contract or contract option for the Hunter unmanned aerial vehicle (UAV) system may be obligated until the Department of Defense certifies to the congressional defense committees that—

(1) two Hunter UAV systems have been accepted by the Government using the currently defined Acceptance Test Procedure;

(2) the operational tempo (OPTEMPO) phase of the risk reduction program has been successfully completed; and

(3) the flight test portion of the first article test (FAT) has been successfully completed.

(b) None of the funds appropriated in this Act may be obligated to procure more than four Hunter UAV systems until the Logistics Support Analysis (LSA) report has been submitted to the relevant committees of Congress and the Department of Defense has certified to these committees that the LSA is sufficient to fully support fielding of the Hunter UAV. Reports.

SEC. 8147. Of the funds appropriated by title VIII of Public Law 102–396 (106 Stat. 1899) for defense reinvestment for economic growth, the unobligated balance of the funds made available by such title for military service members occupational conversion and training shall remain available for obligation until September 30, 1995.

SEC. 8148. Under the heading "Humanitarian Assistance" in title II of this Act, on line one, strike "For transportation for" and insert in lieu thereof "For": *Provided,* That the proviso contained under this heading in the Department of Defense Appropriations Act for 1994 (Public Law 103–139) is hereby repealed. *Ante,* p. 2606. 107 Stat. 1426.

SEC. 8149. None of the funds appropriated in this Act may be transferred to or obligated from the Pentagon Reservation Maintenance Revolving Fund, unless the Secretary of Defense certifies that the total cost for the planning design, construction and installation of equipment for the renovation of the Pentagon Reservation will not exceed $1,218,000,000.

SEC. 8150. In addition to amounts appropriated elsewhere in this Act to the Department of Defense, $14,200,000 is authorized and appropriated only for the Utility Reconfiguration Project at the Philadelphia Naval Complex.

SEC. 8151. Notwithstanding section 303(a) (5) and (6) of the Defense Production Act, or any other provision of law, the Department of Defense will negotiate and award an appropriate contract to the sole domestic producer of nuclear steam generator tubing for aircraft carriers, in an amount not to exceed $17,500,000 from funds provided in Public Law 103–139 for Defense Production Act Purchases. Contracts. Air transportation.

SEC. 8152. (a) Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Navy" in title IV of this Act, $3,900,000 shall be made available only for the Joint Primary Aircraft Training System (JPATS) program.

(b) Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Air Force" in title IV of this Act, $37,057,000 shall be made available only for the JPATS program.

(c) Of the funds appropriated under the heading "Aircraft Procurement, Air Force" in title III of this Act, $93,265,000 shall be made available only for the JPATS program.

SEC. 8153. No funds appropriated by this Act may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

10 USC 374 note.

SEC. 8154. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

50 USC 403f note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

SEC. 8155. AMENDMENTS TO PUBLIC LAW 103–317 (INCLUDING RESCISSION).—(a) Of the funds appropriated under the heading, "Contributions to International Organizations" in Public Law 103–317, $4,561,000 are rescinded. In addition, under this heading in said Public Law, delete ", of which not to exceed $4,000,000 is available to pay arrearages, the payment of which" and substitute ": *Provided,* That any payment of arrearages made from these funds".

Ante, p. 1762.

(b) Under the heading, "Payment to the Asia Foundation" in Public Law 103–317, delete "$10,000,000" and substitute "$15,000,000".

Ante, p. 1764.

(c) Under the heading "Securities and Exchange Commission", "Salaries and Expenses", in Public Law 103–317, insert the following:

Ante, p. 1739.

"For an additional amount for "Salaries and Expenses", $192,000,000: *Provided,* That such amount is available only upon enactment of legislation that continues for fiscal year 1995 the rate of fees collected under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)), as provided by Public Law 103–121 (107 Stat. 1168), at 1/29th of one percent and that deposits the difference in such fees (between 1/50th of one percent and 1/29th of one percent) as an offsetting collection to this appropriation: *Provided further,* That the total amount appropriated for fiscal year 1995 under this heading shall be reduced as such fees are deposited to this appropriation so as to result in a final total fiscal year 1995 appropriation from the General Fund estimated at not more than $74,856,000: *Provided further,* That any such fees collected in excess of $192,000,000 in fiscal year 1995 shall remain available until expended, but shall not be available for obligation until October 1, 1995.".

SEC. 8156. Of the amounts provided in title III of this Act, $304,900,000 are permanently canceled: *Provided,* That the Secretary of Defense shall allocate the amount of budgetary resources canceled by this section in an equal percentage to each program, project and activity funded in title III of this Act.

(RESCISSION)

SEC. 8157. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following account in the specified amount:

"Aircraft Procurement, Navy, 1993/1995", $200,000,000.

(TRANSFER OF FUNDS)

SEC. 8158. Of the funds provided in title II of this Act under the heading "Operation and Maintenance, Defense-Wide", $500,000,000 shall be transferred to the following accounts in the specified amounts:

"Operation and Maintenance, Army", $140,000,000;
"Operation and Maintenance, Navy", $140,000,000;
"Operation and Maintenance, Marine Corps", $80,000,000;
"Operation and Maintenance, Air Force", $140,000,000.

Short title.

Titles I through VIII of this Act may be cited as the "Department of Defense Appropriations Act, 1995".

TITLE IX—FISCAL YEAR 1994 SUPPLEMENTAL APPROPRIATION

The following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, namely:

DEPARTMENT OF DEFENSE

Cuba.
Rwanda.

MANAGEMENT FUNDS

EMERGENCY RESPONSE FUND

For the "Emergency Response Fund", $299,300,000: *Provided,* That these funds may be used to reimburse other appropriations of the Department of Defense available during fiscal year 1994 for costs incurred before the date of the enactment of this Act for emergency relief for Rwanda and for emergency migrant processing and safe haven costs in or around Cuba and may be used to reimburse other appropriations available to the Department of Defense for costs incurred for the same purposes: *Provided further,* That the entire amount under this heading is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any change in the United States mission in Rwanda from one of strict refugee relief to security, peace-enforcing, or nation-building or any other substantive role shall not be implemented without the further

approval of the Congress: *Provided further,* That no funds provided in this Act are available for United States military participation to continue Operation Support Hope in or around Rwanda after October 7, 1994, except for any action that is necessary to protect the lives of United States citizens.

Approved September 30, 1994.

LEGISLATIVE HISTORY— H.R. 4650:

HOUSE REPORTS: Nos. 103-562 (Comm. on Appropriations) and 103-747 (Comm. of Conference).
SENATE REPORTS: No. 103-321 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 29, considered and passed House.
Aug. 5, 8-11, considered and passed Senate, amended.
Sept. 29, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Sept. 30, Presidential statement.

Public Law 103-336
103d Congress

An Act

To designate the building located at 41–42 Norre Gade in Saint Thomas, Virgin Islands, for the period of time during which it houses operations of the United States Postal Service, as the Alvaro de Lugo Post Office; and to amend title 39, United States Code, to make applicable with respect to the United States Postal Service certain exclusionary authority relating to the treatment of reemployed annuitants under the civil service retirement laws, and for other purposes.

Oct. 3, 1994
[H.R. 4190]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 41–42 Norre Gade in Saint Thomas, Virgin Islands, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "Alvaro de Lugo Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall, with respect to the period referred to in section 1, be deemed to be a reference to the Alvaro de Lugo Post Office.

SEC. 3. EXTENSION OF EXCLUSIONARY AUTHORITY.

Section 1005(d) of title 39, United States Code, is amended—

(1) by striking "(d)" and inserting "(d)(1)"; and

(2) by adding at the end the following:

"(2) The provisions of subsection (g) of section 5532, subsections (i) and (l)(2) of section 8344, and subsections (f) and (i)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions—

"(A) any reference in such provisions to the head of an Executive agency shall be considered a reference to the Postmaster General; and

"(B) any reference in such provisions to an employee shall be considered a reference to an officer or employee of the Postal Service.".

SEC. 4. ASSIGNMENT AUTHORITY.

Section 8706(e) of title 5, United States Code, is amended—

(1) by striking "Federal judge" and inserting "employee or former employee";

(2) by striking "judge's" and inserting "employee's or former employee's"; and

(3) by striking "purchase" and inserting "purchased".

Approved October 3, 1994.

LEGISLATIVE HISTORY—H.R. 4190:

CONGRESSIONAL RECORD, Vol. 140 (1994):

May 23, considered and passed House.

Aug. 25, considered and passed Senate, amended.

Sept. 19, House concurred in Senate amendment.

Public Law 103-337
103d Congress

An Act

To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Oct. 5, 1994
[S. 2182]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1995.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Chemical demilitarization program.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Army programs.
Sec. 112. Transfer to Marine Corps of M1A1 tanks replaced by M1A2 upgrades.
Sec. 113. Transfer of M1A1 tanks to the Marine Corps.
Sec. 114. Exception to mandatory retirement of OV-1 aircraft for aircraft deployed in Korea.
Sec. 115. Small arms industrial base.
Sec. 116. Bunker defeat munition acquisition program.
Sec. 117. Procurement of helicopters.

Subtitle C—Navy Programs

Sec. 121. Nuclear aircraft carrier program.

Sec. 122. Seawolf submarine program.
Sec. 123. Guidance sets for Trident II missiles.
Sec. 124. Prohibition on Trident II backfit.
Sec. 125. Inclusion of conversion of vessels in fast sealift program.
Sec. 126. Limitation on procurement of TAGS vessels.
Sec. 127. Naval amphibious ready groups.

Subtitle D—Air Force Programs

Sec. 131. Intertheater airlift programs.
Sec. 132. Settlement of claims under the C–17 aircraft program.
Sec. 133. Heavy bomber force requirements.
Sec. 134. Limitation on retirement of bomber aircraft.
Sec. 135. Evaluation of restart of C–5B aircraft procurement.

Subtitle E—Other Matters

Sec. 141. Sales authority of working-capital funded Army industrial facilities.
Sec. 142. Identification in budget of funds for chemical demilitarization program military construction projects.
Sec. 143. Transportation of chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Strategic environmental research and development program.
Sec. 204. Molecular design material science.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Space launch modernization.
Sec. 212. Standoff air-to-surface munitions technology demonstration.
Sec. 213. Extension of prohibition on testing Mid-Infrared Advanced Chemical Laser against an object in space.
Sec. 214. Applicability of certain electronic combat systems testing requirements.
Sec. 215. Advanced Self Protection Jammer (ASPJ) program.
Sec. 216. Advanced Lithography Program.
Sec. 217. Federally funded research and development centers.
Sec. 218. Digital Battlefield program.
Sec. 219. Dual-use electric and hybrid vehicles.
Sec. 220. Tactical antisatellite technologies program.
Sec. 221. Limitation on dismantlement of intercontinental ballistic missiles.
Sec. 222. Limitation on obligation of funds for seismic monitoring research.
Sec. 223 Superconducting magnetic energy storage project.
Sec. 224. Military satellite communications.

Subtitle C—Missile Defense Programs

Sec. 231. Compliance of ballistic missile defense systems and components with ABM treaty.
Sec 232. Modifications to Anti-Ballistic Missile Treaty to be entered into only through treaty making power.
Sec. 233. Revisions to the Missile Defense Act of 1991.
Sec. 234. Limitation on flight tests of certain missiles.
Sec. 235. Program elements for Ballistic Missile Defense Organization.

Subtitle D—Women's Health Research

Sec. 241. Defense Women's Health Research Program.

Subtitle E—Other Matters

Sec. 251. Requirement for submission of annual report of the Semiconductor Technology Council to Congress.
Sec. 252. Report on oceanographic survey and research requirements to support littoral warfare.
Sec. 253. LANSCE/LAMPF upgrades.
Sec. 254. Study regarding live-fire survivability testing of F–22 aircraft.
Sec. 255. University Research Initiative Support Program.
Sec. 256. Manufacturing Science and Technology Program.
Sec. 257. Defense experimental program to stimulate competitive research.
Sec. 258. Study on convergence of Geosat and EOS altimetry programs.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Funds for depot-level maintenance and repair work.
Sec. 305. Support for the 1996 Summer Olympics.
Sec. 306. Support for the 1995 Special Olympics World Games.

Subtitle B—Defense Business Operations Fund

Sec. 311. Oversight of Defense Business Operations Fund.
Sec. 312. Review by Comptroller General of charges imposed by Defense Business Operations Fund.
Sec. 313. Limitation on obligations against the capital asset fund.
Sec. 314. Limitation on obligations against the supply management divisions.

Subtitle C—Environmental Provisions

Sec. 321. Limitation on use of environmental restoration funds for payment of fines and penalties.
Sec. 322. Participation of Indian tribes in agreements for defense environmental restoration.
Sec. 323. Extension of authority to issue surety bonds for certain environmental programs.
Sec. 324. Payment of certain stipulated civil penalties.
Sec. 325. Additional exception to prohibition on storage and disposal of nondefense toxic and hazardous materials at military installations.
Sec. 326. Assistance for public participation in defense environmental restoration activities.
Sec. 327. Pilot program to develop and demonstrate environmental remediation technologies.
Sec. 328. Environmental education and training program for defense personnel.
Sec. 329. Study of establishment of land management and training center.

Subtitle D—Depot-Level Activities

Sec. 331. Findings.
Sec. 332. Modification of limitation on performance of depot-level maintenance.
Sec. 333. Report on performance of depot-level maintenance and repair of new weapon systems.
Sec. 334. Review of cost growth in contracts to perform depot-level maintenance and repair.
Sec. 335. Authority for depot-level activities of the Department of Defense to compete for maintenance and repair workloads of other Federal agencies.
Sec. 336. Authority of depots to provide services outside the Department of Defense.
Sec. 337. Reutilization initiative for depot-level activities.
Sec. 338. Change of source for performance of depot-level workloads.
Sec. 339. Sale of articles and services of industrial facilities of the Armed Forces to persons outside the Department of Defense.

Subtitle E—Civilian Employees

Sec. 341. Extension of certain transition assistance authorities.
Sec. 342. Extension and expansion of authority to conduct personnel demonstration projects.
Sec. 343. Limitation on payment of severance pay to certain employees transferring to employment positions in nonappropriated fund instrumentalities.
Sec. 344. Retirement credit for certain service in nonappropriated fund instrumentalities before January 1, 1987.
Sec. 345. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.
Sec. 346. Foreign employees covered by the Foreign National Employees Separation Pay Account.
Sec. 347. Report on conversion of certain positions to performance by Department of Defense employees.
Sec. 348. Non-Federal employment incentive pilot program.
Sec. 349. Uniform health benefits program for employees of the Department of Defense assigned to nonappropriated fund instrumentalities.

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

Sec. 351. Reauthorization of Department of Defense domestic elementary and secondary schools for dependents.
Sec. 352. Report on calculation and recovery of tuition costs of certain students enrolled in schools of the defense dependents' education system.

Sec. 353. Authority to accept gifts for Department of Defense domestic elementary and secondary schools.
Sec. 354. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Subtitle G—Reviews, Studies, and Reports

Sec. 361. Reports on transfers of certain operation and maintenance funds.
Sec. 362. Review and report on use of operation and maintenance funds by the Department of Defense.
Sec. 363. Cost comparison studies for contracts for advisory and assistance services.
Sec. 364. Review by Defense Inspector General of cost growth in certain contracts.

Subtitle H—Other Matters

Sec. 371. Armed Forces Retirement Home.
Sec. 372. Limitation on use of appropriated funds for operation of Armed Forces Recreation Center, Europe.
Sec. 373. Limitation on retention of morale, welfare, and recreation funds by military installations.
Sec. 374. Ships' stores.
Sec. 375. Operation of military exchange and commissary store at Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.
Sec. 376. Disposition of proceeds from operation of the Naval Academy laundry.
Sec. 377. Authority to issue military identification cards to so-called honorary retirees of the Naval and Marine Corps Reserves.
Sec. 378. Repeal of annual limitation on expenditures for emergency and extraordinary expenses of the Department of Defense Inspector General.
Sec. 379. Transfer of certain excess Department of Defense property to educational institutions and training schools.
Sec. 380. Operation of overseas facilities of the Department of Defense by United States firms.
Sec. 381. Requirements for automated information systems of the the Department of Defense.
Sec. 382. Program to commemorate World War II.
Sec. 383. Assistance to Red Cross for emergency communications services for members of the Armed Forces and their families.
Sec. 384. Clarification of authority to provide medical transportation under National Guard pilot program.
Sec. 385. National Guard assistance for certain youth and charitable organizations.
Sec. 386. One-year extension of certain programs.
Sec. 387. Procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Temporary variation of end strength limitations for Army majors and lieutenant colonels.
Sec. 403. Extension of temporary variation of end strength limitations for Marine Corps majors and lieutenant colonels.
Sec. 404. Increase in authorized strength for Marine Corps general officers on active duty after fiscal year 1995.
Sec. 405. Management of senior general and flag officer positions.
Sec. 406. Temporary exclusion of Superintendent of Naval Academy from counting toward number of senior admirals authorized to be on active duty.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for reserves on active duty in support of the reserves.
Sec. 413. Delay in increase in number of active component members to be assigned for training compatibility with guard units.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Authorization of Appropriations

Sec. 431. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Consistency of warrant officer personnel management policies with policies applicable to other officers.
Sec. 502. Authority for original regular appointments of Navy and Marine Corps limited duty officers serving in grades above pay grade O–3 under temporary appointments.
Sec. 503. Navy and Marine Corps limited duty officers twice having failed of selection for promotion.
Sec. 504. Selection for designated judge advocate general and flag officer positions.

Subtitle B—Reserve Component Matters

Sec. 511 Increased period of active duty for reserve forces mobilized other than during war or national emergency.
Sec. 512. Reserve general and flag officers on active duty.
Sec. 513. Review of opportunities for ordering individual reserves to active duty with their consent.
Sec. 514. Definition of active Guard and Reserve duty.
Sec. 515. Repeal of obsolete provisions pertaining to transfer of retired regular enlisted members to reserve components.
Sec. 516. Semiannual report on separations of active Army officers.
Sec. 517. Early Reserve retirement eligibility for disabled members of Selected Reserve.
Sec. 518. Annual payments for members retired under Guard and Reserve transition initiative.
Sec. 519. Educational requirements for appointment in reserve components in grades above first lieutenant or lieutenant (junior grade).
Sec. 520. Limited exception for Alaska scout officers from baccalaureate degree requirement for appointment as officer in National Guard above first lieutenant.
Sec. 521 Sense of Congress concerning the training and modernization of the reserve components.

Subtitle C—Victims' Rights, Family Advocacy, and Nondiscrimination Provisions

Sec. 531. Prohibition of retaliatory actions against members of the Armed Forces making allegations of sexual harassment or unlawful discrimination.
Sec. 532. Department of Defense policies and procedures on discrimination and sexual harassment.
Sec. 533. Annual report on personnel readiness factors by race and gender.
Sec. 534. Victims' advocates programs in Department of Defense.
Sec. 535. Transitional compensation and other benefits for dependents of members separated for dependent abuse.
Sec. 536. Study of spousal abuse involving Armed Forces personnel.

Subtitle D—Matters Relating to the Coast Guard

Sec. 541. Extension of Warrant Officer Management Act provisions to Coast Guard.
Sec. 542. Coast Guard force reduction transition benefits.
Sec. 543. Expansion of personnel adjustment, education, and training programs to include Coast Guard.

Subtitle E—Other Matters

Sec. 551. Repeal of required reduction in recruiting personnel.
Sec. 552. Authorized active duty strengths for Army enlisted members in pay grade E–8.
Sec. 553. Prohibition on imposition of additional charges or fees for attendance at certain academies.
Sec. 554. Biennial survey on the State of race and ethnic issues in the military.
Sec. 555. Review of certain discharges from the United States Military Academy during the post-Civil War period.
Sec. 556. Administration of athletics programs at the service academies.
Sec. 557. Reimbursement for certain losses of household effects caused by hostile action.
Sec. 558. Military recruiting on campus.
Sec. 559. Authorization for instruction of civilian students at foreign language center of the Defense Language Institute.
Sec. 560. Discharge of members who are permanently nonworldwide assignable.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1995.

Sec. 602. Cost-of-living allowance for members of the uniformed services assigned to high cost areas in the continental United States.
Sec. 603. Increase in subsistence allowance payable to members of Senior Reserve Officers' Training Corps.
Sec. 604. Temporary family housing or temporary housing allowances for dependents of members who die in the line of duty.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. Extension of certain bonuses for reserve forces.
Sec. 612. Extension and modification of certain bonuses and special pay for nurse officer candidates, registered nurses, and nurse anesthetists.
Sec 613. Extension of authority relating to payment of other bonuses and special pays.

Subtitle C—Travel and Transportation Allowances

Sec. 621. Responsibility for preparation of transportation mileage tables.
Sec. 622. Payment for transient housing for members of a reserve component performing certain training duty.
Sec. 623. Change in provision of transportation incident to personal emergencies for members stationed outside the continental United States.
Sec. 624. Clarification of travel and transportation allowance of family members incident to serious illness or injury of members.
Sec. 625. Applicability of additional family separation allowance to periods between deployments less than 30 days apart.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 631. Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal year 1995.
Sec 632. Sense of Congress on equal treatment of effective dates for future cost-of-living adjustments for military and civilian retirees.
Sec. 633. Clarification of calculation of retired pay for officers who retire in a grade lower than the grade held at retirement.
Sec. 634. Waiver of administrative time-in-grade requirements to prevent pay inversions in retired pay of certain military retirees.
Sec. 635. Crediting of reserve service of enlisted members for computation of retired pay.
Sec. 636. Minimum required reserve service for eligibility for retired pay for nonregular service during force drawdown period.
Sec. 637. SBP premiums for reserve-component child-only coverage.
Sec. 638. Discontinuation of insurable interest coverage under Survivor Benefit Plan.
Sec. 639. Forfeiture of annuity or retired pay of members convicted of espionage under UCMJ.
Sec. 640. Treatment of retired and retainer pay of members of cadre of Civilian Community Corps.

Subtitle E—Other Matters

Sec. 651. Eligibility of members retired under temporary special retirement authority for Servicemen's Group Life Insurance.
Sec. 652. Transportation of remains.
Sec. 653. Special supplemental food program for Department of Defense personnel outside the United States.
Sec 654. Study of offset of disability compensation by receipt of separation benefits and incentives.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

Sec 701. Revision of definition of dependents to include young people being adopted by members or former members.
Sec. 702. Treatment of certain dependents as children for purposes of CHAMPUS, dependents' dental program, and continued health benefits coverage.
Sec. 703. Availability of dependents' dental program outside the United States.
Sec. 704. Authorization for medical and dental care for abused dependents of certain members.
Sec. 705. Additional authorized health care service available through military health care system.
Sec. 706. Demonstration programs for sale of pharmaceuticals.
Sec. 707. One year continuation of full CHAMPUS and dependents' dental program benefits for dependents of members who die while on active duty for a period of more than 30 days.

Subtitle B—Changes to Existing Laws Regarding Health Care Management

Sec. 711. Coordination of benefits with medicare.
Sec. 712. Authority for reimbursement of professional license fees under resource sharing agreements.
Sec. 713. Imposition of enrollment fees for managed care plans.
Sec. 714. Strengthening managed health care authorities.
Sec 715. Delay in deadline for use of health maintenance organization model as option for military health care.
Sec. 716. Limitation on reduction in number of reserve component medical personnel.
Sec. 717. Implementation of annual health care survey requirement.

Subtitle C—Persian Gulf Illness

Sec. 721. Programs related to Desert Storm mystery illness.
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Sec. 731. Chiropractic health care demonstration program.
Sec. 732. Demonstration program for admission of civilians as physician assistant students at Academy of Health Sciences, Fort Sam Houston, Texas
Sec. 733. Delay in closure of Army hospital at Vicenza, Italy.
Sec. 734. Oral typhoid vaccine inventory of Department of Defense.
Sec. 735. Report on expanded use of nonavailability of health care statements.
Sec. 736. Cost analysis of Tidewater TRICARE delivery of pediatric health care to military families.
Sec. 737. Study and report on financial relief for certain medicare-eligible military retirees who incur medicare late enrollment penalties.
Sec. 738. Sense of Congress on continuity of health care services for covered beneficiaries in areas affected by base closures.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Assistance Programs

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Sec. 802. Pilot mentor-protege program.
Sec. 803. Infrastructure assistance for historically Black colleges and other minority institutions of higher education.
Sec. 804. Treatment under subcontracting plans of purchases from qualified nonprofit agencies for the blind or severely disabled.

Subtitle B—Other Matters

Sec. 811. Delegation of industrial mobilization authority.
Sec 812. Determinations of public interest under the Buy American Act.
Sec 813. Continuation of expiring requirement for annual report on the use of competitive procedures for awarding certain contracts to colleges and universities.
Sec. 814. Consolidation of limitations on procurement of goods other than American goods.
Sec. 815. Environmental consequence analysis of major defense acquisition programs.
Sec. 816. Demonstration project on purchase of fire, security, police, public works, and utility services from local government agencies.
Sec. 817. Preference for local residents.
Sec. 818. Payment of restructuring costs under defense contracts.
Sec. 819. Defense Acquisition Pilot Program designations.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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Sec. 901. Additional Assistant Secretary of Defense.
Sec. 902. Order of succession to Secretaries of the military departments.
Sec. 903. Change of title of Comptroller of the Department of Defense to Under Secretary of Defense (Comptroller).
Sec. 904. National Guard Bureau charter.

Subtitle B—Professional Military Education

Sec 911 Authority for Marine Corps University to award the degree of master of military studies.
Sec 912. Board of Advisors for Marine Corps University.
Sec 913. Authority for Air University to award the degree of master of airpower art and science.
Sec 914. Sense of Congress on grade of heads of senior professional military education schools.

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Sec 921 Composition of Reserve Forces Policy Board.
Sec 922 Continuation of Uniformed Services University of the Health Sciences
Sec 923 Commission on Roles and Missions of the Armed Forces
Sec 924. Renaming of the United States Court of Military Appeals and the Courts of Military Review.
Sec 925 Budget support for reserve elements of special operations command.

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Sec 1001. Transfer authority.
Sec 1002 Emergency supplemental authorization of appropriations for fiscal year 1994.
Sec 1003. Incorporation of classified annex.
Sec 1004 Date for submission of future-years mission budget.
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Subtitle B—Counter-Drug Activities

Sec. 1011 Department of Defense support for counter-drug activities.
Sec 1012 Official immunity for authorized employees and agents of the United States and foreign countries engaged in interdiction of aircraft used in illicit drug trafficking.
Sec. 1013 Report on status of defense random drug testing program.

Subtitle C—Naval Vessels and Related Matters

Sec. 1021 Transfer of USNS Maury
Sec. 1022. Transfer of obsolete vessel Guadalcanal.
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Subtitle D—POW/MIA Matters

Sec. 1031 Assistance to family members of Korean conflict and Cold War POW/MIAs who remain unaccounted for
Sec. 1032 Requirement for Secretary of Defense to submit recommendations on certain provisions of law concerning missing persons.
Sec. 1033 Contact between the Department of Defense and the Ministry of National Defense of China on POW/MIA issues.
Sec. 1034 Information concerning unaccounted for United States personnel of the Vietnam conflict.
Sec. 1035 Report on POW/MIA matters concerning North Korea.
Sec. 1036 Disclosure of information concerning unaccounted for United States personnel from the Korean conflict, the Vietnam era, and the Cold War.

Subtitle E—Miscellaneous Reporting Requirements

Sec. 1041 Annual report on denial, revocation, and suspension of security clearances.
Sec. 1042 Report on use of low-enriched uranium as fuel for naval nuclear reactors.

Subtitle F—Congressional Findings, Policies, Commendations, and Commemorations

Sec. 1051. Sense of Congress concerning commendation of individuals exposed to mustard agents during World War II testing activities.
Sec. 1052. USS Indianapolis (CA–35): gallantry, sacrifice and a decisive mission to end WW II.

Subtitle G—Other Matters

Sec. 1061. Increased authority to accept voluntary services.
Sec. 1062. Civil Air Patrol
Sec. 1063. Prohibition on the purchase of surety bonds and other guarantees for the Department of Defense.

Sec. 1064. Revision of authority for use of Navy installations to provide prerelease employment training to nonviolent offenders in State penal systems.
Sec. 1065. Demonstration project for use of Army installations to provide prerelease employment training to nonviolent offenders in State penal systems.
Sec. 1066. Interagency placement program for Federal employees affected by reductions in force.
Sec. 1067. National Museum of Health and Medicine.
Sec. 1068. Assignments of employees between Federal agencies and federally funded research and development centers.
Sec. 1069. Review of the Bottom Up Review and the Future-Year Defense Program and establishment of new funding requirements and priorities.
Sec. 1070. Technical and clerical amendments.
Sec. 1071. Authorization to exchange certain items for transportation services.
Sec. 1072. Air National Guard fighter aircraft force structure.
Sec. 1073. Sense of Congress concerning visas for high-level officials of Taiwan.
Sec. 1074. Defense Mapping Agency.
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TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

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Sec. 1102. Funding of defense conversion, reinvestment, and transition assistance programs for fiscal year 1995.

Subtitle A—Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion

Sec. 1111. Funding of defense technology reinvestment programs for fiscal year 1995.
Sec. 1112. Support for technologies with applicability for law enforcement and military operations other than war.
Sec. 1113. Federal defense laboratory diversification and Navy reinvestment in the technology and industrial base.
Sec. 1114. Loan guarantees under defense dual-use assistance extension program.
Sec. 1115. Financial commitment requirements for small business concerns for participation in technology reinvestment projects.
Sec. 1116. Conditions on funding of defense technology reinvestment projects.
Sec. 1117. Use of certain funds pending submission of a national technology and industrial base periodic defense capability assessment and a periodic defense capability plan.
Sec. 1118. Documentation for awards for cooperative agreements or other transactions under defense technology reinvestment programs
Sec. 1119. Comptroller General assessment of extent to which technology and industrial base programs attain policy objectives.

Subtitle B—Community Adjustment and Assistance Programs

Sec. 1121. Funds for adjustment and diversification assistance for States and local governments from Office of Economic Adjustment.
Sec. 1122. Studies and plans for market diversification
Sec. 1123. Advance community adjustment and economic diversification planning.

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Sec. 1131. Teacher and teacher's aide placement programs.
Sec. 1132. Assistance for eligible members to obtain employment with law enforcement agencies.
Sec. 1133. Pilot program to place separated members and terminated defense employees in teaching positions as bilingual math and science teachers.
Sec. 1134. Demonstration project to assist separated members and terminated defense workers to become business owners.
Sec. 1135. Demonstration project to promote ship recycling as a method to assist separated members and terminated defense workers.
Sec. 1136. Administration and funding of defense diversification program and defense conversion adjustment program under Job Training Partnership Act.
Sec. 1137. Assistance for certain workers dislocated due to reductions by the United States in the export of defense articles and services.

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Sec. 1141. Extension of Armament Retooling and Manufacturing Support Initiative and establishment of ARMS initiative loan guarantee program.
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Sec. 1143. Plan for deployment of defense environmental technologies for dredging of dual-use ports.

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec. 1201. Cooperative Threat Reduction programs.
Sec. 1202. Extension of semiannual report on Cooperative Threat Reduction programs.
Sec. 1203. Report on accounting for United States assistance.
Sec. 1204. Report on control and accountability of material relating to weapons of mass destruction.
Sec. 1205. Multiyear planning and allied support.
Sec. 1206. Funding limitations on Cooperative Threat Reduction program for fiscal year 1995.
Sec. 1207. Report on offensive biological warfare program of the States of the former Soviet Union.
Sec. 1208. Coordination of certain Cooperative Threat Reduction programs.
Sec. 1209. Sense of Congress concerning safe and secure dismantlement of Soviet nuclear arsenal.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

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Sec. 1304. Allied share of installations costs.
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Sec. 1306. George C. Marshall European Center for Security Studies.
Sec. 1307. Sense of the Senate concerning participation in allied defense cooperation.

Subtitle B—Matters Relating to Several Countries

Sec. 1311. Limitation on obligation of funds for overseas basing activities.
Sec 1312. Clarification and codification of overseas military end strength limitation.
Sec. 1313. Cost-sharing policy and report.
Sec. 1314. Report assessing the national security consequences of United States military cooperation programs.
Sec. 1315. Review and report regarding Department of Defense programs relating to regional security and host nation development in the Western Hemisphere.
Sec. 1316. Military-to-military contacts and comparable activities.
Sec. 1317. Extension of authority to enter into certain cooperative agreement authorities to include the United Nations and regional organizations of which the United States is a member.
Sec. 1318. Permanent authority for Department of Defense to share equitably the costs of claims under international armaments cooperative programs.

Subtitle C—Matters Relating to Specific Countries

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Sec. 1322. Readiness of military forces of the Republic of Korea.
Sec. 1323. Military planning for the size and structure of a force required for a major regional contingency on the Korean peninsula.
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Sec. 1325. Report on security relationship between the United States and Japan.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

Subtitle A—Peace Operations

Sec. 1401. Reports on reforming United Nations peace operations.
Sec 1402. Report on military readiness implications of Bosnia peacekeeping deployment.
Sec 1403. Report on intelligence lessons learned from United States activities in Somalia.
Sec. 1404. Bosnia and Herzegovina.

Subtitle B—Assistance Activities

Sec. 1411. Overseas Humanitarian, Disaster, and Civic Aid Programs.
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TITLE XV—ARMS CONTROL MATTERS

Sec. 1501. Extension and revision of nonproliferation authorities.
Sec. 1502. Joint Committee for Review of Counterproliferation Programs of the United States.
Sec. 1503. Reports on counterproliferation activities and programs.
Sec. 1504. Amounts for counterproliferation activities
Sec. 1505. Studies relating to United States counterproliferation policy
Sec. 1506 Restriction relating to submission of report on proliferation of foreign military satellites.
Sec. 1507 Limitation on funds for studies pending receipt of previously required report.
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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Army as follows:

(1) For aircraft, $1,289,452,000.

(2) For missiles, $818,709,000.

(3) For weapons and tracked combat vehicles, $1,159,214,000.

(4) For ammunition, $902,821,000.

(5) For other procurement, $2,624,707,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Navy as follows:

(1) For aircraft, $4,491,845,000.

(2) For weapons, including missiles and torpedoes, $2,076,625,000.

(3) For shipbuilding and conversion, $5,619,897,000.

(4) For other procurement, $3,287,487,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Marine Corps in the amount of $403,410,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for Navy and the Marine Corps in the amount of $449,815,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement for the Air Force as follows:

(1) For aircraft, $6,489,467,000.

(2) For missiles, $3,732,845,000.

(3) For ammunition, $251,546,000.

(4) For other procurement, $6,929,170,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1995 for Defense-wide procurement in the amount of $1,891,371,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $20,000,000.
(2) For the Air National Guard, $260,000,000.
(3) For the Army Reserve, $50,000,000.
(4) For the Naval Reserve, $80,000,000.
(5) For the Air Force Reserve, $50,000,000.
(6) For the Marine Corps Reserve, $50,000,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM.

(a) AUTHORIZATION.—There is hereby authorized to be appropriated for fiscal year 1995 the amount of $599,549,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

(b) LIMITATION.—Of the funds specified in subsection (a)—

(1) $363,584,000 is for operations and maintenance;
(2) $215,265,000 is for procurement; and
(3) $20,700,000 is for research and development efforts in support of the chemical weapons program.

(c) AUTHORITY FOR OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.—The Secretary of Defense may obligate funds appropriated for research, development, test, and evaluation of alternative technologies under the heading "CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE" in title VI of Public Law 103–139 (107 Stat. 1436).

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR ARMY PROGRAMS.

(a) M1A2 TANK UPGRADE.—The Secretary of the Army may, in accordance with statutory multiyear contract authority, enter into multiyear procurement contracts for procurement of upgrades of M1 Abrams tanks to the M1A2 Abrams configuration.

(b) AVENGER AIR DEFENSE MISSILE SYSTEM.—Notwithstanding the limitation on statutory multiyear contract authority relating to the maximum duration of a multiyear contract under that authority, the Secretary of the Army may extend the multiyear contract in effect during fiscal year 1994 for the Avenger air defense missile system for a sixth program year and may award such an extension.

(c) STATUTORY MULTIYEAR CONTRACT AUTHORITY DEFINED.—For purposes of this section, the term "statutory multiyear contract authority" means—

(1) the authority provided in section 2306(h) of title 10, United States Code; or

(2) if the Federal Acquisition Streamlining Act of 1994 is enacted during the second session of the One Hundred Third Congress, the authority provided in section 2306b of title 10, United States Code, as added by the Federal Acquisition

Streamlining Act of 1994 (restating the authorities previously provided in section 2306(h) of such title).

SEC. 112. TRANSFER TO MARINE CORPS OF M1A1 TANKS REPLACED BY M1A2 UPGRADES.

(a) IN GENERAL.—The Secretary of the Army shall transfer M1A1 common tanks to the Marine Corps Reserve in accordance with this section.

(b) NUMBER OF TANKS TO BE TRANSFERRED.—The number of tanks to be transferred to the Marine Corps Reserve under this section is the number (if greater than zero) equal to the difference between—

(1) the number of M1A2 Abrams tank upgrades for which funds are authorized for fiscal year 1995 or (if lower) the number of such upgrades for which funds are appropriated for fiscal year 1995; and

(2) the number of such upgrades requested in the budget of the President for fiscal year 1995.

(c) TIMING FOR TRANSFERS.—Of the M1 tanks selected to be upgraded to the M1A2 configuration using funds provided for fiscal year 1995, the Secretary of the Army shall designate specific tanks, in the number of such tanks to be upgraded in excess of the number requested to be upgraded in the budget of the President, as constituting the additional M1A2 tank upgrades for which funds were provided in excess of the number requested in the budget. With respect to each such tank so designated, the Secretary may not accept delivery from the contractor of that tank until the Secretary has transferred to the Marine Corps Reserve one M1A1 common tank (in addition to any previously transferred).

SEC. 113. TRANSFER OF M1A1 TANKS TO THE MARINE CORPS.

(a) TRANSFERS AUTHORIZED.—As M1A1 tanks of the Army become excess to the requirements of the active component of the Army, the Secretary of the Army shall transfer to the Marine Corps 84 of such tanks selected by the Secretary of the Army to complete the requirements for tanks of the active component of the Marine Corps. Any such transfer shall be made at no expense to the Army.

(b) LIMITATION ON TANK TRANSFERS TO ARMY NATIONAL GUARD.—After the date of the enactment of this Act, the Secretary of the Army may not transfer an M1A1 tank to the Army National Guard until, with respect to that transfer, the Secretary has transferred a separate M1A1 tank to the Marine Corps (in addition to any M1A1 tanks previously transferred to the Marine Corps). The limitation in the preceding sentence shall remain in effect until the Secretary has transferred to the Marine Corps under this section the total number of tanks specified in subsection (a).

(c) CONDITION OF TANKS.—The tanks transferred to the Marine Corps pursuant to this section shall be in a material condition comparable to the material condition of the tanks transferred to the National Guard.

(d) TREATMENT OF CERTAIN TRANSFERRED TANKS UNDER LIMITATIONS.—Transfers of tanks under section 112 shall not be counted for purposes of this section.

SEC. 114. EXCEPTION TO MANDATORY RETIREMENT OF OV-1 AIRCRAFT FOR AIRCRAFT DEPLOYED IN KOREA.

(a) EXCEPTION TO MANDATORY RETIREMENT.—The first sentence of subsection (b)(2) of section 1439 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1689) shall not apply with respect to OV–1 Mohawk surveillance aircraft deployed in Korea in a number not in excess of the number of such aircraft deployed in Korea on the date of the enactment of this Act.

(b) EXCEPTION TO PROHIBITION ON USE OF FUNDS.—The provisions of subsection (a) of that section shall not apply with respect to the operation and maintenance of aircraft covered by subsection (a) of this section.

SEC. 115. SMALL ARMS INDUSTRIAL BASE.

(a) FUNDING FOR PROCUREMENT.—Of the funds authorized to be appropriated pursuant to section 101(3), $93,683,000 is available for procurement of small arms weapons as follows:

(1) $38,902,000 for the MK19–3 grenade machine gun.
(2) $13,000,000 for the M16A2 rifle.
(3) $28,616,000 for the M249 squad automatic weapon.
(4) $13,165,000 for the M4 carbine.

(b) MULTIYEAR CONTRACTS AUTHORIZED.—(1) During fiscal year 1995, the Secretary of the Army may, in accordance with section 2306(h) of title 10, United States Code, enter into multiyear contracts to meet the following objectives for quantities of small arms weapons to be procured for the Army:

Weapon	Quantity
MK19–3 grenade machine gun	21,217
M16A2 rifle	1,002,277
M249 squad automatic weapon	71,769
M4 carbine	132,510.

(2) If the Army does not enter into contracts during fiscal year 1995 that will meet all the objectives set forth in paragraph (1), the Secretary shall, to the extent provided for in appropriations Acts, enter into multiyear contracts during subsequent fiscal years to meet those objectives. Contracts

(c) FOLLOW-ON WEAPONS.—The Secretary of the Army shall provide for procurement of product improvements for existing small arms weapons and may do so within multiyear contracts entered into pursuant to subsection (b).

(d) JOINT SMALL ARMS MASTER PLAN.—(1) The Secretaries of the military departments shall jointly develop a master plan for meeting the immediate and future needs of the Armed Forces for small arms. The Secretary of the Army shall coordinate the development of the joint small arms master plan. The joint small arms master plan shall include—

(A) an examination of the relative advantages and disadvantages of improving existing small arms weapons as compared to investing in new, advanced technology weapons; and

(B) an analysis of the effects of each such approach on the small arms industrial base.

(2) Not later than April 1, 1995, the Under Secretary of Defense for Acquisition and Technology shall—

(A) review the joint small arms master plan and the results of the examination of relative advantages and disadvantages of the two courses of action described in paragraph (1); and

(B) transmit the plan, together with any comments that the Under Secretary considers appropriate, to Congress.

(e) FUNDING FOR RDT&E.—Of the funds authorized to be appropriated under section 201(1)—

(1) $5,000,000 shall be available for the Objective Crew-Served Weapons System; and

(2) $3,000,000 shall be available for product improvements to existing small arms weapons.

SEC. 116. BUNKER DEFEAT MUNITION ACQUISITION PROGRAM.

The Secretary of the Army, in acquiring munitions under the bunker defeat munition weapons acquisition program—

(1) may acquire only those munitions that are designated as "type classified, limited procurement for contingency operations"; and

(2) may not acquire more than 6,000 such munitions.

SEC. 117. PROCUREMENT OF HELICOPTERS.

(a) AH–64 APACHE AIRCRAFT.—The prohibition in section 132(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1382) does not apply to the obligation of funds in amounts not to exceed $72,000,000 for the procurement of not more than 6 AH–64 aircraft from funds appropriated for fiscal year 1995 pursuant to section 101.

(b) OH–58D AHIP AIRCRAFT.—The prohibition in section 133(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) does not apply to the obligation of funds in amounts not to exceed $150,000,000 for the procurement of not more than 24 OH–58D AHIP Scout aircraft from funds appropriated for fiscal year 1995 pursuant to section 101.

Subtitle C—Navy Programs

SEC. 121. NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) TRANSFER OF FISCAL YEAR 1994 FUNDS.—There is hereby authorized to be transferred to the Shipbuilding and Conversion, Navy, appropriation account for fiscal year 1995 the amount of $1,200,000,000, to be derived from the National Defense Sealift Fund.

(b) AVAILABILITY FOR CVN–76.—Funds transferred pursuant to the authorization in subsection (a) shall be available for the CVN–76 nuclear aircraft carrier program.

SEC. 122. SEAWOLF SUBMARINE PROGRAM.

(a) LIMITATION ON PROGRAM COST.—Except as provided in subsection (b), the total amount obligated on or expended for procurement of the SSN–21 and SSN–22 Seawolf submarines may not exceed $4,759,571,000.

(b) AUTOMATIC INCREASE OF LIMITATION AMOUNT.—The amount of the limitation set forth in subsection (a) is increased by the following amounts:

(1) The amounts of outfitting costs and post-delivery costs incurred for the submarines referred to in such subsection.

(2) The amounts of increases in costs attributable to economic inflation.

(3) The amounts of increases in costs attributable to compliance with changes in Federal, State, or local laws.

SEC. 123. GUIDANCE SETS FOR TRIDENT II MISSILES.

(a) LIMITATION.—Funds appropriated for fiscal year 1995 for the Navy pursuant to section 102 may not be obligated to procure more than 14 Mark–6 guidance sets for Trident II (D–5) missiles until the certification specified in subsection (b) has been submitted to Congress.

(b) CERTIFICATION.—A certification referred to in subsection (a) is a certification by the Secretary of Defense that it is necessary to procure (with funds referred to in subsection (a)) more than 14 Mark–6 guidance sets for Trident II (D–5) missiles because a failure to do so would pose an unacceptable risk to the long-term readiness and reliability of the Trident II (D–5) missile program.

SEC. 124. PROHIBITION ON TRIDENT II BACKFIT.

(a) LIMITATION.—The Secretary of the Navy may not modify any Trident I submarine to enable that submarine to be deployed with Trident II (D–5) missiles.

(b) WAIVER AUTHORITY.—If the Secretary of Defense determines that adherence to the prohibition in subsection (a) would result in a significant national security risk to the United States, the Secretary may waive that prohibition. Such a waiver may not take effect until the Secretary submits to Congress a certification of that determination and of the reasons for that determination.

SEC. 125. INCLUSION OF CONVERSION OF VESSELS IN FAST SEALIFT PROGRAM.

Section 1424 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 7291 note) is amended—

(1) in subsection (a), by inserting ", or conversion and operation," after "construction and operation"; and

(2) in subsection (b)—

(A) by inserting "or converted" after "constructed" each place it appears; and

(B) by inserting "or conversion" after "Construction" in paragraph (3).

SEC. 126. LIMITATION ON PROCUREMENT OF TAGS VESSELS.

(a) LIMITATION.—The Secretary of the Navy may not obligate funds for any of the vessels designated as TAGS–63, TAGS–64, or TAGS–65 unless the Secretary certifies to Congress that the multibeam sonars to be used on those vessels (whether new or remanufactured) have been obtained through the use of competitive acquisition procedures.

(b) NATIONAL SECURITY WAIVER.—The Secretary of the Navy may waive the limitation in subsection (a) for reasons of national security. Such a waiver may not take effect until the Secretary submits to Congress a report giving notice of the waiver and an explanation of the national security reasons for the waiver. Reports.

SEC. 127. NAVAL AMPHIBIOUS READY GROUPS.

(a) FINDINGS.—Congress makes the following findings:

(1) Amphibious Assault Ships (LHDs) provide an important contingency capability and are uniquely suited to respond to world crises and to provide assistance after natural disasters.

(2) Extensive testimony received by the Committee on Armed Services of the Senate in 1994 and prior years from military and civilian officials of the Department of Defense provided compelling support for a military requirement for 12 Amphibious Ready Groups.

(3) Twelve Amphibious Ready Groups is the correct number of amphibious ready groups necessary to sustain forward deployment and contingency requirements of the Navy.

(4) A report of the Department of the Navy (prepared pursuant to requirements of the National Defense Authorization Act for Fiscal Year 1993) clearly stipulates that a seventh LHD amphibious assault vessel is required in order for the Navy to achieve a force of 12 Amphibious Ready Groups.

(5) A significant shortfall in amphibious shipping and amphibious lift exists, both in the fiscal year 1995 budget request and in outyear force structure projections.

(6) The Department of the Navy has identified funds in outyear budget projections for the purchase of the amphibious assault vessel designated as LHD–7.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Navy—

(1) should plan for, and budget to provide for, the attainment of a twelfth Amphibious Ready Group as soon as possible; and

(2) should extend the existing contract option on the LHD–7 Amphibious Assault Ship to facilitate achieving 12 Amphibious Ready Groups.

(c) LHD–7 CONTRACT OPTION EXTENSION.—(1) The Secretary of the Navy is authorized to extend the existing contract option for the LHD–7 Amphibious Assault ship if the Secretary determines that the extension would be in the best interest of the United States.

(2) The Secretary of the Navy shall immediately begin negotiations to extend the existing contract option for the LHD–7 Amphibious Assault Ship Program.

(3) On and after the date that is 30 days after the date on which the Secretary notifies Congress of an intention to do so, the Secretary may use for such contract option extension funds that are authorized to be appropriated for other Navy programs. The notification shall include a description of the intended use of the funds.

(d) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to Congress, after December 31, 1994, but before March 31, 1995, a report stating the Secretary's intentions regarding exercise of the existing contract option for the LHD–7 Amphibious Assault Ship. The report shall include an explanation of the Secretary's actions regarding attainment of a twelfth Amphibious Ready Group and the costs and benefits of extending the existing contract option on the LHD–7 Amphibious Assault Ship.

Subtitle D—Air Force Programs

SEC. 131. INTERTHEATER AIRLIFT PROGRAMS.

(a) AUTHORIZATION.—Of the amount provided in section 103 for procurement of aircraft for the Air Force—

(1) $103,707,000 shall be available for Non-Developmental Alternative Aircraft procurement; and

(2) $2,364,622,000 shall be available for the C–17 aircraft program, of which—

(A) $2,168,614,000 is for procurement of six C–17 aircraft;

(B) $189,900,000 is for advance procurement of up to eight C–17 aircraft for fiscal year 1996; and

(C) $6,108,000 is for C–17 modifications.

(b) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall use competitive procedures in selecting a source for the aircraft to be procured as Non-Developmental Alternative Aircraft under subsection (a).

(c) NOTICE TO CONGRESS.—Funds described in subsection (a) may not be obligated for procurement under subsection (a) until 60 days after the date on which the Secretary of Defense submits to Congress a report describing the Secretary's plan for the obligation of those funds. Reports.

(d) PRESERVATION OF INTERTHEATER AIRLIFT CAPACITY.—It is the sense of Congress that the Secretary of Defense, in acquiring aircraft using funds provided in accordance with subsection (a), should structure the acquisition of those aircraft so as to preserve the aggregate intertheater airlift capacity of the Air Force (measured in millions of ton-miles per day) as of the date of the enactment of this Act.

SEC. 132. SETTLEMENT OF CLAIMS UNDER THE C-17 AIRCRAFT PROGRAM.

(a) AUTHORIZATION FOR SUPPLEMENTAL AGREEMENTS AND CONTRACT MODIFICATIONS.—(1) The Secretary of the Air Force may (subject to subsection (e)) enter into supplemental agreements and contract modifications pertaining to contracts specified in paragraph (2) in order to do any of the following:

(A) Settle claims and disputes arising under those contracts as provided in the C–17 settlement agreement.

(B) Revise the delivery schedules under those contracts as provided in the C–17 settlement agreement for the aircraft designated as T–1 and P–1 through P–6.

(C) Revise range specifications, payload specifications, and other specifications under those contracts as provided in Attachment B to the letter (described in subsection (h)) setting forth the C–17 settlement agreement.

(2) This section applies to the following contracts:

(A) Air Force prime contract F33657-81–C–2108 (relating to the C–17 aircraft program).

(B) Such other Air Force contracts relating to the C–17 aircraft program (entered into before, on, or after the date of the enactment of this Act) as the Secretary of the Air Force determines to be appropriate.

(b) FURTHER CONSIDERATION FROM CONTRACTOR NOT REQUIRED.—The Secretary of the Air Force may enter into a supplemental agreement or contract modification under subsection (a) without requiring further consideration from the contractor for the benefit to be derived by the contractor under that agreement or modification only to the extent provided for in the C–17 settlement agreement.

(c) RELEASE OF CONTRACTOR CLAIMS.—Any supplemental agreement or contract modification entered into under subsection (a) shall, as provided in the C–17 settlement agreement, require that the prime contractor release the Government from any contractual claim, demand, request for equitable adjustment, or other cause of action, known or unknown, that the prime contractor may have against the Government on or before January 6, 1994, arising out of the C–17 program contracts.

(d) CONTRACT MODIFICATIONS REGARDING CONTRACTOR COMMITMENTS.—(1) The Secretary of the Air Force shall incorporate into each appropriate C–17 contract the commitment of the prime contractor to make C–17 program changes as described in paragraph (2) on a nonreimbursable or cost-share basis.

(2) Paragraph (1) applies to the commitment of the prime contractor provided in the C–17 settlement agreement to make the following C–17 program changes:

(A) Extend the flight test program.

(B) Redesign the wing.

(C) Implement Computer Aided Design/Computer Aided Manufacturing System improvements, Management Information System improvements, and Advanced Quality System improvements.

(D) Implement product improvement cost reduction projects.

(E) Resolve other C–17 program issues.

(e) REQUIRED CERTIFICATION.—The Secretary of the Air Force may not enter into a supplemental agreement or contract modification under subsection (a) until 30 days after the date on which the Secretary of Defense submits to Congress a written certification of each of the following:

(1) That the terms and conditions set forth in the C–17 settlement agreement, including the terms and conditions relating to the settlement of claims, are in the best interest of the Government for a total procurement under the C–17 program that could be as few as 40 aircraft.

(2) That the membership of the Defense Science Board C–17 Task Force has advised the Secretary of Defense that, for a total procurement quantity of as few as 40 aircraft, the terms and conditions set forth in the C–17 settlement agreement, including the terms and conditions relating to settlement of claims, are in the best interest of the Government.

(3) That the Secretary will establish specific not-to-exceed costs estimates for production lots VII through XI and will provide that cost information to Congress not later than March 1, 1995.

(4) That during fiscal year 1995 no funds available to the Department of Defense will be used to relax performance requirements specified in the acquisition program baseline beyond the extent provided for in the C–17 settlement agreement.

(5) That the Secretary will transmit to Congress milestones and exit criteria for the C–17 not later than March 1, 1995.

(6) That nothing in the C–17 settlement agreement releases the contractor from any potential liability for fraud or criminal violations.

(f) RESTRICTION ON USE OF DOD FUNDS FOR DEVELOPMENT OF ALTERNATIVE AIRCRAFT.—No funds appropriated to the Depart-

ment of Defense for fiscal year 1995 may be used to design, develop, or produce a modified version of the C–17 aircraft that could be considered to be a nondevelopmental alternative aircraft for purposes of future Department of the Air Force competitions for intertheater airlift requirements.

(g) OTHER CONTRACTOR OBLIGATIONS.—Nothing in this section shall be construed as relieving the prime contractor for the C–17 aircraft from any obligation provided for in the C–17 settlement agreement.

(h) C–17 SETTLEMENT AGREEMENT DEFINED.—For purposes of this section, the term "C–17 settlement agreement" means the settlement agreement that was proposed to the prime contractor for the C–17 aircraft program by the Under Secretary of Defense for Acquisition and Technology by letter dated January 3, 1994, and that was accepted by that prime contractor on January 6, 1994.

(i) EXPIRATION OF AUTHORITY.—The authority of the Secretary of the Air Force to enter into agreements and contract modifications under subsection (a) expires at the close of September 30, 1995.

SEC. 133. HEAVY BOMBER FORCE REQUIREMENTS.

(a) REQUIREMENTS STUDY.—The Secretary of Defense shall carry out a study of bomber force requirements of the Department of Defense. The Secretary shall submit to Congress a report on the results of the study not later than April 15, 1995. The study shall address, for each of the target years 1998, 2006, and 2014, the following: Reports.

(1) Realistic alternative mixes of bombers constituting the bomber force and whether, for each of the alternative mixes, the bomber force so produced can meet well-defined national security requirements.

(2) The incremental levels of munitions requirements, bomber upgrade requirements, and other support requirements for implementation of each of the alternative mixes.

(3) The cost of implementation, affordability of implementation, and time required for implementation of each of the alternative mixes.

(4) The sensitivity to small changes in assumptions of the capabilities of the bomber force produced by each of the alternative mixes to meet mission requirements.

(b) FURTHER ALTERNATIVE STRATEGIES.—If the Secretary determines in the study carried out under subsection (a) that the bomber force capabilities are not adequate to meet requirements for any of the target years considered, the Secretary shall undertake a further study to examine alternative strategies for increasing bomber force capabilities. As part of such examination, the Secretary shall do the following:

(1) Determine those core bomber industrial capabilities that are needed to maintain the ability to design, develop, and produce bomber aircraft in the near-term and in the long-term and that—

(A) would take extended periods of time or substantial expense to regenerate; and

(B) are in imminent danger of being lost.

(2) For each strategy examined—

(A) estimate the cost of implementing the strategy;

(B) make a judgment about the affordability of the strategy; and

(C) assess the time required to implement the strategy.

(c) SECOND REPORT.—If the Secretary carries out a study as provided in subsection (b), the Secretary shall submit to Congress a report containing the results of the study carried out under subsection (b) not later than July 1, 1995. The Secretary shall include in such report the Secretary's recommendations for assuring the availability of bomber force capabilities required in the future.

(d) ENHANCED BOMBER CAPABILITY FUND.—(1) Of the amounts authorized to be appropriated by section 103 for procurement of aircraft for the Air Force, not more than $125,000,000 is available for an Enhanced Bomber Capability Fund.

(2) Pending the completion of the studies required by subsections (a) and (b), the Secretary may obligate up to $100,000,000 of the amount in such fund—

(A) for those studies; and

(B) for the purpose of preserving those parts of the core capabilities referred to in subsection (b)(1).

(3) If, as a result of the study carried out under subsection (b), the Secretary determines that a new-generation bomber is needed to meet the national security requirements for bombers, the Secretary may obligate up to $25,000,000 of the amount in such fund for requirements formulation and conceptual studies for a conventional-conflict-oriented lower-cost next-generation bomber.

(e) LIMITATION ON FUND.—None of the amount available for the Enhanced Bomber Capability Fund may be obligated for advance procurement of new B–2 aircraft (including long-lead items).

(f) BOMBER DEFINED.—For purposes of this section, the term "bombers" means the B–52, B–1, and B–2 aircraft and other bomber aircraft that are developed after the enactment of this Act with similar range and payload characteristics.

SEC. 134. LIMITATION ON RETIREMENT OF BOMBER AIRCRAFT.

No funds available to the Secretary of Defense may be obligated or expended during fiscal year 1995 for retiring, or preparing to retire, any B–52H, B–1B, or F–111 bomber aircraft.

SEC. 135. EVALUATION OF RESTART OF C–5B AIRCRAFT PROCUREMENT.

(a) EVALUATION.—The Secretary of the Air Force shall conduct an evaluation of the costs of restarting production of C–5B aircraft for the strategic airlift mission. The evaluation shall include startup costs and production costs for a production run of from 30 to 70 units.

(b) REPORT.—The Secretary shall submit to Congress a report on the evaluation under subsection (a). The report may be submitted as part of any other report required to be submitted that relates to intertheater airlift.

Subtitle E—Other Matters

SEC. 141. SALES AUTHORITY OF WORKING-CAPITAL FUNDED ARMY INDUSTRIAL FACILITIES.

Section 4543(a) of title 10, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking out "nondefense-related commercial";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(5) the Secretary of the Army determines that the articles or services are not available from a commercial source located in the United States;

"(6) the purchaser of an article or service agrees to hold harmless and indemnify the United States, except in a case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the article or service;

"(7) the article to be sold can be manufactured, or the service to be sold can be substantially performed, by the industrial facility with only incidental subcontracting;

"(8) it is in the public interest to manufacture such article or perform such service; and

"(9) the sale will not interfere with performance of the military mission of the industrial facility.".

SEC. 142. IDENTIFICATION IN BUDGET OF FUNDS FOR CHEMICAL DEMILITARIZATION MILITARY CONSTRUCTION PROJECTS.

Section 1412(f) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(f)), is amended—

(1) by inserting ", including funds for military construction projects necessary to carry out this section," after "carrying out this section"; and

(2) by striking out the last sentence.

SEC. 143. TRANSPORTATION OF CHEMICAL MUNITIONS. 50 USC 1512a.

(a) PROHIBITION OF TRANSPORTATION ACROSS STATE LINES.—The Secretary of Defense may not transport any chemical munition that constitutes part of the chemical weapons stockpile out of the State in which that munition is located on the date of the enactment of this Act and, in the case of any such chemical munition not located in a State on the date of the enactment of this Act, may not transport any such munition into a State.

(b) TRANSPORTATION OF CHEMICAL MUNITIONS NOT IN CHEMICAL WEAPONS STOCKPILE.—In the case of any chemical munitions that are discovered or otherwise come within the control of the Department of Defense and that do not constitute part of the chemical weapons stockpile, the Secretary of Defense may transport such munitions to the nearest chemical munitions stockpile storage facility that has necessary permits for receiving and storing such items if the transportation of such munitions to that facility—

(1) is considered by the Secretary of Defense to be necessary; and

(2) can be accomplished while protecting public health and safety.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $5,319,520,000.
(2) For the Navy, $8,845,854,000.
(3) For the Air Force, $12,475,681,000.
(4) For Defense-wide activities, $9,428,622,000, of which—
(A) $230,495,000 is authorized for the activities of the Director, Test and Evaluation; and
(B) $12,501,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1995.—Of the amounts authorized to be appropriated by section 201, $4,193,833,000 shall be available for basic research and exploratory development projects.

(! BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $111,907,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 204. MOLECULAR DESIGN MATERIAL SCIENCE.

Of the amount authorized to be appropriated for the Navy by section 201(2), $10,000,000 shall be used to conduct a centralized program in molecular design material science.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. SPACE LAUNCH MODERNIZATION.

(a) POLICY.—(1) It is in the Nation's long-term national security and economic interests to regain preeminence in the area of space launch technology and operations.

(2) Access to space at affordable costs is fundamental to maintaining required command, control, communications, intelligence, navigation, weather, and early warning support to United States and coalition forces.

(3) Encouragement of privately financed, cost effective expendable and reusable launch vehicles is in the economic interest of the Department of Defense and the United States Government.

(b) FINDING.—Congress finds that the current Department of Defense space launch infrastructure has several deficiencies, including high cost, excessive management overhead, inadequate operability and responsiveness to satellite launch requirements, lack of standardization, very large launch personnel requirements to support launch operations, over capacity, and technology obsolescence.

(c) REQUIRED ACTIONS.—The Secretary of Defense shall take the following actions in pursuance of the space launch modernization policy set forth in subsection (a) and to correct the deficiencies described in subsection (b):

(1) Develop an integrated space launch vehicle strategy that, if implemented, would replace or consolidate the current fleet of medium and heavy launch vehicles. Where prudent and cost effective, the strategy should include a plan for the development of new or upgraded expendable launch vehicles.

(2) Implement improved management practices including streamlined acquisition approaches, small government program staff, and minimal program overhead.

(3) Encourage and evaluate innovative acquisition, technical, and financing (including best commercial practices) solutions for providing affordable, operable, reliable, and responsive access to space.

(4) Centralize oversight of launch requirements to ensure integrated evaluation of satellite requirements and launch capabilities.

(5) Encourage and provide incentives for the use of commercial practices in the acquisition, operation, and support of Department of Defense space operations.

(6) Establish effective coordination among military, civilian, and commercial launch developers and users.

(d) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated in section 201(3), $90,000,000 shall be available for research, development, test, and evaluation of non-man-rated space launch systems and technologies. Of that amount—

(1) $30,000,000 shall be available for a competitive reusable rocket technology program; and

(2) $60,000,000 shall be available for expendable launch vehicle technology development and acquisition, as appropriate.

(e) TRANSFER OF FUNDS.—The Secretary of Defense shall, to the extent provided in appropriations Acts, transfer to the Department of the Air Force the unobligated balance of funds appropriated for fiscal year 1994 to the Department of Defense for the Advanced Research Projects Agency for single-stage to orbit rocket research and development.

(f) PROGRAM PLAN.—The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall develop a plan to coordinate the programs of the Department of Defense and the National Aeronautics and Space Administration for expendable and reusable rocket technology demonstrators and technology development. The Secretary of Defense shall submit to Congress the plan developed under this subsection.

(g) LIMITATIONS.—(1) Funds authorized for appropriation in subsection (d)(1) may be obligated only—

(A) to the extent that the fiscal year 1995 current operating plan of the National Aeronautics and Space Administration allocates at least an equal amount for its Reusable Space Launch program; and

(B) as specified in the program plan developed and submitted to Congress pursuant to subsection (f).

(2) Not more than $30,000,000 of the funds authorized in subsection (d)(2) may be obligated until 30 days after the Secretary of Defense submits to Congress program plans, including objectives, milestones, future years defense program funding, and government-industry cost sharing considerations, as applicable.

SEC. 212. STANDOFF AIR-TO-SURFACE MUNITIONS TECHNOLOGY DEMONSTRATION.

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated by section 201(3), up to $2,000,000 may be used for the conduct of a demonstration of existing nondevelopmental items that would enable the use of a single adaptor kit for munitions described in paragraph (2) in order to give those munitions a near-term standoff and accurate guided capability. Such kits should be able to be integrated into aircraft at minimal or no cost.

(2) Paragraph (1) applies to guided and unguided in-inventory munitions of the class of 1,000 pounds and below.

(b) REPORT.—The Secretary of the Air Force shall submit to Congress a report setting forth in detail the results and costs of the demonstration under subsection (a) and the applicability of the technology demonstrated in providing the Armed Forces with an inexpensive near-term solution to providing both range extension and accurate guided capability to in-inventory munitions.

SEC. 213. EXTENSION OF PROHIBITION ON TESTING MID-INFRARED ADVANCED CHEMICAL LASER AGAINST AN OBJECT IN SPACE.

(a) PROHIBITION.—The Secretary of Defense may not carry out a test of the Mid-Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space during fiscal year 1995 unless such testing is specifically authorized by law.

(b) CERTAIN TESTING UNAFFECTED.—Nothing in this section is intended to restrict the use of the Sealite Beam Director for the purpose of calibrating a satellite sensor, or for the purpose of imaging an object in space, in conjunction with a laser device other than the MIRACL device operating at an average power level not to exceed that used by other laser devices as of January 1, 1994, at other Department of Defense facilities for those purposes.

SEC. 214. APPLICABILITY OF CERTAIN ELECTRONIC COMBAT SYSTEMS TESTING REQUIREMENTS.

(a) COVERED SYSTEMS.—Subsection (a) of section 220 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589) is amended—

(1) by inserting "ACAT I level integrated or stand-alone" before "electronic combat system"; and

(2) by inserting "ACAT I level integrated or stand-alone" before "command, control, and communications countermeasure system".

(b) APPLICABILITY.—Subsection (e) of section 220 of such Act is amended to read as follows:

"(e) APPLICABILITY.—The provisions of subsections (a) and (b) shall apply to an ACAT I level integrated or stand-alone electronic combat system and to an ACAT I level integrated or stand-alone command, control, and communications countermeasure system that has not entered engineering and manufacturing development as of September 1, 1994.".

(c) WAIVER.—Section 220 of such Act is further amended by adding at the end the following new subsection:

"(f) WAIVER AUTHORITY.—(1) The Secretary of Defense may waive the requirements of subsection (a) with respect to a system in any case in which the Secretary determines that a waiver is necessary in the interests of national security.

"(2) Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to Congress a notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the expiration of the 30-day period that begins on the date on which the notice is submitted to Congress.".

SEC. 215. ADVANCED SELF PROTECTION JAMMER (ASPJ) PROGRAM.

(a) REQUIREMENT TO OBLIGATE FUNDS FOR ASPJ.—Subject to subsection (b), the Secretary of the Navy shall, not later than September 30, 1994, obligate funds appropriated to the Department of Defense for fiscal year 1994 and prior years to carry out logistics support and maintenance of existing Advanced Self Protection Jammer (ASPJ) systems, and integration of such systems from the Navy inventory into the F–14D aircraft for testing and evaluation. The Secretary may acquire sufficient racks, spares, and logistic support, including hardware and software, necessary to maintain the existing ASPJ systems in the Navy inventory.

(b) LIMITATION.—The Secretary of the Navy may obligate funds under subsection (a) only to the extent provided in appropriations Acts.

(c) RELATIONSHIP TO OTHER PROVISION OF LAW.—The Secretary of the Navy shall carry out subsection (a) notwithstanding section 122 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2334).

SEC. 216. ADVANCED LITHOGRAPHY PROGRAM.

(a) PURPOSE.—The purpose of the Advanced Lithography Program (in this section referred to as the "ALP") is to fund goal-oriented research and development to be conducted in both the public and private sectors to help achieve a competitive position for American lithography tool manufacturers in the international market place.

(b) CONDUCT OF PROGRAM.—(1) The program shall be conducted in accordance with research and development plans (including an interim plan) developed by the Semiconductor Technology Council, established in section 273 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603) (as amended by section 263(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1608)).

(2) The interim plan referred to in paragraph (1) shall be the Semiconductor Industry Association (SIA) 1994 development plan for lithography.

(c) PROGRAM MANAGEMENT.—The Advanced Research Projects Agency (ARPA) shall be the executive agent for the ALP and shall ensure seamless, fully integrated incorporation of the program plan-

ning of the ALP into the full range of ARPA core electronics development programs.

(d) FUNDING.—(1) Of the funds authorized to be appropriated in section 201(4), $60,000,000 shall be available for the ALP to conduct research and development activities in accordance with subsection (b).

(2) Of the funds authorized to be appropriated in section 201(4) for the Semiconductor Manufacturing Technology Consortium, the consortium is strongly encouraged to use not less than $10,000,000 for activities related to lithography.

SEC. 217. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) CENTERS COVERED.—Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 pursuant to an authorization of appropriations in section 201 may be obligated to procure work from a federally funded research and development center only in the case of a center named in the report required by subsection (b) and, in the case of such a center, only in an amount not in excess of the amount of the proposed funding level set forth for that center in such report.

(b) REPORT ON ALLOCATIONS FOR CENTERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing—

(A) the name of each federally funded research and development center from which work is proposed to be procured for the Department of Defense for fiscal year 1995; and

(B) for each such center, the proposed funding level and the estimated personnel level for fiscal year 1995.

(2) The total of the proposed funding levels set forth in the report for all federally funded research and development centers may not exceed the amount set forth in subsection (d).

(c) LIMITATION PENDING SUBMISSION OF REPORT.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1995 may be obligated to procure work from a federally funded research and development center until the Secretary of Defense submits the report required by subsection (b).

(d) FUNDING.—Of the amounts authorized to be appropriated by section 201, not more than a total of $1,300,000,000 may be obligated to procure services from the federally funded research and development centers named in the report required by subsection (b).

(e) AUTHORITY TO WAIVE FUNDING LIMITATION.—The Secretary of Defense may waive the limitation regarding the maximum funding amount that applies under subsection (a) to a federally funded research and development center. Whenever the Secretary proposes to make such a waiver, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives notice of the proposed waiver and the reasons for the waiver. The waiver may then be made only after the end of the 60-day period that begins on the date on which the notice is submitted to those committees, unless the Secretary determines that it is essential to the national security that funds be obligated for work at that center in excess of that limitation before the end of such

period and notifies the Committees on Armed Services of the Senate and House of Representatives of that determination and the reasons for the determination.

(f) PARTICIPATION IN PROGRAMS PROMOTING RESEARCH, DEVELOPMENT, DEMONSTRATION, OR TRANSFER OF TECHNOLOGY.—(1) A federally funded research and development center of the Department of Defense that functions primarily as a research laboratory may respond to solicitations and announcements under programs authorized by the Federal Government for the purpose of promoting the research, development, demonstration, or transfer of technology in a manner consistent with the terms and conditions of such program.

(2) A federally funded research and development center described in paragraph (1) that responds to a solicitation or announcement described in such paragraph shall not be considered to be engaging in a competitive procedure and may use, among other authorities, cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) as the instruments of participation in the solicitation or announcement.

(g) STUDY OF ROLE OF FFRDCS IN THE MISSION OF THE DEPARTMENT OF DEFENSE.—The Secretary of Defense shall require the Defense Science Board to conduct a study of the role of federally funded research and development centers in the mission of the Department of Defense. The study shall include an analysis of how the centers fit into the mission of the Department of Defense, which capabilities of the centers are unique and have national security consequences, and how these capabilities can be retained. The study also shall review the extent to which activities performed by such centers could be obtained through in-house capabilities of the Department of Defense or through competitive procedures with for-profit and nonprofit organizations. The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study not later than May 1, 1995. Reports

(h) REVIEW BY DEFENSE INSPECTOR GENERAL OF COMPARISON OF EXECUTIVE COMPENSATION OF FFRDCS.—(1) The Secretary of Defense shall require the Inspector General of the Department of Defense to conduct a review of the compensation paid by federally funded research and development centers to all the officers and employees of such centers who are paid at a rate exceeding the Executive Schedule Level I rate.

(2) In conducting the review, the Inspector General shall—

(A) assess the validity of the data submitted by federally funded research and development centers to the Defense Contract Audit Agency as justification for the salary rates that exceed the Executive Schedule Level I rate;

(B) compare the compensation paid those individuals with (i) the compensation of similar technical and professional staff from for-profit and nonprofit organizations that must compete for defense work, and (ii) government officials of comparable expertise and responsibility; and

(C) examine areas such as bonuses, medical benefits, severance packages, retirement plans, housing allowances, moving expenses, and other forms of nonsalary compensation, as appropriate.

Reports

(3) The Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review not later than May 1, 1995.

(i) LIMITATION REGARDING RATES OF COMPENSATION.—(1) Funds available to the Department of Defense may not be paid to a federally funded research and development center unless the head of such center enters into an agreement with the Secretary of Defense that provides the following:

(A) That no officer or employee of the federally funded research and development center referred to in paragraph (2) will be compensated in fiscal year 1995 at an annual rate of compensation that exceeds the annual rate of compensation provided that officer or employee in fiscal year 1994 (or, in the case of a person not employed as an officer or employee in such fiscal year, the annual rate of compensation provided for the person in the position of that officer or employee in fiscal year 1994).

(B) That no such officer or employee will be paid a bonus or provided any other financial incentive in fiscal year 1995.

(C) That no trustee of the federally funded research and development center will be paid compensation for services as trustee in fiscal year 1995 or any subsequent fiscal year at a rate that exceeds the rate of compensation provided in fiscal year 1994 for a member of the Defense Science Board for service as a member of such board.

(2) Subparagraphs (A) and (B) of paragraph (1) apply to officers and employees of a federally funded research and development center who are compensated at an annual rate of compensation that exceeds the annual rate of pay provided for Executive Schedule level I under section 5312 of title 5, United States Code.

(j) LIMITATION REGARDING CHARITABLE CONTRIBUTIONS.—Funds available to the Department of Defense may not be paid to a federally funded research and development center unless the head of such center enters into an agreement with the Secretary of Defense not to make any charitable donation to a private institution, local government, institution of higher education, or any other person.

(k) UNDISTRIBUTED REDUCTION.—The total amount authorized to be appropriated for research, development, test, and evaluation in section 201 is hereby reduced by $52,650,000.

107 Stat 1583

SEC. 218. DIGITAL BATTLEFIELD PROGRAM.

(a) FUNDING.—Of the amounts authorized to be appropriated by section 201, $95,857,000 shall be available for fiscal year 1995 for the digital battlefield program (PE 203758A).

(b) PROGRAM LIMITATION.—Not more than 60 percent of the funds appropriated pursuant to section 201 for the digital battlefield program (PE 203758A) for the Army for fiscal year 1995 may be obligated for research and development activities for development or integration of such program until the Secretary of the Army—

(1) coordinates with the Secretary of the Navy to include the Marine Corps in the Army's plans for the digital battlefield; and

(2) transmits to the congressional defense committees a report describing—

(A) the Army's plan of actions and milestones for defining the overall system architecture for the digital battle-

field, the standards and protocols for the digital battlefield, and resulting requirements;

(B) how those requirements affect or will affect the major platforms that will make up the digital battlefield; and

(C) the manner in which coordination with the Secretary of the Navy under paragraph (1) is being carried out.

SEC. 219. DUAL-USE ELECTRIC AND HYBRID VEHICLES.

(a) FUNDING.—Of the funds authorized to be appropriated in this Act—

(1) $15,000,000 shall be available for procurement of electric and hybrid vehicles for military uses and for commercialization of such vehicles for nonmilitary uses; and

(2) $10,000,000 shall be available for research, development, test, and evaluation of electric and hybrid vehicles for military uses.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) may not be expended until the Secretary of Defense, the Secretary of the Army, and the Secretary of Energy enter into a memorandum of understanding that specifies the responsibilities of each Secretary for research, development, test, evaluation, procurement, and commercialization activities to be carried out with such funds.

(2) The memorandum generally, and specifically in the case of the commercialization of such vehicles for nonmilitary uses, shall provide that any procurement of electric and hybrid vehicles authorized in subsection (a) shall be in accordance with the provisions of the Energy Policy Act of 1992 (Public Law 102–486; 42 U.S.C. 13201 et seq.) and shall be consistent with the amendments made to the Clean Air Act (42 U.S.C. 7401 et seq.) by Public Law 101–549 (commonly known as the Clean Air Act Amendments of 1990; 104 Stat. 2399).

SEC. 220. TACTICAL ANTISATELLITE TECHNOLOGIES PROGRAM.

(a) DEMONSTRATION AND VALIDATION ACTIVITIES.—Subject to subsection (e), the Secretary of Defense shall continue the demonstration and validation of kinetic energy antisatellite technologies under the tactical antisatellite technologies program.

(b) LEVEL FUNDING.—Subject to subsection (e), of the amounts authorized to be appropriated in section 201 for the Army, $5,000,000 shall be available for fiscal year 1995 for engineering development under the tactical antisatellite technologies program.

(c) REQUIREMENT OF OBLIGATION OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the Secretary shall obligate for engineering development under the tactical antisatellite technologies program all funds available for fiscal year 1993 and fiscal year 1994 for the Kinetic Energy Antisatellite (KE–ASAT) program that remain available for obligation on the date of the enactment of this Act.

(d) REPORT.—The Secretary shall submit to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).

(e) LIMITATION.—No funds appropriated to the Department of Defense for fiscal year 1995 may be obligated for the tactical antisatellite technologies program until the Secretary of Defense certifies to Congress that there is a requirement for an antisatellite program.

SEC. 221. LIMITATION ON DISMANTLEMENT OF INTERCONTINENTAL BALLISTIC MISSILES.

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Funds authorized to be appropriated in this Act may not be obligated or expended for deactivating or dismantling intercontinental ballistic missiles (ICBMs) of the United States below that number of such missiles that is necessary to support 500 deployed intercontinental ballistic missiles until 180 days after the date on which the Secretary of Defense has submitted to the congressional defense committees a report on the results of a nuclear posture review being conducted by the Secretary.

SEC. 222. LIMITATION ON OBLIGATION OF FUNDS FOR SEISMIC MONITORING RESEARCH.

Funds authorized to be appropriated by this Act that are made available for seismic monitoring of nuclear explosions may not be obligated for a project unless the project is authorized in a plan approved by the review group established pursuant to Presidential Decision Directive 18 (dated December 20, 1993).

SEC. 223. SUPERCONDUCTING MAGNETIC ENERGY STORAGE PROJECT.

(a) AVAILABILITY OF FUNDS.—The authorization of appropriations for fiscal year 1993 for the Superconducting Magnetic Energy Storage Project (SMES) shall be effective until the funds appropriated for such project are expended. The purposes for which such funds may be expended under that authorization of appropriations are those that are authorized in section 218 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2352) and section 218 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589).

(b) TRANSFER DEADLINE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall comply with the requirement to transfer funds set forth in section 218(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1589).

SEC. 224. DEPARTMENT OF DEFENSE SATELLITE COMMUNICATIONS.

(a) MILSTAR PROGRAM.—Of the amount authorized in section 201 for the MILSTAR satellite communications program, $20,000,000 is available either for advance procurement of MILSTAR satellites 5 and 6 or for the Advanced Extra High Frequency (EHF) program, as determined by the Secretary of Defense.

(b) DEPARTMENT OF DEFENSE SATELLITE COMMUNICATIONS MASTER PLAN.—(1) The Secretary of Defense shall develop a satellite communications master plan that addresses—

(A) the projected military satellite communications requirements of the Department of Defense;

(B) alternate and innovative ways of meeting those requirements (including greater reliance on the commercial sector); and

(C) possible financial incentives to ensure that those elements of the Department of Defense that create the demand for such communications services are required to have an important role in paying for the provision of those services.

(2) The Secretary shall submit to Congress a report on the master plan developed under subsection (a) not later than April 30, 1995.

Subtitle C—Missile Defense Programs

SEC. 231. COMPLIANCE OF BALLISTIC MISSILE DEFENSE SYSTEMS AND COMPONENTS WITH ABM TREATY.

10 USC 2431 note.

(a) GENERAL LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1995, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1995 or for any fiscal year before 1995, may not be obligated or expended—

(1) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter; or

(2) for the acquisition of any material or equipment (including long lead materials, components, piece parts, or test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the interpretation of the ABM Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

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(b) LIMITATION RELATING TO BRILLIANT EYES.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201 that are made available for the space-based, midcourse missile tracking system known as the Brilliant Eyes program, not more than $80,000,000 may be obligated until the Secretary of Defense submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review conducted pursuant to subsection (c).

(c) COMPLIANCE REVIEW FOR BRILLIANT EYES.—The Secretary of Defense shall review the Brilliant Eyes program to determine whether, and under what conditions, the development, testing, and deployment of the Brilliant Eyes missile tracking system in conjunction with a theater ballistic missile defense system, with a limited national missile defense system, and with both such systems, would be in compliance with the ABM Treaty, including the interpretation of that treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(d) COMPLIANCE REVIEW FOR NAVY UPPER TIER SYSTEM.—(1) The Secretary of Defense shall review the theater ballistic missile program known as the Navy Upper Tier program to determine whether the development, testing, and deployment of the system being developed under that program would be in compliance with the ABM Treaty, including the interpretation of the Treaty set forth in the enclosure to the July 13, 1993, ACDA letter.

(2) Of the funds made available to the Department of Defense for fiscal year 1995, not more than $40,000,000 may be obligated for the Navy Upper Tier program before the date on which the Secretary submits to the appropriate congressional committees a report on the compliance of that program with the ABM Treaty, as determined under the compliance review under paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term "July 13, 1993, ACDA letter" means the letter dated July 13, 1993, from the Acting Director of the Arms Control and Disarmament Agency to the chairman of

the Committee on Foreign Relations of the Senate relating to the correct interpretation of the ABM Treaty and accompanied by an enclosure setting forth such interpretation.

(2) The term "ABM Treaty" means the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missiles, signed in Moscow on May 26, 1972.

(3) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

SEC. 232. MODIFICATIONS TO ANTI-BALLISTIC MISSILE TREATY TO BE ENTERED INTO ONLY THROUGH TREATY MAKING POWER.

(a) REQUIREMENT FOR USE OF TREATY MAKING POWER.—The United States shall not be bound by any international agreement entered into by the President that would substantively modify the ABM Treaty unless the agreement is entered pursuant to the treaty making power of the President under the Constitution.

(b) ABM TREATY DEFINED.—In this section, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed in Moscow on May 26, 1972, with related protocol, signed in Moscow on July 3, 1974.

SEC. 233. REVISIONS TO THE MISSILE DEFENSE ACT OF 1991.

The Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 10 U.S.C. 2431 note) is amended—

(1) by striking out sections 235, 236, and 237; and

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(2) in section 238, by inserting before the period at the end of the second sentence the following: ", and shall submit to the Congress additional interim reports on the progress of such negotiations at six-month intervals thereafter until such time as the President notifies the Congress that such negotiations have been concluded or terminated".

SEC. 234. LIMITATION ON FLIGHT TESTS OF CERTAIN MISSILES.

(a) LIMITATION.—The Secretary of Defense may not conduct the launch of a target ballistic missile as part of the theater missile defense extended range test program if an anticipated result of the launch of that target missile under that test program would be release of debris in a land area of the United States outside a designated Department of Defense test range or an extension thereof in force as of July 1, 1994.

(b) DEFINITION OF DEBRIS.—For purposes of subsection (a), the term "debris" does not include particulate matter that is regulated for considerations of air quality.

(c) CERTAIN TESTING UNAFFECTED.—Nothing in this section shall be construed as prohibiting or limiting testing of cruise missiles, unmanned aerial vehicles (UAVs), or precision-guided munitions.

(d) EXPIRATION OF LIMITATION.—The limitation in subsection (a) shall expire on the later of—

(1) June 30, 1995; or

(2) the end of the 30-day period beginning on the date of the publication by the Secretary of Defense of the Final Environmental Impact Statement on the Theater Missile Defense Extended Test Range.

SEC. 235. PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION. 10 USC 221 note.

In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 1995 (as submitted in the budget of the President), the amount requested for activities of the Ballistic Missile Defense Organization shall be set forth in accordance with the following program elements:

(1) National Missile Defense.

(2) Theater High-Altitude Area Defense (THAAD).

(3) The Hawk Missile system.

(4) Battle Management, Command, Control, Communications, and Intelligence (BM/C^3I).

(5) Patriot Advanced Capability-3 Missile System.

(6) Patriot Advanced Capability-3 Missile risk reduction.

(7) Navy Lower Tier Missile Defense.

(8) Navy Upper Tier Missile Defense.

(9) Army Corps Surface-to-Air Missile (CORPS SAM).

(10) Boost Phase Intercept Program.

(11) Other Theater Missile Defense Activities.

(12) Support Technologies.

(13) Program Management.

Subtitle D—Women's Health Research

SEC. 241. DEFENSE WOMEN'S HEALTH RESEARCH PROGRAM. 10 USC 1074d note.

(a) CONTINUATION OF PROGRAM.—The Secretary of Defense shall continue the Defense Women's Health Research Program established in fiscal year 1994 pursuant to the authority in section 251 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1606). The program shall continue to serve as the coordinating agent for multi-disciplinary and multi-institutional research within the Department of Defense on women's health issues related to service in the Armed Forces. The program also shall continue to coordinate with research supported by other Federal agencies that is aimed at improving the health of women.

(b) PARTICIPATION BY ALL MILITARY DEPARTMENTS.—The Departments of the Army, Navy, and Air Force shall each participate in the activities under the program.

(c) ARMY TO BE EXECUTIVE AGENT.—The Secretary of Defense shall designate the Secretary of the Army to be the executive agent for administering the program.

(d) IMPLEMENTATION PLAN.—If the Secretary of Defense intends to change the plan for the implementation of the program previously submitted to the Committees on Armed Services of the Senate and House of Representatives, the amended plan shall be submitted to such committees before implementation.

(e) PROGRAM ACTIVITIES.—The program shall include the following activities regarding health risks and health care for women in the Armed Forces:

(1) The coordination and support activities described in section 251 of Public Law 103–160.

(2) Epidemiologic research regarding women deployed for military operations, including research on patterns of illness and injury, environmental and occupational hazards (including exposure to toxins), side-effects of pharmaceuticals used by women so deployed, psychological stress associated with military training, deployment, combat and other traumatic incidents, and other conditions of life, and human factor research regarding women so deployed.

(3) Development of a data base to facilitate long-term research studies on issues related to the health of women in military service, and continued development and support of a women's health information clearinghouse to serve as an information resource for clinical, research, and policy issues affecting women in the Armed Forces.

(4) Research on policies and standards issues, including research supporting the development of military standards related to training, operations, deployment, and retention and the relationship between such activities and factors affecting women's health.

(5) Research on interventions having a potential for addressing conditions of military service that adversely affect the health of women in the Armed Forces.

(f) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $40,000,000 shall be available for the Defense Women's Health Research Program referred to in subsection (a).

Subtitle E—Other Matters

SEC. 251. REQUIREMENT FOR SUBMISSION OF ANNUAL REPORT OF THE SEMICONDUCTOR TECHNOLOGY COUNCIL TO CONGRESS.

Section 273(b)(2)(I) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(b)(2)(I)), as amended by section 263 of Public Law 103–160 (107 Stat. 1608) is amended by inserting "and submit to Congress by March 31 of each year" after "Publish".

SEC. 252. REPORT ON OCEANOGRAPHIC SURVEY AND RESEARCH REQUIREMENTS TO SUPPORT LITTORAL WARFARE.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of the Navy shall submit to Congress a report on the oceanographic survey and research and development requirements needed to support Navy operations in littoral regions.

(b) CONTENT OF REPORT.—The report shall contain the following:

(1) An identification of unique properties, including acoustics, bathymetry, bottom type, and ocean dynamics that affect shallow water operations in littoral regions.

(2) A list of the principal littoral regions that—

(A) designates each region as high, medium, or low priority based on the probable need for Navy operations in such regions; and

(B) for each region, is annotated to identify—

(i) the date of the most recent detailed survey; and

(ii) the extent to which that survey provides insight into the region's properties identified pursuant to paragraph (1).

(3) An assessment of the Navy's current and projected access to each region for surveying purposes.

(4) An assessment of the ability of current oceanographic survey and research assets to develop the information identified in paragraph (1).

SEC. 253. LANSCE/LAMPF UPGRADES.

Of the amounts authorized to be appropriated by section 201(1), $20,000,000 shall be available to complete the Los Alamos Neutron Scattering Center/Los Alamos Meson Physics Facility upgrades at the Los Alamos National Laboratory, Los Alamos, New Mexico.

SEC. 254. STUDY REGARDING LIVE-FIRE SURVIVABILITY TESTING OF F-22 AIRCRAFT.

(a) REQUIREMENT.—The Secretary of Defense shall request the National Research Council of the National Academy of Sciences—

(1) to conduct a study regarding the desirability of exercising the authority under subsection (c) of section 2366 of title 10, United States Code, to waive for the F–22 aircraft program the survivability tests required pursuant to subsection (a) of such section; and

(2) to submit to the Secretary and Congress, within 180 days after the date of the enactment of this Act, a report containing the conclusions of the Council regarding the desirability of waiving such tests. Reports

(b) CONTENT OF REPORT.—The report shall contain the following matters:

(1) Conclusions regarding the practicality of full-scale, full-up testing for the F–22 aircraft program.

(2) A discussion of the implications regarding the affordability of the F–22 aircraft program of conducting and of not conducting the survivability tests, including an assessment of the potential life cycle benefits that could be derived from full-scale, full-up live fire testing in comparison to the costs of such testing.

(3) A discussion of what, if any, changes of circumstances affecting the F–22 aircraft program have occurred since completion of the milestone II program review to cause the program manager to request a waiver of the survivability tests for the F–22 aircraft program that was not requested at that time.

(4) The sufficiency of the F–22 aircraft program testing plans to fulfill the same requirements and purposes as are provided in subsection (e)(3) of section 2366 of title 10, United States Code, for realistic survivability testing for purposes of subsection (a)(1)(A) of such section.

(5) Any recommendations regarding survivability testing for the F–22 aircraft program that the Council considers appropriate on the basis of the study.

SEC. 255. UNIVERSITY RESEARCH INITIATIVE SUPPORT PROGRAM.

Of the amounts authorized to be appropriated under section 201, $10,000,000 shall be available for the University Research Initiative Support Program established pursuant to section 802 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1701; 10 U.S.C. 2358 note).

SEC. 256. MANUFACTURING SCIENCE AND TECHNOLOGY PROGRAM.

(a) PROGRAM AUTHORIZED.—(1) Section 2525 of title 10, United States Code, is amended to read as follows:

"§ 2525. Manufacturing science and technology program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Manufacturing Science and Technology Program to further the national security objectives of section 2501(a) of this title. The Under Secretary of Defense for Acquisition and Technology shall administer the program.

"(b) PURPOSE.—The purpose of the program is to enhance the capability of industry to meet the manufacturing needs of the Department of Defense.

"(c) EXECUTION.—The Secretary may carry out projects under the program through the Secretaries of the military departments and the heads of the Defense Agencies.

"(d) COMPETITION AND COST SHARING.—(1) Competitive procedures shall be used for awarding all grants and entering into all contracts, cooperative agreements, and other transactions under the program.

"(2) A grant may not be awarded under the program, and a contract, cooperative agreement, or other transaction may not be entered into under the program, on any basis other than a cost-sharing basis unless the Secretary of Defense determines that the grant, contract, cooperative agreement, or other transaction, as the case may be, is for a program that—

"(A) is not likely to have any immediate and direct commercial application; or

"(B) is of sufficiently high risk to discourage cost sharing by non-Federal Government sources.".

(2) The item relating to section 2525 in the table of sections at the beginning of subchapter IV of chapter 148 of such title is amended to read as follows:

"2525. Manufacturing Science and Technology Program.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201, not more than $109,420,000 shall be available for the Manufacturing Science and Technology Program under section 2525 of title 10, United States Code (as amended by subsection (a)), of which—

(1) not more than $29,420,000 shall be available for the Army;

(2) not more than $20,000,000 shall be available for the Navy;

(3) not more than $50,000,000 shall be available for the Air Force; and

(4) not more than $10,000,000 shall be available for the Defense Logistics Agency.

SEC. 257. DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

10 USC 2358 note.

(a) PROGRAM REQUIRED.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall carry out a Defense Experimental Program to Stimulate Competitive Research (DEPSCoR) as part of the university research programs of the Department of Defense.

(b) PROGRAM OBJECTIVES.—The objectives of the program are as follows:

(1) To enhance the capabilities of institutions of higher education in eligible States to develop, plan, and execute science and engineering research that is competitive under the peer-review systems used for awarding Federal research assistance.

(2) To increase the probability of long-term growth in the competitively awarded financial assistance that institutions of higher education in eligible States receive from the Federal Government for science and engineering research.

(c) PROGRAM ACTIVITIES.—In order to achieve the program objectives, the following activities are authorized under the program:

(1) Competitive award of research grants.

(2) Competitive award of financial assistance for graduate students.

(d) ELIGIBLE STATES.—(1) The Director of the National Science Foundation shall designate which States are eligible States for the purposes of this section and shall notify the Director of Defense Research and Engineering of the States so designated.

(2) The Director of the National Science Foundation shall designate a State as an eligible State if, as determined by the Director—

(A) the institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the State for the fiscal year preceding the fiscal year for which the designation is effective, or for the last fiscal year for which statistics are available, is less than the amount equal to 60 percent of the national institutional average amount of Federal financial assistance for research and development received by the institutions of higher education in the United States for such preceding or last fiscal year, as the case may be;

(B) the State has demonstrated a commitment to developing research bases in the State and to improving science and engineering research and education programs at institutions of higher education in the State; and

(C) the State is an eligible State for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(e) COORDINATION WITH SIMILAR FEDERAL PROGRAMS.—(1) The Secretary shall consult with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy in the planning, development, and execution of the program and shall coordinate the program with the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation and with similar programs sponsored by other departments and agencies of the Federal Government.

(2) All solicitations under the Defense Experimental Program to Stimulate Competitive Research shall be made to, and all awards

shall be made through, the State committees established for purposes of the Experimental Program to Stimulate Competitive Research conducted by the National Science Foundation.

(3) A State committee referred to in paragraph (2) shall ensure that activities carried out in the State of that committee under the Defense Experimental Program to Stimulate Competitive Research are coordinated with the activities carried out in the State under other similar initiatives of the Federal Government to stimulate competitive research.

SEC. 258. STUDY ON CONVERGENCE OF GEOSAT AND EOS ALTIMETRY PROGRAMS.

(a) REQUIREMENT.—The Secretary of the Navy and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a study on the convergence of the National Aeronautics and Space Administration Earth Observing System Altimetry mission with the Navy Geosat Follow-On program. The study shall assess whether a converged system, which may involve minor modifications to the Geosat Follow-On satellite, could—

(1) satisfy the needs of the Earth Observing System program for altimetry data;

(2) reduce the cost to the National Aeronautics and Space Administration of satisfying such needs;

(3) be available in time to serve as the follow-on to the Topex/Poseidon mission; and

(4) continue to meet the requirements of the Navy for altimetry data at no additional cost to the Navy.

(b) CONSULTATION.—In conducting the study, the Secretary and the Administrator shall consult with appropriate members of the scientific community.

(c) REPORT.—The Secretary and the Administrator shall submit to the Committees on Armed Services and on Commerce, Science, and Transportation of the Senate and the Committees on Armed Services and on Science, Space, and Technology of the House of Representatives a joint report on the results of the study conducted under subsection (a), together with the recommendations of the Secretary and the Administrator thereon. The report shall be submitted not later than February 15, 1995.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $17,426,804,000.

(2) For the Navy, $21,055,470,000.

(3) For the Marine Corps, $2,066,295,000.

(4) For the Air Force, $18,837,623,000.

(5) For Defense-wide activities, $10,031,576,000.

(6) For the Army Reserve, $1,238,822,000.
(7) For the Naval Reserve, $827,819,000.
(8) For the Marine Corps Reserve, $81,462,000.
(9) For the Air Force Reserve, $1,464,932,000.
(10) For the Army National Guard, $2,398,415,000.
(11) For the Air National Guard, $2,771,678,000.
(12) For the National Board for the Promotion of Rifle Practice, $2,544,000.
(13) For the Defense Inspector General, $140,798,000.
(14) For the United States Court of Appeals for the Armed Forces, $6,126,000.
(15) For Environmental Restoration, Defense, $2,030,200,000.
(16) For Drug Interdiction and Counter-drug Activities, Defense-wide, $714,200,000.
(17) For Medical Programs, Defense, $9,854,459,000.
(18) For Project Peace, $15,000,000.
(19) For Cooperative Threat Reduction programs, $400,000,000.
(20) For Overseas Humanitarian, Disaster, and Civic Aid programs, $86,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:
(1) For the Defense Business Operations Fund, $1,239,438,000.
(2) For the National Defense Sealift Fund, $828,600,000, of which $220,000,000 shall be available for the Marine Corps maritime prepositioning ship enhancement program.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1995 from the Armed Forces Retirement Home Trust Fund the sum of $59,317,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. FUNDS FOR DEPOT-LEVEL MAINTENANCE AND REPAIR WORK.

Of amounts authorized to be appropriated for fiscal year 1995 under section 301, there shall be available for the performance of depot-level maintenance and repair work by depot-level activities of the Department of Defense the amount that is equal to the sum of—
(1) the total amount provided in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code, for the Department of Defense for the performance of depot-level maintenance and repair work; and
(2) $305,000,000, of which—
(A) $140,000,000 shall be available for the Army;
(B) $40,000,000 shall be available for the Navy;
(C) $75,000,000 shall be available for the Air Force; and

(D) $50,000,000 shall be available for the Marine Corps.

SEC. 305. SUPPORT FOR THE 1996 SUMMER OLYMPICS.

Section 306(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1335) is amended by inserting ", and for fiscal year 1995 the sum of $10,000,000," after "for fiscal year 1992 the sum of $2,000,000".

SEC. 306. SUPPORT FOR THE 1995 SPECIAL OLYMPICS WORLD GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1995 Special Olympics World Games to be held in the State of Connecticut.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in subsection (c).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1995 Special Olympics World Games.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Defense for fiscal year 1995 the sum of $3,000,000 to carry out subsection (a).

Subtitle B—Defense Business Operations Fund

SEC. 311. OVERSIGHT OF DEFENSE BUSINESS OPERATIONS FUND.

(a) EXTENSION OF AUTHORITY.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 2208 note) is amended by striking out "During the period" and all that follows through "December 31, 1994, the" and inserting in lieu thereof "The".

10 USC 2208 note.

(b) PURCHASE FROM OTHER SOURCES.—The Secretary of Defense or the Secretary of a military department may purchase goods and services that are available for purchase from the Defense Business Operations Fund from a source other than the Fund if the Secretary determines that such source offers a more competitive rate for the goods and services than the Fund offers.

10 USC 2208 note.

(c) LIMITATION ON INCLUSION OF CERTAIN COSTS IN DBOF CHARGES.—A charge imposed for a good or service provided through the Fund may not include amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

10 USC 2208 note.

(d) PROCEDURES FOR ACCUMULATION OF FUNDS.—The Secretary of Defense shall establish billing procedures to ensure that the balance in the Fund does not exceed the amount necessary to provide for the working capital requirements of the Fund, as determined by the Secretary.

10 USC 2208 note.

(e) ANNUAL REPORTS AND BUDGET.—The Secretary of Defense shall annually submit to the congressional defense committees, at the same time that the President submits the budget under section 1105 of title 31, United States Code, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the Fund (including such a statement for each subaccount of the Fund) for the year for which the report is submitted.

(2) A detailed proposed budget for the operation of the Fund for the fiscal year for which the budget is submitted.

(3) A comparison of the amounts actually expended for the operation of the Fund for the previous fiscal year with the amount proposed for the operation of the Fund for that fiscal year in the budget.

(f) IMPLEMENTATION OF IMPROVEMENT PLAN.—(1) Not later than February 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the progress made in implementing the Defense Business Operations Fund Improvement Plan, dated September 1993. The report shall describe the progress made in reaching the milestones established in the plan and provide an explanation for any failure to meet any such milestone. The Secretary shall submit a copy of the report to the Comptroller General of the United States at the same time that the Secretary submits the report to the congressional defense committees. 10 USC 2208 note.

(2) The Comptroller General shall monitor and evaluate the progress of the Department of Defense in developing and implementing the improvement plan referred to in paragraph (1).

(3) Not later than March 1, 1995, the Comptroller General shall submit to the congressional defense committees a report containing the following:

(A) An evaluation of the progress report submitted to the congressional defense committees by the Secretary of Defense pursuant to paragraph (1).

(B) The findings and conclusions of the Comptroller General resulting from the monitoring and evaluation conducted under paragraph (2).

(C) Any recommendations for legislation or administrative action concerning the Fund that the Comptroller General considers appropriate.

(g) DEFINITION.—In this section, the term "Fund" means the Defense Business Operations Fund.

SEC. 312. REVIEW BY COMPTROLLER GENERAL OF CHARGES IMPOSED BY DEFENSE BUSINESS OPERATIONS FUND.

(a) REVIEW.—The Comptroller General of the United States shall review the charges proposed by the Secretary of Defense to be imposed for fiscal year 1996 for goods and services provided by the Defense Business Operations Fund, including related service charges and charges for overhead costs.

(b) DETERMINATION REQUIRED.—In conducting the review, the Comptroller General shall—

(1) compare the charges imposed for the provision of goods and services to the military departments and Defense Agencies with the charges imposed for the provision of goods and services to persons outside the Department of Defense; and

(2) determine the extent to which differences in such charges result in the military departments and Defense Agencies having a cost advantage or a cost disadvantage in relation to the persons outside the Department of Defense.

(c) REPORT.—Not later than April 15, 1995, the Comptroller General shall submit to Congress a report on the results of the review conducted under subsection (a). The report shall contain the comparison and determination required by subsection (b) and any recommendations of the Comptroller General for legislation or administrative action.

SEC. 313. LIMITATION ON OBLIGATIONS AGAINST THE CAPITAL ASSET FUND.

The Secretary of Defense may not incur obligations against funds in the capital asset subaccount of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of $1,440,000,000.

SEC. 314. LIMITATION ON OBLIGATIONS AGAINST THE SUPPLY MANAGEMENT DIVISIONS.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund during fiscal year 1995 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1995, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment and spare parts in support of repair, direct vendor deliveries, foreign military sales, initial outfitting requiring equipment furnished by the Federal Government, and the cost of operations.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such waiver is necessary in order to maintain the readiness and combat effectiveness of the Armed Forces. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

Reports.

(c) DETERMINATIONS OF EFFECTS OF LIMITATION ON READINESS AND COMBAT EFFECTIVENESS.—Not later than 60 days after the date of the enactment of this Act, the Secretaries of the military departments and the Director of the Defense Logistics Agency shall each submit to the Secretary of Defense a report containing the views of such official on the effects of the limitation in subsection (a) on the ability of the Department of Defense to maintain the readiness and combat effectiveness of the Armed Forces. If the Secretary of Defense determines, after considering the reports, that the limitation will impair the readiness and combat effectiveness of any of the Armed Forces, the Secretary shall exercise the waiver authority provided in subsection (b).

Subtitle C—Environmental Provisions

SEC. 321. LIMITATION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

Section 2703 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) PAYMENT OF FINES AND PENALTIES.—None of the funds appropriated to the transfer account for fiscal years 1995 through 1999 may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission

for which the fine or penalty is imposed arises out of an activity funded by the transfer account.".

SEC. 322. PARTICIPATION OF INDIAN TRIBES IN AGREEMENTS FOR DEFENSE ENVIRONMENTAL RESTORATION.

Section 2701(d) of title 10, United States Code, is amended—

(1) by striking out "SERVICE OF OTHER AGENCIES.—The Secretary" and inserting in lieu thereof the following: "SERVICE OF OTHER AGENCIES.—

"(1) IN GENERAL.—The Secretary";

(2) in paragraph (1), as so designated, by inserting "or any Indian tribe" after "any State or local government agency"; and

(3) by adding at the end the following:

"(2) DEFINITION.—In this subsection, the term 'Indian tribe' has the meaning given such term in section 101(36) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(36)).".

SEC. 323. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

Section 2701(j)(1) of title 10, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1999".

SEC. 324. PAYMENT OF CERTAIN STIPULATED CIVIL PENALTIES.

The Secretary of Defense may pay, from funds appropriated pursuant to section 301(15), not more than $500,000 to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507) as payment of stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the West Virginia Ordnance Works.

SEC. 325. ADDITIONAL EXCEPTION TO PROHIBITION ON STORAGE AND DISPOSAL OF NONDEFENSE TOXIC AND HAZARDOUS MATERIALS AT MILITARY INSTALLATIONS.

Section 2692(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) the treatment and disposal of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department and the Secretary enters into a contract with that person that—

"(A) is consistent with the best interest of national defense and environmental security; and

"(B) provides for that person's continued financial and environmental responsibility and liability with regard to the material.".

SEC. 326. ASSISTANCE FOR PUBLIC PARTICIPATION IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES.

(a) ESTABLISHMENT OF RESTORATION ADVISORY BOARDS.—Section 2705 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) RESTORATION ADVISORY BOARD.—(1) In lieu of establishing a technical review committee under subsection (c), the Secretary may permit the establishment of a restoration advisory board in connection with any installation (or group of nearby installations) where the Secretary is planning or implementing environmental restoration activities.

Regulations.

"(2) The Secretary shall prescribe regulations regarding the characteristics, composition, funding, and establishment of restoration advisory boards pursuant to this subsection. However, the issuance of regulations shall not be a precondition to the establishment of a restoration advisory board or affect the existence or operation of a restoration advisory board established before the date of the enactment of this section.

"(3) The Secretary may provide for the payment of routine administrative expenses of a restoration advisory board from funds available for the operation and maintenance of the installation (or installations) for which the board is established or from the funds available under subsection (e)(3).".

(b) ASSISTANCE FOR CITIZEN PARTICIPATION ON TECHNICAL REVIEW BOARDS AND RESTORATION ADVISORY BOARDS.—Such section is further amended by adding after subsection (d), as added by subsection (a), the following new subsection:

"(e) ASSISTANCE FOR CITIZEN PARTICIPATION.—(1) Using funds made available under paragraph (3), the Secretary may make technical assistance grants under section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617(e)) in connection with installations containing facilities listed on the National Priorities List.

"(2)(A) Subject to subparagraph (B), the Secretary shall make available under paragraph (3) funds to facilitate the participation of individuals from the private sector on technical review committees and restoration advisory boards at installations not covered by paragraph (1) for the purpose of ensuring public input into the planning and implementation of environmental restoration activities at the installations for which such committees and boards are in operation.

"(B) The private individuals who are members of a committee or advisory board are eligible for funding assistance under this paragraph only if they reside in the vicinity of the installation (or installations) for which the committee or advisory board is established and are not potentially responsible parties with respect to environmental hazards at any installation. Funds shall be paid to, and administered by, the committee or advisory board on which the private individuals are members for accounting and financial management purposes, subject to subparagraph (C).

"(C) Individuals who are local community members of a technical review committee or restoration advisory board may use funds made available under this paragraph only—

"(i) to obtain technical assistance in interpreting scientific and engineering issues with regard to the nature of environmental hazards at an installation and the restoration activities proposed for or conducted at the installation; and

"(ii) to assist such members and affected citizens to participate more effectively in environmental restoration activities at the installation.

"(D) The members of a technical review committee or restoration advisory board may use funds made available under this paragraph to employ technical or other experts, in accordance with the regulations prescribed under subsection (d)(2).

"(3)(A) Subject to subparagraph (B), the Secretary shall make funds available under this subsection using funds in the following accounts:

"(i) In the case of a military installation not closed pursuant to a base closure law, the Defense Environmental Restoration Account established in section 2703(a) of this title.

"(ii) In the case of a technical review committee or restoration advisory board established for a military installation to be closed, the Department of Defense Base Closure Account 1990 established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(B) The total amount of funds available under this subsection for fiscal year 1995 may not exceed $7,500,000.".

(c) INVOLVEMENT OF COMMITTEES AND BOARDS IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following new subsection:

"(f) INVOLVEMENT IN DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—If a technical review committee or restoration advisory board is established with respect to an installation (or group of installations), the Secretary shall consult with and seek the advice of the committee or board on the following issues:

"(1) Identifying environmental restoration activities and projects at the installation or installations.

"(2) Monitoring progress on these activities and projects.

"(3) Collecting information regarding restoration priorities for the installation or installations.

"(4) Addressing land use, level of restoration, acceptable risk, and waste management and technology development issues related to environmental restoration at the installation or installations.

"(5) Developing environmental restoration strategies for the installation or installations.".

(d) IMPLEMENTATION REQUIREMENTS.—Not later than 180 days after the date on which the Secretary of Defense announces a decision to establish restoration advisory boards, the Secretary shall— 10 USC 2705 note.

(1) prescribe the regulations required under subsection (d)(2) of section 2705 of title 10, United States Code, as added by subsection (a); and Regulations.

(2) take appropriate actions to notify the public of the availability of funding under subsection (e) of such section, as added by subsection (b).

(e) REPORT.—Not later than May 1, 1996, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding— 10 USC 2705 note.

(1) the establishment of restoration advisory boards under subsection (d) of section 2705 of title 10, United States Code, as added by subsection (a); and

(2) the expenditure of funds for assistance for citizen participation on technical review committees and restoration advisory boards under subsection (e) of such section, as added by subsection (b).

SEC. 327. PILOT PROGRAM TO DEVELOP AND DEMONSTRATE ENVIRONMENTAL REMEDIATION TECHNOLOGIES.

(a) COOPERATIVE AGREEMENT FOR PILOT PROGRAM.—(1) The Secretary of Defense may enter into a cooperative agreement with an institution of higher education for the purpose of facilitating the development and demonstration of new methods and technologies for more effective and expedient environmental remediation at military installations by engaging in a pilot demonstration project as provided in subsection (b).

(2) If the Secretary enters into a cooperative agreement under paragraph (1), the agreement shall authorize the institution of higher education to enter into partnerships or other relationships with private and public entities for purposes of conducting activities under the cooperative agreement.

(b) PILOT PROJECT AT DEFENSE LANDFILL.—(1) If the Secretary enters into a cooperative agreement under subsection (a)(1), the agreement shall authorize the institution of higher education to participate in a cooperative pilot demonstration project at a Government landfill described in paragraph (2) if such demonstration project can be carried out in a manner that is consistent with all other actions at such landfill that the Secretary is legally required to undertake.

(2) The Government landfill referred to in paragraph (1) is a Government landfill that—

(A) is listed on the National Priorities List pursuant to section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)); and

(B) is located on a military installation to be closed pursuant to a base closure law.

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount authorized to be appropriated under section 201(4) and made available for innovative environmental technologies certification, $1,000,000 shall be available for the establishment of the cooperative agreement and the activities necessary to conduct the pilot demonstration project under this section.

10 USC 2701 note.

SEC. 328. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM FOR DEFENSE PERSONNEL.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish and conduct an education and training program for members of the Armed Forces and civilian employees of the Department of Defense whose responsibilities include planning or executing the environmental mission of the Department. The Secretary shall conduct the program to ensure that such members and employees obtain and maintain the knowledge and skill required to comply with existing environmental laws and regulations.

(b) IDENTIFICATION OF MILITARY FACILITIES WITH ENVIRONMENTAL TRAINING EXPERTISE.—As part of the program, the Secretary may identify military facilities that have existing expertise (or the capacity to develop such expertise) in conducting education and training activities in various environmental disciplines. In the case of a military facility identified under this subsection, the

Secretary should encourage the use of the facility by members and employees referred to in subsection (a) who are not under the jurisdiction of the military department operating the facility.

SEC. 329. STUDY OF ESTABLISHMENT OF LAND MANAGEMENT AND TRAINING CENTER.

10 USC 2661 note.

(a) STUDY.—The Secretary of the Army shall carry out a study of the feasibility and advisability of establishing a center for the land management activities and land management training activities of the Department of Defense.

(b) REPORT.—Not later than May 1, 1996, the Secretary shall submit to the congressional defense committees a report on the study required under subsection (a). If the Secretary concludes as a result of the study that establishing the center is feasible and advisable, the report shall include a statement of the Secretary's recommendations for the location of the center and the specific activities to be conducted at the center.

Subtitle D—Depot-Level Activities

SEC. 331. FINDINGS.

10 USC 2466 note.

Congress makes the following findings:

(1) By providing the Armed Forces with a critical capacity to respond to the needs of the Armed Forces for depot-level maintenance and repair of weapon systems and equipment, the depot-level maintenance and repair activities of the Department of Defense play an essential role in maintaining the readiness of the Armed Forces.

(2) It is appropriate for the capability of the depot-level maintenance and repair activities of the Department of Defense to perform maintenance and repair of weapon systems and equipment to be based on policies that take into consideration the readiness, mobilization, and deployment requirements of the military departments.

(3) It is appropriate for the management of employees of the depot-level maintenance and repair activities of the Department of Defense to be based on the amount of workload necessary to be performed by such activities to maintain the readiness of the weapon systems and equipment of the military departments and on the funds made available for the performance of such workload.

SEC. 332. MODIFICATION OF LIMITATION ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

(a) MODIFICATION.—Subsection (a) of section 2466 of title 10, United States Code, is amended to read as follows:

"(a) PERCENTAGE LIMITATION.—Not more than 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for the performance by non-Federal Government personnel of such workload for the military department or the Defense Agency. Any such funds that are not used for such a contract shall be used for the performance of depot-level maintenance and repair workload by employees of the Department of Defense.".

(b) INCLUSION OF REPAIR ACTIVITIES.—Subsection (b) of such section is amended by inserting "and repair" after "maintenance" each place it appears.

(c) REPORT.—Subsection (e) of such section is amended to read as follows:

"(e) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report identifying, for each military department and Defense Agency, the percentage of funds referred to in subsection (a) that was used during fiscal year 1994 to contract for the performance by non-Federal Government personnel of depot-level maintenance and repair workload.".

SEC. 333. REPORT ON PERFORMANCE OF DEPOT-LEVEL MAINTENANCE AND REPAIR OF NEW WEAPON SYSTEMS.

(a) REPORT.—Not later than April 1, 1995, the Secretary of Defense shall submit to Congress a report that contains a statement by each Secretary of a military department on the plans of that military department to provide for the depot-level maintenance and repair of any new weapon system described in subsection (b) by depot-level activities of the Department of Defense.

(b) COVERED WEAPON SYSTEMS.—A new weapon system referred to in subsection (a) is a weapon system—

(1) initially delivered to the military department by a contractor on, or within 4 years before, the date of the enactment of this Act; or

(2) planned for initial delivery to the military department by a contractor on, or within 5 years after, such date.

SEC. 334. REVIEW OF COST GROWTH IN CONTRACTS TO PERFORM DEPOT-LEVEL MAINTENANCE AND REPAIR.

(a) REVIEW.—The Secretary of Defense shall carry out a review of a representative sample of existing contracts entered into by the Department of Defense for the performance of depot-level maintenance and repair to determine the extent to which the costs incurred by a contractor under any such contract have exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than May 1, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the review carried out under subsection (a).

SEC. 335. AUTHORITY FOR DEPOT-LEVEL ACTIVITIES OF THE DEPARTMENT OF DEFENSE TO COMPETE FOR MAINTENANCE AND REPAIR WORKLOADS OF OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies

"A depot-level activity of the Department of Defense shall be eligible to compete for the performance of any depot-level maintenance and repair workload of a Federal agency for which competitive procedures are used to select the entity to perform the workload.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2470. Depot-level activities of the Department of Defense: authority to compete for maintenance and repair workloads of other Federal agencies.".

SEC. 336. AUTHORITY OF DEPOTS TO PROVIDE SERVICES OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, as amended by section 335, is further amended by adding at the end the following new section:

"§ 2471. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by

"(a) AUTHORITY TO LEASE EXCESS EQUIPMENT AND FACILITIES.—Subject to subsection (b), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may lease excess equipment and facilities of a depot-level activity of the military department, or the Defense Agency, to a person outside the Department of Defense.

"(b) LIMITATIONS.—A lease under subsection (a) may be entered into only if—

"(1) the lease of any such equipment or facilities will not have a significant adverse effect on the readiness of the armed forces, as determined by the Secretary concerned;

"(2) the person leasing such equipment or facilities agrees to reimburse the Department of Defense for the costs (both direct and indirect costs, including any rental costs, as determined the Secretary concerned) attributable to the lease of such equipment or facilities;

"(3) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States, except in cases of willful conduct or gross negligence, from any claim for damages or injury to any person or property arising out the lease of such equipment or facilities; and

"(4) the person leasing such equipment or facilities agrees to hold harmless and indemnify the United States from any liability or claim for damages or injury to any person or property arising out of a decision by the Secretary concerned to suspend or terminate the lease during a war or national emergency.

"(c) CREDIT TO TREASURY.—Any reimbursement (including the payment of rental costs) received under this section shall be credited to the Treasury as miscellaneous receipts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2471. Persons outside the Department of Defense: lease of excess depot-level equipment and facilities by.".

SEC. 337. REUTILIZATION INITIATIVE FOR DEPOT-LEVEL ACTIVITIES. 10 USC 2466 note

(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall conduct activities to encourage commercial firms to enter into partnerships with depot-level activities of the military departments for the purposes of—

(1) demonstrating commercial uses of the depot-level activities that are related to the principal mission of the depot-level activities;

(2) preserving employment and skills of employees currently employed by the depot-level activities or providing for the reemployment and retraining of employees who, as the result of the closure, realignment, or reduced in-house workload of such activities, may become unemployed; and

(3) supporting the goals of other defense conversion, reinvestment, and transition assistance programs while also allowing the depot-level activities to remain in operation to continue to perform their defense readiness mission.

(b) CONDITIONS.—The Secretary shall ensure that activities conducted under this section—

(1) do not interfere with the closure or realignment of a depot-level activity of the military departments under a base closure law; and

(2) do not adversely affect the readiness or primary mission of a participating depot-level activity.

SEC. 338. CHANGE OF SOURCE FOR PERFORMANCE OF DEPOT-LEVEL WORKLOADS.

The text of section 2469 of title 10, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR COMPETITION.—The Secretary of Defense shall ensure that the performance of a depot-level maintenance or repair workload described in subsection (b) is not changed to performance by a contractor or by another depot-level activity of the Department of Defense unless the change is made using—

"(1) merit-based selection procedures for competitions among all depot-level activities of the Department of Defense; or

"(2) competitive procedures for competitions among private and public sector entities.

"(b) SCOPE.—Subsection (a) applies to any depot-level maintenance or repair workload that has a value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense.

"(c) INAPPLICABILITY OF OMB CIRCULAR A–76.—Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy) does not apply to a performance change to which subsection (a) applies.".

SEC. 339. SALE OF ARTICLES AND SERVICES OF INDUSTRIAL FACILITIES OF THE ARMED FORCES TO PERSONS OUTSIDE THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2553. Articles and services of industrial facilities: sale to persons outside the Department of Defense

"(a) AUTHORITY TO SELL OUTSIDE DOD.—(1) The Secretary of Defense may sell in accordance with this section to a person outside the Department of Defense articles and services referred to in paragraph (2) that are not available from any United States commercial source.

"(2)(A) Except as provided in subparagraph (B), articles and services referred to in paragraph (1) are articles and services that are manufactured or performed by any working-capital funded industrial facility of the armed forces.

"(B) The authority in this section does not apply to sales of articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, which are governed by regulations required by section 4543 of this title.

"(b) DESIGNATION OF PARTICIPATING INDUSTRIAL FACILITIES.—The Secretary may designate facilities referred to in subsection (a) as the facilities from which articles and services manufactured or performed by such facilities may be sold under this section.

"(c) CONDITIONS FOR SALES.—A sale of articles or services may be made under this section only if—

"(1) the Secretary of Defense determines that the articles or services are not available from a commercial source in the United States;

"(2) the purchaser agrees to hold harmless and indemnify the United States, except in any case of willful misconduct or gross negligence, from any claim for damages or injury to any person or property arising out of the articles or services;

"(3) the articles or services can be substantially manufactured or performed by the industrial facility concerned with only incidental subcontracting;

"(4) it is in the public interest to manufacture the articles or perform the services;

"(5) the Secretary determines that the sale of the articles or services will not interfere with the military mission of the industrial facility concerned; and

"(6) the sale of the goods and services is made on the basis that it will not interfere with performance of work by the industrial facility concerned for the Department of Defense.

"(d) METHODS OF SALE.—(1) The Secretary shall permit a purchaser of articles or services under this section to use advance incremental funding to pay for the articles or services.

"(2) In the sale of articles and services under this section, the Secretary shall—

"(A) charge the purchaser, at a minimum, the variable costs, capital improvement costs, and equipment depreciation costs that are associated with the articles or services sold;

"(B) enter into a firm, fixed-price contract or, if agreed by the purchaser, a cost reimbursement contract for the sale; and

"(C) develop and maintain (from sources other than appropriated funds) working capital to be available for paying design costs, planning costs, procurement costs, and other costs associated with the articles or services sold.

"(e) DEPOSIT OF PROCEEDS.—Proceeds from sales of articles and services under this section shall be credited to the funds, including working capital funds and operation and maintenance funds, incurring the costs of manufacture or performance.

"(f) RELATIONSHIP TO ARMS EXPORT CONTROL ACT.—Nothing in this section shall be construed to affect the application of the export controls provided for in section 38 of the Arms Export Control Act (22 U.S.C. 2778) to items which incorporate or are produced through the use of an article sold under this section.

"(g) DEFINITIONS.—In this section:

"(1) The term 'advance incremental funding', with respect to a sale of articles or services, means a series of partial payments for the articles or services that includes—

"(A) one or more partial payments before the commencement of work or the incurring of costs in connection with the manufacture of the articles or the performance of the services, as the case may be; and

"(B) subsequent progress payments that result in full payment being completed as the required work is being completed.

"(2) The term 'variable costs', with respect to sales of articles or services, means the costs that are expected to fluctuate directly with the volume of sales and—

"(A) in the case of articles, the volume of production necessary to satisfy the sales orders; or

"(B) in the case of services, the extent of the services sold.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2553. Articles and services of industrial facilities: sale to persons outside the Department of Defense.".

10 USC 2553 note.

(b) EFFECTIVE DATE.—Section 2553 of title 10, United States Code, as added by subsection (a), shall take effect on April 1, 1995.

Subtitle E—Civilian Employees

SEC. 341. EXTENSION OF CERTAIN TRANSITION ASSISTANCE AUTHORITIES.

(a) REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.—Section 4433(b)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2722; 5 U.S.C. 3502 note) is amended by striking out "February 1, 1998" and inserting in lieu thereof "February 1, 2000".

(b) SEPARATION PAY.—(1) Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

(2) Section 4436(d)(2) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (5 U.S.C. 8348 note) is amended by striking out "January 1, 1998" and inserting in lieu thereof "January 1, 2000".

(c) RESTORATION OF CERTAIN LEAVE.—Section 6304(d)(3) of title 5, United States Code, is amended by striking out "the closure of an installation" and inserting in lieu thereof "the closure of an installation of the Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) during any period, and the closure of any other installation".

(d) CONTINUED HEALTH BENEFITS.—Section 8905a(d)(4)(B) of title 5, United States Code, is amended—

(1) by striking out "October 1, 1997" each place it appears and inserting in lieu thereof "October 1, 1999"; and

(2) in clause (ii), by striking out "February 1, 1998," and inserting in lieu thereof "February 1, 2000,".

SEC. 342. EXTENSION AND EXPANSION OF AUTHORITY TO CONDUCT PERSONNEL DEMONSTRATION PROJECTS.

(a) CHINA LAKE DEMONSTRATION PROJECT.—(1) Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98–224; 98 Stat. 49) is amended by striking out "until September 30, 1995,".

(2) In the event of a reorganization of the organization carrying out the personnel demonstration project referred to in section 6 of such Act, such section shall apply with respect to the successor to that organization.

(b) DEFENSE LABORATORIES PERSONNEL DEMONSTRATION PROJECTS.—(1) The Secretary of Defense may, with the approval of the Director of the Office of Personnel Management, carry out personnel demonstration projects at Department of Defense laboratories designated by the Secretary as Department of Defense science and technology reinvention laboratories.

(2)(A) Each personnel demonstration project carried out under the authority of paragraph (1) shall be generally similar in nature to the China Lake demonstration project.

(B) For purposes of subparagraph (A), the China Lake demonstration project is the demonstration project that is authorized by section 6 of the Civil Service Miscellaneous Amendments Act of 1983 to be continued at the Naval Weapons Center, China Lake, California, and at the Naval Ocean Systems Center, San Diego, California.

(3) If the Secretary carries out a demonstration project at a laboratory pursuant to paragraph (1), section 4703 of title 5, United States Code, shall apply to the demonstration project, except that—

(A) subsection (d) of such section 4703 shall not apply to the demonstration project; and

(B) the authority of the Secretary to carry out the demonstration project is that which is provided in paragraph (1) rather than the authority which is provided in such section 4703.

SEC. 343. LIMITATION ON PAYMENT OF SEVERANCE PAY TO CERTAIN EMPLOYEES TRANSFERRING TO EMPLOYMENT POSITIONS IN NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Section 5595 of title 5, United States Code, is amended by adding at the end the following:

"(h)(1) Severance pay under this section may not be paid to—

"(A) a person described in paragraph (4)(A) during any period in which the person is employed in a defense nonappropriated fund instrumentality; or

"(B) a person described in paragraph (4)(B) during any period in which the person is employed in a Coast Guard nonappropriated fund instrumentality.

"(2)(A) Except as provided in subparagraph (B), payment of severance pay to a person referred to in paragraph (1) may be resumed upon any involuntary separation of the person from the position of employment in a nonappropriated fund instrumentality, not by removal for cause on charges of misconduct, delinquency, or inefficiency.

"(B) Payment of severance pay may not be resumed under subparagraph (A) in the case of a person who, upon separation,

is entitled to immediate payment of retired or retainer pay as a member or former member of the uniformed services or to an immediate annuity under—

"(i) a retirement system for persons retiring from employment by a nonappropriated fund instrumentality;

"(ii) subchapter III of chapter 83 of this title;

"(iii) subchapter II of chapter 84 of this title; or

"(iv) any other retirement system of the Federal Government for persons retiring from employment with the Federal Government.

"(3) Upon resumption of payment of severance pay under paragraph (2)(A) in the case of a person separated as described in such paragraph, the amount of the severance pay so payable for a period shall be reduced (but not below zero) by the portion (if any) of the amount of any severance pay payable for such period to the person by the nonappropriated fund instrumentality that is attributable to credit for service taken into account under subsection (c) in the computation of the amount of the severance pay so resumed.

"(4) Paragraph (1) applies to a person who, on or after January 1, 1987, moves without a break in service—

"(A) from employment in the Department of Defense that is not employment in a defense nonappropriated fund instrumentality to employment in a defense nonappropriated fund instrumentality; or

"(B) from employment in the Coast Guard that is not employment in a Coast Guard nonappropriated fund instrumentality to employment in a Coast Guard nonappropriated fund instrumentality.

Regulations

"(5) The Secretary of Defense, in consultation with the Secretary of Transportation, shall prescribe regulations to carry out this subsection.

"(6) In this subsection:

"(A) The term 'defense nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Department of Defense.

"(B) The term 'Coast Guard nonappropriated fund instrumentality' means a nonappropriated fund instrumentality of the Coast Guard.

"(C) The term 'nonappropriated fund instrumentality' means a nonappropriated fund instrumentality described in section 2105(c) of this title.".

5 USC 5595 note.

(b) APPLICABILITY.—Subsection (h) of section 5595 of title 5, United States Code, as added by subsection (a), shall apply with respect to pay periods that begin on or after the date of the enactment of this Act.

SEC. 344. RETIREMENT CREDIT FOR CERTAIN SERVICE IN NONAPPROPRIATED FUND INSTRUMENTALITIES BEFORE JANUARY 1, 1987.

(a) STUDY REQUIRED.—The Secretary of Defense, in consultation with the Director of the Office of Personnel Management, shall conduct a study to determine the level of interest among employees referred to in subsection (b) in obtaining credit under the Civil Service Retirement System or the Federal Employees' Retirement System for former service described in such subsection as an

employee of a nonappropriated fund instrumentality of the United States.

(b) EMPLOYEES CONCERNED.—The employees referred to in subsection (a) are employees of the Department of Defense who, for at least 12 months during the period beginning on January 1, 1966, and ending on December 31, 1986, performed service as an employee described in section 2105(c) of title 5, United States Code, conducting a program described in section 8332(b)(16)(A) of such title.

(c) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretary shall—

(1) provide an opportunity for all employees referred to in that subsection to express interest in obtaining retirement credit for the former service in a nonappropriated fund instrumentality of the United States; and

(2) inform such employees that deposits to the Civil Service Retirement and Disability Fund would be required of the interested employees under section 8334(c) of title 5, United States Code, or section 8411(f) of such title.

(d) REPORT.—Not later than February 1, 1995, the Secretary shall submit to Congress a report on the results of the study required by subsection (a). The report shall contain the following:

(1) An analysis of the issues, including existing legal rights of the employees referred to in subsection (b) under the Civil Service Retirement System or the Federal Employees' Retirement System.

(2) A description of the inequities, if any, that may have been caused by conversion from employment by nonappropriated fund instrumentalities of the United States to employment by the Department of Defense.

(3) The number of full-time and part-time employees referred to in subsection (b) who are affected by any inequities described in paragraph (2).

(4) The recommendations of the Secretary, if any, for redressing any inequities described in paragraph (2).

(5) An assessment of the cost to the Federal Government of any recommendation referred to in paragraph (4).

SEC. 345. TRAVEL, TRANSPORTATION, AND RELOCATION EXPENSES OF EMPLOYEES TRANSFERRING TO THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end the following:

"§ 5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service

"(a) IN GENERAL.—Notwithstanding any other provision of law, employees of the Department of Defense described in subsection (b) may be authorized travel, transportation, and relocation expenses and allowances in connection with appointments referred to in such subsection under the same conditions and to the same extent authorized by this subchapter for transferred employees.

"(b) COVERED EMPLOYEES.—Subsection (a) applies to any employee of the Department of Defense who—

"(1) is scheduled for separation from the Department, other than for cause;

"(2) is selected for appointment to a continuing position with the United States Postal Service; and

"(3) accepts the appointment.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 5734 the following new item:

"5735. Travel, transportation, and relocation expenses of employees transferring to the United States Postal Service.".

5 USC 5735 note.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to persons separated from employment with the Department of Defense on or after the date of the enactment of this Act.

SEC. 346. FOREIGN EMPLOYEES COVERED BY THE FOREIGN NATIONAL EMPLOYEES SEPARATION PAY ACCOUNT.

Section 1581 of title 10, United States Code, is amended—

(1) by striking out "foreign national employees of the Department of Defense" each place it appears in subsections (a) and (b) and inserting in lieu thereof "foreign nationals referred to in subsection (e)"; and

(2) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) EMPLOYEES COVERED.—This section applies only with respect to separation pay of foreign nationals employed by the Department of Defense, and foreign nationals employed by a foreign government for the benefit of the Department of Defense, under any of the following agreements that provide for payment of separation pay:

"(1) A contract.

"(2) A treaty.

"(3) A memorandum of understanding with a foreign nation.".

SEC. 347. REPORT ON CONVERSION OF CERTAIN POSITIONS TO PERFORMANCE BY DEPARTMENT OF DEFENSE EMPLOYEES.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to ensure an optimum level of availability of members of the Armed Forces for assignment to combat units, it is the policy of the Department of Defense to assign employees of the Department of Defense to replace military personnel in Department of Defense positions to which assignment of military personnel can no longer be justified under current circumstances.

(2) Assignment of employees of the Department of Defense to such positions can provide valuable continuity for the performance of many missions of the Department while enhancing the readiness and military capability of the Armed Forces.

(3) During the Persian Gulf War, employees of the Department of Defense, employees of other Federal agencies, and employees of civilian contractors, by their distinguished service in the theater of operations, demonstrated the valuable contributions that civilian personnel can make to the performance of Department of Defense functions.

(4) The performance of Department of Defense functions by employees of the Department is often less costly than the performance of those functions by military personnel.

(5) The percentage of certain support positions that are filled by employees of the Department of Defense varies significantly among the military departments.

(6) The Secretary of Defense is reviewing the extent to which employees of the Department of Defense should replace military personnel in Department of Defense positions.

(b) REQUIREMENT FOR REPORT.—Not later than April 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the efforts of the Secretary—

(1) to identify positions in the Department of Defense to which continued assignment of military personnel is no longer justified under current circumstances; and

(2) to assign employees of the Department of Defense to replace military personnel in those positions.

(c) CONTENT OF REPORT.—The report required by subsection (b) shall contain the following:

(1) The number of positions identified by the Secretary, including the positions in which employees of the Department of Defense have replaced military personnel and the positions to which employees of the Department of Defense are planned to be assigned to replace military personnel.

(2) The cost of carrying out the planned changes in assignments.

(3) A discussion of the effects of such changes on workforce restructuring plans of the Department.

(4) A discussion of the efforts of the Secretary to encourage within the Department of Defense the assignment of employees of the Department to replace military personnel.

(5) An explanation of the justifications for maintaining variances in excess of 20 percent among the military departments in the percentage of support positions common to two or more military departments that are filled by employees of the Department of Defense rather than military personnel.

SEC. 348. NON-FEDERAL EMPLOYMENT INCENTIVE PILOT PROGRAM. 10 USC 1597 note.

(a) AUTHORITY.—The Secretary of Defense may establish a pilot program for the payment of incentives in accordance with this section to facilitate the reemployment of eligible employees of the Department of Defense whose employment with the Department is being terminated by reason of the closure or realignment of the military installations where such persons are employed. Under the pilot program, the Secretary may pay retraining and relocation incentives to encourage non-Federal employers to hire and retain such employees.

(b) ELIGIBLE EMPLOYEES.—For purposes of this section, an eligible employee is an employee of the Department of Defense, serving under an appointment without time limitation, who has been employed by the Department of Defense for a continuous period of at least 12 months and who has been given notice of separation pursuant to a reduction in force, except that such term does not include—

(1) a reemployed annuitant under subchapter III of chapter 83 of title 5, United States Code, chapter 84 of such title, or another retirement system for employees of the Government;

(2) an employee who, upon separation from Federal service, is eligible for an immediate annuity under subchapter III of

chapter 83 of title 5, United States Code, or subchapter II of chapter 84 of such title; or

(3) an employee who is eligible for disability retirement under any of the retirement systems referred to in paragraph (1).

(c) RETRAINING INCENTIVE.—(1) Under the pilot program, the Secretary may enter into an agreement with a non-Federal employer under which the non-Federal employer agrees—

(A) to employ a person referred to in subsection (a) for at least 12 months for a salary which is mutually agreeable to the employer and such person; and

(B) to certify to the Secretary the cost incurred by the employer for any necessary training provided to such person in connection with the employment by that employer.

(2) The Secretary shall pay a retraining incentive to the non-Federal employer upon the employee's completion of 12 months of continuous employment by that employer. Subject to subsection (f), the Secretary shall prescribe the amount of the incentive.

(3) The Secretary shall pay a prorated amount of the full retraining incentive to the non-Federal employer for an employee who does not remain employed by the non-Federal employer for at least 12 months.

(4) In no event may the amount of the retraining incentive paid for the training of any one person under the pilot program exceed the amount certified for that person under paragraph (1).

(d) RELOCATION INCENTIVE.—The Secretary may pay a relocation incentive to an eligible employee if it is necessary for the employee to relocate in order to commence employment with a non-Federal employer under the pilot program. Subject to subsection (f), the amount of the incentive shall be equal to the total amount authorized to be paid for travel, transportation, and subsistence expenses under subchapter II of chapter 57 of title 5, United States Code, including the reimbursements authorized under section 5724b of such title, to a Federal employee being transferred between the same locations as the person paid the incentive.

(e) APPROVAL OF SECRETARY OF DEFENSE.—The Secretary of a military department or the head of a Defense Agency may offer an incentive under the pilot program with the prior approval of the Secretary of Defense or pursuant to a delegation of authority by the Secretary of Defense.

(f) LIMITATION.—The total amount of incentives paid in the case of a person under the pilot program may not exceed $10,000.

(g) DURATION.—No incentive may be paid under the pilot program for training or relocations commenced after September 30, 1999.

(h) DEFINITIONS.—In this section:

(1) The term "non-Federal employer" means an employer that is not an Executive agency, as defined in section 105 of title 5, United States Code, or the legislative or judicial branch of the Federal Government.

(2) The term "Defense Agency" has the meaning given such term in section 101(a)(11) of title 10, United States Code.

SEC. 349. UNIFORM HEALTH BENEFITS PROGRAM FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE ASSIGNED TO NONAPPROPRIATED FUND INSTRUMENTALITIES.

10 USC 1587 note

(a) IN GENERAL.—Not later than October 1, 1995, the Secretary of Defense shall take such steps as may be necessary to provide a uniform health benefits program for employees of the Department of Defense assigned to a nonappropriated fund instrumentality of the Department.

(b) PROGRESS REPORT.—Not later than March 15, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress made by the Secretary in implementing subsection (a).

Subtitle F—Department of Defense Domestic and Overseas Dependents' Schools

SEC. 351. REAUTHORIZATION OF DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS FOR DEPENDENTS.

(a) CONTINUED AUTHORITY.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2164. Department of Defense domestic dependent elementary and secondary schools

"(a) AUTHORITY OF SECRETARY.—If the Secretary of Defense makes a determination that appropriate educational programs are not available through a local educational agency for dependents of members of the armed forces and dependents of civilian employees of the Federal Government residing on a military installation in the United States (including territories, commonwealths, and possessions of the United States), the Secretary may enter into arrangements to provide for the elementary or secondary education of the dependents of such members of the armed forces and, to the extent authorized in subsection (c), the dependents of such civilian employees. The Secretary may, at the discretion of the Secretary, permit dependents of members of the armed forces and, to the extent provided in subsection (c), dependents of civilian employees of the Federal Government residing in a territory, commonwealth, or possession of the United States but not on a military installation, to enroll in an educational program provided by the Secretary pursuant to this subsection.

"(b) FACTORS FOR SECRETARY TO CONSIDER.—(1) Factors to be considered by the Secretary of Defense in making a determination under subsection (a) shall include the following:

"(A) The extent to which such dependents are eligible for free public education in the local area adjacent to the military installation.

"(B) The extent to which the local educational agency is able to provide an appropriate educational program for such dependents.

"(2) For purposes of paragraph (1)(B), an appropriate educational program is a program that, as determined by the Secretary,

is comparable to a program of free public education provided for children by the following local educational agencies:

"(A) In the case of a military installation located in a State (other than an installation referred to in subparagraph (B)), local educational agencies in the State that are similar to the local educational agency referred to in paragraph (1)(B).

"(B) In the case of a military installation with boundaries contiguous to two or more States, local educational agencies in the contiguous States that are similar to the local educational agency referred to in paragraph (1)(B).

"(C) In the case of a military installation located in a territory, commonwealth, or possession, the District of Columbia public schools, except that an educational program determined comparable under this subparagraph may be considered appropriate for the purposes of paragraph (1)(B) only if the program is conducted in the English language.

"(c) ELIGIBILITY OF DEPENDENTS OF FEDERAL EMPLOYEES.—(1) A dependent of a Federal employee residing in permanent living quarters on a military installation at any time during the school year may enroll in an educational program provided by the Secretary of Defense pursuant to subsection (a) for dependents residing on such installation.

"(2)(A) Except as provided in subparagraphs (B) and (C), a dependent of a Federal employee who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) and who is not residing on a military installation may be enrolled in the program for not more than five consecutive school years.

"(B) A dependent referred to in subparagraph (A) may be enrolled in the program for more than five consecutive school years if the Secretary determines that, in the interest of the dependent's educational well-being, there is good cause to extend the enrollment for more than the five-year period described in such subparagraph. Any such extension may be made for only one school year at a time.

"(C) Subparagraph (A) shall not apply to an individual who is a dependent of a Federal employee in the excepted service (as defined in section 2103 of title 5) and who is enrolled in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico, Wake Island, Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands.

"(3) A dependent of a Federal employee may continue enrollment in a program under this subsection for the remainder of a school year notwithstanding a change during such school year in the status of the Federal employee that, except for this paragraph, would otherwise terminate the eligibility of the dependent to be enrolled in the program. The preceding sentence does not limit the authority of the Secretary to remove the dependent from enrollment in the program at any time for good cause determined by the Secretary.

"(d) SCHOOL BOARDS.—(1) The Secretary of Defense shall provide for the establishment of a school board for Department of Defense elementary and secondary schools established at each military installation under this section.

"(2) The school board shall be composed of the number of members, not fewer than three, prescribed by the Secretary.

"(3) The parents of the students attending the school shall elect the school board in accordance with procedures which the Secretary shall prescribe.

"(4)(A) A school board elected for a school under this subsection may participate in the development and oversight of fiscal, personnel, and educational policies, procedures, and programs for the school, except that the Secretary may issue any directive that the Secretary considers necessary for the effective operation of the school or the entire school system.

"(B) A directive referred to in subparagraph (A) shall, to the maximum extent practicable, be issued only after the Secretary consults with the appropriate school boards elected under this subsection. The Secretary shall establish a process by which a school board or school administrative officials may formally appeal the directive to the Secretary of Defense.

"(5) Meetings conducted by the school board shall be open to the public, except as provided in paragraph (6).

"(6) A school board need not comply with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), but may close meetings in accordance with such Act.

"(e) ADMINISTRATION AND STAFF.—(1) The Secretary of Defense may enter into such arrangements as may be necessary to provide educational programs at the school.

"(2) The Secretary may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(A) establish positions for civilian employees in schools established under this section;

"(B) appoint individuals to such positions; and

"(C) fix the compensation of such individuals for service in such positions.

"(3)(A) Except as provided in subparagraph (B), in fixing the compensation of employees appointed for a school pursuant to paragraph (2), the Secretary shall consider—

"(i) the compensation of comparable employees of the local educational agency in the capital of the State where the military installation is located;

"(ii) the compensation of comparable employees in the local educational agency that provides public education to students who reside adjacent to the military installation; and

"(iii) the average compensation for similar positions in not more than three other local educational agencies in the State in which the military installation is located.

"(B) In fixing the compensation of employees in schools established in the territories, commonwealths, and possessions pursuant to the authority of this section, the Secretary shall determine the level of compensation required to attract qualified employees. For employees in such schools, the Secretary, without regard to the provisions of title 5, may provide for the tenure, leave, hours of work, and other incidents of employment to be similar to that provided for comparable positions in the public schools of the District of Columbia. For purposes of the first sentence, a school established before the effective date of this section pursuant to authority similar to the authority in this section shall be considered to have been established pursuant to the authority of this section.

"(f) SUBSTANTIVE AND PROCEDURAL RIGHTS AND PROTECTIONS FOR CHILDREN.—(1) The Secretary shall provide the following sub-

stantive rights, protections, and procedural safeguards (including due process procedures) in the educational programs provided for under this section:

"(A) In the case of children with disabilities aged 3 to 5, inclusive, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities aged 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

"(B) In the case of infants and toddlers with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to infants and toddlers with disabilities under part H of such Act (20 U.S.C. 1471 et seq.).

"(C) In the case of all other children with disabilities, all substantive rights, protections, and procedural safeguards (including due process procedures) available to children with disabilities who are 3 to 5 years old under part B of such Act.

"(2) Paragraph (1) may not be construed as diminishing for children with disabilities enrolled in day educational programs provided for under this section the extent of substantive rights, protections, and procedural safeguards that were available under section 6(a) of Public Law 81–874 (20 U.S.C. 241(a)) to children with disabilities as of October 7, 1991.

"(3) In this subsection:

"(A) The term 'children with disabilities' has the meaning given the term in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)).

"(B) The term 'children with disabilities aged 3 to 5, inclusive' means such term as used in such Act (20 U.S.C. 1400 et seq.).

"(C) The term 'infants and toddlers with disabilities' has the meaning given the term in section 672(1) of such Act (20 U.S.C. 1472(1)).

"(g) REIMBURSEMENT.—When the Secretary of Defense provides educational services under this section to an individual who is a dependent of an employee of a Federal agency outside the Department of Defense, the head of the other Federal agency shall, upon request of the Secretary of Defense, reimburse the Secretary for those services at rates routinely prescribed by the Secretary for those services. Any payments received by the Secretary under this subsection shall be credited to the account designated by the Secretary for the operation of educational programs under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2164. Department of Defense domestic dependent elementary and secondary schools.".

10 USC 2164 note.

(c) SAVINGS PROVISION.—Nothing in section 2164 of title 10, United States Code, as added by subsection (a), shall be construed as affecting the rights in existence on the date of the enactment of this Act of an employee of any school established under such section (or any other provision of law enacted before the date of the enactment of this Act that established a similar school)

to negotiate or bargain collectively with the Secretary with respect to wages, hours, and other terms and conditions of employment.

SEC. 352. REPORT ON CALCULATION AND RECOVERY OF TUITION COSTS OF CERTAIN STUDENTS ENROLLED IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM.

(a) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives and the Committee on Education and Labor of the House of Representatives a report on the calculation and application of the tuition rate required to be determined under section 1404(b) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923(b)).

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall contain the following:

(1) A description of—

(A) the costs included in the tuition rate;

(B) the method by which the tuition rate is determined; and

(C) the method by which any increase in the tuition rate is determined.

(2) An analysis of—

(A) the variation in the cost of providing educational services in the defense dependents' education system in different geographic locations; and

(B) the extent to which the imposition of a uniform tuition rate enables the system to receive adequate funds to defray the cost of providing educational services to tuition-paying students.

(3) Recommendations of the Secretary with respect to improvements that may be made in the determination and application of the tuition rate.

SEC. 353. AUTHORITY TO ACCEPT GIFTS FOR DEPARTMENT OF DEFENSE DOMESTIC ELEMENTARY AND SECONDARY SCHOOLS.

(a) AUTHORITY.—Section 2605 of title 10, United States Code, is amended—

(1) by striking out "the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.)" in subsection (a) and inserting in lieu thereof "a defense dependents' school"; and

(2) by striking out "the defense dependent's education system" in subsection (b) and inserting in lieu thereof "defense dependents' schools".

(b) DEFINITION.—Such section is further amended by adding at the end the following new subsection:

"(g) In this section, the term 'defense dependents' school' means the following:

"(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

"(2) An elementary or secondary school established pursuant to section 2164 of this title.".

(c) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2605. Acceptance of gifts for defense dependents' schools".

(2) The item relating to such section in the table of sections at the beginning of chapter 155 of such title is amended to read as follows:

"2605. Acceptance of gifts for defense dependents' schools.".

SEC. 354. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated in section 301(5)—

(1) $50,000,000 shall be available for providing educational agencies assistance (as defined in subsection (c)(1)) to local educational agencies; and

(2) $8,000,000 shall be available for making educational agencies payments (as defined in subsection (c)(2)) to local educational agencies.

(b) NOTIFICATION AND DISBURSAL.—(1) Not later than June 30, 1995—

(A) the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 1995 of that agency's eligibility for such assistance and the amount of such assistance for which that agency is eligible; and

(B) the Secretary of Education shall notify each local educational agency that is eligible for an educational agencies payment for fiscal year 1995 of that agency's eligibility for such payment and the amount of the payment for which that agency is eligible.

(2) The Secretary of Defense (with respect to funds made available under subsection (a)(1)) and the Secretary of Education (with respect to funds made available under subsection (a)(2)) shall disburse such funds not later than 30 days after the date on which notification to the eligible local education agencies is provided pursuant to paragraph (1).

(c) DEFINITIONS.—For purposes of this section:

(1) The term "educational agencies assistance" means assistance authorized under subsection (b) of section 386 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2395; 20 U.S.C. 238 note).

(2) The term "educational agencies payments" means payments authorized under subsection (d) of that section.

Subtitle G—Reviews, Studies, and Reports

SEC. 361. REPORTS ON TRANSFERS OF CERTAIN OPERATION AND MAINTENANCE FUNDS.

(a) ANNUAL REPORTS.—In each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees, not later than the date on which the President submits the budget pursuant to section 1105 of title 31, United States Code, in that year, a report on the following:

(1) Each transfer of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations during the preceding fiscal year, including the reason for the transfer.

(2) Each transfer of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity during the preceding fiscal year, including the reason for the transfer.

(b) MIDYEAR REPORTS.—On May 1 of each of 1995, 1996, and 1997, the Secretary of Defense shall submit to the congressional defense committees a report on the following:

(1) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for the activities referred to in subsection (c) between appropriations, including the reason for the transfer.

(2) Each transfer during the first six months of the fiscal year in which the report is submitted of amounts provided in an appropriation Act to the Department of Defense for an activity referred to in subsection (c) within that appropriation for any other such activity, including the reason for the transfer.

(c) COVERED ACTIVITIES.—The activities referred to in subsections (a) and (b) are the following:

(1) Activities for which amounts are appropriated for the Army for operation and maintenance for operating forces for (A) combat units, (B) tactical support, (C) force-related training/special activities, (D) depot maintenance, and (E) JCS exercises.

(2) Activities for which amounts are appropriated for the Navy for operation and maintenance for operating forces for (A) mission and other flight operations, (B) mission and other ship operations, (C) fleet air training, (D) ship operational support and training, (E) aircraft depot maintenance, and (F) ship depot maintenance.

(3) Activities for which amounts are appropriated for the Air Force for operation and maintenance for operating forces for (A) primary combat forces, (B) primary combat weapons, (C) global and early warning, (D) air operations training, (E) depot maintenance, and (F) JCS exercises.

(d) REPEAL.—Section 377 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1638) is hereby repealed.

SEC. 362. REVIEW AND REPORT ON USE OF OPERATION AND MAINTENANCE FUNDS BY THE DEPARTMENT OF DEFENSE.

(a) REVIEW.—The Secretary of Defense shall review all operation and maintenance accounts of the Department of Defense to determine the extent to which funds appropriated to those accounts are used for an activity for which funds have been appropriated to, or are more appropriately made available from, accounts of the Department for procurement, research, development, test, and evaluation, or military construction.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review conducted under subsection (a).

SEC. 363. COST COMPARISON STUDIES FOR CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410l. Contracts for advisory and assistance services: cost comparison studies

"(a) REQUIREMENT.—(1)(A) Before the Secretary of Defense enters into a contract described in subparagraph (B), the Secretary shall determine whether Department of Defense personnel have the capability to perform the services proposed to be covered by the contract.

"(B) Subparagraph (A) applies to any contract of the Department of Defense for advisory and assistance services that is expected to have a value in excess of $100,000.

"(2) If the Secretary determines that Department of Defense personnel have the capability to perform the services to be covered by the contract, the Secretary shall conduct a study comparing the cost of performing the services with Department of Defense personnel and the cost of performing the services with contractor personnel.

"(b) WAIVER.—The Secretary of Defense may, pursuant to guidelines prescribed by the Secretary, waive the requirement to perform a cost comparison study under subsection (a)(2) based on factors that are not related to cost.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410l. Contracts for advisory and assistance services: cost comparison studies.".

10 USC 2410*l* note.

(b) PROCEDURES FOR CONDUCT OF STUDIES.—The Secretary of Defense shall prescribe the following procedures:

(1) Procedures for carrying out a cost comparison study under subsection (a)(2) of section 2410l of title 10, United States Code, as added by subsection (a), which may contain a requirement that the cost comparison study include consideration of factors that are not related to cost, including the quality of the service required to be performed, the availability of Department of Defense personnel, the duration and recurring nature of the services to be performed, and the consistency of the workload.

(2) Procedures for reviewing contracts entered into after a waiver under subsection (b) of such section to determine whether the contract is justified and sufficiently documented.

10 USC 2410*l* note.

(c) EFFECTIVE DATE.—Section 2410l of title 10, United States Code, as added by subsection (a), shall take effect 180 days after the date of the enactment of this Act.

SEC. 364. REVIEW BY DEFENSE INSPECTOR GENERAL OF COST GROWTH IN CERTAIN CONTRACTS.

(a) REVIEW.—The Inspector General of the Department of Defense shall carry out a review of a representative sample of existing contracts for the performance of commercial activities which resulted from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A–76 (or any successor administrative regulation or policy) to determine the extent to which the cost incurred by a contractor under any such contract has exceeded the cost of the contract at the time the contract was entered into.

(b) REPORT.—Not later than April 1, 1995, the Inspector General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the review carried out under subsection (a).

Subtitle H—Other Matters

SEC. 371. ARMED FORCES RETIREMENT HOME.

(a) INCREASED MAXIMUM LIMITATION ON DEDUCTIONS FROM PAY.—Section 1007(i)(1) of title 37, United States Code, is amended by striking out "50 cents" and inserting in lieu thereof "$1.00".

(b) MODIFICATION OF FEES PAID BY RESIDENTS.—(1) Paragraph (2) of section 1514(c) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 414(c)) is amended to read as follows:

"(2) The fee shall be fixed as a percentage of the monthly income and monthly payments (including Federal payments) received by a resident, subject to such adjustments in the fee as the Retirement Home Board may make under paragraph (1). The percentage shall be the same for each establishment of the Retirement Home.".

(2)(A) Subsections (d) and (e) of section 1514 of such Act are repealed.

(B) Such section is further amended by adding after subsection (c) the following new subsection (d):

"(d) APPLICATION OF FEES.—Subject to such adjustments in the fee as the Retirement Home Board may make under subsection (c), each resident of the Retirement Home shall be required to pay a monthly fee equal to the amount determined by multiplying the total amount of all monthly income and monthly payments (including Federal payments) received by the resident by a percentage as follows:

"(1) In the case of a permanent health care resident—
"(A) in fiscal year 1998, 35 percent;
"(B) in fiscal year 1999, 45 percent; and
"(C) in fiscal year 2000, 65 percent.

"(2) In the case of a resident who is not a permanent health care resident—
"(A) in fiscal year 1998, 30 percent;
"(B) in fiscal year 1999, 35 percent; and
"(C) in fiscal year 2000, 40 percent.".

(c) MODERNIZATION OF FACILITIES.—(1) The Chairman of the Armed Forces Retirement Home Board shall carry out a study to identify and evaluate alternatives for modernization of the facilities at the United States Soldiers' and Airmen's Home. 24 USC 416 note.

(2) The Chairman shall submit an interim report and a final report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives. The Chairman shall submit the interim report not later than April 1, 1995, and the final report not later than December 31, 1995. Reports.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on January 1, 1995, and apply to years that begin on or after that date. 37 USC 1007 note.

(2) The amendments made by subsection (b) shall take effect on October 1, 1997. 24 USC 414 note.

SEC. 372. LIMITATION ON USE OF APPROPRIATED FUNDS FOR OPERATION OF ARMED FORCES RECREATION CENTER, EUROPE.

(a) LIMITATION.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2247. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation

"(a) LIMITATION.—Except as provided in subsection (b), funds appropriated to the Department of Defense may not be used to operate the Armed Forces Recreation Center, Europe.

"(b) EXCEPTION.—Subsection (a) does not apply to the use of funds for the payment of utilities, real property maintenance, and transportation of products made in the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.".

SEC. 373. LIMITATION ON RETENTION OF MORALE, WELFARE, AND RECREATION FUNDS BY MILITARY INSTALLATIONS.

(a) LIMITATION.—Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2219. Retention of morale, welfare, and recreation funds by military installations: limitation

"Amounts may not be retained in a nonappropriated morale, welfare, and recreation account of a military installation of a military department in excess of the amount necessary to meet cash requirements of that installation. Amounts in excess of that amount shall be transferred to a single, department-wide nonappropriated morale, welfare, and recreation account of the military department.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2219. Retention of morale, welfare, and recreation funds by military installations: limitation.".

SEC. 374. SHIPS' STORES.

(a) EXTENSION OF DEADLINE FOR CONVERSION.—Section 371(a) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1634; 10 U.S.C. 7604 note) is amended by striking out "October 1, 1994" and inserting in lieu thereof "December 31, 1995".

(b) MODIFICATION OF EFFECTIVE DATE.—Section 371(d) of such Act is amended by striking out "shall take effect on the date on which the Secretary of the Navy completes the conversion referred to in subsection (a)" and inserting in lieu thereof "shall take effect on October 1, 1994".

SEC. 375. OPERATION OF MILITARY EXCHANGE AND COMMISSARY STORE AT NAVAL AIR STATION FORT WORTH, JOINT RESERVE CENTER, CARSWELL FIELD.

The Secretary of Defense shall provide for the operation by the Army and Air Force Exchange Service, until December 31, 1995, of any military exchange and commissary store located at the Naval Air Station Fort Worth, Joint Reserve Center, Carswell Field.

SEC. 376. DISPOSITION OF PROCEEDS FROM OPERATION OF THE NAVAL ACADEMY LAUNDRY.

Section 6971 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "(a)"; and

(B) in the first sentence, by striking out "and the Academy dairy" and inserting in lieu thereof "the Academy dairy, and the Academy laundry"; and

(2) by striking out subsection (b).

SEC. 377. AUTHORITY TO ISSUE MILITARY IDENTIFICATION CARDS TO SO-CALLED HONORARY RETIREES OF THE NAVAL AND MARINE CORPS RESERVES.

10 USC 10154 note.

(a) AUTHORITY.—The Secretary of the Navy may issue a military identification card to a member of the Retired Reserve described in subsection (b).

(b) COVERED MEMBERS.—A member of the Retired Reserve referred to in subsection (a) is a member of the Naval Reserve or Marine Corps Reserve who transferred to the Retired Reserve under section 274(2) of title 10, United States Code, without having completed the years of service required under section 1331(a)(2) of such title for eligibility for retired pay under chapter 67 of such title.

(c) EFFECT ON COMMISSARY AND EXCHANGE BENEFITS.—The issuance of a military identification card under subsection (a) to a member of the Retired Reserve does not confer eligibility for commissary and exchange benefits on that member.

(d) LIMITATION ON COLOR AND FORMAT.—The Secretary shall ensure that the color and format in which a military identification card is issued under subsection (a) is not similar to the color and format in which a military identification card is issued by the Department of Defense to individuals other than members described in subsection (b).

SEC. 378. REPEAL OF ANNUAL LIMITATION ON EXPENDITURES FOR EMERGENCY AND EXTRAORDINARY EXPENSES OF THE DEPARTMENT OF DEFENSE INSPECTOR GENERAL.

Section 127(c) of title 10, United States Code, is amended—

(1) by striking out "(1)" after "(c)"; and

(2) by striking out paragraph (2).

SEC. 379. TRANSFER OF CERTAIN EXCESS DEPARTMENT OF DEFENSE PROPERTY TO EDUCATIONAL INSTITUTIONS AND TRAINING SCHOOLS.

(a) AUTHORITY TO TRANSFER.—Subparagraph (G) of section 2535(b)(1) of title 10, United States Code, is amended to read as follows:

"(G) notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) and any other provision of law, authorize the transfer to a nonprofit educational institution or training school, on a nonreimbursable basis, of any such property already in the possession of such institution or school whenever the program proposed by such institution or school for the use of such property is in the public interest.".

(b) TREATMENT OF PROPERTY LOANED BEFORE DECEMBER 31, 1993.—Except for property determined by the Secretary of Defense to be needed by the Department of Defense, property loaned before December 31, 1993, to an educational institution or training school under section 2535(b) of title 10, United States Code, or section 4(a)(7) of the Defense Industrial Reserve Act (as in effect before

10 USC 2535 note.

October 23, 1992) shall be regarded as surplus property. Upon certification by the Secretary to the Administrator of General Services that the property is being used by the borrowing educational institution or training school for a purpose consistent with that for which the property was loaned, the Administrator may authorize the conveyance of all right, title, and interest of the United States in such property to the borrower if the borrower agrees to accept the property. The Administrator may require any additional terms and conditions in connection with a conveyance so authorized that the Administrator considers appropriate to protect the interests of the United States.

SEC. 380. OPERATION OF OVERSEAS FACILITIES OF THE DEPARTMENT OF DEFENSE BY UNITED STATES FIRMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, to the maximum extent practicable, the Secretary of Defense should give a preference to United States firms in the award of contracts to operate Department of Defense facilities not in the United States that provide goods and services to members of the Armed Forces and the dependents of such members.

(b) DEFINITION.—In this section, the term "United States firm" has the meaning given such term in section 2532(d)(1) of title 10, United States Code.

10 USC 113 note.

SEC. 381. REQUIREMENTS FOR AUTOMATED INFORMATION SYSTEMS OF THE DEPARTMENT OF DEFENSE.

(a) DETERMINATION REQUIRED.—(1) Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall—

(A) determine whether each automated information system described in paragraph (2) meets the requirements set forth in subsection (b); and

(B) take appropriate action to end the modernization or development by the Department of Defense of any such system that the Secretary determines does not meet such requirements.

(2) An automated information system referred to in paragraph (1) is an automated information system—

(A) that is undergoing modernization or development by the Department of Defense;

(B) that exceeds $50,000,000 in value; and

(C) that is not a migration system, as determined by the Enterprise Integration Executive Board of the Department of Defense.

(b) REQUIREMENTS.—The use of an automated information system by the Department of Defense shall—

(1) contribute to the achievement of Department of Defense strategies for the use of automated information systems;

(2) as determined by the Secretary, provide an acceptable benefit from the investment in the system or make a substantial contribution to the performance of the defense mission for which the system is used;

(3) comply with Department of Defense directives applicable to life cycle management of automated information systems; and

(4) be based on guidance developed under subsection (c).

(c) GUIDANCE FOR USE.—The Secretary of Defense shall develop guidance for the use of automated information systems by the Department of Defense. In developing the guidance, the Secretary shall consider the following:

(1) Directives of the Office of Management and Budget applicable to returns of investment for such systems.

(2) A sound, functional economic analysis.

(3) Established objectives for the Department of Defense information infrastructure.

(4) Migratory assessment criteria, including criteria under guidance provided by the Defense Information Systems Agency.

(d) WAIVER.—(1) The Secretary of Defense may waive the requirements of subsection (a) for an automated information system if the Secretary determines that the purpose for which the system is being modernized or developed is of compelling military importance.

(2) If the Secretary exercises the waiver authority provided in paragraph (1), the Secretary shall include the following in the next report required by subsection (f):

(A) The reasons for the failure of the automated information system to meet all of the requirements of subsection (b).

(B) A determination of whether the system is expected to meet such requirements in the future, and if so, the date by which the system is expected to meet the requirements.

(e) PERFORMANCE MEASURES AND MANAGEMENT CONTROLS.—(1) The Secretary of Defense shall establish performance measures and management controls for the supervision and management of the activities described in paragraph (2). The performance measures and management controls shall be adequate to ensure, to the maximum extent practicable, that the Department of Defense receives the maximum benefit possible from the development, modernization, operation, and maintenance of automated information systems.

(2) The activities referred to in paragraph (1) are the following:

(A) Accelerated implementation of migration systems.

(B) Establishment of data standards.

(C) Process improvement.

(f) REPORTS.—Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the establishment and implementation of the performance measures and management controls referred to in subsection (e)(1). Each such report shall also specify—

(1) the automated information systems that, as determined under subsection (a), meet the requirements of subsection (b);

(2) the automated information systems that, as determined under subsection (a), do not meet the requirements of subsection (b) and the action taken by the Secretary to end the use of such systems; and

(3) the automated information systems that, as determined by the Enterprise Integration Executive Board, are migration systems.

(g) REVIEW BY COMPTROLLER GENERAL.—Not later than April 30, 1995, the Comptroller General of the United States shall submit to Congress a report that contains an evaluation of the following: Reports.

(1) The progress made by the Department of Defense in achieving the goals of the corporate information management program of the Department.

(2) The progress made by the Secretary of Defense in establishing the performance measures and management controls referred to in subsection (e)(1).

(3) The progress made by the Department of Defense in using automated information systems that meet the requirements of subsection (b).

(4) The report required by subsection (f) to be submitted in 1995.

(h) DEFINITIONS.—In this section:

(1) The term "automated information system" means an automated information system of the Department of Defense described in the exhibits designated as "IT-43" in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code.

(2) The term "migration system" has the meaning given such term in the document entitled "Department of Defense Strategy for Acceleration of Migration Systems and Data Standards" attached to the memorandum of the Department of Defense dated October 13, 1993 (relating to accelerated implementation of migration systems, data standards, and process improvement).

SEC. 382. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) EXTENSION.—Section 378 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2387; 113 U.S.C. note) is amended by striking out "1995" in subsections (a) and (b) and inserting in lieu thereof "1996".

10 USC 113 note.

(b) REPORT.—(1) Not later than March 31, 1995, the Executive Director of the 50th Anniversary of World War II Commemoration Committee established by the Department of Defense shall submit to the Secretary of Defense a report on the reimbursement of a person for expenses incurred by that person in providing voluntary support for activities and programs conducted under the commemoration program referred to in section 378(a) of such Act. The report shall include the recommendations of the Committee on whether such reimbursement is appropriate, and if so, the extent of the reimbursement and the conditions upon which it should be provided.

(2) Not later than 45 days after receiving the report referred to in paragraph (1), the Secretary of Defense shall submit the report to the Committees on Armed Services of the Senate and House of Representatives together with any comments of the Secretary regarding that report.

SEC. 383. ASSISTANCE TO RED CROSS FOR EMERGENCY COMMUNICATIONS SERVICES FOR MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.

(a) ASSISTANCE.—The following amounts shall be available for obtaining emergency communications services for members of the Armed Forces and their families from the American National Red Cross:

(1) For fiscal year 1995, $14,500,000 of the amount authorized to be appropriated in section 301(5).

(2) For each of fiscal years 1996 and 1997, $14,500,000 of the amount authorized to be appropriated for the Department of Defense for that fiscal year for operation and maintenance for Defense-wide activities.

10 USC 2602 note.

(b) REPORT.—Not later than November 30 in each of 1994, 1995, and 1996, the Secretary of Defense shall submit to Congress a report on whether it is necessary for the Department of Defense to support the emergency communications services of the American National Red Cross in order to provide such services for members

of the Armed Forces and their families. The report shall include the following:

(1) An estimate of the amount of funds necessary to provide such support.

(2) A projection of the date upon which the American National Red Cross can assume full financial responsibility for providing such emergency communications services.

(3) An assessment of the alternatives available to the Secretary for obtaining such emergency communications services, including the provision of such services by the Department of Defense.

SEC. 384. CLARIFICATION OF AUTHORITY TO PROVIDE MEDICAL TRANSPORTATION UNDER NATIONAL GUARD PILOT PROGRAM.

Paragraph (1) of section 376(h) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended to read as follows:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.".

SEC. 385. NATIONAL GUARD ASSISTANCE FOR CERTAIN YOUTH AND CHARITABLE ORGANIZATIONS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Chapter 5 of title 32, United States Code, is amended by adding at the end the following:

"§ 508. Assistance for certain youth and charitable organizations

"(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

"(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

"(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

"(3) National Guard personnel will enhance their military skills as a result of providing such services; and

"(4) the provision of the services will not result in a significant increase in the cost of the training.

"(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

"(1) Ground transportation.

"(2) Air transportation in support of Special Olympics.

"(3) Administrative support services.

"(4) Technical training services.

"(5) Emergency medical assistance and services.

"(6) Communications services.

"(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United

States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

"(d) ELIGIBLE ORGANIZATIONS.—The organizations eligible to receive services under this section are as follows:

"(1) The Boy Scouts of America.
"(2) The Girl Scouts of America.
"(3) The Boys Clubs of America.
"(4) The Girls Clubs of America.
"(5) The Young Men's Christian Association.
"(6) The Young Women's Christian Association.
"(7) The Civil Air Patrol.
"(8) The United States Olympic Committee.
"(9) The Special Olympics.
"(10) The Campfire Boys.
"(11) The Campfire Girls.
"(12) The 4–H Club.
"(13) The Police Athletic League.
"(14) Any other youth or charitable organization designated by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"508. Assistance for certain youth and charitable organizations.".

SEC. 386. ONE-YEAR EXTENSION OF CERTAIN PROGRAMS.

(a) DEMONSTRATION PROJECT FOR USE OF PROCEEDS FROM THE SALE OF CERTAIN PROPERTY.—(1) Section 343(d)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1344) is amended by striking out "terminate on December 5, 1994" and inserting in lieu thereof "terminate on December 5, 1995".

(2) Section 343(e) of such Act is amended by striking out "February 3, 1995" and inserting in lieu thereof "February 3, 1996".

(b) AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.—Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1684) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(c) AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES.—Section 2468(f) of title 10, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

SEC. 387. PROCUREMENT OF PORTABLE VENTILATORS FOR THE DEFENSE MEDICAL FACILITY OFFICE, FORT DETRICK, MARYLAND.

Of the funds authorized to be appropriated by section 301(5), $2,500,000 shall be available for the procurement of portable ventilators for the Defense Medical Facility Office, Fort Detrick, Maryland.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES. 10 USC 115 note.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 510,000.
(2) The Navy, 441,641.
(3) The Marine Corps, 174,000.
(4) The Air Force, 400,051.

SEC. 402. TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR ARMY MAJORS AND LIEUTENANT COLONELS. 10 USC 523 note.

(a) VARIATION AUTHORIZED.—In the administration of the limitation under section 523(a)(1) of title 10, United States Code, for fiscal years 1995 through 1997, the numbers applicable to officers of the Army serving on active duty in the grades of major and lieutenant colonel shall be the numbers set forth for that fiscal year in subsection (b) (rather than the numbers determined in accordance with the table in that section).

(b) NUMBERS FOR FISCAL YEARS 1995 THROUGH 1997.—The numbers referred to in subsection (a) are as follows:

Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1995	12,603	8,506
1996	12,870	8,646
1997	12,870	8,646.

SEC. 403. EXTENSION OF TEMPORARY VARIATION OF END STRENGTH LIMITATIONS FOR MARINE CORPS MAJORS AND LIEUTENANT COLONELS.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 402 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1639; 10 U.S.C. 523 note) is amended by striking out "and 1995" and inserting in lieu thereof "through 1997".

(b) LIMITATION.—The table in subsection (b) of such section is amended to read as follows:

"Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1994	3,023	1,578
1995	3,157	1,634

"Fiscal year:	Number of officers who may be serving on active duty in the grade of:	
	Major	Lieutenant colonel
1996	3,157	1,634
1997	3,157	1,634.".

(c) CLERICAL AMENDMENT.—The caption of subsection (b) of such section is amended by striking out "AND 1995.—" and inserting in lieu thereof "THROUGH 1997.—".

SEC. 404. INCREASE IN AUTHORIZED STRENGTH FOR MARINE CORPS GENERAL OFFICERS ON ACTIVE DUTY AFTER FISCAL YEAR 1995.

Section 526(a)(4) of title 10, United States Code, is amended by striking out "before October 1, 1995," and all that follows through "that date".

SEC. 405. MANAGEMENT OF SENIOR GENERAL AND FLAG OFFICER POSITIONS.

(a) IN GENERAL.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) An officer while serving in a position specified in section 604(b) of this title, if serving in the grade of general or admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for officers serving on active duty in grades above major general or rear admiral, as the case may be, under the first sentence of paragraph (1) or (2), as applicable.

"(B) Subparagraph (A) does not apply in the case of an officer serving in such a position if the Secretary of Defense, when considering officers for recommendation to the President for appointment to fill the vacancy in that position which was filled by that officer, did not have a recommendation for that appointment from each Secretary of a military department who (pursuant to section 604(a) of this title) was required to make such a recommendation.

Sunset provision.

"(C) This paragraph shall cease to be effective at the end of September 30, 1997.".

(b) LIMITATION ON NUMBER OF 4-STAR POSITIONS.—(1) Chapter 32 of such title is amended by adding at the end the following new section:

"§ 528. Limitation on number of officers on active duty in grades of general and admiral

"(a) LIMITATION.—The total number of officers on active duty after September 30, 1995, in the Army, Air Force, and Marine Corps in the grade of general and in the Navy in the grade of admiral may not exceed 32.

"(b) EXCEPTIONS.—The limitation in subsection (a) does not apply in the case of an officer serving in the grade of general or admiral in a position that is specifically exempted by law from being counted for purposes of limitations by law on the total number of officers that may be on active duty in the grades of general and admiral or the number of officers that may be on active duty in that officer's armed force in the grade of general or admiral.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"528. Limitation on number of officers on active duty in grades of general and admiral.".

(c) GREATER SERVICE COMPETITION FOR JOINT 4-STAR POSITIONS.—(1) Chapter 35 of such title is amended by adding at the end the following new section:

"§ 604. Senior joint officer positions: recommendations to the Secretary of Defense

"(a) JOINT 4-STAR OFFICER POSITIONS.—(1) Whenever a vacancy occurs, or is anticipated to occur, in a position specified in subsection (b)—

"(A) the Secretary of Defense shall require the Secretary of the Army to submit the name of at least one Army officer, the Secretary of the Navy to submit the name of at least one Navy officer and the name of at least one Marine Corps officer, and the Secretary of the Air Force to submit the name of at least one Air Force officer for consideration by the Secretary for recommendation to the President for appointment to that position; and

"(B) the Chairman of the Joint Chiefs of Staff may submit to the Secretary of Defense the name of one or more officers (in addition to the officers whose names are submitted pursuant to subparagraph (A)) for consideration by the Secretary for recommendation to the President for appointment to that position.

"(2) Whenever the Secretaries of the military departments are required to submit the names of officers under paragraph (1)(A), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of each officer whose name is submitted under that paragraph (and of any officer whose name the Chairman submits to the Secretary under paragraph (1)(B) for consideration for the same vacancy). The Chairman's evaluation shall primarily consider the performance of the officer as a member of the Joint Staff and in other joint duty assignments, but may include consideration of other aspects of the officer's performance as the Chairman considers appropriate.

"(b) COVERED POSITIONS.—Subsection (a) applies to the following positions:

"(1) Commander of a combatant command.

"(2) Commander, United States Forces, Korea.

"(3) Deputy commander, United States European Command, but only if the commander of that command is also the Supreme Allied Commander, Europe.

"(c) EXPIRATION.—This section shall cease to be effective at the end of September 30, 1997.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"604. Senior joint officer positions: recommendations to the Secretary of Defense.".

(d) REPORT.—Not later than March 1, 1996, the Secretary of Defense shall submit to Congress a report on the implementation of the amendments made by this section. The report shall include an assessment of the effectiveness of those amendments in meeting the objective of encouraging more competition among all services 10 USC 525 note.

for appointment of officers to joint three-star and four-star positions. The report may include such additional recommendations concerning general and flag officer selection policy as the Secretary considers appropriate.

10 USC 525 note

SEC. 406. TEMPORARY EXCLUSION OF SUPERINTENDENT OF NAVAL ACADEMY FROM COUNTING TOWARD NUMBER OF SENIOR ADMIRALS AUTHORIZED TO BE ON ACTIVE DUTY.

The officer serving as Superintendent of the United States Naval Academy on the date of the enactment of this Act, while so serving, shall not be counted for purposes of the limitations contained in section 525(b)(2) of title 10, United States Code.

Subtitle B—Reserve Forces

10 USC 12001 note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1995, as follows:

(1) The Army National Guard of the United States, 400,000.
(2) The Army Reserve, 242,000.
(3) The Naval Reserve, 102,960
(4) The Marine Corps Reserve, 42,000.
(5) The Air National Guard of the United States, 115,581.
(6) The Air Force Reserve, 78,706.
(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may increase the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be reduced proportionately by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be increased proportionately by the total authorized strengths of such units and by the total number of such individual members.

10 USC 12001 note.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1995, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 23,650.
(2) The Army Reserve, 11,940.
(3) The Naval Reserve, 17,510.
(4) The Marine Corps Reserve, 2,285.
(5) The Air National Guard of the United States, 9,098.
(6) The Air Force Reserve, 648.

SEC. 413. DELAY IN INCREASE IN NUMBER OF ACTIVE COMPONENT MEMBERS TO BE ASSIGNED FOR TRAINING COMPATIBILITY WITH GUARD UNITS.

10 USC 12001 note.

Section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 261 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1996".

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1995, the Armed Forces are authorized average military training student loads as follows:
(1) The Army, 69,420.
(2) The Navy, 43,064.
(3) The Marine Corps, 25,377.
(4) The Air Force, 36,840.

(b) SCOPE.—The average military training student load authorized for an armed force under subsection (a) applies to the active and reserve components of that armed force.

(c) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Authorization of Appropriations

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1995 a total of $70,938,597,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1995.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. CONSISTENCY OF WARRANT OFFICER PERSONNEL MANAGEMENT POLICIES WITH POLICIES APPLICABLE TO OTHER OFFICERS.

(a) EXCEPTION FROM MANDATORY CONSIDERATION BY PROMOTION BOARD.—Section 575(d) of title 10, United States Code, is amended by inserting "(except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)" after "under consideration".

(b) SECRETARIAL SUBMISSION OF PROMOTION BOARD REPORT.—Section 576(f)(1) of such title is amended by striking out the second sentence.

(c) CERTAIN PROMOTION FORMALITIES DEEMED COMPLETED.—Section 578 of such title is amended by adding at the end the following new subsections:

"(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

"(f) A warrant officer who has served continuously as an officer since subscribing to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.".

(d) CLARIFICATION OF WARRANT OFFICERS SUBJECT TO WOMA AUTHORITIES.—Section 582(2) of such title is amended by inserting before the period at the end the following: "(other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date)".

SEC. 502. AUTHORITY FOR ORIGINAL REGULAR APPOINTMENTS OF NAVY AND MARINE CORPS LIMITED DUTY OFFICERS SERVING IN GRADES ABOVE PAY GRADE O–3 UNDER TEMPORARY APPOINTMENTS.

Section 5589 of title 10, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) An officer described in paragraph (2) may be given an original appointment as a regular officer of the Navy or the Marine Corps, as the case may be, in the grade, and with the date of rank in that grade, in which the officer is serving on the day before such original appointment.

"(2) This subsection applies to an officer of the Navy and Marine Corps who—

"(A) is on the active-duty list;

"(B) holds a permanent enlisted or warrant officer grade;

"(C) is designated for limited duty under subsection (a) of section 5596 of this title; and

"(D) is serving in the grade of lieutenant commander or commander, or in the grade of major or lieutenant colonel, under a temporary appointment under subsection (d) of section 5596 of this title.".

SEC. 503. NAVY AND MARINE CORPS LIMITED DUTY OFFICERS TWICE HAVING FAILED OF SELECTION FOR PROMOTION.

(a) TREATMENT OF LDOS TWICE HAVING FAILED OF SELECTION.—Section 6383 of title 10, United States Code, is amended—

(1) by redesignating subsections (g), (h), (i), and (j) as subsections (i), (j), (k), and (l), respectively; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) 18-YEAR RETIREMENT SANCTUARY.—If an officer subject to discharge under subsection (b), (d), or (e) is (as of the date on which the officer is to be discharged) not eligible for retirement under any provision of law but is within two years of qualifying for retirement under section 6323 of this title, the officer shall be retained on active duty as an officer designated for limited duty until becoming qualified for retirement under that section and shall then be retired under that section, unless the officer is sooner retired or discharged under another provision of law or the officer reverts to a warrant officer grade pursuant to subsection (h).

"(g) REENLISTMENT FOR LDOS APPOINTED FROM ENLISTED GRADES.—(1) An officer subject to discharge under subsection (b), (d), or (e) who is described in paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in a grade prescribed by the Secretary upon the officer's discharge pursuant to such subsection.

"(2) An officer described in this paragraph is an officer who—

"(A) is not eligible for retirement under any provision of law;

"(B) is not covered by subsection (f); and

"(C) was in an enlisted grade when first appointed as an officer designated for limited duty.

"(h) REVERSION TO WARRANT OFFICER GRADE FOR LDOS APPOINTED FROM WARRANT OFFICER GRADES.—An officer subject to discharge under subsection (b), (d), or (e) (including an officer otherwise subject to retention under subsection (f)) who is not eligible for retirement under any provision of law and who had the permanent status of a warrant officer when first appointed as an officer designated for limited duty may, at the officer's option, revert to the warrant officer grade and status that the officer would hold if the officer had not been appointed as an officer designated for limited duty.".

(b) CLARIFICATION OF OFFICERS SUBJECT TO SELECTIVE RETENTION.—Subsection (k) of such section (as redesignated by subsection (a)(1)) is amended by striking out "or the discharge under subsection (d)" in the first sentence and inserting in lieu thereof "or the discharge under subsection (b) or (d)".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a) by striking out "Except as provided in subsection (i)," each place it appears and inserting in lieu thereof "Except as provided in subsection (k),"; and

(2) in subsections (b) and (d), by striking out "Except as provided in subsection (i)," and inserting in lieu thereof "Except as provided in subsections (f) and (k),".

(d) SUBSECTION HEADINGS.—Such section is further amended as follows:

(1) Subsection (a) is amended by striking out "(a)(1)" and inserting in lieu thereof "(a) MANDATORY RETIREMENT.—(1)".

(2) Subsection (b) is amended by inserting "LIEUTENANT COMMANDERS AND MAJORS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—" after "(b)".

(3) Subsection (c) is amended by inserting "RETIRED GRADE AND RETIRED PAY.—" after "(c)".

(4) Subsection (d) is amended by inserting "NAVY LIEUTENANTS AND MARINE CORPS CAPTAINS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—" after "(d)".

(5) Subsection (e) is amended by striking out "(e)(1)" and inserting in lieu thereof "(e) OFFICERS IN PAY GRADES O–2 AND O–1 WHO TWICE FAIL OF SELECTION FOR PROMOTION OR ARE FOUND NOT QUALIFIED FOR PROMOTION.—(1)".

(6) Subsection (i) (as redesignated by subsection (a)(1)) is amended by inserting "DETERMINATION OF GRADE AND STATUS OF OFFICERS REVERTING TO PRIOR STATUS.—" after "(i)".

(7) Subsection (j) (as redesignated by subsection (a)(1)) is amended by inserting "SEPARATION PAY FOR OFFICERS DISCHARGED.—" after "(j)".

(8) Subsection (k) (as redesignated by subsection (a)(1)) is amended by inserting "SELECTIVE RETENTION BOARDS FOR LDOs.—" after "(k)".

(9) Subsection (l) (as redesignated by subsection (a)(1)) is amended by inserting "APPLICABILITY OF SECTION ONLY TO PERMANENT LDOs.—" after "(l)".

SEC. 504. SELECTION FOR DESIGNATED JUDGE ADVOCATE GENERAL AND FLAG OFFICER POSITIONS.

(a) ARMY.—Section 3037 of title 10, United States Code, is amended by adding at the end the following new subsection:

Regulations.

"(d) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or Assistant Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(b) NAVY AND MARINE CORPS.—(1) Section 5148 of such title is amended—

(A) in subsection (b), by striking out the last sentence and inserting in lieu thereof the following: "If an officer appointed as the Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."; and

(B) by striking out subsection (c) and inserting in lieu thereof the following:

Regulations.

"(c) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Judge Advocate General, shall ensure that the officer selected is recommended by a board

of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.".

(2) Section 5149(a) of such title is amended— 10 USC 5149.

(A) by inserting "(1)" after "(a)";

(B) by striking out the second and third sentences and inserting in lieu thereof the following: "If an officer appointed as the Deputy Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate."; and

(C) by adding at the end the following:

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.". Regulations.

(3) Section 5133 of such title is amended—

(A) in subsection (a)—

(i) by striking out "or the Judge Advocate General" in the first sentence; and

(ii) by striking out the second sentence; and

(B) in the first sentence of subsection (b)—

(i) by striking out "or the Judge Advocate General" both places it appears; and

(ii) by striking out "or major general, as appropriate".

(4) Section 5046 of such title—

(A) in subsection (a), by striking out the second sentence and inserting in lieu thereof the following: "If an officer appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a lower regular grade, the officer shall be appointed in the regular grade of brigadier general."; and

(B) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Staff Judge Advocate to the Commandant of the Marine Corps, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.". Regulations.

(5) The heading of section 5133, and the item relating to that section in the table of sections at the beginning of chapter 513 of such title, are each amended by striking out the third through sixth words.

(c) AIR FORCE.—Section 8037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force, in selecting an officer for recommendation to the President under subsection (a) for appointment as the Judge Advocate General or under subsection (d) for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.". Regulations.

Subtitle B—Reserve Component Matters

SEC. 511. INCREASED PERIOD OF ACTIVE DUTY FOR RESERVE FORCES MOBILIZED OTHER THAN DURING WAR OR NATIONAL EMERGENCY.

(a) REVISION TO PERIOD OF ACTIVE DUTY.—Section 673b of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "90 days" and inserting in lieu thereof "270 days"; and

(2) by striking out subsection (i).

(b) REPORT REQUIRED.—(1) Not later than April 1, 1995, the Secretary of Defense shall submit to the congressional defense committees a report on the desirability of increasing the authority of the President to order units and members of the reserve components to active duty without the consent of the members concerned.

(2) The report shall include the following:

(A) An analysis of options for increased presidential authority.

(B) An assessment of the effects of each option on recruiting, retention, employer support for the reserve components, and the families of members of the reserve components.

(C) Programs that the Secretary recommends to mitigate any negative effects.

(D) Any option that the Secretary recommends.

(E) Any proposed legislation that the Secretary considers necessary to implement any recommended option.

SEC. 512. RESERVE GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

Section 526 of title 10, United States Code, is amended by adding at the end the following new subsections:

Reports

"(d) NOTICE TO CONGRESS UPON CHANGE IN GRADE FOR CERTAIN POSITIONS.—(1) Not later than 60 days before an action specified in paragraph (2) may become effective, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing notice of the intended action and an analytically based justification for the intended action.

"(2) Paragraph (1) applies in the case of the following actions:

"(A) A change in the grade authorized as of July 1, 1994, for a general officer position in the National Guard Bureau, a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command.

"(B) Assignment of a reserve component officer to a general officer position in the the National Guard Bureau, to a general or flag officer position in the Office of a Chief of a reserve component, or a general or flag officer position in the headquarters of a reserve component command in a grade other the grade authorized for that position as of July 1, 1994.

"(C) Assignment of an officer other than a general or flag officer as the military executive to the Reserve Forces Policy Board.

"(e) EXCLUSION OF CERTAIN OFFICERS.—The limitations of this section do not apply to a reserve component general or flag officer who is on active duty for training or who is on active duty under a call or order specifying a period of less than 180 days.".

SEC. 513. REVIEW OF OPPORTUNITIES FOR ORDERING INDIVIDUAL RESERVES TO ACTIVE DUTY WITH THEIR CONSENT.

(a) REVIEW REQUIRED.—The Secretary of Defense shall—

(1) review the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) identify and remove any impediments, in regulations or other administrative rules, to increasing those opportunities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the review. The report shall contain—

(1) a plan for increasing the opportunities for individual members of the reserve components of the Armed Forces to be ordered to active duty, with the consent of the members concerned, during peacetime in positions traditionally filled by active duty personnel; and

(2) a draft of any additional legislation that the Secretary considers necessary in order to increase those opportunities.

SEC. 514. DEFINITION OF ACTIVE GUARD AND RESERVE DUTY.

Section 101(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following new paragraph (6):

"(6)(A) The term 'active Guard and Reserve duty' means active duty or full-time National Guard duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard, pursuant to an order to active duty or full-time National Guard duty for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

"(B) Such term does not include the following:

"(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 175 of this title.

"(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

"(iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.

"(iv) Duty performed as a general or flag officer.

"(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).".

SEC. 515. REPEAL OF OBSOLETE PROVISIONS PERTAINING TO TRANSFER OF RETIRED REGULAR ENLISTED MEMBERS TO RESERVE COMPONENTS.

(a) ARMY.—Section 3914 of title 10, United States Code, is amended by striking out the second and third sentences.

(b) AIR FORCE.—Section 8914 of such title is amended by striking out the second and third sentences.

SEC. 516. SEMIANNUAL REPORT ON SEPARATIONS OF ACTIVE ARMY OFFICERS.

Section 1111 of the Army National Guard Combat Readiness Reform Act of 1992 (title XI of Public Law 102–484; 106 Stat. 2536) is amended by adding at the end the following new subsection:

10 USC 3077 note

"(e) LIST OF CERTAIN SEPARATED OFFICERS.—On a semiannual basis, the Secretary of the Army shall furnish to the Chief of the National Guard Bureau a list containing the name, home of record, and last-known mailing address of each officer of the Army who during the previous six months was honorably separated from active duty in the grade of major or below.".

SEC. 517. EARLY RESERVE RETIREMENT ELIGIBILITY FOR DISABLED MEMBERS OF SELECTED RESERVE.

Section 1331a(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 1331(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.".

SEC. 518. ANNUAL PAYMENTS FOR MEMBERS RETIRED UNDER GUARD AND RESERVE TRANSITION INITIATIVE.

(a) ANNUAL PAYMENT FOR ONE TO FIVE YEARS.—Subsection (d) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1162 note) is amended—

(1) by striking out "for 5 years" and inserting in lieu thereof "for a period of years prescribed by the Secretary concerned";

(2) by striking out "the 5-year period" and inserting in lieu thereof "that period"; and

(3) by adding at the end the following: "A period prescribed for purposes of this subsection may not be less than one year nor more than five years.".

(b) COMPUTATION OF ANNUAL PAYMENT.—Subsection (e) of such section is amended by adding at the end the following:

"(3) In the case of a member who will attain 60 years of age during the 12-month period following the date on which an annual payment is due, the payment shall be paid on a prorated basis of one-twelfth of the annual payment for each full month between the date on which the payment is due and the date on which the member attains age 60.".

10 USC 1162 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to payments to a member of the Armed Forces under subsection (b) of section 4416 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D

of Public Law 102–484) that are granted by the Secretary of Defense to that member after the date of the enactment of this Act.

SEC. 519. EDUCATIONAL REQUIREMENTS FOR APPOINTMENT IN RESERVE COMPONENTS IN GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

Section 596 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "an accredited educational institution" and inserting in lieu thereof "a qualifying educational institution"; and

(2) by adding at the end the following new subsection:

"(c) QUALIFYING EDUCATIONAL INSTITUTIONS.—(1) A qualifying educational institution for purposes of this section is an educational institution that is accredited or that meets the requirements of paragraph (2).

"(2)(A) An unaccredited educational institution shall be considered to be a qualifying educational institution for purposes of the appointment or recognition of a person who is a graduate of that institution if the Secretary concerned determines that (as of the year of the graduation of that person from that institution) at least three educational institutions that are accredited and that maintain Reserve Officers' Training Corps programs each generally grant baccalaureate degree credit for completion of courses of the unaccredited institution equivalent to the baccalaureate degree credit granted by the unaccredited institution for the completion of those courses.

"(B) In order to assist the Secretary concerned in making determinations under subparagraph (A), any unaccredited institution that seeks to be considered to be a qualifying educational institution for purposes of this paragraph shall submit to the Secretary of Defense each year such information as the Secretary may require concerning the program of instruction at that institution.

"(C) In the case of a person with a degree from an unaccredited institution that is a qualifying educational institution under this paragraph, the degree may not have been awarded more than three years before the date on which the person is to be appointed to, or recognized in, the grade of captain or, in the case of the Naval Reserve, lieutenant, in order for that person to be considered for purposes of subsection (a) to have been awarded a baccalaureate degree by a qualifying educational institution.".

SEC. 520. LIMITED EXCEPTION FOR ALASKA SCOUT OFFICERS FROM BACCALAUREATE DEGREE REQUIREMENT FOR APPOINTMENT AS OFFICER IN NATIONAL GUARD ABOVE FIRST LIEUTENANT.

(a) IN GENERAL.—Subsection (b) of section 596 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) Recognition in the grade of captain or major in the Alaska Army National Guard of a person who resides permanently at a location in Alaska that is more than 50 miles from each of the cities of Anchorage, Fairbanks, and Juneau, Alaska, by paved road and who is serving in a Scout unit or a Scout supporting unit.".

(b) CONFORMING STYLISTIC AMENDMENTS.—Such subsection is further amended by striking out "an individual" in paragraphs (2) and (3) and inserting in lieu thereof "a person".

SEC. 521. SENSE OF CONGRESS CONCERNING THE TRAINING AND MODERNIZATION OF THE RESERVE COMPONENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The force structure specified in the report resulting from the Bottom Up Review conducted by the Department of Defense during 1993 assumes increased reliance on the reserve components of the Armed Forces.

(2) The mobilization of the reserve components for the Persian Gulf War was handicapped by shortfalls in training, readiness, and equipment.

(3) The mobilization of the Army reserve components for the Persian Gulf War was handicapped by lack of a standard readiness evaluation system, which resulted in a lengthy reevaluation of training and equipment readiness of Army National Guard and Army Reserve units before they could be deployed.

(4) Funding and scheduling constraints continue to limit the opportunity for combat units of the Army National Guard to carry out adequate maneuver training.

(5) Funding constraints continue to handicap the readiness and modernization of the reserve components and their interoperability with the active forces.

(b) STANDARD EVALUATION SYSTEM.—It is the sense of Congress that the Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, should establish—

(1) a standard readiness evaluation system that is uniform for all forces within each military service; and

(2) a standard readiness rating system that is uniform for the military departments.

(c) MILITARY DEPARTMENT BUDGETS.—It is the sense of Congress that the Secretary of Defense should assess the budget submission of each military department each year to determine (taking into consideration the advice of the Chairman of the Joint Chiefs of Staff) the extent to which National Guard and reserve units would, under that budget submission, be trained and modernized to the standards needed for them to carry out the full range of missions required of them under current Department of Defense plans. Based upon such assessment each year, the Secretary should adjust the budget submissions of the military departments as necessary in order to meet the priorities established by the Secretary of Defense for the total force.

Subtitle C—Victims' Rights, Family Advocacy, and Nondiscrimination Provisions

SEC. 531. PROHIBITION OF RETALIATORY ACTIONS AGAINST MEMBERS OF THE ARMED FORCES MAKING ALLEGATIONS OF SEXUAL HARASSMENT OR UNLAWFUL DISCRIMINATION.

(a) IN GENERAL.—Subsection (b) of section 1034 of title 10, United States Code, is amended—

(1) by inserting "(1)" before "No person may take";

(2) by designating the second sentence as paragraph (2) and in that sentence striking out "the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(3) in the first sentence, by striking out "or preparing" and all that follows through "may not be restricted." and inserting in lieu thereof the following: "or preparing—

"(A) a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted; or

"(B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—

"(i) a Member of Congress;

"(ii) an Inspector General (as defined in subsection (j));

"(iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization; or

"(iv) any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications.".

(b) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS.—Subsection (c) of such section is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

"(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

"(B) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety."; and

(3) in the subsection heading, by striking out "CERTAIN ALLEGATIONS" and inserting in lieu thereof "ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS".

(c) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF WRONGDOING.—Such section is further amended—

(1) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (f), (g), (h), (i), and (j), respectively; and

(2) by striking out paragraph (4) of subsection (c) and inserting in lieu thereof the following:

"(d) INSPECTOR GENERAL INVESTIGATION OF UNDERLYING ALLEGATIONS.—Upon receiving an allegation under subsection (c), the Inspector General shall conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing (as described in subparagraph

(A) or (B) of subsection (c)(2)) if there previously has not been such an investigation or if the Inspector General determines that the original investigation was biased or otherwise inadequate.".

(d) REPORTS ON INVESTIGATIONS.—Such section is further amended—

(1) by striking out "(5) Not later than 30 days" and inserting in lieu thereof "(e) REPORTS ON INVESTIGATIONS.—(1) Not later than 30 days";

(2) in the paragraph redesignated by paragraph (1)—

(A) by striking out "this subsection" and inserting in lieu thereof "subsection (c) or (d)";

(B) by striking out "the member of the armed forces concerned" and inserting in lieu thereof "the member of the armed forces who made the allegation investigated"; and

(C) by striking out the second sentence;

(3) by inserting after the paragraph redesignated by paragraph (1) the following new paragraph:

Public information.

"(2) In the copy of the report submitted to the member, the Inspector General shall ensure the maximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5.";

(4) by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively; and

(5) in paragraph (3), as so redesignated, by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (1)".

(e) DEFINITION.—Subsection (j) of such section, as redesignated by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'unlawful discrimination' means discrimination on the basis of race, color, religion, sex, or national origin.".

(f) CROSS REFERENCE AMENDMENTS.—(1) Subsection (f) of such section, as redesignated by subsection (c)(1), is amended by striking out "subsection (c)(5)" in paragraphs (2)(A), (3)(A)(i), and (3)(B) and inserting in lieu thereof "subsection (e)(1)".

(2) Subsection (g) of such section, as redesignated by subsection (c)(1), is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (f)".

(g) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1034. Protected communications; prohibition of retaliatory personnel actions".

(2) The table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1034. Protected communications; prohibition of retaliatory personnel actions.".

10 USC 1034 note.

(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe regulations to implement the amendments made by this section not later than 120 days after the date of the enactment of this Act.

10 USC 1034 note.

(i) CONTENT OF REGULATIONS.—In prescribing regulations under section 1034 of title 10, United States Code, as amended by this section, the Secretary of Defense and the Secretary of Transportation shall provide for appropriate procedural protections for the subject of any investigation carried out under the provisions

of that section, including a process for appeal and review of investigative findings.

SEC. 532. DEPARTMENT OF DEFENSE POLICIES AND PROCEDURES ON DISCRIMINATION AND SEXUAL HARASSMENT. 10 USC 113 note

(a) REPORT OF TASK FORCE.—(1) The Department of Defense Task Force on Discrimination and Sexual Harassment, constituted by the Secretary of Defense on March 15, 1994, shall transmit a report of its findings and recommendations to the Secretary of Defense not later than October 1, 1994.

(2) The Secretary shall transmit to Congress the report of the task force not later than October 10, 1994.

(b) SECRETARIAL REVIEW.—Not later than 45 days after receiving the report under subsection (a), the Secretary shall—

(1) review the recommendations for action contained in the report;

(2) determine which recommendations the Secretary approves for implementation and which recommendations the Secretary disapproves; and

(3) submit to Congress a report that—

(A) identifies the approved recommendations and the disapproved recommendations; and

(B) explains the reasons for each such approval and disapproval.

(c) COMPREHENSIVE DOD POLICY.—(1) Based on the approved recommendations of the task force and such other factors as the Secretary considers appropriate, the Secretary shall develop a comprehensive Department of Defense policy for processing complaints of sexual harassment and discrimination involving members of the Armed Forces under the jurisdiction of the Secretary.

(2) The Secretary shall issue policy guidance for the implementation of the comprehensive policy and shall require the Secretaries of the military departments to prescribe regulations to implement that policy not later than March 1, 1995. Regulations.

(3) The Secretary shall ensure that the policy is implemented uniformly by the military departments insofar as practicable.

(4) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a proposal for any legislation necessary to enhance the capability of the Department of Defense to address the issues of unlawful discrimination and sexual harassment.

(d) MILITARY DEPARTMENT POLICIES.—(1) The Secretary of the Navy and the Secretary of the Air Force shall review and revise the regulations of the Department of the Navy and the Department of the Air Force, respectively, relating to equal opportunity policy and procedures in that Department for the making of, and responding to, complaints of unlawful discrimination and sexual harassment in order to ensure that those regulations are substantially equivalent to the regulations of the Department of the Army on such matters.

(2) In revising regulations pursuant to paragraph (1), the Secretary of the Navy and the Secretary of the Air Force may make such additions and modifications as the Secretary of Defense determines appropriate to strengthen those regulations beyond the substantial equivalent of the Army regulations in accordance with—

(A) the approved recommendations of the Department of Defense Task Force on Discrimination and Sexual Harassment; and

(B) the experience of the Army, Navy, Air Force, and Marine Corps regarding equal opportunity cases.

Regulations.

(3) The Secretary of the Army shall review the regulations of the Department of the Army relating to equal opportunity policy and complaint procedures and revise the regulations as the Secretary of Defense considers appropriate to strengthen the regulations in accordance with the recommendations and experience described in subparagraphs (A) and (B) of paragraph (2).

(e) REPORT OF ADVISORY BOARD.—(1) The Secretary of Defense shall direct the Advisory Board on the Investigative Capability of the Department of Defense, established by the Secretary of Defense in November 1993, to include in its report to the Secretary (scheduled to be transmitted to the Secretary during December 1994)—

(A) the recommendations of the Advisory Board as to whether the current Department of Defense organizational structure is adequate to oversee all investigative matters related to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim; and

(B) recommendations as to whether additional data collection and reporting procedures are needed to enhance the ability of the Department of Defense to respond to unlawful discrimination, sexual harassment, and other misconduct related to the gender of the victim.

(2) The Secretary shall transmit to Congress the report of the Advisory Board not later than 15 days after receiving the report.

(f) PERFORMANCE EVALUATION STANDARDS FOR MEMBERS OF THE ARMED FORCES.—The Secretary of Defense shall ensure that Department of Defense regulations governing consideration of equal opportunity matters in evaluations of the performance of members of the Armed Forces include provisions requiring as a factor in such evaluations consideration of a member's commitment to elimination of unlawful discrimination or of sexual harassment in the Armed Forces.

10 USC 113 note.

SEC. 533. ANNUAL REPORT ON PERSONNEL READINESS FACTORS BY RACE AND GENDER.

(a) REQUIRED ASSESSMENT.—The Secretary of Defense shall submit to Congress an annual report on trends in recruiting, retention, and personnel readiness.

(b) DATA TO BE COLLECTED.—Each annual report under subsection (a) shall include the following information with respect to the preceding fiscal year for the active components of each of the Armed Forces under the jurisdiction of the Secretary (as well as such additional information as the Secretary considers appropriate):

(1) The numbers of members of the Armed Forces temporarily and permanently nondeployable and rates of temporary and permanent nondeployability, displayed by cause of nondeployability, rank, and gender.

(2) The numbers and rates of complaints and allegations within the Armed Forces that involve gender and other unlawful discrimination and sexual harassment, and the rates of substantiation for those complaints and allegations.

(3) The numbers and rates of disciplinary proceedings, displayed (A) by offense or infraction committed, (B) by gender,

rank, and race, and (C) by the categories specified in paragraph (2).

(4) The retention rates, by gender, rank, and race, with an analysis of factors influencing those rates.

(5) The propensity of persons to enlist, displayed by gender and race, with an analysis of the factors influencing those propensities.

(c) SUBMISSION TO CONGRESS.—The Secretary shall submit the report under this section for any fiscal year as part of the annual Department of Defense posture statement provided to Congress in connection with the Department of Defense budget request for that fiscal year.

(d) INITIAL SUBMISSION.—The first report under this section shall be submitted in connection with the Department of Defense budget request for fiscal year 1996 and shall include data, to the degree such data already exists, for fiscal years after fiscal year 1991.

SEC. 534. VICTIMS' ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE. 10 USC 113 note.

(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims' advocates program.

(2) Programs referred to in paragraph (1) are the following:

(A) Victim and witness assistance programs.

(B) Family advocacy programs.

(C) Equal opportunity programs.

(3) In the case of the Department of the Navy, separate victims' advocates programs shall be established for the Navy and the Marine Corps.

(b) PURPOSE.—A victims' advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:

(1) Crime.

(2) Intrafamilial sexual, physical, or emotional abuse.

(3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.

(c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs. Establishment.

(2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims' advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.

(d) ASSISTANCE.—(1) Under a victims' advocates program established under subsection (a), individuals working in the program shall principally serve the interests of a victim by initiating action to provide (A) information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.

(2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.

(e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims' advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.

(f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act.

(g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation (and plans for implementation) of this section.

SEC. 535. TRANSITIONAL COMPENSATION AND OTHER BENEFITS FOR DEPENDENTS OF MEMBERS SEPARATED FOR DEPENDENT ABUSE.

(a) EARLIER COMMENCEMENT OF PAYMENTS.—Subsection (e) of section 1059 of title 10, United States Code, as redesignated by section 1070(a)(5) of this Act, is amended to read as follows:

"(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section—

"(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, shall commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

"(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

"(2) Transitional compensation with respect to a member shall be paid for a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member's period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

"(A) the unserved portion of the member's period of obligated active duty service; or

"(B) 12 months.

"(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such punishment applicable to the member under the sentence is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

"(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

Sunset provisions.

"(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).".

(b) COMMISSARY AND EXCHANGE BENEFITS.—Such section is further amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

"(j) COMMISSARY AND EXCHANGE BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to use commissary and exchange stores to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of more than 30 days.

"(2) If a dependent or former dependent eligible or entitled to use commissary and exchange stores under paragraph (1) is eligible or entitled to use commissary and exchange stores under another provision of law, the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores shall be determined under such other provision of law rather than under paragraph (1).".

(c) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits".

(2) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits.".

SEC. 536. STUDY OF SPOUSAL ABUSE INVOLVING ARMED FORCES PERSONNEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense has sponsored several highly successful programs designed to curtail spousal abuse.

(2) The readiness of the Armed Forces would be enhanced by eliminating all forms of spousal abuse involving members of the Armed Forces.

(3) Available data on the frequency and causes of spousal abuse involving members of the Armed Forces is not comprehensive for the Armed Forces.

(b) STUDY.—The Secretary of Defense shall conduct a study on spousal abuse involving members of the Armed Forces.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study. The report shall contain the following:

(1) The frequency of spousal abuse involving members of the Armed Forces.

(2) A discussion of the possible causes of such spousal abuse.

(3) A discussion of the procedures followed in responding to incidents of such spousal abuse.

(4) An analysis of the effectiveness of those procedures.

(5) A review of the existing programs for curtailing such spousal abuse.

(6) A strategy for the entire Armed Forces for curtailing spousal abuse involving members of the Armed Forces.

Subtitle D—Matters Relating to the Coast Guard

SEC. 541. EXTENSION OF WARRANT OFFICER MANAGEMENT ACT PROVISIONS TO COAST GUARD.

10 USC 571 note

(a) ESTABLISHMENT OF PERMANENT GRADE OF CHIEF WARRANT OFFICER, W–5.—(1) The grade of chief warrant officer, W–5, is hereby established in the Coast Guard.

(2) Section 571(a) of title 10, United States Code, is amended by striking out "Army, Navy, Air Force, and Marine Corps" and inserting in lieu thereof "armed forces".

(b) EXTENSION OF WARRANT OFFICER MANAGEMENT ACT PROVISIONS TO COAST GUARD WARRANT OFFICERS.—Chapter 33A of title 10, United States Code, is amended as follows:

(1) Section 573(a) is amended—

(A) by striking out "Secretary of a military department" in paragraph (1) and inserting in lieu thereof "Secretary concerned"; and

(B) by striking out "of the military department" in paragraph (2).

(2) Section 574 is amended by striking out "Secretary of each military department" in subsections (a) and (b) and inserting in lieu thereof "Secretary concerned".

(3) Section 575(b)(2) is amended by inserting "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

(4) Section 576 is amended—

(A) in subsection (a), by striking out "of the military department" in the matter preceding paragraph (1);

(B) in subsection (e), by striking out "of the military department"; and

(C) in subsection (f)(2), by striking out "of the military department".

(5) Section 580 is amended—

(A) in subsection (a)(4)(B), by inserting ", or severance pay computed under section 286a of title 14, as appropriate," after "section 1174 of this title"; and

(B) in subsection (e)(6), by inserting "and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy," after "Secretary of Defense".

(6) Section 581(a) is amended by striking out "in the Army, Navy, Air Force, or Marine Corps".

(c) TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1) A regular warrant officer of the Coast Guard who on the effective date of this section is on active duty and— 10 USC 571 note

(A) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade;

(B) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer W–5; or

(C) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which that warrant officer is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as amended by this subsection (b), for promotion to the permanent grade equivalent to the grade in which that warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

(2) An officer referred to in subparagraph (A) of paragraph (1) who is not promoted to the grade to which that warrant officer is considered under such subsection to have been recommended for promotion because that officer's name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the temporary grade in which that warrant officer was serving on the effective date of this section as if that warrant officer were serving in the permanent grade.

(3) The date of rank of an officer referred to in paragraph (1)(A) who is promoted to the grade in which that warrant officer is serving on the effective date of this section is the date of that officer's temporary appointment in that grade.

(d) TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W–5.—(1)(A) Except as provided in paragraph (2), a reserve warrant officer of the Coast Guard who on the effective date of this section is subject to placement on the warrant officer active-duty list and who— 10 USC 571 note

(i) is serving in a temporary grade below chief warrant officer, W–5, that is higher than that warrant officer's permanent grade; or

(ii) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W–

5, that is the same as or higher than that warrant officer's permanent grade;

shall be considered to have been recommended by a board convened under section 598 of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which the warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

(B) The date of rank of a warrant officer referred to in subparagraph (A)(i) who is promoted to the grade in which that warrant officer is considered under such subparagraph to have been recommended for promotion is the date of the temporary appointment of that warrant officer in that grade.

(2) A reserve warrant officer of the Coast Guard who on the effective date of this section—

(A) is subject to placement on the warrant officer active-duty list;

(B) is serving on active duty in a temporary grade; and

(C) holds a permanent grade higher than the temporary grade in which that warrant officer is serving;

shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a grade equal to or lower than the permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, the appointment of that warrant officer to such grade shall be a temporary appointment.

(e) RANK OF COAST GUARD WARRANT OFFICERS.—(1) Subchapter A of chapter 11 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 215. Rank of warrant officers

"(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

"(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.". Regulations.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 214 the following new item:

"215. Rank of warrant officers.".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 1125(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 555 note) is repealed.

(2) Section 286a(a) of title 14, United States Code, is amended by striking out "section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)" and inserting in lieu thereof "section 580(a)(4)(A) of title 10".

(3) Section 334(b) of such title is amended by striking out "section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or" and inserting in lieu thereof "section 580,".

(4) Section 41 of such title is amended by striking out "chief warrant officers, W–4; chief warrant officers, W–3; chief warrant

officers, W–2; cadets; warrant officers, W–1;" and inserting in lieu thereof "chief warrant officers; cadets; warrant officers;".

(5)(A) Sections 212 and 213 of such title are repealed. 14 USC 212, 213.

(B) The table of sections at the beginning of chapter 11 of such title is amended by striking out the items relating to sections 212 and 213.

(6) Section 214 of such title is amended by striking out subsections (b) and (c).

(7) Section 583 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a of title 14.".

(g) TEMPORARY AUTHORITY FOR INVOLUNTARY SEPARATION OF CERTAIN WARRANT OFFICERS.—Section 580a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) This section applies to the Secretary of Transportation in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act. 10 USC 571 note.

SEC. 542. COAST GUARD FORCE REDUCTION TRANSITION BENEFITS.

(a) INVOLUNTARY SEPARATION BENEFITS AND SERVICES.—Chapter 58 of title 10, United States Code, is amended as follows:

(1) Section 1141 is amended in the matter preceding paragraph (1)—

(A) by striking out "Army, Navy, Air Force, or Marine Corps" and inserting in lieu thereof "armed forces"; and

(B) by striking out "or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994" and inserting in lieu thereof "or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994,".

(2) Section 1143 is amended—

(A) in the heading, by striking out "**: Department of Defense**";

(B) in subsection (a), by inserting "and the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense" and by striking out "under the jurisdiction of the Secretary";

(C) in subsection (b), by adding at the end the following new sentence: "The Secretary of Transportation shall establish permanent employment assistance centers at appropriate Coast Guard installations.";

(D) in subsection (c), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(E) in subsection (d), by adding at the end the following new sentence: "The Secretary of Transportation shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents

of such members, in Coast Guard nonappropriated fund instrumentalities.".

10 USC 1143a.

(3) Section 1143a is amended—

(A) in the heading by striking out ": **Department of Defense**"; and

(B) by adding at the end the following new subsection:

"(h) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Transportation shall implement the requirements of this section for the Coast Guard.".

(4) Section 1145 is amended by adding at the end the following new subsection:

"(e) COAST GUARD.—The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the five-year period beginning on October 1, 1994. The Secretary of Transportation shall implement this section for the Coast Guard.".

(5) Section 1146 is amended by adding at the end the following new sentence: "The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the five-year period beginning October 1, 1994.".

(6) Section 1147(a) is amended—

(A) by inserting "(1)" before "The Secretary of a military department"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the five-year period beginning October 1, 1994, to continue for not more than 180 days after the date of such separation to reside (along with others of the member's household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.".

(7) Section 1148 is amended by inserting "and the Secretary of Transportation" after "Secretary of Defense".

(8) Section 1149 is amended—

(A) by inserting "or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense"; and

(B) by striking out "of the military department".

(9) Section 1150 is amended by adding at the end the following new subsection:

"(c) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Transportation shall prescribe regulations to implement this section for the Coast Guard.".

Regulations.

(10) The table of sections at the beginning of the chapter is amended by striking out ": Department of Defense" in the items relating to section 1143 and 1143a.

(b) SPECIAL SEPARATION BENEFIT.—Section 1174a of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "of each military department" and inserting in lieu thereof "concerned";

(2) in subsection (d), by striking out "of a military department" and inserting in lieu thereof "concerned";

(3) in subsection (e)(3), by striking out "of the military department"; and

(4) in subsection (h), by striking out "of a military department" and inserting in lieu thereof "concerned".

(c) VOLUNTARY SEPARATION INCENTIVE.—Section 1175 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by inserting "and the Secretary of Transportation" after "Secretary of Defense";

(2) in subsection (c), by striking out "of the military department";

(3) in subsection (g), by inserting "and the Department of Transportation for the Coast Guard" before the period at the end;

(4) in subsection (h)(3)—

(A) by inserting "by the Secretary of Defense" after "incentive payments made" in the first sentence; and

(B) by inserting "to the Secretary" after "shall be available" in the second sentence; and

(5) in subsection (i), by inserting "and the Secretary of Transportation" after "Secretary of Defense".

(d) TEMPORARY EARLY RETIREMENT AUTHORITY.—Section 4403 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2702; 10 U.S.C. 1293 note) shall apply to the Coast Guard in the same manner and to the same extent as that provision applies to the Department of Defense. The Secretary of Transportation shall implement the provisions of that section with respect to the Coast Guard and apply the applicable provisions of title 14, United States Code, relating to retirement of Coast Guard personnel.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994. 10 USC 1141 note.

SEC. 543. EXPANSION OF PERSONNEL ADJUSTMENT, EDUCATION, AND TRAINING PROGRAMS TO INCLUDE COAST GUARD.

(a) PRESEPARATION COUNSELING.—As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall implement the requirements of section 1142 of title 10, United States Code, for the Coast Guard. 10 USC 1142 note.

(b) EMPLOYMENT ASSISTANCE, JOB TRAINING ASSISTANCE, AND OTHER TRANSITIONAL ASSISTANCE.—Section 1144 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ", the Secretary of Transportation," after "Secretary of Defense"; and

(B) by striking out "of a military department" and inserting in lieu thereof "concerned";

(2) in subsection (a)(2), by inserting ", the Secretary of Transportation," after "Secretary of Defense";

(3) in subsection (b)(4), by striking out "Department of Defense is" and inserting in lieu thereof "Department of Defense and the Department of Transportation are";

(4) in subsection (c), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(5) in subsection (d)(2), by inserting "and the Department of Transportation" after "Department of Defense".

(c) TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAM.—Section 1151 of such title (as amended by section 1131) is further amended—

(1) in subsection (a), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(2) in subsection (b), by inserting "and the Secretary of Transportation" after "Secretary of Defense" in the matter preceding the paragraphs;

(3) in subsection (c)(1)—

(A) by striking out "by the Secretary of Defense" in the matter preceding the subparagraphs; and

(B) in subparagraph (C), by inserting "of Defense, or the Secretary of Transportation with respect to the Coast Guard," after "Secretary";

(4) in subsection (d), by inserting "and the Secretary of Transportation" after "Secretary of Defense";

(5) in subsection (e)(1)—

(A) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the first sentence; and

(B) by striking out "Secretary may" in the second sentence and inserting in lieu thereof "Secretaries may";

(6) in subsection (e)(2), by striking out "Secretary" the first two places it appears and inserting in lieu thereof "Secretaries";

(7) in subsection (e)(3)—

(A) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary"; and

(B) by inserting "concerned" after "unless the Secretary";

(8) in subsection (e)(4), by striking out "Secretary" both places it appears and inserting in lieu thereof "Secretaries";

(9) in subsection (f)—

(A) by inserting ", or the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the matter preceding the paragraphs; and

(B) in paragraph (1), by inserting "concerned" after "the Secretary";

(10) in subsection (g)(1), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" in the matter preceding the subparagraphs;

(11) in subsection (h)—

(A) in paragraph (1), by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(B) by inserting "concerned" after "Secretary" each place it appears in paragraphs (2) through (6);

(12) in subsection (h)(7)—

(A) in subparagraph (A)—

(i) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary" in the first sentence; and

(ii) by inserting "concerned" after "The Secretary" in the second sentence; and

(B) in subparagraph (C), by inserting "concerned" after "The Secretary";

(13) in subsection (i)—

(A) in paragraph (1), by inserting ", or the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "Secretary" both places it appears; and

(14) in subsection (j)—

(A) in paragraph (1)(F), by inserting ", or the Secretary of Transportation with respect to the Coast Guard" after "Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "Secretary" both places it appears.

(d) LAW ENFORCEMENT OFFICER PLACEMENT PROGRAM.—Section 1152 of such title, as amended by section 1132, is further amended in subsections (a) and (d) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense".

(e) HEALTH CARE PROVIDER PLACEMENT PROGRAM.—Section 1153 of such title is amended—

(1) in subsection (a), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(2) in subsection (b)(1)—

(A) by striking out "by the Secretary of Defense" in the matter preceding the subparagraphs; and

(B) in subparagraph (C), by inserting "concerned" after "Secretary" both places it appears;

(3) in subsection (c)(1)—

(A) by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense";

(B) by inserting "concerned" after "to the Secretary"; and

(C) by striking out "Secretary may" and inserting in lieu thereof "Secretaries may";

(4) in subsection (c)(2)—

(A) by inserting "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary"; and

(B) by inserting "concerned" after "unless the Secretary";

(5) in subsection (c)(3), by striking out "Secretary" both places it appears and inserting in lieu thereof "Secretaries";

(6) in subsection (d)—

(A) in paragraph (1) by inserting "and the Secretary of Transportation" after "Secretary of Defense"; and

(B) by inserting "concerned" after "Secretary" each place it appears in paragraphs (2) through (5); and

(7) in subsection (e)—

(A) in paragraph (1), by inserting ", and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary of Defense"; and

(B) in paragraph (2), by inserting "concerned" after "The Secretary".

(f) UPWARD BOUND.—Section 4466 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102-484; 10 U.S.C. 1143 note) is amended by adding at the end the following new subsection:

"(h) APPLICATION TO COAST GUARD.—The Secretary of Transportation may implement the provisions of this section for the Coast Guard in the same manner and to the same extent as such section applies to the Department of Defense.".

(g) SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING.—(1) Section 4483(1) of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) is amended by inserting before the period the following: "with respect to the Department of Defense and the Secretary of Transportation with respect to the Coast Guard".

10 USC 1143 note.

(2) As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall implement the requirements of the Service Members Occupational Conversion and Training Act of 1992 (subtitle G of title XLIV of Public Law 102–484; 10 U.S.C. 1143 note) for the Coast Guard.

10 USC 1142 note.

(h) LIMITATIONS ON FUNDING.—Funds appropriated or otherwise made available to the Department of Defense, the Department of Education, the Department of Labor, or the Department of Veterans Affairs may not be used to carry out subsection (a) or the amendments made by this section.

Subtitle E—Other Matters

SEC. 551. REPEAL OF REQUIRED REDUCTION IN RECRUITING PERSONNEL.

Section 431 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2400) is repealed.

SEC. 552. AUTHORIZED ACTIVE DUTY STRENGTHS FOR ARMY ENLISTED MEMBERS IN PAY GRADE E–8.

(a) IN GENERAL.—Section 517(a) of title 10, United States Code, is amended by inserting "(or, in the case of the Army, 2.5 percent)" after "may not be more than 2 percent".

10 USC 517 note

(b) SPECIAL RULE FOR 1995.—The percentage applicable to enlisted members of the Army in pay grade E–8 under section 517(a) of title 10, United States Code, during 1995 shall be 2.3 percent (rather than the percentage provided by the amendment made by subsection (a)).

10 USC 517 note.

(c) INAPPLICABILITY FOR 1994.—The amendment made by subsection (a) shall not apply with respect to the number of enlisted members of the Army on active duty in pay grade E–8 during 1994.

10 USC 4331 note.

SEC. 553. PROHIBITION ON IMPOSITION OF ADDITIONAL CHARGES OR FEES FOR ATTENDANCE AT CERTAIN ACADEMIES.

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at an academy named in subsection (c) may be imposed unless the charge or fee is specifically authorized by a law enacted after the date of the enactment of this Act.

(b) EXCEPTION.—The prohibition specified in subsection (a) shall not apply with respect to any item or service provided to cadets or midshipmen at an academy named in subsection (c) for which a charge or fee is imposed as of the date of the enactment of this Act. The Secretary of Defense or the Secretary of Transportation, as the case shall be, shall notify Congress of any change

made by an academy in the amount of a charge or fee authorized under this subsection.

(c) COVERED ACADEMIES.—This section applies to the following:

(1) The United States Military Academy.
(2) The United States Naval Academy.
(3) The United States Air Force Academy.
(4) The United States Coast Guard Academy.
(5) The United States Merchant Marine Academy.

SEC. 554. BIENNIAL SURVEY ON THE STATE OF RACE AND ETHNIC ISSUES IN THE MILITARY.

(a) IN GENERAL.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 22—MISCELLANEOUS STUDIES AND REPORTS

"Sec.
"451. Racial and ethnic issues; biennial survey; biennial report.

"§ 451. Racial and ethnic issues; biennial survey; biennial report

"(a) BIENNIAL SURVEY.—The Secretary of Defense shall carry out a biennial survey to measure the state of racial and ethnic issues and discrimination among members of the armed forces serving on active duty. The survey shall solicit information on the race relations climate in the armed forces, including—

"(1) indicators of positive and negative trends of relations between all racial and ethnic groups;

"(2) the effectiveness of Department of Defense policies designed to improve race and ethnic relations; and

"(3) the effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

"(b) IMPLEMENTING ENTITY.—The Secretary shall carry out each biennial survey through the entity in the Department of Defense known as the Armed Forces Survey on Race/Ethnic Issues.

"(c) REPORTS TO CONGRESS.—Upon completion of each biennial survey under subsection (a), the Secretary shall submit to Congress a report containing the results of the survey.".

(2) The tables of chapters at the beginning of subtitle A of such title and the beginning of part I of such subtitle are amended by inserting after the item relating to chapter 21 the following new item:

"22. Miscellaneous Studies and Reports ..... 451".

(b) FIRST REPORT.—The Secretary of Defense shall submit the first report under section 451(c) of title 10, United States Code, as added by subsection (a), not later than May 1, 1995. 10 USC 451 note

SEC. 555. REVIEW OF CERTAIN DISCHARGES FROM THE UNITED STATES MILITARY ACADEMY DURING THE POST-CIVIL WAR PERIOD.

(a) REVIEW REQUIRED.—The Secretary of the Army shall carry out a thorough review, to be completed not later than 180 days after the date of the enactment of this Act, of—

James Webster Smith.

(1) the discharge from the Corps of Cadets of the United States Military Academy in 1874 of James Webster Smith of South Carolina; and

Johnson Chestnut Whittaker.

(2) the discharge from the Corps of Cadets of the United States Military Academy in 1880 of Johnson Chesnut Whittaker of South Carolina.

(b) PURPOSES OF REVIEW.—The purpose of each review shall be to determine the validity of the original proceedings leading to such discharge and the extent, if any, to which racial prejudice or other improper factors now known may have tainted those proceedings. In conducting each review, the Secretary shall use as broad a range of historical documents as possible, including non-military sources.

(c) CORRECTION OF RECORDS.—If the Secretary determines that the discharge of James Webster Smith or Johnson Chesnut Whittaker was in error or an injustice, the Secretary shall correct that person's military records (including the records of proceedings in that person's discharge case).

(d) POSTHUMOUS COMMISSION.—Upon recommendation of the Secretary in the case of either person named in subsection (a), the President may issue in the name of that person a posthumous commission as an officer in the Regular Army in the grade of second lieutenant. Section 1523 of title 10, United States Code, shall apply with respect to a commission so issued.

SEC. 556. ADMINISTRATION OF ATHLETICS PROGRAMS AT THE SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4357. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

Regulations.

"(b) Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4357. Athletics program: athletic director; nonappropriated fund account.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§ 6975. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Naval Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy shall administer a

nonappropriated fund account for the athletics program of the Naval Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Naval Academy and all contributions received for that program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6975. Athletics program· athletic director; nonappropriated fund account.".

(3) The account referred to in subsection (b) of section 6975 of title 10, United States Code, as added by paragraph (1), shall be established not later than the effective date set forth in subsection (e). 10 USC 6975 note.

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of such title is amended by adding at the end the following new section:

"§ 9356. Athletics program: athletic director; nonappropriated fund account

"(a) The position of athletic director of the Academy shall be a position in the civil service (as defined in section 2101(1) of title 5). However, a member of the armed forces may fill that position as an active duty assignment.

"(b) Under regulations prescribed by the Secretary of the Air Force, the Superintendent of the Academy shall administer a nonappropriated fund account for the athletics program of the Academy. The Superintendent shall credit to that account all revenue received from the conduct of the athletics program of the Academy and all contributions received for that program.". Regulations.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9356. Athletics program: athletic director; nonappropriated fund account ".

(d) NAVY IMPLEMENTATION STUDY.—Not later than March 15, 1995, the Secretary of the Navy shall submit to Congress a report on the costs to the Department of the Navy of implementation of section 6975 of title 10, United States Code, as added by subsection (b). The report shall include a time line and description of the actions the Secretary plans to take to implement the requirements of that section. Reports.

(e) EFFECTIVE DATE.—Section 6975 of title 10, United States Code, as added by subsection (b), shall take effect on January 1, 1996. 10 USC 6975 note.

SEC. 557. REIMBURSEMENT FOR CERTAIN LOSSES OF HOUSEHOLD EFFECTS CAUSED BY HOSTILE ACTION.

(a) AUTHORITY TO REIMBURSE.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action

"(a) AUTHORITY TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces in an amount not more than $100,000 for a loss described in subsection (b).

"(b) COVERED LOSSES.—This section applies with respect to a loss of household effects sustained during a move made incident to a change of permanent station when, as determined by the

Secretary, the loss was caused by a hostile action incident to war or a warlike action by a military force.

"(c) LIMITATION.—The Secretary may provide reimbursement under this section for a loss described in subsection (b) only to the extent that the loss is not reimbursed under insurance or under the authority of another provision of law.

"(d) APPLICABILITY OF OTHER AUTHORITIES AND REQUIREMENTS.—Subsections (b), (d), (e), (f), and (g) of section 2733 of this title shall apply to a request for a reimbursement under this section as if the request were a claim against the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2738. Property loss: reimbursement of members for certain losses of household effects caused by hostile action.".

10 USC 2738 note.

(c) EFFECTIVE DATE.—(1) Section 2738 of title 10, United States Code, as added by subsection (a), applies with respect to losses incurred after June 30, 1990.

(2) In the case of a loss incurred after June 30, 1990, and before the date of the enactment of this Act, a request for reimbursement shall be filed with the Secretary of the military department concerned not later than two years after such date of enactment.

10 USC 503 note.

SEC. 558. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes—

(A) entry to campuses or access to students on campuses; or

(B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

Regulations

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term "directory information" means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

10 USC 4411 note

SEC. 559. AUTHORIZATION FOR INSTRUCTION OF CIVILIAN STUDENTS AT FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

(a) ADMISSION OF CIVILIANS AS STUDENTS.—(1) The Secretary of the Army may enter into an agreement with an accredited institution of higher education (or a consortium of such institutions) under which students enrolled at an institution of higher education that is a party to the agreement may receive instruction at the Foreign Language Center of the Defense Language Institute on a cost-reimbursable, space-available basis.

(2) The Secretary may also permit other persons who would benefit from the instruction provided at the Center, as determined

by the Secretary, to receive instruction at the Center on a cost-reimbursable, space-available basis.

(b) SELECTION AND ATTENDANCE.—(1) The Secretary shall select the persons who will be permitted to receive instruction at the Center pursuant to subsection (a). In the case of agreements under subsection (a)(1), the Secretary shall consult with the other parties to the agreements to establish qualifications and methods of selection for persons to receive instruction at the Center.

(2) Except as the Secretary determines necessary, a person who receives instruction at the Center pursuant to subsection (a) shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

(c) RETENTION OF FUNDS.—Amounts collected under subsection (a) to reimburse the Center for the costs of providing instruction to students under subsection (a) shall be credited to funds available for compensation of instructors at the Center and to defray direct civilian student costs to the school.

(d) CENTER DEFINED.—For purposes of this section, the term "Center" means the Foreign Language Center of the Defense Language Institute.

(e) EXPIRATION OF AUTHORITY.—No student may be admitted to the Center under subsection (a) to commence a program of instruction beginning after September 30, 1997.

SEC. 560. DISCHARGE OF MEMBERS WHO ARE PERMANENTLY NONWORLDWIDE ASSIGNABLE.

(a) IN GENERAL.—(1) Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling

"(a) REQUIRED SEPARATION.—(1) Subject to paragraph (2), a member of the armed forces who is classified as permanently nonworldwide assignable due to a medical condition shall (except as provided in subsection (c)) be separated.

"(2) Paragraph (1) shall not be in effect in the case of any of the armed forces if the Secretary concerned determines that the retention of permanently nonworldwide assignable members would not adversely affect the ability of that service to carry out its mission.

"(3) A separation under paragraph (1) shall be made on a date determined by the Secretary concerned, which (except as provided in subsection (b)(2)) shall be as soon as practicable after the date on which the determination is made that the member should be so classified and not later than the last day of the twelfth month beginning after that date.

"(b) FORM OF SEPARATION.—(1) If a member to be separated under this section is eligible to retire under any provision of law or to be transferred to the Fleet Reserve or Fleet Marine Corps Reserve, the member shall be so retired or so transferred. Otherwise, the member shall be discharged.

"(2) In the case of a member to be discharged under this section who on the date on which the member is to be discharged is within two years of qualifying for retirement under any provison of law, or of qualifying for transfer to the Fleet Reserve or Fleet

Marine Corps Reserve under section 6330 of this title, the member may, as determined by the Secretary concerned, be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, and then be so retired or transferred, unless the member is sooner retired or discharged under any other provision of law.

"(c) EXCEPTIONS.—The Secretary concerned may waive subsection (a) with respect to an individual member of the armed forces under the jurisdiction of that Secretary if the Secretary determines that there are circumstances that warrant the retention of that member. Such circumstances may include—

"(1) consideration that the medical condition making the member permanently nonworldwide assignable was incurred in combat or otherwise as the result of an action of the member for which the member received a decoration or other recognition for personal bravery;

"(2) consideration that the member has a specific proficiency or skill that is vital to the national security; and

"(3) any other circumstance that the Secretary considers to be for the good of the service.

"(d) COUNSELING ABOUT AVAILABLE MEDICAL CARE.—A member to be separated under this section shall be provided information, in writing, before such separation of the available medical care (through the Department of Veterans Affairs and otherwise) to treat the member's condition. Such information shall include identification of specific medical locations near the member's home of record or point of discharge at which the member may seek necessary medical care.

"(e) SEPARATION TO BE CONSIDERED INVOLUNTARY.—A separation under this section shall be considered to be an involuntary separation for purposes of any other provision of law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1177. Members who are permanently nonworldwide assignable: mandatory discharge or retirement; counseling.".

10 USC 1177 note.

(b) EFFECTIVE DATE.—Section 1177 of title 10, United States Code, as added by subsection (a), shall apply with respect to members determined to be permanently nonworldwide assignable by reason of a medical condition before, on, or after the date of the enactment of this Act. In the case of such a determination made before the date of the enactment of this Act, the period for the separation of the member specified in subsection (a) of such section shall be treated as beginning on the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 1174(a)(1) of title 10, United States Code, is amended by striking out "section 580" and inserting in lieu thereof "section 580, 1177,".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1995.

37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1995 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1995, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 2.6 percent.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1995, section 203(c)(1) of title 37, United States Code, is amended by striking out "$543.90" and inserting in lieu thereof "$558.04".

SEC. 602. COST-OF-LIVING ALLOWANCE FOR MEMBERS OF THE UNIFORMED SERVICES ASSIGNED TO HIGH COST AREAS IN THE CONTINENTAL UNITED STATES.

(a) ALLOWANCE AUTHORIZED.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 403a the following new section:

"§ 403b. Cost-of-living allowance in the continental United States

"(a) PAYMENT AUTHORIZED.—The Secretary concerned may pay a cost-of-living allowance to the eligible members of a uniformed service under the jurisdiction of the Secretary.

"(b) ELIGIBLE MEMBERS.—The following members are eligible to receive a cost-of-living allowance under this section:

"(1) A member assigned to a high cost area in the continental United States.

"(2) A member assigned to an unaccompanied tour of duty outside the continental United States if the primary dependent of the member resides in a high cost area in the continental United States.

"(3) A member assigned to duty in the continental United States if the Secretary of the uniformed service concerned determines that—

"(A) the primary dependent of the member must reside in a high cost area in the continental United States by reason of the member's duty location or other circumstances; and

"(B) it would be inequitable for the member's eligibility for the allowance to be determined on the basis of the duty location of the member.

"(c) HIGH COST AREA DEFINED.—An area is a high cost area for a fiscal year for purposes of this section if the uniformed services cost of living for that area for the base period exceeds the average cost of living in the continental United States for such base period by at least the threshold percentage. The Secretary of Defense, in consultation with the other administering Secretaries, shall

establish the threshold percentage, except that the threshold percentage may not be less than 8 percent. The administering Secretaries shall prescribe a higher threshold percentage to be applied for a fiscal year when it is necessary to do so in order to ensure that the total amount of the payments of the cost-of-living allowance made to members of the uniformed services under this section for such fiscal year does not exceed the total amount available to all uniformed services for that fiscal year for paying such allowance.

"(d) AMOUNT OF ALLOWANCE.—The cost-of-living allowance that may be paid to a member for a high cost area for a fiscal year shall be the amount that is equal to the product of—

"(1) the amount of the average spendable income determined applicable for the regular military compensation level of such member under subsection (g); and

"(2) the percentage equal to the excess of—

"(A) the percentage by which the uniformed services cost of living for the member's high cost area for the base period exceeds the average cost of living in the continental United States for such base period, over

"(B) the threshold percentage applicable to such fiscal year under subsection (c).

"(e) LIMITATION TO ONE ALLOWANCE.—If primary dependents of a member reside separately in different high cost areas—

"(1) the member may be paid only one cost-of-living allowance under this section; and

"(2) the cost-of-living allowance payable to the member shall be the highest of the amounts computed under this section for such high cost areas.

"(f) SERVICE NOT COVERED.—(1) A cost-of-living allowance may not be paid a member under this section for the days authorized for travel of the member in connection with a permanent change of duty station.

"(2) A member of a reserve component is not eligible for a cost-of-living allowance under this section unless the member is on active duty under a call or order to active duty that—

"(A) specifies a period of 140 days or more; or

"(B) states that the call or order to active duty is in support of a contingency operation.

"(g) AVERAGE SPENDABLE INCOME.—The Secretary of Defense shall determine, using a methodology and assumptions that the Secretary considers appropriate, the amounts of average spendable income of members of the uniformed services for various ranges of regular military compensation. For purposes of this subsection, spendable income is the total amount of regular military compensation that is available for purchase of goods and services after allocation of amounts for taxes, insurance, housing, gifts and contributions, and savings.

"(h) JOINT REGULATIONS.—The Secretary of Defense and the other administering Secretaries shall jointly prescribe regulations to carry out this section.

"(i) OTHER DEFINITIONS.—In this section:

"(1) The term 'primary dependent', with respect to a member, means—

"(A) the member's spouse; or

"(B) in the case of an unmarried member, a dependent described in paragraph (2) or (4) of section 401(a) of this title.

"(2) The term 'cost of living' means a price index selected by the Secretary of Defense, in consultation with the other administering Secretaries, from among the following indices:

"(A) The Consumer Price Index (all items–United States city average) published monthly by the Bureau of Labor Statistics.

"(B) Any other index developed in the private sector that the Secretary of Defense, in consultation with the other administering Secretaries, determines is comparable to the Consumer Price Index and is appropriate for use for purposes of this section.

"(3) The term 'uniformed services cost of living' means the price index selected as described in paragraph (2) and adjusted as the Secretary of Defense, in consultation with the other administering Secretaries, considers appropriate to reflect variations between expenses of members of the uniformed services (as offset by the basic allowance for subsistence) and the corresponding expenses of persons not members of the uniformed services with regard to the following:

"(A) Nonhousing costs (including costs of transportation, goods, and services, taking into consideration savings attributable to use of such military facilities as commissary stores and exchange stores).

"(B) Average income tax paid.

"(C) Cost of health care.

"(4) The term 'base period', with respect to a fiscal year, means the 12-month period ending on June 30 of the year in which such fiscal year begins.

"(5) The term 'administering Secretaries' means the following:

"(A) The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy).

"(B) The Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy.

"(C) The Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

"(D) The Secretary of Health and Human Services, with respect to the Public Health Service.

"(6) The term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 403a the following new item:

"403b. Cost-of-living allowance in the continental United States.".

(b) CONDITIONS ON PROVISION OF ALLOWANCE.—(1) A cost-of-living allowance under section 403b of title 37, United States Code, as added by subsection (a), may not be provided until after the end of the 90-day period beginning on the date the Secretary of Defense submits the report required under paragraph (2). 37 USC 403b note

(2) Before implementing section 403b of title 37, United States Code, the Secretary of Defense, in consultation with the other Reports

administering Secretaries (as defined in subsection (h)(6) of such section), shall submit to Congress a report describing—

(A) the methods by which the Secretary of Defense would determine the price index to be used under such section and the types of nonhousing related costs that will be considered under such price index;

(B) the manner by which the Secretary will establish the threshold percentage for purposes of such section;

(C) the manner in which savings attributable to use of such military facilities as commissary stores, exchange stores, and military medical treatment facilities will be taken into consideration; and

(D) the methods by which the Secretary proposes to prevent uncontrolled growth in Government expenditures through the cost-of-living allowance available under such section.

SEC. 603. INCREASE IN SUBSISTENCE ALLOWANCE PAYABLE TO MEMBERS OF SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) INCREASE.—Section 209(a) of title 37, United States Code, is amended by striking out "$100 a month" in the first sentence and inserting in lieu thereof "$150 a month".

37 USC 209 note.

(b) APPLICATION OF INCREASE.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to months beginning after August 31, 1995.

(2) Upon the approval of the Secretary of Defense, the Secretary of a military department may implement such amendments at an earlier date with respect to members of the Senior Reserve Officers' Training Corps under the jurisdiction of the Secretary if funds are available for the monthly subsistence allowances authorized by such amendments.

SEC. 604. TEMPORARY FAMILY HOUSING OR TEMPORARY HOUSING ALLOWANCES FOR DEPENDENTS OF MEMBERS WHO DIE IN THE LINE OF DUTY.

(a) TEMPORARY HOUSING.—Section 403(l)(1) of title 37, United States Code, is amended by striking out "90 days" and inserting in lieu thereof "180 days".

(b) TEMPORARY HOUSING ALLOWANCES.—Section 403(l)(2) of such title is amended by striking out "90 days" both places it appears and inserting in lieu thereof "180 days".

37 USC 403 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1993.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. EXTENSION OF CERTAIN BONUSES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(i) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 612. EXTENSION AND MODIFICATION OF CERTAIN BONUSES AND SPECIAL PAY FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended—

(1) by striking out "September 30, 1995," and inserting in lieu thereof "September 30, 1996,"; and

(2) by striking out "$6,000" and inserting in lieu thereof "$15,000".

SEC. 613. EXTENSION OF AUTHORITY RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(c) ENLISTMENT BONUSES FOR CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(d) SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(e) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(f) SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVES.—Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note) is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(g) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(h) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

(i) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

Subtitle C—Travel and Transportation Allowances

SEC. 621. RESPONSIBILITY FOR PREPARATION OF TRANSPORTATION MILEAGE TABLES.

Section 404(d)(1)(A) of title 37, United States Code, is amended by striking out "the Secretary of the Army" and inserting in lieu thereof "the Secretary of Defense".

SEC. 622. PAYMENT FOR TRANSIENT HOUSING FOR MEMBERS OF A RESERVE COMPONENT PERFORMING CERTAIN TRAINING DUTY.

Section 404 of title 37, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) In the case of a member of a reserve component performing annual training duty or inactive-duty training who is not otherwise entitled to travel and transportation allowances in connection with such duty under subsection (a), the Secretary concerned may reimburse the member for housing service charge expenses incurred by the member in occupying transient government housing during the performance of such duty.

Regulations.

"(2) Any payment or other benefit under this subsection shall be provided in accordance with regulations prescribed by the Secretaries concerned.

"(3) The Secretary may pay service charge expenses under paragraph (1) out of funds appropriated for operation and maintenance for the reserve component concerned.".

SEC. 623. CHANGE IN PROVISION OF TRANSPORTATION INCIDENT TO PERSONAL EMERGENCIES FOR MEMBERS STATIONED OUTSIDE THE CONTINENTAL UNITED STATES.

Section 411d(b) of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding the subparagraphs, by striking "from the international airport" and all that follows through "or the international airport nearest" and inserting in lieu thereof "from the location of the member or dependents, at the time notification of the personal emergency is received, or"; and

(B) in subparagraph (A), by striking "closest to the international airport" and inserting in lieu thereof "closest to the location"; and

(2) in paragraph (4), by striking "to the international airport" and all that follows through the period and inserting in lieu thereof "to the location from which the member or dependent departed or the member's duty station.".

SEC. 624. CLARIFICATION OF TRAVEL AND TRANSPORTATION ALLOWANCE OF FAMILY MEMBERS INCIDENT TO SERIOUS ILLNESS OR INJURY OF MEMBERS.

(a) ALLOWANCE IN CASES OF BRAIN DEATH.—Subsection (a) of section 411h of title 37, United States Code, is amended—

(1) in paragraph (1), by striking out "is necessary for" and inserting in lieu thereof "may contribute to"; and

(2) in paragraph (2), by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) is seriously ill, seriously injured, or in a situation of imminent death, whether or not electrical brain activity still exists or brain death is declared; and".

(b) DEFINITION OF HEALTH AND WELFARE.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(3) In this section, the term 'health and welfare', with respect to a member, includes a situation in which a decision must be made by family members regarding the termination of artificial life support being provided to the member.".

SEC. 625. APPLICABILITY OF ADDITIONAL FAMILY SEPARATION ALLOWANCE TO PERIODS BETWEEN DEPLOYMENTS LESS THAN 30 DAYS APART.

(a) COVERAGE OF PERIOD BETWEEN CERTAIN DEPLOYMENTS.—Section 427(b) of title 37, United States Code, is amended—

(1) in paragraph (2), by striking out the first sentence;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

"(A) the first day of that period; or

"(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of June 20, 1994. 37 USC 427 note.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEAR 1995. 10 USC 1401a note.

(a) IN GENERAL.—The fiscal year 1995 increase in military retired pay shall (notwithstanding subparagraph (B) of section 1401a(b)(2) of title 10, United States Code) first be payable as part of such retired pay for the month of March 1995.

(b) DEFINITIONS.—For the purposes of subsection (a):

(1) The term "fiscal year 1995 increase in military retired pay" means the increase in retired pay that, pursuant to para-

graph (1) of section 1401a(b) of title 10, United States Code, becomes effective on December 1, 1994.

(2) The term "retired pay" includes retainer pay.

(c) LIMITATION.—Subsection (a) shall be effective only if there is appropriated to the Department of Defense Military Retirement Fund (in an Act making appropriations for the Department of Defense for fiscal year 1995 that is enacted before March 1, 1995) such amount as is necessary to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1995 to the Department of Defense Military Retirement Fund the sum of $376,000,000 to offset increased outlays to be made from that fund during fiscal year 1995 by reason of the provisions of subsection (a).

10 USC 1401a note.

SEC. 632. SENSE OF CONGRESS ON EQUAL TREATMENT OF EFFECTIVE DATES FOR FUTURE COST-OF-LIVING ADJUSTMENTS FOR MILITARY AND CIVILIAN RETIREES.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress, in the Omnibus Budget Reconciliation Act of 1993, changed the effective dates for future cost-of-living adjustments for military retired pay and for Federal civilian retirement annuities, which (before that Act) were provided by law to be made effective on December 1 each year.

(2) The timing, and the percentage of increase, of military and Federal civilian retirees' cost-of-living adjustments have been linked for decades.

(3) The effect of the enactment of the Omnibus Budget Reconciliation Act of 1993 was to abandon the longstanding congressional practice of treating military and Federal civilian retirees identically in matters related to cost-of-living adjustments.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) as a matter of simple equity and fairness, it is imperative that cost-of-living adjustments in retirement benefits for military and Federal civilian retirees be returned to an identical schedule as soon as possible, but not later than January 1, 1999;

(2) if after October 1, 1998, there is, by law, a difference between the date on which a cost-of-living adjustment for Federal civilian retirees takes effect and the date on which a cost-of-living adjustment for military retirees takes effect, then the difference in those effective dates should be eliminated by requiring that cost-of-living adjustments for both classes of retirees become effective on the earlier of the two dates; and

(3) if after October 1, 1998, there is, by law, a difference between the first month for which a cost-of-living adjustment for civilian retirees is payable and the first month for which a cost-of-living adjustment for military retirees is payable, then the difference in the months for which those adjustments are first payable should be eliminated by requiring that the cost-of-living adjustments for both classes of retirees first become payable for the earlier of the two months.

SEC. 633. CLARIFICATION OF CALCULATION OF RETIRED PAY FOR OFFICERS WHO RETIRE IN A GRADE LOWER THAN THE GRADE HELD AT RETIREMENT.

(a) PREVENTION OF RETIRED PAY BASED ON GRADE HIGHER THAN RETIRED GRADE.—Section 1401a(f) of title 10, United States Code, is amended—

(1) in the first sentence, by inserting "based on the grade in which the member is retired" after "at an earlier date";

(2) in the second sentence, by inserting ", except that such computation may not be based on a rate of basic pay for a grade higher than the grade in which the member is retired" before the period at the end; and

(3) by striking out the third sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to the computation of the retired pay of a member of the Armed Forces who retires on or after the date of the enactment of this Act.

10 USC 1401a note

SEC. 634. WAIVER OF ADMINISTRATIVE TIME-IN-GRADE REQUIREMENTS TO PREVENT PAY INVERSIONS IN RETIRED PAY OF CERTAIN MILITARY RETIREES.

10 USC 1401a note

(a) AUTHORITY.—The Secretary concerned may, for purposes of the computation under section 1401a(f) of title 10, United States Code, of the retired pay of military retirees described in subsection (b), waive any administrative time-in-grade regulation (as described in subsection (d)) that would otherwise apply to such computation. Any such waiver may be made retroactive, in the case of any such retiree, to the date on which that retiree initially became entitled to retired pay.

(b) COVERED RETIREES.—This section applies to any military retiree—

(1) who initially became entitled to retired pay on or after January 1, 1971, and before the date of the enactment of this Act;

(2) whose retired pay, by reason of the provisions of section 1401a(f) of title 10, United States Code (the so-called "Tower amendment"), was initially computed as an amount greater than would have been the case but for that section; and

(3) who, as of the earlier computation date applicable to that retiree—

(A) in the case of an individual retired in an enlisted grade, had served in the grade in which the retiree retired for a period that was less than the period prescribed by the applicable administrative time-in-grade requirement described in subsection (d); and

(B) in the case of an individual retired in an officer grade—

(i) was subject to an administrative time-in-grade requirement described in subsection (d) that established a time-in-grade requirement that was longer than the statutory time-in-grade requirement applicable to that member; and

(ii) had served in the grade in which the retiree retired for a period that was less than the period prescribed by such administrative time-in-grade requirement but not less than the statutory time-in-grade requirement applicable to that member.

(c) EARLIER COMPUTATION DATE.—For purposes of subsection (b)(3), the earlier computation date applicable to a military retiree is the date that (under such section 1401a(f) as in effect on the date of the member's retirement) was the "earlier date" that was used as the basis for the computation of the retiree's retired pay.

(d) REGULATIONS SUBJECT TO WAIVER.—A regulation that may be waived under subsection (a) is any regulation (not required by law) that establishes a minimum period of time that a member of the Armed Forces must have served in a grade on active duty in order to be eligible to retire in that grade.

(e) SCOPE OF WAIVER AUTHORITY.—The Secretary concerned may exercise the authority provided in subsection (a) in the case of an individual military retiree or for any group of military retirees.

(f) MILITARY RETIREE DEFINED.—For purposes of this section, the term "military retiree" means a member or former member of the Armed Forces who is entitled to retired pay.

(g) SECRETARY CONCERNED.—For purposes of this section, the term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

SEC. 635. CREDITING OF RESERVE SERVICE OF ENLISTED MEMBERS FOR COMPUTATION OF RETIRED PAY.

(a) ARMY.—(1) Section 3925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 3991 of this title,"; and

(B) by striking out subsection (c).

(2)(A) Paragraph (1) of subsection (a) of section 3991 of such title is amended to read as follows:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

"(A) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

"(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.".

(B) Subsection (b) of such section is amended—

(i) in paragraph (1), by striking out "of the table"; and

(ii) by striking out paragraph (3).

(3) The text of section 3992 of such title is amended to read as follows:

"(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Army who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay in accordance with this section.

"(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

"(1) the member's retired pay base (as computed under section 1406(c) or 1407 of this title), by

"(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) NAVY AND MARINE CORPS.—The table in section 6333(a) of title 10, United States Code, is amended by striking out "his years of active service in the armed forces" in formula C under the column designated "Column 2" and inserting in lieu thereof "the years of service that may be credited to him under section 1405.".

(c) AIR FORCE.—(1) Section 8925 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "and of computing his retired pay under section 8991 of this title,"; and

(B) by striking out subsection (c).

(2)(A) Paragraph (1) of subsection (a) of section 8991 of such title is amended to read as follows:

"(1) FORMULA.—The monthly retired pay of a member entitled to such pay under this subtitle is computed by multiplying—

"(A) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

"(B) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.".

(B) Subsection (b) of such section is amended—

(i) in paragraph (1), by striking out "of the table"; and

(ii) by striking out paragraph (3).

(3) The text of section 8992 of such title is amended to read as follows:

"(a) ENTITLEMENT TO RECOMPUTATION.—An enlisted member or warrant officer of the Air Force who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay in accordance with this section.

"(b) FORMULA.—The monthly retired pay of a member entitled to recompute that pay under this section is computed by multiplying—

"(1) the member's retired pay base (as computed under section 1406(e) or 1407 of this title), by

"(2) the retired pay multiplier prescribed in section 1409 of this title for the number of years credited to the member under section 1405 of this title.

"(c) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (b), if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d) CONFORMING AMENDMENT.—Section 1405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) EXCLUSION OF TIME REQUIRED TO BE MADE UP.—Time required to be made up by an enlisted member of the Army or Air Force under section 972 of this title may not be counted in determining years of service under subsection (a).".

(e) EFFECTIVE DATE.—This section shall apply to—

(1) the computation of the retired pay of any enlisted member who retires on or after the date of the enactment of this Act; 10 USC 1405 note

(2) the computation of the retainer pay of any enlisted member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve on or after the date of the enactment of this Act; and

(3) the recomputation of the retired pay of any enlisted member who is advanced on the retired list on or after the date of the enactment of this Act.

SEC. 636. MINIMUM REQUIRED RESERVE SERVICE FOR ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE DURING FORCE DRAWDOWN PERIOD.

Section 1331 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'.".

SEC. 637. SBP PREMIUMS FOR RESERVE-COMPONENT CHILD-ONLY COVERAGE.

(a) DETERMINATION OF PREMIUMS.—Subsection (b) of section 1452 of title 10, United States Code, is amended to read as follows:

"(b) CHILD-ONLY ANNUITIES.—

Regulations.

"(1) REQUIRED REDUCTION IN RETIRED PAY.—The retired pay of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

"(2) NO REDUCTION WHEN NO CHILD.—There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

Regulations.

"(3) SPECIAL RULE FOR CERTAIN RCSBP PARTICIPANTS.—In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

"(4) CHILD-ONLY COVERAGE DEFINED.—For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who—

"(A) does not have an eligible spouse or former spouse; or

"(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.".

10 USC 1452 note.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) applies to any election for child-only coverage under a reserve-component annuity under the Survivor Benefit Plan, whether made before, on, or after the date of the enactment of this Act.

(2) Paragraph (1) does not apply in a case of an election referred to in that paragraph that was made before the date of the enactment of this Act if the participant was informed, in writing, before the date of the enactment of this Act that no reduction in the partici-

pant's retired pay for child-only coverage would be made during a period when there was no eligible dependent child.

SEC. 638. DISCONTINUATION OF INSURABLE INTEREST COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Paragraph (1) of section 1448(b) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following:

"(B) An election under subparagraph (A) for a beneficiary who is not the former spouse of the person providing the annuity may be terminated. Any such termination shall be made by a participant by the submission to the Secretary concerned of a request to discontinue participation in the Plan, and such participation in the Plan shall be discontinued effective on the first day of the first month following the month in which the request is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

"(C) A request under subparagraph (B) to discontinue participation in the Plan shall be in such form and shall contain such information as may be required under regulations prescribed by the Secretary of Defense.

"(D) The Secretary concerned shall furnish promptly to each person who submits a request under subparagraph (B) to discontinue participation in the Plan a written statement of the advantages and disadvantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw the request to discontinue participation if withdrawn within 30 days after having been submitted to the Secretary concerned.

"(E) Once participation is discontinued, benefits may not be paid in conjunction with the earlier participation in the Plan and premiums paid may not be refunded. Participation in the Plan may not later be resumed except through a qualified election under paragraph (5) of subsection (a).".

SEC. 639. FORFEITURE OF ANNUITY OR RETIRED PAY OF MEMBERS CONVICTED OF ESPIONAGE UNDER UCMJ.

(a) FORFEITURE.—Section 8312(b)(2)(A) of title 5, United States Code, is amended by striking out "or article 106 (spies)" and inserting in lieu thereof ", article 106 (spies), or article 106a (espionage)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to persons convicted of espionage under section 906a of title 10, United States Code (article 106a of the Uniform Code of Military Justice), on or after the date of the enactment of this Act. 5 USC 8312 note.

SEC. 640. TREATMENT OF RETIRED AND RETAINER PAY OF MEMBERS OF CADRE OF CIVILIAN COMMUNITY CORPS.

Section 159(c)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12619(c)(3)) is amended by adding at the end the following: "In the case of a member of the permanent cadre who was recommended for appointment in accordance with section

162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.".

Subtitle E—Other Matters

SEC. 651. ELIGIBILITY OF MEMBERS RETIRED UNDER TEMPORARY SPECIAL RETIREMENT AUTHORITY FOR SERVICEMEN'S GROUP LIFE INSURANCE.

(a) ELIGIBILITY.—Section 1965(5) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (E); and

(3) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who has not received the first increment of retirement pay or has not reached sixty-one years of age; and".

(b) INSURANCE COVERAGE.—Section 1967(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by adding "and" at the end of paragraph (3);

(3) by inserting after paragraph (3) the following:

"(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;"; and

(4) in the second sentence, by inserting after "section 1965(5)(C) of this title," the following: "or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,".

(c) DURATION OF COVERAGE.—Section 1968(a) of such title is amended—

(1) in the matter preceding paragraph (1), by striking out "section 1965(5) (B) or (C)" and inserting in lieu thereof "subparagraph (B), (C), or (D) of section 1965(5)";

(2) in paragraph (4)—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new subparagraph:

"(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of

retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier."; and

(3) by adding at the end the following:

"(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.".

(d) DEDUCTIONS.—Section 1969 of such title is amended— 38 USC 1969.

(1) in subsection (a)(2)—

(A) by striking out "or is assigned" and inserting in lieu thereof "is assigned"; and

(B) by inserting after "section 1965(5)(C) of this title," the following: "or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,"; and

(2) in subsection (e), by striking out "section 1965(5)(C)" in the first sentence and inserting in lieu thereof "subparagraph (C) or (D) of section 1965(5)".

SEC. 652. TRANSPORTATION OF REMAINS.

(a) TRANSPORTATION OF REMAINS OF DECEASED RETIRED MEMBERS WHO DIE OUTSIDE UNITED STATES.—(1) Section 1481 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "the remains of—" and inserting in lieu thereof "the remains of the following persons:";

(ii) by capitalizing the first letter of the first word in each paragraph;

(iii) by striking out the semicolon at the end of each paragraph (other than paragraphs (7) and (8)) and inserting in lieu thereof a period;

(iv) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(v) by adding after paragraph (8) the following new paragraph:

"(9) To the extent authorized under section 1482(g) of this title, any retired member of an armed force who dies while outside the United States or any individual who dies outside the United States while a dependent of such a member."; and

(B) by adding at the end the following new subsection:

"(c) In this section, the term 'dependent' has the meaning given such term in section 1072(2) of this title.".

(2) Section 1482 of such title is amended by adding at the end the following new subsection:

"(g) The payment of expenses incident to the recovery, care, and disposition of a decedent covered by section 1481(a)(9) of this title is limited to the payment of expenses described in paragraphs (1) through (5) of subsection (a) and air transportation of the remains from a location outside the United States to a point of entry in the United States. Such air transportation may be provided without reimbursement on a space-available basis in military or military-chartered aircraft. The Secretary concerned shall pay all other expenses authorized to be paid under this subsection only

on a reimbursable basis. Amounts reimbursed to the Secretary concerned under this subsection shall be credited to appropriations available, at the time of reimbursement, for the payment of such expenses.".

10 USC 1481 note.

(3) The amendments made by this subsection shall apply with respect to the remains of, and incidental expenses incident to the recovery, care, and disposition of, an individual who dies after the date of the enactment of this Act.

(b) TRANSPORTATION OF REMAINS OF DECEASED VETERANS ON AEROMEDICAL EVACUATION AIRCRAFT.—(1) Subsection (a) of section 2641 of title 10, United States Code, is amended by inserting before the period the following: "or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place".

(2) Such section is further amended—

(A) in subsection (b)—

(i) in the matter preceding paragraph (1), by inserting "(or for the remains of a veteran)" after "furnished to a veteran";

(ii) in paragraph (1), by inserting "(or of the remains of such veteran)" after "of such veteran"; and

(iii) in paragraph (2), by inserting "(or the remains of the veteran)" after "for the veteran";

(B) in subsection (d)(1)—

(i) by inserting "(or on the survivors of a veteran)" after "on a veteran"; and

(ii) by inserting "(or for the remains of the veteran)" after "to the veteran"; and

(C) in subsection (d)(2), by inserting "(or for the remains of veterans)" after "to veterans".

SEC. 653. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1060a. Special supplemental food program

"(a) AUTHORITY.—The Secretary of Defense may carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

"(b) FEDERAL PAYMENTS AND COMMODITIES.—For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(c) PROGRAM ADMINISTRATION.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(B) The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section. Regulations.

"(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States.

"(d) DEPARTURE FROM STANDARDS.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'eligible civilian' means—

"(A) a dependent of a member of the armed forces residing with the member outside the United States;

"(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States; or

"(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual's employment or a dependent of such individual residing with the employee outside the United States.

"(2) The term 'national of the United States' means—

"(A) a citizen of the United States; or

"(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).

"(3) The term 'dependent' has the meaning given such term in subparagraphs (A), (D), (E), and (I) of section 1072(2) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding at the end the following new item:

"1060a. Special supplemental food program.".

SEC. 654. STUDY OF OFFSET OF DISABILITY COMPENSATION BY RECEIPT OF SEPARATION BENEFITS AND INCENTIVES.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall carry out a study regarding the requirement in each of the following provisions of title 10, United States Code, to offset the amount of disability compensation payable to a veteran by the amount of the separation benefits paid to the veteran under such provision of law:

(1) Section 1174, relating to payment of separation pay upon involuntary discharge or release from active duty.

(2) Section 1174a(a), relating to payment of a special separation benefit for voluntary separation.

(3) Section 1175, relating to payment of a voluntary separation incentive.

(b) ELEMENTS OF STUDY.—In carrying out the study required under subsection (a), the Comptroller General shall—

(1) determine the purposes of the provisions of law referred to in such subsection;

(2) determine the justifications for the requirement for offset of disability compensation provided in each such provision of law;

(3) assess the financial effects of the offset requirements on affected veterans, and the fiscal effects of the offset requirements on the Federal Government, taking into consideration—

(A) an estimate (by the Comptroller General) of the number of members of the Armed Forces who will separate from the Armed Forces during the period beginning on the date of the enactment of this Act and ending on September 30, 1999;

(B) an estimate (by the Comptroller General) of—

(i) the number of such members who will receive separation benefits under the provisions of law referred to in subsection (a); and

(ii) the average amount of the benefits to be paid such members;

(C) an estimate (by the Comptroller General) of—

(i) the number of such members who will be entitled to disability compensation payable by the Secretary of Veterans Affairs; and

(ii) the average monthly amount of the compensation to which such members will be entitled; and

(D) an assessment (by the Comptroller General) of the extent, if any, to which the offset affects the capacity of such members to meet their financial obligations, including financial obligations incurred in connection with service in the Armed Forces or with separation from that service, and increased net costs for housing and medical care;

(4) determine the extent, if any, to which the offset of disability compensation required under the provisions of law referred to in subsection (a) reduces the effectiveness of such provisions of law for achieving the purposes of those provisions of law; and

(5) determine the cost to the Federal Government that would result from repeal of the offset requirements in such provisions of law.

Reports

(c) RESULTS OF STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the results of the study required under subsection (a). The report shall include recommendations of the Comptroller General for improvement of the separation benefits under the provisions of law referred to in subsection (a).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Services

SEC. 701. REVISION OF DEFINITION OF DEPENDENTS TO INCLUDE YOUNG PEOPLE BEING ADOPTED BY MEMBERS OR FORMER MEMBERS.

(a) ELIGIBILITY FOR HEALTH BENEFITS.—Section 1072 of title 10, United States Code, is amended—

(1) in paragraph (2)(D), by striking out the matter preceding clause (i) and inserting in lieu thereof the following:

"(D) a child who—"; and

(2) by adding at the end the following new paragraph:

"(6) The term 'child', with respect to a member or former member of a uniformed service, means the following:

"(A) An unmarried legitimate child.

"(B) An unmarried adopted child.

"(C) An unmarried stepchild.

"(D) An unmarried person—

"(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

"(ii) who otherwise meets the requirements specified in paragraph (2)(D).".

(b) CONFORMING AMENDMENT.—Section 401(b)(1)(B) of title 37, United States Code, is amended by striking out "placement agency for the purpose of adoption" and inserting in lieu thereof "placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the child by the member".

SEC. 702. TREATMENT OF CERTAIN DEPENDENTS AS CHILDREN FOR PURPOSES OF CHAMPUS, DEPENDENTS' DENTAL PROGRAM, AND CONTINUED HEALTH BENEFITS COVERAGE.

(a) CHAMPUS.—(1) Subsection (a) of section 1079 of title 10, United States Code, is amended in the first sentence by striking out "spouses and children" and inserting in lieu thereof "dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title,".

(2) Subsection (d) of such section is amended by striking out "as defined in section 1072(2) (A) or (D)" and inserting in lieu thereof "as described in subparagraph (A), (D), or (I) of section 1072(2)".

(b) DEPENDENTS' DENTAL PROGRAM.—Section 1076a of such title is amended—

(1) in subsection (a)(1), by striking out "spouses and children (as described in section 1072(2)(D) of this title)" and inserting in lieu thereof "eligible dependents";

(2) in subsection (e), by striking out "spouse or child" and inserting in lieu thereof "eligible dependent";

(3) in subsection (f), by striking out "spouse or children" both places it appears and inserting in lieu thereof "eligible dependents"; and

(4) by adding at the end the following new subsection:

"(h) ELIGIBLE DEPENDENT DEFINED.—In this section, the term 'eligible dependent' means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.".

10 USC 1078a.

(c) CONTINUED HEALTH BENEFITS COVERAGE.—Section 1078a of such title is amended—

(1) in subsection (b)(2)(A), by inserting before the semicolon the following: "or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title";

(2) in subsection (c)(3)—

(A) by striking out "child" both places it appears and inserting in lieu thereof "dependent"; and

(B) by striking out "child's" each place it appears and inserting in lieu thereof "dependent's";

(3) in subsection (d)(2)(A)—

(A) by striking out "child" the first, second, and fourth places it appears and inserting in lieu thereof "dependent"; and

(B) by striking out "an unmarried dependent child under section 1072(2)(D) of this title," and inserting in lieu thereof "a dependent under subparagraph (D) or (I) of section 1072(2) of this title;";

(4) in subsection (d)(2)(B)—

(A) by striking out "child's" and inserting in lieu thereof "dependent's"; and

(B) by striking out "child" and inserting in lieu thereof "dependent";

(5) in subsection (g)(1)(B), by striking out "an unmarried dependent child under section 1072(2)(D) of this title" and inserting in lieu thereof "a dependent under subparagraph (D) or (I) of section 1072(2) of this title"; and

(6) in subsection (g)(2), by striking out "child" both places it appears and inserting in lieu thereof "dependent".

SEC. 703. AVAILABILITY OF DEPENDENTS' DENTAL PROGRAM OUTSIDE THE UNITED STATES.

(a) PROGRAM EXPANSION.—Section 1076a of title 10, United States Code, is amended—

(1) by redesignating subsection (h), as added by section 702(b)(4), as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) CARE OUTSIDE THE UNITED STATES.—The Secretary may exercise the authority provided under subsection (a) to establish basic dental benefits plans for the provision of dental benefits outside the United States for the eligible dependents of members of the uniformed services accompanying the members on permanent assignments to duty outside the United States.".

(b) CONFORMING AMENDMENT.—Section 1077(c) of such title is amended by striking out "and care" and inserting in lieu thereof ", dental care provided outside the United States, and dental care".

SEC. 704. AUTHORIZATION FOR MEDICAL AND DENTAL CARE FOR ABUSED DEPENDENTS OF CERTAIN MEMBERS.

(a) ADDITIONAL BASIS FOR CARE.—Subsection (e) of section 1076 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Subject to paragraph (3), if an abused dependent of a former member of a uniformed service described in paragraph (4) needs medical or dental care for an injury or illness resulting from abuse by the member, the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services."; and

(2) by adding at the end the following new paragraph:

"(4)(A) A former member of a uniformed service referred to in paragraph (1) is a member who—

"(i) received a dishonorable or bad-conduct discharge or was dismissed from a uniformed service as a result of a court-martial conviction for an offense, under either military or civil law, involving abuse of a dependent of the member; or

"(ii) was administratively discharged from a uniformed service as a result of such an offense.

"(B) A determination of whether an offense involved abuse of a dependent of the member shall be made in accordance with regulations prescribed by the administering Secretary for such uniformed service.".

(b) CONFORMING AMENDMENTS.—Such subsection is further amended—

(1) by inserting "former" before "member" each place it appears in paragraphs (2) and (3);

(2) in paragraph (2), by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (4)"; and

(3) in paragraph (3)(C)—

(A) by striking out "is" and inserting in lieu thereof "was"; and

(B) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (4)".

(c) PERSONAL SERVICE CONTRACTS TO PROVIDE CARE.—(1) The Secretary of Defense may enter into personal service contracts under the authority of section 1091 of title 10, United States Code, with persons described in paragraph (2) to provide the services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services. Notwithstanding subsection (a) of such section, such services may be provided in medical treatment facilities of the Department of Defense or elsewhere as determined appropriate by the Secretary. 10 USC 1091 note.

(2) The persons with whom the Secretary may enter into a personal services contract under this subsection shall include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

SEC. 705. ADDITIONAL AUTHORIZED HEALTH CARE SERVICE AVAILABLE THROUGH MILITARY HEALTH CARE SYSTEM.

Section 1077(b)(2)(B) of title 10, United States Code, is amended by inserting after "artificial limbs" the following: ", voice prostheses,".

SEC. 706. DEMONSTRATION PROGRAMS FOR SALE OF PHARMACEUTICALS.

(a) PERSONS ELIGIBLE FOR PARTICIPATION.—Subsection (c)(2) of section 702 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1079 note) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) either—

"(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

"(ii) can demonstrate to the satisfaction of the Secretary that the person relied upon a health care facility referred to in clause (i) before the closure of the facility to obtain the person's pharmaceuticals.".

(b) PURCHASE FEES.—Subsection (d) of such section is amended—

(1) by inserting "(1)" after "FEES.—"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of persons eligible to participate in the demonstration project for pharmaceuticals or the retail pharmacy network by reason of clause (ii) of subsection (c)(2)(B), the Secretary of Defense may increase the fees, charges, and copayments established under paragraph (1)(B) and otherwise applicable to such persons by an amount necessary to cover any additional costs incurred by the administering Secretaries as a result of making pharmaceuticals available to such persons under this section.".

SEC. 707. ONE YEAR CONTINUATION OF FULL CHAMPUS AND DEPENDENTS' DENTAL PROGRAM BENEFITS FOR DEPENDENTS OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY FOR A PERIOD OF MORE THAN 30 DAYS.

(a) CONTINUATION OF SECTION 1079 CHAMPUS RULES.—Subsection (g) of section 1079 of title 10, United States Code, is amended by inserting after the first sentence the following new sentence: "In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the one-year period beginning on the date of the death of the member.".

(b) CONTINUATION OF DEPENDENTS' DENTAL PROGRAM BENEFITS.—Subsection (i) of section 1076a of such title, as added by section 702(b)(4) and redesignated by section 703(a)(1), is further amended—

(1) by inserting "(1)" after "ELIGIBLE DEPENDENT DEFINED.—"; and

(2) by adding at the end the following new paragraph:

"(2) The term includes a dependent described in such subparagraphs of a member who dies while on active duty for a period of more than 30 days if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a), except that the term does not include the dependent after the end of the one-year period beginning on the date of the member's death. The Secretary of Defense may waive (in whole or in part) any requirements of the plan as the Secretary

determines necessary for the effective administration of the plan for a dependent covered by this paragraph.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall apply with respect to the dependents described in such amendments of a member of a uniformed service who dies on or after October 1, 1993, while on active duty for a period of more than 30 days. 10 USC 1076a note.

(d) CONFORMING REPEAL.—Section 704 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1687) is repealed. The repeal of such section shall not terminate the special payment rules provided in such section with respect to any person eligible for such payment rules on the date of the enactment of this Act. 10 USC 1086 note.

Subtitle B—Changes to Existing Laws Regarding Health Care Management

SEC. 711. COORDINATION OF BENEFITS WITH MEDICARE.

Section 1086(d) of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of—

"(i) the amount paid for that care under medicare; and

"(ii) the total of all amounts paid or payable by third party payers other than medicare.

"(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

"(C) In this paragraph:

"(i) The term 'medicare' means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(ii) The term 'third party payer' has the meaning given such term in section 1095(h)(1) of this title.".

SEC. 712. AUTHORITY FOR REIMBURSEMENT OF PROFESSIONAL LICENSE FEES UNDER RESOURCE SHARING AGREEMENTS.

Section 1096 of title 10, United States Code, is amended by adding at the end the following:

"(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to $500 of the amount of the license fee paid by the member.".

SEC. 713. IMPOSITION OF ENROLLMENT FEES FOR MANAGED CARE PLANS.

Section 1097(c) of title 10, United States Code, is amended by adding at the end the following new sentence: "In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans.".

SEC. 714. STRENGTHENING MANAGED HEALTH CARE AUTHORITIES.

(a) AMENDMENTS TO ALTERNATIVE HEALTH CARE DELIVERY CONTRACTS AUTHORITY.—Section 1097 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) (as amended by section 713) as subsection (e); and

(2) by inserting after subsection (b) the following new subsections:

"(c) COORDINATION WITH FACILITIES OF THE UNIFORMED SERVICES.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. However, the Secretary may, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

"(d) COORDINATION WITH OTHER HEALTH CARE PROGRAMS.—In the case of a covered beneficiary who is enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.".

(b) AMENDMENTS TO THIRD PARTY COLLECTIONS PROGRAM AUTHORITY.—Section 1095 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out "if that care" and all that follows through the period and inserting in lieu thereof the following: "shall operate to prevent collection by the United States under subsection (a) if that care is provided—

"(1) through a facility of the uniformed services;

"(2) directly or indirectly by a governmental entity;

"(3) to an individual who has no obligation to pay for that care or for whom no other person has a legal obligation to pay; or

"(4) by a provider with which the third party payer has no participation agreement.";

(2) in subsection (d), by inserting "and except as provided in subsection (j)," after "(b),";

(3) in subsection (h)(1), by adding at the end the following new sentence: "Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection."; and

(4) by adding at the end the following new subsection:

"(j) The Secretary of Defense may enter into an agreement with any health maintenance organization, competitive medical plan, health care prepayment plan, or other similar plan (pursuant to regulations issued by the Secretary) providing for collection under this section from such organization or plan for services provided to a covered beneficiary who is an enrollee in such organization or plan.".

(c) CONDITION ON EXPANSION OF CHAMPUS REFORM INITIATIVE.—Section 712 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1073 note) is amended by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) EVALUATION OF CERTIFICATION.—The Comptroller General of the United States and the Director of the Congressional Budget Office shall evaluate each certification made by the Secretary of Defense under subsection (a) that expansion of the CHAMPUS reform initiative to another location is the most efficient method of providing health care to covered beneficiaries in that location. They shall submit their findings to Congress if these findings differ substantially from the findings upon which the Secretary made the decision to expand the CHAMPUS reform initiative.".

SEC. 715. DELAY IN DEADLINE FOR USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE.

Section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1696; 10 U.S.C. 1073 note) is amended—

(1) in subsection (a), by striking out "after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1994";

(2) in subsection (e), by striking out "February 1, 1994" and inserting in lieu thereof "December 31, 1994"; and

(3) by adding at the end the following new subsection (f):

"(f) MODIFICATION OF EXISTING CONTRACTS.—In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a).".

SEC. 716. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

Section 518(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2407) is amended— 10 USC 261 note.

(1) by inserting before the period at the end the following: ", unless the Secretary certifies to Congress that the number of such personnel to be reduced in a particular military department is excess to the current and projected needs for personnel in the Selected Reserve of that military department"; and

(2) by adding at the end the following new sentence: "The assessment of current and projected personnel needs under this subsection shall be consistent with the wartime requirements for Selected Reserve personnel identified in the final report on the comprehensive study of the military medical care system prepared pursuant to section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 1071 note).".

SEC. 717. IMPLEMENTATION OF ANNUAL HEALTH CARE SURVEY REQUIREMENT.

Section 724 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2440; 10 U.S.C. 1071 note) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44, United States Code.".

Subtitle C—Persian Gulf Illness

10 USC 1074 note.

SEC. 721. PROGRAMS RELATED TO DESERT STORM MYSTERY ILLNESS.

(a) OUTREACH PROGRAM TO PERSIAN GULF VETERANS AND FAMILIES.—The Secretary of Defense shall institute a comprehensive outreach program to inform members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf Conflict, and the families of such members, of illnesses that may result from such service. The program shall be carried out through both medical and command channels, as well as any other means the Secretary considers appropriate. Under the program, the Secretary shall—

(1) inform such individuals regarding—

(A) common disease symptoms reported by Persian Gulf veterans that may be due to service in the Southwest Asia theater of operations;

(B) blood donation policy;

(C) available counseling and medical care for such members; and

(D) possible health risks to children of Persian Gulf veterans;

(2) inform such individuals of the procedures for registering in either the Persian Gulf Veterans Health Surveillance System of the Department of Defense or the Persian Gulf War Health Registry of the Department of Veterans Affairs; and

(3) encourage such members to report any symptoms they may have and to register in the appropriate health surveillance registry.

(b) INCENTIVES TO PERSIAN GULF VETERANS TO REGISTER.—In order to encourage Persian Gulf veterans to register any symptoms they may have in one of the existing health registries, the Secretary of Defense shall provide the following:

(1) For any Persian Gulf veteran who is on active duty and who registers with the Department of Defense's Persian Gulf War Veterans Health Surveillance System, a full medical evaluation and any required medical care.

(2) For any Persian Gulf War veteran who is, as of the date of the enactment of this Act, a member of a reserve component, opportunity to register at a military medical facility in the Persian Gulf Veterans Health Care Surveillance System and, in the case of a Reserve who registers in that registry, a full medical evaluation by the Department of Defense. Depending on the results of the evaluation and on eligibility status, reserve personnel may be provided medical care by the Department of Defense.

(3) For a Persian Gulf veteran who is not, as of the date of the enactment of this Act, on active duty or a member of a reserve component, assistance and information at a military medical facility on registering with the Persian Gulf War Registry of the Department of Veterans Affairs and information related to support services provided by the Department of Veterans Affairs.

(c) COMPATIBILITY OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure—

(1) that the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System maintained by the Department of Defense are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs; and

(2) that all information on individuals who register with the Department of Defense for purposes of the Persian Gulf War Health Surveillance System is provided to the Secretary of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

(d) PRESUMPTIONS ON BEHALF OF SERVICE MEMBER.—(1) A member of the Armed Forces who is a Persian Gulf veteran, who has symptoms of illness, and who the Secretary concerned finds may have become ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations.

(2) A member of the Armed Forces who is a Persian Gulf veteran and who reports being ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations until such time as the weight of medical evidence establishes other cause or causes of the member's illness.

(3) The Secretary concerned shall ensure that, for the purposes of health care treatment by the Department of Defense, health care and personnel administration, and disability evaluation by the Department of Defense, the symptoms of any member of the Armed Forces covered by paragraph (1) or (2) are examined in

light of the member's service in the Persian Gulf War and in light of the reported symptoms of other Persian Gulf veterans. The Secretary shall ensure that, in providing health care diagnosis and treatment of the member, a broad range of potential causes of the member's symptoms are considered and that the member's symptoms are considered collectively, as well as by type of symptom or medical specialty, and that treatment across medical specialties is coordinated appropriately.

(4) The Secretary of Defense shall ensure that the presumptions of service connection and illness specified in paragraphs (1) and (2) are incorporated in appropriate service medical and personnel regulations and are widely disseminated throughout the Department of Defense.

(e) REVISION OF THE PHYSICAL EVALUATION BOARD CRITERIA.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall ensure that case definitions of Persian Gulf related illnesses, as well as the Physical Evaluation Board criteria used to set disability ratings for members no longer medically qualified for continuation on active duty, are established as soon as possible to permit accurate disability ratings related to a diagnosis of Persian Gulf illnesses.

(2) Until revised disability criteria can be implemented and members of the Armed Forces can be rated against those criteria, the Secretary of Defense shall ensure—

(A) that any member of the Armed Forces on active duty who may be suffering from a Persian Gulf-related illness is afforded continued military medical care; and

(B) that any member of the Armed Forces on active duty who is found by a Physical Evaluation Board to be unfit for continuation on active duty as a result of a Persian Gulf-related illness for which the board has no rating criteria (or inadequate rating criteria) for the illness or condition from which the member suffers is placed on the temporary disability retired list.

(f) REVIEW OF RECORDS AND RERATING OF PREVIOUSLY DISCHARGED GULF WAR VETERANS.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that a review is made of the health and personnel records of each Persian Gulf veteran who before the date of the enactment of this Act was discharged from active duty, or was medically retired, as a result of a Physical Evaluation Board process.

(2) The review under paragraph (1) shall be carried out to ensure that former Persian Gulf veterans who may have been suffering from a Persian Gulf-related illness at the time of discharge or retirement from active duty as a result of the Physical Evaluation Board process are revaluated in accordance with the criteria established under subsection (e)(1) and, if appropriate, are rerated.

(g) PERSIAN GULF ILLNESS MEDICAL REFERRAL CENTERS.—The Secretary of Defense shall evaluate the feasibility of establishing one or more medical referral centers to provide uniform, coordinated medical care for Persian Gulf veterans on active duty who are or may be suffering from a Persian Gulf-related illness. The Secretary shall submit a report on such feasibility to the Committees on Armed Services of the Senate and House of Representatives not later than six months after the date of the enactment of this Act.

Reports.

(h) ANNUAL REPORT TO CONGRESS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on—

(A) efforts taken and results achieved in notifying members of the Armed Forces and their families as part of the outreach program required by subsection (a);

(B) efforts taken to revise the Physical Evaluation Board disability rating criteria and interim efforts to adjudicate cases before the revision of the criteria; and

(C) results of the review and rerating of previously separated servicemembers.

(2) The first report under paragraph (1) shall be submitted not later than 120 days after the date of the enactment of this Act.

(i) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf Conflict.

SEC. 722. STUDIES OF HEALTH CONSEQUENCES OF MILITARY SERVICE OR EMPLOYMENT IN SOUTHWEST ASIA DURING THE PERSIAN GULF WAR.

10 USC 1074 note.

(a) IN GENERAL.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall conduct studies and administer grants for studies to determine—

(1) the nature and causes of illnesses suffered by individuals as a consequence of service or employment by the United States in the Southwest Asia theater of operations during the Persian Gulf War; and

(2) the appropriate treatment for those illnesses.

(b) NATURE OF THE STUDIES.—(1) Studies under subsection (a)—

(A) shall include consideration of the range of potential exposure of individuals to environmental, battlefield, and other conditions incident to service in the theater;

(B) shall be conducted so as to provide assessments of both short-term and long-term effects to the health of individuals as a result of those exposures; and

(C) shall include, at a minimum, the following types of studies:

(i) An epidemiological study or studies on the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses.

(ii) Studies to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances.

(iii) Clinical research and other studies on the causes, possible transmission, and treatment of Persian Gulf-related illnesses.

(2)(A) The first project carried out under paragraph (1)(C)(ii) shall be a retrospective study of members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War.

(B) The second project carried out under paragraph (1)(C)(ii) shall consist of animal research and nonanimal research, including in vitro systems, as required, designed to determine whether the use of pyridostigmine bromide in combination with exposure to pesticides or other organophosphates, carbamates, or relevant chemicals will result in increased toxicity in animals and is likely to have a similar effect on humans.

(c) INDIVIDUALS COVERED BY THE STUDIES.—Studies conducted pursuant to subsections (a) shall apply to the following individuals:

(1) Individuals who served as members of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) Individuals who were civilian employees of the Department of Defense in that theater during that period.

(3) To the extent appropriate, individuals who were employees of contractors of the Department of Defense in that theater during that period.

(4) To the extent appropriate, the spouses and children of individuals described in paragraph (1).

(d) PLAN FOR THE STUDIES.—(1) The Secretary of Defense shall prepare a coordinated plan for the studies to be conducted pursuant to subsection (a). The plan shall include plans and requirements for research grants in support of the studies. The Secretary shall submit the plan to the National Academy of Sciences for review and comment.

(2) The plan for studies pursuant to subsection (a) shall be updated annually. The Secretary of Defense shall request an annual review by the National Academy of Science of the updated plan and study progress and results achieved during the preceding year.

(3) The plan, and annual updates to the plan, shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

(e) FUNDING.—(1) From the amount authorized to be appropriated pursuant to section 201 for Defense-wide activities, the Secretary of Defense shall make available such funds as the Secretary considers necessary to support the studies conducted pursuant to subsection (a).

(2) For each year in which activities continue in support of the studies conducted pursuant to subsection (a), the Secretary of Defense shall include in the budget request for the Department of Defense a request for such funds as the Secretary determines necessary to continue the activities during that fiscal year.

(f) REPORTS.—(1) Not later than March 31, 1995, the Secretary of Defense shall submit to Congress the coordinated plan for the studies to be conducted pursuant to subsection (a) and the results of the review of that plan by the National Academy of Sciences.

(2) Not later than October 1 of each year through 1998, the Secretary shall submit to Congress a report on the results of the studies conducted pursuant to subsection (a), plans for continuation of the studies, and the results of the annual review of the studies by the National Academy of Sciences.

(3) Each report under this section shall be prepared in coordination with the Secretary of Veterans Affairs and the Secretary of Health and Human Services.

(g) DEFINITION.—In this section, the term "Persian Gulf War" has the meaning given such term in section 101 of title 38, United States Code.

Subtitle D—Other Matters

SEC. 731. CHIROPRACTIC HEALTH CARE DEMONSTRATION PROGRAM. 10 USC 1092 note.

(a) REQUIREMENT FOR PROGRAM.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall develop and carry out a demonstration program to evaluate the feasibility and advisability of furnishing chiropractic care through the medical care facilities of the Armed Forces. The Secretary of Defense shall develop and carry out the program in consultation with the Secretaries of the military departments.

(2) In carrying out the program, the Secretary of Defense shall—

(A) subject to paragraph (3), designate not less than 10 major military medical treatment facilities of the Department of Defense to furnish chiropractic care under the program; and

(B) enter into agreements with such number of chiropractors as the Secretary determines sufficient for the purposes of the program to furnish chiropractic care at such facilities under the program. Contracts.

(3) The Secretary may not designate under paragraph (2) any treatment facility that is located on a military installation scheduled for closure or realignment under a base closure law.

(b) PROGRAM PERIOD.—The Secretary shall carry out the demonstration program in fiscal years 1995 through 1997.

(c) REPORTING REQUIREMENTS.—(1) Not later than January 30, 1995, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program. The report shall—

(A) identify the treatment facilities designated pursuant to subsection (a)(2)(A); and

(B) include a discussion of the plan for the conduct of the program.

(2) Not later than May 1, 1995, the Secretary of Defense shall submit to the committees referred to in paragraph (1) a plan for evaluating the program, including a schedule for conducting progress reviews and for submitting a final report to the committees.

(3) The Secretary shall submit to the committees referred to in paragraph (1) a final report in accordance with the plan submitted to such committees pursuant to paragraph (2).

(d) OVERSIGHT ADVISORY COMMITTEE.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an oversight advisory committee to assist and advise the Secretary with regard to the development and conduct of the demonstration program.

(2) The oversight advisory committee shall include the following members:

(A) The Comptroller General of the United States, or the designee of such person from within the General Accounting Office.

(B) The Assistant Secretary of Defense for Health Affairs, or the designee of such person.

(C) The Surgeons General of the Army, the Air Force, and the Navy, or the designees of such persons.

(D) No fewer than four independent representatives of the chiropractic health care profession, appointed by the Secretary of Defense.

(3) The oversight advisory committee shall assist the Secretary of Defense regarding—

(A) issues involving the professional credentials of the chiropractors participating in the program;

(B) the granting of professional practice privileges for the chiropractors at the treatment facilities participating in the program;

(C) the preparation of the reports required under subsection (c); and

(D) the evaluation of the program.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the oversight advisory committee.

(e) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

SEC. 732. DEMONSTRATION PROGRAM FOR ADMISSION OF CIVILIANS AS PHYSICIAN ASSISTANT STUDENTS AT ACADEMY OF HEALTH SCIENCES, FORT SAM HOUSTON, TEXAS.

(a) CIVILIAN ATTENDANCE.—The Secretary of the Army may enter into a reciprocal agreement with an accredited institution of higher education under which students of the institution may attend the didactic portion of the physician assistant training program conducted by the Army Medical Department at the Academy of Health Sciences at Fort Sam Houston, Texas, in exchange for the provision of such academic services by the institution as the Secretary and the institution consider to be appropriate to support the physician assistant training program. The Secretary shall ensure that the Army Medical Department does not incur any additional costs as a result of the agreement than the Department would incur to obtain academic services for the physician assistant training program in the absence of the agreement.

(b) SELECTION OF STUDENTS.—(1) Subject to paragraph (2), not more than 20 civilian students per year may receive instruction at the Academy pursuant to the agreement under subsection (a). In consultation with the institution of higher education that is a party to the agreement, the Secretary shall establish qualifications and methods of selection for civilian students to receive instruction at the Academy. The qualifications established shall be comparable to those generally required for admission to the physician assistant training program at the Academy.

(2) The Secretary shall ensure that members of the Armed Forces are not denied enrollment in the physician assistant training program in order to permit the attendance of civilian students. The maximum annual enrollment for the program may not be increased solely for the purpose of permitting civilian students to attend the program.

(c) RULES OF ATTENDANCE.—Except as the Secretary determines necessary, a civilian student who receives instruction at the Academy pursuant to the agreement under subsection (a) shall be subject to the same regulations governing attendance, discipline, discharge, and dismissal as apply to military students attending the Academy.

(d) TERM AND TERMINATION OF AGREEMENT.—The term of the agreement entered into under subsection (a) may not extend beyond September 30, 1997. Either party to the agreement may terminate the agreement at any time before that date.

(e) REPORT.—For each year in which the agreement under subsection (a) is in effect, the Secretary shall submit to Congress a report specifying the number of civilian students who received instruction at the Academy under the agreement during the period covered by the report and accessing the benefits to the United States of the agreement.

(f) ACADEMY DEFINED.—For purposes of this section, the term "Academy" means the Academy of Health Sciences of the Army Medical Department at Fort Sam Houston, Texas.

SEC. 733. DELAY IN CLOSURE OF ARMY HOSPITAL AT VICENZA, ITALY.

(a) CLOSURE DELAY.—During fiscal year 1995, the Secretary of the Army may not reduce the level of medical care services provided by the United States Army Hospital at Vicenza, Italy.

(b) REPORT ON HOSPITAL.—Not later than March 1, 1995, the Secretary of Defense shall submit to Congress a report regarding the operation of the Army Hospital at Vicenza, Italy. The report shall contain the following:

(1) A description of the number and demographic characteristics of members of the Armed Forces on active duty and covered beneficiaries under chapter 55 of title 10, United States Code, who typically receive medical care services at the hospital, including those members and covered beneficiaries stationed or residing at (or in the immediate vicinity of) Aviano Air Force Base and Camp Darby.

(2) An analysis of the projected costs or savings, including the cost of CHAMPUS benefits, resulting from the programmed closure of the hospital.

(3) A description of the differences in practice patterns between American and Italian doctors, such as differences in the normal lengths of stay for the most frequent inpatient admissions (including childbirth) and the availability of alternative methods of providing anesthesia during childbirth.

(4) An analysis of the feasibility of establishing a birthing center for the area and patients currently served by the hospital, to be staffed primarily by American nurse-midwives.

(5) A detailed plan for ensuring the availability of quality medical care, consistent with American medical practice patterns, for covered beneficiaries residing in Northern Italy.

SEC. 734. ORAL TYPHOID VACCINE INVENTORY OF DEPARTMENT OF DEFENSE.

(a) NUMBER OF DOSES FOR INVENTORY.—The Secretary of Defense shall direct that the number of doses of oral typhoid vaccine purchased for inventory by the Department of Defense during a fiscal year be not less than the number of doses of parenteral injection typhoid vaccine purchased for inventory by the Department during that fiscal year.

(b) WAIVER.—The Secretary of Defense may waive the applicability of subsection (a) for a fiscal year if the Secretary determines that the waiver is necessary for medical reasons and notifies Congress of the reasons for the waiver.

SEC. 735. REPORT ON EXPANDED USE OF NONAVAILABILITY OF HEALTH CARE STATEMENTS.

(a) REPORT REQUIRED.—Not later than December 31, 1994, the Secretary of Defense shall submit to Congress a report describing the plans (if any) of the Department of Defense to use the authority provided in sections 1080(b) and 1086(e) of title 10, United States Code, for making determinations whether or not to issue a nonavailability of health care statement. The report shall include an analysis of the effects of such plans on—

(1) the freedom of choice of covered beneficiaries in selecting health care providers;

(2) the access of covered beneficiaries to health care services;

(3) the quality and continuity of health care services;

(4) the clarity and understandability of the applicable requirements regarding issuance nonavailability of health care statements; and

(5) the health care costs incurred by the Federal Government and covered beneficiaries.

(b) USE OF AUTHORITY.—During the period beginning on the date of the enactment of this Act and ending 90 days after the date on which the Secretary submits the report required by subsection (a), the Secretary may not—

(1) expand the number or size of the geographical areas in which the Secretary is currently using the authority provided by sections 1080(b) and 1086(e) of title 10, United States Code; or

(2) implement or use such authority in a manner inconsistent with the manner in which such authority was implemented or used as of February 1, 1994.

SEC. 736. COST ANALYSIS OF TIDEWATER TRICARE DELIVERY OF PEDIATRIC HEALTH CARE TO MILITARY FAMILIES.

(a) COST ANALYSIS REQUIRED.—Not later than October 1, 1995, the Assistant Secretary of Defense (Health Affairs) shall determine the amount of the expenditures made by the Department of Defense for pediatric care for each of fiscal years 1992, 1993, and 1994 under the program for delivery of health care services in the Tidewater region of Virginia carried out pursuant to section 712(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1402). The Assistant Secretary shall determine the total amount of such expenditures and the amount of such expenditures for each case.

Virginia.

(b) USE OF ANALYSIS.—In evaluating changes to the pediatric care furnished by the Department of Defense (including that pediatric care furnished under the Civilian Health and Medical Program of the Uniformed Services) in the Tidewater region of Virginia, the Assistant Secretary may consider the amounts determined under subsection (a) in determining the appropriate standards, limitations, and requirements to apply to the cost of pediatric care under the system.

SEC. 737. STUDY AND REPORT ON FINANCIAL RELIEF FOR CERTAIN MEDICARE-ELIGIBLE MILITARY RETIREES WHO INCUR MEDICARE LATE ENROLLMENT PENALTIES.

(a) STUDY.—The Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall conduct a study regarding possible financial relief from late enrollment penalties for military retirees and dependents of such retirees who—

(1) reside within the service area (or former service area) of a military installation closed or approved for closure under a base closure law; and

(2) have failed to enroll in a timely manner in medicare part B due to reliance upon the military treatment facility located at such installation.

(b) REPORT.—Not later than March 31, 1995, the Secretary of Defense shall submit to Congress a report containing the results of the study required under subsection (a). The report shall also contain the following:

(1) For each military installation studied, the number of military retirees within both a 40 mile and 65 mile catchment area who have failed to enroll in medicare part B and are subjected to late enrollment penalties.

(2) A determination of the estimated aggregate amount of the penalties in terms of each military installation studied.

(3) A description of the characteristics of the population that are subject to the penalties, such as age and income level.

(4) An examination of the appropriateness of waiving the penalties.

(5) A description of the Department of Defense funds that should be used to pay the penalties if waiver of the penalties is not recommended.

(6) A proposed program for a special medicare part B enrollment period for affected retirees living near military installations already closed or which are designated for closure in the future.

(7) Legislative recommendations for implementing a program which removes the financial burden from the medicare-eligible beneficiaries who have been or will be adversely impacted by the closure of a military installation.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base closure law" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The term "medicare part B" means the public health insurance program under part B of title XVIII of the Social Security Act.

(3) The term "military treatment facility" means a facility of a uniformed service referred to in section 1074(a) of title 10, United States Code, in which health care is provided.

SEC. 738. SENSE OF CONGRESS ON CONTINUITY OF HEALTH CARE SERVICES FOR COVERED BENEFICIARIES IN AREAS AFFECTED BY BASE CLOSURES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should take all appropriate steps, including

a limited continuation of services for managed health care currently provided to covered beneficiaries described in subsection (b) who are eligible for such services, to ensure the continuity of health care services for such beneficiaries during the procurement, transition, and initial implementation phases of a TRICARE managed care support contract for Health Services Regions of the Military Health Services System of Department of Defense.

(b) COVERED BENEFICIARIES DESCRIBED.—The covered beneficiaries referred to in subsection (a) are covered beneficiaries under chapter 55, United States Code, who reside in areas adversely affected by the closure of a military installation under a base closure law (as defined in section 737(c)(1)).

(c) TRICARE DEFINED.—For purposes of this section, the term "TRICARE" means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Assistance Programs

SEC. 801. PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS.

(a) FUNDING.—Of the amount authorized to be appropriated under section 301(5), $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts made available pursuant to subsection (a), $600,000 shall be available for fiscal year 1995 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 802. PILOT MENTOR-PROTEGE PROGRAM.

Of the amounts authorized to be appropriated for fiscal year 1995 by title I of this Act, $50,000,000 shall be available for conducting the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note).

SEC. 803. INFRASTRUCTURE ASSISTANCE FOR HISTORICALLY BLACK COLLEGES AND OTHER MINORITY INSTITUTIONS OF HIGHER EDUCATION.

Of the amounts authorized to be appropriated for fiscal year 1995 by section 201, $25,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 804. TREATMENT UNDER SUBCONTRACTING PLANS OF PURCHASES FROM QUALIFIED NONPROFIT AGENCIES FOR THE BLIND OR SEVERELY DISABLED.

Section 2410d of title 10, United States Code, relating to credit under small business subcontracting plans for certain purchases, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "and" at the end of subparagraph (A);

(ii) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) a central nonprofit agency designated by the Committee for Purchase from People Who Are Blind or Severely Disabled under section 2(c) of such Act (41 U.S.C. 47(c)).";

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3); and

(2) in subsection (c), by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1997".

Subtitle B—Other Matters

SEC. 811. DELEGATION OF INDUSTRIAL MOBILIZATION AUTHORITY.

Section 2538 of title 10, United States Code, is amended—

(1) by striking out "through the Secretary of Defense" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "through the head of any department"; and

(2) in subsection (c)—

(A) by striking out "in the opinion of the Secretary of Defense" in the matter preceding paragraph (1) and inserting in lieu thereof "in the opinion of the head of that department"; and

(B) by striking out "Secretary" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "head of such department".

SEC. 812. DETERMINATIONS OF PUBLIC INTEREST UNDER THE BUY AMERICAN ACT.

(a) CONSIDERATIONS.—Section 2533 of title 10, United States Code, is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) In determining under section 2 of title III of the Act of March 3, 1993 (41 U.S.C. 10a), popularly known as the 'Buy

American Act', whether application of title III of such Act is inconsistent with the public interest, the Secretary of Defense shall consider the following:

"(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(2) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(3) The United States balance of payments.

"(4) The cost of shipping goods which are other than American goods.

"(5) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(6) A need to ensure that the Department of Defense has access to advanced, state-of-the-art commercial technology.

"(7) The need to protect the national technology and industrial base, to preserve and enhance the national technology employment base, and to provide for a defense mobilization base.

"(8) A need to ensure that application of different rules of origin for United States end items and foreign end items does not result in an award to a firm other than a firm providing a product produced in the United States.

"(9) Any need—

"(A) to maintain the same source of supply for spare and replacement parts for an end item that qualifies as an American good; or

"(B) to maintain the same source of supply for spare and replacement parts in order not to impair integration of the military and commercial industrial base.

"(10) The national security interests of the United States."; and

(2) by redesignating subsection (c) as subsection (b).

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 2533 of such title is amended to read as follows:

"§ 2533. Determinations of public interest under the Buy American Act".

(2) The item relating to such section in the table of sections at the beginning of subchapter V of chapter 148 of such title is amended to read as follows:

"2533. Determinations of public interest under the Buy American Act.".

SEC. 813. CONTINUATION OF EXPIRING REQUIREMENT FOR ANNUAL REPORT ON THE USE OF COMPETITIVE PROCEDURES FOR AWARDING CERTAIN CONTRACTS TO COLLEGES AND UNIVERSITIES.

Section 2361 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more than $1,000,000

in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) Each report under paragraph (1) shall cover the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.".

SEC. 814. CONSOLIDATION AND REVISION OF LIMITATIONS ON PROCUREMENT OF GOODS OTHER THAN AMERICAN GOODS.

The text of section 2534 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATION ON CERTAIN PROCUREMENTS.—The Secretary of Defense may procure any of the following items only if the manufacturer of the item satisfies the requirements of subsection (b):

"(1) BUSES.—Multipassenger motor vehicles (buses).

"(2) CHEMICAL WEAPONS ANTIDOTE.—Chemical weapons antidote contained in automatic injectors (and components for such injectors).

"(3) AIR CIRCUIT BREAKERS.—Air circuit breakers for naval vessels.

"(4) VALVES AND MACHINE TOOLS.—Items in the following categories:

"(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(B) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(5) BALL BEARINGS AND ROLLER BEARINGS.—Ball bearings and roller bearings, in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on October 23, 1992.

"(b) MANUFACTURER IN THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—

"(1) GENERAL REQUIREMENT.—A manufacturer meets the requirements of this subsection if the manufacturer is part of the national technology and industrial base.

"(2) MANUFACTURERS OF CHEMICAL WEAPONS ANTIDOTE.—In the case of a procurement of chemical weapons antidote referred to in subsection (a)(2), a manufacturer meets the requirements of this subsection only if the manufacturer—

"(A) meets the requirement set forth in paragraph (1);

"(B) is an existing producer under the industrial preparedness program at the time the contract is awarded;

"(C) has received all required regulatory approvals; and

"(D) when the contract for the procurement is awarded, has in existence in the national technology and industrial base the plant, equipment, and personnel necessary to perform the contract.

"(c) APPLICABILITY TO CERTAIN ITEMS.—

"(1) AIR CIRCUIT BREAKERS.—Subsection (a) does not apply to a procurement of spares or repair parts needed to support air circuit breakers produced or manufactured outside the United States.

"(2) VALVES AND MACHINE TOOLS.—(A) Contracts to which subsection (a) applies include the following contracts for the procurement of items described in paragraph (4) of such subsection:

"(i) A contract for procurement of such an item for use in property under the control of the Department of Defense, including any Government-owned, contractor-operated facility.

"(ii) A contract that is entered into by a contractor on behalf of the Department of Defense for the purpose of providing such an item to another contractor as Government-furnished equipment.

"(B) In any case in which a contract for items described in subsection (a)(4) includes the procurement of more than one Federal Supply Class of machine tools or machine tools and accessories, each supply class shall be evaluated separately for purposes of determining whether the limitation in subsection (a) applies.

"(C) Subsection (a)(4) and this paragraph shall cease to be effective on October 1, 1996.

"(3) BALL BEARINGS AND ROLLER BEARINGS.—Subsection (a)(5) and this paragraph shall cease to be effective on October 1, 1995.

"(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) with respect to the procurement of an item listed in that subsection if the Secretary determines that any of the following apply:

"(1) Application of the limitation would cause unreasonable costs or delays to be incurred.

"(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(3) Application of the limitation would impede cooperative programs entered into between the Department of Defense and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(4) Satisfactory quality items manufactured by an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title) are not available.

"(5) Application of the limitation would result in the existence of only one source for the item that is an entity that is part of the national technology and industrial base (as defined in section 2491(1) of this title).

"(6) The procurement is for an amount less than the simplified acquisition threshold and simplified purchase procedures are being used.

"(7) Application of the limitation is not in the national security interests of the United States.

"(8) Application of the limitation would adversely affect a United States company.

"(e) SONOBUOYS.—

"(1) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country if United States firms that manufacture sonobuoys are not permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

"(2) WAIVER AUTHORITY.—The Secretary may waive the limitation in paragraph (1) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

"(3) DEFINITION.—In this subsection, the term 'United States firm' has the meaning given such term in section 2532(d)(1) of this title.

"(f) PRINCIPLE OF CONSTRUCTION WITH FUTURE LAWS.—A provision of law may not be construed as modifying or superseding the provisions of this section, or as requiring funds to be limited, or made available, by the Secretary of Defense to a particular domestic source by contract, unless that provision of law—

"(1) specifically refers to this section;

"(2) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(3) specifically identifies the particular domestic source involved and states that the contract to be awarded pursuant to such provision of law is being awarded in contravention of this section.".

SEC. 815. ENVIRONMENTAL CONSEQUENCE ANALYSIS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

10 USC 2430 note.

(a) GUIDANCE.—Before April 1, 1995, the Secretary of Defense shall issue guidance, to apply uniformly throughout the Department of Defense, regarding—

(1) how to achieve the purposes and intent of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by ensuring timely compliance for major defense acquisition programs (as defined in section 2430 of title 10, United States Code) through (A) initiation of compliance efforts before development begins, (B) appropriate environmental impact analysis in support of each milestone decision, and (C) accounting for all direct, indirect, and cumulative environmental effects before proceeding toward production; and

(2) how to analyze, as early in the process as feasible, the life-cycle environmental costs for such major defense acquisition programs, including the materials to be used, the mode of operations and maintenance, requirements for demilitarization, and methods of disposal, after consideration of all pollution prevention opportunities and in light of all environmental mitigation measures to which the department expressly commits.

(b) ANALYSIS.—Beginning not later than March 31, 1995, the Secretary of Defense shall analyze the environmental costs of a major defense acquisition process as an integral part of the life-cycle cost analysis of the program pursuant to the guidance issued under subsection (a).

(c) DATA BASE FOR NEPA DOCUMENTATION.—The Secretary of Defense shall establish and maintain a data base for documents prepared by the Department of Defense in complying with the National Environmental Policy Act of 1969 with respect to major defense acquisition programs. Any such document relating to a major defense acquisition program shall be maintained in the data base for 5 years after commencement of low-rate initial production of the program.

SEC. 816. DEMONSTRATION PROJECT ON PURCHASE OF FIRE, SECURITY, POLICE, PUBLIC WORKS, AND UTILITY SERVICES FROM LOCAL GOVERNMENT AGENCIES.

(a) DEMONSTRATION PROJECT.—The Secretary of Defense may conduct a demonstration project, beginning October 1, 1994, at Monterey, California, under which any fire-fighting, security-guard, police, public works, utility, or other municipal services needed for operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located within the county of Monterey. The purchase of such services for the demonstration project may be made notwithstanding section 2465 of title 10, United States Code.

Reports.

(b) EVALUATION OF PROJECT.—Not later than December 31, 1996, the Secretary of Defense shall submit to Congress a report evaluating the results of the project and making any recommendations the Secretary considers appropriate, including recommendations on whether the purchase authorities used in conducting the project could be used to provide similar services at other locations.

10 USC 2687 note.

SEC. 817. PREFERENCE FOR LOCAL RESIDENTS.

(a) PREFERENCE ALLOWED.—In entering into contracts with private entities for services to be performed at a military installation that is affected by closure or alignment under a base closure law, the Secretary of Defense may give preference, consistent with Federal, State, and local laws and regulations, to entities that plan to hire, to the maximum extent practicable, residents of the vicinity of such military installation to perform such contracts. Contracts for which the preference may be given include contracts to carry out environmental restoration activities or construction work at such military installations. Any such preference may be given for a contract only if the services to be performed under the contract at the military installation concerned can be carried out in a manner that is consistent with all other actions at the installation that the Secretary is legally required to undertake.

(b) DEFINITION.—In this section, the term "base closure law" means the following:

(1) The provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(c) APPLICABILITY.—Any preference given under subsection (a) shall apply only with respect to contracts entered into after the date of the enactment of this Act.

(d) TERMINATION.—This section shall cease to be effective on September 30, 1997.

SEC. 818. PAYMENT OF RESTRUCTURING COSTS UNDER DEFENSE CONTRACTS.

10 USC 2324 note.

(a) CERTIFICATION OF COST SAVINGS.—(1) The Secretary of Defense may not, under section 2324 of title 10, United States Code, pay restructuring costs associated with a business combination undertaken by a defense contractor until the Department of Defense reviews the projected costs and savings that will result for the Department from such business combination and an official of the Department of Defense at the level of Assistant Secretary of Defense or above certifies in writing that projections of future cost savings resulting for the Department from the business combination are based on audited cost data and should result in overall reduced costs to the Department.

(2) The requirements for a review and certification under paragraph (1) shall not apply with respect to any business combination for which restructuring costs were paid or otherwise approved by the Secretary before August 15, 1994.

(b) REQUIREMENT FOR REGULATIONS.—Not later than January 1, 1995, the Secretary of Defense shall prescribe regulations on the allowability of restructuring costs associated with business combinations under defense contracts.

(c) MATTERS TO BE INCLUDED.—At a minimum, the regulations shall—

(1) include a definition of the term "restructuring costs"; and

(2) address the issue of contract novations under such contracts.

(d) CONSULTATION.—In developing the regulations, the Secretary of Defense shall consult with the Administrator for Federal Procurement Policy.

(e) REPORT.—Not later than November 13 in each of the years 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the following:

(1) A description of the procedures being followed within the Department of Defense for evaluating projected costs and savings under a defense contract resulting from a restructuring of a defense contractor associated with a business combination.

(2) A list of all defense contractors for which restructuring costs have been allowed by the Department, along with the identities of the firms which those contractors have acquired or with which those contractors have combined since July 21, 1993, that qualify the contractors for such restructuring reimbursement.

(3) The Department's experience with business combinations for which the Department has agreed to allow restructuring costs since July 21, 1993, including the following:

(A) The estimated amount of costs associated with each restructuring that have been or will be treated as allowable costs under defense contracts, including the type and amounts of costs that would not have arisen absent the business combination.

(B) The estimated amount of savings associated with each restructuring that are expected to be achieved on defense contracts.

(C) The types of documentation relied on to establish that savings associated with each restructuring will exceed costs associated with the restructuring.

(D) Actual experience on whether savings associated with each restructuring are exceeding costs associated with the restructuring.

(E) Identification of any programmatic or budgetary disruption in the Department of Defense resulting from contractor restructuring.

(f) DEFINITION.—In this section, the term "business combination" includes a merger or acquisition.

(g) COMPTROLLER GENERAL REPORTS.—(1) Not later than March 1, 1995, the Comptroller General shall submit to Congress a report on the adequacy of the regulations prescribed under subsection (b) with respect to—

(A) whether such regulations are consistent with the purposes of this section, other applicable law, and the Federal Acquisition Regulation; and

(B) whether such regulations establish policies, procedures, and standards to ensure that restructuring costs are paid only when in the best interests of the United States.

(2) The Comptroller General shall report periodically to Congress on the implementation of the policy of the Department of Defense regarding defense industry restructuring.

(3) Not later than December 1, 1997, the Comptroller General shall submit to Congress a final report on the policy of the Department of Defense on defense industry restructuring, including any recommendations the Comptroller considers appropriate.

SEC. 819. DEFENSE ACQUISITION PILOT PROGRAM DESIGNATIONS.

The Secretary of Defense is authorized to designate the following defense acquisition programs for participation, to the extent provided in the Federal Acquisition Streamlining Act of 1994, in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(1) The Fire Support Combined Arms Tactical Trainer program.

(2) The Joint Direct Attack Munition program.

(3) The Joint Primary Aircraft Training System.

(4) Commercial-derivative aircraft.

(5) Commercial-derivative engine.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Secretarial Matters

SEC. 901. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.

(a) ESTABLISHMENT OF POSITION.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and inserting in lieu thereof "eleven".

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking out "Assistant Secretaries of Defense (10)." and inserting in lieu thereof the following:

"Assistant Secretaries of Defense (11).".

SEC. 902. ORDER OF SUCCESSION TO SECRETARIES OF THE MILITARY DEPARTMENTS.

(a) ARMY.—Section 3017 of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Army.".

(b) NAVY.—Section 5017 of such title is amended— 10 USC 5017.

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Navy.".

(c) AIR FORCE.—Section 8017 of such title is amended— 10 USC 8017.

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The General Counsel of the Department of the Air Force.".

SEC. 903. CHANGE OF TITLE OF COMPTROLLER OF THE DEPARTMENT OF DEFENSE TO UNDER SECRETARY OF DEFENSE (COMPTROLLER).

(a) IN GENERAL.—(1) Section 135 of title 10, United States Code, is amended—

(A) in subsection (a), by striking out "a Comptroller of the Department of Defense" and inserting in lieu thereof "an Under Secretary of Defense (Comptroller)"; and

(B) in subsections (b), (c), (d), and (e), by striking out "Comptroller" each place it appears and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) The heading for such section is amended to read as follows:

"§ 135. Under Secretary of Defense (Comptroller)".

(3) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"135. Under Secretary of Defense (Comptroller).".

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—(1) Section 131(b)(4) of title 10, United States Code, is amended by striking out "Comptroller" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(2) Section 138(d) of such title is amended by striking out "and Comptroller".

(c) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5314 of title 5, United States Code, is amended by striking out "Comptroller of the Department of Defense" and inserting in lieu thereof "Under Secretary of Defense (Comptroller)".

(d) REFERENCES IN OTHER LAWS.—Any reference to the Comptroller of the Department of Defense in any provision of law other than title 10, United States Code, or in any rule, regulation, or other paper of the United States shall be treated as referring to the Under Secretary of Defense (Comptroller). 10 USC 135 note.

SEC. 904. NATIONAL GUARD BUREAU CHARTER.

(a) IN GENERAL.—Subtitle E of title 10, United States Code, as added by section 1611, is amended by inserting after chapter 1009, as added by section 1661(b), the following new chapter:

"CHAPTER 1011—NATIONAL GUARD BUREAU

"10501. National Guard Bureau.
"10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade.
"10503. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force.
"10504. Chief of National Guard Bureau: annual report.
"10505. Vice Chief of the National Guard Bureau.
"10506. Other senior National Guard Bureau officers.
"10508. Definition.

Establishment.

"§ 10501. National Guard Bureau

"(a) NATIONAL GUARD BUREAU.—There is in the Department of Defense the National Guard Bureau, which is a joint bureau of the Department of the Army and the Department of the Air Force.

"(b) PURPOSES.—The National Guard Bureau is the channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between (1) the Department of the Army and Department of the Air Force, and (2) the several States.

"§ 10502. Chief of the National Guard Bureau: appointment; adviser on National Guard matters; grade

"(a) APPOINTMENT.—There is a Chief of the National Guard Bureau, who is responsible for the organization and operations of the National Guard Bureau. The Chief of the National Guard Bureau is appointed by the President, by and with the advice and consent of the Senate. Such appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

President.

"(1) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(2) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(3) are in a grade above the grade of brigadier general.

"(b) TERM OF OFFICE.—An officer appointed as Chief of the National Guard Bureau serves at the pleasure of the President for a term of four years. An officer may not hold that office after becoming 64 years of age. An officer may be reappointed as Chief of the National Guard Bureau. While holding that office, the Chief of the National Guard Bureau may not be removed from the reserve active-status list, or from an active status, under any provision of law that otherwise would require such removal due to completion of a specified number of years of service or a specified number of years of service in grade.

"(c) ADVISER ON NATIONAL GUARD MATTERS.—The Chief of the National Guard Bureau is the principal adviser to the Secretary of the Army and the Chief of Staff of the Army, and to the Secretary of the Air Force and the Chief of Staff of the Air Force, on matters

relating to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States.

"(d) GRADE.—The Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

"§ 10503. Functions of National Guard Bureau: charter from Secretaries of the Army and Air Force

"The Secretary of the Army and the Secretary of the Air Force shall jointly develop and prescribe a charter for the National Guard Bureau. The charter shall cover the following matters:

"(1) Allocating unit structure, strength authorizations, and other resources to the Army National Guard of the United States and the Air National Guard of the United States.

"(2) Prescribing the training discipline and training requirements for the Army National Guard and the Air National Guard and the allocation of Federal funds for the training of the Army National Guard and the Air National Guard.

"(3) Ensuring that units and members of the Army National Guard and the Air National Guard are trained by the States in accordance with approved programs and policies of, and guidance from, the Chief, the Secretary of the Army, and the Secretary of the Air Force.

"(4) Monitoring and assisting the States in the organization, maintenance, and operation of National Guard units so as to provide well-trained and well-equipped units capable of augmenting the active forces in time of war or national emergency.

"(5) Planning and administering the budget for the Army National Guard of the United States and the Air National Guard of the United States.

"(6) Supervising the acquisition and supply of, and accountability of the States for, Federal property issued to the National Guard through the property and fiscal officers designated, detailed, or appointed under section 708 of title 32.

"(7) Granting and withdrawing, in accordance with applicable laws and regulations, Federal recognition of (A) National Guard units, and (B) officers of the National Guard.

"(8) Establishing policies and programs for the employment and use of National Guard technicians under section 709 of title 32.

"(9) Supervising and administering the Active Guard and Reserve program as it pertains to the National Guard.

"(10) Issuing directives, regulations, and publications consistent with approved policies of the Army and Air Force, as appropriate.

"(11) Facilitating and supporting the training of members and units of the National Guard to meet State requirements.

"(12) Such other functions as the Secretaries may prescribe.

"§ 10504. Chief of National Guard Bureau: annual report

"(a) ANNUAL REPORT.—The Chief of the National Guard Bureau shall submit to the Secretary of Defense, through the Secretaries of the Army and the Air Force, an annual report on the state of the National Guard and the ability of the National Guard to meet its missions. The report shall be prepared in conjunction with the Secretary of the Army and the Secretary of the Air Force and may be submitted in classified and unclassified versions.

"(b) SUBMISSION OF REPORT TO CONGRESS.—The Secretary of Defense shall transmit the annual report of the Chief of the National Guard Bureau to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113(c) of this title is submitted to Congress.

"§ 10505. Vice Chief of the National Guard Bureau

"(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

"(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

"(B) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard; and

"(C) are in a grade above the grade of colonel.

"(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

"(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

"(B) The term of the Vice Chief of the National Guard Bureau shall end upon the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

"(4) The Secretary of Defense may waive the restrictions in paragraph (2) and the provisions of paragraph (3)(B) for a limited period of time to provide for the orderly transition of officers appointed to serve in the positions of Chief and Vice Chief of the National Guard Bureau.

"(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

"(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of major general.

"(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence or disability ceases.

"(e) SUCCESSION AFTER CHIEF AND VICE CHIEF.—When there is a vacancy in the offices of both Chief and Vice Chief of the National Guard Bureau or in the absence or disability of both the Chief and Vice Chief of the National Guard Bureau, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the senior officer of the Army National Guard of the United States or the Air National Guard of the United States on duty with the National Guard Bureau shall perform the duties of the Chief until a successor to the Chief or Vice Chief is appointed or the absence or disability of the Chief or Vice Chief ceases, as the case may be.

"§ 10506. Other senior National Guard Bureau officers

"(a) ADDITIONAL GENERAL OFFICERS.—(1) In addition to the Chief and Vice Chief of the National Guard Bureau, there shall be assigned to the National Guard Bureau—

"(A) two general officers selected by the Secretary of the Army from officers of the Army National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Army National Guard, with the other serving as Deputy Director, Army National Guard; and

"(B) two general officers selected by the Secretary of the Air Force from officers of the Air National Guard of the United States who have been nominated by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard, the senior of whom while so serving shall hold the grade of major general and serve as Director, Air National Guard, with the other serving as Deputy Director, Air National Guard.

"(2) The officers so selected shall assist the Chief of the National Guard Bureau in carrying out the functions of the National Guard Bureau as they relate to their respective branches.

"(b) OTHER OFFICERS.—There are in the National Guard Bureau a legal counsel, a comptroller, and an inspector general, each of whom shall be appointed by the Chief of the National Guard Bureau. They shall perform such duties as the Chief may prescribe.

"§ 10508. Definition

"In this chapter, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and Guam and the Virgin Islands.".

(b) CONFORMING REPEAL.—(1) Section 3040 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 305 of such title is amended by striking out the item relating to section 3040.

(c) CONFORMING AMENDMENT.—The text of section 108 of title 32, United States Code, is amended to read as follows:

"If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.". President.

(d) EFFECTIVE DATE.—The provisions of chapter 1011 of title 10, United States Code, as added by subsection (a), shall become effective, and the repeal made by subsection (c) and the amendment made by subsection (c) shall take effect, at the end of the 90-day period beginning on the date of the enactment of this Act. 10 USC 10501 note.

Subtitle B—Professional Military Education

SEC. 911. AUTHORITY FOR MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF MILITARY STUDIES.

(a) AUTHORITY TO AWARD.—(1) Chapter 609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7102. Marine Corps University: master of military studies

"(a) AUTHORITY.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7102. Marine Corps University: master of military studies.".

10 USC 7102 note.

(b) EFFECTIVE DATE.—The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.

Establishment. 10 USC 7102 note.

SEC. 912. BOARD OF ADVISORS FOR MARINE CORPS UNIVERSITY.

The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.

SEC. 913. AUTHORITY FOR AIR UNIVERSITY TO AWARD THE DEGREE OF MASTER OF AIRPOWER ART AND SCIENCE.

(a) AUTHORITY TO AWARD.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9317. Air University: master of airpower art and science

"(a) AUTHORITY.—Upon the recommendation of the faculty of the School of Advanced Airpower Studies of the Air University, the Commander of the university may confer the degree of master of airpower art and science upon graduates of the school who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Air Force.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9317. Air University: master of airpower art and science.".

10 USC 9317 note.

(b) EFFECTIVE DATE.—The authority provided by section 9317(a) of title 10, United States Code, as added by subsection (a), shall

become effective on the date on which the Secretary of Education determines that the requirements established by the School of Advanced Airpower Studies of the Air University for the degree of master of airpower art and science are in accordance with generally applicable requirements for a degree of master of arts or a degree of master of science.

SEC. 914. SENSE OF CONGRESS ON GRADE OF HEADS OF SENIOR PROFESSIONAL MILITARY EDUCATION SCHOOLS.

10 USC note prec. 2161.

It is the sense of Congress that an officer serving in a position as the head of one of the senior professional military education schools of the Department of Defense (or of the separate military departments) should, while so serving, hold a grade not less than the grade (or its equivalent) held by the officer serving in that position on the date of the enactment of this Act.

Subtitle C—Other Matters

SEC. 921. COMPOSITION OF RESERVE FORCES POLICY BOARD.

Section 175(a) of title 10, United States Code, is amended—

(1) in paragraph (4), by striking out "or Regular Marine Corps" and inserting in lieu thereof "and an officer of the Regular Marine Corps each";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(10) an officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.".

SEC. 922. CONTINUATION OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

10 USC 2112 note.

(a) CLOSURE PROHIBITED.—The Uniformed Services University of the Health Sciences may not be closed.

(b) BUDGETARY COMMITMENT TO CONTINUATION.—It is the sense of Congress that the Secretary of Defense should budget for the ongoing operation of the Uniformed Services University of the Health Sciences as an institution of professional education that is vital to the education and training each year of significant numbers of personnel of the uniformed services for careers as uniformed services health care providers.

(c) GAO EVALUATION.—Not later than June 1, 1995, the Comptroller General of the United States shall submit to Congress a detailed report on the Uniformed Services University of the Health Sciences. The report shall include the following: Reports.

(1) A comparison of the cost of obtaining physicians for the Armed Forces from the University with the cost of obtaining physicians from other sources.

(2) An assessment of the retention rate needs of the Armed Forces for physicians in relation to the respective retention rates of physicians obtained from the University and physicians obtained from other sources and the factors that contribute to retention rates among military physicians obtained from all sources.

(3) A review of the quality of the medical education provided at the University with the quality of medical education provided by other sources of military physicians.

(4) A review of the overall issue of the special needs of military medicine and how those special needs are being met by physicians obtained from University and physicians obtained from other sources.

(5) An assessment of the extent to which the University has responded to the 1990 report of the Inspector General of the Department of Defense, including recommendations as to resolution of any continuing issues relating to management and internal fiscal controls of the University, including issues relating to the Henry M. Jackson Foundation for the Advancement of Military Medicine identified in the 1990 report.

(6) Such other recommendations as the Comptroller General considers appropriate.

SEC. 923. COMMISSION ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) SIZE OF COMMISSION.—(1) Section 952(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1738; 10 U.S.C. 111 note) is amended by striking out "seven members" and inserting in lieu thereof "eleven members".

10 USC 111 note.

(2) Section 956(b)(1) of such Act (107 Stat. 1740) is amended by striking out "Four members" and inserting in lieu thereof "Seven members".

10 USC 111 note.

(3) The additional members of the Commission on Roles and Missions of the Armed Forces authorized by the amendment made by paragraph (1) shall be appointed by the Secretary of Defense not later than 30 days after the date of the enactment of this Act.

(4) At least one of the additional members of the Commission appointed pursuant to the amendment made by paragraph (1) shall have previous military experience and management experience with the reserve components.

(b) REVIEW OF RESERVE COMPONENTS.—Section 953 of such Act (107 Stat. 1738) is amended—

10 USC 111 note.

(1) in subsection (d)—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(9) the role of the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components.";

(2) in subsection (e)(3), by inserting after "Department of Defense" the following: ", including the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components"; and

(3) by adding at the end the following new subsection:

"(h) RECOMMENDATIONS CONCERNING RESERVE COMPONENTS.—The Commission shall also address the roles, missions, and functions of the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components within the total force of the Armed Forces, particularly in

light of lower budgetary resources that will be available to the Department of Defense in the future.".

(c) RECOMMENDATIONS CONCERNING PROGRAMS AND FORCE STRUCTURE.—Section 953 of such Act is further amended by adding after subsection (h), as added by subsection (b), the following: 10 USC 111 note.

"(i) RECOMMENDATIONS CONCERNING PROGRAMS AND FORCE STRUCTURE.—The Commission may also recommend changes that would better align programs and force structure with projected missions and threats.".

(d) FFRDC SUPPORT.—(1) Section 957 of such Act (107 Stat. 1741) is amended by adding at the end the following new subsection: 10 USC 111 note.

"(f) FFRDC SUPPORT.—(1) Upon the request of the chairman of the Commission, the Secretary of Defense shall make available to the Commission, without reimbursement, the services of any federally funded research and development center that is covered by a sponsoring agreement of the Department of Defense. The cost of the services made available under this subsection may not exceed $20,000,000.

"(2) Notwithstanding any other provision of law, any analytic support or related services provided by such a center to the Commission shall not be subject to any overall ceiling established by this or any other Act on the activities or budgets of such centers.".

(2) Such section is further amended by striking out the section heading and inserting in lieu thereof the following:

"SEC. 957. PERSONNEL MATTERS; EXPERT SERVICES.".

SEC. 924. RENAMING OF THE UNITED STATES COURT OF MILITARY APPEALS AND THE COURTS OF MILITARY REVIEW.

(a) RENAMING OF THE COURT OF MILITARY APPEALS.—(1) The United States Court of Military Appeals shall hereafter be known and designated as the United States Court of Appeals for the Armed Forces. 10 USC 941 note.

(2) Section 941 of title 10, United States Code (article 141 of the Uniform Code of Military Justice), is amended by striking out "United States Court of Military Appeals" and inserting in lieu thereof "United States Court of Appeals for the Armed Forces".

(b) RENAMING OF THE COURTS OF MILITARY REVIEW.—(1) Each Court of Military Review shall hereafter be known and designated as a Court of Criminal Appeals. 10 USC 866 note.

(2) Section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice), is amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals".

(c) CONFORMING AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Court of Military Appeals" each place it appears and inserting in lieu thereof "Court of Appeals for the Armed Forces": sections 707(a)(2), 866(e), 867, 867a(a), 870, 871(c)(1), 873, 942, 943, 944, 945, and 946(b)(1).

(2) The following sections are amended by striking out "Court of Military Review" each place it appears and inserting in lieu thereof "Court of Criminal Appeals": sections 707(a)(2), 862(b), 867, 868, 869, 870, 871, and 873.

(3)(A) The heading of subchapter XII of chapter 47 is amended to read as follows:

"SUBCHAPTER XII—UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES".

(B) The table of subchapters at the beginning of chapter 47 is amended by striking out the item relating to subchapter XII and inserting in lieu thereof the following:

"XII. United States Court of Appeals for the Armed Forces ..... 941 141".

(4)(A) The heading of section 866 is amended to read as follows:

"§ 866. Art. 66. Review by Court of Criminal Appeals".

(B) The heading of section 867 is amended to read as follows:

"§ 867. Art. 67. Review by the Court of Appeals for the Armed Forces".

(C) The items relating to sections 866 and 867 (articles 66 and 67) in the table of sections at the beginning of subchapter IX of chapter 47 are amended to read as follows:

"866. 66. Review by Court of Criminal Appeals.
"867. 67. Review by the Court of Appeals for the Armed Forces.".

(d) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) The following titles of the United States Code are amended by striking out "Court of Military Appeals" each place it appears in the specified sections and inserting in lieu thereof "Court of Appeals for the Armed Forces":

(A) In title 5, sections 8334(a)(1), 8336(l), 8337(a), 8338(c), 8339(d)(6), and 8339(h) and the table in section 8334(c).

(B) In title 18, sections 202(e)(2) and 6001(4).

(C) In title 28, sections 1259 and 2101(g).

(D) In title 44, section 906.

(2)(A) The heading of section 1259 of title 28, United States Code, is amended to read as follows:

"§ 1259. Court of Appeals for the Armed Forces; certiorari".

(B) The item relating to section 1259 in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"1259. Court of Appeals for the Armed Forces; certiorari.".

(3) Section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking out "Court of Military Appeals" each place it appears in paragraphs (8) and (10) and inserting in lieu thereof "Court of Appeals for the Armed Forces".

SEC. 925. BUDGET SUPPORT FOR RESERVE ELEMENTS OF SPECIAL OPERATIONS COMMAND.

Section 167 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(k) BUDGET SUPPORT FOR RESERVE ELEMENTS.—(1) Before the budget proposal for the special operations command for any fiscal year is submitted to the Secretary of Defense, the commander of the command shall consult with the Secretaries of the military departments concerning funding for reserve component special operations units. If the Secretary of a military department does not

concur in the recommended level of funding with respect to any such unit that is under the jurisdiction of the Secretary, the commander shall include with the budget proposal submitted to the Secretary of Defense the views of the Secretary of the military department concerning such funding.

"(2) Before the budget proposal for a military department for any fiscal year is submitted to the Secretary of Defense, the Secretary of that military department shall consult with the commander of the special operations command concerning funding for special operations forces in the military personnel budget for a reserve component in that military department. If the commander of that command does not concur in the recommended level of funding with respect to reserve component special operations units, the Secretary shall include with the budget proposal submitted to the Secretary of Defense the views of the commander of that command.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

SEC. 1002. EMERGENCY SUPPLEMENTAL AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEAR 1994.

(a) AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—Funds appropriated to the Department of Defense for fiscal year 1994 in chapter 3 of title I of the Emergency Supplemental Appropriations Act of 1994 (Public Law 103-211; 108 Stat. 5) for the purposes stated in section 302 of such Act (108 Stat. 7), relating to the incremental and associated costs of the Department of Defense incurred in connection with ongoing

United States operations relating to Somalia, Bosnia, Southwest Asia, and Haiti, are hereby authorized in amounts as follows:

(1) For Military Personnel:
  (A) For the Army, $6,600,000.
  (B) For the Navy, $19,400,000.
  (C) For the Air Force, $18,400,000.

(2) For Operation and Maintenance:
  (A) For the Army, $420,100,000.
  (B) For the Navy, $104,800,000.
  (C) For the Air Force, $560,100,000.
  (D) For Defense-wide activities, $21,600,000.

(3) For Procurement:
  (A) For Aircraft Procurement, Army, $20,300,000.
  (B) For Other Procurement, Army, $200,000.
  (C) For Other Procurement, Air Force, $26,800,000.

(b) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR RELIEF OF RWANDA REFUGEES.—There is authorized to be appropriated to the Emergency Response Fund, Defense, as emergency supplemental appropriations for fiscal year 1994 the sum of $270,000,000 to be used to reimburse appropriations of the Department of Defense for costs incurred for emergency relief for Rwanda.

10 USC 114 note.

SEC. 1003. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the bill S. 2182 of the One Hundred Third Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

President.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.

SEC. 1004. DATE FOR SUBMISSION OF FUTURE-YEARS MISSION BUDGET.

Section 222(a) of title 10, United States Code, is amended by striking out "at the same time that" in the second sentence and inserting in lieu thereof "not later than 60 days after the date on which".

SEC. 1005. SUBMISSION OF NEXT FUTURE-YEARS DEFENSE PROGRAM AS REQUIRED BY LAW.

(a) CONDITION ON OBLIGATION OF ADVANCE PROCUREMENT FUNDS.—If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1996 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program, then during the 30-day period beginning on the last day of such 90-

day period the Secretary may not obligate more than 10 percent of the fiscal year 1995 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1996 future-years defense program, then the Secretary may not make any further obligation of fiscal year 1995 advance procurement funds until such program is submitted to Congress.

(b) REMOVAL OF CONDITION.—If the Secretary submits to Congress the fiscal year 1996 future-years defense program during the 30-day period described in the first sentence of subsection (a), the limitation on obligation of advance procurement funds prescribed in that sentence shall cease to apply effective as of the date of the submission of such program.

(c) COMPLIANCE CERTIFICATION AS CONDITION OF EFFECTIVE SUBMISSION OF FYDP.—A submission of the fiscal year 1996 future-years defense program may not be considered to have been made for purposes of this section unless the submission is accompanied by a certification by the Secretary that such program as submitted satisfies the requirements of section 221(b) of title 10, United States Code. Any such certification may be made by the Secretary only after consultation with the Inspector General of the Department of Defense.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "fiscal year 1996 future-years defense program" means the multiyear defense program (including associated annexes) covering fiscal years beginning with fiscal year 1996 required (by section 221 of title 10, United States Code) to be submitted to Congress in conjunction with the President's budget for that fiscal year.

(2) The term "fiscal year 1995 advance procurement funds" means funds appropriated for the Department of Defense for fiscal year 1995 that are available for advance procurement.

SEC. 1006. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.

(a) AUTHORITY.—The amounts described in subsection (b) may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1994 defense appropriations except as otherwise provided in subsections (c) and (d).

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1994 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1994 defense authorizations.

(c) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in subsection (b) which remain available for obligation on the date of the enactment of this Act may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1994 defense appropriations):

(1) The Guardrail modifications program under "Aircraft Procurement, Army" in the amount of $19,000,000.

(2) The AT–4 upgrade program under "Procurement of Ammunition, Army" in the amount of $15,000,000.

(3) The Combat Vehicle Modernization program under "Research, Development, Test, and Evaluation, Army" in the amount of $20,000,000 for incorporation of the Saudi Arabia M1A2 electronic data processing, storage and retrieval system in the United States version of the M1A2 tank.

(d) MANUFACTURING TECHNOLOGY.—The Secretary of Defense may obligate fiscal year 1994 defense appropriations under the Manufacturing Technology Development program which remain available for obligation on the date of the enactment of this Act in accordance with the competition and cost-sharing requirements of subsection (d) of section 2525 of title 10, United States Code, as amended by section 256 of this Act, notwithstanding any other provision of law that specifies (or has the effect of requiring) that a contract be entered into with, or a grant be made to, a particular institution or entity.

(e) DEFINITIONS.—For the purposes of this section:

(1) FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.—The term "fiscal year 1994 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1994 in the Department of Defense Appropriations Act, 1994 (Public Law 103–139).

(2) FISCAL YEAR 1994 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1994 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1994 in the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

Subtitle B—Counter-Drug Activities

SEC. 1011. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) EXTENSION OF CURRENT AUTHORITY.—Section 1004(a) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended by striking out "through 1995" and inserting in lieu thereof "through 1999".

10 USC 374 note.

(b) CONDITION ON TRANSFER OF FUNDS.—Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states—

(1) the amount authorized to be transferred;

(2) the account from which such amount is authorized to be transferred; and

(3) the account to which such amount is authorized to be transferred.

(c) CONDITION ON DETAILING PERSONNEL.—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

(d) RELATIONSHIP TO OTHER LAW.—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be.

SEC. 1012. OFFICIAL IMMUNITY FOR AUTHORIZED EMPLOYEES AND AGENTS OF THE UNITED STATES AND FOREIGN COUNTRIES ENGAGED IN INTERDICTION OF AIRCRAFT USED IN ILLICIT DRUG TRAFFICKING.

22 USC 2291-4.

(a) EMPLOYEES AND AGENTS OF FOREIGN COUNTRIES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of a foreign country (including members of the armed forces of that country) to interdict or attempt to interdict an aircraft in that country's territory or airspace if—

(1) that aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking; and

(2) the President of the United States, before the interdiction occurs, has determined with respect to that country that—

(A) interdiction is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and

(B) the country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force directed against the aircraft.

(b) EMPLOYEES AND AGENTS OF THE UNITED STATES.—Notwithstanding any other provision of law, it shall not be unlawful for authorized employees or agents of the United States (including members of the Armed Forces of the United States) to provide assistance for the interdiction actions of foreign countries authorized under subsection (a). The provision of such assistance shall not give rise to any civil action seeking money damages or any other form of relief against the United States or its employees or agents (including members of the Armed Forces of the United States).

(c) DEFINITIONS.—For purposes of this section:

(1) The terms "interdict" and "interdiction", with respect to an aircraft, mean to damage, render inoperative, or destroy the aircraft.

(2) The term "illicit drug trafficking" means illicit trafficking in narcotic drugs, psychotropic substances, and other controlled substances, as such activities are described by any international narcotics control agreement to which the United States is a signatory, or by the domestic law of the country in whose territory or airspace the interdiction is occurring.

(3) The term "assistance" includes operational, training, intelligence, logistical, technical, and administrative assistance.

SEC. 1013. REPORT ON STATUS OF DEFENSE RANDOM DRUG TESTING PROGRAM.

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the policy and procedures under which the Armed Forces conduct random drug testing of members of the Armed Forces, the frequency of such testing, and the number of members annually required to submit to such testing. The report shall describe any changes that were made to such policy or proce-

dures, or to the frequency of such testing, during the one-year period ending on the date of the enactment of this Act.

Subtitle C—Naval Vessels and Related Matters

California.

SEC. 1021. TRANSFER OF USNS MAURY.

(a) IN GENERAL.—The Secretary of the Navy shall transfer the USNS Maury (TAGS–39) to the Department of Transportation for assignment as a training ship to the California Maritime Academy at Vallejo, California. The transfer shall be made on the date of the decommissioning of that vessel.

(b) TERMS AND CONDITIONS.—(1) In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of the conveyance;

(B) in its condition on that date; and

(C) at no cost to the United States.

(2) The Secretary may require such additional terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1022. TRANSFER OF OBSOLETE VESSEL USS GUADALCANAL.

(a) AUTHORITY.—Notwithstanding subsections (a) and (d) of section 7306 of title 10, United States Code, but subject to subsections (b) and (c) of that section, upon the decommissioning of the USS Guadalcanal (LPH–7), the Secretary of the Navy may transfer the USS Guadalcanal to the not-for-profit organization Intrepid Museum Foundation, New York, New York.

(b) LIMITATION.—The transfer authorized by subsection (a) may be made only if the Secretary determines that the vessel USS Guadalcanal is of no further use to the United States for national security purposes.

(c) TERMS AND CONDITIONS.—The Secretary may require such terms and conditions in connection with the transfer authorized by this section as the Secretary considers appropriate.

SEC. 1023. MARITIME PREPOSITIONING SHIP PROGRAM ENHANCEMENT.

Section 2218(f) of title 10, United States Code, shall not apply in the case of the purchase of three ships for the purpose of enhancing Marine Corps prepositioning ship squadrons.

Subtitle D—POW/MIA Matters

10 USC 113 note.

SEC. 1031. ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "unaccounted-for Korean conflict POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(2) The term "unaccounted-for Cold War POW/MIA" means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(3) The term "Korean conflict" has the meaning given such term in section 101(9) of title 38, United States Code.

SEC. 1032. REQUIREMENT FOR SECRETARY OF DEFENSE TO SUBMIT RECOMMENDATIONS ON CERTAIN PROVISIONS OF LAW CONCERNING MISSING PERSONS.

(a) REVIEW.—The Secretary of Defense shall conduct a review of the provisions of chapter 10 of title 37, United States Code, relating to missing persons.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report containing the Secretary's recommendations as to whether those provisions of law should be amended.

(c) CONSULTATION.—The review under subsection (a) shall be carried out in consultation with the Secretaries of the military departments.

SEC. 1033. CONTACT BETWEEN THE DEPARTMENT OF DEFENSE AND THE MINISTRY OF NATIONAL DEFENSE OF CHINA ON POW/MIA ISSUES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate, in its final report, dated January 13, 1993, concluded—

(A) that "many American POWs had been held in China during the Korean conflict and that foreign POW camps in both China and North Korea were run by Chinese officials"; and

(B) that "given the fact that only 26 Army and 15 Air Force personnel returned from China following the war, the committee can now firmly conclude that the People's Republic of China surely has information on the fate of other unaccounted for American POWs from the Korean conflict.".

(2) The Select Committee on POW/MIA Affairs recommended in that report that "the Department of State and Defense form a POW/MIA task force on China similar to Task Force Russia.".

(3) Neither the Department of Defense nor the Department of State has held substantive discussions with officials from the People's Republic of China concerning unaccounted for American prisoners of war of the Korean conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish contact with officials of the Ministry of Defense of the People's Republic of China regarding unresolved issues relating to American prisoners of war and American personnel missing in action as a result of the Korean conflict.

SEC. 1034. INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE VIETNAM CONFLICT.

Reports.

(a) REQUIREMENT.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the information specified in subsection (b) pertaining to United States personnel involved in the Vietnam conflict who remain not accounted for.

(b) REQUIRED INFORMATION.—The information to be provided in the report under subsection (a) is as follows:

(1) A complete listing by name of all such personnel about whom it is possible that officials of the Socialist Republic of Vietnam can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

(2) A complete listing by name of all such personnel about whom it is possible that officials of the Lao People's Democratic Republic can produce additional information or remains that could lead to the maximum possible accounting for those personnel, as determined on the basis of all information available to the United States Government.

SEC. 1035. REPORT ON POW/MIA MATTERS CONCERNING NORTH KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Select Committee on POW/MIA Affairs of the Senate concluded in its final report, dated January 13, 1993, that "it is likely that a large number of possible MIA remains can be repatriated and several records and documents on unaccounted for POW's and MIA's can be provided from North Korea once a joint working level commission is set up under the leadership of the United States.".

(2) The Select Committee recommended in such report that "the Departments of State and Defense take immediate steps to form this commission through the United Nations Command at Panmunjom, Korea" and that the "commission should have a strictly humanitarian mission and should not be tied to political developments on the Korean peninsula.".

(3) In August 1993, the United States and North Korea entered into an agreement concerning the repatriation of remains of United States personnel.

(4) The establishment of a joint working level commission with North Korea could enhance the prospects for results under the August 1993 agreement.

(b) REPORT.—The Secretary of Defense shall, at the end of January and September of 1995, submit a report to Congress on the status of efforts to obtain information from North Korea concerning United States personnel involved in the Korean conflict who remain not accounted for and to obtain from North Korea any remains of such personnel.

(c) COMMISSION.—The President shall give serious consideration to establishing a joint working level commission with North Korea, consistent with the recommendations of the Select Committee on POW/MIA Affairs of the Senate set forth in the final report of the committee, dated January 13, 1993, to resolve the remaining issues relating to United States personnel who became prisoners of war or missing in action during the Korean conflict. President.

SEC. 1036. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL FROM THE KOREAN CONFLICT, THE VIETNAM ERA, AND THE COLD WAR.

Section 1082 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 50 U.S.C. 401 note) is amended—

(1) in subsection (a), by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.";

(2) in subsection (c)—

(A) by striking out the first sentence in paragraph (1) and inserting in lieu thereof the following: "In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than September 30, 1995.";

(B) in paragraph (2), by striking out "after March 1, 1992,"; and

(C) in paragraph (3), by striking out "a Vietnam-era POW/MIA who may still be alive in Southeast Asia," and inserting in lieu thereof "any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity,";

(3) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) DEFINITIONS.—For purposes of this section:

"(1) The terms 'Korean conflict' and 'Vietnam era' have the meanings given those terms in section 101 of title 38, United States Code.

"(2) The term 'Cold War' means the period from the end of World War II to the beginning of the Korean conflict and the period from the end of the Korean conflict to the beginning of the Vietnam era.

"(3) The term 'official custodian' means—

"(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

"(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense."; and

(4) by striking out the section heading and inserting:

"SEC. 1082. DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.".

Subtitle E—Miscellaneous Reporting Requirements

10 USC 113 note.

SEC. 1041. ANNUAL REPORT ON DENIAL, REVOCATION, AND SUSPENSION OF SECURITY CLEARANCES.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress, not later than 90 days after the close of each of fiscal years 1995 through 2000, a report concerning the denial, revocation, or suspension of security clearances for Department of Defense military and civilian personnel, and for Department of Defense contractor employees, for that fiscal year.

(b) MATTER TO BE INCLUDED IN REPORT.—The Secretary shall include in each such report the following information with respect to the fiscal year covered by the report (shown separately for members of the Armed Forces, civilian officers and employees of the Department of Defense, and employees of contractors of the Department of Defense):

(1) The number of denials, revocations, and suspensions of a security clearance, including clearance for special access programs and for sensitive compartmented information.

(2) For cases involving the denial or revocation of a security clearance, the average period from the date of the initial determination and notification to the individual concerned of the denial or revocation of the clearance to the date of the final

determination of the denial or revocation, as well as the shortest and longest period in such cases.

(3) For cases involving the suspension of a security clearance, the average period from the date of the initial determination and notification to the individual concerned of the suspension of the clearance to the date of the final determination of the suspension, as well as the shortest and longest period of such cases.

(4) The number of cases in which a security clearance was suspended in which the resolution of the matter was the restoration of the security clearance, and the average period for such suspensions.

(5) The number of cases (shown only for members of the Armed Forces and civilian officers and employees of the Department of Defense) in which an individual who had a security clearance denied or revoked remained a member of the Armed Forces or a civilian officer or employee, as the case may be, at the end of the fiscal year.

(6) The number of cases in which an individual who had a security clearance suspended, and in which no final determination had been made, remained a member of the Armed Forces, a civilian officer or employee, or an employee of a contractor, as the case may be, at the end of the fiscal year.

(7) The number of cases in which an appeal was made from a final determination to deny or revoke a security clearance and, of those, the number in which the appeal resulted in the granting or restoration of the security clearance.

SEC. 1042. REPORT ON USE OF LOW-ENRICHED URANIUM AS FUEL FOR NAVAL NUCLEAR REACTORS.

(a) REQUIREMENT OF REPORT.—Not later than June 1, 1995, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the use of low-enriched uranium (instead of highly-enriched uranium) as fuel for naval nuclear reactors.

(b) CONTENTS OF REPORT.—The report shall include an assessment of the following:

(1) The advantages and disadvantages of the use of low-enriched uranium (instead of highly-enriched uranium) as fuel for naval nuclear reactors.

(2) The effects of such use on the following:

(A) Operating performance, ship displacement, and reactor core life, including the full range of plausible trade-offs among operating performance, ship displacement, and reactor core life that may result from such use.

(B) Construction costs and operating costs.

(C) Naval fuel cycles.

(D) Policies of the United States for the nonproliferation of nuclear weapons, including the proposal of the President for a global ban on the production of fissile materials for weapons.

(3) The implications of such use for current and future United States nuclear-powered naval vessels.

(4) The complexity and effectiveness of safeguards under naval fuel cycles for low-enriched uranium in relation to the complexity and effectiveness of safeguards under naval fuel cycles for highly-enriched uranium.

(5) The risk of theft or diversion of low-enriched uranium under naval fuel cycles for low-enriched uranium in relation to the risk of theft or diversion of highly-enriched uranium under naval fuel cycles for highly-enriched uranium.

(6) The potential savings that might be achieved, and the potential additional costs that might be incurred, as a result of the use of low-enriched uranium instead of highly-enriched uranium as fuel for naval nuclear reactors.

(7) Any additional information that the Secretary of the Navy considers to be appropriate.

Subtitle F—Congressional Findings, Policies, Commendations, and Commemorations

SEC. 1051. SENSE OF CONGRESS CONCERNING COMMENDATION OF INDIVIDUALS EXPOSED TO MUSTARD AGENTS DURING WORLD WAR II TESTING ACTIVITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should issue to each individual described in subsection (b) a commendation in honorary recognition of the individual's special service, loyalty, and contribution to the United States.

(b) COVERED INDIVIDUALS.—Individuals referred to in subsection (a) are those individuals who, as members of the Armed Forces or employees of the Department of War during World War II, were exposed (without their knowledge or consent) to mustard agents in connection with testing performed by the Department of War during that war.

(c) NOTIFICATION OF EXPOSURE.—The Secretary of Defense shall notify each surviving individual described in subsection (b) of—

(1) the exposure described in subsection (b);

(2) the possible health effects of the exposure that are known to the Secretary; and

(3) the likely options available to the individual for medical treatment for any adverse health effects resulting from the exposure.

(d) FURNISHING OF INFORMATION TO SECRETARY OF VETERANS AFFAIRS.—The Secretary of Defense shall provide to the Secretary of Veterans Affairs any information of the Department of Defense regarding the exposure described in subsection (b), including the names of the individuals described in subsection (b).

SEC. 1052. USS INDIANAPOLIS (CA-35): GALLANTRY, SACRIFICE AND A DECISIVE MISSION TO END WW II.

(a) FINDINGS.—Congress makes the following findings:

(1) The USS INDIANAPOLIS served the people of the United States with valor and distinction throughout World War II in action against enemy forces in the Pacific Theater of Operations from 7 December 1941 to 29 July 1945.

(2) The fast and powerful heavy cruiser with its courageous and capable crew, compiled an impressive combat record during her victorious forays across the battle-torn reaches of the Pacific, receiving in the process ten hard-earned Battle Stars from the Aleutians to Okinawa.

(3) This mighty ship repeatedly proved herself a swift, hard-hitting weapon of our Pacific Fleet, rendering invaluable service in anti-shipping, shore bombardments, anti-air and invasion support roles, and serving with honor and great distinction as Fifth Fleet Flagship under Admiral Raymond Spruance, USN, and Third Fleet Flagship under Admiral William F. Halsey, USN.

(4) This gallant ship, owing to her superior speed and record of accomplishment, transported the world's first operational atomic bomb to the Island of Tinian, accomplishing her mission at a record average speed of 29 knots.

(5) Following the accomplishment of her mission, the INDIANAPOLIS departed Tinian for Guam and, thereafter, embarked from Guam for the Leyte Gulf where she was to join with the fleet assembling for the invasion of Japan.

(6) At 0014 hours on 30 July 1945, the USS INDIANAPOLIS was sunk by enemy torpedo action.

(7) Of the approximately 900 members of her crew of 1,198 officers and men who survived the initial torpedo attack, only 319 were eventually rescued because, as a result of the ship's communication ability having been destroyed in the attack, the sinking of the USS INDIANAPOLIS was not discovered for five fateful days, during which the survivors suffered incessant shark attacks, starvation, desperate thirst, and exposure.

(8) From her participation in the earliest offensive actions in the Pacific in World War II to becoming the last capital ship lost in that conflict, the USS INDIANAPOLIS and her crew left an indelible imprint on our nation's struggle to eventual victory.

(9) This selfless and outstanding performance of duty reflects great credit upon the ship and her crew, thus upholding the very highest traditions of the United States Navy.

(b) RECOGNITION AND COMMENDATION.—Congress, acting on behalf of the grateful people of the United States, hereby—

(1) recognizes the invaluable contributions of the USS INDIANAPOLIS to the ending of World War II; and

(2) on the occasion of the 50th Anniversary of her tragic sinking, and the dedication of her National Memorial in Indianapolis on July 30th, 1995, commends this gallant ship and her crew for selfless and heroic service to the United States of America.

Subtitle G—Other Matters

SEC. 1061. INCREASED AUTHORITY TO ACCEPT VOLUNTARY SERVICES.

(a) EXPANSION OF AUTHORITY.—The text of section 1588 of title 10, United States Code, is amended to read as follows:

"(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

"(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

"(2) Voluntary services to be provided for a museum or a natural resources program.

"(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

"(A) Family support programs.

"(B) Child development and youth services programs.

"(C) Library and education programs.

"(D) Religious programs.

"(E) Housing referral programs.

"(F) Programs providing employment assistance to spouses of such members.

"(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

"(b) REQUIREMENTS AND LIMITATIONS.—(1) The Secretary concerned shall notify the person of the scope of the services accepted.

"(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall—

"(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

"(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

"(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not—

"(A) place the person in a policy-making position; or

"(B) except as provided in subsection (e), compensate the person for the provision of such services.

"(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.—The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

"(d) STATUS OF PERSONS PROVIDING SERVICES.—(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

"(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

"(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

"(C) Section 522a of title 5 (relating to maintenance of records on individuals).

"(D) Chapter 11 of title 18 (relating to conflicts of interest).

"(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

"(A) Subchapter II of chapter 81 of title 5 (relating to compensation of nonappropriated fund employees for work-related injuries).

"(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

"(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal

Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

"(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying—

"(A) the average monthly number of hours that the person provided the services, by

"(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a). The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.".

(b) PILOT PROGRAM.—(1) The Secretary of Defense shall conduct a pilot program, for not less than six months, to accept voluntary services under the authority provided in section 1588 of title 10, United States Code, as amended by subsection (a). The purpose of the pilot program shall be to evaluate the policies and procedures of the Department of Defense for the acceptance of voluntary services under such section. The pilot program shall involve a variety of services, programs, and locations. 10 USC 1588 note.

(2) The Secretary may not accept voluntary services under section 1588 of title 10, United States Code (other than services that may have been accepted under such section before the date of the enactment of this Act), and may not issue regulations to implement the amendment to such section made by subsection (a), until after the termination of the pilot program.

(3) Not later than 60 days after the termination of the pilot program, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the pilot program. Reports.

(c) CONFORMING AMENDMENT.—Section 8171(a) of title 5, United States Code, is amended by inserting ", or to a volunteer providing such an instrumentality with services accepted under section 1588 of title 10," after "described by section 2105(c) of this title".

SEC. 1062. CIVIL AIR PATROL.

(a) PROVISION OF FUNDS.—Subsection (b) of section 9441 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) provide funds for the national headquarters of the Civil Air Patrol, including funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent and utilities, and other operational expenses;".

(b) LIAISONS.—Such section is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Air Force may authorize the Civil Air Patrol to employ, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

"(2) A person employed pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.

"(3) A person employed pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose.".

SEC. 1063. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTEES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—Subchapter I of chapter 134 of title 10, United States Code, as amended by section 372, is further amended by adding at the end the following new section:

"§ 2248. Purchase of surety bonds: prohibition

"Funds appropriated or otherwise made available to the Department of Defense for fiscal years 1995 through 1999 may not be obligated or expended for the purchase of surety bonds or other guarantees of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2248. Purchase of surety bonds: prohibition.".

SEC. 1064. REVISION OF AUTHORITY FOR USE OF NAVY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

(a) SOURCES OF TRAINING.—Subsection (b) of section 1374 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1821; 10 U.S.C. 5013 note) is amended—

(1) by striking out the subsection caption and inserting in lieu thereof "SOURCES OF TRAINING.—"; and

(2) by inserting before the period at the end the following: "or may provide such training directly at such installations by agreement with the State concerned".

(b) LIABILITY AND INDEMNIFICATION.—Subsection (e) of such section is amended to read as follows:

"(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

"(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

"(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

"(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.".

SEC. 1065. DEMONSTRATION PROJECT FOR USE OF ARMY INSTALLATIONS TO PROVIDE PRERELEASE EMPLOYMENT TRAINING TO NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS.

10 USC 3013 note.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Army may conduct a demonstration project to test the feasibility of using Army facilities to provide employment training to nonviolent offenders in a State penal system before their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with

a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in connection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

(f) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers appropriate.

5 USC 3502 note.

SEC. 1066. INTERAGENCY PLACEMENT PROGRAM FOR FEDERAL EMPLOYEES AFFECTED BY REDUCTIONS IN FORCE.

(a) STUDY AND REPORT.—(1) The Director of the Office of Personnel Management shall conduct a study on the feasibility of establishing a mandatory interagency placement program for Federal employees affected by reductions in force.

(2) For purposes of paragraph (1), an interagency placement program is a program that provides a system to require the offering of a position in an agency to an employee of another agency affected by a reduction in force if—

(A) the position cannot be filled through a placement program of the agency in which the position is located;

(B) the employee to whom the offer is made is qualified for the offered position; and

(C) the geographic location of the offered position is within the commuting area of—

(i) the residence of the employee; or

(ii) the employee's present or last-held position.

(3) The Director shall carry out this subsection in consultation with the Secretary of Defense.

(4) The Director shall seek comments from the heads of all appropriate Federal agencies in conducting the study required by paragraph (1).

(5) Not later than six months after the date of the enactment of this Act, the Director shall submit to Congress a report on the results of the study required by paragraph (1) and on any action taken by the Director under subsection (b). Reports.

(b) AGREEMENTS TO ESTABLISH INTERAGENCY PLACEMENT PROGRAM.—(1) The Director may establish a Government-wide interagency placement program for Federal employees affected by reductions in force if, during the 6-month period beginning on the date of the enactment of this Act, the Director, in consultation with the Secretary of Defense, determines that such a program is feasible. To carry out the program, the Director may enter into an agreement with the head of each agency that agrees to participate in the program. If the Director establishes a program under this subsection, it is not necessary that the program be an interagency placement program within the meaning of subsection (a)(2).

(2) If the Director establishes a program pursuant to paragraph (1), the report required by subsection (a)(5) shall identify each agency that does not agree to participate in the program and the reasons of the head of that agency for not agreeing to participate.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "agency" means an Executive agency as defined in section 105 of title 5, United States Code, except that such term does not include the General Accounting Office.

(2) The term "Federal employees affected by reductions in force" means Federal employees who are separated, or are scheduled to be separated, from service under a reduction in force pursuant to—

(A) regulations prescribed under section 3502 of title 5, United States Code; or

(B) procedures established under section 3595 of such title.

SEC. 1067. NATIONAL MUSEUM OF HEALTH AND MEDICINE. 10 USC 176 note.

(a) PURPOSE.—It is the purpose of this section—

(1) to display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center;

(2) to designate the public facility of the Armed Forces Institute of Pathology as the National Museum of Health and Medicine; and

(3) to designate a site for the relocation of the public facility of the National Museum of Health and Medicine so that it may serve as a central resource of instruction about, and be involved in, the critical health issues which confront all American citizens.

(b) DESIGNATION AND SITE OF FACILITY.—The public facility of the Armed Forces Institute of Pathology—

(1) shall also be known as the National Museum of Health and Medicine; and

(2) shall be located on or near the Mall on land owned by the Federal Government or the District of Columbia (or both) in the District of Columbia.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority or responsibilities of the National Capital Planning Commission or the Commission of Fine Arts.

(d) DEFINITION.—As used in this section, the term "the Mall" means—

(1) the land designated as "Union Square", United States Reservation 6A; and

(2) the land designate l as the "Mall", United States Reservations 3, 4, 5, and 6.

(e) SENSE OF THE CONGRESS.—

(1) FINDINGS.—Congress makes the following findings:

(A) The National Museum of Health and Medicine Foundation, Inc. (a private, nonprofit organization having for its primary purpose the relocation to the Mall and revitalization of the National Museum of Health and Medicine), the Armed Forces Institute of Pathology, and the Public Health Service have jointly supported planning to relocate the Museum to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building (100 Independence Avenue, Southwest, in the District of Columbia).

(B) The National Museum of Health and Medicine Foundation, Inc., is deserving of the encouragement and support of the American people in its effort to relocate the National Museum of Health and Medicine to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building, and in its effort to raise funds for a revitalized Museum to inspire increasing numbers of Americans to lead healthy lives through improved public understanding of health and the medical sciences.

(2) LOCATION.—It is the sense of Congress that, subject to appropriate approvals by the National Capital Planning Commission and the Commission of Fine Arts, the National Museum of Health and Medicine should be relocated to a site on land that is located east of and adjacent to the Hubert H. Humphrey Building for the purpose of educating the American public concerning health and the medical sciences.

SEC. 1068. ASSIGNMENTS OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) AUTHORITY.—Section 3371(4) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a federally funded research and development center.".

(b) PROVISIONS GOVERNING ASSIGNMENTS.—Section 3372 of title 5, United States Code, is amended by adding at the end the following new subsection:

Regulations.

"(e) Under regulations prescribed pursuant to section 3376 of this title—

"(1) an assignment of an employee of a Federal agency to an other organization or an institution of higher education,

and an employee so assigned, shall be treated in the same way as an assignment of an employee of a Federal agency to a State or local government, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a Federal agency to a State or local government, except that the rate of pay of an employee assigned to a federally funded research and development center may not exceed the rate of pay that such employee would be paid for continued service in the position in the Federal agency from which assigned; and

"(2) an assignment of an employee of an other organization or an institution of higher education to a Federal agency, and an employee so assigned, shall be treated in the same way as an assignment of an employee of a State or local government to a Federal agency, and an employee so assigned, is treated under the provisions of this subchapter governing an assignment of an employee of a State or local government to a Federal agency.".

SEC. 1069. REVIEW OF THE BOTTOM UP REVIEW AND THE FUTURE YEAR DEFENSE PROGRAM AND ESTABLISHMENT OF NEW FUNDING REQUIREMENTS AND PRIORITIES.

(a) FINDINGS.—Congress finds as follows:

(1) United States defense policy is to maintain the capability to fight and win two major regional contingencies nearly simultaneously.

(2) The Secretary of Defense conducted the Bottom Up Review during 1993 to structure the Armed Forces for the Post-Cold War period.

(3) The United States military force structure has shrunk dramatically since the 1991 Persian Gulf War and some critical force enhancements will not be deployed for several years.

(4) The Secretary of Defense (in testimony before the Committee on Armed Services of the Senate on February 2, 1994) stated that under current inflation assumptions the Department of Defense's Future Years Defense Program includes approximately $20,000,000,000 more in program funding requests for fiscal years 1996 through 1999 than the defense funding levels projected for the President's budget for those years.

(5) The Secretary of the Navy (in testimony before the Committee on Armed Services of the Senate on March 8, 1994) stated that by 1999 the Department of the Navy will operate only 330 ships, rather than the 346 ships projected in the report on the Bottom Up Review.

(6) The Secretary of Defense, in his January 1994 Annual Report to the President and Congress, reported that the Air Force will field approximately 100 heavy bombers, rather than the "up to 184" assumed in the report on the Bottom Up Review.

(7) The plans of the Department of Defense for a major regional contingency in the Far East call for up to 5 Army divisions and the plans for a major regional contingency in Southwest Asia call for up to 7 Army divisions, while the report on the Bottom Up Review plans for an Army of 10 active divisions and at least 15 enhanced-readiness Army National Guard brigades.

(8) The President's budget for fiscal year 1995 assumes the Department of Defense will save at least $6,000,000,000 from procurement reform.

(9) The first and second rounds of the Base Realignment and Closure Commission have not yet achieved the level of savings initially estimated, and the 1995 base closure round may cost significantly more than is assumed in the President's budget.

(10) United States forces are presently involved in humanitarian relief efforts in or around Rwanda, in a number of air and maritime operations relating to the United Nations operations in Bosnia, and in a variety of operations relating to Iraq, Haiti, Somalia, and Macedonia.

(11) United States forces may be called upon in the future to conduct additional humanitarian and relief missions.

(12) United States forces may be called upon to conduct even more significant operations to enforce a peace agreement in Bosnia and to facilitate the departure from Haiti of the military leadership.

(13) Many of the forces that are participating in these other-than-war or nontraditional operations would be required early on in the event of one or more major regional contingencies.

(14) There are inevitable tradeoffs among spending on force structure, readiness, modernization, personnel, pay, and quality of life.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) within 30 days after enactment of this Act, the Secretary of Defense should initiate a review of the assumptions and conclusions of the President's budget, the report on the Bottom Up Review, and the Future Years Defense Program, such review to include consideration of the various other-than-war or nontraditional operations in which the United States forces are or may be participating;

(2) not more than 180 days after the review is initiated, the Secretary should submit to the President and Congress a report which—

(A) describes in detail the force structure required to fight and win two major regional contingencies nearly simultaneously in light of other ongoing or potential operations;

(B) may also address possible changes in national security planning or programs, including revised alliance arrangements, increased reliance on reserve component forces, or adjustments to the national military strategy; and

(C) includes an evaluation of an Army configured as 12 active duty divisions, a number of which would be rounded out with National Guard combat units;

(3) not more than 60 days after receipt of the report from the Secretary of Defense, the President should submit to Congress a report detailing the steps the President intends to take to meet the force structure described in the Secretary's report;

(4) future-years defense budgets submitted to Congress by the President should reflect the funding level necessary to support the force structure described in the report;

(5) funding for national defense for fiscal years 1995 through 1997 should be established at a level sufficient to support a force structure adequate to meet a two-war strategy and to ensure that the United States does not have a hollow force;

(6) the force structure to meet the requirements of a two-war strategy represents the minimum level which should be maintained unless the strategy is modified;

(7) whenever possible and consistent with the safety of United States personnel, in deploying military forces in support of operations other than war or other nontraditional operations, the President should seek to use forces other than those identified for early deployment in the event of one or more major regional contingencies; and

(8) the President should be willing to increase defense spending if required to meet new or existing threats.

SEC. 1070. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113(e)(2) is amended by striking out "section 104" and inserting in lieu thereof "section 108". 10 USC 113.

(2) Section 133a(b) is amended by inserting "and Technology" before "in the performance of". 10 USC 133.

(3) Section 580a(a) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "November 30, 1993,". 10 USC 580a.

(4) The section 1058 added by section 551(a) of Public Law 103–160 (107 Stat. 1661) is amended in subsection (d) by striking out "subject to this chapter" and inserting in lieu thereof "subject to the Uniform Code of Military Justice (chapter 47 of this title)".

(5)(A) The section 1058 added by section 554(a) of Public Law 103–160 (107 Stat. 1663) is redesignated as section 1059.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(6)(A) The section 1058 added by section 1433(b) of Public Law 103–160 (107 Stat. 1834) is redesignated as section 1060.

(B) The item relating to that section in the table of sections at the beginning of chapter 53 is revised to conform to the redesignation made by subparagraph (A).

(7) Section 1151(h)(3)(B)(v) is amended by inserting "school" after "For the fifth". 10 USC 1151.

(8)(A) The heading of section 1482a is amended so that the first letter of the fifth word is lower case.

(B) The item relating to that section in the table of sections at the beginning of chapter 75 is revised to conform to the amendment made by subparagraph (A).

(9) Section 2172(a)(3) is amended— 10 USC 2172.

(A) by striking out "health education assistance loan" and inserting in lieu thereof "health professions education loan";

(B) by striking out "part C" and inserting in lieu thereof "part A"; and

(C) by striking out "42 U.S.C. 294" and inserting in lieu thereof "42 U.S.C. 292".

10 USC 2350j. (10) Section 2350j is amended—

(A) in subsection (a), by inserting a comma after "Secretary of State" the second place it appears; and

(B) in subsection (f), by striking out "the" after "shall submit to".

10 USC 2399. (11) Section 2399 is amended—

(A) in subsection (b)(5) and (c)(1), by striking out "section 138(a)(2)(B)" and inserting in lieu thereof "section 139(a)(2)(B)";

(B) in subsection (g), by striking out "section 138" and inserting in lieu thereof "section 139"; and

(C) in subsection (h)(1), by striking out "section 138(a)(2)(A)" and inserting in lieu thereof "section 139(a)(2)(A)".

10 USC 2502. (12) Section 2502(d) is amended by striking out "Executive" and inserting in lieu thereof "executive".

(13)(A) Section 2540, as added by subsection (a) of section 822 of Public Law 103–160 (107 Stat. 1705), and section 2541, as added by subsection (b) of that section, are redesignated as sections 2539a and 2539b, respectively.

(B) The items relating to those sections in the table of sections at the beginning of subchapter V of chapter 148 are revised to conform to the redesignations made by subparagraph (A).

10 USC 2865. (14) Section 2865(a)(4) is amended by adding a period at the end.

10 USC 3022. (15) Sections 3022(a)(1), 5025(a)(1), and 8022(a)(1) are amended by striking out "section 137(c)" and inserting in lieu thereof "section 135(c)".

(16) The item relating to section 3082 in the table of sections at the beginning of chapter 307 (as added by section 521(b) of Public Law 103–160 (107 Stat. 1655)) is amended by striking out "3082." the second place it appears.

10 USC 9021. (17) Section 9021(c)(1) is amended by striking out "after the end of the 90-day period beginning on the date of the enactment of this section" and inserting in lieu thereof "after February 27, 1990".

10 USC 619 note. (b) PUBLIC LAW 103–160.—Effective as of November 30, 1993, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) is amended as follows:

10 USC 1174a note. (1) Section 507(d)(3) (107 Stat. 1647) is amended by inserting "note" after "10 U.S.C. 1293".

32 USC 709. (2) Section 524(c) (107 Stat. 1657) is amended by inserting "his" in the first quoted matter therein after "termination of".

10 USC 1058. (3) Section 551(a)(1) (107 Stat. 1661) is amended by striking out "Section" and inserting in lieu thereof "Chapter".

(4) Section 554(a)(2) (107 Stat. 1666) is amended by striking out "inserting after the item relating to section 1056" and inserting in lieu thereof "adding at the end".

10 USC 1059 note. (5) Section 554(b) (107 Stat. 1666) is amended—

(A) in paragraph (1), by striking out "Section 1058 of title 10, United States Code, as added by subsection

(a)," and inserting in lieu thereof "The section of title 10, United States Code, added by subsection (a)(1)"; and

(B) in paragraph (2), by striking out "1058".

(6) Section 713(a)(1) (107 Stat. 1689) is amended by striking out "third party" in the first quoted matter therein and inserting in lieu thereof "third-party". 10 USC 1095.

(7) Section 931(c)(1) (107 Stat. 1734) is amended by inserting close quotation marks before the period at the end. 10 USC 619.

(8) Section 931(f) (107 Stat. 1734) is amended— 10 USC 619a notes.

(A) by striking out "Public Law 101–180" in paragraphs (1) and (2) and inserting in lieu thereof "Public Law 100–180"; and

(B) by inserting "1305(b)" in paragraph (3) after "Such section".

(9) Section 1001(a) (107 Stat. 1742) is amended by adding close quotation marks and a period at the end. 10 USC 2706.

(10) Section 1314(3) (107 Stat. 1786) is amended by striking out "adding at the end" and inserting in lieu thereof "inserting after subsection (f)". 10 USC 2524.

(11) Section 1333(e)(4)(B)(i) (107 Stat. 1799) is amended by inserting a close parenthesis before the semicolon. 10 USC 2701 note.

(12) Section 2854(1) (107 Stat. 1908) is amended by striking out "the" in the second quoted matter therein. 10 USC 1770.

(13) Section 2902(a)(2) (107 Stat. 1911) is amended by striking out "Section 204(b)(7)(A)(ii)" and inserting in lieu thereof "Subparagraph (A)(i) of section 204(b)(7)". 10 USC 2687 note.

(14) Section 2912(b)(2) (107 Stat. 1925) is amended by striking out "section 637(d)(1)" and inserting in lieu thereof "section 8(d)(1)". 10 USC 2687 note.

(15) Section 2926(d) (107 Stat. 1932) is amended by striking out "Subsection (d)(1)(2)(C)(iii)" and inserting in lieu thereof "Subsection (d)(2)(C)(iii)". 10 USC 2687 note

(16) Section 3159(a) (107 Stat. 1956) is amended— 42 USC 7256 note.

(A) in paragraph (1), by inserting a close parenthesis after "(15 U.S.C. 637(d)"; and

(B) in paragraph (3)—

(i) by inserting a close parenthesis after "(20 U.S.C. 1135d–5(3))"; and

(ii) by inserting a close parenthesis after "(20 U.S.C. 1059c(b)(1))".

(c) PUBLIC LAW 102–484.—Effective as of October 23, 1992, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended as follows: Effective date. 22 USC 5859a note.

(1) Section 1505(e)(2) (22 U.S.C. 5859a(e)(2) is amended by striking out "and under subsection (d)(4)".

(2) Section 3161 (42 U.S.C. 7274h; 106 Stat. 2644) is amended—

(A) by striking out "work force" each place it appears in subsections (a), (c), and (d) and inserting in lieu thereof "workforce";

(B) by striking out "**WORK FORCE**" in the heading and inserting in lieu thereof "**WORKFORCE**"; and

(C) by striking out "Part D" in subsection (c)(6)(B) and inserting in lieu thereof "division D".

50 USC 98d note.

(3) Section 3302 (106 Stat. 2649) is amended by striking out "Bauxite, Refactory" in the table in subsection (a) and inserting in lieu thereof "Bauxite, Refractory".

50 USC 98c note.

(4) Section 3315 (106 Stat. 2654) is amended by inserting "of 1950" after "Defense Production Act" the first place it appears.

(d) OTHER LAWS.—

(1) Section 921 of Public Law 102–190 (10 U.S.C. 201 note; 105 Stat. 1452) is amended by striking out "section 136(b)(3)" in subsection (a) and inserting in lieu thereof "section 138(b)(3)".

(2) Section 2903(c)(6) of Public Law 101–510 (10 U.S.C. 2687 note) is amended by striking out "House or Representatives" and inserting in lieu thereof "House of Representatives".

(3) Section 653(b)(2) of Public Law 100–456 (10 U.S.C. 1448 note) is amended by striking out "section 411(a)" and inserting in lieu thereof "section 1311(a)".

(4) Section 4(c) of Public Law 92–425 (10 U.S.C. 1448 note) is amended by striking out "section 3112" and "section 541(b)" and inserting in lieu thereof "section 5312" and "section 1541(b)", respectively.

(5) Section 709 of title 32, United States Code, is amended—

(A) in subsection (e)(6), by striking out "thirty days prior to" and inserting in lieu thereof "30 days before"; and

(B) in subsection (g)(2), by striking out "clause (1) of this subsection" and inserting in lieu thereof "paragraph (1)".

(6) Section 908(c) of title 37, United States Code, is amended by striking out "section 1058" and inserting in lieu thereof "section 1060".

10 USC 1060 note.

(7) Section 182(a) of Public Law 103–236 (108 Stat. 418) is amended by striking out "section 1058, title 10, United States Code, before the date of enactment of this Act," and inserting in lieu thereof "section 1060 of title 10, United States Code, before April 30, 1994,".

(8) Subchapter II of chapter 81 of title 5, United States Code, is amended as follows:

5 USC 8171.

(A) Section 8171 is amended—

(i) in subsection (a)—

(I) by striking out "Chapter 18 of title 33" in the first sentence and inserting in lieu thereof "The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.)";

(II) by striking out "section 902(2) of title 33" in the first sentence and inserting in lieu thereof "section 2(2) of such Act (33 U.S.C. 902(2))"; and

(III) by striking out "section 903(a) of title 33 which follows the first comma" in the second sentence and inserting in lieu thereof "section 3(a) of such Act (33 U.S.C. 903(3)) which follows the second comma";

(ii) in subsection (b), by striking out "section 902(4) of title 33" and inserting in lieu thereof "section 2(4) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(4))";

(iii) in subsection (c)(1), by striking out "section 939(b) of title 33" and inserting in lieu thereof "39(b) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 939(b))"; and

(iv) in subsection (d), by striking out "sections 918 and 921 of title 33" and inserting in lieu thereof "sections 18 and 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 18 and 21, respectively)".

(B) Sections 8172 and 8173 are amended by striking out "section 902(2) of title 33" and inserting in lieu thereof "section 2(2) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 2(2))".

(e) REFERENCES IN TITLE 10 TO SECTIONS OF TITLE 38.—Title 10, United States Code, is amended as follows:

(1) Section 706(c) is amended by striking out "section 4321" and inserting in lieu thereof "section 4301".

(2) Section 708(c)(2) is amended by striking out "section 1421" and inserting in lieu thereof "section 3021".

(3) Section 1450 is amended by striking out "section 411(a)" in subsections (c) and (k)(1) and inserting in lieu thereof "section 1311(a)".

(4) Section 1451(c)(2) is amended by striking out "section 411(a)" and inserting in lieu thereof "section 1311(a)".

(5) Section 1457(c)(3) is amended by striking out "section 411" and inserting in lieu thereof "section 1311".

(6) Section 2006(b)(2) is amended by striking out "section 1415(c)", "section 1411", and "section 1421(b)" and inserting in lieu thereof "section 3015(d)", "section 3011", and "section 3021(b)", respectively.

(7) Section 2184(1) is amended by striking out "section 1724" and inserting in lieu thereof "section 3524".

(8) Section 2641(c) is amended by striking out "section 5011(g)(5)" and inserting in lieu thereof "section 8111(g)(5)".

(9) Section 2679(a) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(f) CLARIFICATION OF APPLICABILITY OF LIMITATION RELATING TO CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—Section 2399 of title 10, United States Code, is amended in subsection (e)(3)(B) by striking out "solely as a representative of" and inserting in lieu thereof "solely in testing for".

(g) PROCUREMENT OF AERONAUTICAL SUPPLIES FOR EXPERIMENTAL PURPOSES.—Section 2373(a) of title 10, United States Code, is amended by striking out "and chemical activity supplies," and inserting in lieu thereof "chemical activity, and aeronautical supplies,".

(h) COORDINATION WITH OTHER PROVISIONS OF THIS ACT.— For purposes of applying amendments made by provisions of this Act other than this section, this section shall be treated as having been enacted immediately before the other provisions of this Act. 10 USC 101 note.

SEC. 1071. AUTHORIZATION TO EXCHANGE CERTAIN ITEMS FOR TRANSPORTATION SERVICES.

Paragraph (1) of section 2572(b) of title 10, United States Code, is amended by inserting "transportation," after "salvage,".

SEC. 1072. AIR NATIONAL GUARD FIGHTER AIRCRAFT FORCE STRUCTURE.

(a) FINDINGS.—Congress makes the following findings:

(1) The reduction in the total number of Air Force general purpose fighter wings being implemented as part of the changes in the force structure of the Air Force pursuant to the proposals in the report on the Bottom Up Review conducted by the Secretary of Defense during 1993 includes reduction in the number of Air National Guard and Air Force Reserve fighter wings from 10 to 7.

(2) The plan (as of the date of the enactment of this Act) for implementing that reduction in the number of Air National Guard and Air Force Reserve fighter wings is to reduce the number of fighter aircraft designated as being in the Primary Aircraft Inventory category that are authorized for each Air National Guard fighter unit from 24 or 18 aircraft to 15 aircraft and to convert some Air National Guard fighter units to other purposes.

(3) The Commission on Roles and Missions of the Armed Forces (established by section 952 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 111 note; 107 Stat. 1738)) is required under section 954(b) of that Act to submit to Congress a report on possible changes to existing allocations among the Armed Forces of military roles, missions, and functions.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the number of Air National Guard Combat Readiness Training Centers in operation during fiscal year 1995 should not be less than the number of such centers in operation at the end of fiscal year 1994; and

(2) the report referred to in subsection (a)(3) should contain a review of, and recommendations on, the assignment of roles and missions to units of the Air National Guard and the Air Force Reserve in relation to active component units that are the counterparts to those units and on requirements for resources for training of those units.

(c) REQUIREMENT.—(1) After receiving the report referred to in subsection (a)(3), the Secretary of Defense shall review the findings of the Commission set forth in that report on the role and requirements for general purpose fighter units of the Air National Guard.

Reports.

(2) Not later than 30 days after receiving the report, the Secretary shall submit to Congress a report on the appropriate level of aircraft authorized in the Primary Aircraft Inventory of the Air Force for general purpose fighter units of the Air National Guard. The report shall include the plans of the Secretary for providing in a timely manner the funding levels necessary to support the level of such aircraft determined appropriate by the Secretary, if additional funding would be required to achieve and maintain that level of such aircraft.

SEC. 1073. SENSE OF CONGRESS CONCERNING VISAS FOR HIGH-LEVEL OFFICIALS OF TAIWAN.

It is the sense of Congress that no visa should be denied for a high-level official of Taiwan to enter the United States unless the official is otherwise excludable under the immigration laws of the United States.

SEC. 1074. DEFENSE MAPPING AGENCY.

(a) UNAUTHORIZED USE OF NAME.—Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2797. Unauthorized use of Defense Mapping Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Mapping Agency', the initials 'DMA', the seal of the Defense Mapping Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to hearing and determination of such action and may, at any time before such final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) LIMITATION ON LIABILITY RELATING TO NAVIGATIONAL AIDS.—Chapter 167 of such title, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 2798. Civil actions barred

"(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the Defense Mapping Agency.

"(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the Defense Mapping Agency prepares or disseminates navigational aids.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2797. Unauthorized use of Defense Mapping Agency name, initials, or seal.
"2798. Civil actions barred.".

(d) EFFECTIVE DATE.—Section 2798 of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date. 10 USC 2798 note.

SEC. 1075. LIMITATION REGARDING TELECOMMUNICATIONS REQUIREMENTS 10 USC 2315 note.

(a) LIMITATION.—No funds available to the Department of Defense or any other Executive agency may be expended to provide for meeting Department of Defense telecommunications requirements through the telecommunications procurement known as

"FTS–2000" or through any other Government-wide telecommunications procurement until—

Reports.

(1) the Secretary of Defense submits to the Congress a report containing—

(A) a certification by the Secretary that the FTS–2000 procurement or the other telecommunications procurement will provide assured, secure telecommunications support (including associated telecommunications services) for Department of Defense activities; and

(B) a description of how the procurement will be implemented and managed to meet defense information infrastructure requirements, including requirements to support deployed forces and intelligence activities; and

(2) 30 days elapse after the date on which such report is received by the committees.

(b) DEFINITIONS.—In this section:

(1) The term "defense telecommunications requirements" means requirements for telecommunications equipment and services that, if procured by the Department of Defense, would be exempt from the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) pursuant to section 2315 of title 10, United States Code.

(2) The term "Executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(3) The term "procurement" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(c) EFFECT ON OTHER LAW.—Nothing in this section may be construed as modifying or superseding, or as intended to impair or restrict authorities or responsibilities under—

(1) section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); or

(2) section 620 of Public Law 103–123.

Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1994.

TITLE XI—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

10 USC 2491 note.

SEC. 1101. SHORT TITLE.

This title may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1994".

SEC. 1102. FUNDING OF DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to this Act for the Department of Defense for fiscal year 1995, the sum of $3,090,808,000 shall be available from the sources specified in subsection (b) for defense conversion, reinvestment, and transition assistance programs.

(b) SOURCES OF FUNDS.—The amount set forth in subsection (a) shall be derived from the following sources in amounts as follows:

(1) $7,500,000 of the amounts authorized to be appropriated pursuant to title I.

(2) $2,190,408,000 of the amounts authorized to be appropriated pursuant to title II.

(3) $892,900,000 of the amounts authorized to be appropriated pursuant to title III.

(c) DEFINITION.—For purposes of this section, the term "defense conversion, reinvestment, and transition assistance programs" includes the following programs and activities of the Department of Defense:

(1) The programs and activities authorized by the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2658) and the amendments made by that Act.

(2) The programs and activities authorized by the Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII of Public Law 103–160; 107 Stat. 1783) and the amendments made by that Act.

(3) The programs and activities authorized by this title and the amendments made by this title.

Subtitle A—Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion

SEC. 1111. FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS FOR FISCAL YEAR 1995.

(a) FUNDS AVAILABLE.—Of the amount authorized to be appropriated under section 201 and specified in section 1102(b)(2) as a source of funds for defense conversion, reinvestment, and transition assistance programs, $751,000,000 shall be available for activities described in the defense reinvestment program elements of the budget of the Department of Defense for fiscal year 1995.

(b) ALLOCATION OF FUNDS.—The funds made available under subsection (a) shall be allocated as follows:

(1) $245,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code.

(2) $96,000,000 shall be available for commercial-military integration partnerships under section 2512 of such title.

(3) $80,000,000 shall be available for assistance of defense regional technology alliances under section 2513 of such title.

(4) $30,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of such title.

(5) $25,000,000 shall be available for assistance of manufacturing extension programs under section 2523 of such title.

(6) $24,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of such title.

(7) $10,000,000 shall be available for grants under section 2198 of such title to United States institutions of higher education and other United States not-for-profit organizations to support the management training program in Japanese language and culture.

(8) $50,000,000 shall be available for the maritime technology development program under section 1352(c)(2) of the

National Shipbuilding and Shipyard Conversion Act of 1993 (subtitle D of title XIII of Public Law 103–160; 10 U.S.C. 2501 note).

(9) $35,000,000 shall be available for the agile manufacturing/enterprise integration program.

(10) $30,000,000 shall be available for the advanced materials synthesis and processing partnership program.

(11) $55,000,000 shall be available for the defense dual-use extension program under section 2524 of title 10, United States Code, of which—

(A) $5,000,000 shall be used for provision of assistance pursuant to subsection (c)(3) of such section; and

(B) $50,000,000 shall be available to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees issued pursuant to subsection (b)(3) of such section.

(12) $10,000,000 shall be available for the Federal Defense Laboratory Diversification Program under section 2519 of title 10, United States Code, as added by section 1113(a).

(13) $50,000,000 shall be available for the Navy Reinvestment Program under section 2520 of such title, as added by section 1113(b).

(c) AVAILABILITY OF FUNDS FOR FISCAL YEAR 1994 TECHNOLOGY REINVESTMENT PROJECTS.—Funds allocated under paragraphs (1) through (6) of subsection (b) to the defense reinvestment programs described in such paragraphs may also be used to make awards for technology reinvestment projects that were solicited under such programs in fiscal year 1994.

SEC. 1112. SUPPORT FOR TECHNOLOGIES WITH APPLICABILITY FOR LAW ENFORCEMENT AND MILITARY OPERATIONS OTHER THAN WAR.

(a) SUPPORT AUTHORIZED.—Using funds made available under subsection (b), the Secretary of Defense shall support the Memorandum of Understanding entered into between the Department of Defense and the Department of Justice on April 20, 1994, for the development, rapid deployment, and transition of technologies with applicability for law enforcement and military operations other than war. Such support may include support for national law enforcement technology centers of the National Institute of Justice.

(b) FUNDING FOR FISCAL YEAR 1995.—To carry out subsection (a), there shall be available to the Secretary $41,000,000, of which—

(1) $11,000,000 shall be derived from the amount authorized to be appropriated under section 201 and specified in section 1102(b) as a source of funds for defense conversion, reinvestment, and transition assistance programs; and

(2) $30,000,000 shall be derived from the amount authorized to be appropriated under section 201(4) for the tactical technology and experimental evaluation of major innovative technology programs elements of the budget of the Department of Defense for fiscal year 1995.

SEC. 1113. FEDERAL DEFENSE LABORATORY DIVERSIFICATION AND NAVY REINVESTMENT IN THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) FEDERAL DEFENSE LABORATORY DIVERSIFICATION PROGRAM.—Subchapter III of chapter 148 of title 10, United States

Code, is amended by inserting at the end thereof the following new section:

"§ 2519. Federal Defense Laboratory Diversification Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall conduct a program in accordance with this section for the purpose of promoting cooperation between Department of Defense laboratories and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—(1) The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between a Department of Defense laboratory and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more additional Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(2) For purposes of this section, a federally funded research and development center shall be considered a Department of Defense laboratory if the center is sponsored by the Department of Defense.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) in order to establish partnerships.

"(2) Subject to subsection (d), the Secretary may provide a partnership with technical and other assistance in order to facilitate the achievement of the purpose of this section.

"(d) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the non-Federal Government participants in a partnership make a substantial contribution to the total cost of partnership activities. The amount of the contribution shall be commensurate with the risk undertaken by such participants and the potential benefits of the activities for such participants.

"(2) The regulations prescribed pursuant to section 2511(c)(2) of this title shall apply to in-kind contributions made by non-Federal Government participants in a partnership.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(f) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the criteria set forth in section 2511(f) of this title.

"(g) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(b) NAVY REINVESTMENT PROGRAM.—Such subchapter is further amended by inserting after section 2519 (as added by subsection (a)) the following new section:

"§ 2520. Navy Reinvestment Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall conduct a program in accordance with this section for the purpose of promoting cooperation between the Department of the

Navy and industry on research and development of dual-use technologies in order to further the national security objectives set forth in section 2501(a) of this title.

"(b) PARTNERSHIPS.—The Secretary shall provide for the establishment under the program of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between Department of the Navy entities and eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include one or more Federal laboratories, institutions of higher education, agencies of State and local governments, and other entities, as determined appropriate by the Secretary.

"(c) PROGRAM REQUIREMENTS AND ADMINISTRATION.—Subsections (c) through (f) of section 2519 of this title shall apply in the administration of the program.

"(d) ADDITIONAL SELECTION CRITERIA.—The selection criteria for a proposed partnership for establishment under this section shall also include the potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for Navy acquisition programs.

"(e) REGULATIONS.—The Secretary shall prescribe regulations for the purposes of this section.".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of such subchapter is amended by adding at the end the following:

"2519. Federal Defense Laboratory Diversification Program.
"2520. Navy Reinvestment Program.".

(d) DEFINITION OF FEDERAL LABORATORY.—Section 2491(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", except that such terms include a federally funded research and development center sponsored by a Federal agency".

SEC. 1114. LOAN GUARANTEES UNDER DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAM.

(a) MEMORANDUM OF UNDERSTANDING TO ADMINISTER LOAN GUARANTEE PROGRAM.—(1) For fiscal year 1995, the Secretary of Defense may enter into a memorandum of understanding with the Administrator of the Small Business Administration, the Administrator of the Economic Development Administration of the Department of Commerce, or the head of any other Federal agency having expertise regarding the provision of loan guarantees, under which such agency may—

(A) process applications for loan guarantees under section 2524(b)(3) of title 10, United States Code, during that fiscal year;

(B) guarantee repayment of the resulting loans; and

(C) provide any other services to the Secretary to administer the loan guarantee program under such section during that fiscal year.

(2) From funds made available for the loan guarantee program under such section, the Secretary of Defense may transfer to the agency or agencies that are parties to the memorandum of understanding such sums as may be necessary for the agency or agencies to carry out activities under the loan guarantee program.

(3) The Secretary of Defense shall enter into the memorandum of understanding authorized by paragraph (1) within 60 days after the date of the enactment of this Act for the administration of the loan guarantee program under such section during fiscal year 1995.

(4) The total amount allocated under section 1111(b)(11)(B) to cover the costs of loan guarantees during fiscal year 1995 under the loan guarantee program shall be divided between small business concerns and medium-sized business concerns (as defined in section 2524(g) of title 10, United States Code) as follows:

(A) 60 percent for small business concerns.

(B) 40 percent for medium-sized business concerns.

(b) SPECIAL REQUIREMENTS REGARDING LOAN GUARANTEES.—Subsection (e) of section 2524 of title 10, United States Code, is amended to read as follows:

"(e) SPECIAL REQUIREMENTS REGARDING LOAN GUARANTEES.—(1) The Secretary shall carry out the loan guarantee program authorized under subsection (b)(3) during any fiscal year for which funds are specifically made available to cover the costs of loan guarantees to be issued pursuant to such subsection.

"(2) In addition to the selection criteria specified in subsection (f), the selection criteria in the case of the loan guarantee program under subsection (b)(3) shall also include the following:

"(A) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(B) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(C) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

"(3) To be eligible for a loan guarantee under subsection (b)(3), a borrower must be able to demonstrate to the satisfaction of the Secretary that at least 25 percent of the value of the borrower's sales during the preceding fiscal year were derived from—

"(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

"(B) subcontracts in support of defense-related prime contracts.

"(4) The maximum amount of loan principal that the Secretary may guarantee under the loan guarantee program during a fiscal year may not exceed—

"(A) $1,250,000, with respect to a small business concern; and

"(B) $10,000,000 with respect to a medium-sized business concern.".

(c) CONFORMING AMENDMENT.—Subsection (f) of such section is amended by striking out "SELECTION CRITERIA.—" and inserting in lieu thereof the following: "SELECTION PROCESS AND CRITERIA.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.".

SEC. 1115. FINANCIAL COMMITMENT REQUIREMENTS FOR SMALL BUSINESS CONCERNS FOR PARTICIPATION IN TECHNOLOGY REINVESTMENT PROJECTS.

(a) DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 2511(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.".

(b) COMMERCIAL-MILITARY INTEGRATION PARTNERSHIPS.—Section 2512(c)(3) of such title is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall consider a partnership proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated partnership costs. Upon the selection of a partnership proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the partnership from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated partnership costs, the Secretary shall revoke the selection of the partnership proposal submitted by the small business concern.".

(c) REGIONAL TECHNOLOGY ALLIANCES.—Section 2513(e) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary shall consider a proposal for a regional technology alliance that is submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated costs of the alliance. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the regional technology alliance from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small busi-

ness concern will be unable to meet its share of the anticipated costs, the Secretary shall revoke the selection of the proposal submitted by the small business concern.".

(d) DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.—Section 2524(d) of such title is amended by adding at the end the following new paragraph:

"(3) The Secretary shall consider a program proposal submitted by a small business concern without regard to the ability of the small business concern to immediately meet its share of the anticipated program costs. Upon the selection of a proposal submitted by a small business concern, the small business concern shall have a period of not less than 120 days in which to arrange to meet its financial commitment requirements under the program from sources other than a person of a foreign country. If the Secretary determines upon the expiration of that period that the small business concern will be unable to meet its share of the anticipated program costs, the Secretary shall revoke the selection of the program proposal submitted by the small business concern.".

(e) DEFINITION OF PERSON OF A FOREIGN COUNTRY.—Section 2491 of such title is amended by adding at the end the following new paragraph:

"(16) The term 'person of a foreign country' has the meaning given such term in section 3502(d) of the Primary Dealers Act of 1988 (22 U.S.C. 5342(d)).".

SEC. 1116. CONDITIONS ON FUNDING OF DEFENSE TECHNOLOGY REINVESTMENT PROJECTS.

(a) BENEFITS TO UNITED STATES ECONOMY.—In providing for the establishment or financial support of partnerships and other cooperative arrangements under chapter 148 of title 10, United States Code (using funds made available under section 1111(a)), the Secretary of Defense shall ensure that the principal economic benefits of, and to the extent practicable, the job creation resulting from, such partnerships and arrangements accrue to the economy of the United States.

(b) USE OF COMPETITIVE SELECTION PROCEDURES.—Funds made available under subsection (a) of section 1111 for the defense technology reinvestment programs described in subsection (b) of such section, and funds made available under subsection (b) of section 1112 for the program described in subsection (a) of such section, shall only be provided to projects selected using competitive procedures pursuant to a solicitation incorporating cost-sharing requirements for the non-Federal Government participants in the projects.

SEC. 1117. USE OF CERTAIN FUNDS PENDING SUBMISSION OF A NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC DEFENSE CAPABILITY ASSESSMENT AND A PERIODIC DEFENSE CAPABILITY PLAN.

(a) LIMITATION.—Not more than 50 percent of the funds made available for program element 65104D activities from funds authorized to be appropriated by this Act may be expended until the Secretary of Defense submits to Congress—

(1) a national technology and industrial base periodic defense capability assessment required by section 2505 of title 10, United States Code; and

(2) a periodic defense capability plan required by section 2506 of such title.

(b) PROGRAM ELEMENT 65104D ACTIVITIES DEFINED.—For purposes of this section, the program element 65104D activities referred to in subsection (a) are the activities described as program element 65104D in the materials submitted to Congress by the Secretary of Defense in support of the budget for fiscal year 1995 that was submitted to Congress pursuant to section 1105(a) of title 31, United States Code.

10 USC 2501 note.

SEC. 1118. DOCUMENTATION FOR AWARDS FOR COOPERATIVE AGREEMENTS OR OTHER TRANSACTIONS UNDER DEFENSE TECHNOLOGY REINVESTMENT PROGRAMS.

At the time of the award for a cooperative agreement or other transaction under a program carried out under chapter 148 of title 10, United States Code, the head of the agency concerned shall include in the file pertaining to such agreement or transaction a brief explanation of the manner in which the award advances and enhances a particular national security objective set forth in section 2501(a) of such title or a particular policy objective set forth in section 2501(b) of such title.

SEC. 1119. COMPTROLLER GENERAL ASSESSMENT OF EXTENT TO WHICH TECHNOLOGY AND INDUSTRIAL BASE PROGRAMS ATTAIN POLICY OBJECTIVES.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress an assessment of the extent to which awards for cooperative agreements and other transactions under programs carried out under chapter 148 of title 10, United States Code, have been made specifically to advance and enhance a particular national security objective set forth in section 2501(a) of such title or to achieve a particular policy objective set forth in section 2501(b) of such title.

Subtitle B—Community Adjustment and Assistance Programs

SEC. 1121. FUNDS FOR ADJUSTMENT AND DIVERSIFICATION ASSISTANCE FOR STATES AND LOCAL GOVERNMENTS FROM OFFICE OF ECONOMIC ADJUSTMENT.

Of the amount made available pursuant to section 1102(a), $54,127,000 shall be available to provide community adjustment and economic diversification assistance under section 2391(b) of title 10, United States Code.

SEC. 1122. STUDIES AND PLANS FOR MARKET DIVERSIFICATION.

(a) FORM OF COMMUNITY ADJUSTMENT AND ECONOMIC DIVERSIFICATION.—Section 2391(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The terms 'community adjustment' and 'economic diversification' include the development of feasibility studies and business plans for market diversification within a community adversely affected by an action described in clause (A), (B), (C), or (E) of subsection (b)(1) by adversely affected businesses and labor organizations located in the community.".

(b) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available under section 1121, up to $10,000,000 shall be available

to provide community adjustment and economic diversification assistance under section 2391(b) of title 10, United States Code, for the purpose of developing feasibility studies and business plans. The amount of such funds provided for such purpose with respect to any adversely affected community may not exceed $100,000.

SEC. 1123. ADVANCE COMMUNITY ADJUSTMENT AND ECONOMIC DIVERSIFICATION PLANNING.

(a) ASSISTANCE AUTHORIZED.—Section 2391(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) The Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist a State or local government in planning community adjustments and economic diversification even though the State or local government is not currently eligible for assistance under paragraph (1) if the Secretary determines that a substantial portion of the economic activity or population of the geographic area to be subject to the advance planning is dependent on defense expenditures.".

(b) CONFORMING AMENDMENTS.—Paragraph (8) of such section, as redesignated by subsection (a)(1), is amended by striking out "paragraph (6)" both places it appears and inserting in lieu thereof "paragraph (7)".

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available under section 1121, up to $5,000,000 shall be available to assist advance planning of community adjustments and economic diversification under paragraph (5) of section 2391(b) of title 10, United States Code, as added by subsection (a)(2).

Subtitle C—Personnel Adjustment, Education, and Training Programs

SEC. 1131. TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAMS.

(a) PERIOD OF ELIGIBILITY.—Subsection (c) of section 1151 of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by striking out "seven-year period beginning on October 1, 1992," and inserting in lieu thereof "nine-year period beginning on October 1, 1990,"; and

(2) by striking out paragraph (4).

(b) APPLICATION PERIOD.—Subsection (e)(1) of such section is amended to read as follows:

"(e) SELECTION OF PARTICIPANTS.—(1) Selection of members to participate in the placement program authorized by subsection (a) shall be made on the basis of applications submitted to the Secretary of Defense on a timely basis. An application shall be in such form and contain such information as the Secretary may require. An application shall be considered to be submitted on a timely basis if the application is submitted as follows:

"(A) Except as provided in subparagraphs (B) and (C), not later than one year after the date of the discharge or release of the applicant from active duty.

"(B) In the case of an applicant discharged or released from active duty before January 19, 1994, not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995.

"(C) In the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (c)(2) after the date of the discharge or release of the applicant from active duty, not later than one year after the date on which the applicant becomes educationally qualified.".

(c) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $65,000,000 shall be available for the teacher and teacher's aide placement programs authorized by sections 1151, 1598, and 2410j of title 10, United States Code.

SEC. 1132. ASSISTANCE FOR ELIGIBLE MEMBERS TO OBTAIN EMPLOYMENT WITH LAW ENFORCEMENT AGENCIES.

(a) REVISED PROGRAM AUTHORITY.—(1) Section 1152 of title 10, United States Code, is amended to read as follows:

"§ 1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with eligible law enforcement agencies following the discharge or release of such members or former members from active duty. Eligible law enforcement agencies shall consist of State law enforcement agencies, local law enforcement agencies, and Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior).

"(b) ELIGIBLE MEMBERS.—Any individual who, during the 6-year period beginning on October 1, 1993, is a member of the armed forces and is separated with an honorable discharge or is released from service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

"(c) SELECTION.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

"(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note); and

"(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as the Secretary, the Attorney General, or a participating eligible law enforcement agency prescribed in accordance with the agreement.

"(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense may provide funds to the Attorney General for grants

under this section to reimburse participating eligible law enforcement agencies for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

"(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

"(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating eligible law enforcement agency.

"(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

"(e) ADMINISTRATIVE EXPENSES.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out the program established pursuant to subsection (a) may be used to administer the program.

"(f) REQUIREMENT FOR APPROPRIATION.—No person may be selected to participate in the program established pursuant to subsection (a) unless a sufficient amount of appropriated funds is available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to the person.

"(g) CONDITIONAL EXPANSION OF PLACEMENT TO INCLUDE FIREFIGHTERS.—(1) Subject to paragraph (2), the Secretary may expand the placement activities authorized by subsection (a) to include the placement of eligible members and former members and eligible civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments.

"(2) The Secretary may implement the expansion authorized by this subsection only if the Secretary certifies to Congress not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1995 that such expansion will facilitate personnel transition programs of the Department of Defense. The expansion may be made through a program covered by an agreement referred to in subsection (a), if feasible, or in such other manner as the Secretary considers appropriate.

"(3) A civilian employee of the Department of Defense shall be eligible to participate in the expanded placement activities authorized under this subsection if the employee, during the six-year period beginning October 1, 1993, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.".

(2) The item relating to such section in the table of sections at the beginning of chapter 58 of title 10, United States Code, is amended to read as follows:

"1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.".

(b) FUNDING FOR FISCAL YEAR 1995.—(1) Of the amount made available pursuant to section 1102(a), $25,000,000 shall be available for the placement of members and former members of the Armed Forces as law enforcement officers under section 1152 of title 10, United States Code.

(2) Of the amount made available pursuant to section 1102(a), up to $5,000,000 shall be available for the placement of members and former members of the Armed Forces and civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments under section 1152 of title 10, United States Code, if the Secretary of Defense makes the certification required by subsection (g)(2) of such section within the time period specified in such subsection.

SEC. 1133. PILOT PROGRAM TO PLACE SEPARATED MEMBERS AND TERMINATED DEFENSE EMPLOYEES IN TEACHING POSITIONS AS BILINGUAL MATH AND SCIENCE TEACHERS.

(a) COOPERATIVE ARRANGEMENTS.—During fiscal year 1995, the Secretary of Defense shall carry out a pilot program to establish cooperative arrangements between the Department of Defense and a consortium of two or more entities described in subsection (b) for the purpose of assisting bilingual members of the Armed Forces after their separation from active duty, and bilingual civilian employees of the Department of Defense after the termination of their employment, in obtaining certification and employment as bilingual elementary or secondary school teachers in mathematics or science.

(b) ELIGIBLE ENTITIES.—The entities with which the Secretary of Defense may enter into a cooperative arrangement under the pilot program are as follows:

(1) Local governments of States that contain military installations and a high concentration of students who would benefit from the increased presence of bilingual elementary or secondary school teachers in mathematics or science.

(2) A consortium of two or more institutions of higher education that have a demonstrated background, expertise, and experience in operating bilingual teacher training programs in mathematics and science with an emphasis in English as a second language.

(c) ELIGIBLE MEMBERS AND EMPLOYEES.—(1) A member of the Armed Forces shall be eligible to participate in a cooperative arrangement established under the pilot program if the member—

(A) during the seven-year period beginning on October 1, 1992, is discharged or released from active duty after six or more years of continuous active duty immediately before the discharge or release;

(B) has received a baccalaureate or advanced degree from an accredited institution of higher education;

(C) is bilingual; and

(D) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(2) A civilian employee of the Department of Defense shall be eligible to participate in a cooperative arrangement established under the pilot program if the employee—

(A) during the five-year period beginning October 1, 1992, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense;

(B) has received a baccalaureate or advanced degree from an accredited institution of higher education;

(C) is bilingual; and

(D) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

(d) STIPEND FOR PARTICIPANTS.—A member of the Armed Forces or a civilian employee of the Department of Defense who participates in a cooperative arrangement established under the pilot program shall be eligible to receive an educational stipend in the same amount as provided under paragraph (1) of subsection (g) of section 1151 of title 10, United States Code, subject to the conditions specified in paragraphs (2) and (3) of such subsection and section 1598(e)(2) of such title.

(e) ADMINISTRATIVE COSTS.—The Secretary of Defense shall cover the reasonable management costs of the pilot program incurred by the non-Federal entities participating in the cooperative arrangements established under the pilot program.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "bilingual" means the ability to communicate in both English and another language.

(2) The term "State" includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

(g) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $5,000,000 shall be available to the Secretary of Defense to carry out this section.

SEC. 1134. DEMONSTRATION PROJECT TO ASSIST SEPARATED MEMBERS AND TERMINATED DEFENSE WORKERS TO BECOME BUSINESS OWNERS.

(a) BUSINESS OWNERSHIP DEMONSTRATION PROJECT.—During fiscal year 1995, the Secretary of Defense may carry out a demonstration project in not more than two eligible communities to assist separated members of the Armed Forces and terminated defense workers described in subsection (c) who reside in such communities to own their own businesses. The Secretary shall carry out the demonstration project in consultation with the Secretary of Commerce.

(b) ELIGIBLE COMMUNITIES.—To be eligible for selection by the Secretary of Defense as a site for the demonstration project, a community shall meet at least two of the following conditions:

(1) The local economy is heavily dependent on a defense contractor that is in the process of terminating a major defense contract (or having such contract terminated by the Department of Defense) or closing a major facility.

(2) The local economy may be adversely affected by changes in the use of a national laboratory previously engaged in the testing of nuclear weapons.

(3) The local economy would be adversely affected by the closure of two or more military installations.

(c) PERSONS ELIGIBLE FOR ASSISTANCE.—The following persons are eligible to participate in the demonstration project to own their own businesses:

(1) Members of the Armed Forces who are discharged or released from active duty.

(2) Civilian employees of the Department of Defense who are terminated from such employment as a result of reductions

in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(3) Employees of defense contractors who are terminated or laid off (or receive a notice of termination or layoff) as a result of the completion or termination of a defense contract or program or reductions in defense spending, as determined by the Secretary of Defense.

(d) ACTIVITIES UNDER DEMONSTRATION PROJECT.—Under the demonstration project, the Secretary of Defense shall—

(1) develop a business plan to establish a facility in each community in which the demonstration project is conducted to assist persons described in subsection (c) to own their own businesses;

(2) conduct a market study to identify markets for the facility;

(3) develop innovative approaches to capital formation for the facility and persons described in subsection (c);

(4) conduct a skills assessment study to determine the number and type of employees needed to operate the facility; and

(5) analyze the potential to use persons described in subsection (c) as employees of the facility.

SEC. 1135. DEMONSTRATION PROJECT TO PROMOTE SHIP RECYCLING AS A METHOD TO ASSIST SEPARATED MEMBERS AND TERMINATED DEFENSE WORKERS.

(a) SHIP RECYCLING DEMONSTRATION PROJECT.—(1) Subject to paragraph (2), the Secretary of Defense may carry out a demonstration project in not more than three eligible locations to assist separated members of the Armed Forces and terminated defense workers described in subsection (c) to obtain employment by participating in the establishment and operation of ship recycling facilities. To carry out the demonstration project, the Secretary shall seek the participation of representatives of the ship recycling industry.

(2) The Secretary of Defense may not implement or carry out the demonstration project unless the Secretary certifies to Congress not later than 180 days after the date of the enactment of this Act that—

(A) the demonstration project will facilitate personnel transition programs of the Department of Defense; and

(B) activities under the demonstration project will not disrupt the operations of United States companies that are engaged in ship recycling and scrapping as of the date of the enactment of this Act.

(b) ELIGIBLE LOCATIONS.—A location shall be eligible for selection by the Secretary of Defense as a site for the demonstration project if the location contains one or more military installations that have been selected for closure or realignment pursuant to a base closure law and such installations include naval and port facilities. Competitive procedures shall be used in the selection of locations in which to conduct the demonstration project.

(c) PERSONS ASSISTED UNDER DEMONSTRATION PROJECT.—The demonstration project is intended to promote the establishment and operation of ship recycling facilities that will provide employment for the following persons:

(1) Members of the Armed Forces who are discharged or released from active duty.

(2) Civilian employees of the Department of Defense who are terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.

(3) Employees of defense contractors who are terminated or laid off (or receive a notice of termination or layoff) as a result of the completion or termination of a defense contract or program or reductions in defense spending, as determined by the Secretary of Defense.

(d) ASSISTANCE AUTHORIZED.—To carry out the demonstration project in an eligible location selected by the Secretary, the Secretary may make grants to, and enter into contracts and cooperative agreements with, State governments, local governments, private entities, nonprofit organizations, and institutions of higher education operating in that location.

(e) ACTIVITIES SUPPORTED.—A government or entity (or group of entities) receiving assistance under the demonstration project shall use the assistance to perform, or support the performance of, any of the following:

(1) Developing a business plan to establish a ship recycling facility for military and commercial ships currently in service and projected for future scrapping.

(2) In consultation with the private sector, conducting a market study of—

(A) the existing private sector capacity to perform ship recycling;

(B) the utilization of existing ship recycling capacity;

(C) the regional impact on markets for scrap generated from ship recycling;

(D) the environmental remediation requirements associated with ship recycling;

(E) the ability to incorporate the private sector into the ship recycling facilities established pursuant to the demonstration project; and

(F) such other issues related to ship recycling as the Secretary considers appropriate.

(3) Conducting a skills assessment study to determine the number and type of employees needed to operate a ship recycling facility.

(4) Developing plans for the cost-effective environmental remediation of ships to be recycled at the facility.

(5) Demonstrating the feasibility of a ship recycling facility to become financially self-sustaining or projecting a reasonable timetable for the completion of the demonstration project, in which case the entity shall develop training, skills enhancement, and career placement programs to assist employees involved in ship recycling to secure new occupations and careers.

(6) Supporting regional ship recycling start-up activities.

(7) Analyzing the potential to use persons described in subsection (c) as employees at a ship recycling facility.

(f) TRANSFER OF EXCESS NAVAL VESSELS.—The Secretary of Defense may allocate among the ship recycling facilities established under the demonstration project excess naval vessels of the United States for recycling.

(g) FUNDING FOR FISCAL YEAR 1995.—Of the amount made available pursuant to section 1102(a), $7,500,000 shall be available

to the Secretary of Defense to carry out the demonstration project if the Secretary of Defense makes the certification under subsection (a)(2) within the time period specified in such subsection.

SEC. 1136. ADMINISTRATION AND FUNDING OF DEFENSE DIVERSIFICATION PROGRAM AND DEFENSE CONVERSION ADJUSTMENT PROGRAM UNDER JOB TRAINING PARTNERSHIP ACT.

(a) DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1) is amended—

(1) in subsection (a), by striking out "From the amount" and all that follows through "Labor," and inserting in lieu thereof "From funds made available to carry out this section, the Secretary, in consultation with the Secretary of Defense,";

(2) in subsections (c), (d), (e), (i), (k)(2), (l), and (m), by striking out "Secretary of Defense" each place it appears and inserting in lieu thereof "Secretary";

(3) in subsection (d)(1)(A), by striking out "in consultation with the Secretary of Labor,";

(4) in the heading of subsection (e), by striking out "BY SECRETARY OF DEFENSE";

(5) in subsection (k)(1), by striking out "Secretary of Defense, in consultation with the Secretary of Labor," and inserting in lieu thereof "Secretary, in consultation with the Secretary of Defense,"; and

(6) in subsection (n), by striking out "Secretary of Defense, in consultation with the Secretary of Labor," and inserting in lieu thereof "Secretary, in consultation with the Secretary of Defense,".

(b) DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325(a) of the Job Training Partnership Act (29 U.S.C. 1662d(a)) is amended by striking out "From the amount appropriated pursuant to section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990," and inserting in lieu thereof "From funds made available to carry out this section,".

SEC. 1137. ASSISTANCE FOR CERTAIN WORKERS DISLOCATED DUE TO REDUCTIONS BY THE UNITED STATES IN THE EXPORT OF DEFENSE ARTICLES AND SERVICES.

(a) ASSISTANCE UNDER DEFENSE CONVERSION ADJUSTMENT PROGRAM.—Section 325 of the Job Training Partnership Act (29 U.S.C. 1662d), as amended by section 1136(b), is further amended—

(1) in subsection (a), by striking out "or by closures of United States military facilities" each place it appears and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements";

(2) in subsection (d), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", by closures of United States military facilities, or by reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under

agreements to provide such articles or services or through termination or completion of any such agreements"; and

(3) by adding at the end the following new subsection:

"(f) DEFINITION.—For purposes of this section, the term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

(b) ASSISTANCE UNDER DEFENSE DIVERSIFICATION PROGRAM.—Section 325A of the Job Training Partnership Act (29 U.S.C. 1662d–1), as amended by section 1136(a), is further amended—

(1) in subsection (b)(3)(A), by striking out "or the closure or realignment of a military installation" and inserting in lieu thereof ", the closure or realignment of a military installation, or reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements";

(2) in subsection (k)(1), by striking out "or by the closure of United States military installations" and inserting in lieu thereof ", the closure of United States military installations, or reductions in the export of defense articles and defense services as a result of United States policy, including reductions in the amount of defense articles and defense services under agreements to provide such articles or services or through termination or completion of any such agreements"; and

(3) in subsection (o), by adding at the end the following new paragraph:

"(3) DEFENSE ARTICLES AND DEFENSE SERVICES.—The term 'defense articles and defense services' means defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), including defense articles and defense services licensed or approved for export under section 38 of that Act (22 U.S.C. 2778).".

Subtitle D—Other Matters

SEC. 1141. EXTENSION OF ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE AND ESTABLISHMENT OF ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

(a) EXTENSION.—Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993 through 1996".

(b) LOAN GUARANTEES UNDER ARMS INITIATIVE.—The Armament Retooling and Manufacturing Support Act of 1992 (10 U.S.C. 2501 note) is amended—

(1) by redesignating section 195 as section 196; and

(2) by inserting after section 194 the following new section:

"SEC. 195. ARMS INITIATIVE LOAN GUARANTEE PROGRAM.

"(a) PROGRAM AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may carry out a loan guarantee program to

encourage commercial firms to use ammunition manufacturing facilities pursuant to section 193. Under such program, the Secretary may guarantee the repayment of any loan made to a commercial firm to fund, in whole or in part, the establishment of a commercial activity under this subtitle.

"(b) ADVANCED BUDGET AUTHORITY.—Loan guarantees under this section may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

"(c) PROGRAM ADMINISTRATION.—(1) The Secretary may enter into agreements with the Administrator of the Small Business Administration or the Administrator of the Farmers Home Administration, the Administrator of the Rural Development Administration, or the head of other appropriate agencies of the Department of Agriculture, under which such Administrators may, under this section—

"(A) process applications for loan guarantees;

"(B) guarantee repayment of loans; and

"(C) provide any other services to the Secretary to administer the loan guarantee program.

"(2) Each Administrator may guarantee loans under this section to commercial firms of any size, notwithstanding any limitations on the size of applicants imposed on other loan guarantee programs that the Administrator administers.

"(3) To the extent practicable, each Administrator shall use the same procedures for processing loan guarantee applications under this section as the Administrator uses for processing loan guarantee applications under other loan guarantee programs that the Administrator administers.

"(d) LOAN LIMITS.—The maximum amount of loan principal guaranteed during a fiscal year under this section may not exceed—

"(1) $20,000,000, with respect to any single borrower; and

"(2) $320,000,000 with respect to all borrowers.

"(e) TRANSFER OF FUNDS.—The Secretary of the Army may transfer to an Administrator providing services under subsection (c), and the Administrator may accept, such funds as may be necessary to administer the loan guarantee program under this section.

"(f) REPORTING REQUIREMENT.—Not later than July 1 of each year in which a guarantee issued under this section is in effect, the Secretary shall submit to the congressional defense committees a report specifying the amounts of loans guaranteed under this section during the preceding calendar year. No report is required after fiscal year 1997.".

(c) AUTHORIZATION FOR USE OF EXISTING BUDGET AUTHORITY.—Of the funds appropriated for the Armament Retooling and Manufacturing Support Initiative by title III of Public Law 102–396 under the heading "PROCUREMENT OF AMMUNITION, ARMY" (106 Stat. 1887), up to $43,000,000 may be made available to cover the costs of loan guarantees issued under section 195 of the Armament Retooling and Manufacturing Support Act of 1992 (as added by subsection (b)(2)), in such amounts as provided in an appropriations Act enacted after the date of the enactment of this Act.

SEC. 1142. CHANGES IN NOTICE REQUIREMENTS UPON PENDING OR ACTUAL TERMINATION OF DEFENSE PROGRAMS.

(a) TIME FOR NOTICE AFTER SUBMISSION OF BUDGET.—Subsection (a) of section 4471 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2753; 10 U.S.C. 2501 note) is amended—

(1) by striking out "As soon as reasonably practicable" and inserting in lieu thereof "Not later than 60 days"; and

(2) by striking out "and not more than 180 days after such date,".

(b) TIME FOR NOTICE AFTER ENACTMENT OF APPROPRIATIONS ACT.—Subsection (b) of such section is amended—

(1) by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 60 days"; and

(2) by striking out "and not more than 180 days after such date,".

(c) TIME FOR NOTICE OF WITHDRAWAL OF NOTIFICATION.—Subsection (f)(1) of such section is amended by striking out "as soon as reasonably practicable" and inserting in lieu thereof "not later than 60 days".

SEC. 1143. PLAN FOR DEPLOYMENT OF DEFENSE ENVIRONMENTAL TECHNOLOGIES FOR DREDGING OF DUAL-USE PORTS.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a plan for the Department of Defense to encourage the further development and deployment of existing defense environmental technologies in support of the dredging requirements of dual-use ports, including—

(1) the environmentally secure containment and management of contaminated dredged materials; and

(2) the decontamination of dredged materials.

(b) MATTERS TO BE INCLUDED.—The plan to be established pursuant to subsection (a) shall include the following:

(1) A description of defense reinvestment and defense conversion programs under chapter 148 of title 10, United States Code, that are available to facilitate the deployment of defense environmental technologies in support of the dredging requirements of dual-use ports.

(2) A description of existing defense environmental technologies and processes that are available to support the objectives of the plan to be established pursuant to subsection (a).

(3) Recommendations for strategies to deploy such technologies and processes to ports of various sizes, including—

(A) ports with projects requiring more than 5,000,000 cubic yards of sediment to be dredged annually;

(B) ports with projects requiring more than 1,000,000 cubic yards of sediment to be dredged annually;

(C) ports that have been affected by, or are likely to be affected by, the closure of one or more major military installations and that, as a result thereof, require substantial environmental remediation; and

(D) military port installations that have experienced significant delays in advancing dredging projects because of environmental compliance or dredged material disposal problems.

(4) After consultation with the heads of other appropriate Federal agencies, an assessment of other available technologies

and processes that may be used in support of the plan to be established pursuant to subsection (a).

(5) An assessment of the potential benefits and methods of transfer of technologies and processes for use in connection with dredging processes in commercial ports and waterways.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to Congress a report containing the plan to be established pursuant to subsection (a).

TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

22 USC 5952 note.

SEC. 1201. COOPERATIVE THREAT REDUCTION PROGRAMS.

For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1778; 22 U.S.C. 5952(b)).

SEC. 1202. EXTENSION OF SEMIANNUAL REPORT ON COOPERATIVE THREAT REDUCTION PROGRAMS.

22 USC 5956.

Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–60; 107 Stat. 1782) is amended—

(1) by striking out "Not later than April 30, 1994, and not later than October 30, 1994," and inserting in lieu thereof "Not later than April 30 and not later than October 30 of each year,";

(2) by striking out "under this title" and inserting in lieu thereof "under programs described in section 1203(b)"; and

(3) in paragraph (3), by striking out "this title" and inserting in lieu thereof "the programs described in section 1203(b)".

SEC. 1203. REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE.

(a) REPORT.—(1) The Secretary of Defense shall submit to Congress a report on the efforts made by the United States (including efforts through the use of audits, examinations, and on-site inspections) to ensure that assistance provided under cooperative threat reduction programs is fully accounted for and that such assistance is being used for its intended purposes.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(b) INFORMATION TO BE INCLUDED.—The report shall include the following:

(1) A list of cooperative threat reduction assistance that has been provided before the date of the report.

(2) A description of the current location of the assistance provided and the current condition of such assistance.

(3) A determination of whether the assistance has been used for its intended purpose.

(4) A description of the activities planned to be carried out during fiscal year 1995 to ensure that cooperative threat reduction assistance provided during that fiscal year is fully accounted for and is used for its intended purpose.

(c) COMPTROLLER GENERAL ASSESSMENT.—Not later than 30 days after the date on which the report of the Secretary under subsection (a) is submitted to Congress, the Comptroller General of the United States shall submit to Congress a report giving the Comptroller General's assessment of the report and making any recommendations that the Comptroller General considers appropriate.

SEC. 1204. REPORT ON CONTROL AND ACCOUNTABILITY OF MATERIAL RELATING TO WEAPONS OF MASS DESTRUCTION.

The Secretary of Defense shall submit to Congress a report on progress being made in each state of the former Soviet Union that is a recipient of assistance under Cooperative Threat Reduction programs toward the development of an effective system of control and accountability for material related to weapons of mass destruction in that country. Under such a system, officials of the United States and of the recipient country should have an accurate accounting of the weapons of mass destruction in that country and the fissile and chemical materials from those weapons. The report shall be submitted not later than three months after the date of the enactment of this Act.

SEC. 1205. MULTIYEAR PLANNING AND ALLIED SUPPORT.

22 USC 5952 note.

(a) FUNDING REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report as described in subsection (b) on funding for Cooperative Threat Reduction programs with states of the former Soviet Union. The report shall be submitted at the time of the transmission to Congress of the budget justification materials for the funding request in the fiscal year 1996 budget for such Cooperative Threat Reduction programs.

(b) MATTERS TO BE INCLUDED IN ANNUAL REPORT.—The Secretary of Defense shall include in the report under subsection (a) the following:

(1) An estimate of the total amount that will be required to be expended by the United States in order to achieve the objectives of Cooperative Threat Reduction programs.

(2) A multiyear plan for the use of amounts and other resources provided by the United States for Cooperative Threat Reduction programs and to provide guidance for preparation of annual budget submissions.

(c) SUBSEQUENT REVISIONS TO REPORT.—The Secretary of Defense shall submit an updated version of the report under subsection (a) for any fiscal year after fiscal year 1996 for which the budget of the President proposes that funds be appropriated to the Department of Defense for Cooperative Threat Reduction programs.

(d) FISCAL YEAR 1995 LIMITATION.—Of the amount authorized in section 301 for Cooperative Threat Reduction programs, the sum of $50,000,000 may not be obligated until the President certifies to Congress that the United States is making a concerted effort to ensure that allies of the United States are increasing their levels of support for activities that will aid in accomplishing the objectives of the Cooperative Threat Reduction programs.

SEC. 1206. FUNDING LIMITATIONS ON COOPERATIVE THREAT REDUCTION PROGRAM FOR FISCAL YEAR 1995.

(a) PROGRAM AMOUNTS.—Of the amount authorized to be appropriated in section 301 for Cooperative Threat Reduction programs—

(1) not more than $60,000,000 may be obligated for the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities;

(2) not more than $200,000,000 may be obligated for Weapons Dismantlement, Destruction, and Denuclearization;

(3) not more than $60,000,000 may be obligated for Safety and Security, Transportation, and Storage;

(4) not more than $40,000,000 may be obligated for Nonproliferation;

(5) not more than $20,000,000 may be obligated for Defense and Military-to-Military Contacts; and

(6) not more than $20,000,000 may be obligated for other authorized programs and activities.

(b) LIMITED AUTHORITY TO EXCEED INDIVIDUAL LIMITATION AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

SEC. 1207. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has identified nonproliferation of weapons of mass destruction as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention.

(3) In early 1992, Russian President Boris Yeltsin indicated to former United States President George Bush that Russia still had an offensive biological weapons program.

(4) A United States Government report dated January 19, 1993, on arms control noncompliance noted that Russian declarations up to that date had dramatically underestimated the size, scope, and maturity of the former Soviet biological weapons program.

(5) Despite President Yeltsin's decree of April 11, 1993, stating that activities in violation of the Biological Weapons Convention are illegal, questions continue to arise regarding

offensive biological weapons research, development, testing, production, and storage in Russia as well as in other countries.

(6) A United States Government report, dated June 23, 1994, states the following: "The United States has determined that the offensive biological warfare program that Russia inherited from the Soviet Union violated the Biological Weapons Convention through at least March 1992. The Soviet offensive biological weapons program was massive, and included production, weaponization, and stockpiling. The status of the program since that time remains unclear and the U.S. remains concerned about the Russian biological warfare program.".

(7) The Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992, confirmed the commitment of the three governments to full compliance with the Biological Weapons Convention and outlined steps designed to increase confidence in that commitment.

(8) The Presidents of Russia and the United States are scheduled to hold a summit meeting in Washington during the month of September 1994.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons;

(2) the President should keep the Congress fully and currently informed regarding any Russian activities related to offensive biological weapons;

(3) the President should continue to insist that the Russian Government complete the steps noted and agreed to in the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992;

(4) subsequent meetings of representatives of the United States, the United Kingdom, and Russia on biological weapons and the September 1994 summit meeting in Washington provide opportunities for the President to again emphasize the importance of resolving the issues related to compliance with the Biological Weapons Convention;

(5) in assessing the President's fiscal year 1996 budget request for foreign assistance funds for Russia, and for other programs and activities to provide assistance to Russia, including the Cooperative Threat Reduction programs, Congress will consider United States Government assessments of Russia's compliance with its obligations under the Biological Weapons Convention; and

(6) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of, and enhance compliance with, the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c) PRESIDENTIAL REPORTS.—Not later than February 1, 1995, not later than June 1, 1995, and not later than October 1, 1995, the President shall submit to Congress a report, in classified and unclassified forms, containing an assessment of the extent of compliance of the independent states of the former Soviet Union with

the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(d) CONTENT OF REPORT.—The report shall include the following:

(1) MATTERS RELATED TO COMPLIANCE.—

(A) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(B) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(C) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such states, including the sites and types of activity at those sites.

(D) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, aircraft, and ballistic missiles.

(E) An assessment of measures taken by the Russian Government to complete the steps noted and agreed to in the 1992 Joint Statement on Biological Weapons referred to in subsection (b)(3), including a determination of the extent to which Russia has—

(i) agreed to permit visits to military and non-military biological sites in order to attempt to resolve ambiguities;

(ii) provided information about biological weapons dismantlement accomplished to date, and further clarification of information provided in its United Nations Declarations regarding biological weapons;

(iii) been cooperative in exchanging information on a confidential, reciprocal basis concerning past offensive biological weapons programs not recorded in detail in its declarations to the United Nations;

(iv) cooperated in reviewing potential additional measures to monitor compliance with the Biological Weapons Convention and modalities for testing such measures;

(v) agreed to an examination of the physical infrastructure of its biological facilities to determine whether there is specific equipment or excess capacity inconsistent with their stated purpose;

(vi) helped identify ways to promote cooperation and investment in the conversion of biological weapons facilities; and

(vii) agreed to exchanges of scientists at biological facilities on a long-term basis.

(2) MATTERS RELATED TO UNITED STATES CAPABILITIES.—

(A) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(B) On the basis of the assessment and evaluations referred to in other provisions of the report, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) LIMITATION.—Of the amount authorized to be appropriated by section 301 for Cooperative Threat Reduction programs, $25,000,000 may not be obligated until the President submits to Congress the first report required under subsection (c).

SEC. 1208. COORDINATION OF CERTAIN COOPERATIVE THREAT REDUCTION PROGRAMS. Reports

(a) MILITARY-TO-MILITARY CONTACT PROGRAMS.—(1) None of the funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs may be obligated for activities under a military-to-military contact program until the Secretary of Defense and the Secretary of State submit to Congress a joint report on the coordination of military-to-military contact programs and comparable activities carried out under their respective jurisdictions.

(2) The report shall cover the following programs and activities:

(A) Defense and military-to-military contact programs to be carried out using funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs.

(B) Military-to-military contacts and comparable activities that are authorized by section 168 of title 10, United States Code, as added by section 1316.

(C) Programs authorized under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(3) The report shall include a discussion of how the programs and activities referred to in paragraph (2) are carried out to maximize—

(A) the effect of such programs and activities in enhancing United States foreign policy objectives; and

(B) cost-efficiency in the conduct of the programs and activities.

(b) REPORT.—Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1777; 22 U.S.C. 5956), is amended by adding at the end the following new paragraph:

"(5) A description of how all of the activities carried out under the authority of this title and other laws providing authority for cooperative threat reduction are coordinated with similar activities that are carried out under any other authority, including activities relating to military-to-military contacts, environmental restoration, and housing.".

SEC. 1209. SENSE OF CONGRESS CONCERNING SAFE AND SECURE DISMANTLEMENT OF SOVIET NUCLEAR ARSENAL.

(a) FINDINGS.—Congress makes the following findings:

(1) It is a pressing national security challenge for the United States to expedite the safe and secure dismantlement of the nuclear arsenal of the former Soviet Union.

(2) In particular, it is essential to expedite the return of strategic nuclear warheads from Ukraine, Belarus, and Kazakhstan and to expedite the safe and secure dismantlement of the nuclear delivery vehicles of Ukraine, Belarus, and Kazakhstan.

(3) Leakage of nuclear materials and technology, and the continuing threat of emigration of scientists and technicians from the former Soviet nuclear weapons complex, pose a grave threat to United States national security and to international stability.

(4) Congress has authorized so-called "Nunn-Lugar" funds to enable the Department of Defense to carry out cooperative activities with states of the former Soviet Union to address the threats described in paragraphs (1), (2), and (3).

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense and the Secretary of State should continue to give their serious attention to carrying out a coordinated strategy for addressing the urgent national security issues described in subsection (a);

(2) the United States should expedite the availability and effective application of so-called "Nunn-Lugar" funds;

(3) although activities conducted with those funds should, to the extent feasible, draw upon United States technology and expertise, the United States should work with local contractors in Belarus, Kazakhstan, Russia, and Ukraine when doing so would expedite more effective use of those funds; and

(4) efforts should be made to make the Science and Technology Centers in Moscow and Kiev, designed to slow the emigration of scientists and technicians from the former Soviet weapons complex, fully operational on an expedited basis.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Matters Relating to NATO

SEC. 1301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS WITH NATO ORGANIZATIONS.

(a) APPLICABILITY OF EXISTING AUTHORITY TO NATO ORGANIZATIONS.—Section 2350a of title 10, United States Code, is amended in subsections (a), (e)(2), and (i)(1) by inserting "or NATO organizations" after "major allies of the United States" each place it appears.

(b) NATO ORGANIZATION DEFINED.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

"(4) The term 'NATO organization' means any North Atlantic Treaty Organization subsidiary body referred to in section 2350(2) of this title and any other organization of the North Atlantic Treaty Organization.".

SEC. 1302. NORTH ATLANTIC TREATY ORGANIZATION.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization has served as a bulwark of peace, security, and democracy for the United States and the members of the alliance since 1949.

(2) The unswerving resolve of the member states of the North Atlantic Treaty Organization to mutual defense against the threat of communist aggression was central to the demise of the Warsaw Pact.

(3) The North Atlantic Treaty Organization is the most successful international security organization in history and is well suited to help marshal cooperative political, diplomatic, economic, and humanitarian efforts, buttressed by credible military capability aimed at deterring conflict, and thus contributing to international peace and security.

(4) The threat of instability in Eastern and Central Europe, as well as in the Southern and Eastern Mediterranean, continues to pose a fundamental challenge to the interests of the member states of the North Atlantic Treaty Organization.

(5) North Atlantic Treaty Organization assets have been deployed in recent years for more than the territorial defense of alliance members, and the Rome Summit of October 1991 adopted a new strategic concept for the North Atlantic Treaty Organization that entertained the possibility of operations beyond the alliance's self-defense area.

(6) In Oslo in July 1992, and in Brussels in December 1992, the alliance embraced the deployment of North Atlantic Treaty Organization forces to peacekeeping operations under the auspices of the United Nations or the Conference on Security and Cooperation in Europe.

(7) The North Atlantic Treaty Organization should attempt to cooperate with and seek a mandate from international organizations such as the United Nations when considering responses to crises outside the alliances's self-defense area.

(8) Not all members of the international community share a commonality of interests that would ensure timely action by the United Nations Security Council.

(9) It is critical that the security interests of the member countries of the North Atlantic Treaty Organization not be held hostage to indecision at the United Nations or a veto by a permanent member of the Security Council.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it should be the policy of the United States that, in accordance with article 53 of the United Nations Charter, the North Atlantic Treaty Organization retains the right of autonomy of action regarding missions in addition to collective defense should the United Nations Security Council or the Conference on Security and Cooperation in Europe fail to act;

(2) while it is desirable to work with other international organizations and arrangements where feasible in dealing with threats to the peace, the North Atlantic Treaty Organization is not an auxiliary to the United Nations or any other organization; and

(3) the member states of the North Atlantic Treaty Organization reserve the right to act collectively in defense of their vital interests.

SEC. 1303. AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) END STRENGTH.—Paragraph (1) of section 1002(c) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended to read as follows:

"(1) The end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization may not exceed a permanent ceiling of approximately 100,000 in any fiscal year.".

(b) EXCLUSION OF CERTAIN ISLAND-BASED TROOPS IN CALCULATION OF AUTHORIZED END STRENGTH.—Such section is further amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, members of the Armed Forces of the United States assigned to permanent duty ashore

in Iceland, Greenland, and the Azores are excluded in calculating the end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO.".

(c) CONFORMING AMENDMENT.—Section 1303 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2546) is repealed.

22 USC 1928 note.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

22 USC 1928 note.

SEC. 1304. ALLIED SHARE OF INSTALLATIONS COSTS.

(a) GOAL FOR ALLIED CONTRIBUTIONS.—In continuing efforts to enter into revised host-nation agreements as described in section 1301(e) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) and section 1401(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1824), the President shall seek to have European member nations of NATO assume an increased share of the nonpersonnel costs for United States military installations in those nations so that by September 30, 1996, those nations have assumed 37.5 percent of such costs.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "nonpersonnel costs", with respect to United States military installations in European member nations of NATO, means costs for those installations other than costs paid from military personnel accounts.

(2) The term "contributions", with respect to the share of such nonpersonnel costs assumed by the European member nations of NATO, means those cash and in-kind contributions made by such nations that replace expenditures that would otherwise be made by the Secretary using funds appropriated or otherwise made available in defense appropriations Acts.

SEC. 1305. PAYMENTS-IN-KIND FOR RELEASE OF UNITED STATES OVERSEAS MILITARY FACILITIES TO NATO HOST COUNTRIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has invested $6,500,000,000 in military infrastructure in North Atlantic Treaty Organization (NATO) countries.

(2) As part of an overall plan to reduce United States troop strength overseas, the Department of Defense plans to close, or reduce United States military presence at, 867 military sites outside the United States.

(3) Most of the military sites outside the United States announced for closure are in Europe, where the United States has already closed 434 such sites while carrying out a reduction in troop strength in Europe from 323,432 in 1987 to approximately 100,000 by the end of fiscal year 1996.

(4) When the United States closes military sites in Europe, it leaves buildings, roads, sewers, and other real property improvements behind.

(5) Some of the European NATO allies have agreed to pay the United States for the residual value of the real property improvements left behind.

(6) Although the United States military drawdown has been rapid since 1990, European allies have been slow to pay the United States the residual value of the sites released by the United States.

(7) As of 1994, the United States has recouped only $33,300,000 in cash, most of which was recovered in 1989.

(8) Although the United States has released to Germany over 60 percent of the military sites planned for closure by the United States in that country and the current value of United States facilities to be returned to the German government is estimated at approximately $2,700,000,000, the German government has budgeted only $25,000,000 for fiscal year 1994 for payment of compensation for the United States investment in those facilities.

(b) POLICY.—It is the sense of Congress that—

(1) the President should redouble efforts to recover the value of the United States investment in the military infrastructure in NATO countries;

(2) the President should enter into negotiations with the government of each NATO host country with a presumption that payments to compensate the United States for the negotiated value of improvements will be made in cash and deposited in the Department of Defense Overseas Military Facility Investment Recovery Account;

(3) the President should enter into negotiations for payments-in-kind only as a last resort and only after informing the Congress that negotiations for cash payments have not been successful; and

(4) to the extent that in-kind contributions are received in lieu of cash payments in any fiscal year, the in-kind contributions should be used for projects that are identified priorities of the Department of Defense.

(c) REQUIREMENTS AND LIMITATIONS RELATING TO PAYMENTS-IN-KIND.—(1) Subsection (e) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2687 note) is amended—

(A) by inserting "(1)" after "NEGOTIATIONS FOR PAYMENTS-IN-KIND.—";

(B) by striking out "a written notice" and all that follows and inserting in lieu thereof "to the appropriate congressional committees a written notice regarding the intended negotiations."; and

(C) by adding at the end the following new paragraphs:

"(2) The notice shall contain the following:

"(A) A justification for entering into negotiations for payments-in-kind with the host country.

"(B) The types of benefit options to be pursued by the Secretary in the negotiations.

"(C) A discussion of the adjustments that are intended to be made in the future-years defense program or in the budget of the Department of Defense for the fiscal year in which the notice is submitted or the following fiscal year in order to reflect costs that it may no longer be necessary for the United States to incur as a result of the payments-in-kind to be sought in the negotiations.

"(3) For purposes of this subsection, the appropriate congressional committees are—

"(A) the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Armed Services, the Committee on Appropriations, and the Defense Subcommittees of the Committee on Appropriations of the Senate.".

(2) Such section is further amended by adding at the end the following new subsection:

"(h) CONGRESSIONAL OVERSIGHT OF PAYMENTS-IN-KIND.—(1) Not less than 30 days before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

"(A) A description of the military construction project or facility improvement project, as the case may be.

"(B) A certification that the project is needed by United States forces.

"(C) An explanation of how the project will aid in the achievement of the mission of those forces.

"(D) A certification that, if the project were to be carried out by the Department of Defense, appropriations would be necessary for the project and it would be necessary to provide for the project in the next future-years defense program.

"(2) Not less than 30 days before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to Congress a notification on the proposed agreement. Any such notification shall contain the following:

"(A) A description of each activity to be covered by the payment-in-kind.

"(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments.

"(C) A certification that, unless the payment-in-kind is accepted or funds are appropriated for payment of such costs, the military mission of the United States forces with respect to the host nation concerned will be adversely affected.".

SEC. 1306. GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

(a) USE OF CONTRIBUTIONS.—Funds received by the United States Government from the Federal Republic of Germany as its fair share of the costs of the George C. Marshall European Center for Security Studies shall be credited to appropriations available to the Department of Defense for the George C. Marshall European Center for Security Studies. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(b) WAIVER OF CHARGES.—(1) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials of cooperation partner states of the North Atlantic Cooperation Council or the Partnership for Peace if the Secretary determines that attendance by such personnel without

reimbursement is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

SEC. 1307. SENSE OF THE SENATE CONCERNING PARTICIPATION IN ALLIED DEFENSE COOPERATION.

It is the sense of the Senate that the President should use existing authorities to the greatest extent possible to authorize the provision of the following types of assistance and cooperation to countries that are participating in the Partnership for Peace and are making significant progress in working with the North Atlantic Treaty Organization:

(1) Defense articles and services, as defined in the Foreign Assistance Act of 1961 and the Arms Export Control Act.

(2) Loan of materials, supplies, and equipment for research and development purposes.

(3) Leases and loans of major defense equipment and other defense articles.

(4) Cooperative military airlift agreements.

(5) The procurement of communications support and related supplies and services.

(6) Actions to standardize equipment with North Atlantic Treaty Organization members.

Subtitle B—Matters Relating to Several Countries

SEC. 1311. LIMITATION ON OBLIGATION OF FUNDS FOR OVERSEAS BASING ACTIVITIES.

(a) LIMITATION.—The total amount authorized to be appropriated to the Department of Defense for operation and maintenance and for military construction (including construction and improvement of military family housing) that is obligated to conduct overseas basing activities during fiscal year 1995 may not exceed $8,181,000,000, except to the extent provided by the Secretary of Defense under subsection (b).

(b) EXCEPTION.—The Secretary of Defense may increase the amount of the limitation under subsection (a) by such amount as the Secretary determines to be necessary in the national interest, except that such increase may not exceed $400,000,000. The Secretary may not make any such increase until the Secretary notifies the Congress of the Secretary's intent to make such an increase and a period of 15 days elapses after the day on which the notification is received by the Congress.

(c) ALLOCATIONS OF SAVINGS.—Any amounts appropriated to the Department of Defense for fiscal year 1995 for the purposes covered by subsection (a) that are not available to be used for those purposes by reason of the limitation in that subsection shall be allocated by the Secretary of Defense for operation and maintenance and for military construction activities of the Department of Defense at military installations and facilities located inside the United States.

(d) DEFINITION.—In this section, the term "overseas basing activities" has the meaning given such term in section 1401(d)(2) of the National Defense Authorization Act for Fiscal Year 1994

(Public Law 103–160; 107 Stat. 1825), except that such term does not include activities of the Department of Defense for which funds are provided through appropriations for Military Personnel.

SEC. 1312. CLARIFICATION AND CODIFICATION OF OVERSEAS MILITARY END STRENGTH LIMITATION.

(a) IN GENERAL.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123a the following new section:

"§ 123b. Forces stationed abroad: limitation on number

"(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

"(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

"(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"123b. Forces stationed abroad: limitation on number.".

10 USC 123b note.

(b) EFFECTIVE DATE.—Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.

(c) CONFORMING REPEAL.—Section 1302 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2545) is repealed.

10 USC 113 note.

SEC. 1313. COST-SHARING POLICY AND REPORT.

22 USC 1928 note

(a) POLICY.—It is the policy of the United States that the North Atlantic Treaty Organization (NATO) allies should assist the United States in paying the incremental costs incurred by the United States for maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO solely for support of NATO roles and missions.

President.

(b) IMPLEMENTATION.—The President shall take all necessary actions to ensure the effective implementation of the policy set forth in subsection (a).

(c) REPORT.—The Secretary of Defense shall include in the annual report required by section 1002(d) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note) the following:

(1) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO and an analysis of the cost of providing and maintaining such forces in such assignment primarily for support of NATO roles and missions.

(2) A description of the United States military forces assigned to permanent duty ashore in European member nations of NATO primarily in support of other United States interests in other regions of the world and an analysis of the cost of providing and maintaining such forces in such assignment primarily for that purpose.

(3) A specific enumeration and description of the offsets to United States costs of providing and maintaining United States military forces in Europe that the United States received from other NATO member nations in the fiscal year covered by the report, set out by country and by type of assistance, including both in-kind assistance and direct cash reimbursement, and the projected offsets for the five fiscal years following the fiscal year covered by the report.

(d) INCREMENTAL COSTS DEFINED.—For purposes of subsection (a), the definition provided for the term "incremental costs" in section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, as added by subsection (e), shall apply with respect to maintaining members of the Armed Forces in assignments to permanent duty ashore in European member nations of NATO in the same manner as such term applies with respect to permanent stationing ashore of United States forces in foreign nations for purposes of subsection (e)(4) of such section 1046.

(e) DEFINITION FOR REPORTING REQUIREMENT.—Section 1046 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1466; 22 U.S.C. 1928 note) is amended by adding at the end the following new subsection:

"(f) INCREMENTAL COSTS DEFINED.—In this section, the term 'incremental costs', with respect to permanent stationing ashore of United States forces in foreign nations, means the difference between the costs associated with maintaining United States military forces in assignments to permanent duty ashore in the foreign nations and the costs associated with maintaining those same military forces at military bases in the United States.".

SEC. 1314. REPORT ASSESSING THE NATIONAL SECURITY CONSEQUENCES OF UNITED STATES MILITARY COOPERATION PROGRAMS.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report assessing the national security consequences of United States military cooperation programs. The report shall be submitted not later than the date of the submission to Congress of the next annual report of the Secretary of Defense submitted under section 113 of title 10, United States Code, after the date of the enactment of this Act.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A description of cooperative military relationships in effect.

(2) A description of how activities under those relationships are intended to improve United States national security.

(3) An assessment of the risks to the United States associated with engaging in military cooperation programs with foreign countries should the government of any of such country change its political orientation in a manner hostile to United States interests.

(4) An analysis of the effect on United States national security of possible multilateral actions to reduce the military capability of governments and military forces that could pose a future threat to United States interests.

(5) An assessment of any implications for regional security effected by existing cooperative military relationships.

(c) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form and, to the extent necessary, in classified form.

SEC. 1315. REVIEW AND REPORT REGARDING DEPARTMENT OF DEFENSE PROGRAMS RELATING TO REGIONAL SECURITY AND HOST NATION DEVELOPMENT IN THE WESTERN HEMISPHERE.

(a) FINDINGS.—Congress makes the following findings:

(1) The political environment in the Western Hemisphere has been characterized in recent years by significant democratic advances and an absence of international strife, but democracy in some nations of the region is fragile.

(2) It is desirable for the Department of Defense to perform a positive role in influencing the defense establishments and military forces of nations in the Western Hemisphere to make positive contributions to the democratic process and to domestic development programs of their respective nations.

(3) Congress receives a number of annual reports relating to specific authorities granted to the Secretary of Defense under title 10, United States Code, such as the authorities relating to the conduct of bilateral or regional cooperation programs under section 1051 of that title, participation of developing countries in combined exercises under section 2010 of that title, and the training of special operations forces with friendly forces under section 2011 of that title.

(4) The annual reports are replete with statistics and dollar figures and generally lacking in substance.

(5) Congress does not receive annual reports with respect to other authorities of the Secretary of Defense, such as that relating to Latin American cooperation under section 1050 of title 10, United States Code.

(6) Testimony before Congress (including in particular the testimony of the commander of the United States Southern Command and the commander of the United States Atlantic Command) has emphasized the conduct of a large number of complementary programs under the leadership and supervision of those two commanders to foster appropriate military roles in democratic host nations and to assist countries in developing forces properly trained to address their security needs, including needs regarding illegal immigration, insurgencies, smuggling of illegal arms, munitions, and explosives across borders, and drug trafficking.

(7) Most of the programs referred to in paragraph (6) provide excellent and often unique training and experience to the United States forces involved.

(8) Military-to-military contact programs in the Western Hemisphere provide another tool to encourage a democratic orientation of the defense establishments and military forces of countries in the region.

(9) There is a need for the Secretary of Defense to conduct a comprehensive review of the several authorities in title 10, United States Code, for the Secretary of Defense to engage in cooperative regional security programs with other countries in the Western Hemisphere in order to determine whether the authorities continue to be appropriate and necessary,

particularly in the light of the changed circumstances in the region.

(10) There is a need for the Secretary of Defense to conduct a comprehensive review of various programs carried out pursuant to such authorities to ensure that such programs are designed to meet the needs of the host nations involved and the regional strategic and foreign policy objectives of the United States, including promotion of sustainable development, effective control of the military by elected civilian authorities, reliable regional security accords, and the appropriate role for militaries in democratic societies.

(11) There is a need for the Secretary of Defense to assess the strengths and weaknesses of the various regional security organizations, defense forums, and defense education institutions in the Western Hemisphere in order to identify any improvements needed to harmonize the defense policies of the United States and those of friendly nations of the region.

(b) REVIEW AND REPORT.—Not later than May 1, 1995, the Secretary of Defense, shall—

(1) in consultation with the Chairman of the Joint Chiefs of Staff and the commanders of the combatant commands responsible for regions in the Western Hemisphere, carry out a comprehensive review and assessment of the matters referred to in paragraphs (2), (9), (10), and (11) of subsection (a); and

(2) submit to Congress a report on the review and assessment carried out pursuant to paragraph (1).

(c) CONTENT OF REPORT.—The report shall contain a detailed and comprehensive description, discussion, and analysis of the following:

(1) The Department of Defense plan to support United States strategic objectives in the Western Hemisphere.

(2) The external and internal threats to the national security of the nations of the region.

(3) The various regional security cooperative programs carried out by the Department of Defense in the region in 1994, including training and education programs in the host nations and in the United States and defense contacts set forth on a country-by-country basis, the statutory authority, if any, for such programs, and the strategic objectives served.

(4) The various regional security organizations, defense forums, and defense education institutions that the United States maintains or in which the United States participates.

(5) The contribution that such programs, defense contacts, organizations, forums, and institutions make to the advancement of regional security, host nation security and national development, United States strategic objectives, and United States foreign policy objectives as described in paragraph (10) of subsection (a).

(6) United States humanitarian civic assistance and civic action programs conducted with host countries in the region and the effect that those programs have had in furthering the objectives described in paragraph (10) of subsection (a).

(7) The changes made or to be made in the programs, organizations, forums, and institutions referred to in paragraphs (3), (4), (5), and (6) as a result of the comprehensive review.

(d) RECOMMENDED LEGISLATION.—The report shall include any recommendations for legislation that the Secretary considers necessary to improve the ability of the Department to achieve its strategic objectives in the Western Hemisphere.

(e) CLASSIFICATION OF REPORT.—The report shall be submitted in an unclassified form and may, if necessary, have a classified supplement.

SEC. 1316. MILITARY-TO-MILITARY CONTACTS AND COMPARABLE ACTIVITIES.

(a) ACTIVITIES AUTHORIZED.—(1) Chapter 6 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 168. Military-to-military contacts and comparable activities

"(a) PROGRAM AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

"(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

"(1) The commander of a combatant command, upon the request of the commander.

"(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

"(3) The head of any Department of Defense component.

"(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use those funds for the following activities and expenses:

"(1) The activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities.

"(2) The activities of military liaison teams.

"(3) Exchanges of civilian or military personnel between the Department of Defense and defense ministries of foreign governments.

"(4) Exchanges of military personnel between units of the armed forces and units of foreign armed forces.

"(5) Seminars and conferences held primarily in a theater of operations.

"(6) Distribution of publications primarily in a theater of operations.

"(7) Personnel expenses for Department of Defense civilian and military personnel to the extent that those expenses relate to participation in an activity described in paragraph (3), (4), (5), or (6).

"(8) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any activity referred to in another paragraph of this subsection.

"(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for an activity or expense referred to in subsection (c) shall be in addition

to amounts otherwise available for those activities and expenses for that fiscal year.

"(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

"(A) funding was proposed in the budget submitted to Congress for that fiscal year pursuant to section 1105(a) of title 31; and

"(B) Congress did not authorize appropriations.

"(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

"(3) Funds may not be provided under this section for a fiscal year for any country that is not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(4) Except for those activities specifically authorized under subsection (c), funds may not be used under this section for the provision of defense articles or defense services to any country or for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

"(f) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term 'military-to-military contacts' means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"168. Military-to-military contacts and comparable activities.".

(b) FISCAL YEAR 1995 FUNDING.—Of the amount authorized to be appropriated under section 301(5) for operation and maintenance for Defense-wide activities, $46,300,000 shall be available to the Secretary of Defense for the purposes of carrying out activities under section 168 of title 10, United States Code, as added by subsection (a).

(c) FISCAL YEAR 1995 ACTIVE DUTY END STRENGTHS.—(1) A member of a reserve component described in paragraph (2) shall not be counted (under section 115(a)(1) of title 10, United States Code) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401. 10 USC 115 note.

(2) Paragraph (1) applies in the case of a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of title 10, United States Code, as added by subsection (a).

(d) REPORT.—Not later than February 15, 1995, the Secretary of Defense shall submit to Congress a report on the management structure of the military-to-military contacts program.

SEC. 1317. EXTENSION OF AUTHORITY TO ENTER INTO CERTAIN COOPERATIVE AGREEMENT AUTHORITIES TO INCLUDE THE UNITED NATIONS AND REGIONAL ORGANIZATIONS OF WHICH THE UNITED STATES IS A MEMBER.

(a) LOGISTICS AGREEMENTS.—Section 2341 of title 10, United States Code, is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting in lieu thereof a comma; and

(2) by inserting after "from North Atlantic Treaty Organization subsidiary bodies" the following: ", and from the United

Nations Organization or any regional international organization of which the United States is a member".

10 USC 2342. (b) CROSS-SERVICING AGREEMENTS.—Section 2342 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out "with—" in the matter preceding subparagraph (A) and inserting in lieu thereof "with any of the following:";

(B) in subparagraph (A)—

(i) by capitalizing the first letter of the first word; and

(ii) by striking out the semicolon at the end and inserting in lieu thereof a period;

(C) in subparagraph (B)—

(i) by capitalizing the first letter of the first word; and

(ii) by striking out "; or" at the end and inserting in lieu thereof a period;

(D) by redesignating subparagraph (C) as subparagraph (D) and capitalizing the first letter of the first word of that subparagraph; and

(E) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) The United Nations Organization or any regional international organization of which the United States is a member.";

(2) in subsection (a)(2), by striking out "subsidiary body" both places it appears and inserting in lieu thereof "organization"; and

(3) in subsection (c), by striking out "as a routine or normal source" and inserting in lieu thereof "or international organization".

10 USC 2343. (c) LAW APPLICABLE TO ACQUISITION AND CROSS-SERVING AGREEMENTS.—(1) Section 2343 of such title is amended—

(A) by striking out subsection (a); and

(B) by striking out "(b)" before "Sections".

(2)(A) The heading of such section is amended to read as follows:

"§ 2343. Waiver of applicability of certain laws".

(B) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 138 of such title is amended to read as follows:

"2343. Waiver of applicability of certain laws.".

(d) METHOD OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES.—Section 2344(b)(4) of such title is amended by inserting after "North Atlantic Treaty Organization subsidiary bodies" the following: "and the United Nations Organization or any regional international organization of which the United States is a member".

10 USC 2345. (e) LIQUIDATION OF ACCRUED CREDITS AND LIABILITIES.—Section 2345(a) of such title is amended by striking out "three" in the first sentence and inserting in lieu thereof "12".

10 USC 2346. (f) CREDITING OF RECEIPTS.—Section 2346 of such title is amended by striking out "shall be credited to applicable appropriations, accounts, and funds of the Department of Defense" and inserting in lieu thereof "shall be credited, at the option of the Secretary of Defense, to (1) the appropriation, fund, or account used in incur-

ring the obligation, or (2) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made".

(g) LIMITATION ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—Section 2347 of such title is amended— 10 USC 2347.

(1) in subsection (a)(1)—

(A) by striking out "and" the first place it appears and inserting in lieu thereof a comma;

(B) by inserting after "subsidiary bodies of the North Atlantic Treaty Organization" the following: ", or from the United Nations Organization or any regional international organization of which the United States is a member";

(C) by striking out "$150,000,000" and inserting in lieu thereof "$200,000,000"; and

(D) by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000";

(2) in subsection (a)(2)—

(A) by striking out "$10,000,000" the first place it appears and inserting in lieu thereof "$60,000,000";

(B) by striking out "$2,500,000" and inserting in lieu thereof "$20,000,000"; and

(C) by striking out "$10,000,000" the second place it appears and inserting in lieu thereof "$60,000,000";

(3) in subsection (b)(1)—

(A) by striking out "and" the first place it appears and inserting in lieu thereof a comma;

(B) by inserting after "subsidiary bodies of the North Atlantic Treaty Organization" the following: ", or from the United Nations Organization or any regional international organization of which the United States is a member"; and

(C) by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000";

(4) in subsection (b)(2), by striking out "$10,000,000" and inserting in lieu thereof "$75,000,000"; and

(5) by adding at the end the following new subsection:

"(c) When the armed forces are involved in a contingency operation or in a non-combat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operations under chapter VI or VII of the Charter of the United Nations), the restrictions in subsections (a) and (b) are waived for the purposes and duration of that operation.".

(h) DEFINITIONS.—Section 2350 of such title is amended— 10 USC 2350.

(1) in paragraph (1)—

(A) by inserting "(including airlift)" after "transportation";

(B) by inserting "calibration services," after "maintenance services,"; and

(C) by adding at the end the following new sentence: "Such term includes temporary use of general purpose vehicles and other items of military equipment not designated as part of the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act."; and

(2) by adding at the end the following new paragraph:

"(4) The term 'transfer' means selling (whether for payment in currency, replacement-in-kind, or exchange of supplies or services of equal value), leasing, loaning, or otherwise temporarily providing logistic support, supplies, and services under the terms of a cross-servicing agreement.".

(i) ANNUAL REPORT REQUIREMENT.—(1) Subchapter I of chapter 138 of title 10, United States Code, is amended by inserting after section 2349 the following new section:

"§ 2349a. Annual report on non-NATO agreements

"(a) REPORT.—The Secretary of Defense shall submit to Congress, not later than January 15 of each of 1996, 1997, 1998, 1999, and 2000, a report covering non-NATO cross-servicing and acquisition actions in effect during the preceding fiscal year.

"(b) MATTERS TO BE INCLUDED.—Each such report shall set forth in detail the following with respect to the preceding fiscal year:

"(1) The total dollar amounts involved.

"(2) A description of any services and equipment provided or received through those actions.

"(3) A description of any equipment provided through those actions that is not returned.

"(4) The volume of credits and liabilities accrued and liquidated.

"(c) NON-NATO AGREEMENTS.—For purposes of this section, a non-NATO cross-servicing and acquisition agreement is a cross-servicing and acquisition agreement under this subchapter that involves countries or organizations other than North Atlantic Treaty Organization countries or subsidiary bodies.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2349 the following new item:

"2349a. Annual report on non-NATO agreements.".

10 USC 2341 note.

(j) EFFECTIVE DATE.—The amendments made by this section shall apply with regard to any acquisition or transfer of logistic support, supplies, and services under the authority of subchapter I of chapter 138 of title 10, United States Code, that is initiated after the date of the enactment of this Act.

SEC. 1318. PERMANENT AUTHORITY FOR DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATIVE PROGRAMS.

Subsection (c) of section 843 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2469; 10 U.S.C. 2350a note) is repealed.

Subtitle C—Matters Relating to Specific Countries

SEC. 1321. DEFENSE COOPERATION BETWEEN THE UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress makes the following findings:

(1) The President has reiterated the long-standing United States commitment to maintaining the qualitative superiority

of the Israeli Defense Force over any combination of adversaries.

(2) Congress continues to recognize the many benefits to the United States from its strategic relationship with Israel, including enhancing regional stability and technical cooperation.

(3) Despite the momentous peace process in which Israel and its neighbors are productively engaged, Israel continues to face difficult threats to its national security that are compounded by the proliferation of weapons of mass destruction and ballistic missiles.

(4) Congress is supportive of the objective of the President to enhance United States-Israel military and technical cooperation, particularly in the areas of missile defense and counter-proliferation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should ensure that any conventional defense system or technology offered for release to any NATO or other major non-NATO ally should concurrently be available for purchase by Israel unless such action would contravene United States national interests; and

(2) the President should make available to Israel, within existing technology transfer laws, regulations, and policies, advanced United States technology necessary for continued progress in cooperative United States-Israel research and development of theater missile defenses.

SEC. 1322. READINESS OF MILITARY FORCES OF THE REPUBLIC OF KOREA.

(a) FINDINGS.—Congress makes the following findings:

(1) Under existing security arrangements between the United States and the Republic of Korea, responsibility for the defense of the territory of the Republic of Korea is allocated so that the Republic of Korea has primary responsibility for the ground defense of its territory and the United States has primary responsibility for air and sea defense of the Korean peninsula and for reinforcement.

(2) The Force Improvement Program of the Republic of Korea has not fully addressed critical shortfalls in its ground force capability which continue to exist even though the Republic of Korea spends approximately $12,000,000,000 annually on defense while the Democratic People's Republic of Korea spends approximately $4,000,000,000 annually on defense. The Republic of Korea has directed substantial defense resources to procuring submarines, destroyers, advanced aircraft, and other military systems that are marginal to its primary ground defense responsibility.

(3) The defense acquisition decisions of the Republic of Korea have had the effect of not allowing the Republic of Korea to attain self-sufficiency in its ground defense responsibility. As a result, there exists an undue burden on the United States for the ground defense of the Korean peninsula.

(4) The lack of intelligence capability to forecast the military intentions of the Democratic People's Republic of Korea presents major problems for the combined United States-Republic of Korea defense of South Korea.

(5) A short-warning attack by the Democratic People's Republic of Korea would cause major losses to the combined United States-Republic of Korea ground force.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should urge the Republic of Korea to continue to improve its military ground forces with emphasis on counterartillery capabilities, defense against ballistic missiles and weapons of mass destruction, combined United States-Republic of Korea logistics capabilities, combined United States-Republic of Korea medical support, and combined United States-Republic of Korea capabilities for tactical intelligence and indications and warning of a North Korean attack.

(c) REPORT.—Not later than January 15, 1995, the Secretary of Defense shall submit to Congress a report, in classified form, on—

(1) the readiness of the military forces of the Republic of Korea to defeat an attack by the military forces of the Democratic People's Republic of Korea; and

(2) the adequacy of the defense acquisition strategy of the Republic of Korea to meet its primary ground defense mission.

SEC. 1323. MILITARY PLANNING FOR THE SIZE AND STRUCTURE OF A FORCE REQUIRED FOR A MAJOR REGIONAL CONTINGENCY ON THE KOREAN PENINSULA.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense conducted the Bottom-Up Review during 1993 to establish the size and structure for the Armed Forces for the Post-Cold-War era.

(2) The report on the Bottom-Up Review cites the need for the Armed Forces to be large enough to prevail in two major regional conflicts "nearly simultaneously".

(3) The report on the Bottom-Up Review gives special consideration to a scenario that hypothesizes that the two "nearly simultaneous" conflicts would occur in Korea and the Persian Gulf.

(4) The United States sent 7 Army divisions, the equivalent of 10 Air Force tactical fighter wings, 70 heavy bombers, 6 Navy aircraft carrier battle groups, and 5 Marine Corps brigades to the Persian Gulf to fight the war against Iraq.

(5) The report on the Bottom-Up Review asserts that the forces needed to fight two conflicts similar to that with Iraq can be drawn from a total military force of between 15 and 16 Army divisions, 20 Air Force tactical fighter wings, up to 184 heavy bombers, 11 active Navy aircraft carriers (along with one reserve/training carrier), and the equivalent of 12 Marine Corps brigades.

(6) The report on the Bottom-Up Review recognizes that approximately 100,000 members of the Armed Forces will be stationed in Europe.

(7) The report on the Bottom-Up Review recognizes that sizeable numbers of United States forces could be involved in peace enforcement and intervention operations at any one time.

(8) The report on the Bottom-Up Review makes no specific recommendation as to the number of forces to be held in reserve to provide a rotation base either to relieve troops in the event

one or both hypothetical conflicts result in lengthy deployments or to replace combat losses.

(9) Military planners calculate that 430,000 or more United States military personnel may be needed to win a war with North Korea begun by an invasion of South Korea by North Korea.

(10) In a worst case scenario, the size of the force military planners may request to help defend South Korea could exceed the levels that are consistent with the recommendations of the report on the Bottom-Up Review if the existing and future force requirements for a presence in Europe, possible peace enforcement operations, and an adequate rotation base, as well as a second regional conflict, must be fulfilled simultaneously.

(11) The Bottom-Up Review was conducted for the purpose of force-sizing and was not meant to constrain operational planning.

(b) SENSE OF CONGRESS CONCERNING BUR.—It is the sense of Congress that—

(1) the force structure identified in the report on the Bottom-Up Review should not be used to limit the size or structure of the force that United States military commanders may request in preparation for a major regional contingency on the Korean peninsula; and

(2) the conclusions of the Bottom-Up Review should be continuously examined in light of the lessons learned from preparation for a major regional contingency on the Korean peninsula and from other military operations.

(c) SENSE OF CONGRESS CONCERNING SITUATION ON KOREAN PENINSULA.—It is the sense of Congress that the chairmen and ranking minority members of the Committees on Armed Services and chairmen and ranking minority members of the Appropriations Subcommittees on Defense of the Senate and House of Representatives should receive regular briefings from the Secretary of Defense on the situation on the Korean peninsula.

SEC. 1324. SENSE OF CONGRESS CONCERNING THE NORTH KOREAN NUCLEAR WEAPONS DEVELOPMENT PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Between 1950 and 1953, the United States led a military coalition that successfully repelled an invasion of the Republic of Korea by North Korea, at a cost of more than 54,000 American lives.

(2) The United States and the Republic of Korea ratified a Mutual Security Treaty in 1954 that commits the United States to helping the Republic of Korea defend itself against external aggression.

(3) Approximately 37,000 United States military personnel are presently stationed in the Republic of Korea.

(4) The United States and the Republic of Korea have regularly conducted joint military exercises, including "Team Spirit" exercises.

(5) North Korea has built up an armed force nearly twice the size of that in the Republic of Korea and has not renounced the use of force, terrorism, and subversion in its attempts to subdue and subjugate the Republic of Korea.

(6) Although North Korea signed the Treaty on the Non-Proliferation of Nuclear Weapons in 1985, it has impeded the

international inspection of its nuclear facilities that is required of all signatories of that Treaty.

(7) North Korea's nuclear weapons and ballistic missile programs represent a grave threat to the security of the Korean peninsula and the entire world.

(8) Efforts in recent years by the United States to reduce tensions on the Korean peninsula have included—

(A) the withdrawal of all nuclear weapons from the territory of the Republic of Korea and a reduction in the number of United States military personnel stationed there;

(B) the postponement of the 1994 Team Spirit exercises;

(C) the establishment of direct diplomatic contacts with the North Korean government; and

(D) the offer of expanded diplomatic and economic contacts with North Korea.

(9) Weapons-grade plutonium can be extracted from the fuel rods removed from North Korea's principal reactor at Yongbyon.

(10) International inspectors were not permitted to examine and test in a timely manner spent fuel rods removed from North Korea's principal nuclear reactor at Yongbyon, as required to ensure compliance with North Korea's obligations under the Nuclear Non-Proliferation Treaty.

(11) Diplomacy concerning the North Korean nuclear program has clearly reached a crucial stage, the unsatisfactory resolution of which would place the international nonproliferation regime in jeopardy and threaten the peace and security of the Korean peninsula, the Northeast Asia region, and, by extension, the rest of the world.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the announced freeze on the North Korean nuclear program should remain in place until internationally agreed-upon safeguards of any North Korean civilian nuclear program can be made fully effective;

(2) the North Korean government should take a further step toward verified cooperation with the international nonproliferation regime by—

(A) permitting the unfettered international inspection and testing of the spent fuel rods removed from North Korea's nuclear reactor at the Yongbyon nuclear complex, followed by adequate international supervision of the transfer of all spent fuel rods from the Yongbyon complex and their disposal in another country; and

(B) accepting a comprehensive inspection process as required by the Treaty on the Non-Proliferation of Nuclear Weapons;

(3) a resolution of the inspection controversy at the Yongbyon complex that allows for anything less than the full international inspection of facilities in that complex required by North Korea's obligations under the Nuclear Non-Proliferation Treaty—

(A) would be unsatisfactory; and

(B) should prompt the Government of the United States to take such action as would indicate the severity with which the United States views this provocation against international norms; and

(4) such action should include (but not necessarily be limited to)—

(A) the seeking of international sanctions against North Korea; and

(B) the rescheduling of the Team Spirit exercises for 1994.

SEC. 1325. REPORT ON SECURITY RELATIONSHIP BETWEEN THE UNITED STATES AND JAPAN.

(a) REPORT REQUIRED.—Not later than March 1, 1995, the Secretary of Defense shall submit a report to Congress regarding the security relationship between the United States and Japan.

(b) CONTENT OF REPORT.—The report required by this section shall contain the following:

(1) An evaluation of the security objectives that the United States hopes to achieve in its relationship with Japan.

(2) An analysis of the threats, dangers, and risks to the United States and Japan in the Asia-Pacific region.

(3) An explanation of the United States strategy for achieving its security objectives with Japan and in the Asia-Pacific region.

(4) An evaluation of the role of the United States-Japan Security Treaty in achieving United States security objectives with Japan and in the Asia-Pacific region.

(5) An analysis of the contributions that regional security discussions, consultations, or frameworks could make to the achievement of United States and Japanese security objectives.

(6) A discussion of the process by which the United States and Japan address joint infrastructure matters, such as land and training issues, throughout Japan, including Okinawa.

(7) A description of the United States military facilities in Japan, including Okinawa, that have been transferred to Japan in the previous 10 years.

(8) A description of the contribution that Japan makes to the costs incurred by the United States in stationing military forces in Japan.

(9) A review of the United States military presence in Japan, including Okinawa, that contains the following information:

(A) The number and location of United States personnel.

(B) The number, size, and location of major United States military units.

(C) An inventory and description of the utilization of United States military facilities, including their military, economic, and environmental aspects.

(D) An explanation of the status of discussion between the United States and Japanese governments on joint infrastructure matters.

(E) A description of United States training activities.

TITLE XIV—PEACE OPERATIONS AND HUMANITARIAN ASSISTANCE ACTIVITIES

Subtitle A—Peace Operations

SEC. 1401. REPORTS ON REFORMING UNITED NATIONS PEACE OPERATIONS.

(a) REPORTS REQUIRED.—The Secretary of Defense shall submit to Congress two reports on proposals by the United States for improving management by the United Nations of peace operations. The Secretary shall submit the first report not later than December 1, 1994, and the second not later than June 1, 1995.

(b) STATUS OF IMPLEMENTATION OF UNITED STATES PROPOSALS.—Each report shall contain—

(1) a discussion of the status of implementation of proposals by the United States contained in section IV (relating to strengthening the United Nations) of the document entitled "The Clinton Administration's Policy on Reforming Multilateral Peace Operations" that was issued by the Executive Office of the President in May 1994; and

(2) an analysis of the results of such implementation.

(c) SUBJECTS TO BE COVERED.—Each report shall cover, at a minimum, the following matters:

(1) The reconfiguration and expansion of the staff for the United Nations Department of Peacekeeping Operations.

(2) The reasons for lengthy, potentially disastrous delays after a peace operation has been authorized and steps by the United Nations to reduce those delays.

(3) The establishment by the United Nations of a professional peace operations training program for commanders and other military and civilian personnel.

(4) Assistance by the United States to facilitate improvements by the United Nations in the matters described in paragraphs (1) and (3) and the terms under which such assistance has been or is being provided.

(d) PEACE OPERATION DEFINED.—In this section, the term "peace operation" means an operation to maintain or restore international peace and security under chapter VI or chapter VII of the Charter of the United Nations.

SEC. 1402. REPORT ON MILITARY READINESS IMPLICATIONS OF BOSNIA PEACEKEEPING DEPLOYMENT.

(a) REPORT.—(1) The Secretary of Defense shall submit to the congressional defense committees a report assessing the implications for United States military readiness of the participation of United States ground combat forces in peacekeeping operations within Bosnia-Hercegovina.

(2) The report shall be submitted not later than 90 days after the date of the enactment of this Act or 30 days following the deployment of United States ground forces to Bosnia-Hercegovina, whichever occurs sooner.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) An estimate of the total number of forces required to carry out such an operation, including forces required for a rotation base.

(2) An estimate of the expected duration of such an operation.

(3) An estimate of the cost of such an operation, together with an explanation of how the Secretary proposes to provide funds for such an operation and an assessment of how such proposed funding plan would affect overall military readiness.

(4) An assessment of the effect such an operation would have on the ability of the United States Armed Forces to execute successfully the two nearly-simultaneous major regional conflict strategy articulated in the Bottom-Up Review.

(5) An assessment of how readily forces participating in such an operation could be redeployed to a major regional conflict, including an analysis of the availability of strategic lift, the likely condition of equipment, and the extent of retraining necessary to facilitate such a redeployment.

(6) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units designated to be part of the contingency force, including the extent to which contingency force combat units would support the initial deployment and subsequent rotations.

(7) An assessment of the effect such an operation would have on the general combat readiness and deployability of combat units not designated to be part of the contingency force, including the extent to which non-contingency force combat units would support the initial deployment and subsequent rotations.

(8) For the initial deployment and subsequent rotations, an assessment of the number and type of combat support and combat service support units required from active forces, including how many of such units are designated to support the deployment of the contingency force.

(9) An assessment of the degree to which such an operation would require the use of reserve component units and personnel and the use and timing of involuntary Selected Reserve call-up authority as provided by section 673b of title 10, United States Code.

(10) An assessment of the anticipated cost of equipment refurbishment resulting from such an operation.

(11) An assessment of how the increased operational tempo associated with such an operation would affect the mission capable readiness rates and overall health of both strategic and theater airlift assets.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "contingency force" includes—

(A) the set of four or five Army divisions that is designated as the Army contingency force by the Secretary of the Army, as well as Army active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict; and

(B) Air Force, Navy, and Marine Corps active duty and reserve component combat, combat support, and combat service support units designated to respond to a regional conflict within the first 75 days of such conflict.

(2) The term "Bottom-Up Review" means the October 1993 Department of Defense report entitled "Report on the Bottom-Up Review".

(d) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form and, if necessary, in classified form.

SEC. 1403. REPORT ON INTELLIGENCE LESSONS LEARNED FROM UNITED STATES ACTIVITIES IN SOMALIA.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the intelligence lessons learned from the United States participation in United Nations activities in Somalia.

(b) MATTERS TO BE INCLUDED.—The report shall—

(1) specifically describe the availability of intelligence on forces of other nations and of indigenous forces operating in Somalia before, during, and after the insertion of United States forces; and

(2) set forth a complete review of any intelligence failures, any equipment failures, and any equipment unavailability in the theater.

(c) SUBMISSION OF REPORT.—The report shall be submitted not later than 180 days after the date of the enactment of this Act.

SEC. 1404. BOSNIA AND HERCEGOVINA.

(a) PURPOSE.—It is the purpose of this section—

(1) to express the sense of Congress concerning the international efforts to end the conflict in Bosnia and Hercegovina; and

(2) to establish a process to end the arms embargo on the Government of Bosnia and Hercegovina.

(b) STATEMENT OF SUPPORT.—The Congress supports the efforts of the Contact Group to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina based upon the Contact Group proposal.

(c) SENSE OF CONGRESS.—It is the sense of Congress that:

(1) The United States should work with the member nations of the North Atlantic Treaty Organization and with other permanent members of the United Nations Security Council to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina which maintains the territorial integrity of Bosnia and Hercegovina.

(2) A peaceful settlement of the conflict must preserve an economically, politically, and militarily viable Bosnian state capable of exercising its rights under the Charter of the United Nations as part of a peaceful settlement, which rights include the inherent right of a sovereign state to self defense.

(3) The acceptance of the Contact Group proposal by the Government of Bosnia and Hercegovina should lead to the lifting of the Bosnia arms embargo.

(4) In providing weapons to the Bosnian Government or taking other actions, care should be taken to provide for the safety of the United Nations Protection Force (UNPROFOR) and the civilian personnel working for the United Nations or nongovernmental volunteer organizations.

(5) The United States should immediately seek to organize an international effort to provide assistance to the states bordering Serbia and Montenegro to bring about more effective

enforcement by those states of the international economic sanctions on the Government of Serbia and Montenegro.

(d) GENERAL UNITED STATES POLICY.—The United States should exercise leadership within the international community to cause the Bosnian Serb faction to accept the Contact Group proposal. Such action should be taken on separate but complementary international and unilateral tracks, as set forth in subsections (e), (f), and (g).

(e) INTERNATIONAL POLICY.—If the Bosnian Serbs do not accept the Contact Group proposal by the date that is the later of October 15, 1994, or the end of the 10-day period beginning on the date of the enactment of this Act, the President (or his representative) should, not later than 14 days thereafter, formally introduce and support in the United Nations Security Council a resolution to terminate the Bosnia arms embargo. The resolution should provide for the termination of the arms embargo no later than December 1, 1994 (and may allow for the termination to be accomplished in stages ending no later than that date).

(f) UNILATERAL UNITED STATES POLICY.—(1) If by the earlier of November 15, 1994, or the end of the 15-day period beginning on the date on which a resolution described in subsection (e) (or a similar resolution) is formally introduced, the United Nations Security Council has not agreed to such a resolution and the Bosnian Serbs have not accepted the Contact Group proposal—

(A) the funding limitation specified in paragraph (2) shall be in effect;

(B) the President shall submit a plan to, and shall consult with, Congress on the manner in which United States Armed Forces and the military forces of friendly states would provide training to the armed forces of the Government of Bosnia and Hercegovina outside of the territory of Bosnia and Hercegovina; and President.

(C) the President shall submit a plan to, and shall consult with, Congress regarding the unilateral termination by the United States of compliance with the Bosnia arms embargo and the implications thereof.

(2) If the funding limitation specified in this paragraph is in effect pursuant to paragraph (1)(A), then no funds appropriated by any provision of law may be used for the purpose of participation in, support for, or assistance to the enforcement of the Bosnia arms embargo by any Department, agency or other entity of the United States (or by any officer or employee of the United States or member of the Armed Forces of the United States) other than as required of all United Nations member states under the United Nations Security Council resolution referred to in subsection (h)(3) and the Charter of the United Nations.

(3)(A) The President may waive the limitation in paragraph (2) in the case of United States military personnel serving in NATO headquarters positions. President.

(B) Nothing in paragraph (2) is intended to impede enforcement of sanctions against Serbia.

(g) INTERIM POLICY.—If the Bosnian Serb faction attacks any area within those areas that have been designated by the United Nations as "safe areas", the President (or his representative) should promptly formally introduce and support in the United Nations Security Council a resolution that authorizes a selective lifting of the Bosnia arms embargo in order to allow the provision of

defensive weapons (such as anti-tank weapons, counter-battery radars, and mortars) to enable the forces of the Government of Bosnia and Hercegovina to defend the safe areas.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "Contact Group" means the group composed of representatives of the United States, Russia, France, Britain, and Germany seeking to bring about a peaceful settlement of the conflict in Bosnia and Hercegovina.

(2) The term "Contact Group proposal" means the peace proposal of the Contact Group that has been agreed to by the Government of Bosnia and Hercegovina and rejected by the Bosnian Serb faction.

(3) The term "Bosnia arms embargo" means application to the Government of Bosnia and Hercegovina of the arms embargo imposed by United Nations Security Council resolution 713, of September 25, 1991.

Subtitle B—Assistance Activities

SEC. 1411. OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID PROGRAMS.

(a) OHDACA PROGRAMS.—For purposes of section 301 and other provisions of this Act, programs of the Department of Defense designated as Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs are the programs provided by—

(1) sections 401, 402, 2547, and 2551 of title 10, United States Code;

(2) section 404 of title 10, United States Code, as added by section 1412; and

(3) section 1413 of this Act.

(b) LIMITATION.—Not more than one-half of the amount authorized to be appropriated in section 301 for those programs may be obligated until the regulations required to be prescribed by subsection (a) of section 1504 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1839) have been prescribed.

SEC. 1412. FOREIGN DISASTER ASSISTANCE.

(a) AUTHORITY.—Subchapter I of chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 404. Foreign disaster assistance

President. "(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives.

"(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

President. "(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

"(1) The manmade or natural disaster for which disaster assistance is necessary.

"(2) The threat to human lives presented by the disaster.

"(3) The United States military personnel and material resources that are involved or expected to be involved.

"(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

"(5) The anticipated duration of the disaster assistance activities.

"(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"404. Foreign disaster assistance.".

SEC. 1413. HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES. 10 USC 401 note.

(a) PROGRAM AUTHORIZED.—The Secretary of Defense shall carry out a program for humanitarian purposes to provide assistance to other nations in the detection and clearance of landmines. Such assistance shall be provided through instruction, education, training, and advising of personnel of those nations in the various procedures that have been determined effective for detecting and clearing landmines.

(b) FORMS OF ASSISTANCE.—The Secretary may provide assistance under subsection (a) by—

(1) providing Department of Defense personnel to conduct the instruction, education, or training or to furnish advice; or

(2) providing financial assistance or in-kind assistance in support of such instruction, education, or training.

(c) LIMITATION ON UNITED STATES MILITARY PERSONNEL.—The Secretary of Defense shall ensure that no member of the Armed Forces of the United States—

(1) while providing assistance under subsection (a), engages in the physical detection, lifting, or destroying of landmines (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(2) provides such assistance as part of a military operation that does not involve the Armed Forces of the United States.

(d) USE OF FUNDS.—Of the amount authorized to be appropriated by section 301 for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department of Defense, not more than $20,000,000 shall be available for the program under subsection (a). Such amount may be used—

(1) for activities to support the clearing of landmines for humanitarian purposes, including activities relating to the furnishing of education, training, and technical assistance;

(2) for the provision of equipment and technology by transfer or lease to a foreign government that is participating in a landmine clearing program under this section; and

(3) for contributions to nongovernmental organizations that have experience in the clearing of landmines to support activities described in subsection (a).

(e) NOTICE TO CONGRESS.—The Secretary of Defense shall provide notice to Congress of any activity carried out under this section.

TITLE XV—ARMS CONTROL MATTERS

SEC. 1501. EXTENSION AND REVISION OF NONPROLIFERATION AUTHORITIES.

(a) EXTENSION OF NONPROLIFERATION AUTHORITIES.—Section 1505 of the National Defense Authorization Act for Fiscal Year 1993 (22 U.S.C. 5859a) is amended—

(1) in subsection (a), by striking out "during fiscal year 1994" and inserting in lieu thereof "during fiscal years 1994 and 1995"; and

(2) in subsection (e)(1), by striking out "fiscal year 1994" and inserting in lieu thereof "fiscal years 1994 and 1995".

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "the International Atomic Energy Agency (IAEA)" and inserting in lieu thereof "international organizations";

(B) by striking out "nuclear";

(C) by striking out "aggressive" and inserting in lieu thereof "effective"; and

(D) by striking out "the Treaty on" and all that follows in such paragraph and inserting in lieu thereof "international agreements on nonproliferation."; and

(2) in paragraph (4), by striking out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserting in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(c) SOURCES OF ASSISTANCE.—Subsection (d) of such section is amended—

(1) in paragraph (1)—

(A) by inserting "for fiscal year 1994" after "under this section"; and

(B) by striking out "fiscal year 1994 or" and inserting in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Funds provided as assistance under this section for a fiscal year referred to in this paragraph may also be derived"; and

(2) in paragraph (3), by inserting after "$25,000,000" the following: "for fiscal year 1994 or $20,000,000 for fiscal year 1995".

SEC. 1502. JOINT COMMITTEE FOR REVIEW OF COUNTERPROLIFERATION PROGRAMS OF THE UNITED STATES.

22 USC 2751 note.

(a) NAME AND COMPOSITION.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1845) is amended—

(1) in paragraph (1)—

(A) by striking out "Non-Proliferation Program Review Committee" in the matter preceding subparagraph (A) and inserting in lieu thereof "Counterproliferation Program Review Committee";

(B) by striking out subparagraphs (B) and (E); and

(C) by redesignating subparagraphs (C), (D), and (F) as subparagraphs (B), (C), and (D), respectively;

(2) in paragraph (2), by adding at the end the following: "The Secretary of Energy shall serve as the Vice Chairman of the committee.";

(3) in paragraph (4), by adding at the end the following: "The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee."; and

(4) by striking out paragraph (5).

(b) PURPOSES OF COMMITTEE.—Subsection (b) of such section is amended—

(1) in paragraph (1)(A), by striking out "nonproliferation policy" and inserting in lieu thereof "counterproliferation policy"; and

(2) by adding at the end the following new paragraphs:

"(3) To establish priorities for programs and funding.

"(4) To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

"(5) To ensure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Government.

"(6) To ensure that Department of Energy national security programs include technology demonstrations and prototype development of equipment.".

(c) DUTIES.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" in the matter preceding subparagraph (A) and inserting in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy";

(B) by inserting "and" at the end of subparagraph (D); and

(C) by striking out subparagraphs (F) and (G);

(2) by striking out paragraphs (2), (3), and (7);

(3) in paragraph (4), by striking out "to support fully the nonproliferation policy of the United States";

(4) by redesignating paragraphs (4), (5), and (6) as paragraphs (2), (3), and (4), respectively; and

(5) by adding at the end the following new paragraph (5):

"(5) assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United

States Code, for the fiscal year following the fiscal year in which the assessment is made.".

(d) COMMITTEE RECOMMENDATIONS.—Subsection (e) of such section is amended to read as follows:

"(e) RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.".

(e) EXTENSION OF COMMITTEE.—Subsection (f) of such section is amended by striking out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress" and inserting in lieu thereof "at the end of September 30, 1996".

(f) HEADING AMENDMENT.—The heading of such section is amended by striking out "**PROLIFERATION**" and inserting in lieu thereof "**COUNTERPROLIFERATION**".

22 USC 2751 note.

SEC. 1503. REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) REPORT REQUIRED.—(1) Not later than May 1, 1995, and May 1, 1996, the Secretary of Defense shall submit to Congress a report of the findings of the Counterproliferation Program Review Committee established by subsection (a) of the Review Committee charter.

(2) For purposes of this section, the term "Review Committee charter" means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), as amended by section 1502.

(b) CONTENT OF REPORT.—Each report under subsection (a) shall include the following:

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the Review Committee pursuant to subsection (c) of the Review Committee charter.

(2) A complete description of the requirements and priorities established by the Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the Review Committee for meeting requirements prescribed by the Review Committee and for eliminating deficiencies identified by the Review Committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to subsection (c) of the Review Committee charter, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each Review Committee recommendation during the fiscal year preceding the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(c) FORMS OF REPORT.—Each such report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs. Classified information.

SEC. 1504. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.

(a) COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 201(4), $16,500,000 shall be available for counterproliferation activities.

(b) LIMITATION.—(1) Of the funds made available pursuant to subsection (a), $4,000,000 may not be obligated until the Secretary of Defense submits to Congress a report on a proposed classified counterproliferation database system. The report shall provide—

(A) an assessment of current major databases and software capabilities of entities in the intelligence community and of national weapons laboratories and laboratories of the Armed Forces against capabilities defined in the proposed project; and

(B) an assessment of the technical feasibility of the proposed system, program plan, strategy, milestones and future year funding.

(2) No funds may be obligated for the database system described in the report until the Secretary of Defense and the Director of Central Intelligence enter into a written agreement concerning the program to develop that database system that provides—

(A) how funding for that program is to be divided between (i) the account of the National Foreign Intelligence Program, and (ii) Tactical Intelligence and Related Program accounts; and

(B) a plan for the sources of funds for, and the programmed amounts for, that program for fiscal years after fiscal year 1995.

(c) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than $2,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(d) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), as amended by section 1502. Amounts of authorizations so transferred shall be merged

with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(e) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for counterproliferation technology projects—

(A) up to $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) up to $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective use of existing resources of the national weapons laboratories.

(3)(A) The training program referred to in paragraph (1)(B) is a training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union.

(B) Of the funds available under paragraph (1)(B) for the program referred to in subparagraph (A), $9,000,000 may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional committees specified in subparagraph (C) a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union;

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and states of the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1)(B); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

(C) The congressional committees referred to in this subparagraph are the following:

(i) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.

(ii) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

SEC. 1505. STUDIES RELATING TO UNITED STATES COUNTERPROLIFERATION POLICY.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 1603 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 5859a; 107 Stat. 1843) is amended by striking out "During fiscal year 1994, the Secretary" and inserting in lieu thereof "The Secretary". 22 USC 2751 note.

(b) REVISION OF REPORTING REQUIREMENT.—Such section is further amended—

(1) by striking out subsections (d) and (e);

(2) by redesignating subsection (f) as subsection (d); and

(3) in subsection (d) (as so redesignated)—

(A) by striking "and not later than October 30 of each year"; and

(B) by striking out "six-month" and inserting in lieu thereof "twelve-month".

(c) FISCAL YEAR 1995 AMOUNT.—Of the funds authorized to be appropriated by section 201(4) for technical studies, support, and analysis (PE 605104D), up to $2,000,000 shall be available for studies relating to United States counterproliferation policy.

SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.

None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 106 Stat. 2560).

SEC. 1507. LIMITATION ON FUNDS FOR STUDIES PENDING RECEIPT OF PREVIOUSLY REQUIRED REPORT.

(a) LIMITATION.—Of the total amount specified in section 1505 for counterproliferation activities for fiscal year 1995, $1,000,000 shall be withheld from obligation until the report described in subsection (b) has been submitted to Congress.

(b) REPORT.—The report referred to in subsection (a) is the report required to be submitted to Congress not later than May 30, 1994, pursuant to section 1422 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1829).

SEC. 1508. SENSE OF CONGRESS CONCERNING INDEFINITE EXTENSION OF NUCLEAR NON-PROLIFERATION TREATY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, is the centerpiece of global efforts to prevent the spread of nuclear weapons.

(2) The United States has demonstrated longstanding support for that treaty and related efforts to prevent the spread of nuclear weapons.

(3) President Clinton has declared that preventing the spread of nuclear weapons is one of the highest priorities of his Administration.

(4) In April 1995, the parties to the Treaty on the Non-Proliferation of Nuclear Weapons will convene a conference in New York City to discuss the indefinite extension of the treaty.

(5) The policy of the President is to seek at that conference the indefinite and unconditional extension of that treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President has the full support of Congress in seeking the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) the President, when formulating and implementing other elements of nonproliferation policy of the United States (including United States counterproliferation doctrine, the Nuclear Posture Review, and nuclear testing policy), should take into account the objectives of the United States at the 1995 conference of the parties to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(3) the President and the President's senior national security advisers should dedicate themselves to ensuring the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 conference for that treaty.

SEC. 1509. NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.

(a) FINDINGS.—Congress makes the following findings:

(1) On January 25, 1994, the United States and 37 other nations began negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President extended the current United States moratorium on nuclear weapons testing through September 1995.

(3) The United States is seeking to extend indefinitely the Treaty on the Non-Proliferation of Nuclear Weapons at the conference of the parties to the Treaty to be held in New York City in April 1995.

(4) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Treaty on the Non-Proliferation of Nuclear Weapons.

(5) Agreements to eliminate nuclear weapons testing and to control the spread of nuclear weapons could contribute to the national security of the United States, its allies, and other nations around the world.

(b) STATEMENT OF CONGRESSIONAL POLICY.—In view of the findings set forth in subsection (a), Congress—

(1) applauds the President for maintaining the United States moratorium on nuclear weapons testing and for taking a leadership role toward negotiation of a comprehensive nuclear test ban treaty;

(2) encourages all nuclear powers to refrain from conducting nuclear explosions, before the conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the Conference on Disarmament to make all possible progress toward a comprehensive nuclear test ban treaty by the end of 1994.

TITLE XVI—RESERVE OFFICER PERSONNEL MANAGEMENT ACT (ROPMA)

Reserve Officer Personnel Management Act.

SEC. 1601. SHORT TITLE.

10 USC 10001 note.

This title may be cited as the "Reserve Officer Personnel Management Act".

SEC. 1602. REFERENCES TO TITLE 10, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

Subtitle A—Reserve Officer Personnel Management

PART I—REVISED AND STANDARDIZED RESERVE OFFICER PERSONNEL SYSTEM

SEC. 1611. PROMOTION AND RETENTION OF RESERVE OFFICERS.

Title 10, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle E—Reserve Components

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap.		Sec.
"1001.	Definitions	10001
"1003.	Reserve Components Generally	10101
"1005.	Elements of Reserve Components	10141
"1007.	Administration of Reserve Components	10201
"1009.	Reserve Forces Policy Boards and Committees	10301
"1011.	National Guard Bureau	10501
"1013.	Budget Information and Annual Reports to Congress	10541

"PART II—PERSONNEL GENERALLY

"1201.	Authorized Strengths and Distribution in Grade	12001
"1203.	Enlisted Members	12101
"1205.	Appointment of Reserve Officers	12201
"1207.	Warrant Officers	12241
"1209.	Active Duty	12301
"1211.	National Guard Members in Federal Service	12401
"1213.	Special Appointments, Assignments, Details, and Duties	12501

"1215. Miscellaneous Prohibitions and Penalties ..... [No present sections]
"1217. Miscellaneous Rights and Benefits 12601
"1219. Standards and Procedures for Retention and Promotion 12641
"1221. Separation 12681
"1223. Retired Pay for Non-Regular Service 12731
"1225. Retired Grade 12771

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve-Active Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"1601. Training Generally ..... [No present sections]
"1606. Educational Assistance for Members of the Selected Reserve 16131
"1608. Health Professions Stipend Program 16201
"1609. Education Loan Repayments 16301

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"1801. Issue of Serviceable Material to Reserve Components ..... [No present sections]
"1803. Facilities for Reserve Components 18231
"1805. Miscellaneous Provisions 18501

"PART III—PROMOTION AND RETENTION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST

"Chap. Sec.
"1401. Applicability and Reserve Active-Status Lists 14001
"1403. Selection Boards 14101
"1405. Promotions 14301
"1407. Failure of Selection for Promotion and Involuntary Separation 14501
"1409. Continuation of Officers on the Reserve Active-Status List and Selective Early Removal 14701
"1411. Additional Provisions Relating to Involuntary Separation 14901

"CHAPTER 1401—APPLICABILITY AND RESERVE ACTIVE-STATUS LISTS

"Sec.
"14001. Applicability of this part.
"14002. Reserve active-status lists: requirement for each armed force.
"14003. Reserve active-status lists: position of officers on the list.
"14004. Reserve active-status lists: eligibility for Reserve promotion.
"14005. Competitive categories.
"14006. Determination of years in grade.

"§ 14001. Applicability of this part

"This chapter and chapters 1403 through 1411 of this title apply, as appropriate, to all reserve officers of the Army, Navy, Air Force, and Marine Corps except warrant officers.

"§ 14002. Reserve active-status lists: requirement for each armed force

"(a) The Secretary of each military department shall maintain a single list, to be known as the reserve active-status list, for

each armed force under the Secretary's jurisdiction. That list shall include the names of all reserve officers of that armed force who are in an active status other than those on an active-duty list described in section 620 of this title or warrant officers (including commissioned warrant officers).

"(b) The reserve active-status list for the Army shall include officers in the Army Reserve and the Army National Guard of the United States. The reserve active-status list for the Air Force shall include officers in the Air Force Reserve and the Air National Guard of the United States. The Secretary of the Navy shall maintain separate lists for the Naval Reserve and the Marine Corps Reserve.

"§ 14003. Reserve active-status: position of officers on the list

"(a) POSITION ON LIST.—Officers shall be carried on the reserve active-status list of the armed force of which they are members in the order of seniority of the grade in which they are serving in an active status. Officers serving in the same grade shall be carried in the order of their rank in that grade.

"(b) EFFECT ON POSITION HELD BY REASON OF TEMPORARY APPOINTMENT OR ASSIGNMENT.—An officer whose position on the reserve active-status list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on that list that the officer would have held if the officer had not received that appointment or assignment.

"§ 14004. Reserve active-status lists: eligibility for Reserve promotion

"Except as otherwise provided by law, an officer must be on a reserve active-status list to be eligible under chapter 1405 of this title for consideration for selection for promotion or for promotion.

"§ 14005. Competitive categories

"Each officer whose name appears on a reserve active-status list shall be placed in a competitive category. The competitive categories for each armed force shall be specified by the Secretary of the military department concerned under regulations prescribed by the Secretary of Defense. Officers in the same competitive category shall compete among themselves for promotion.

"§ 14006. Determination of years in grade

"For the purpose of chapters 1403 through 1411 of this title, an officer's years of service in a grade are computed from the officer's date of rank in grade as determined under section 741(d) of this title.

"CHAPTER 1403—SELECTION BOARDS

"Sec.
"14101. Convening of selection boards.
"14102. Selection boards: appointment and composition.
"14103. Oath of members.
"14104. Confidentiality of board proceedings.
"14105. Notice of convening of selection board.
"14106. Communication with board by officers under consideration.
"14107. Information furnished by the Secretary concerned to promotion boards.

"14108. Recommendations by promotion boards.
"14109. Reports of promotion boards: in general.
"14110. Reports of promotion boards: review by Secretary.
"14111. Reports of selection boards: transmittal to President.
"14112. Dissemination of names of officers selected.

"§ 14101. Convening of selection boards

"(a) PROMOTION BOARDS.—(1) Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned shall convene a selection board to recommend for promotion to the next higher grade, under chapter 1405 of this title, officers on the reserve active-status list of that armed force in a permanent grade from first lieutenant through brigadier general or, in the case of the Naval Reserve, lieutenant (junior grade) through rear admiral (lower half). A selection board convened under this subsection shall be known as a 'promotion board'.

"(2) A promotion board convened to recommend reserve officers of the Army or reserve officers of the Air Force for promotion (A) to fill a position vacancy under section 14315 of this title, or (B) to the grade of brigadier general or major general, shall (except in the case of a board convened to consider officers as provided in section 14301(e) of this title) be known as a 'vacancy promotion board'. Any other promotion board convened under this subsection shall be known as a 'mandatory promotion board'.

"(b) CONTINUATION BOARDS.—Whenever the needs of the Army, Navy, Air Force, or Marine Corps require, the Secretary concerned may convene a selection board to recommend officers of that armed force—

"(1) for continuation on the reserve active-status list under section 14701 of this title;

"(2) for selective early removal from the reserve active-status list under section 14704 of this title; or

"(3) for selective early retirement under section 14705 of this title.

A selection board convened under this subsection shall be known as a 'continuation board'.

"§ 14102. Selection boards: appointment and composition

"(a) APPOINTMENT.—Members of selection boards convened under section 14101 of this title shall be appointed by the Secretary of the military department concerned in accordance with this section. Promotion boards and special selection boards shall consist of five or more officers. Continuation boards shall consist of three or more officers. All of the officers of any such selection board shall be of the same armed force as the officers under consideration by the board.

"(b) COMPOSITION.—At least one-half of the members of such a selection board shall be reserve officers, to include at least one reserve officer from each reserve component from which officers are to be considered by the board. Each member of a selection board must hold a permanent grade higher than the grade of the officers under consideration by the board, and no member of a board may hold a grade below major or lieutenant commander.

"(c) REPRESENTATION OF COMPETITIVE CATEGORIES.—(1) Except as provided in paragraph (2), a selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(2) A selection board need not include an officer from a competitive category to be considered by the board if there is no officer of that competitive category on the reserve active-status list or the active-duty list in a permanent grade higher than the grade of the officers to be considered by the board and otherwise eligible to serve on the board. However, in such a case, the Secretary of the military department concerned, in his discretion, may appoint as a member of the board a retired officer of that competitive category who is in the same armed force as the officers under consideration by the board who holds a higher grade than the grade of the officers under consideration.

"(d) PROHIBITION OF SERVICE ON CONSECUTIVE PROMOTION BOARDS.—No officer may be a member of two successive promotion boards convened under section 14101(a) of this title for the consideration of officers of the same competitive category and grade if the second of the two boards is to consider any officer who was considered and not recommended for promotion to the next higher grade by the first of the two boards.

"§ 14103. Oath of members

"Each member of a selection board convened under section 14101 of this title shall take an oath to perform the duties of a member of the board without prejudice or partiality, having in view both the special fitness of officers and the efficiency of the member's armed force.

"§ 14104. Confidentiality of board proceedings

"Except as otherwise authorized or required by law, the proceedings of a selection board convened under section 14101 of this title may not be disclosed to any person not a member of the board.

"§ 14105. Notice of convening of promotion board

"(a) REQUIRED NOTICE.—At least 30 days before a promotion board is convened under section 14101(a) of this title to consider officers in a grade and competitive category for promotion to the next higher grade, the Secretary concerned shall either (1) notify in writing the officers eligible for consideration by the board for promotion regarding the convening of the board, or (2) issue a general written notice to the armed force concerned regarding the convening of the board.

"(b) CONTENT OF NOTICE.—A notice under subsection (a) shall include the date on which the board is to convene and (except in the case of a vacancy promotion board) the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notice.

"§ 14106. Communication with board by officers under consideration

"Subject to regulations prescribed by the Secretary of the military department concerned, an officer eligible for consideration by a promotion board convened under section 14101(a) of this title who is in the promotion zone or above the promotion zone, or who is to be considered by a vacancy promotion board, may send a written communication to the board calling attention to any matter concerning the officer which the officer considers important to the officer's case. Any such communication shall be sent so

as to arrive not later than the date on which the board convenes. The board shall give consideration to any timely communication under this section.

"§ 14107. Information furnished by the Secretary concerned to promotion boards

Regulations.

"(a) INTEGRITY OF THE PROMOTION SELECTION BOARD PROCESS.—(1) The Secretary of Defense shall prescribe regulations governing information furnished to selection boards convened under section 14101(a) of this title. Those regulations shall apply uniformly among the military departments. Any regulations prescribed by the Secretary of a military department to supplement those regulations may not take effect without the approval of the Secretary of Defense in writing.

"(2) No information concerning a particular eligible officer may be furnished to a selection board except for the following:

"(A) Information that is in the officer's official military personnel file and that is provided to the selection board in accordance with the regulations prescribed by the Secretary of Defense pursuant to paragraph (1).

"(B) Other information that is determined by the Secretary of the military department concerned, after review by that Secretary in accordance with standards and procedures set out in the regulations prescribed by the Secretary of Defense pursuant to paragraph (1), to be substantiated, relevant information that could reasonably and materially affect the deliberations of the promotion board.

"(C) Subject to such limitations as may be prescribed in those regulations, information communicated to the board by the officer in accordance with this section, section 14106 of this title (including any comment on information referred to in subparagraph (A) regarding that officer), or other applicable law.

"(D) A factual summary of the information described in subparagraphs (A), (B), and (C) that, in accordance with the regulations prescribed pursuant to paragraph (1) is prepared by administrative personnel for the purpose of facilitating the work of the selection board.

"(3) Information provided to a promotion board in accordance with paragraph (2) shall be made available to all members of the board and shall be made a part of the record of the board. Communication of such information shall be in a written form or in the form of an audio or video recording. If a communication is in the form of an audio or video recording, a written transcription of the recording shall also be made a part of the record of the promotion board.

"(4) Paragraphs (2) and (3) do not apply to the furnishing of appropriate administrative processing information to the promotion board by an administrative staff designated to assist the board, but only to the extent that oral communications are necessary to facilitate the work of the board.

"(5) Information furnished to a promotion board that is described in subparagraph (B), (C), or (D) of paragraph (2) may not be furnished to a later promotion board unless—

"(A) the information has been properly placed in the official military personnel file of the officer concerned; or

"(B) the information is provided to the later selection board in accordance with paragraph (2).

"(6)(A) Before information described in paragraph (2)(B) regarding an eligible officer is furnished to a selection board, the Secretary of the military department concerned shall ensure—

"(i) that such information is made available to such officer; and

"(ii) that the officer is afforded a reasonable opportunity to submit comments on that information to the promotion board.

"(B) If an officer cannot be given access to the information referred to in subparagraph (A) because of its classification status, the officer shall, to the maximum extent practicable, be furnished an appropriate summary of the information.

"(b) INFORMATION TO BE FURNISHED.—The Secretary of the military department concerned shall furnish to a promotion board convened under section 14101(a) of this title the following:

"(1) In the case of a mandatory promotion board, the maximum number (as determined in accordance with section 14307 of this title) of officers in each competitive category under consideration that the board is authorized to recommend for promotion to the next higher grade.

"(2) The name of each officer in each competitive category under consideration who is to be considered by the board for promotion.

"(3) The pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board.

"(4) Information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including (except in the case of a vacancy promotion board) guidelines or information relating to either a minimum number or a maximum number of officers with particular skills within a competitive category.

"(5) Such other information or guidelines as the Secretary concerned may determine to be necessary to enable the board to perform its functions.

"(c) LIMITATION ON MODIFYING FURNISHED INFORMATION.—Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits its report to the Secretary of the military department concerned pursuant to section 14109(a) of this title. However, in the case of a report returned to a board pursuant to section 14110(a) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guidelines as part of a written explanation to the board as provided in that section.

"(d) OFFICERS IN HEALTH-PROFESSIONS COMPETITIVE CATEGORIES.—The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a promotion board convened under section 14101(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of officers of the Naval Reserve, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least

Regulations.

as great an extent as the board gives to the officer's administrative and management skills.

"§ 14108. Recommendations by promotion boards

"(a) RECOMMENDATION OF BEST QUALIFIED OFFICERS.—A promotion board convened under section 14101(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board considers best qualified for promotion within each competitive category considered by the board or, in the case of a vacancy promotion board, among those officers considered to fill a vacancy. In determining those officers who are best qualified for promotion, the board shall give due consideration to the needs of the armed force concerned for officers with particular skills (as noted in the guidelines or information furnished the board under section 14107 of this title).

"(b) MAJORITY REQUIRED.—A promotion board convened under section 14101(a) of this title may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) BOARD RECOMMENDATION REQUIRED FOR PROMOTION.—Except as otherwise provided by law, an officer on the reserve active-status list may not be promoted to a higher grade under chapter 1405 of this title unless the officer is considered and recommended for promotion to that grade by a promotion board convened under section 14101(a) of this title (or by a special selection board convened under section 14502 of this title).

"(d) DISCLOSURE OF BOARD RECOMMENDATIONS.—The recommendations of a promotion board may be disclosed only in accordance with regulations prescribed by the Secretary of Defense. Those recommendations may not be disclosed to a person not a member of the board (or a member of the administrative staff designated by the Secretary concerned to assist the board) until the written report of the recommendations of the board, required by section 14109 of this title, is signed by each member of the board.

"(e) PROHIBITION OF COERCION AND UNAUTHORIZED INFLUENCE OF ACTIONS OF BOARD MEMBERS.—The Secretary convening a promotion board under section 14101(a) of this title, and an officer or other official exercising authority over any member of a selection board, may not—

"(1) censure, reprimand, or admonish the selection board or any member of the board with respect to the recommendations of the board or the exercise of any lawful function within the authorized discretion of the board; or

"(2) attempt to coerce or, by any unauthorized means, influence any action of a promotion board or any member of a promotion board in the formulation of the board's recommendations.

"§ 14109. Reports of promotion boards: in general

"(a) REPORT OF OFFICERS RECOMMENDED FOR PROMOTION.—Each promotion board convened under section 14101(a) of this title shall submit to the Secretary of the military department concerned a report in writing containing a list of the names of the

officers recommended by the board for promotion. The report shall be signed by each member of the board.

"(b) CERTIFICATION.—Each report under subsection (a) shall include a certification—

"(1) that the board has carefully considered the record of each officer whose name was furnished to the board; and

"(2) that, in the case of a promotion board convened under section 14101(a) of this title, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned (as noted in the guidelines or information furnished the board under section 14107 of this title) among those officers whose names were furnished to the selection board.

"(c) SHOW-CAUSE RECOMMENDATIONS.—(1) A promotion board convened under section 14101(a) of this title shall include in its report to the Secretary concerned the name of any reserve officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required to show cause for retention in an active status.

"(2) If such a report names an officer as having a record which indicates that the officer should be required to show cause for retention, the Secretary concerned may provide for the review of the record of that officer as provided under regulations prescribed under section 14902 of this title.

"§ 14110. Reports of promotion boards: review by Secretary

"(a) REVIEW OF REPORT.—Upon receipt of the report of a promotion board submitted under section 14109(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title. Following that review, unless the Secretary concerned makes a determination as described in subsection (b), the Secretary shall submit the report as required by section 14111 of this title.

"(b) RETURN OF REPORT FOR FURTHER PROCEEDINGS.—If, on the basis of a review of the report under subsection (a), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 14107(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 14101(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 14109 of this title.

"§ 14111. Reports of selection boards: transmittal to President

"(a) TRANSMITTAL TO PRESIDENT.—The Secretary concerned, after final review of the report of a selection board under section

14110 of this title, shall submit the report with the Secretary's recommendations, to the Secretary of Defense for transmittal by the Secretary to the President for approval or disapproval. If the authority of the President to approve or disapprove the report of a promotion board is delegated to the Secretary of Defense, that authority may not be redelegated except to an official in the Office of the Secretary of Defense.

"(b) REMOVAL OF NAME FROM BOARD REPORT.—The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

"(c) RECOMMENDATIONS FOR REMOVAL OF SELECTED OFFICERS FROM REPORT.—If the Secretary of a military department or the Secretary of Defense makes a recommendation under this section that the name of an officer be removed from the report of a promotion board and the recommendation is accompanied by information that was not presented to that promotion board, that information shall be made available to that officer. The officer shall then be afforded a reasonable opportunity to submit comments on that information to the officials making the recommendation and the officials reviewing the recommendation. If an eligible officer cannot be given access to such information because of its classification status, the officer shall, to the maximum extent practicable, be provided with an appropriate summary of the information.

"§ 14112. Dissemination of names of officers selected

"Upon approval by the President of the report of a promotion board, the names of the officers recommended for promotion by the promotion board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"CHAPTER 1405—PROMOTIONS

"Sec.

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"14317. Officers in transition to and from the active-status list or active-duty list.

"§ 14301. Eligibility for consideration for promotion: general rules

"(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

"(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

"(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

"(b) REQUIREMENT FOR CONSIDERATION OF ALL OFFICERS IN AND ABOVE THE ZONE.—Whenever a promotion board (other than a vacancy promotion board) is convened under section 14101(a) of this title for consideration of officers in a competitive category who are eligible under this chapter for consideration for promotion to the next higher grade, each officer in the promotion zone, and each officer above the promotion zone, for that grade and competitive category shall be considered for promotion.

"(c) PREVIOUSLY SELECTED OFFICERS NOT ELIGIBLE TO BE CONSIDERED.—A promotion board convened under section 14101(a) of this title may not consider for promotion to the next higher grade—

"(1) an officer whose name is on a promotion list for that grade as a result of recommendation for promotion to that grade by an earlier selection board convened under that section or section 14502 of this title or under chapter 36 of this title;

"(2) an officer who has been approved for Federal recognition by a board convened under section 307 of title 32 and nominated by the President for promotion to the next higher grade as a reserve of the Army or of the Air Force as the case may be; or

"(3) an officer who has been nominated by the President for promotion to the next higher grade under any other provision of law.

"(d) OFFICERS BELOW THE ZONE.—The Secretary of the military department concerned may, by regulation, prescribe procedures to limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion. The regulations shall include criteria for determining which officers below the promotion zone are exceptionally well qualified for promotion. Regulations.

"(e) RESERVE OFFICERS OF THE ARMY; CONSIDERATION FOR BRIGADIER GENERAL AND MAJOR GENERAL.—In the case of officers of the Army, if the Secretary of the Army determines that vacancies are authorized or anticipated in the reserve grades of major general or brigadier general for officers who are on the reserve active-status list and who are not assigned to units organized to serve as a unit and the Secretary convenes a mandatory promotion board under section 14101(a) of this title to consider officers for promotion to fill such vacancies, the Secretary may limit the officers to be considered by that board to those determined to be exceptionally well qualified for promotion under such criteria and procedures as the Secretary may by regulation prescribe.

"(f) CERTAIN RESERVE OFFICERS OF THE AIR FORCE.—A reserve officer of the Air Force who (1) is in the Air National Guard of the United States and holds the grade of lieutenant colonel,

colonel, or brigadier general, or (2) is in the Air Force Reserve and holds the grade of colonel or brigadier general, is not eligible for consideration for promotion by a mandatory promotion board convened under section 14101(a) of this title.

"(g) NONCONSIDERATION OF OFFICERS SCHEDULED FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—The Secretary of the military department concerned may, by regulation, provide for the exclusion from consideration for promotion by a promotion board of any officer otherwise eligible to be considered by the board who has an established date for removal from the reserve active-status list that is not more than 90 days after the date on which the selection board for which the officer would otherwise be eligible is to be convened.

"§ 14302. Promotion zones

"(a) PROMOTION ZONES GENERALLY.—For purposes of this chapter, a promotion zone is an eligibility category for the consideration of officers by a mandatory promotion board. A promotion zone consists of those officers on the reserve active-status list who are in the same grade and competitive category and who meet the requirements of both paragraphs (1) and (2) or the requirements of paragraph (3), as follows:

"(1)(A) In the case of officers in grades below colonel, for reserve officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Naval Reserve, those who have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(B) In the case of officers in the grade of colonel or brigadier general, for reserve officers of the Army and Marine Corps, or in the grade of captain or rear admiral (lower half), for reserve officers of the Navy, those who have neither (i) been recommended for promotion to the next higher grade when considered in the promotion zone, nor (ii) been removed from a list of officers recommended for promotion to that grade.

"(2) Those officers who are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to the next higher grade and the officer so designated.

"(3) Those officers who—

"(A) have been selected from below the zone for promotion to the next higher grade or by a vacancy promotion board, but whose names were removed from the list of officers recommended for promotion to that next higher grade resulting from that selection;

"(B) have not failed of selection for promotion to that next higher grade; and

"(C) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer in the promotion zone eligible for consideration for promotion to that next higher grade and the officer so designated.

"(b) OFFICERS ABOVE THE ZONE.—Officers on the reserve active-status list are considered to be above the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are senior to the senior officer in the promotion zone for that competitive category.

"(c) OFFICERS BELOW THE ZONE.—Officers on the reserve active-status list are considered to be below the promotion zone for a grade and competitive category if they—

"(1) are eligible for consideration for promotion to the next higher grade;

"(2) are in the same grade as those officers in the promotion zone for that competitive category; and

"(3) are junior to the junior officer in the promotion zone for that competitive category.

"§ 14303. Eligibility for consideration for promotion: minimum years of service in grade

"(a) OFFICERS IN PAY GRADES O–1 AND O–2.—An officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant as a reserve officer of the Army, Air Force, or Marine Corps, or in the grade of ensign or lieutenant (junior grade) as a reserve officer of the Navy, may not be promoted to the next higher grade, or granted Federal recognition in that grade, until the officer has completed the following years of service in grade:

"(1) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

"(2) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

"(b) OFFICERS IN PAY GRADES O–3 AND ABOVE.—Subject to subsection (d), an officer who is on the reserve active-status list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant, or who is on the reserve active-status list of the Navy in a grade above lieutenant (junior grade), may not be considered for selection for promotion to the next higher grade, or examined for Federal recognition in the next higher grade, until the officer has completed the following years of service in grade:

"(1) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

"(2) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or in the case of a reserve officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

This subsection does not apply to an adjutant general or assistant adjutant general of a State or to an appointment in a higher grade which is based upon a specific provision of law.

"(c) AUTHORITY TO LENGTHEN MINIMUM PERIOD IN GRADE.—The Secretary concerned may prescribe a period of service in grade for eligibility for promotion, in the case of officers to whom subsection (a) applies, or for eligibility for consideration for promotion, in the case of officers to whom subsection (b) applies, that is longer than the applicable period specified in that subsection.

"(d) WAIVERS TO ENSURE TWO BELOW-THE-ZONE CONSIDERATIONS.—Subject to section 14307(b) of this title, the Secretary of the military department concerned may waive subsection (b) to the extent necessary to ensure that officers described in paragraph (1) of that subsection have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

"§ 14304. Eligibility for consideration for promotion: maximum years of service in grade

"(a) CONSIDERATION FOR PROMOTION WITHIN SPECIFIED TIMES.—(1) Officers described in paragraph (3) shall be placed in the promotion zone for that officer's grade and competitive category, and shall be considered for promotion to the next higher grade by a promotion board convened under section 14101(a) of this title, far enough in advance of completing the years of service in grade specified in the following table so that, if the officer is recommended for promotion, the promotion may be effective on or before the date on which the officer will complete those years of service.

"Current Grade	Maximum years of service in grade
"First lieutenant or Lieutenant (junior grade)	5 years
"Captain or Navy Lieutenant	7 years
"Major or Lieutenant commander	7 years

"(2) Paragraph (1) is subject to subsections (a), (b), and (c) of section 14301 of this title and applies without regard to vacancies.

"(3) Paragraph (1) applies to an officer who is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps and who holds a permanent appointment in the grade of first lieutenant, captain, or major as a reserve of the Army, Air Force, or Marine Corps, or to an officer on the reserve active-status list of the Navy in the grade of lieutenant (junior grade), lieutenant, or lieutenant commander as a reserve of the Navy, and who, while holding that appointment, has not been considered by a selection board convened under section 14101(a) or 14502 of this title for promotion to the next higher grade.

"(b) PROMOTION DATE.—An officer holding a permanent grade specified in the table in subsection (a) who is recommended for promotion to the next higher grade by a selection board the first time the officer is considered for promotion while in or above the promotion zone and who is placed on an approved promotion list established under section 14308(a) of this title shall (if not promoted sooner or removed from that list by the President or by reason of declination) be promoted, without regard to the existence of a vacancy, on the date on which the officer completes the maximum years of service in grade specified in subsection (a). The preceding sentence is subject to the limitations of section 12011 of this title.

"(c) WAIVER AUTHORITY FOR NAVY AND MARINE CORPS RUNNING MATE SYSTEM.—If the Secretary of the Navy establishes promotion zones for officers on the reserve active-status list of the Navy or the Marine Corps Reserve in accordance with a running mate

system under section 14306 of this title, the Secretary may waive the requirements of subsection (a) to the extent the Secretary considers necessary in any case in which the years of service for promotion, or for consideration for promotion, within those zones will exceed the maximum years of service in grade specified in subsection (a).

"§ 14305. Establishment of promotion zones: mandatory consideration for promotion

"(a) ESTABLISHMENT OF ZONE.—Before convening a mandatory promotion board under section 14101(a) of this title, the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

"(b) NUMBER IN THE ZONE.—The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category under the provisions of sections 14303 and 14304 of this title and who are otherwise eligible for promotion.

"(c) FACTORS IN DETERMINING NUMBER IN THE ZONE.—The Secretary's determination under subsection (b) shall be made on the basis of an estimate of the following:

"(1) The number of officers needed in that competitive category in the next higher grade in each of the next five years.

"(2) In the case of a promotion zone for officers to be promoted to a grade to which the maximum years of in grade criteria established in section 14304 of this title apply, the number of officers in that competitive category who are required to be considered for selection for promotion to the next higher grade under that section.

"(3) The number of officers that should be placed in the promotion zone in each of the next five years to provide to officers in those years relatively similar opportunities for promotion.

"§ 14306. Establishment of promotion zones: Naval Reserve and Marine Corps Reserve running mate system

"(a) AUTHORITY OF SECRETARY OF THE NAVY.—The Secretary of the Navy may by regulation implement section 14305 of this title by requiring that the promotion zone for consideration of officers on the reserve active-status list of the Navy or the Marine Corps for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

"(b) ASSIGNMENT OF RUNNING MATES.—An officer to whom a running mate system applies shall be assigned as a running mate an officer of the same grade on the active-duty list of the same armed force. The officer on the reserve active-status list is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title when that officer's running mate is in or above the promotion zone established for that officer's grade under chapter 36 of this title.

"(c) CONSIDERATION OF OFFICERS BELOW THE ZONE UNDER A RUNNING MATE SYSTEM.—If the Secretary of the Navy authorizes

the selection of officers for promotion from below the promotion zone in accordance with section 14307 of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system or otherwise as the Secretary determines to be appropriate to meet the needs of the Navy or Marine Corps.

"§ 14307. Number of officers to be recommended for promotion

"(a) DETERMINATION OF MAXIMUM NUMBER.—Before convening a promotion board under section 14101(a) of this title for a grade and competitive category (other than a vacancy promotion board), the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine the maximum number of officers in that grade and competitive category that the board may recommend for promotion. The Secretary shall make the determination under the preceding sentence of the maximum number that may be recommended with a view to having on the reserve active-status list a sufficient number of officers in each grade and competitive category to meet the needs of the armed force concerned for officers on that list. In order to make that determination, the Secretary shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, (3) the number of officers authorized by the Secretary of the military department concerned to serve on the reserve active-status list in the grade and competitive category under consideration, and (4) any statutory limitation on the number of officers in any grade or category (or combination thereof) authorized to be on the reserve active-status list.

"(b) BELOW-THE-ZONE SELECTIONS.—(1) The Secretary of the military department concerned may, when the needs of the armed force concerned require, authorize the consideration of officers in the grade of captain, major, or lieutenant colonel on the reserve active-status list of the Army or Air Force, in a grade above first lieutenant on the reserve active-status list of the Marine Corps, or in a grade above lieutenant (junior grade) on the reserve active-status list of the Navy, for promotion to the next higher grade from below the promotion zone.

"(2) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone in each competitive category to be considered. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of the armed force concerned so require. If the maximum number determined under this paragraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

"(3) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under subsection (a).

"§ 14308. Promotions: how made

"(a) PROMOTION LIST.—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list.

"(b) PROMOTION; HOW MADE; ORDER.—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

"(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

"(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

"(c) DATE OF RANK.—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

"(2) Except as specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

"(d) OFFICERS WITH RUNNING MATES.—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

"(e) ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

"(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

"(2) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board convened under section 14101(a)

of this title may be promoted at any time to fill the vacancy for which the officer was selected.

"(f) EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.—The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

"(g) ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.—A reserve officer of the Army who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army. A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.

"§ 14309. Acceptance of promotion; oath of office

"(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

"(b) OATH.—An officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this chapter.

"§ 14310. Removal of officers from a list of officers recommended for promotion

"(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

"(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

"(c) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

"§ 14311. Delay of promotion: involuntary

"(a) DELAY DURING INVESTIGATIONS AND PROCEEDINGS.—(1) Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may be delayed if any of the following applies before the date on which the appointment would otherwise be made:

"(A) Sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and the charges have not been disposed of.

"(B) An investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer.

"(C) A board of officers has been convened under section 14903 of this title to review the record of the officer.

"(D) A criminal proceeding in a Federal or State court of competent jurisdiction is pending against the officer.

"(2) If disciplinary action is not taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not separated by the Secretary of the military department concerned as the result of having been required to show cause for retention, or if the officer is acquitted of the charges, as the case may be, then (unless action to delay the officer's appointment to the higher grade has been taken under subsection (b)) the officer shall be retained on the promotion list, list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances.

"(b) DELAY FOR LACK OF QUALIFICATIONS.—Under regulations prescribed by the Secretary of the military department concerned, the appointment of an officer to a higher grade may also be delayed if there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade to which selected. If the Secretary concerned later determines that the officer is qualified for promotion to the higher grade, the officer shall be retained on the promotion list, the list of officers found qualified for Federal recognition, or list of officers nominated by the President to the Senate for appointment in a higher reserve grade, and shall, upon promotion to that grade, have the same date of rank, the same effective date for pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the reserve active-status list as the Secretary considers appropriate under the circumstances. Regulations.

"(c) NOTICE TO OFFICER.—(1) The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) unless the officer is given written notice of the grounds for the delay. The preceding sentence does not apply if it is impracticable to give the officer written notice before the date on which the appointment to the higher grade would otherwise take effect, but in such a case the written notice shall be given as soon as practicable.

"(2) An officer whose promotion is delayed under subsection (a) or (b) shall be given an opportunity to make a written statement to the Secretary of the military department concerned in response to the action taken. The Secretary shall give consideration to any such statement.

"(d) MAXIMUM LENGTH OF DELAY IN PROMOTION.—The appointment of an officer to a higher grade may not be delayed under subsection (a) or (b) for more than six months after the date on which the officer would otherwise have been promoted unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against the officer in a Federal or State court of competent jurisdiction or more than 90 days after final action has been taken in any court-martial case against the officer. Except for court action, a promotion may not be delayed more than 18 months after the date on which the officer would otherwise have been promoted.

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"(e) DELAY BECAUSE OF LIMITATIONS ON OFFICER STRENGTH IN GRADE OR DUTIES TO WHICH ASSIGNED.—(1) Under regulations prescribed by the Secretary of Defense, the promotion of a reserve officer on the reserve active-status list who is serving on active duty, or who is on full-time National Guard duty for administration of the reserves or the National Guard, to a grade to which the strength limitations of section 12011 of this title apply shall be delayed if necessary to ensure compliance with those strength limitations. The delay shall expire when the Secretary determines that the delay is no longer required to ensure such compliance.

"(2) The promotion of an officer described in paragraph (1) shall also be delayed while the officer is on duty described in that paragraph unless the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, determines that the duty assignment of the officer requires a higher grade than the grade currently held by the officer.

"(3) The date of rank and position on the reserve active-status list of a reserve officer whose promotion to or Federal recognition in the next higher grade was delayed under paragraph (1) or (2) solely as the result of the limitations imposed under the regulations prescribed by the Secretary of Defense or contained in section 12011 of this title shall be the date on which the officer would have been promoted to or recognized in the higher grade had such limitations not existed.

"(4) If an officer whose promotion is delayed under paragraph (1) or (2) completes the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may request release from active duty or full-time National Guard duty. If the request is granted, the officer's promotion shall be effective upon the officer's release from such duty. The date of rank and position on the reserve active-status list of the officer shall be

the date the officer would have been promoted to or recognized in the higher grade had the limitations imposed under regulations prescribed by the Secretary of Defense contained in section 12011 of this title not existed. If an officer whose promotion is delayed under paragraph (1) or (2) has not completed the period of active duty or full-time National Guard duty that the officer is required by law or regulation to perform as a member of a reserve component, the officer may be retained on active duty or on full-time National Guard duty in the grade in which the officer was serving before the officer's being found qualified for Federal recognition or the officer's selection for the promotion until the officer completes that required period of duty.

"§ 14312. Delay of promotion: voluntary

"(a) AUTHORITY FOR VOLUNTARY DELAYS.—(1) The Secretary of the military department concerned may, by regulation, permit delays of a promotion of an officer who is recommended for promotion by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title at the request of the officer concerned. Such delays, in the case of any promotion, may extend for any period not to exceed three years from the date on which the officer would otherwise be promoted.

"(2) Regulations under this section shall provide that— Regulations.

"(A) a request for such a delay of promotion must be submitted by the officer concerned before the delay may be approved; and

"(B) denial of such a request shall not be considered to be a failure of selection for promotion unless the officer declines to accept a promotion under circumstances set forth in subsection (c).

"(b) EFFECT OF APPROVAL OF REQUEST.—If a request for delay of a promotion under subsection (a) is approved, the officer's name shall remain on the promotion list during the authorized period of delay (unless removed under any other provision of law). Upon the end of the period of the authorized delay, or at any time during such period, the officer may accept the promotion, which shall be effective on the date of acceptance. Such an acceptance of a promotion shall be made in accordance with regulations prescribed under this section.

"(c) EFFECT OF DECLINING A PROMOTION.—An officer's name shall be removed from the promotion list and, if the officer is serving in a grade below colonel or, in the case of the Navy, captain, the officer shall be considered to have failed of selection for promotion if any of the following applies:

"(1) The Secretary concerned has not authorized voluntary delays of promotion under subsection (a) to the grade concerned and the officer declines to accept an appointment to a higher grade.

"(2) The Secretary concerned has authorized voluntary delays of promotion under subsection (a), but has denied the request of the officer for a delay of promotion and the officer then declines to accept an appointment to a higher grade.

"(3) The Secretary concerned has approved the request of an officer for a delay of promotion and, upon the end of the period of delay authorized in accordance with regulations

prescribed under subsection (a), the officer then declines to accept an appointment to a higher grade.

"§ 14313. Authority to vacate promotions to grade of brigadier general or rear admiral (lower half)

"(a) AUTHORITY.—The President may vacate the appointment of a reserve officer to the grade of brigadier general or rear admiral (lower half) if the period of time during which the officer has served in that grade after promotion to that grade is less than 18 months.

"(b) EFFECT OF PROMOTION BEING VACATED.—Except as provided in subsection (c), an officer whose promotion to the grade of brigadier general is vacated under this section holds the grade of colonel as a reserve of the armed force of which the officer is a member. An officer whose promotion to the grade of rear admiral (lower half) is vacated under this section holds the grade of captain in the Naval Reserve. Upon assuming the lower grade, the officer shall have the same position on the reserve active-status list as the officer would have had if the officer had not served in the higher grade.

"(c) SPECIAL RULE FOR OFFICERS SERVING AS ADJUTANT GENERAL.—In the case of an officer serving as an adjutant general or assistant adjutant general whose promotion to the grade of brigadier general is vacated under this section, the officer then holds the reserve grade held by that officer immediately before the officer's appointment as adjutant general or assistant adjutant general.

"§ 14314. Army and Air Force commissioned officers: generals ceasing to occupy positions commensurate with grade; State adjutants general

"(a) GENERAL OFFICERS.—Within 30 days after a reserve officer of the Army or the Air Force on the reserve active-status list in a general officer grade ceases to occupy a position commensurate with that grade (or commensurate with a higher grade), the Secretary concerned shall transfer or discharge the officer in accordance with whichever of the following the officer elects:

"(1) Transfer the officer in grade to the Retired Reserve, if the officer is qualified and applies for the transfer.

"(2) Transfer the officer in grade to the inactive status list of the Standby Reserve, if the officer is qualified.

"(3) Discharge the officer from the officer's reserve appointment and, if the officer is qualified and applies therefor, appoint the officer in the reserve grade held by the officer as a reserve officer before the officer's appointment in a general officer grade.

"(4) Discharge the officer from the officer's reserve appointment.

"(b) ADJUTANTS GENERAL.—If a reserve officer who is federally recognized in the Army National Guard or the Air National Guard solely because of the officer's appointment as adjutant general or assistant adjutant general of a State ceases to occupy that position, the Secretary concerned, not later than 30 days after the date on which the officer ceases to occupy that position, shall—

"(1) withdraw that officer's Federal recognition; and

"(2) require that the officer—

"(A) be transferred in grade to the Retired Reserve, if the officer is qualified and applies for the transfer;

"(B) be discharged from the officer's reserve appointment and appointed in the reserve grade held by the officer as a reserve officer of the Air Force immediately before the appointment of that officer as adjutant general or assistant adjutant general, if the officer is qualified and applies for that appointment; or

"(C) be discharged from the officer's reserve appointment.

"(c) CREDIT FOR SERVICE IN GRADE.—An officer who is appointed under subsection (a)(3) or (b)(2)(B) shall be credited with an amount of service in the grade in which appointed that is equal to the amount of prior service in an active status in that grade and in any higher grade.

"§ 14315. Position vacancy promotions: Army and Air Force officers

"(a) OFFICERS ELIGIBLE FOR CONSIDERATION FOR VACANCY PROMOTIONS BELOW BRIGADIER GENERAL.—A reserve officer of the Army who is in the Army Reserve, or a Reserve officer of the Air Force who is in the Air Force Reserve, who is on the reserve active-status list in the grade of first lieutenant, captain, major, or lieutenant colonel is eligible for consideration for promotion to the next higher grade under this section if each of the following applies:

"(1) The officer is occupying or, as determined by the Secretary concerned, is available to occupy a position in the same competitive category as the officer and for which a grade higher than the one held by that officer is authorized.

"(2) The officer is fully qualified to meet all requirements for the position as established by the Secretary of the military department concerned.

"(3) The officer has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade.

"(b) CONSIDERATION FOR VACANCY PROMOTION TO BRIGADIER GENERAL OR MAJOR GENERAL.—(1) A reserve officer of the Army who is in the Army Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade in a unit of the Army Reserve organized to serve as a unit, (B) has held the officer's present grade for the minimum period of service prescribed in section 14303 of this title for eligibility for consideration for promotion to the higher grade, and (C) meets the standards for consideration prescribed by the Secretary of the Army.

"(2) A reserve officer of the Air Force who is in the Air Force Reserve and on the reserve active-status list in the grade of colonel or brigadier general may be considered for promotion to the next higher grade under this section if the officer (A) is assigned to the duties of a general officer of the next higher reserve grade, and (B) meets the standards for consideration prescribed by the Secretary of the Air Force.

"(c) VACANCY PROMOTION BOARDS.—Consideration for promotion under this section shall be by a vacancy promotion board convened under section 14101(a) of this title.

"(d) EFFECT OF NONSELECTION.—An officer who is considered for promotion under this section and is not selected shall not be considered to have failed of selection for promotion.

"(e) SPECIAL RULE FOR OFFICERS FAILED OF SELECTION.—A reserve officer of the Army or the Air Force who is considered as failed of selection for promotion under section 14501 of this title to a grade may be considered for promotion under this section or, if selected, promoted to that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill the vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"§ 14316. Army National Guard and Air National Guard: appointment to and Federal recognition in a higher reserve grade after selection for promotion

"(a) OPPORTUNITY FOR PROMOTION TO FILL A VACANCY IN THE GUARD.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States is recommended by a mandatory selection board convened under section 14101(a) or a special selection board convened under section 14502 of this title for promotion to the next higher grade, an opportunity shall be given to the appropriate authority of the State to promote that officer to fill a vacancy in the Army National Guard or the Air National Guard of that jurisdiction.

"(b) AUTOMATIC FEDERAL RECOGNITION.—An officer of the Army National Guard of the United States or the Air National Guard of the United States who is on a promotion list for promotion to the next higher grade as a result of selection for promotion as described in subsection (a) and who before the date of promotion is appointed in that higher grade to fill a vacancy in the Army National Guard or Air National Guard shall—

"(1) be extended Federal recognition in that grade, without the examination prescribed in section 307 of title 32; and

"(2) subject to section 14311(e) of this title, be promoted to that reserve grade effective on the date of the officer's appointment in that grade in the Army National Guard or Air National Guard.

"(c) NATIONAL GUARD OFFICERS FAILED OF SELECTION.—An officer who is considered as failed of selection for promotion under section 14501 of this title to a grade may be extended Federal recognition in that grade only if the Secretary of the military department concerned finds that the officer is the only qualified officer available to fill a vacancy. The Secretary concerned may not delegate the authority under the preceding sentence.

"(d) TRANSFER TO ARMY RESERVE OR AIR FORCE RESERVE.—If, on the date on which an officer of the Army National Guard of the United States or of the Air National Guard of the United States who is on a promotion list as described in subsection (a) is to be promoted, the officer has not been promoted to fill a vacancy in the higher grade in the Army National Guard or the Air National Guard, the officer's Federal recognition in the officer's reserve grade shall be withdrawn and the officer shall be promoted

and transferred to the Army Reserve or the Air Force Reserve as appropriate.

"§ 14317. Officers in transition to and from the active-status list or active-duty list

"(a) EFFECT OF TRANSFER TO INACTIVE STATUS OR RETIRED STATUS.—If a reserve officer on the reserve active-status list is transferred to an inactive status or to a retired status after having been recommended for promotion to a higher grade under this chapter or chapter 36 of this title, or after having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer—

"(1) shall be treated as if the officer had not been considered and recommended for promotion by the selection board or examined and been found qualified for Federal recognition; and

"(2) may not be placed on a promotion list or promoted to the higher grade after returning to an active status,

unless the officer is again recommended for promotion by a selection board convened under chapter 36 of this title or section 14101(a) or 14502 of this title or examined for Federal recognition under title 32.

"(b) EFFECT OF PLACEMENT ON ACTIVE-DUTY LIST.—A reserve officer who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title and who before being promoted is placed on the active-duty list of the same armed force and placed in the same competitive category shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list for officers on the active-duty list established under chapter 36 of this title.

"(c) OFFICERS ON A PROMOTION LIST REMOVED FROM ACTIVE-DUTY LIST.—An officer who is on the active-duty list and is on a promotion list as the result of selection for promotion by a selection board convened under chapter 36 of this title and who before being promoted is removed from the active-duty list and placed on the reserve active-status list of the same armed force and in the same competitive category (including a regular officer who on removal from the active-duty list is appointed as a reserve officer and placed on the reserve active-status list) shall, under regulations prescribed by the Secretary of Defense, be placed on an appropriate promotion list established under this chapter.

"(d) OFFICERS SELECTED FOR POSITION VACANCIES.—If a reserve officer is ordered to active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only) after being recommended for promotion under section 14314 of this title to fill a position vacancy or examined for Federal recognition under title 32, and before being promoted to fill that vacancy, the officer shall not be promoted while serving such active duty or full-time National Guard duty unless the officer is ordered to active duty as a member of the unit in which the vacancy exists when that unit is ordered to active duty. If, under this subsection, the name of an officer is removed from a list of officers recommended for promotion, the officer shall be treated as if the officer had not been considered for promotion or examined for Federal recognition.

"(e) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is not on the

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active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502 of this title for not more than two years from the date the officer is ordered to active duty unless the President suspends the operation of this section under the provisions of section 10213 or 644 of this title.

"CHAPTER 1407—FAILURE OF SELECTION FOR PROMOTION AND INVOLUNTARY SEPARATION

"Sec.
"14501. Failure of selection for promotion.
"14502. Special selection boards: correction of errors.
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"14508. Removal from the reserve active-status list for years of service: reserve general and flag officers.
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"14511. Separation at age 62: major generals and rear admirals.
"14512. Separation at age 64: officers holding certain offices.
"14513. Separation for failure of selection of promotion.
"14514. Discharge or retirement for years of service or after selection for early removal.
"14515. Discharge or retirement for age.
"14516. Separation to be considered involuntary.
"14517. Entitlement of officers discharged under this chapter to separation pay.

"§ 14501. Failure of selection for promotion

"(a) An officer on the reserve active-status list in a grade below the grade of colonel or, in the case of an officer in the Naval Reserve, captain who is in or above the promotion zone established for that officer's grade and competitive category and who (1) is considered but not recommended for promotion (other than by a vacancy promotion board), or (2) declines to accept a promotion for which selected (other than by a vacancy promotion board), shall be considered to have failed of selection for promotion.

"(b) OFFICERS TWICE FAILED OF SELECTION.—An officer shall be considered for all purposes to have twice failed of selection for promotion if any of the following applies:

"(1) The officer is considered but not recommended for promotion a second time by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) of this title.

"(2) The officer declines to accept a promotion for which recommended by a mandatory promotion board convened under section 14101(a) or a special selection board convened under section 14502(a) or 14502(b) of this title after previously failing

of selection or after the officer's name was removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation for promotion by an earlier selection board described in subsection (a).

"(3) The officer's name has been removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title after recommendation by a mandatory promotion board convened under section 14101(a) or by a special selection board convened under section 14502(a) or 14502(b) of this title and—

"(A) the officer is not recommended for promotion by the next mandatory promotion board convened under section 14101(a) or special selection board convened under section 14502(a) of this title for that officer's grade and competitive category; or

"(B) the officer's name is again removed from the report of a selection board under section 14111(b) or from a promotion list under section 14310 of this title.

"§ 14502. Special selection boards: correction of errors

"(a) OFFICERS NOT CONSIDERED BECAUSE OF ADMINISTRATIVE ERROR.—(1) In the case of an officer or former officer who the Secretary of the military department concerned determines was not considered for selection for promotion from in or above the promotion zone by a mandatory promotion board convened under section 14101(a) of this title because of administrative error, the Secretary concerned shall convene a special selection board under this subsection to determine whether such officer or former officer should be recommended for promotion. Any such board shall be convened under regulations prescribed by the Secretary of Defense and shall be appointed and composed in accordance with section 14102 of this title and shall include the representation of competitive categories required by that section. The members of a board convened under this subsection shall be required to take an oath in the same manner as prescribed in section 14103 of this title.

"(2) A special selection board convened under this subsection shall consider the record of the officer or former officer as that record would have appeared to the promotion board that should have considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in a grade below the grade of colonel or, in the case of an officer or former officer of the Navy, captain, whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion.

"(b) OFFICERS CONSIDERED BUT NOT SELECTED; MATERIAL ERROR.—(1) In the case of an officer or former officer who was eligible for promotion and was considered for selection for promotion from in or above the promotion zone under this chapter by a selection board but was not selected, the Secretary of the military department concerned may, under regulations prescribed by the Secretary of Defense, convene a special selection board under this

subsection to determine whether the officer or former officer should be recommended for promotion, if the Secretary determines that—

"(A) the action of the selection board that considered the officer or former officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the selection board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall be appointed and composed in accordance with section 14102 of this title (including the representation of competitive categories required by that section), and the members of such a board shall take an oath in the same manner as prescribed in section 14103 of this title.

"(3) Such board shall consider the record of the officer or former officer as that record, if corrected, would have appeared to the selection board that considered the officer or former officer. That record shall be compared with a sampling of the records of those officers of the same grade and competitive category who were recommended for promotion and those officers of the same grade and competitive category who were not recommended for promotion by that board.

"(4) If a special selection board convened under paragraph (1) does not recommend for promotion an officer or former officer in the grade of lieutenant colonel or commander or below whose name was referred to it for consideration, the officer or former officer shall be considered to have failed of selection for promotion by the board which did consider the officer but incurs no additional failure of selection for promotion from the action of the special selection board.

"(c) REPORT.—Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has considered carefully the record of each officer whose name was referred to it.

"(d) APPLICABLE PROVISIONS.—The provisions of sections 14104, 14109, 14110, and 14111 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a promotion board convened under section 14101(a) of this title.

"(e) APPOINTMENT OF OFFICERS RECOMMENDED FOR PROMOTION.—(1) An officer whose name is placed on a promotion list as a result of recommendation for promotion by a special selection board convened under this section, shall, as soon as practicable, be appointed to the next higher grade in accordance with the law and policies which would have been applicable had he been recommended for promotion by the board which should have considered or which did consider him.

"(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the reserve active-status list as the officer would have had if the officer had been recommended for promotion to that grade by the selection board which should have considered, or which did consider, the officer.

"(3) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer not currently eligible for promotion or a former officer whose name was referred to it for consideration, the Secretary concerned may act under section 1552 of this title to correct the military record of the officer or former officer to correct an error or remove an injustice resulting from not being selected for promotion by the board which should have considered, or which did consider, the officer.

"(f) TIME LIMITS FOR CONSIDERATION.—The Secretary of Defense may prescribe by regulation the circumstances under which consideration by a special selection board is contingent upon application for consideration by an officer or former officer and time limits within which an officer or former officer must make such application in order to be considered by a special selection board under this section. Regulations.

"(g) LIMITATION OF OTHER JURISDICTION.—No official or court of the United States shall have power or jurisdiction—

"(1) over any claim based in any way on the failure of an officer or former officer of the armed forces to be selected for promotion by a selection board convened under chapter 1403 of this title until—

"(A) the claim has been referred to a special selection board by the Secretary concerned and acted upon by that board; or

"(B) the claim has been rejected by the Secretary without consideration by a special selection board; or

"(2) to grant any relief on such a claim unless the officer or former officer has been selected for promotion by a special selection board convened under this section to consider the officer's claim.

"(h) JUDICIAL REVIEW.—(1) A court of the United States may review a determination by the Secretary concerned under subsection (a)(1), (b)(1), or (e)(3) not to convene a special selection board. If a court finds the determination to be arbitrary or capricious, not based on substantial evidence, or otherwise contrary to law, it shall remand the case to the Secretary concerned, who shall provide for consideration of the officer or former officer by a special selection board under this section.

"(2) If a court finds that the action of a special selection board which considers an officer or former officer was contrary to law or involved material error of fact or material administrative error, it shall remand the case to the Secretary concerned, who shall provide the officer or former officer reconsideration by a new special selection board.

"(i) DESIGNATION OF BOARDS.—The Secretary of the military department concerned may designate a promotion board convened under section 14101(a) of this title as a special selection board convened under this section. A board so designated may function in both capacities.

"§ 14503. Discharge of officers with less than five years of commissioned service or found not qualified for promotion to first lieutenant or lieutenant (junior grade)

"(a) AUTHORIZED DISCHARGES.—The Secretary of the military department concerned may discharge any reserve officer who—

"(1) has less than five years of service in an active status as a commissioned officer; or

"(2) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the grade of first lieutenant or lieutenant (junior grade).

"(b) TIME FOR DISCHARGE.—(1) An officer described in subsection (a)(2)—

"(A) may be discharged at any time after being found not qualified for promotion; and

"(B) if not sooner discharged, shall be discharged at the end of the 18-month period beginning on the date on which the officer is first found not qualified for promotion.

"(2) Paragraph (1) shall not apply if the officer is sooner promoted.

"(c) REGULATIONS.—Discharges under this section shall be made under regulations prescribed by the Secretary of Defense and may be made without regard to section 12645 of this title.

"§ 14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

"(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on which the President approves the report of the selection board which resulted in the second failure, or (2) as provided in section 12646 or 12686 of this title.

"§ 14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

"Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

"§ 14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force and Marine Corps and reserve lieutenant commanders of the Navy

"Unless retained as provided in section 12646, 12686, 14701, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the first day of the month after the month in which the officer completes 20 years of commissioned service.

"§ 14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

"(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

"(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701 or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

"§ 14508. Removal from the reserve active-status list for years of service: reserve general and flag officers

"(a) THIRTY YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve officer of the Navy in the grade of rear admiral (lower half) who has not been recommended for promotion to rear admiral shall, 30 days after completion of 30 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of brigadier general or rear admiral (lower half),

whichever is later, be separated in accordance with section 14514 of this title.

"(b) THIRTY-FIVE YEARS SERVICE OR FIVE YEARS IN GRADE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general, and each reserve officer of the Navy in the grade of rear admiral, shall, 30 days after completion of 35 years of commissioned service or on the fifth anniversary of the date of the officer's appointment in the grade of major general or rear admiral, whichever is later, be separated in accordance with section 14514 of this title.

"(c) RETENTION OF BRIGADIER GENERALS.—A reserve officer of the Army or Air Force in the grade of brigadier general who would otherwise be removed from an active status under this subsection (a) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 60 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(d) RETENTION OF MAJOR GENERALS.—A reserve officer of the Army or Air Force in the grade of major general who would otherwise be removed from an active status under this subsection (b) may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retained in an active status, but not later than the date on which the officer becomes 62 years of age. Not more than 10 officers of the Army and not more than 10 officers of the Air Force may be retained under this subsection at any one time.

"(e) EXCEPTION FOR STATE ADJUTANTS GENERAL AND ASSISTANT ADJUTANTS GENERAL.—This section does not apply to an officer who is the adjutant general or assistant adjutant general of a State.

"§ 14509. Separation at age 60: reserve officers in grades below brigadier general or rear admiral (lower half)

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps in a grade below brigadier general or rear admiral (lower half) who has not been recommended for promotion to the grade of brigadier general or rear admiral (lower half) and is not a member of the Retired Reserve shall, on the last day of the month in which that officer becomes 60 years of age, be separated in accordance with section 14515 of this title.

"§ 14510. Separation at age 60: reserve brigadier generals and rear admirals (lower half)

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of brigadier general who has not been recommended for promotion to the grade of major general, and each reserve rear admiral (lower half) of the Navy who has not been recommended for promotion to the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 60 years of age.

"§ 14511. Separation at age 62: major generals and rear admirals

"Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, each reserve officer of the Army, Air Force, or Marine Corps in the grade of major general and each reserve officer of the Navy in the grade of rear admiral, except an officer covered by section 14512 of this title, shall be separated in accordance with section 14515 of this title on the last day of the month in which the officer becomes 62 years of age.

"§ 14512. Separation at age 64: officers holding certain offices

"(a) ARMY AND AIR FORCE.—Unless retired, transferred to the Retired Reserve, or discharged at an earlier date, a reserve officer of the Army or Air Force who is Chief of the National Guard Bureau, an adjutant general, or if a reserve officer of the Army, commanding general of the troops of a State, shall on the last day of the month in which the officer becomes 64 years of age, be separated in accordance with section 14515 of this title.

"(b) NAVY AND MARINE CORPS.—The Secretary of the Navy may defer the retirement under section 14510 or 14511 of a reserve officer of the Navy in a grade above captain or a reserve officer of the Marine Corps in a grade above colonel and retain the officer in an active status until the officer becomes 64 years of age. Not more than 10 officers may be so deferred at any one time, distributed between the Naval Reserve and the Marine Corps Reserve as the Secretary determines.

"§ 14513. Separation for failure of selection of promotion

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and whose removal from an active status or from a reserve active-status list is required by section 14504, 14505, or 14506 of this title shall (unless the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the date specified in those sections—

"(1) be transferred to an inactive status if the Secretary concerned determines that the officer has skills which may be required to meet the mobilization needs of the officer's armed force;

"(2) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(3) if the officer is not transferred to an inactive status or to the Retired Reserve, be discharged from the officer's reserve appointment.

"§ 14514. Discharge or retirement for years of service or after selection for early removal

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status and who is required to be removed from an active status or from a reserve active-status list, as the case may be, under section 14507, 14508, 14704, or 14705 of this title (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law), in accordance with those sections, shall—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for such transfer, be discharged from the officer's reserve appointment.

"§ 14515. Discharge or retirement for age

"Each reserve officer of the Army, Navy, Air Force, or Marine Corps who is in an active status or on an inactive status list and who reaches the maximum age specified in section 14509, 14510, 14511, or 14512 of this title for the officer's grade or position shall (unless the officer is sooner separated or the officer's separation is deferred or the officer is continued in an active status under another provision of law) not later than the last day of the month in which the officer reaches that maximum age—

"(1) be transferred to the Retired Reserve, if the officer is qualified and applies for such transfer; or

"(2) if the officer is not qualified or does not apply for transfer to the Retired Reserve, be discharged from the officer's reserve appointment.

"§ 14516. Separation to be considered involuntary

"The separation of an officer pursuant to section 14513, 14514, or 14515 of this title shall be considered to be an involuntary separation for purposes of any other provision of law.

"§ 14517. Entitlement of officers discharged under this chapter to separation pay

"An officer who is discharged under section 14513, 14514, or 14515 of this title is entitled to separation pay under section 1174 of this title if otherwise eligible under that section.

"CHAPTER 1409—CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST AND SELECTIVE EARLY REMOVAL

"Sec.
"14701. Selection of officers for continuation on the reserve active-status list.
"14702. Retention on reserve active-status list of certain officers until age 60.
"14703. Authority to retain chaplains and officers in medical specialties until specified age.
"14704. Selective early removal from the reserve active-status list.
"14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps.
"14706. Computation of total years of service.

"§ 14701. Selection of officers for continuation on the reserve active-status list

"(a) CONSIDERATION FOR CONTINUATION.—(1) Upon application, a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title may, subject to the needs of the service and to section 14509 of this title, be considered for continuation on the reserve active-status list by a selection board convened under section 14101(b) of this title.

"(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the

last day of the month in which the officer completes 20 years of commissioned service.

"(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

"(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

"(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

"(6) An officer who is selected for continuation on the reserve active-status list as a result of the convening of a selection board under section 14101(b) of this title but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

"(7) Each officer who is continued on the reserve active-status list under this section, who is not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers recommended for promotion to the next higher grade shall (unless sooner separated under another provision of law) be separated in accordance with section 14513 or 14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

"(b) APPROVAL OF SECRETARY CONCERNED.—Continuation of an officer on the reserve active-status list under this section pursuant to action of a continuation board convened under section 14101(b) of this title is subject to the approval of the Secretary of the military department concerned.

"(c) INSTRUCTIONS TO CONTINUATION BOARDS.—A continuation board convened under section 14101(b) of this title to consider officers for continuation on the reserve active-status list under this section shall act in accordance with the instructions and directions provided to the board by the Secretary of the military department concerned.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

"§ 14702. Retention on reserve active-status list of certain officers until age 60

"(a) RETENTION.—Notwithstanding the provisions of section 14506 or 14507 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, or colonel who is—

"(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

"(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

"(b) SEPARATION AT AGE 60.—An officer may be retained under this section only so long as the officer continues to meet the conditions of subsection (a)(1) or (a)(2). An officer may not be retained under this section after the last day of the month in which the officer becomes 60 years of age.

"§ 14703. Authority to retain chaplains and officers in medical specialties until specified age

Regulations.

"(a) RETENTION.—Notwithstanding any provision of chapter 1407 of this title and except for officers referred to in sections 14503, 14504, 14505, and 14506 of this title and under regulations prescribed by the Secretary of Defense—

"(1) the Secretary of the Army may, with the officer's consent, retain in an active status any reserve officer assigned to the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Services Corps (if the officer has been designated as allied health officer or biomedical sciences officer in that Corps), the Optometry Section of the Medical Services Corps, the Chaplains, the Army Nurse Corps, or the Army Medical Specialists Corps;

"(2) the Secretary of the Navy may, with the officer's consent, retain in an active status any reserve officer appointed in the Medical Corps, Dental Corps, Nurse Corps, or Chaplain Corps or appointed in the Medical Services Corps and designated to perform as a veterinarian, optometrist, podiatrist, allied health officer, or biomedical sciences officer; and

"(3) the Secretary of the Air Force may, with the officer's consent, retain in an active status any reserve officer who is designated as a medical officer, dental officer, veterinary officer, Air Force nurse, or chaplain or who is designated as a biomedical sciences officer and is qualified for service as a veterinarian, optometrist, or podiatrist.

"(b) SEPARATION AT SPECIFIED AGE.—An officer may not be retained in active status under this section later than the date on which the officer becomes 67 years of age (or, in the case of a reserve officer of the Army in the Chaplains or a reserve officer of the Air Force designated as a chaplain, 60 years of age).

"§ 14704. Selective early removal from the reserve active-status list

"(a) BOARDS TO RECOMMEND OFFICERS FOR REMOVAL FROM RESERVE ACTIVE-STATUS LIST.—Whenever the Secretary of the military department concerned determines that there are in any reserve component under the jurisdiction of the Secretary too many officers in any grade and competitive category who have at least 30 years of service computed under section 14706 of this title or at least 20 years of service computed under section 12732 of this title, the Secretary may convene a selection board under section 14101(b) of this title to consider all officers on that list who are in that

grade and competitive category, and who have that amount of service, for the purpose of recommending officers by name for removal from the reserve active-status list, in the number specified by the Secretary by each grade and competitive category.

"(b) SEPARATION OF OFFICERS SELECTED.—In the case of an officer recommended for separation in the report of a board under subsection (a), the Secretary may separate the officer in accordance with section 14514 of this title.

"(c) REGULATIONS.—The Secretary of the military department concerned shall prescribe regulations for the administration of this section.

"§ 14705. Selective early retirement: reserve general and flag officers of the Navy and Marine Corps

"(a) AUTHORITY TO CONSIDER.—An officer in the Naval Reserve in an active status serving in the grade of rear admiral (lower half) or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement whenever the Secretary of the Navy determines that such action is necessary.

"(b) BOARDS.—If the Secretary of the Navy determines that consideration for early retirement under this section is necessary, the Secretary shall convene a board under section 14101(b) of this title to recommend an appropriate number of officers for early retirement.

"(c) SEPARATION UNDER SECTION 14514.—An officer selected for early retirement under this section shall be separated in accordance with section 14514 of this title.

"§ 14706. Computation of total years of service

"For the purpose of this chapter and chapter 1407 of this title, a reserve officer's years of service include all service, other than constructive service, of the officer as a commissioned officer of any uniformed service (other than service as a warrant officer).

"CHAPTER 1411—ADDITIONAL PROVISIONS RELATING TO INVOLUNTARY SEPARATION

"Sec.
"14901. Separation of chaplains for loss of professional qualifications.
"14902. Separation for substandard performance and for certain other reasons.
"14903. Boards of inquiry.
"14904. Rights and procedures.
"14905. Officer considered for removal: retirement or discharge.
"14906. Officers eligible to serve on boards.
"14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave.

"§ 14901. Separation of chaplains for loss of professional qualifications

"(a) SEPARATION.—Under regulations prescribed by the Secretary of Defense, an officer on the reserve active-status list who is appointed or designated as a chaplain may, if the officer fails to maintain the qualifications needed to perform the professional function of a chaplain, be discharged. The authority under the preceding sentence applies without regard to the provisions of section 12645 of this title. Regulations.

"(b) EFFECT OF SEPARATION.—If an officer separated under this section is eligible for retirement, the officer may be retired. If the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title, the officer may be transferred to the Retired Reserve.

Regulations.

"§ 14902. Separation for substandard performance and for certain other reasons

"(a) SUBSTANDARD PERFORMANCE OF DUTY.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because that officer's performance has fallen below standards prescribed by the Secretary concerned, to show cause for retention in an active status.

"(b) MISCONDUCT, ETC.—The Secretary of the military department concerned shall prescribe, by regulation, procedures for the review at any time of the record of any reserve officer to determine whether that officer should be required, because of misconduct, because of moral or professional dereliction, or because the officer's retention is not clearly consistent with the interests of national security, to show cause for retention in an active status.

"(c) REGULATIONS.—The authority of the Secretary of a military department under this section shall be carried out subject to such limitations as the Secretary of Defense may prescribe by regulation.

"§ 14903. Boards of inquiry

"(a) CONVENING OF BOARDS.—The Secretary of the military department concerned shall convene a board of inquiry at such time and place as the Secretary may prescribe to receive evidence and review the case of any officer who has been required to show cause for retention in an active status under section 14902 of this title. Each board of inquiry shall be composed of not less than three officers who have the qualifications prescribed in section 14906 of this title.

"(b) RIGHT TO FAIR HEARING.—A board of inquiry shall give a fair and impartial hearing to each officer required under section 14902 of this chapter to show cause for retention in an active status.

"(c) RECOMMENDATIONS TO SECRETARY.—If a board of inquiry determines that the officer has failed to establish that the officer should be retained in an active status, the board shall recommend to the Secretary concerned that the officer not be retained in an active status.

"(d) ACTION BY SECRETARY.—After review of the recommendation of the board of inquiry, the Secretary may—

"(1) remove the officer from an active status; or

"(2) determine that the case be closed.

"(e) ACTION IN CASES WHERE CAUSE FOR RETENTION IS ESTABLISHED.—(1) If a board of inquiry determines that an officer has established that the officer should be retained in an active status or if the Secretary determines that the case be closed, the officer's case is closed.

"(2) An officer who is required to show cause for retention under section 14902(a) of this title and whose case is closed under paragraph (1) may not again be required to show cause for retention

under such subsection during the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under section 14902(b) of this title and whose case is closed under paragraph (1) may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention under section 14902(b) of this title and who is thereafter retained in an active status may not again be required to show cause for retention under such section solely because of conduct which was the subject of the previous proceeding, unless the recommendations of the board of inquiry that considered the officer's case are determined to have been obtained by fraud or collusion.

"§ 14904. Rights and procedures

"(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status— Regulations.

"(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

"(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

"(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

"(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

"(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

"§ 14905. Officer considered for removal: retirement or discharge

"(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

"(1) for voluntary retirement, if the officer is qualified for retirement;

"(2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or

"(3) for discharge in accordance with subsection (b)(3).

"(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status under section 14903 of this title shall—

"(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;

"(2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and

"(3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—

"(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or

"(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

"(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title.

"§ 14906. Officers eligible to serve on boards

"(a) COMPOSITION OF BOARDS.—(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

"(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board.

"(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

"§ 14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

"(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

"(1) terminate the reserve appointment of the officer; and

"(2) withdraw the officer's Federal recognition as an officer of the National Guard.

"(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer's appointment as a reserve officer of the Army or the Air Force, as the case may be.".

PART II—CONFORMING AMENDMENTS

SEC. 1621. DEFINITION OF RESERVE ACTIVE-STATUS LIST.

Section 101(c) is amended by adding at the end the following new paragraph:

"(7) The term 'reserve active-status list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains

the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.".

SEC. 1622. AUTHORITY TO SUSPEND OFFICER PERSONNEL LAWS DURING WAR OR NATIONAL EMERGENCY.

(a) AUTHORITY.—Section 123 is amended to read as follows: 10 USC 123.

"§ 123. Authority to suspend officer personnel laws during war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

"(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.".

(b) CONFORMING REPEAL.—Section 644 is repealed.

SEC. 1623. ACTIVE-DUTY LIST PROMOTION BOARDS TO HAVE AUTHORITY TO RECOMMEND THAT RESERVE OFFICERS CONSIDERED FOR PROMOTION BE REQUIRED TO SHOW CAUSE FOR RETENTION ON ACTIVE DUTY.

Section 617(b) is amended— 10 USC 617.

(1) by inserting "or reserve" after "any regular"; and

(2) by inserting "or 1411" after "chapter 60".

SEC. 1624. APPLICABILITY OF CHAPTER 36 TO RESERVE OFFICERS DURING WAR OR NATIONAL EMERGENCY.

Section 641 is amended— 10 USC 641.

(1) by inserting "(a)" before "Officers in the following"; and

(2) by adding at the end the following:

"(b) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by Regulations.

the Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.".

SEC. 1625. GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY.

10 USC 689.

Section 689 is amended—

(1) by inserting "or full-time National Guard duty" after "active duty" the first two places it appears; and

(2) by inserting "and placed on the active-duty list" after "active duty" the third place it appears.

SEC. 1626. DATE OF RANK.

10 USC 741.

Section 741(d)(3) is amended—

(1) by inserting "or who is transferred from an inactive status to an active status and placed on the active-duty list or the reserve active-status list" after "warrant officer (W-5)";

(2) by inserting "or reserve active-status list" after "active-duty list" the second place it appears; and

(3) by adding at the end: "The authority to change the date of rank of a reserve officer who is placed on the active-duty list to a later date does not apply in the case of an officer who (A) has served continuously in the Selected Reserve of the Ready Reserve since the officer's last promotion, or (B) is placed on the active-duty list while on a promotion list as described in section 14317(b) of this title.".

SEC. 1627. DISCHARGE BEFORE COMPLETION OF REQUIRED SERVICE IN CASE OF OFFICERS HAVING TWICE FAILED OF SELECTION FOR CAPTAIN OR NAVY LIEUTENANT.

10 USC 1005.

Section 1005(b) is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(3) an officer on the active-duty list or reserve active-status list who has failed of selection for promotion for the second time to the grade of captain, in the case of an officer of the Army, Air Force, or Marine Corps, or to the grade of lieutenant, in the case of an officer of the Navy; or

"(4) an officer whose discharge or transfer from an active status is required by law.".

SEC. 1628. CONFORMING AMENDMENTS RELATING TO NAVY AND MARINE CORPS OFFICERS.

10 USC 6389.

Section 6389 is amended—

(1) in subsection (a)—

(A) by inserting "while on the active-duty list" after "to the next higher grade"; and

(B) by striking out the period at the end and inserting in lieu thereof "or released from active duty and placed on the reserve active-status list.";

(2) in subsection (b), by striking out "or (f)";

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) by striking out "lieutenant commander or above" both places it appears and inserting in lieu thereof "lieutenant commander or commander";

(C) by striking out "major or above" both places it appears and inserting in lieu thereof "major or lieutenant colonel";

(D) by inserting "while on the active-duty list" after "to the next higher grade" in the first sentence; and

(E) in the table—

(i) by striking out the line relating to the grades of captain in the Navy and colonel in the Marine Corps; and

(ii) by striking out "26 years" and inserting in lieu thereof "28 years";

(F) by designating the sentence after the table as paragraph (2) and in that sentence striking out "the first sentence of this subsection" and inserting in lieu thereof "the first sentence of paragraph (1)";

(G) by designating the next sentence as paragraph (3) and in that sentence striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(H) by designating the last sentence as paragraph (4) and in that sentence—

(i) striking out "the first two sentences of this subsection" and inserting in lieu thereof "paragraph (1)"; and

(ii) striking out "captain or"; and

(4) by striking out subsections (e), (f), and (g).

SEC. 1629. REPEAL OF RESERVE OFFICER PERSONNEL POLICY LAWS.

(a) ARMY PROVISIONS.—

(1) Chapter 337, relating to appointments as reserve officers (other than sections 3351 and 3352), is repealed.

(2) Chapter 361, relating to separation for various reasons, is repealed.

(3) Chapter 363, relating to separation or transfer to the Retired Reserve, is repealed.

(b) NAVY AND MARINE CORPS PROVISIONS.—

(1) Chapter 541, relating to running mates as reserve officers, is repealed.

(2) Chapter 549, relating to reserve promotions, is repealed.

(3) Sections 6391, 6392, 6397, 6403, and 6410 are repealed.

(c) AIR FORCE PROVISIONS.—

(1) Chapter 837, relating to appointments as reserve officers (other than sections 8351 and 8352), is repealed.

(2) Sections 8819 and 8820 are repealed.

(3) Chapter 863, relating to separation or transfer to the Retired Reserve, is repealed.

SEC. 1630. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

Title 32, United States Code, is amended as follows:

(1) Sections 309 and 310 are amended to read as follows:

"§ 309. Federal recognition of National Guard officers: officers promoted to fill vacancies

"Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard,

and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

"§ 310. Federal recognition of National Guard officers: automatic recognition

"(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

"(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.".

Effective date.

(2) Section 323 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

"(1) federally recognized as an officer of the National Guard; and

"(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.".

Subtitle B—Other Personnel Policy Amendments

PART I—APPOINTMENTS

SEC. 1631. REPEAL OF SEPARATE AUTHORITY FOR ACCESSION OF WOMEN IN RESERVE COMPONENTS.

10 USC 510.

(a) ENLISTMENTS.—Section 510 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

10 USC 591.

(b) APPOINTMENT OF OFFICERS.—Section 591 is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 1632. APPOINTMENT AUTHORITY FOR RESERVE GRADES OF LIEUTENANT COLONEL AND COMMANDER.

Section 593(a) is amended— 10 USC 593.

(1) in the first sentence, by striking out "Reserves in commissioned grades below lieutenant colonel and commander" and inserting in lieu thereof "reserve officers in commissioned grades of lieutenant colonel and commander or below"; and

(2) in the second sentence, by striking out "Reserves in commissioned grades above major and lieutenant commander" and inserting in lieu thereof "reserve officers in commissioned grades above lieutenant colonel and commander".

SEC. 1633. APPOINTMENT OF FORMER COMMISSIONED OFFICERS IN RESERVE COMPONENTS.

Chapter 34 is amended by inserting after section 596 the following new section:

"§ 596a. Commissioned officers: appointment of former commissioned officers

"Under regulations prescribed by the Secretary of Defense, a person who is a former commissioned officer may, if otherwise qualified, be appointed as a reserve officer of the Army, Navy, Air Force, or Marine Corps. A person so appointed— Regulations.

"(1) may be placed on the reserve active-status list of that armed force in the grade equivalent to the permanent regular or reserve grade, and in the same competitive category, in which the person previously served satisfactorily on active duty or in an active status; and

"(2) may be credited for the purpose of determining date of rank under section 741(d) of this title with service in grade equal to that held by that person when discharged or separated.".

SEC. 1634. CONSTRUCTIVE CREDIT FOR APPOINTMENT OF OFFICERS IN RESERVE COMPONENTS WITH QUALIFYING EDUCATION OR EXPERIENCE.

Chapter 34 is further amended by inserting after section 596a (as added by section 1633) the following new section:

"§ 596b. Commissioned officers: service credit upon original appointment

"(a)(1) For the purpose of determining the grade and the rank within grade of a person receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) in the Army, Navy, Air Force, or Marine Corps, the person shall be credited at the time of the appointment with any commissioned service (other than service as a commissioned warrant officer) performed before such appointment as a regular officer, or as a reserve officer in an active status, in any armed force, the National Oceanic and Atmospheric Administration, or the Public Health Service.

"(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of Regulations.

a person who at the time of such appointment is credited with constructive service under subsection (b).

Regulations.

"(b)(1) Under regulations prescribed by the Secretary of Defense, a person who is receiving an original appointment as a reserve commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps, or a designation in, or an assignment to, an officer category in which advanced education or training is required and who has advanced education or training, shall be credited with constructive service for such education, training, or experience, as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed or designated in, or assigned to, officer categories requiring such advanced education or an advanced degree as a prerequisite for such appointment, designation, or assignment. In determining the number of years of constructive service to be credited under this subparagraph to officers in any professional field, the Secretary concerned shall credit an officer with, but with not more than, the number of years of advanced education required by a majority of institutions that award degrees in that professional field for completion of the advanced education or award of the advanced degree.

"(B)(i) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for such appointment, designation, or assignment, if such advanced education will be directly used by the armed force concerned.

"(ii) Credit for experience in a health profession (other than medicine or dentistry), if such experience will be directly used by the armed force concerned.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal health professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a speciality required by the armed force concerned.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit for experience as a physician or dentist, if appointed, assigned, or designated as a medical or dental officer.

"(2) If the Secretary of Defense determines that the number of medical or dental officers serving in an active status in a reserve component of the Army, Navy, or Air Force in grades below major or lieutenant commander is critically below the number needed by such reserve component in such grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment for service as a medical or dental officer with a period of constructive credit in such amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Naval Reserve, lieutenant.

"(3) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of

Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment as a reserve officer of the Army, Air Force, or Marine Corps in the grade of major or as a reserve officer of the Navy in the grade of lieutenant commander.

"(4) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer or assignment to or designation in an officer category in which advanced education or training or special experience is required.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status. However, in the case of an officer who completes advanced education or receives an advanced degree while on active duty or in an active status and in less than the number of years normally required to complete such advanced education or receive such advanced degree, constructive service may, subject to regulations prescribed under subsection (a)(2), be credited to the officer under subsection (b)(1)(A) to the extent that the number of years normally required to complete such advanced education or receive such advanced degree exceeds the actual number of years in which such advanced education or degree is obtained by the officer.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on the active-duty list of the Army, Navy, Air Force, or Marine Corps in grades below lieutenant commander or major is critically below the number needed by that armed force in those grades, the Secretary of Defense may authorize the Secretary of the military department concerned to credit any person who is receiving an original appointment with a view to assignment to the Judge Advocate General's Corps of the Army or appointment to the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person being that of captain or, in the case of the Navy, lieutenant, and the date of rank of such person being junior to that of all other officers of the same grade serving on the active-duty list.

"(e) Constructive service credited an officer under subsection (b) or (d) shall be used only for determining the officer's—

"(1) initial grade as a reserve officer;

"(2) rank in grade; and

"(3) service in grade for promotion eligibility.

"(f) The grade and position on the reserve active-status list of a person receiving an appointment as a reserve officer who at the time of appointment is credited with service under this section shall be determined under regulations prescribed by the Secretary of Defense based upon the amount of service credited.".

SEC. 1635. COMPUTATION OF YEARS OF SERVICE FOR TRANSFER OF ARMY OFFICERS TO RETIRED RESERVE.

Effective date. Termination date.

(a) INTERIM REPEAL OF OBSOLETE PROVISION.—Effective for the period beginning on the date of the enactment of this Act and ending on the effective date specified in section 1291, section 3853 is amended by striking out "the greater of—" and all that follows and inserting in lieu thereof "the sum of the following:

"(1) The officer's years of service as a commissioned officer of any component of the armed forces or of the Army without specification of component.

"(2) The officer's years of service in a federally recognized commissioned status in the National Guard if his service in the National Guard was continuous from the date of his Federal recognition as an officer in the National Guard to the date of his appointment in the National Guard of the United States.".

10 USC 3853 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transfers to the Retired Reserve and to discharges on or after the date of the enactment of this Act.

SEC. 1636. REPEAL OF MISCELLANEOUS OBSOLETE APPOINTMENT AUTHORITIES.

10 USC 3352.

(a) ARMY RESERVE OFFICERS APPOINTED IN TEMPORARY GRADES.—Section 3352(a) is amended by striking out the second sentence.

(b) AIR FORCE AVIATION CADETS.—Section 8356 is repealed.

(c) REDUNDANT STATEMENT OF AUTHORITY.—Section 8379 is repealed.

PART II—SEPARATION AND RETIREMENT

SEC. 1641. COMPUTATION OF HIGHEST GRADE IN WHICH SATISFACTORILY SERVED FOR RESERVE COMMISSIONED OFFICERS AND FORMER OFFICERS.

Section 1370 is amended by adding at the end the following new subsection:

"(d)(1) Unless entitled to a higher grade, or to credit for satisfactory service in a higher grade, under some other provision of law, a person who is entitled to retired pay under chapter 1225 of this title shall, upon application under section 12731 of this title, be credited with satisfactory service in the highest grade in which that person served satisfactorily at any time in the armed forces, as determined by the Secretary concerned in accordance with this subsection.

"(2)(A) In order to be credited with satisfactory service in an officer grade (other than a warrant officer grade) below the grade of lieutenant colonel or commander, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than six months.

"(B) In order to be credited with satisfactory service in an officer grade above major or lieutenant commander and below lieutenant general or vice admiral, a person covered by paragraph (1) must have served satisfactorily in that grade (as determined by the Secretary of the military department concerned) as a reserve commissioned officer in an active status, or in a retired status on active duty, for not less than three years. A person covered

by the preceding sentence who has completed at least six months of satisfactory service in grade and is transferred from an active status or discharged as a reserve commissioned officer solely due to the requirements of a nondiscretionary provision of law requiring that transfer or discharge due to the person's age or years of service may be credited with satisfactory service in the grade in which serving at the time of such transfer or discharge, notwithstanding failure of the person to complete three years of service in that grade.

"(3) A person whose length of service in the highest grade held does not meet the service in grade requirements specified in this subsection shall be credited with satisfactory service in the next lower grade in which that person served satisfactorily (as determined by the Secretary of the military department concerned) for not less than six months.".

Subtitle C—Reorganization and Consolidation of Laws Relating to Reserve Components

SEC. 1661. LAWS RELATING TO ORGANIZATION AND ADMINISTRATION OF RESERVE COMPONENTS.

(a) RESERVE COMPONENTS GENERALLY.—(1) Subtitle E, as added by section 1611, is amended by inserting after the table of chapters at the beginning of the subtitle the following:

"PART I—ORGANIZATION AND ADMINISTRATION

"Chap.		Sec.
"1001.	Definitions	10001
"1003.	Reserve Components Generally	10101
"1005.	Elements of Reserve Components	10141
"1007.	Administration of Reserve Components	10201
"1009.	Reserve Forces Policy Boards and Committees	10301
"1011.	National Guard Bureau	10501
"1013.	Budget Information and Annual Reports to Congress	10541

"CHAPTER 1001—DEFINITIONS

"Sec.
"10001. Definition of State.

"§ 10001. Definition of State

"In this subtitle, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"CHAPTER 1003—RESERVE COMPONENTS GENERALLY

"Sec.
"10101. Reserve components named.
"10102. Purpose of reserve components.
"10103. Basic policy for order of National Guard into Federal service.
"10104. Army Reserve: composition.
"10105. Army National Guard of the United States: composition
"10106. Army National Guard: when a component of the Army.
"10107. Army National Guard of the United States: status when not in Federal service.

"10108. Naval Reserve: administration
"10109. Marine Corps Reserve: administration.
"10110. Air Force Reserve: composition.
"10111. Air National Guard of the United States: composition
"10112. Air National Guard: when a component of the Air Force.
"10113. Air National Guard of the United States: status when not in Federal service.
"10114. Coast Guard Reserve.

"§ 10101. Reserve components named

"The reserve components of the armed forces are:
"(1) The Army National Guard of the United States.
"(2) The Army Reserve.
"(3) The Naval Reserve.
"(4) The Marine Corps Reserve.
"(5) The Air National Guard of the United States.
"(6) The Air Force Reserve.
"(7) The Coast Guard Reserve.

"§ 10102. Purpose of reserve components

"The purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever, during and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.

"§ 10103. Basic policy for order of the National Guard and reserve components to active duty

"Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with units of other reserve components necessary for a balanced force, shall be ordered to active duty and retained as long as so needed.

"§ 10104. Army Reserve: composition

"The Army Reserve includes all Reserves of the Army who are not members of the Army National Guard of the United States.

"§ 10105. Army National Guard of the United States: composition

"The Army National Guard of the United States is the reserve component of the Army that consists of—
"(1) federally recognized units and organizations of the Army National Guard; and
"(2) members of the Army National Guard who are also Reserves of the Army.

"§ 10106. Army National Guard: when a component of the Army

"The Army National Guard while in the service of the United States is a component of the Army.

"§ 10107. Army National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.

"§ 10108. Naval Reserve: administration

"(a) The Naval Reserve is the reserve component of the Navy. It shall be organized, administered, trained, and supplied under the direction of the Chief of Naval Operations.

"(b) The bureaus and offices of the executive part of the Department of the Navy have the same relation and responsibility to the Naval Reserve as they do to the Regular Navy.

"§ 10109. Marine Corps Reserve: administration

"(a) The Marine Corps Reserve is the reserve component of the Marine Corps. It shall be organized, administered, trained, and supplied under the direction of the Commandant of the Marine Corps.

"(b) The departments and offices of Headquarters, Marine Corps have the same relation and responsibilities to the Marine Corps Reserve as they do to the Regular Marine Corps.

"§ 10110. Air Force Reserve: composition

"The Air Force Reserve is a reserve component of the Air Force to provide a reserve for active duty. It consists of the members of the officers' section of the Air Force Reserve and of the enlisted section of the Air Force Reserve. It includes all Reserves of the Air Force who are not members of the Air National Guard of the United States.

"§ 10111. Air National Guard of the United States: composition

"The Air National Guard of the United States is the reserve component of the Air Force that consists of—

"(1) federally recognized units and organizations of the Air National Guard; and

"(2) members of the Air National Guard who are also Reserves of the Air Force.

"§ 10112. Air National Guard: when a component of the Air Force

"The Air National Guard while in the service of the United States is a component of the Air Force.

"§ 10113. Air National Guard of the United States: status when not in Federal service

"When not on active duty, members of the Air National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Air National Guard.

"§ 10114. Coast Guard Reserve

"As provided in section 701 of title 14, the Coast Guard Reserve is a component of the Coast Guard and is organized, administered, trained, and supplied under the direction of the Commandant of

the Coast Guard. Laws applicable to the Coast Guard Reserve are set forth in chapter 21 of title 14 (14 U.S.C. 701 et seq.).

"CHAPTER 1005—ELEMENTS OF RESERVE COMPONENTS

"Sec.
"10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories.
"10142. Ready Reserve generally
"10143. Ready Reserve: Selected Reserve.
"10144. Ready Reserve: Individual Ready Reserve
"10145. Ready Reserve: placement in.
"10146. Ready Reserve: transfer from.
"10147. Ready Reserve: training requirements.
"10148. Ready Reserve: failure to satisfactorily perform prescribed training.
"10149. Ready Reserve: continuous screening.
"10150. Ready Reserve: transfer back from Standby Reserve.
"10151. Standby Reserve: composition.
"10152. Standby Reserve: inactive status list.
"10153. Standby Reserve: status of members.
"10154. Retired Reserve.

"§ 10141. Ready Reserve; Standby Reserve; Retired Reserve: placement and status of members; training categories

"(a) There are in each armed force a Ready Reserve, a Standby Reserve, and a Retired Reserve. Each Reserve shall be placed in one of those categories.

"(b) Reserves who are on the inactive status list of a reserve component, or who are assigned to the inactive Army National Guard or the inactive Air National Guard, are in an inactive status. Members in the Retired Reserve are in a retired status. All other Reserves are in an active status.

"(c) As prescribed by the Secretary concerned, each reserve component except the Army National Guard of the United States and the Air National Guard of the United States shall be divided into training categories according to the degrees of training, including the number and duration of drills or equivalent duties to be completed in stated periods. The designation of training categories shall be the same for all armed forces and the same within the Ready Reserve and the Standby Reserve.

"§ 10142. Ready Reserve

"(a) The Ready Reserve consists of units or Reserves, or both, liable for active duty as provided in sections 12301 and 12302 of this title.

"(b) The authorized strength of the Ready Reserve is 2,900,000.

"§ 10143. Ready Reserve: Selected Reserve

"(a) Within the Ready Reserve of each of the reserve components there is a Selected Reserve. The Selected Reserve consists of units, and, as designated by the Secretary concerned, of Reserves, trained as prescribed in section 10147(a)(1) of this title or section 502(a) of title 32, as appropriate.

"(b) The organization and unit structure of the Selected Reserve shall be approved—

"(1) in the case of all reserve components other than the Coast Guard Reserve, by the Secretary of Defense based upon recommendations from the military departments as approved

by the Chairman of the Joint Chiefs of Staff in accordance with contingency and war plans; and

"(2) in the case of the Coast Guard Reserve, by the Secretary of Transportation upon the recommendation of the Commandant of the Coast Guard.

"§ 10144. Ready Reserve: Individual Ready Reserve

"Within the Ready Reserve of each of the reserve components there is an Individual Ready Reserve. The Individual Ready Reserve consists of those members of the Ready Reserve who are not in the Selected Reserve or the inactive National Guard.

"§ 10145. Ready Reserve: placement in

"(a) Each person required under law to serve in a reserve component shall, upon becoming a member, be placed in the Ready Reserve of his armed force for his prescribed term of service, unless he is transferred to the Standby Reserve under section 10146(a) of this title.

"(b) The units and members of the Army National Guard of the United States and of the Air National Guard of the United States are in the Ready Reserve of the Army and the Ready Reserve of the Air Force, respectively.

"(c) All Reserves assigned to units organized to serve as units and designated as units in the Ready Reserve are in the Ready Reserve.

"(d) Under such regulations as the Secretary concerned may prescribe, any qualified member of a reserve component or any qualified retired enlisted member of a regular component may, upon his request, be placed in the Ready Reserve. However, a member of the Retired Reserve entitled to retired pay or a retired enlisted member of a regular component may not be placed in the Ready Reserve unless the Secretary concerned makes a special finding that the member's services in the Ready Reserve are indispensable. The Secretary concerned may not delegate his authority under the preceding sentence. Regulations.

"§ 10146. Ready Reserve: transfer from

"(a) Subject to subsection (c) and under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member in the Ready Reserve may be transferred to the Standby Reserve. Regulations.

"(b) A Reserve who is qualified and so requests may be transferred to the Retired Reserve under regulations prescribed by the Secretary concerned and, in the case of the Secretary of a military department, approved by the Secretary of Defense.

"(c) A member of the Army National Guard of the United States or the Air National Guard of the United States may be transferred to the Standby Reserve only with the consent of the governor or other appropriate authority of the State.

"§ 10147. Ready Reserve: training requirements

"(a) Except as specifically provided in regulations to be prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, each person who is enlisted, inducted, or appointed in an armed force, and who becomes a member of Regulations.

the Ready Reserve under any provision of law except section 513 or 10145(b) of this title, shall be required, while in the Ready Reserve, to—

"(1) participate in at least 48 scheduled drills or training periods during each year and serve on active duty for training of not less than 14 days (exclusive of traveltime) during each year; or

"(2) serve on active duty for training not more than 30 days during each year.

"(b) A member who has served on active duty for one year or longer may not be required to perform a period of active duty for training if the first day of that period falls during the last 120 days of the member's required membership in the Ready Reserve.

"§ 10148. Ready Reserve: failure to satisfactorily perform prescribed training

Regulations.

"(a) A member of the Ready Reserve covered by section 10147 of this title who fails in any year to perform satisfactorily the training duty prescribed in that section, as determined by the Secretary concerned under regulations prescribed by the Secretary of Defense, may be ordered without his consent to perform additional active duty for training for not more than 45 days. If the failure occurs during the last year of his required membership in the Ready Reserve, his membership is extended until he performs that additional active duty for training, but not for more than six months.

"(b) A member of the Army National Guard of the United States or the Air National Guard of the United States who fails in any year to perform satisfactorily the training duty prescribed by or under law for members of the Army National Guard or the Air National Guard, as the case may be, as determined by the Secretary concerned, may, upon the request of the Governor of the State (or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard) be ordered, without his consent, to perform additional active duty for training for not more than 45 days. A member ordered to active duty under this subsection shall be ordered to duty as a Reserve of the Army or as a Reserve of the Air Force, as the case may be.

"§ 10149. Ready Reserve: continuous screening

President. Regulations.

"(a) Under regulations to be prescribed by the President, the Secretary concerned shall provide a system of continuous screening of units and members of the Ready Reserve to ensure the following:

"(1) That there will be no significant attrition of those members or units during a mobilization.

"(2) That there is a proper balance of military skills.

"(3) That except for those with military skills for which there is an overriding requirement, members having critical civilian skills are not retained in numbers beyond the need for those skills.

"(4) That with due regard to national security and military requirements, recognition will be given to participation in combat.

"(5) That members whose mobilization in an emergency would result in an extreme personal or community hardship are not retained in the Ready Reserve.

"(b) Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Ready Reserve who is designated as a member not to be retained in the Ready Reserve as a result of screening under subsection (a) shall, as appropriate, be— Regulations.

"(1) transferred to the Standby Reserve;

"(2) discharged; or

"(3) if the member is eligible and applies therefor, transferred to the Retired Reserve.

"§ 10150. Ready Reserve: transfer back from Standby Reserve

"Under regulations to be prescribed by the Secretary of Defense, and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, a member of the Standby Reserve who has not completed his required period of service in the Ready Reserve may be transferred to the Ready Reserve when the reason for his transfer to the Standby Reserve no longer exists. Regulations.

"§ 10151. Standby Reserve: composition

"The Standby Reserve consists of those units or members, or both, of the reserve components, other than those in the Ready Reserve or Retired Reserve, who are liable for active duty only as provided in sections 12301 and 12306 of this title.

"§ 10152. Standby Reserve: inactive status list

"An inactive status list shall be maintained in the Standby Reserve. Whenever an authority designated by the Secretary concerned considers that it is in the best interest of the armed force concerned, a member in the Standby Reserve who is not required to remain a Reserve, and who cannot participate in prescribed training, may, if qualified, be transferred to the inactive status list under regulations to be prescribed by the Secretary concerned. These regulations shall fix the conditions under which such a member is entitled to be returned to an active status. Regulations.

"§ 10153. Standby Reserve: status of members

"While in an inactive status, a Reserve is not eligible for pay or promotion and (as provided in section 12734(a) of this title) does not accrue credit for years of service under chapter 1223 of this title.

"§ 10154. Retired Reserve

"The Retired Reserve consists of the following Reserves:

"(1) Reserves who are or have been retired under section 3911, 6323, or 8911 of this title or under section 291 of title 14.

"(2) Reserves who have been transferred to the Retired Reserve upon their request, retain their status as Reserves, and are otherwise qualified.

"CHAPTER 1007—ADMINISTRATION OF RESERVE COMPONENTS

"Sec.
"10201. Assistant Secretary of Defense for Reserve Affairs.
"10202. Regulations.
"10203. Reserve affairs: designation of general or flag officer of each armed force.
"10204. Personnel records.
"10205. Members of Individual Ready Reserve: requirement of notification of change of status.
"10206. Members: periodic physical examinations.
"10207. Mobilization forces: maintenance.
"10208. Annual mobilization exercise.
"10209. Regular and reserve components: discrimination prohibited.
"10210. Dissemination of information.
"10211. Policies and regulations: participation of reserve officers in preparation and administration.
"10212. Gratuitous services of officers: authority to accept.
"10213. Reserve components: dual membership prohibited.
"10214. Adjutants general and assistant adjutants general· reference to other officers of National Guard.
"10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status.

"§ 10201. Assistant Secretary of Defense for Reserve Affairs

"As provided in section 138(b)(2) of this title, the official in the Department of Defense with responsibility for overall supervision of reserve component affairs of the Department of Defense is the Assistant Secretary of Defense for Reserve Affairs.

"§ 10202. Regulations

"(a) Subject to standards, policies, and procedures prescribed by the Secretary of Defense, the Secretary of each military department shall prescribe such regulations as the Secretary considers necessary to carry out provisions of law relating to the reserve components under the Secretary's jurisdiction.

"(b) The Secretary of Transportation, with the concurrence of the Secretary of the Navy, shall prescribe such regulations as the Secretary considers necessary to carry out all provisions of law relating to the reserve components insofar as they relate to the Coast Guard, except when the Coast Guard is operating as a service in the Navy.

"(c) So far as practicable, regulations for all reserve components shall be uniform.

"§ 10203. Reserve affairs: designation of general or flag officer of each armed force

"(a) The Secretary of the Army may designate a general officer of the Army to be directly responsible for reserve affairs to the Chief of Staff of the Army.

"(b) The Secretary of the Navy may designate a flag officer of the Navy to be directly responsible for reserve affairs to the Chief of Naval Operations and a general officer of the Marine Corps to be directly responsible for reserve affairs to the Commandant of the Marine Corps.

"(c) The Secretary of the Air Force may designate a general officer of the Air Force to be directly responsible for reserve affairs to the Chief of Staff of the Air Force.

"(d) The Secretary of Transportation may designate a flag officer of the Coast Guard to be directly responsible for reserve affairs to the Commandant of the Coast Guard.

"(e) This section does not affect the functions of the Chief of the National Guard Bureau, the Chief of Army Reserve, or the Chief of Air Force Reserve.

"§ 10204. Personnel records

"(a) The Secretary concerned shall maintain adequate and current personnel records of each member of the reserve components under the Secretary's jurisdiction showing the following with respect to the member:

"(1) Physical condition.
"(2) Dependency status.
"(3) Military qualifications.
"(4) Civilian occupational skills.
"(5) Availability for service.
"(6) Such other information as the Secretary concerned may prescribe.

"(b) Under regulations to be prescribed by the Secretary of Defense, the Secretary of each military department shall maintain a record of the number of members of each class of each reserve component who, during each fiscal year, have participated satisfactorily in active duty for training and inactive duty training with pay. Regulations.

"§ 10205. Members of Ready Reserve: requirement of notification of change of status

"(a) Each member of the Ready Reserve shall notify the Secretary concerned of any change in the member's address, marital status, number of dependents, or civilian employment and of any change in the member's physical condition that would prevent the member from meeting the physical or mental standards prescribed for the member's armed force.

"(b) This section shall be administered under regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy. Regulations.

"§ 10206. Members: periodic physical examinations

"(a) Each member of the Ready Reserve who is not on active duty shall—

"(1) be examined as to his physical fitness every five years, or more often as the Secretary concerned considers necessary; and

"(2) execute and submit annually to the Secretary concerned a certificate of physical condition.

Each Reserve in an active status, or on an inactive status list, who is not on active duty shall execute and submit annually to the Secretary concerned a certificate of physical condition.

"(b) The kind of duty to which a Reserve ordered to active duty may be assigned shall be considered in determining physical qualifications for active duty.

"§ 10207. Mobilization forces: maintenance

"(a) Whenever units or members of the reserve components are ordered to active duty (other than for training) during a period of partial mobilization, the Secretary concerned shall continue to maintain mobilization forces by planning and budgeting for the continued organization and training of the reserve components not

mobilized, and make the fullest practicable use of the Federal facilities vacated by mobilized units, consistent with approved joint mobilization plans.

"(b) In this section, the term 'partial mobilization' means the mobilization resulting from action by Congress or the President, under any law, to bring units of any reserve component, and members not assigned to units organized to serve as units, to active duty for a limited expansion of the active armed forces.

"§ 10208. Annual mobilization exercise

"(a) The Secretary of Defense shall conduct at least one major mobilization exercise each year. The exercise should be as comprehensive and as realistic as possible and should include the participation of associated active component and reserve component units.

"(b) The Secretary shall maintain a plan to test periodically each active component and reserve component unit based in the United States and all interactions of such units, as well as the sustainment of the forces mobilized as part of the exercise, with the objective of permitting an evaluation of the adequacy of resource allocation and planning.

"§ 10209. Regular and reserve components: discrimination prohibited

"Laws applying to both Regulars and Reserves shall be administered without discrimination—

"(1) among Regulars;

"(2) among Reserves; and

"(3) between Regulars and Reserves.

"§ 10210. Dissemination of information

"The Secretary of Defense shall require the complete and current dissemination, to all Reserves and to the public, of information of interest to the reserve components.

"§ 10211. Policies and regulations: participation of Reserve officers in preparation and administration

"Within such numbers and in such grades and assignments as the Secretary concerned may prescribe, each armed force shall have officers of its reserve components on active duty (other than for training) at the seat of government, and at headquarters responsible for reserve affairs, to participate in preparing and administering the policies and regulations affecting those reserve components. While so serving, such an officer is an additional number of any staff with which he is serving.

"§ 10212. Gratuitous services of officers: authority to accept

"Notwithstanding section 1342 of title 31, the Secretary of a military department may accept the gratuitous services of an officer of a reserve component under the Secretary's jurisdiction (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States)—

"(1) in the furtherance of the enrollment, organization, and training of that officer's reserve component or the Reserve Officers' Training Corps; or

"(2) in consultation upon matters relating to the armed forces.

"§ 10213. Reserve components: dual membership prohibited

"Except as otherwise provided in this title, no person may be a member of more than one reserve component at the same time.

"§ 10214. Adjutants general and assistant adjutants general: reference to other officers of National Guard

"In any case in which, under the laws of a State, an officer of the National Guard of that jurisdiction, other than the adjutant general or an assistant adjutant general, normally performs the duties of that office, the references in sections 12004(b)(1), 12215, 12642(c), 14507(b), 14508(e), and 14512 of this title to the adjutant general or the assistant adjutant general shall be applied to that officer instead of to the adjutant general or assistant adjutant general.

"§ 10215. Officers of Army National Guard of the United States and Air National Guard of the United States: authority with respect to Federal status

"(a)(1) Officers of the Army National Guard of the United States who are not on active duty—

"(A) may order members of the Army National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Air Force, may order members of the Air National Guard of the United States to active duty for training under that section.

"(2) Officers of the Air National Guard of the United States who are not on active duty—

"(A) may order members of the Air National Guard of the United States to active duty for training under section 12301(d) of this title; and

"(B) with the approval of the Secretary of the Army, may order members of the Army National Guard of the United States to active duty for training under that section.

"(b) Officers of the Army National Guard of the United States or the Air National Guard of the United States who are not on active duty—

"(1) may enlist, reenlist, or extend the enlistments of persons as Reserves of the Army or Reserves of the Air Force for service in the Army National Guard of the United States or the Air National Guard of the United States, as the case may be; and

"(2) with respect to their Federal status, may promote or discharge persons enlisted or reenlisted as Reserves of the Army or Reserves of the Air Force for that service.

"(c) This section shall be carried out under regulations prescribed by the Secretary of the Army, with respect to matters concerning the Army, and by the Secretary of the Air Force, with respect to matters concerning the Air Force.". Regulations.

(2)(A) Sections 261 through 265 and 267 through 281 are repealed. Repeal.

(B) Chapter 11 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"261. Reference to chapters 1003, 1005, and 1007

"§ 261. Reference to chapters 1003, 1005, and 1007

"Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.".

(3)(A) Chapter 519 and sections 652, 2001, 3076 through 3080, and 8076 through 8080 are repealed.

Repeal. 10 USC 261 note.

(B) Section 552(e) of Public Law 98–525 is repealed.

(4) Section 1004 is amended—

(A) by striking out subsections (a) and (b); and

(B) by striking out "(c)" before "Except as otherwise provided".

10 USC 10147 note.

(5)(A) Section 10147(a), as added by paragraph (1), applies only to persons who were inducted, enlisted, or appointed in an armed force after August 9, 1955.

10 USC 10148 note.

(B) Section 10148(b), as added by paragraph (1), applies only to persons who became members of the Army National Guard of the United States or the Air National Guard of the United States after October 4, 1961.

(b) BOARDS AND COMMITTEES.—(1) Part I of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1009—RESERVE FORCES POLICY BOARDS AND COMMITTEES

"Sec.
"10301. Reserve Forces Policy Board.
"10302. Army Reserve Forces Policy Committee.
"10303. Naval Reserve Policy Board.
"10304. Marine Corps Reserve Policy Board.
"10305. Air Force Reserve Forces Policy Committee.

"§ 10301. Reserve Forces Policy Board

"(a) There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The Board consists of the following:

"(1) A civilian chairman appointed by the Secretary of Defense.

"(2) The Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs.

"(3) An officer of the Regular Army designated by the Secretary of the Army.

"(4) An officer of the Regular Navy and an officer of the Regular Marine Corps, each designated by the Secretary of the Navy.

"(5) An officer of the Regular Air Force designated by the Secretary of the Air Force.

"(6) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Army, two of whom must be members of the Army National Guard of the United States, and two of whom must be members of the Army Reserve.

"(7) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Navy,

two of whom must be members of the Naval Reserve, and two of whom must be members of the Marine Corps Reserve.

"(8) Four reserve officers designated by the Secretary of Defense upon the recommendation of the Secretary of the Air Force, two of whom must be members of the Air National Guard of the United States, and two of whom must be members of the Air Force Reserve.

"(9) A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general officer or flag officer designated by the Chairman of the Board with the approval of the Secretary of Defense, and who serves without vote as military adviser to the Chairman and as executive officer of the Board.

"(10) An officer of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps serving in a position on the Joint Staff who is designated by the Chairman of the Joint Chiefs of Staff.

"(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.

"(c) The Board, acting through the Assistant Secretary of Defense for Reserve Affairs, is the principal policy adviser to the Secretary of Defense on matters relating to the reserve components.

"(d) This section does not affect the committees on reserve policies prescribed within the military departments by sections 10302 through 10305 of this title.

"(e) A member of a committee or board prescribed under a section listed in subsection (d) may, if otherwise eligible, be a member of the Reserve Forces Policy Board.

"(f) The Board shall act on those matters referred to it by the Chairman and, in addition, on any matter raised by a member of the Board.

"§ 10303. Naval Reserve Policy Board

"A Naval Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Naval Reserve.

"§ 10304. Marine Corps Reserve Policy Board

"A Marine Corps Reserve Policy Board shall be convened at least once annually at the seat of government to consider, recommend, and report to the Secretary of the Navy on reserve policy matters. At least half of the members of the Board must be officers of the Marine Corps Reserve.".

(2)(A) Section 3021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10301, and redesignated as section 10302.

(B) Section 8021 is transferred to chapter 1009 (as added by paragraph (1)), inserted after section 10304, and redesignated as section 10305.

(3) The text of section 175 is amended to read as follows:

"There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title."

(4)(A) Chapter 303 (as amended by paragraph (2)(A)) is amended by inserting after section 3020 the following:

"§ 3021. Army Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Army an Army Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10302 of this title.".

(B) Chapter 803 (as amended by paragraph (2)(B)) is amended by inserting after section 8020 the following:

"§ 8021. Air Force Reserve Forces Policy Committee

"There is in the Office of the Secretary of the Air Force an Air Force Reserve Forces Policy Committee. The functions, membership, and organization of that committee are set forth in section 10305 of this title.".

(c) NATIONAL GUARD BUREAU.—(1)(A) Chapter 1011, as added by section 904(a), is amended by inserting after section 10506 the following:

"§ 10507. National Guard Bureau: assignment of officers of regular or reserve components

"Except as provided in section 124402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army or Air Forces as he considers necessary.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 10506 the following new item:

"10507. National Guard Bureau: assignment of officers of regular or reserve components.".

Repeal.

(2) Sections 3541 and 8541 are repealed.

(d) ANNUAL REPORTS TO CONGRESS.—(1) Part I of subtitle E, as added by subsection (a), is amended by adding after chapter 1011, as added by section 904(a), the following:

"CHAPTER 1013—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

"Sec.
"10541. National Guard and reserve component equipment: annual report to Congress.
"10542. Army National Guard combat readiness: annual report.".

(2)(A) Section 115b is transferred to chapter 1013, as added by paragraph (1), inserted after the table of sections, and redesignated as section 10541.

(B) The heading of that section is amended to read as follows:

"§ 10541. National Guard and reserve component equipment: annual report to Congress".

(3) Section 3082 is transferred to chapter 1013, as added by paragraph (1), inserted after section 10541 (as transferred and redesignated by paragraph (2)), redesignated as section 10542, and amended by striking out the word in the section heading before the colon and by striking out subsection (c).

SEC. 1662. LAWS RELATING TO RESERVE COMPONENT PERSONNEL POLICY.

(a) STRENGTH AND DISTRIBUTION IN GRADE.—(1) Subtitle E, as added by section 1611, is amended by inserting after part I of such subtitle, as added by section 1661, the following:

"PART II—PERSONNEL GENERALLY

"Chap.		Sec.
"1201.	Authorized Strengths and Distribution in Grade	12001
"1203.	Enlisted Members	12101
"1205.	Appointment of Reserve Officers	12201
"1207.	Warrant Officers	12241
"1209.	Active Duty	12301
"1211.	National Guard Members in Federal Service	12401
"1213.	Special Appointments, Assignments, Details, and Duties	12501
"1215.	Miscellaneous Prohibitions and Penalties	[No present sections]
"1217.	Miscellaneous Rights and Benefits	12601
"1219.	Standards and Procedures for Retention and Promotion	12641
"1221.	Separation	12681
"1223.	Retired Pay for Non-Regular Service	12731
"1225.	Retired Grade	12771

"CHAPTER 1201—AUTHORIZED STRENGTHS AND DISTRIBUTION IN GRADE

"Sec.
"12001. Authorized strengths: reserve components.
"12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty.
"12003. Authorized strengths: commissioned officers active status.
"12004. Strength in grade: reserve general and flag officers in an active status.
"12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status.
"12006. Strength limitations: authority to waive in time of war or national emergency.
"12007. Reserve officers of the Army: distribution.
"12008. Army Reserve and Air Force Reserve: warrant officers.
"12009. Army and Air Force reserve components: temporary increases.
"12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result.
"12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.
"12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or the National Guard.

"§ 12001. Authorized strengths: reserve components

President.

"(a) Whenever the authorized strength of a reserve component (other than the Coast Guard Reserve) is not prescribed by law, it shall be prescribed by the President.

"(b) Subject to the authorized strength of the reserve component concerned, the authorized strength of each reserve component (other than the Coast Guard Reserve) in members in each grade is that which the Secretary concerned determines to be necessary to provide for mobilization requirements. The Secretary shall review these determinations at least once each year and revise them if he considers it necessary. However, a member of the reserve component concerned may not, as a result of such a determination, be reduced in the member's reserve grade without the member's consent.

"§ 12002. Authorized strengths: Army and Air Force reserve components, exclusive of members on active duty

"(a) The authorized strengths of the National Guard and the reserve components of the Army and the Air Force, exclusive of

members who are included in the strengths authorized for members of the Army and Air Force, respectively, on active duty, are as follows:

"Army National Guard and the Army National Guard of the United States	600,000
"Army Reserve	980,000
"Air National Guard and the Air National Guard of the United States	150,000
"Air Force Reserve	500,000.

"(b) The strength authorized by this section for the Army National Guard and the Army National Guard of the United States, and the strength authorized by this section for the Air National Guard and the Air National Guard of the United States, shall be allocated among the States.

"§ 12003. Authorized strengths: commissioned officers in an active status

"(a) The authorized strengths of the Army, Navy, Air Force, and Marine Corps in reserve commissioned officers, other than commissioned warrant officers and officers on an active-duty list, in an active status are as follows:

"Army	275,000
"Air Force	200,000
"Navy	150,000
"Marine Corps	24,500.

"(b) The authorized strengths prescribed by subsection (a) may not be exceeded unless—

"(1) the Secretary concerned determines that a greater number is necessary for planned mobilization requirements; or

"(2) the excess results directly from the operation of a nondiscretionary provision of law.

"§ 12004. Strength in grade: reserve general and flag officers in an active status

"(a) The authorized strengths of the Army, Air Force, and Marine Corps in reserve general officers in an active status, and the authorized strength of the Navy in reserve officers in the grades of rear admiral (lower half) and rear admiral in an active-status, are as follows:

"Army	207
"Air Force	157
"Navy	48
"Marine Corps	10.

"(b) The following Army and Air Force reserve officers shall not be counted for purposes of this section:

"(1) Those serving as adjutants general or assistant adjutants general of a State.

"(2) Those serving in the National Guard Bureau.

"(3) Those counted under section 526 of this title.

"(c)(1) The authorized strength of the Navy under subsection (a) is exclusive of officers counted under section 526 of this title. Of the number authorized under subsection (a), 39 are distributed among the line and the staff corps as follows:

"Line	28
"Medical Corps	5
"Chaplain Corps	1
"Judge Advocate General's Corps	1

"Dental Corps	2
"Nurse Corps	1
"Medical Service Corps	1

"(2) The remaining authorizations for the Navy under subsection (a) shall be distributed among such other staff corps as are established by the Secretary of the Navy under the authority provided by section 5150(b) of this title, except that—

"(A) if the Secretary has established a Supply Corps, the authorized strength for the Supply Corps shall be seven; and

"(B) if the Secretary has established a Civil Engineering Corps, the authorized strength for the Civil Engineering Corps shall be two.

"(3) Not more than 50 percent of the officers in an active status authorized under this section for the Navy may serve in the grade of rear admiral.

"(d) The authorized strength of the Marine Corps under subsection (a) is exclusive of those counted under section 526 of this title.

"(e)(1) A reserve general officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of general officers authorized under subsection (a).

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§ 12005. Strength in grade: commissioned officers in grades below brigadier general or rear admiral (lower half) in an active status

"(a)(1) Subject to paragraph (2), the authorized strength of the Army and the Air Force in reserve commissioned officers in an active status in each grade named in paragraph (2) is as prescribed by the Secretary of the Army or the Secretary of the Air Force, respectively. A vacancy in any grade may be filled by an authorized appointment in any lower grade.

"(2) A strength prescribed by the Secretary concerned under paragraph (1) for a grade may not be higher than the percentage of the strength authorized for the Army or the Air Force, as the case may be, under section 12003 of this title that is specified for that grade as follows:

Grade	Army percentage	Air Force percentage
Colonel	2	1.8
Lieutenant colonel	6	4.6
Major	13	14.0
Captain	35	32.0
First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	44	47.6

"(b)(1) The authorized strengths of the Naval Reserve in line officers in an active status in the grades of captain, commander, lieutenant commander, and lieutenant, and in the grades of lieutenant (junior grade) and ensign combined, are the following percentages of the total authorized number of those officers:

"Captain	1.5 percent

"Commander	7 percent
"Lieutenant commander	22 percent
"Lieutenant	37 percent
"Lieutenant (junior grade) and ensign (when combined with the number authorized for flag officer grades under section 12004 of this title)	32.5 percent.

"(2) When the actual number of line officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(c)(1) The authorized strengths of the Marine Corps Reserve in officers in an active status in the grades of colonel, lieutenant colonel, major, and captain, and in the grades of first lieutenant and second lieutenant combined, are the following percentages of the total authorized number of those officers:

"Colonel	2 percent
"Lieutenant colonel	6 percent
"Major	12 percent
"Captain	35 percent
"First lieutenant and second lieutenant (when combined with the number authorized for general officer grades under section 12004 of this title)	32.5 percent.

"(2) When the actual number of officers in an active status in any grade is less than the number authorized by paragraph (1) for that grade, the difference may be applied to increase the number authorized by that paragraph for any lower grade or grades.

"(d)(1) An officer of the Army or Air Force may not be reduced in grade because of a reduction in the number of commissioned officers authorized for the officer's grade under this section.

"(2) An officer of the Naval Reserve or the Marine Corps Reserve may not be reduced in permanent grade because of a reduction in the number authorized by this section for his grade.

"§ 12006. Strength limitations: authority to waive in time of war or national emergency

"(a) In time of war, or of national emergency declared by Congress or the President, the President may suspend the operation of any provision of section 12003, 12004, or 12005 of this title. So long as any such war or national emergency continues, any such suspension may be extended by the President.

"(b) Any suspension under subsection (a) shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621, 1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of termination of the emergency.

"§ 12007. Reserve officers of the Army: distribution

"The Secretary of the Army shall distribute the number of reserve commissioned officers, other than commissioned warrant officers, authorized in each commissioned grade between those assigned to reserve units organized to serve as units and those not assigned to such units. The Secretary shall distribute the number who are assigned to reserve units organized to serve as units

among the units of each reserve component by prescribing appropriate tables of organization and tables of distribution. The Secretary shall distribute the number who are not assigned to such units between—

"(1) each special branch; and

"(2) all other branches taken together.

"§ 12008. Army Reserve and Air Force Reserve: warrant officers

"The Secretary of the Army may prescribe the authorized strength of the Army Reserve in warrant officers. The Secretary of the Air Force may prescribe the authorized strength of the Air Force Reserve in warrant officers.

"§ 12009. Army and Air Force reserve components: temporary increases

"(a) The authorized strength in any reserve grade, as prescribed under this chapter, for any reserve component under the jurisdiction of the Secretary of the Army or the Secretary of the Air Force is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 14304(b), 14314, or 14317 of this title.

"(b) An authorized strength so increased is increased for no other purpose. While an officer holds that grade, the officer whose appointment caused the increase is counted for the purpose of determining when other appointments, not under those sections, may be made in that grade.

"§ 12010. Computations for Naval Reserve and Marine Corps Reserve: rule when fraction occurs in final result

"When there is a fraction in the final result of any computation under this chapter for the Naval Reserve or the Marine Corps Reserve, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded.

"§ 12012. Authorized strengths: senior enlisted members on active duty or on full-time National Guard duty for administration of the reserves or National Guard

"(a) The number of enlisted members in pay grades E–8 and E–9 who may be on active duty (other than for training) or on full-time National Guard duty under the authority of section 502(f) of title 32 (other than for training) as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard may not exceed the number for that grade and armed force in the following table:

Grade	Army	Navy	Air Force	Marine Corps
E–9	569	202	328	14
E–8	2,585	429	840	74

"(b) Whenever the number of members serving in pay grade E–9 for duty described in subsection (a) is less than the number

authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E–8.".

(2)(A) Section 524 is transferred to chapter 1201, as added by paragraph (1), inserted after section 12010, and redesignated as section 12011.

(B) The heading of that section is amended to read as follows:

"§ 12011. Authorized strengths: reserve officers on active duty or on full-time National Guard duty for administration of the reserves or the National Guard".

Repeal.

(3) Chapter 531 and sections 3212, 3217 through 3225, 5454, 5456, 5457, 5458, 8212, and 8217 through 8225 are repealed.

(4) Section 517 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b) and in that subsection striking out "or whenever" and all that follows through "under subsection (b),".

(b) ENLISTMENTS.—(1) Part II of subtitle E, as added by subsection (a), is amended by adding after chapter 1201 (as added by subsection (a)), the following:

"CHAPTER 1203—ENLISTED MEMBERS

"Sec.
"12101. Definition.
"12102. Reserve components: qualifications.
"12103. Reserve components: terms.
"12104. Reserve components: transfers.
"12105. Army Reserve and Air Force Reserve: transfer from Guard components.
"12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard.
"12107. Army National Guard of United States; Air National Guard of the United States: enlistment in.

"§ 12101. Definition

"In this chapter, the term 'enlistment' means original enlistment or reenlistment.

"§ 12105. Army Reserve and Air Force Reserve: transfer from Guard components

Regulations.

"(a) Under such regulations as the Secretary concerned may prescribe—

"(1) an enlisted member of the Army National Guard of the United States may be transferred in grade to the Army Reserve; and

"(2) an enlisted member of the Air National Guard of the United States may be transferred in grade to the Air Force Reserve.

"(b) Upon such a transfer, the member transferred is eligible for promotion to the highest regular or reserve grade ever held by him in the Army, if transferred under subsection (a)(1), or the Air Force, if transferred under subsection (a)(2), if his service has been honorable.

"(c) A transfer under this section may only be made with the consent of the governor or other appropriate authority of the State concerned.

"§ 12106. Army and Air Force Reserve: transfer to upon withdrawal as member of National Guard

"(a) An enlisted member of the Army National Guard of the United States who ceases to be a member of the Army National Guard becomes a member of the Army Reserve unless he is also discharged from his enlistment as a Reserve.

"(b) An enlisted member of the Air National Guard of the United States who ceases to be a member of the Air National Guard becomes a member of the Air Force Reserve unless he is also discharged from his enlistment as a Reserve.

"(c) An enlisted member who becomes a member of the Army Reserve or the Air Force Reserve under this section ceases to be a member of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be.

"§ 12107. Army National Guard of United States; Air National Guard of the United States: enlistment in

"(a) Except as provided in subsection (c), to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, a person must—

"(1) be enlisted in the Army National Guard or the Air National Guard, as the case may be;

"(2) subscribe to the oath set forth in section 304 of title 32; and

"(3) be a member of a federally recognized unit or organization of the Army National Guard or the Air National Guard, as the case may be, in the grade in which he is to be enlisted as a Reserve.

"(b)(1) Under regulations to be prescribed by the Secretary of the Army, a person who enlists in the Army National Guard, or whose term of enlistment in the Army National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Army for service in the Army National Guard of the United States. Regulations.

"(2) Under regulations to be prescribed by the Secretary of the Air Force, a person who enlists in the Air National Guard, or whose term of enlistment in the Air National Guard is extended, shall be concurrently enlisted, or his term of enlistment shall be concurrently extended, as the case may be, as a Reserve of the Air Force for service in the Air National Guard of the United States.

"(c)(1) A member of the Army Reserve who enlists in the Army National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Army National Guard, becomes a member of the Army National Guard of the United States and ceases to be a member of the Army Reserve.

"(2) A member of the Air Force Reserve who enlists in the Air National Guard in his reserve grade, and is a member of a federally recognized unit or organization of the Air National Guard, becomes a member of the Air National Guard of the United States and ceases to be a member of the Air Force Reserve.".

(2) Sections 510 (as amended by section 1631(a)), 511, and 512 are transferred to chapter 1203, as added by paragraph (1), inserted after section 12101, and redesignated as follows:

Section	Redesignated section
510	12102
511	12103
512	12104

Repeal.

(3) The following sections are repealed: sections 3259, 3260, 3261, 8259, 8260, and 8261.

(c) APPOINTMENT OF OFFICERS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1203 (as added by subsection (b)) the following:

"CHAPTER 1205—APPOINTMENT OF RESERVE OFFICERS

"Sec.
"12201. Qualifications for appointment.
"12202. Commissioned officer grades.
"12203. Commissioned officers: appointment, how made; term.
"12204. Commissioned officers: original appointment; limitation.
"12205. Commissioned officers: appointment; educational requirement.
"12206. Commissioned officers: appointment of former commissioned officers.
"12207. Commissioned officers: service credit upon original appointment.
"12208. Officers: appointment upon transfer.
"12209. Officer candidates: enlisted Reserves.
"12210. Attending Physician to the Congress: reserve grade while so serving.
"12211. Officers: Army National Guard of United States.
"12212. Officers: Air National Guard of United States.
"12213. Officers; Army Reserve: transfer from Army National Guard of United States.
"12214. Officers; Air Force Reserve: transfer from Air National Guard of United States.
"12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general.

"§ 12215. Commissioned officers: reserve grade of adjutants general and assistant adjutants general

"(a) The adjutant general or an assistant adjutant general of the Army National Guard of a State may, upon being extended Federal recognition, be appointed as a reserve officer of the Army as of the date on which he is so recognized.

"(b) The adjutant general or an assistant adjutant general of the Air National Guard of a State may be appointed in the reserve commissioned grade in which Federal recognition in the Air National Guard is extended to him.".

(2) Sections 591 (as amended by section 1631(b)), 592, 593 (as amended by section 1632), 594, 596, 596a (as added by section 1633), 596b (as added by section 1634), and 595 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
591	12201
592	12202
593	12203
594	12204
596	12205
596a (as added by section 1633)	12206
596b (as added by section 1634)	12207
595	12208

(3) Sections 600, 600a, 3351, 8351, 3352 (as amended by section 1636(a)), and 8352 are transferred (in that order) to chapter 1205, as added by paragraph (1), inserted after section 12208, and redesignated as follows:

"12404. Army and Air National Guard of United States: mobilization; maintenance of organization.
"12405. National Guard in Federal service: status.
"12406. National Guard in Federal service: call
"12407. National Guard in Federal service: period of service; apportionment.
"12408. National Guard in Federal service: physical examination.

"§ 12401. Army and Air National Guard of the United States: status

"Members of the Army National Guard of the United States and the Air National Guard of the United States are not in active Federal service except when ordered thereto under law.

"§ 12402. Army and Air National Guard of United States: commissioned officers; duty in National Guard Bureau

"(a) The President may, with their consent, order commissioned officers of the Army National Guard of the United States and the Air National Guard of the United States to active duty in the National Guard Bureau.

"(b)(1) The number of officers of the Army National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Army authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Army serving in that Bureau in any grade below brigadier general.

"(2) The number of officers of the Air National Guard of the United States in grades below brigadier general who are ordered to active duty in the National Guard Bureau may not be more than 40 percent of the number of officers of the Air Force authorized for duty in that Bureau and, to the extent practicable, shall not exceed 40 percent of the number of officers of the Air Force serving in that Bureau in any grade below brigadier general.

"§ 12403. Army and Air National Guard of United States: members; status in which ordered into Federal service

"Members of the Army National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Army. Members of the Air National Guard of the United States ordered to active duty shall be ordered to duty as Reserves of the Air Force.

"§ 12404. Army and Air National Guard of United States: mobilization; maintenance of organization

"During an initial mobilization, the organization of a unit of the Army National Guard of the United States or of the Air National Guard of the United States ordered into active Federal service shall, so far as practicable, be maintained as it existed on the date of the order to duty.

"§ 12405. National Guard in Federal service: status

"Members of the National Guard called into Federal service are, from the time when they are required to respond to the call, subject to the laws and regulations governing the Army or the Air Force, as the case may be, except those applicable only to members of the Regular Army or Regular Air Force, as the case may be.

"§ 12406. National Guard in Federal service: call

"Whenever—

"(1) the United States, or any of the Territories, Commonwealths, or possessions, is invaded or is in danger of invasion by a foreign nation;

"(2) there is a rebellion or danger of a rebellion against the authority of the Government of the United States; or

"(3) the President is unable with the regular forces to execute the laws of the United States;

the President may call into Federal service members and units of the National Guard of any State in such numbers as he considers necessary to repel the invasion, suppress the rebellion, or execute those laws. Orders for these purposes shall be issued through the governors of the States or, in the case of the District of Columbia, through the commanding general of the National Guard of the District of Columbia.

"§ 12407. National Guard in Federal service: period of service; apportionment

"(a) Whenever the President calls the National Guard of a State into Federal service, he may specify in the call the period of the service. Members and units called shall serve inside or outside the territory of the United States during the term specified, unless sooner relieved by the President. However, no member of the National Guard may be kept in Federal service beyond the term of his commission or enlistment.

"(b) When the National Guard of a State is called into Federal service with the National Guard of another of those jurisdictions, the President may apportion the total number called from the Army National Guard or from the Air National Guard, as the case may be, on the basis of the populations of the jurisdictions affected by the call.

"§ 12408. National Guard in Federal service: physical examination

President. Regulations.

"(a) Under regulations prescribed by the President, each member of the National Guard called into Federal service shall be examined as to physical fitness, without further commission or enlistment.

"(b) Immediately before such a member is mustered out of Federal service, he shall be examined as to physical fitness. The record of this examination shall be retained by the United States.".

Repeal.

(2) Sections 3495 through 3502 and 8495 through 8502 are repealed.

(g) MISCELLANEOUS PROVISIONS.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1211 (as added by subsection (f)) the following:

"CHAPTER 1213—SPECIAL APPOINTMENTS, ASSIGNMENTS, DETAILS, AND DUTIES

"Sec.

"12501. Reserve components: detail of members of regular and reserve components to assist.

"12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail.

"§ 12501. Reserve components: detail of members of regular and reserve components to assist

"The Secretary concerned shall detail such members of the regular and reserve components under his jurisdiction as are necessary to effectively develop, train, instruct, and administer those reserve components.

"§ 12502. Chief and assistant chief of staff of National Guard divisions and wings in Federal service: detail

"(a) The President may detail a regular or reserve officer of the Army as chief of staff, and a regular or reserve officer or an officer of the Army National Guard as assistant to the chief of staff, of any division of the Army National Guard that is in Federal service as an Army National Guard organization.

"(b) The President may detail a regular or reserve officer of the Air Force as chief of staff, and a regular or reserve officer or an officer of the Air National Guard as assistant to the chief of staff, of any wing of the Air National Guard that is in Federal service as an Air National Guard organization.

"CHAPTER 1215—MISCELLANEOUS PROHIBITIONS AND PENALTIES

"[No present sections]

"CHAPTER 1217—MISCELLANEOUS RIGHTS AND BENEFITS

"Sec.
"12601. Compensation: Reserve on active duty accepting from any person.
"12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

"§ 12601. Compensation: Reserve on active duty accepting from any person

"Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person.

"§ 12602. Members of Army National Guard of United States and Air National Guard of United States: credit for service as members of National Guard

"(a) For the purposes of laws providing benefits for members of the Army National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Army National Guard of the United States in his status as a member of the Army National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Army;

"(2) full-time National Guard duty performed by a member of the Army National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Army; and

"(3) inactive-duty training performed by a member of the Army National Guard of the United States in his status as

a member of the Army National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Army.

"(b) For the purposes of laws providing benefits for members of the Air National Guard of the United States and their dependents and beneficiaries—

"(1) military training, duty, or other service performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard for which he is entitled to pay from the United States shall be considered military training, duty, or other service, as the case may be, in Federal service as a Reserve of the Air Force;

"(2) full-time National Guard duty performed by a member of the Air National Guard of the United States shall be considered active duty in Federal service as a Reserve of the Air Force; and

"(3) inactive-duty training performed by a member of the Air National Guard of the United States in his status as a member of the Air National Guard, in accordance with regulations prescribed under section 502 of title 32 or other express provision of law, shall be considered inactive-duty training in Federal service as a Reserve of the Air Force.".

Repeal. (2) Sections 715, 1033, 3542, 3686, 8542, and 8686 are repealed.

(h) STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1217 (as added by subsection (g)) the following:

"CHAPTER 1219—STANDARDS AND PROCEDURES FOR RETENTION AND PROMOTION

"Sec.
"12641. Standards and procedures: Secretary to prescribe.
"12642. Standards and qualifications result of failure to comply with
"12643. Boards for appointment, promotion, and certain other purposes: composition.
"12644. Members physically not qualified for active duty: discharge or transfer to retired status.
"12645. Commissioned officers: retention until completion of required service.
"12646. Commissioned officers: retention of after completing 18 or more, but less than 20, years of service.
"12647. Commissioned officers: retention in active status while assigned to Selective Service System or serving as United States property and fiscal officers.".

(2) Sections 1001, 1002, 266, 1004 (as amended by section 1661(b)(4)), and 1005 through 1007 are transferred (in that order) to chapter 1219, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
1001	12641
1002	12642
266	12643
1004	12644
1005	12645
1006	12646
1007	12647

Repeal. (3) Section 1003 is repealed.

(4)(A) The heading of section 12641 (as so redesignated) is amended to read as follows:

"§ 12641. Standards and procedures: Secretary to prescribe".

(B) The heading of section 12644 (as so redesignated) is amended to read as follows:

"§ 12644. Members physically not qualified for active duty: discharge or transfer to retired status".

(5) Chapter 51 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"1001. Reference to chapter 1219.

"§ 1001. Reference to chapter 1219

"Provisions of law relating to standards and procedures for retention and promotion of members of reserve components are set forth in chapter 1219 of this title (beginning with section 12641).".

(i) SEPARATION.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1219 (as added by subsection (h)) the following:

"CHAPTER 1221—SEPARATION

"Sec.
"12681. Reserves: discharge authority.
"12682. Reserves: discharge upon becoming ordained minister of religion.
"12683. Reserve officers: limitation on involuntary separation.
"12684. Reserves: separation for absence without authority or sentence to imprisonment.
"12685. Reserves separated for cause: character of discharge.
"12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty.

"§ 12681. Reserves: discharge authority

"Subject to other provisions of this title, reserve commissioned officers may be discharged at the pleasure of the President. Other Reserves may be discharged under regulations prescribed by the Secretary concerned. Regulations.

"§ 12682. Reserves: discharge upon becoming ordained minister of religion

"Under regulations to be prescribed by the Secretary of Defense, a Reserve who becomes a regular or ordained minister of religion is entitled upon his request to a discharge from his reserve enlistment or appointment. Regulations.

"§ 12683. Reserve officers: limitation on involuntary separation

"(a) An officer of a reserve component who has at least five years of service as a commissioned officer may not be separated from that component without his consent except—

"(1) under an approved recommendation of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) by the approved sentence of a court-martial.

"(b) Subsection (a) does not apply—

"(1) to a separation under section 12684, 14901, or 14907 of this title;

"(2) to a dismissal under section 1161(a) of this title; or

"(3) to a transfer under section 12213, 12214, 14514, or 14515 of this title.

"§ 12684. Reserves: separation for absence without authority or sentence to imprisonment

"The President or the Secretary concerned may drop from the rolls of the armed force concerned any Reserve—

"(1) who has been absent without authority for at least three months; or

"(2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

"§ 12685. Reserves separated for cause: character of discharge

"A member of a reserve component who is separated for cause, except under section 12684 of this title, is entitled to a discharge under honorable conditions unless—

"(1) the member is discharged under conditions other than honorable under an approved sentence of a court-martial or under the approved findings of a board of officers convened by an authority designated by the Secretary concerned; or

"(2) the member consents to a discharge under conditions other than honorable with a waiver of proceedings of a court-martial or a board.

"§ 12686. Reserves on active duty within two years of retirement eligibility: limitation on release from active duty

Regulations.

"Under regulations to be prescribed by the Secretary concerned, which shall be as uniform as practicable, a member of a reserve component who is on active duty (other than for training) and is within two years of becoming eligible for retired pay or retainer pay under a purely military retirement system, may not be involuntarily released from that duty before he becomes eligible for that pay, unless the release is approved by the Secretary.".

Repeal.

(2) Sections 1162 and 1163 are repealed.

(j) RETIRED PAY.—(1) Chapter 67 is transferred to part II of subtitle E, as added by subsection (a), inserted after chapter 1221 (as added by subsection (i)), and amended to read as follows:

"CHAPTER 1223—RETIRED PAY FOR NON-REGULAR SERVICE

"Sec.

"12731. Age and service requirements.
"12731a. Temporary special retirement qualification authority.
"12732. Entitlement to retired pay: computation of years of service.
"12733. Computation of retired pay: computation of years of service.
"12734. Time not creditable toward years of service.
"12735. Inactive status list.
"12736. Service credited for retired pay benefits not excluded for other benefits.
"12737. Limitation on active duty.
"12738. Limitations on revocation of retired pay.
"12739. Computation of retired pay.

"§ 12731. Age and service requirements

"(a) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(1) is at least 60 years of age;

"(2) has performed at least 20 years of service computed under section 12732 of this title;

"(3) performed the last eight years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve; and

"(4) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Application for retired pay under this section must be made to the Secretary of the military department, or the Secretary of Transportation, as the case may be, having jurisdiction at the time of application over the armed force in which the applicant is serving or last served.

"(c)(1) A person who, before August 16, 1945, was a Reserve of an armed force, or a member of the Army without component or other category covered by section 12732(a)(1) of this title except a regular component, is not eligible for retired pay under this chapter unless—

"(A) the person performed active duty during World War I or World War II; or

"(B) the person performed active duty (other than for training) during the Korean conflict, the Berlin crisis, or the Vietnam era.

"(2) In this subsection:

"(A) The term 'World War I' means the period beginning on April 6, 1917, and ending on November 11, 1918.

"(B) The term 'World War II' means the period beginning on September 9, 1940, and ending on December 31, 1946.

"(C) The term 'Korean conflict' means the period beginning on June 27, 1950, and ending on July 27, 1953.

"(D) The term 'Berlin crisis' means the period beginning on August 14, 1961, and ending on May 30, 1963.

"(E) The term 'Vietnam era' means the period beginning on August 5, 1964, and ending on March 27, 1973.

"(d) The Secretary concerned shall notify each person who has completed the years of service required for eligibility for retired pay under this chapter. The notice shall be sent, in writing, to the person concerned within one year after the person completes that service. The notice shall include notice of the elections available to such person under the Survivor Benefit Plan established under subchapter II of chapter 73 of this title and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter, and the effects of such elections. Notification.

"(e) Notwithstanding section 8301 of title 5, the date of entitlement to retired pay under this section shall be the date on which the requirements of subsection (a) have been completed.

"(f) In the case of a person who completes the service requirements of subsection (a)(2) during the period beginning on the date of the enactment of this subsection and ending on September 30, 1999, the provisions of subsection (a)(3) shall be applied by substituting 'the last six years' for 'the last eight years'.

"§ 12731a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 12731 of this title, the Secretary concerned may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 12732 of this title; or

"(B) after that date and before October 1, 1999, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary, transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on October 23, 1992, and ending on October 1, 1999.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2713).

"(3) Notwithstanding the provisions of section 4415(2) of the Defense Conversion Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2714), the Secretary concerned may, consistent with the other provisions of this section, provide the notification required by section 12731(d) of this title to a member who no longer meets the qualifications for membership in the Selected Reserve solely because the member is unfit because of physical disability. Such notification may not be made if the disability is the result of the member's intentional misconduct, willful neglect, or willful failure to comply with standards and qualifications for retention established by the Secretary concerned or was incurred during a period of unauthorized absence.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 12731(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense and by the Secretary of Transportation with respect to the Coast Guard.

"§ 12732. Entitlement to retired pay: computation of years of service

"(a) Except as provided in subsection (b), for the purpose of determining whether a person is entitled to retired pay under

section 12731 of this title, the person's years of service are computed by adding the following:

"(1) The person's years of service, before July 1, 1949, in the following:

"(A) The armed forces.

"(B) The federally recognized National Guard before June 15, 1933.

"(C) A federally recognized status in the National Guard before June 15, 1933.

"(D) The National Guard after June 14, 1933, if his service therein was continuous from the date of his enlistment in the National Guard, or his Federal recognition as an officer therein, to the date of his enlistment or appointment, as the case may be, in the National Guard of the United States, the Army National Guard of the United States, or the Air National Guard of the United States.

"(E) The Naval Reserve Force.

"(F) The Naval Militia that conformed to the standards prescribed by the Secretary of the Navy.

"(G) The National Naval Volunteers.

"(H) The Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or the Nurse Corps Reserve of the Navy, as it existed at any time after February 2, 1901.

"(I) The Army under an appointment under the Act of December 22, 1942 (ch. 805, 56 Stat. 1072).

"(J) An active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee—

"(i) in the dietetic or physical therapy categories, if the service was performed after April 6, 1917, and before April 1, 1943; or

"(ii) in the occupational therapy category, if the service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before January 1, 1949, or before appointment in the Air Force before January 1, 1949, with a view to designation as an Air Force nurse or medical specialist.

"(2) Each one-year period, after July 1, 1949, in which the person has been credited with at least 50 points on the following basis:

"(A) One point for each day of—

"(i) active service; or

"(ii) full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned;

if that service conformed to required standards and qualifications.

"(B) One point for each attendance at a drill or period of equivalent instruction that was prescribed for that year by the Secretary concerned and conformed to the requirements prescribed by law, including attendance under section 502 of title 32.

"(C) Points at the rate of 15 a year for membership—

"(i) in a reserve component of an armed force,

"(ii) in the Army or the Air Force without component, or

"(iii) in any other category covered by subsection (a)(1) except a regular component.

For the purpose of clauses (A), (B), and (C), service in the National Guard shall be treated as if it were service in a reserve component, if the person concerned was later appointed in the National Guard of the United States, the Army National Guard of the United States, the Air National Guard of the United States, or as a Reserve of the Army or the Air Force, and served continuously in the National Guard from the date of his Federal recognition to the date of that appointment.

"(3) The person's years of active service in the Commissioned Corps of the Public Health Service.

"(4) The person's years of active commissioned service in the National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey).

"(b) The following service may not be counted under subsection (a):

"(1) Service (other than active service) in an inactive section of the Organized Reserve Corps or of the Army Reserve, or in an inactive section of the officers' section of the Air Force Reserve.

"(2) Service (other than active service) after June 30, 1949, while on the Honorary Retired List of the Naval Reserve or of the Marine Corps Reserve.

"(3) Service in the inactive National Guard.

"(4) Service in a non-federally recognized status in the National Guard.

"(5) Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

"(6) Service as an inactive Reserve nurse of the Army Nurse Corps established by the Act of February 2, 1901 (ch. 192, 31 Stat. 753), as amended, and service before July 1, 1938, as an inactive Reserve nurse of the Navy Nurse Corps established by the Act of May 13, 1908 (ch. 166, 35 Stat. 146).

"(7) Service in any status other than that as commissioned officer, warrant officer, nurse, flight officer, aviation midshipman, appointed aviation cadet, or enlisted member, and that described in clauses (I) and (J) of subsection (a)(1).

"§ 12733. Computation of retired pay: computation of years of service

"For the purpose of computing the retired pay of a person under this chapter, the person's years of service and any fraction of such a year are computed by dividing 360 into the sum of the following:

"(1) The person's days of active service.

"(2) The person's days of full-time service under sections 316, 502, 503, 504, and 505 of title 32 while performing annual training duty or while attending a prescribed course of instruction at a school designated as a service school by law or by the Secretary concerned.

"(3) One day for each point credited to the person under clause (B) or (C) of section 12732(a)(2) of this title, but not more than 60 days in any one year.

"(4) 50 days for each year before July 1, 1949, and proportionately for each fraction of a year, of service (other than active service) in a reserve component of an armed force, in the Army or the Air Force without component, or in any other category covered by section 12732(a)(1) of this title, except a regular component.

"§ 12734. Time not creditable toward years of service

"(a) Service in an inactive status may not be counted in any computation of years of service under this chapter.

"(b) Time spent after retirement (without pay) for failure to conform to standards and qualifications prescribed under section 12641 of this title may not be credited in a computation of years of service under this chapter.

"§ 12735. Inactive status list

"(a) A member who would be eligible for retired pay under this chapter but for the fact that that member is under 60 years of age may be transferred, at his request and by direction of the Secretary concerned, to such inactive status list as may be established for members of his armed force, other than members of a regular component.

"(b) While on an inactive status list under subsection (a), a member is not required to participate in any training or other program prescribed for his component.

"(c) The Secretary may at any time recall to active status a member who is on an inactive status list under subsection (a).

"§ 12736. Service credited for retired pay benefits not excluded for other benefits

"No period of service included wholly or partly in determining a person's right to, or the amount of, retired pay under this chapter may be excluded in determining his eligibility for any annuity, pension, or old-age benefit, under any other law, on account of civilian employment by the United States or otherwise, or in determining the amount payable under that law, if that service is otherwise properly credited under it.

"§ 12737. Limitation on active duty

"A member of the armed forces may not be ordered to active duty solely for the purpose of qualifying the member for retired pay under this chapter.

"§ 12738. Limitations on revocation of retired pay

"(a) After a person is granted retired pay under this chapter, or is notified in accordance with section 12731(d) of this title that the person has completed the years of service required for eligibility for retired pay under this chapter, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed as required by section 12731(a)(2) of this title, unless it resulted directly from the fraud or misrepresentation of the person.

"(b) The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date the person is granted retired pay.

"§ 12739. Computation of retired pay

"(a) The monthly retired pay of a person entitled to that pay under this chapter is the product of—

"(1) the retired pay base for that person as computed under section 1406(b)(2) or 1407 of this title; and

"(2) 2½ percent of the years of service credited to that person under section 12733 of this title.

"(b) The amount computed under subsection (a) may not exceed 75 percent of the retired pay base upon which the computation is based.

"(c) Amounts computed under this section, if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

10 USC 1401. (2) Section 1401(a) is amended by striking out formula number 3 in the table set forth in that section.

10 USC 1405. (3) Section 1405(a)(3) is amended by striking out "section 1333" and "section 1331" and inserting in lieu thereof "section 12733" and "section 12731", respectively.

10 USC 1406. (4) Section 1406(b) is amended—

(A) by striking out the matter preceding the table and inserting in lieu thereof the following:

"(b) RETIREMENT UNDER SUBTITLE A OR E.—

"(1) DISABILITY, WARRANT OFFICER, AND DOPMA RETIREMENT.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.";

(B) in the table—

(i) by striking out the entry relating to section 1331 (including the matter relating to that entry in the column under the heading "The retired pay base is:"); and

(ii) by redesignating the references to footnotes 3 and 4 so as to refer to footnotes 2 and 3, respectively;

(C) by striking out footnote 2 to the table and redesignating footnotes 3 and 4 as footnotes 2 and 3, respectively; and

(D) by adding at the end the following:

"(2) NON-REGULAR SERVICE RETIREMENT.—In the case of a person who is entitled to retired pay under section 12731 of this title, the retired pay base is the monthly basic pay, determined at the rates applicable on the date when retired pay is granted, of the highest grade held satisfactorily by the person at any time in the armed forces. For purposes of the preceding sentence, the highest grade in which a person served satisfactorily as an officer shall be determined in accordance with section 1370(d) of this title.".

10 USC 1407. (5) Section 1407 is amended—

(A) in subsection (c)(2)(B), by striking out "chapter 67" and inserting in lieu thereof "chapter 1223"; and

(B) in subsection (f)(2)—

(i) by striking out "CHAPTER 67" in the heading and inserting in lieu thereof "CHAPTER 1223"; and

(ii) by striking out "section 1331" and inserting in lieu thereof "section 12731".

(6) Section 1409(a)(1)(B) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223". 10 USC 1409.

(7) Part II of subtitle A is amended by inserting after chapter 65 the following:

"CHAPTER 67—RETIRED PAY FOR NONREGULAR SERVICE

"Sec.
"1331 Reference to chapter 1223.

"§ 1331. Reference to chapter 1223

"Provisions of law relating to retired pay for nonregular service are set forth in chapter 1223 of this title (beginning with section 12731).".

Repeal.

(8) Section 6034 is repealed.

(k) RETIRED GRADE.—(1) Part II of subtitle E, as added by subsection (a), is further amended by adding after chapter 1223 (as added by subsection (j)) the following:

"CHAPTER 1225—RETIRED GRADE

"Sec.
"12771. Reserve officers: grade on transfer to Retired Reserve.
"12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve.
"12773. Limitation on accrual of increased pay or benefits.
"12774. Retired lists.

"§ 12771. Reserve officers: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer, other than a commissioned warrant officer, who is transferred to the Retired Reserve is entitled to be placed on the retired list established by section 12774(a) of this title in the highest grade in which he served satisfactorily, as determined by the Secretary concerned and in accordance with section 1370(d), in the armed force in which he is serving on the date of transfer.

"§ 12772. Reserve commissioned officers who have served as Attending Physician to the Congress: grade on transfer to Retired Reserve

"Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 12774(a) of this title in the grade held by the officer while serving in that position.

"§ 12773. Limitation on accrual of increased pay or benefits

"Unless otherwise provided by law, no person is entitled to increased pay or other benefits because of sections 12771 and 12772 of this title.

"§ 12774. Retired lists

Regulations.

"(a) Under regulations prescribed by the Secretary concerned, there shall be maintained retired lists containing the names of the Reserves of the armed forces under the Secretary's jurisdiction who are in the Retired Reserve.

"(b) The Secretary of the Navy shall maintain a United States Naval Reserve Retired List containing the names of members of the Naval Reserve and the Marine Corps Reserve entitled to retired pay.".

Repeal.

(2) Sections 1374 and 6017 are repealed.

(3)(A) Section 1376 is amended—

(i) by striking out subsection (a); and

(ii) by striking out "(b)" before "The Secretary concerned".

(B) The heading of that section is amended to read as follows:

"§ 1376. Temporary disability retired lists".

SEC. 1663. LAWS RELATING TO RESERVE COMPONENT TRAINING AND EDUCATIONAL ASSISTANCE PROGRAMS.

(a) TRAINING GENERALLY.—Subtitle E, as added by section 1611, is amended by adding after part III of such subtitle (as added by that section) the following:

"PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

"Chap.		Sec.
"1601.	Training Generally	[No present sections]
"1606.	Educational Assistance for Members of the Selected Reserve	16131
"1608.	Health Professions Stipend Program	16201
"1609.	Education Loan Repayments	16301

"CHAPTER 1601—TRAINING GENERALLY

"[No present sections]".

(b) MONTGOMERY GI BILL FOR SELECTED RESERVE.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding at the end the following:

"CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

"Sec.
"16131 Educational assistance program: establishment; amount.
"16132. Eligibility for educational assistance.
"16133. Time limitations for use of entitlement.
"16134. Termination of assistance.
"16135. Failure to participate satisfactorily; penalties.
"16136. Administration of program.
"16137. Reports to Congress "

(2) Sections 2131 through 2137 are transferred to chapter 1606, as added by paragraph (1), inserted after the table of sections, and redesignated as follows:

Section	Redesignated section
2131	16131
2132	16132
2133	16133
2134	16134

2135 16135
2136 16136
2137 16137

(3) Section 16131 (as so redesignated) is amended— *Ante*, p. 3006

(A) in subsection (c)(3)(B)(i), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304"; and

(B) in subsection (g)(1), by striking out "section 2136(c)" and inserting in lieu thereof "section 16136(c)".

(4) Section 16132 (as so redesignated) is amended—

(A) in subsection (a), by striking out "section 2131" and inserting in lieu thereof "section 16131"; and

(B) in subsection (c), by striking out "sections 2134 and 2135" and inserting in lieu thereof "section 16134 and 16135".

(5) Section 16133 (as so redesignated) is amended—

(A) in subsection (b)(1)(B), by striking out "section 268(b)" and inserting in lieu thereof "section 10143(a)"; and

(B) in subsection (b)(4)(A), by striking out "section 672 (a), (d), or (g), 673, or 673b" and inserting in lieu thereof "section 12301(a), 12301(d), 12301(g), 12302, or 12304".

(6) Section 16135 (as so redesignated) is amended—

(A) by striking out "section 2132" in subsection (a)(1)(A) and inserting in lieu thereof "section 16132"; and

(B) by striking out "section 2132(a)" in subsection (b)(1)(A) and inserting in lieu thereof "section 16132(a)".

(7) Chapter 106 is amended by striking out the table of sections at the beginning and inserting in lieu thereof the following:

"Sec.
"2131. Reference to chapter 1606.
"2138. Savings provision.

"§ 2131. Reference to chapter 1606

"Provisions of law relating to educational assistance for members of the Selected Reserve under the Montgomery GI Bill program are set forth in chapter 1606 of this title (beginning with section 16131).".

(c) HEALTH PROFESSIONS STIPEND PROGRAM.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1606 (as added by subsection (b)) the following:

"CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

"Sec.
"16201. Financial assistance: health-care professionals in reserve components.
"16202. Reserve service: required active duty for training.
"16203. Penalties and limitations.
"16204. Regulations.

"§ 16204. Regulations

"This chapter shall be administered under regulations prescribed by the Secretary of Defense.".

(2) Section 2128 is transferred to chapter 1608, as added by paragraph (1), inserted after the table of sections, redesignated as section 16201, and amended by striking out subsection (f).

(3) Section 2129 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16201 (as transferred and redesignated by paragraph (2)), and redesignated as section 16202.

(4)(A) Section 2130 is transferred to chapter 1608, as added by paragraph (1), inserted after section 16202 (as transferred and redesignated by paragraph (3)), redesignated as section 16203, and amended by striking out subsection (c).

(B) The heading of that section is amended to read as follows:

"§ 16203. Penalties and limitations".

(5) Section 16201, as so redesignated, is amended by striking out "subchapter" each place it appears and inserting in lieu thereof "chapter".

(6) Section 16202, as so redesignated, is amended by striking out "section 2128" both places it appears and inserting in lieu thereof "section 16201".

(7) Chapter 105 is amended—

(A) in the table of subchapters before subchapter I—

(i) by striking out the item relating to subchapter II; and

(ii) by redesignating the item relating to subchapter III so as to refer to subchapter II;

(B) by striking out the heading for subchapter II and the table of sections following that heading; and

(C) by redesignating subchapter III as subchapter II.

(d) EDUCATION LOAN REPAYMENT PROGRAMS.—(1) Part IV of subtitle E (as added by subsection (a)) is amended by adding after chapter 1608 (as added by subsection (c)) the following:

"CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

"Sec.

"16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties.

"16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages.

"§ 16301. Education loan repayment program: enlisted members of Selected Reserve with critical specialties

"(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.); or

"(B) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed as an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty specified by the Secretary of Defense. The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or $500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

"(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.". Regulations.

(2)(A) Section 2172 is transferred to the end of chapter 1609, as added by paragraph (1), and redesignated as section 16302.

(B) The heading of such section is amended to read as follows:

"§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages".

(e) CONFORMING AMENDMENTS.—Section 2171 is amended as follows: 10 USC 2171.

(1) Subsection (a)(1)(B) is amended by striking out "or" after "(B)".

(2) Subsection (a)(2) is amended—

(A) in the first sentence, by striking out "person for— " and all that follows through "(B) service performed" and inserting in lieu thereof "person for service performed"; and

(B) by striking out the second sentence.

(3) Subsection (b) is amended to read as follows:

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.".

(4) Subsection (e) is amended by striking out "Any individual who transfers from service described in clause (A) or (B) of subsection (a)(2) to service described in the other clause of such subsection" and inserting in lieu thereof "A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 16301 of this title (as described in subsection (a)(2) of that section)".

(5) Subsection (f) is amended—

(A) by inserting "and section 16301 of this title" after "this section"; and

(B) by inserting "and section 16301(a) of this title" after "subsection (a)".

(6) The heading of such section is amended to read as follows:

"§ 2171. Education loan repayment program: enlisted members on active duty in specified military specialties".

SEC. 1664. LAWS RELATING TO RESERVE COMPONENT PROCUREMENT AND EQUIPMENT.

(a) ADDITION OF NEW PART.—(1) Subtitle E, as added by section 1611, is amended by adding after part IV of such subtitle (as added by section 1663) the following:

"PART V—SERVICE, SUPPLY, AND PROCUREMENT

"Chap.		Sec.
"1801.	Issue of Serviceable Material to Reserve Components	[No present sections]
"1803.	Facilities for Reserve Components	18231
"1805.	Miscellaneous Provisions	18501

"CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

"[No present sections]".

(b) FACILITIES FOR RESERVE COMPONENTS.—(1) Chapter 133 is transferred to the end of part V of subtitle E, as added by subsection (a), and redesignated as chapter 1803.

(2) The sections of that chapter are redesignated as follows:

Section	Redesignated section
2231	18231
2232	18232
2233	18233
2233a	18233a
2234	18234
2235	18235
2236	18236
2237	18237
2238	18238
2239	18239

(3) The items in the table of sections at the beginning of such chapter are revised to reflect the redesignations made by paragraph (2).

(4) Section 18233 (as redesignated by paragraph (2)) is amended by striking out "sections 2233a, 2234, 2235, 2236, and 2238" in subsection (a) and inserting in lieu thereof "sections 18233a, 18234, 18235, 18236, and 18238".

(5) Section 18233a (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233" and inserting in lieu thereof "section 18233"; and

(B) in subsection (b), by striking out "section 2233(a)" and inserting in lieu thereof "section 18233(a)".

(6) Section 18234 (as redesignated by paragraph (2)) is amended by striking out "section 2233" and inserting in lieu thereof "section 18233".

(7) Section 18235 (as redesignated by paragraph (2)) is amended by striking out "section 2233(a)(1)" in subsection (a)(1) and inserting in lieu thereof "section 18233".

(8) Section 18236 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a)—

(i) by striking out "section 2233" in the first sentence and inserting in lieu thereof "section 18233"; and

(ii) by striking out "section 2233(a)(3) or (4)" in the second sentence and inserting in lieu thereof "paragraph (3) or (4) of section 18233(a)";

(B) in subsection (b)—

(i) by striking out "clause (4) or (5) of section 2233(a)" in the matter preceding paragraph (1) and inserting in lieu thereof "paragraph (4) or (5) of section 18233(a)"; and

(ii) by striking out "section 2233(e)" in paragraph (2) and inserting in lieu thereof "section 18233(e)"; and

(C) in subsection (c), by striking out "section 2233" and inserting in lieu thereof "section 18233".

(9) Section 18237 (as redesignated by paragraph (2)) is amended—

(A) in subsection (a), by striking out "section 2233(a)(2), (3) and (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)"; and

(B) in subsection (b), by striking out "section 2233(a)(2), (3) or (4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 18233(a)".

(10) Section 18239 (as redesignated by paragraph (2)) is amended by striking out "section 2233" both places it appears and inserting in lieu thereof "section 18233".

(11) Part IV of subtitle A is amended by inserting after chapter 131 the following:

"CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

"Sec.
"2231. Reference to chapter 1803

"§ 2231. Reference to chapter 1803

"Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).".

(c) MISCELLANEOUS PROVISIONS.—(1) Part V of subtitle E, as added by subsection (a), is amended by adding after chapter 1803, as transferred by subsection (b), the following:

"CHAPTER 1805—MISCELLANEOUS PROVISIONS

"Sec.
"18501. Reserve components: personnel and logistic support by military departments.
"18502. Reserve components: supplies, services, and facilities.

"§ 18501. Reserve components: personnel and logistic support by military departments

"The Secretary concerned is responsible for providing the personnel, equipment, facilities, and other general logistic support necessary to enable units and Reserves in the Ready Reserve of the reserve components under his jurisdiction to satisfy the training requirements and mobilization readiness requirements for those units and Reserves as recommended by the Secretary concerned

and by the Chairman of the Joint Chiefs of Staff and approved by the Secretary of Defense, and as recommended by the Commandant of the Coast Guard and approved by the Secretary of Transportation when the Coast Guard is not operated as a service of the Navy.

"§ 18502. Reserve components: supplies, services, and facilities

"(a) The Secretary concerned shall make available to the reserve components under his jurisdiction the supplies, services, and facilities of the armed forces under his jurisdiction that he considers necessary to support and develop those components.

"(b) Whenever he finds it to be in the best interest of the United States, the Secretary concerned may issue supplies of the armed forces under his jurisdiction to the reserve components under his jurisdiction, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(c) Whenever he finds it to be in the best interest of the United States, the Secretary of the Army or the Secretary of the Air Force may issue to the Army National Guard or the Air National Guard, as the case may be, supplies of the armed forces under his jurisdiction that are in addition to supplies issued to that National Guard under section 702 of title 32 or charged against its appropriations under section 106 or 107 of title 32, without charge to the appropriations for those components for the cost or value of the supplies or for any related expense.

"(d) Supplies issued under subsection (b) or (c) may be repossessed or redistributed as prescribed by the Secretary concerned.".

(2) Section 2540 is repealed.

10 USC note prec. 101.

SEC. 1665. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO TRANSFERRED OR REPLACED PROVISIONS.—A reference to a provision of title 10, United States Code, transferred or replaced by the provisions of sections 1661 through 1664 (including a reference in a regulation, order, or other law) shall be treated as referring to that provision as transferred or to the corresponding provision as so enacted by this subtitle.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall continue in effect under the corresponding provision so enacted until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken, or a right that matured, under a provision of title 10, United States Code, replaced by a provision of that title enacted by sections 1661 through 1664 shall be treated as having been taken, or having matured, under the corresponding provision so enacted.

Subtitle D—Technical and Clerical Amendments

SEC. 1671. AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE.

(a) TABLE OF SUBTITLES.—The table of subtitles preceding subtitle A is amended by adding at the end the following new item:

"E. Reserve Components ..... 10001".

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 2 is amended by striking out the item relating to section 115b.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to section 123 and inserting in lieu thereof the following:

"123. Authority to suspend officer personnel laws during war or national emergency.".

(3) The table of sections at the beginning of chapter 31 is amended by striking out the items relating to sections 510, 511, 512, and 517.

(4) The table of sections at the beginning of chapter 32 is amended—

(A) by striking out the item relating to section 524; and

(B) by striking out "524," in the item relating to section 527.

(5) The table of sections at the beginning of subchapter V of chapter 36 is amended by striking out the item relating to section 644.

(6) The table of sections at the beginning of chapter 37 is amended by striking out the item relating to section 652.

(7) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 672 and inserting in lieu thereof the following:

"672. Reference to chapter 1209.";

and

(B) by striking out the items relating to sections 673 through 686 and section 689.

(8) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 715.

(9) The table of sections at the beginning of chapter 53 is amended by striking out the item relating to section 1033.

(10) The table of sections at the beginning of chapter 59 is amended by striking out the items relating to sections 1162 and 1163.

(11) The table of sections at the beginning of chapter 69 is amended—

(A) by striking out the item relating to section 1374; and

(B) by striking out the item relating to section 1376 and inserting in lieu thereof the following:

"1376. Temporary disability retired lists.".

(12) The table of sections at the beginning of chapter 101 is amended by striking out the item relating to section 2001.

(13) The table of sections at the beginning of chapter 109 is amended by striking out the items relating to sections 2171 and 2172 and inserting in lieu thereof the following:

"2171. Education loan repayment program: enlisted members on active duty in specified military specialties."

(14) The table of sections at the beginning of subchapter I of chapter 152 is amended by striking out the item relating to section 2540.

(c) CROSS-REFERENCE AMENDMENTS.—

(1) Section 101(a)(13) is amended by striking out "672(a), 673, 673b, 673c, 688, 3500, or 8500" and inserting in lieu thereof "688, 12301(a), 12302, 12304, 12305, or 12406".

(2) Section 113(c)(3) is amended by striking out "chapters 51, 337, 361, 363, 549, 573, 837, 861, and 863 of this title, as far as they apply to reserve officers" and inserting in lieu thereof "chapters 1219 and 1401 through 1411 of this title".

(3) Section 523(b)(1) is amended—

(A) in subparagraph (B), by striking out "section 265" and all that follows through "of this title" and inserting in lieu thereof "section 10211, 10302 through 10305, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(4) Section 527 is amended by striking out "524," in the text and in the heading.

(5) Section 641(1) is amended—

(A) in subparagraph (B), by striking out "section 175" and all that follows through "of this title" and inserting in lieu thereof "section 3038, 8038, 10211, 10301 through 10305, 10501, or 12402 of this title";

(B) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(C) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(6) Sections 1201, 1202, and 1203 are each amended by striking out "section 270(b)" and inserting in lieu thereof "section 10148(a)".

(7)(A) Section 1076(b)(2)(A) is amended by striking out "under chapter 67 of this title" and inserting in lieu thereof "under chapter 1223 of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(B) Section 1370(a)(1) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(8) Section 1482(f)(2) is amended by striking out "section 1332" and "section 1331" and inserting in lieu thereof "section 12732" and "12731", respectively.

(d) SURVIVOR BENEFIT PLAN.—Subchapter II of chapter 73 is amended as follows:

(1) Section 1447(14) is amended by striking out "chapter 67 of this title" and inserting in lieu thereof "chapter 1223

of this title (or under chapter 67 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) The following provisions are amended by striking out "section 1331(d)" and inserting in lieu thereof "section 12731(d)": sections 1447(2)(C), 1448(a)(2)(B), 1448(f)(1)(A), and 1448(f)(1)(B).

SEC. 1672. AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle B, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 337, 361, and 363.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to section 3076 through 3080 and section 3082.

(2) The table of sections at the beginning of chapter 331 is amended by striking out the items relating to section 3212 and sections 3217 through 3225.

(3) The table of sections at the beginning of chapter 333 is amended by striking out the items relating to sections 3259, 3260, and 3261.

(4) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3495 through 3502.

(5) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3541 and 3542.

(6) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3686.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 3038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 3961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 4342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 1673. AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—

(1) The table of chapters at the beginning of subtitle C is amended by striking out the items relating to chapters 519, 531, 541, and 549.

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 519.

(3) The table of chapters at the beginning of part II of subtitle C is amended by striking out the items relating to chapters 531, 541, and 549.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 533 is amended by striking out the items relating to sections 5456, 5457, and 5458.

(2) The table of sections at the beginning of chapter 539 is amended by striking out the item relating to section 5600.

(3) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6017 and 6034.

(4) The table of sections at the beginning of chapter 573 is amended by striking out the items relating to sections 6391, 6392, 6397, 6403, and 6410.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 6389(a) is amended by striking out "section 1005" and inserting in lieu thereof "section 12645".

(2) Section 6954(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(d) REPEAL OF SECTION REDUNDANT WITH SECTION 741.—

(1) Section 5506 is repealed.

(2) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5506.

SEC. 1674. AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE.

(a) TABLES OF CHAPTERS.—The table of chapters at the beginning of subtitle D, and the table of chapters at the beginning of part II of that subtitle, are each amended by striking out the items relating to chapters 837 and 863.

(b) TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 807 is amended by striking out the items relating to sections 8076 through 8080.

(2) The table of sections at the beginning of chapter 831 is amended by striking out the items relating to section 8212 and sections 8217 through 8225.

(3) The table of sections at the beginning of chapter 833 is amended by striking out the items relating to sections 8259, 8260, and 8261.

(4) The table of sections at the beginning of chapter 841 is amended by striking out the items relating to sections 8495 through 8502.

(5) The table of sections at the beginning of chapter 843 is amended by striking out the items relating to sections 8541 and 8542.

(6) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8686.

(7) The table of sections at the beginning of chapter 861 is amended by striking out the items relating to sections 8819 and 8820.

(c) CROSS REFERENCE AMENDMENTS.—

(1) Section 8038(b) is amended by striking out "section 265" and inserting in lieu thereof "section 10211".

(2) Section 8961(a) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(3) Section 9342(b)(1)(B) is amended by striking out "section 1331 of this title" and inserting in lieu thereof "section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

SEC. 1675. AMENDMENTS TO SUBTITLE E OF TITLE 10, UNITED STATES CODE.

(a) CHAPTER 1203.—Section 12102 (as transferred and redesignated by section 1662(b)(2)) is amended by striking out "section 3261 or 8261" in subsection (a) and inserting in lieu thereof "section 12107".

(b) CHAPTER 1205.—Sections of chapter 1205 (as transferred and redesignated by section 1662(c)(2)) are amended as follows:

(1) Section 12203 is amended by striking out "3352, or 8352" in subsection (a) and inserting in lieu thereof "12213, or 12214".

(2) Sections 12213 and 12214 are amended by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is" in subsection (a).

(c) CHAPTER 1209.—Sections of chapter 1209 (as transferred and redesignated by section 1662(e)(2)) are amended as follows:

(1) Section 12301 is amended—

(A) in subsection (b), by striking out "or Territory" and all that follows through the period at the end and inserting in lieu thereof "(or, in the case of the District of Columbia National Guard, the commanding general of the District of Columbia National Guard)."; and

(B) in subsection (d), by striking out "or Territory, Puerto Rico, or the District of Columbia, whichever is".

(2) Section 12304 is amended—

(A) by striking out "section 673(a)" in subsection (a) and inserting in lieu thereof "section 12302(a)";

(B) by striking out "section 268(b)" in subsection (a) and inserting in lieu thereof "section 10143(a)"; and

(C) by striking out "section 3500 or 8500" in subsection (b) and inserting in lieu thereof "section 12406".

(3) Section 12305 is amended by striking out "section 672, 673, or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12301, 12302, or 12304".

(4) Section 12306 is amended by striking out "section 672" in subsection (a) and inserting in lieu thereof "section 12301".

(5) Section 12307 is amended by striking out "section 672(a) or 688", "section 1001(b)", and "chapter 67" and inserting in lieu thereof "section 688 or 12301(a)", "section 12641(b)", and "chapter 1223", respectively.

(6) Section 12308 is amended by striking out "chapter 67" and "section 1332(b)" and inserting in lieu thereof "chapter 1223" and "section 12732(b)", respectively.

(7) Section 12310 is amended by striking out "section 672(d)" in subsection (a) and inserting in lieu thereof "section 12301(d)".

(8) Section 12312 is amended by striking out "section 679(a)" in subsections (a) and (b) and inserting in lieu thereof "section 12311(a)".

(9) Section 12318 is amended—

(A) by striking out "section 673 or 673b" in subsections (a) and (b) and inserting in lieu thereof "section 12302 or 12304"; and

(B) by striking out "section 678" in subsection (b) and inserting in lieu thereof "section 12310".

(10) Section 12319(d) is amended by striking out "chapter 67" and inserting in lieu thereof "chapter 1223".

(11) Section 12320 is amended by striking out "section 3353, 5600, or 8353" and inserting in lieu thereof "section 12207".

(d) CHAPTER 1219.—Sections of chapter 1219 (as transferred and redesignated by section 1662(h)) are amended as follows:

(1) Section 12642 is amended—

(A) by striking out "section 1332(a)(2)" in subsection (a) and inserting in lieu thereof "section 12732(a)(2)"; and

(B) by striking out "section 1005" in subsection (b) and inserting in lieu thereof "section 12645".

(2) Section 12645 is amended by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsection (a) and inserting in lieu thereof "chapter 573, 1407, 1409, or 1411".

(3) Section 12646 is amended—

(A) by striking out "section 1332" each place it appears in subsections (a) and (b) and inserting in lieu thereof "section 12732";

(B) by striking out "chapter 337, 361, 363, 573, 837, 861, or 863" in subsections (a) and (b) and inserting in lieu thereof "chapter 573, 1407, or 1409"; and

(C) by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) A reserve commissioned officer on active duty (other than for training) or full-time National Guard duty (other than full-time National Guard duty for training only) who, on the date on which the officer would otherwise be removed from an active status under section 6389, 14513, or 14514 of this title or section 740 of title 14, is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title may, in the discretion of the Secretary concerned and subject to paragraph (2), be retained on that duty for a period of not more than two years.

"(2) An officer may be retained on active duty or full-time National Guard duty under paragraph (1) only if—

"(A) at the end of the period for which the officer is retained the officer will be qualified for retirement under section 3911, 6323, or 8911 of this title; and

"(B) the officer will not, before the end of that period, reach the age at which transfer from an active status or discharge is required by this title or title 14.

"(3) An officer who is retained on active duty or full-time National Guard duty under this section may not be removed from an active status while on that duty.".

(4) Section 12647 is amended by striking out "chapters 337, 363, 573, 837, and 863" and inserting in lieu thereof "chapters 573, 1407, and 1409".

SEC. 1676. AMENDMENTS TO TITLES 32 AND 37, UNITED STATES CODE.

(a) TITLE 32, UNITED STATES CODE.—Title 32, United States Code, is amended as follows:

(1) Section 107(c) is amended by striking out "section 3496 or 8496" and inserting in lieu thereof "section 12402".

(2) Section 307(a)(3) is amended by striking out "and sections 8365 and 8366 of title 10".

(3) Section 323(c) is amended by striking out "section 3259, 3352(a), 8259, or 8352(a)" and inserting in lieu thereof "section 12105, 12213(a), or 12214(a)".

(4) The items relating to sections 309 and 310 in the table of sections at the beginning of chapter 3 are amended to read as follows:

"309. Federal recognition of National Guard officers: officers promoted to fill vacancies.

"310. Federal recognition of National Guard officers: automatic recognition.".

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 204(a)(2) is amended by striking out "section 3021, 3496, 3541, 8021, 8496, or 8541" and inserting in lieu thereof "section 10302, 10305, 10502, or 12402".

(2) Section 205(e)(2) is amended—

(A) by striking out "section 511(b) or 511(d)" in subparagraph (A) and inserting in lieu thereof "section 12103(b) or 12103(d)"; and

(B) by striking out "chapter 39" in subparagraph (B) and inserting in lieu thereof "chapter 1209".

(3) Section 905 is amended—

(A) by striking out "chapter 549" in subsection (a) and inserting in lieu thereof "chapter 1405"; and

(B) by striking out "section 5908" in subsection (b) and inserting in lieu thereof "section 14308(b)".

SEC. 1677. AMENDMENTS TO OTHER LAWS.

(a) TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended as follows:

(1) Section 5517(d)(2) is amended by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

(2) Section 6323(b) is amended—

(A) in paragraph (1), by striking out "section 261 of title 10" and inserting in lieu thereof "section 10101 of title 10"; and

(B) in paragraph (2)(A), by striking out "3500, or 8500 of title 10" and inserting in lieu thereof "or 12406 of title 10".

(3) Sections 8332(c)(2)(B) and 8411(c)(2)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(4) Sections 8401(30) and 8456(a)(1)(A) are amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

(b) TITLE 14, UNITED STATES CODE.—Title 14, United States Code, is amended as follows:

(1) Section 41a(a) is amended by striking out "section 679 of title 10" and inserting in lieu thereof "section 12311 of title 10".

(2) Section 271(e) is amended by striking out "section 593 of title 10" and inserting in lieu thereof "section 12203 of title 10".

(3) Section 712(c)(1) is amended by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10".

(4) Section 713 is amended by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(5) Sections 740(c) and 741(b) are amended by striking out "section 1006 of title 10" and inserting in lieu thereof "section 12646 of title 10".

(c) INTERNAL REVENUE CODE OF 1986.—Section 219(g)(6)(A) of the Internal Revenue Code of 1986 is amended by striking out "section 261(a) of title 10" and inserting in lieu thereof "section 10101 of title 10".

26 USC 219.

(d) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended as follows:

(1) Sections 1965(5)(B), 1965(5)(C), and 1968(a)(4)(B) are amended by striking out "chapter 67 of title 10" and inserting in lieu thereof "chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)".

(2) Section 3002 is amended—

(A) in paragraph (4), by striking out "section 268(b) of title 10" and inserting in lieu thereof "section 10143(a) of title 10"; and

(B) in paragraph (6), by striking out "section 511(d) of title 10" and inserting in lieu thereof "section 12103(d) of title 10".

(e) PUBLIC LAW 99-661.—Section 403(b)(1) of Public Law 99-661 (10 U.S.C. 521 note) is amended—

(1) in subparagraph (B), by striking out "section 265" and all that follows through "of title 10" and inserting in lieu thereof "section 10148(a), 10211, 10302 through 10305, 12301(a), or 12402 of title 10";

(2) in subparagraph (C), by striking out "section 672(d)" and inserting in lieu thereof "section 12301(d)"; and

(3) in subparagraph (E), by striking out "section 673b" and inserting in lieu thereof "section 12304".

(f) MILITARY SELECTIVE SERVICE ACT.—Section 6 of the Military Selective Service Act (50 U.S.C. App. 456) is amended—

(1) in subsection (c)(2)(A), by striking out "section 270 of title 10" and inserting in lieu thereof "section 10147 of title 10";

(2) in subsection (c)(2)(D), by striking out "section 511(b) of title 10" and inserting in lieu thereof "section 12103 of title 10"; and

(3) in subsection (d)(1), by striking out "section 270(a) of title 10" and inserting in lieu thereof "section 10147 of title 10".

Subtitle E—Transition Provisions

SEC. 1681. CONTINUATION ON THE RESERVE ACTIVE-STATUS LIST OF CERTAIN RESERVE COLONELS OF THE ARMY AND AIR FORCE.

10 USC 14501 note.

(a) CONTINUATION UNDER OLD LAW.—Except as provided in subsection (b), a reserve officer of the Army or the Air Force who, on the effective date of this title—

(1) is subject to placement on the reserve active-status list of the Army or the Air Force; and

(2)(A) holds the reserve grade of colonel, (B) is on a list of officers recommended for promotion to the reserve grade of colonel, or (C) has been nominated by the President for appointment in the reserve grade of colonel,

shall continue to be subject to mandatory transfer to the Retired Reserve or discharge from the officer's reserve appointment under section 3851 or 8851 of title 10, United States Code, as in effect on the day before the effective date of this title.

(b) EXEMPTION.—This section does not apply to an officer who is—

(1) sooner transferred from an active status or discharged under some other provision of law;

(2) promoted to a higher grade, unless the officer was on a list of officers recommended for promotion to the reserve grade of colonel before the effective date of this title; or

(3) continued on the reserve active-status list under section 14701 of title 10, United States Code, as added by this title.

SEC. 1682. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR ARMY AND AIR FORCE OFFICERS.

10 USC 14001 note.

(a) PROMOTIONS TO FILL VACANCIES.—A reserve commissioned officer of the Army or Air Force (other than a commissioned warrant officer) who, on the day before the effective date of this title, is recommended for promotion to fill a vacancy in the Army Reserve or the Air Force Reserve under section 3383, 3384, 8372, or 8373 of title 10, United States Code, as in effect on the day before the effective date of this title, in the next higher reserve grade shall be considered to have been recommended for promotion to that grade by a vacancy promotion board under section 14101(a)(2) of title 10, United States Code, as added by this title.

(b) PROMOTIONS OTHER THAN TO FILL VACANCIES.—A reserve officer of the Army or Air Force who, on the day before the effective date of this title, is recommended for promotion under section 3366, 3367, 3370, 3371, 8366, or 8371 of title 10, United States Code, as in effect on the day before the effective date of this title, to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion by a mandatory promotion board convened under section 14101(a)(1) of title 10, United States Code, as added by this title.

(c) OFFICERS FOUND QUALIFIED FOR PROMOTION TO FIRST LIEUTENANT.—A reserve officer of the Army or Air Force who, on the effective date of this title, holds the grade of second lieutenant and has been found qualified for promotion to the grade of first lieutenant in accordance with section 3365, 3382, or 8365 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted to that grade

on the date on which the officer would have been promoted under the provisions of chapter 337 or 837 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force under section 14308(b) of title 10, United States Code, as added by this title.

(d) OFFICERS ONCE FAILED OF SELECTION.—(1) A reserve officer of the Army in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, has been considered once but not recommended for promotion to the next higher reserve grade under section 3366 or 3367 of title 10, United States Code, or a reserve officer of the Air Force in the grade of first lieutenant, captain, or major who, on the day before the effective date of this title, is a deferred officer within the meaning of section 8368 of such title, shall be considered to have been considered once but not selected for promotion by a board convened under section 14101(a)(1) of title 10, United States Code, as added by this title. If the officer is later considered for promotion by a selection board convened under that section and is not selected for promotion (or is selected for promotion but declines to accept the promotion), the officer shall be considered for all purposes to have twice failed of selection for promotion.

(2) In the case of a reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and whose name has been removed, under the provisions of section 3363(f) of title 10, United States Code, from a list of officers recommended for promotion or who has previously not been promoted because the President declined to appoint the officer in the next higher grade under section 8377 of such title as in effect on the day before the effective date of this title, or whose name was removed from a list of officers recommended for promotion to the next higher grade because the Senate did not consent to the officer's appointment, if the officer is later considered for promotion by a selection board convened by section 14101(a)(1) of title 10, United States Code, as added by this title, and (A) is not selected for promotion, (B) is selected for promotion but removed from the list of officers recommended or approved for promotion, or (C) is selected for promotion but declines to accept the promotion, the officer shall be considered for all purposes to have twice failed of selection for promotion.

(e) OFFICERS TWICE FAILED OF SELECTION.—A reserve officer of the Army or Air Force in an active status who, on the day before the effective date of this title, is in the grade of first lieutenant, captain, or major and on that date is subject to be treated as prescribed in section 3846 or 8846 of title 10, United States Code, shall continue to be governed by that section as in effect on the day before the effective date of this title.

(f) OFFICERS WITH APPROVED PROMOTION DECLINATIONS IN EFFECT.—A reserve officer of the Army who, on the day before the effective date of this title, has declined a promotion under subsection (f) or (g) of section 3364 of title 10, United States Code, shall while carried on the reserve active status list be subject to the provisions of subsections (h), (i), and (j) of such section, as in effect on the day before the effective date of this title, except that the name of an officer to whom this section applies shall be placed on a promotion list under section 14308(a) of title 10,

United States Code (as added by this title), and, at the end of the approved period of declination, shall be considered to have failed of promotion if the officer again declines to accept the promotion.

(g) COVERED OFFICERS.—This section applies to reserve officers of the Army and Air Force who—

(1) on the day before the effective date of this title are in an active status; and

(2) on the effective date of this title are subject to placement on the reserve active-status list of the Army or the Air Force.

SEC. 1683. EFFECTS OF SELECTION FOR PROMOTION AND FAILURE OF SELECTION FOR NAVY AND MARINE CORPS OFFICERS.

10 USC 14001 note.

(a) RECOMMENDATIONS FOR PROMOTION.—An officer covered by this section who, on the day before the effective date of this title, has been recommended for promotion to a reserve grade higher than the grade in which the officer is serving shall be considered to have been recommended for promotion to that grade under section 14101(a) of title 10, United States Code, as added by this title.

(b) FAILURES OF SELECTION.—An officer covered by this section who, on the day before the effective date of this title is considered to have failed of selection for promotion one or more times under chapter 549 of title 10, United States Code, to a grade below captain, in the case of a reserve officer of the Navy, or to a grade below colonel, in the case of a reserve officer of the Marine Corps, shall be subject to chapters 1405 and 1407 of title 10, United States Code, as added by this title, as if such failure or failures had occurred under the provisions of those chapters.

(c) OFFICERS OTHER THAN COVERED OFFICERS RECOMMENDED FOR PROMOTION.—A reserve officer of the Navy or Marine Corps who on the day before the effective date of this title (1) has been recommended for promotion in the approved report of a selection board convened under chapter 549 of title 10, United States Code, and (2) was on the active-duty list of the Navy or Marine Corps may be promoted under that chapter, as in effect on the day before the effective date of this title.

(d) OFFICERS FOUND QUALIFIED FOR PROMOTION TO LIEUTENANT (JUNIOR GRADE) OR FIRST LIEUTENANT.—A covered officer who, on the effective date of this title, holds the grade of second lieutenant and has been found qualified for promotion in accordance with section 5908 or 5910 of title 10, United States Code, as in effect on the day before the effective date of this title, shall be promoted on the date on which the officer would have been promoted under the provisions of chapter 549 of such title, as in effect on the day before the effective date of this title, unless sooner promoted under regulations prescribed by the Secretary of the Navy under section 14307(b) of such title, as added by this title.

(e) OFFICERS WHOSE NAMES HAVE BEEN OMITTED FROM A LIST FURNISHED TO A SELECTION BOARD.—A covered officer whose name, as of the effective date of this title, had been omitted by administrative error from the list of officers furnished the most recent selection board to consider officers of the same grade and component, shall be considered by a special selection board established under section 14502 of title 10, United States Code, as added by this title. If the officer is selected for promotion by that board, the officer shall be promoted as specified in section 5904

of title 10, United States Code, as in effect on the day before the effective date of this title.

(f) COVERED OFFICERS.—Except as provided in subsection (c), this section applies to any reserve officer of the Navy or Marine Corps who (1) before the effective date of this title is in an active status, and (2) on the effective date of this title is subject to placement on the reserve active-status list of the Navy or Marine Corps.

SEC. 1684. DELAYS IN PROMOTIONS AND REMOVALS FROM PROMOTION LIST.

10 USC 14311 note.

(a) DELAYS IN PROMOTIONS.—(1) A delay in a promotion that is in effect on the day before the effective date of this title under the laws and regulations in effect on that date shall continue in effect on and after that date as if the promotion had been delayed under section 14311 of title 10, United States Code, as added by this title.

(2) The delay of the promotion of a reserve officer of the Army or the Air Force which was in effect solely to achieve compliance with limitations set out in section 524 of title 10, United States Code, or with regulations prescribed by the Secretary of Defense with respect to sections 3380(c) and 8380(c) of title 10, United States Code, as in effect on the day before the effective date of this title, shall continue in effect as if the promotion had been delayed under section 14311(e) of such title, as added by this title.

10 USC 14310 note.

(b) REMOVALS FROM LIST.—An action that was initiated before the effective date of this title under the laws and regulations in effect before that date to remove the name of an officer from a promotion list or from a list of officers recommended or approved for promotion shall continue on and after such date as if such action had been initiated under section 14110(d) or 14310, as appropriate, of title 10, United States Code, as added by this title.

10 USC 14304 note.

SEC. 1685. MINIMUM SERVICE QUALIFICATIONS FOR PROMOTION.

During the five-year period beginning on the effective date of this title, the Secretary of the Army and the Secretary of the Air Force may waive the provisions of section 14304 of title 10, United States Code, as added by this title. The Secretary may, in addition, during any period in which such a waiver is in effect, establish minimum periods of total years of commissioned service an officer must have served to be eligible for consideration for promotion to the grade of captain, major, or lieutenant colonel by boards convened under section 14101(a) of title 10, United States Code, as added by this title.

10 USC 14002 note.

SEC. 1686. ESTABLISHMENT OF RESERVE ACTIVE-STATUS LIST.

(a) SIX-MONTH DEADLINE.—Not later than six months after the effective date of this title, the Secretary of the military department concerned shall ensure that—

(1) all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the reserve active-status list of their Armed Force under section 14002 of title 10, United States Code, as added by this title, shall be placed on the list for their armed force and in their competitive category; and

(2) the relative seniority of those officers on each such list shall be established.

(b) REGULATIONS.—The Secretary concerned shall prescribe regulations for the establishment of relative seniority. The Secretary of the Army and the Secretary of the Air Force shall, in prescribing such regulations, provide for the consideration of both promotion service established under section 3360(b) or 8360(e) of title 10, United States Code, as in effect on the day before the effective date of this title, and total commissioned service established under section 3360(c) or 8366(e) of such title, as in effect on the day before the effective date of this title. An officer placed on a reserve active-status list in accordance with this section shall be considered to have been on the list as of the effective date of this title.

SEC. 1687. PRESERVATION OF RELATIVE SENIORITY UNDER THE INITIAL ESTABLISHMENT OF THE RESERVE ACTIVE-STATUS LIST.

10 USC 14002 note.

In order to maintain the relative seniority among reserve officers of the Army, Navy, Air Force, or Marine Corps as determined under section 1386, the Secretary of the military department concerned may, during the one-year period beginning on the effective date of this title, adjust the date of rank of any reserve officer of such Armed Force who was in an active status but not on the active-duty list on such effective date.

SEC. 1688. GRADE ON TRANSFER TO THE RETIRED RESERVE.

10 USC 1406 note.

In determining the highest grade held satisfactorily by a person at any time in the Armed Forces for the purposes of paragraph (2) of section 1406(b) of title 10, United States Code, as added by this title, the requirement for satisfactory service on the reserve active-status list contained in section 1370(d) of title 10, United States Code, as added by this title, shall apply only to reserve commissioned officers who are promoted to a higher grade as a result of selection for promotion under chapter 36 of that title or under chapter 1405 of that title, as added by this title, or having been found qualified for Federal recognition in a higher grade under chapter 3 of title 32, United States Code, after the effective date of this title.

SEC. 1689. RIGHTS FOR OFFICERS WITH OVER THREE YEARS SERVICE.

10 USC 14503 note.

A reserve officer of the Army, Navy, Air Force, or Marine Corps who was in an active status on the day before the effective date of this title and who was subject to placement of the reserve active-status list on the effective date of this title may not be discharged under section 14503 of title 10, United States Code, as added by this title, until on or after the day on which that officer completes three years of continuous service as a reserve commissioned officer.

SEC. 1690. MANDATORY SEPARATION FOR AGE FOR CERTAIN RESERVE OFFICERS OF THE NAVY AND MARINE CORPS.

(a) SAVINGS PROVISIONS FOR REQUIRED SEPARATION AGE.—A reserve officer of the Navy or the Marine Corps—

(1) who—

(A) on the effective date of this title is in an active status, and

(B) on the day before the effective date of this title was an officer described in section 6389(e), 6397(a), 6403(a), or 6403(b) of title 10, United States Code; and

(2) who, on or after the effective date of this title is subject to elimination from an active status under any provision of such title,

is entitled to be treated as that officer would have been treated under section 6397 or 6403 as applicable, as in effect on the day before the effective date of this title, if that treatment would result in the date for the officer's separation from an active status being a later date than the date established under the law in effect on or after the effective date of this title.

(b) SAVINGS PROVISIONS FOR MANDATORY SEPARATION FOR AGE.—An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before January 1, 1953, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 62 years of age, but can complete this service by the time he becomes 64 years of age, may be retained in an active status not later than the date he becomes 64 years of age.

(c) An officer who was initially appointed in the Naval Reserve or the Marine Corps Reserve before the effective date of this title, and who cannot complete 20 years of service computed under section 12732 of this title before he becomes 60 years of age, but can complete this service by the time he becomes 62 years of age, may be retained in an active status not later than the date he becomes 62 years of age.

Subtitle F—Effective Dates and General Savings Provisions

10 USC 10001 note.

SEC. 1691. EFFECTIVE DATES.

(a) EFFECTIVE DATE FOR AMENDMENTS.—Except as provided in subsection (b), the amendment made by section 1611 and the amendments made by subtitles C and D shall take effect on December 1, 1994.

(b) EFFECTIVE DATE FOR NEW RESERVE OFFICER PERSONNEL POLICIES.—(1) The provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall become effective on October 1, 1996. The amendments made by part II of subtitle A, by subtitle B, and by section 1671(c)(2) and paragraphs (2), (3)(B), (3)(C), and (4) of section 1675(d) shall take effect on October 1, 1996.

(2) Any reference in subtitle E of this title to the effective date of this title is a reference to the effective date prescribed in paragraph (1).

(3) The personnel policies applicable to Reserve officers under the provisions of law in effect on the day before the date prescribed in subsection (a) and replaced by the Reserve officer personnel policies prescribed in part III of subtitle E of title 10, United States Code, as added by section 1611, shall, notwithstanding the provisions of subsection (a), continue in effect until the effective date prescribed in paragraph (1).

(4) The authority to prescribe regulations under the provisions of part III of subtitle E of title 10, United States Code, as added by section 1611, shall take effect on the date of the enactment of this Act.

ized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)); and

(2) $14,000,000 (the balance of the amount authorized under section 2101(a) for the construction and renovation of a food processing facility at the United States Military Academy, West Point, New York).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2105. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECT AT FORT BRAGG, NORTH CAROLINA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

Using amounts previously appropriated for such purpose, the Secretary of the Army may carry out a military construction project for the construction of a library at Fort Bragg, North Carolina, in the total amount of $5,500,000.

SEC. 2106. RELOCATION OF ARMY FAMILY HOUSING UNITS FROM FORT HUNTER LIGGETT, CALIFORNIA, TO FORT STEWART, GEORGIA.

Section 2102(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1511) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) Fort Hunter Liggett, California, one hundred fifty-four units, $12,300,000."; and

(2) by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) Fort Stewart, Georgia, one hundred twenty-one units, $9,890,000.".

SEC. 2107. HIGHWAY SAFETY AT HAWTHORNE ARMY AMMUNITION PLANT, NEVADA.

(a) STUDY.—The Secretary of the Army shall carry out a study of traffic safety on the highway at the Hawthorne Army Ammunition Plant, Nevada. In carrying out the study, the Secretary shall—

(1) evaluate traffic safety on the highway, including traffic safety with respect to the rail and truck crossing of the highway at the Plant;

(2) evaluate the feasibility and desirability of constructing a vehicle bridge over the rail and truck crossing; and

(3) determine whether any construction required to improve traffic safety on the highway should be funded as a military construction project or as a defense access road construction project.

(b) ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.—If the Secretary determines as a result of the study under subsection (a) that construction of a vehicle

bridge over the rail and truck crossing of the highway at the Plant is feasible and desirable, the Secretary may—

(1) obtain architectural and engineering activities and carry out construction design with respect to the construction of the bridge; or

(2) request that the Secretary of Transportation carry out the construction of the bridge as a project for the construction of a defense access road under section 210 of title 23, United States Code.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), and, in the case of the project described in section 2204(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for that project, the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
California	Camp Pendleton Amphibious Task Force	$10,700,000
	Camp Pendleton Marine Corp Base	$6,860,000
	China Lake Naval Air Warfare Center	$6,000,000
	El Centro Naval Air Facility	$3,000,000
	Lemoore Naval Air Station	$7,000,000
	North Island Naval Air Station	$18,830,000
	Port Hueneme Construction Battalion Center	$9,650,000
	San Diego Marine Corps Recruit Depot	$1,090,000
	San Diego Naval Station	$4,100,000
	Twentynine Palms, Marine Corps Air-Ground Combat Center	$2,900,000
Florida	Jacksonville Fleet and Industrial Supply Center	$2,200,000
	Pensacola Naval Air Station	$2,100,000
Hawaii	Kaneohe Bay Marine Corps Air Station	$4,900,000
Illinois	Great Lakes Navy Public Works Center	$13,000,000
Indiana	Crane Naval Surface Warfare Center	$7,970,000
Maryland	Indian Head Naval Surface Warfare Center	$10,400,000
	Patuxent River Naval Air Warfare Center	$4,200,000
	United States Naval Academy	$1,900,000
New Jersey	Lakehurst Naval Air Warfare Center	$2,950,000
New Mexico	White Sands Naval Ordnance Missile Test Station	$1,390,000
North Carolina	Camp Lejeune Marine Corp Base	$14,850,000

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $43,380,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $267,465,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $937,599,000, of which not more than $114,336,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)); and

(2) $18,000,000 (the balance of the amount authorized under section 2201(a) for the construction of a Strategic Maritime Research Center at the Naval War College, Newport, Rhode Island).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2205. RESTORATION OF AUTHORITY TO CARRY OUT MILITARY CONSTRUCTION PROJECT AT NAVAL SUPPLY CENTER, PENSACOLA, FLORIDA.

(a) REAUTHORIZATION.—Notwithstanding section 2205(b)(1)(D)(ii) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1865), the Secretary of the Navy may carry out the military construction project at the Naval Supply Center, Pensacola, Florida, which involves construction of a cold storage facility at the installation and was originally authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1514).

(b) CONFORMING AMENDMENT.—Section 2205(a) of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1518), as amended by section 2205(b)(2) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1865), is further amended—

(A) in the matter preceding the paragraphs, by striking out "$1,759,990,000" and inserting in lieu thereof "$1,765,690,000"; and

(B) in paragraph (1), by striking out "$667,700,000" and inserting in lieu thereof "$673,400,000".

SEC. 2206. DESIGN ACTIVITIES FOR UPGRADE OF MAYPORT NAVAL STATION, FLORIDA.

(a) COMMENCEMENT OF DESIGN ACTIVITIES.—At the conclusion of the facilities study prepared by the Secretary of the Navy to identify infrastructure improvements that would be necessary to provide Mayport Naval Station, Florida, with the capability to serve as a homeport for a nuclear powered aircraft carrier and the programmatic environmental impact study to identify environmental issues associated with such improvements, the Secretary shall begin design activities for such military construction projects as may be necessary to provide for such a capability.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed as an authorization to the Secretary to proceed with the construction of facilities specifically designed to make Mayport Naval Station capable of serving as a homeport for a nuclear powered aircraft carrier.

SEC. 2207. RELOCATION OF PASCAGOULA COAST GUARD STATION, MISSISSIPPI.

(a) AGREEMENT ON RELOCATION.—Subject to subsection (c), the Secretary of the Navy and the Secretary of Transportation may enter into an agreement that provides for the relocation of the activities and functions of Pascagoula Coast Guard Station to Pascagoula Naval Station, Pascagoula, Mississippi.

(b) PROHIBITION ON RELOCATION OR CONSTRUCTION COSTS.—The Navy may not incur any construction costs relating to the relocation. The Coast Guard may not incur any construction costs or relocation costs relating to the relocation.

(c) CONDITION ON RELOCATION.—The activities and functions of Pascagoula Coast Guard Station may not be relocated to Pascagoula Naval Station if either—

(1) the Secretary of the Navy determines that the relocation of the Coast Guard facility would interfere with the performance of the mission of the Navy at Pascagoula Naval Station; or

(2) the Secretary of Transportation determines that the relocation of the Coast Guard facility would be incompatible with Coast Guard operations in the Pascagoula area.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$9,600,000
Alaska	Cape Lisburne Long Range Radar Site	$2,800,000

September 30, 1994, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,601,602,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $438,154,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $38,273,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $49,386,000.

(5) For the construction of the climatic test chamber at Eglin Air Force Base, Florida, authorized by section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2594), $20,000,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $247,444,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $824,845,000, of which not more than $112,757,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) (as reduced by operation of subsection (c)).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $23,500,000, which represents the combination of project savings resulting from favorable bids, reduced overhead costs, cancellations due to force structure changes, and cancellations due to 1995 base closure and realignment decisions.

SEC. 2305. AUTHORIZATION OF MILITARY CONSTRUCTION PROJECTS AT TYNDALL AIR FORCE BASE, FLORIDA, FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) AUTHORIZATION.—The table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1867) is amended in the item relating to Tyndall Air Force Base, Florida, by striking out "$2,600,000" in the amount column and inserting in lieu thereof "$8,200,000".

(b) CONFORMING AMENDMENT.—Section 2304(a) of such Act (107 Stat. 1870) is amended—

(1) in the matter preceding the paragraphs, by striking out "$2,040,031,000" and inserting in lieu thereof "$2,045,631,000"; and

(2) in paragraph (1), by striking out "$877,539,000" and inserting in lieu thereof "$883,139,000".

functions of the Department of Defense (other than the military departments), in the total amount of $3,213,608,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $119,250,000.

(2) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1640), $120,000,000.

(3) For military construction projects at Elmendorf Air Force Base, Alaska, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $66,000,000.

(4) For military construction projects at Fort Bragg, North Carolina, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599), $75,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $22,348,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $3,511,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $51,960,000.

(8) For energy conservation projects authorized by section 2404, $50,000,000.

(9) For base closure and realignment activities as authorized by title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), $87,600,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $2,588,558,000.

(11) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvements of military family housing and facilities, $350,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $29,031,000, of which not more than $24,051,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under subsection (a)(1).

SEC. 2406. COMMUNITY IMPACT ASSISTANCE WITH REGARD TO NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(10), the Secretary of the Navy

shall transfer $3,000,000 to the South Carolina Department of Highways and Public Transportation to be used for improvements to North Rhett Avenue, which provides access to the Naval Weapons Station, Charleston, South Carolina, to help alleviate the adverse effects of the closure of the Charleston Naval Station and Charleston Naval Shipyard, South Carolina, on the surrounding communities.

SEC. 2407. PLANNING AND DESIGN FOR CONSTRUCTION IN SUPPORT OF CONSOLIDATION OF OPERATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

Of the amount authorized to be appropriated by section 2405(a)(7), $6,000,000 shall be available for planning and design activities relating to military construction in support of the consolidation of operations of the Defense Finance and Accounting Service.

SEC. 2408. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1993 PROJECT.

(a) MODIFICATION OF AUTHORITY.—(1) The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2599) is amended in the item relating to Fitzsimons Army Medical Center, Colorado, by striking out "$390,000,000" in the amount column and inserting in lieu thereof "$225,000,000".

(2) Section 2403(c)(6) of such Act (106 Stat. 2600) is amended by striking out "$388,000,000" and inserting in lieu thereof "$223,000,000".

(b) CERTIFICATION.—(1) If the budget for fiscal year 1996 that is submitted to Congress under section 1105 of title 31, United States Code, includes a request for funds for the construction of a replacement facility at Fitzsimons Army Medical Center, Colorado, then not later than March 15, 1995, the Secretary of Defense shall submit to the congressional defense committees a certification that the replacement facility is needed to meet military health care requirements.

(2) In making the certification, the Secretary of Defense shall address the issues raised in the Audit Report of the Inspector General of the Department of Defense dated March 21, 1994, and entitled "Medical Treatment Facility Requirements–Fitzsimons Army Medical Center", including—

(A) the cost-effectiveness of building a replacement facility;

(B) the Department of Defense policy on construction of new military medical treatment facilities in areas in which the majority of the patient population is military retirees and their dependents;

(C) the percentage of the patient population in the catchment area of Fitzsimons Army Medical Center and in the Region 8 area that consists of—

(i) active duty personnel;

(ii) dependents of active duty personnel;

(iii) military retirees; and

(iv) dependents of military retirees;

(D) the availability to and cost for the patient population in the catchment area of medical care provided by civilian medical facilities located in that area;

(E) the occupancy rates of civilian medical facilities in the catchment area;

(F) the nature and extent of advanced medical procedures provided by civilian medical facilities in the catchment area;

(G) the ability of and cost to other Department of Defense medical facilities and civilian medical facilities located in the Region 8 area of providing medical care to patients in that area that are currently served by Fitzsimons Army Medical Center;

(H) the projected occupancy rates at Fitzsimons Army Medical Center with and without patients from outside the catchment area and the Region 8 area; and

(I) the cost-effectiveness and contribution of the Graduate Medical Education program at Fitzsimons Army Medical Center to meeting the training requirements of the Army for military medical personnel.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program, as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1994, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $119,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1994, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $188,062,000; and

(B) for the Army Reserve, $57,370,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $22,748,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $249,053,000; and

(B) for the Air Force Reserve, $57,066,000.

SEC. 2602. PROHIBITION ON USE OF FUNDS FOR UNAUTHORIZED GUARD AND RESERVE PROJECTS.

(a) PROHIBITION OF UNAUTHORIZED PROJECTS.—Except as provided in subsection (b), funds appropriated pursuant to the authorization of appropriations in section 2601 may only be used for the purpose of paying for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces (and for contributions for such purposes) under chapter 133 of title 10, United States Code, in the case of projects for the Guard and Reserve Forces specified in the joint explanatory statement of the committee of conference to accompany the bill S. 2182 of the One Hundred and Third Congress.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to funds authorized to be appropriated in section 2601 for unspecified planning and design and for unspecified minor construction. Such subsection shall also not apply in the case of a project for the Guard and Reserve Forces—

(1) specifically authorized by a law enacted after the date of the enactment of this Act;

(2) designated as emergency construction, in the same manner as provided for military construction projects under section 2803 of title 10, United States Code;

(3) designated as contingency construction, in the same manner as provided for military construction projects under section 2804 of such title;

(4) designated as a construction project required to carry out an environmental response action, in the same manner as provided for military construction projects under section 2810 of such title;

(5) designated as a construction project required to repair, restore, or replace a damaged or destroyed facility, in the same manner as provided for military construction projects under section 2854 of such title; or

(6) specified in the joint explanatory statement of the committee of conference to accompany any Act, enacted before the date of enactment of this Act, authorizing funds for military construction projects if the authorization for the project has not expired by the time the expenditure is to be made.

SEC. 2603. AUTHORIZATION OF PROJECTS FOR WHICH FUNDS HAVE BEEN APPROPRIATED.

(a) FISCAL YEAR 1994 GUARD AND RESERVE PROJECTS.—Section 2601 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1878) is amended—

(1) in paragraph (1), by striking out "$283,483,000" and inserting in lieu thereof "$299,223,000"; and

(2) in paragraph (2), by striking out "$25,013,000" and inserting in lieu thereof "$33,713,000".

(b) FISCAL YEAR 1993 AIR NATIONAL GUARD PROJECT.—Section 2601(3)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) is amended by striking out "$305,759,000" and inserting in lieu thereof "$306,959,000".

(c) FISCAL YEAR 1992 ARMY NATIONAL GUARD PROJECT.—Section 2601(1)(A) of the Military Construction Authorization Act for

Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1534) is amended by striking out "$210,745,000" and inserting in lieu thereof "$211,759,000".

SEC. 2604. STATE NATIONAL GUARD HEADQUARTERS, FORT DIX, NEW JERSEY.

Funds appropriated pursuant to the authorization of appropriations in section 2601(1)(A) of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2602) for the renovation of facilities at Fort Dix, New Jersey, for the purpose of accommodating a consolidated New Jersey National Guard headquarters may also be used for additions and alterations to such facilities for the same purpose.

SEC. 2605. COLORADO STATE AREA COMMAND ARMORY, ENGLEWOOD, COLORADO.

(a) CONTRIBUTION AUTHORIZED.—Using amounts appropriated for this purpose pursuant to the authorization of appropriations in section 2601(1)(A), the Secretary of Defense may make a contribution to the State of Colorado under paragraph (4) or (5) of section 2233(a) of title 10, United States Code, in connection with the relocation of the Colorado State Area Command Armory to Englewood, Colorado, and the improvement of such relocated armory.

(b) COMPUTATION OF AMOUNT OF CONTRIBUTION.—Notwithstanding section 2236(b) of title 10, United States Code, in computing the cost of construction under such section for purposes of making the contribution authorized under subsection (a), the Secretary of Defense may consider the cost or market value of the buildings and other improvements contributed by the State of Colorado in connection with the relocation of the Colorado State Area Command Armory. The amount of the Federal contribution for such armory under paragraph (4) or (5) of section 2233(a) of such title, as authorized by subsection (a), may not exceed $2,725,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1997; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1998.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1997; or

"(3) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.".

SEC. 2803. LIMITED PARTNERSHIPS FOR NAVY HOUSING.

(a) AUTHORITY FOR HOUSING PARTNERSHIPS.—Subchapter II of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2837. Limited partnerships with private developers of housing

"(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the naval service, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of the Navy may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not less than five percent, but not more than 35 percent, of the development costs under a limited partnership.

"(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

"(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

"(1) a suitable preference will be afforded members of the naval service in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

"(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

"(c) SELECTION OF INVESTMENT OPPORTUNITIES.—(1) The Secretary shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

"(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary. The Secretary may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees.

"(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the 'Navy Housing Investment Account'.

"(2) There shall be deposited into the Account—

"(A) such funds as may be authorized for and appropriated to the Account; and

"(B) any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a).

"(3) In such amounts as is provided in advance in appropriation Acts, the Account shall be available for contracts, investments, and expenses necessary for the implementation of this section.

"(4) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless the Account contains sufficient funds, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

Establishment.

"(e) NAVY HOUSING INVESTMENT BOARD.—(1) The Secretary of the Navy shall establish a board to be known as the 'Navy Housing Investment Board', which shall have the duties—

"(A) of advising the Secretary regarding those proposed limited partnerships under subsection (a), if any, that are financially and otherwise sound investments for meeting the objectives of this section;

"(B) of administering the Account established under subsection (d); and

"(C) of assisting the Secretary in such other ways as the Secretary determines to be necessary and appropriate to carry out this section.

"(2) The Navy Housing Investment Board shall be composed of seven members appointed for a two-year term by the Secretary. Among such members, the Secretary may appoint two persons from the private sector who have knowledge and experience in the financing and the construction of housing. The Secretary shall designate one of the members as chairperson of the Board.

"(3) Members of the Navy Housing Investment Board, other than those members regularly employed by the Federal Government, may be paid while attending meetings of the Board or otherwise serving at the request of the Secretary, compensation at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Board. Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5.

"(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Navy Housing Investment Board.

"(f) REPORT.—Not later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this section, the Secretary shall transmit to Congress a report specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year.

"(g) TRANSFER OF NAVY LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary.

"(h) EXPIRATION AND TERMINATION OF AUTHORITIES.—(1) The authority of the Secretary to enter into a limited partnership under this section shall expire on September 30, 1999.

"(2) The Navy Housing Investment Board shall terminate on November 30, 1999.". Termination date.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2837. Limited partnerships with private developers of housing.".

SEC. 2804. REIMBURSEMENT FOR SERVICES PROVIDED BY THE DEPARTMENT OF DEFENSE INCIDENT TO CONSTRUCTION, MAINTENANCE, OR REPAIR PROJECTS TO REAL PROPERTY.

(a) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—Section 2205 of title 10, United States Code, is amended—

(1) by inserting "(a) AVAILABILITY OF REIMBURSEMENTS.—" before the first sentence; and

(2) by adding at the end the following new subsection:

"(b) FIXED RATE FOR REIMBURSEMENT FOR CERTAIN SERVICES.—The Secretary of Defense and the Secretaries of the military departments may charge a fixed rate for reimbursement of the costs of providing planning, supervision, administrative, or overhead services incident to any construction, maintenance, or repair project to real property or for providing facility services, irrespective of the appropriation financing the project or facility services.".

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2205. Reimbursements".

(2) The item relating to such section in the table of sections at the beginning of chapter 131 of title 10, United States Code, is amended to read as follows:

"2205. Reimbursements.".

SEC. 2805. AUTHORITY TO PAY CLOSING COSTS UNDER HOMEOWNERS ASSISTANCE PROGRAM.

Section 1013(c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(c)) is amended by inserting after the first sentence the following new sentence: "The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2811. PROHIBITION AGAINST CONSIDERATION IN BASE CLOSURE PROCESS OF ADVANCE CONVERSION PLANNING UNDERTAKEN BY POTENTIAL AFFECTED COMMUNITIES.

(a) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c)(3) of section 2903 of the Defense Base Closure and Realignment

Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by inserting "(A)" before "In considering"; and

(2) by adding at the end the following new subparagraphs:

"(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

"(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning—

"(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

"(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.".

(b) COMMISSION RECOMMENDATIONS.—Subsection (d)(2) of such section is amended by adding at the end the following new subparagraph:

"(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.".

SEC. 2812. CONSULTATION REGARDING PERSONAL PROPERTY LOCATED AT MILITARY INSTALLATIONS TO BE CLOSED.

(a) CLOSURES UNDER 1988 ACT.—(1) Section 204(b)(3)(D) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.".

(b) CLOSURES UNDER 1990 ACT.—Section 2905(b)(3)(D) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentence: "In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.".

SEC. 2813. CLARIFYING AND TECHNICAL AMENDMENTS TO BASE CLOSURE LAWS.

(a) CLARIFICATION OF SCOPE OF TERMINATION OF AUTHORITY UNDER 1988 ACT.—Section 202(c) of the Defense Authorization

Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by striking out "The authority" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the authority"; and

(2) by adding at the end the following new paragraph:

"(2) The termination of authority set forth in paragraph (1) shall not apply to the authority of the Secretary to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(b) USE OF UNOBLIGATED FUNDS IN 1988 ACCOUNT FOR ENVIRONMENTAL RESTORATION AND PROPERTY DISPOSAL.—Section 207(a)(5) of such Act is amended— 10 USC 2687 note.

(1) by striking out "Unobligated funds" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), unobligated funds"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may, after the termination of authority referred to in subparagraph (A), use any unobligated funds referred to in that subparagraph that are not transferred in accordance with that subparagraph to carry out environmental restoration and waste management at, or disposal of property of, military installations closed or realigned under this title.".

(c) CLARIFICATION OF DISPOSAL AUTHORITY.—

(1) UNDER 1988 ACT.—Section 204(b)(1) of such Act is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property". 10 USC 2687 note.

(2) UNDER 1990 ACT.—Section 2905(b)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended in the matter above paragraph (1) by striking out "real property and facilities" and inserting in lieu thereof "real property, facilities, and personal property".

(d) DEFINITION OF REDEVELOPMENT AUTHORITY.—

(1) UNDER 1988 ACT.—Section 209(10) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(2) UNDER 1990 ACT.—Section 2910(9) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "and for" and inserting in lieu thereof "or for".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the amendments made by section 2918 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1927). 10 USC 2687 note.

(e) CROSS REFERENCE.—

(1) UNDER 1988 ACT.—Section 204(b)(5)(A) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (1)".

(2) UNDER 1990 ACT.—Section 2905(b)(5)(A) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "paragraph (1)".

10 USC 2687 note.

SEC. 2814. GOVERNMENT RENTAL OF FACILITIES LOCATED ON CLOSED MILITARY INSTALLATIONS.

(a) AUTHORIZATION TO RENT BASE CLOSURE PROPERTIES.—To promote the rapid conversion of military installations that are closed pursuant to a base closure law, the Administrator of the General Services may give priority consideration, when leasing space in accordance with the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), to facilities of such an installation that have been acquired by a non-Federal entity.

(b) BASE CLOSURE LAW DEFINED.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

10 USC 2687 note.

SEC. 2815. REPORT OF EFFECT OF BASE CLOSURES ON FUTURE MOBILIZATION OPTIONS.

(a) REPORT REQUIRED.—The Secretary of Defense shall prepare a report evaluating the effect of base closures and realignments conducted since January 1, 1987, on the ability of the Armed Forces to remobilize to the end strength levels authorized for fiscal year 1987 by sections 401, 403, 411, 412, and 421 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3859). The report shall identify those military construction projects, if any, that would be necessary to facilitate such remobilization and any defense assets disposed of under a base closure or realignment, such as air space, that would be difficult to reacquire in the event of such remobilization.

(b) TIME FOR SUBMISSION.—Not later than January 31, 1996, the Secretary shall submit to the congressional defense committees the report required by this section.

SEC. 2816. RESTORATION OF ANNUAL LEAVE FOR CIVILIAN EMPLOYEES IN CONNECTION WITH CERTAIN BASE REALIGNMENTS.

(a) RESTORATION REQUIRED.—Section 6304(d)(3) of title 5, United States Code, is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "closure of" and inserting "closure of, and any realignment with respect to,"; and

(3) by adding at the end the following new subparagraph:

"(B) For the purpose of subparagraph (A), the term 'realignment' means a base realignment (as defined in subsection (e)(3) of section 2687 of title 10) that meets the requirements of subsection (a)(2) of such section.".

5 USC 6304 note.

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply only with respect to the restoration of annual leave of employees at military installations undergoing

realignment if such leave is lost by operation of section 6304 of title 5, United States Code, on or after the date of the enactment of this Act.

SEC. 2817. AGREEMENTS OF SETTLEMENT FOR RELEASE OF IMPROVEMENTS AT OVERSEAS MILITARY INSTALLATIONS.

(a) AGREEMENTS SUBJECT TO OMB REVIEW.—Subsection (g) of section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting after the first sentence the following: "The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of $10,000,000.".

(b) REPORTS TO CONGRESS.—Such subsection is further amended—

(1) by inserting "(1)" before "The Secretary of Defense"; and

(2) by adding at the end the following:

"(2) Each year, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed $10,000,000.".

Subtitle C—Changes to Existing Land Conveyance Authority

SEC. 2821. ADDITIONAL LESSEE OF PROPERTY AT NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

Section 2834(b) the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2614) is amended—

(1) in paragraph (1)—

(A) by striking out "City" the second place it appears and inserting in lieu thereof "Cities"; and

(B) by inserting "the City of Alameda, California," after "California," the first place it appears; and

(2) in paragraphs (2) and (3), by striking out "City" each place it appears and inserting in lieu thereof "Cities".

SEC. 2822. MODIFICATIONS OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) PARTICIPATION OF ADDITIONAL POLITICAL SUBDIVISIONS IN REGIONAL CORRECTIONAL FACILITY.—Subparagraph (B) of subsection (c)(3) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 108) is amended to read as follows:

"(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph from—

"(i) participating initially in the written agreement referred to in paragraph (2); or

"(ii) agreeing at a later date to participate as a member of the governmental entity referred to in paragraph (2)(A), or by contract with such entity, in the construction or operation

of the regional facility to be constructed on the parcel of land conveyed under this section.".

(b) TIME FOR CONSTRUCTION AND OPERATION OF CORRECTIONAL FACILITY.—(1) Subsection (d)(1)(A)(i) of such section is amended by striking out "not later than 24 months after the date of the enactment of this Act" and inserting in lieu thereof "not later than April 1, 1997".

(2) The Secretary of the Army shall provide the recipient of the conveyance of property under section 603 of such Act with such legal instrument as is appropriate to modify, in accordance with the amendment made by paragraph (1), any statement of conditions contained in any existing instrument which conveyed the property to that recipient. The Secretary shall record the instrument in the appropriate office or offices of the Commonwealth of Virginia or political subdivision within the Commonwealth.

SEC. 2823. PRESERVATION OF CALVERTON PINE BARRENS, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, NEW YORK, AS NATURE PRESERVE.

(a) PRESERVATION AS NATURE PRESERVE REQUIRED.—Section 2854 of the Military Construction Authorization Act for Fiscal Year 1993 (division B of Public Law 102–484; 106 Stat. 2626) is amended—

(1) by redesignating subsections (a) and (b) as subsections (c) and (d), respectively; and

(2) by inserting before subsection (c), as so redesignated, the following new subsections:

"(a) PURPOSE.—It is the purpose of this section to ensure that the Calverton Pine Barrens is maintained and preserved, in perpetuity, as a nature preserve in its current undeveloped state.

"(b) PROHIBITION ON INCONSISTENT DEVELOPMENT.—The Secretary of the Navy shall not carry out or permit any development, commercial or residential, at the Calverton Pine Barrens that is inconsistent with the purpose specified in subsection (a).".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking out "PROHIBITION.—" and inserting in lieu therefore "REVERSIONARY INTEREST.—"; and

(2) by striking out "for commercial purposes" and all that follows through the period and inserting in lieu thereof "in a manner inconsistent with the purpose specified in subsection (a) (as determined by the head of the department or agency making the conveyance).".

SEC. 2824. RELEASE OF REVERSIONARY INTEREST RETAINED AS PART OF CONVEYANCE OF ELECTRICITY DISTRIBUTION SYSTEM, FORT DIX, NEW JERSEY.

Section 2846 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1904) is amended—

(1) by striking out subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 2825. MODIFICATION OF LAND CONVEYANCE, FORT KNOX, KENTUCKY.

Section 2816 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 103 Stat. 1655) is amended—

(1) in subsection (c)(1), by striking out "for the construction of up to four units of military family housing at Fort Knox, Kentucky" and inserting in lieu thereof "for improvements to military family housing at Fort Knox, Kentucky, in an amount not to exceed $255,000";

(2) by striking out subsection (d); and

(3) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2826. REVISIONS TO RELEASE OF REVERSIONARY INTEREST, OLD SPANISH TRAIL ARMORY, HARRIS COUNTY, TEXAS.

(a) CLERICAL AMENDMENTS.—Section 2820 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1894) is amended—

(1) in subsection (a), by striking out "1936" and inserting in lieu thereof "1956"; and

(2) in subsection (b)(1), by striking out "value" and inserting in lieu thereof "size".

(b) PAYMENT FOR SURVEY.—Subsection (c) of such section is amended by adding at the end the following new sentence: "The cost of the survey shall be borne by the State of Texas.".

SEC. 2827. MODIFICATION OF HEIGHT RESTRICTION IN AVIGATION EASEMENT.

(a) MODIFICATION.—Section 6 of the Act of July 2, 1948 (62 Stat. 1229), as added by section 2862 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1805), is amended by adding at the end the following new sentence: "In addition, such height restriction shall not apply to the structure proposed to be constructed on a parcel of real property that is within the area conveyed under this Act and is identified as 1110 Santa Rosa Boulevard, Fort Walton Beach, Florida, so long as the proposed structure upon completion does not exceed a height of 155 feet above mean low-water level.".

(b) INSTRUMENT OF RELEASE.—The Secretary of the Air Force shall execute and file in the appropriate office any instrument necessary to effect the modification of the avigation easement referred to in the amendment made by subsection (a).

SEC. 2828. TECHNICAL AMENDMENT TO CORRECT REFERENCE IN LAND TRANSACTION.

American Water Company.

Section 2842(c) of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1898) is amended by striking out "Washington Gas Company" and inserting in lieu thereof "American Water Company".

Subtitle D—Land Conveyances

SEC. 2831. LAND CONVEYANCE, AIR FORCE PLANT NO. 3, TULSA, OKLAHOMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of Tulsa, Oklahoma

(in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, which consists of approximately 337 acres located in Tulsa, Oklahoma, and is known as Air Force Plant No. 3. The Secretary may also convey facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel to be conveyed if the Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstated on the parcel after conveyance of the parcel.

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may lease the property, along with improvements thereon, to the City in exchange for security services, fire protection, and maintenance provided by the City for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City, directly or through an agreement with a public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at the parcel.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (c), all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed) shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, AIR FORCE PLANT NO. 59, JOHNSON CITY (WESTOVER), NEW YORK.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the Broome County Industrial Development Agency (in this section referred to as the "Agency"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, containing Air Force Plant No. 59, Johnson City (Westover), New York. The Secretary may also convey facilities, equipment, and fixtures (including special tooling and special test equipment) located on the parcel to be conveyed if the Secretary determines that manufacturing activities requiring the use of such facilities, equipment, and fixtures are likely to continue or be reinstituted on the parcel after conveyance of the parcel.

(b) LEASE AUTHORITY.—Until such time as the real property described in subsection (a) is conveyed by deed, the Secretary may

lease the property, along with improvements thereon, to the Agency in exchange for security services, fire protection, and maintenance provided by the Agency for the property.

(c) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Agency, directly or through an agreement with another public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity being lost at Air Force Plant No. 59.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (c), all right, title, and interest in and to the property (including any facilities, equipment, or fixtures conveyed) shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Agency.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) or a lease under subsection (b) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, NAVAL WEAPONS INDUSTRIAL RESERVE PLANT, CALVERTON, NEW YORK.

(a) IN GENERAL.—The Secretary of the Navy may convey, without consideration, to the Community Development Agency of the Town of Riverhead, New York (in this section referred to as the "Community Development Agency"), all right, title and interest of the United States in and to a parcel of land, and improvements thereon, consisting of approximately 2,900 acres and comprising a portion of the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(b) CONDITION OF CONVEYANCE.—(1) The conveyance authorized under subsection (a) shall be subject to the condition that the Community Development Agency, directly or through an agreement with another public or private entity, use the conveyed property (or offer the conveyed property for use) for economic redevelopment to replace all or a part of the economic activity lost at the Naval Weapons Industrial Reserve Plant.

(2) The Community Development Agency shall carry out economic redevelopment under paragraph (1) in accordance with any redevelopment plan or plans prepared with respect to the Naval Weapons Industrial Reserve Plant by a planning commission that represents entities or organizations having an interest in land use in the region in which the plant is located.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed real property is not being used in accordance with subsection (b)(1),

all right, title and interest in and to the property, including improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Community Development Agency.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers to be necessary to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, RADAR BOMB SCORING SITE, DICKINSON, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the North Dakota Board of Higher Education (in this section referred to as the "Board") all right, title, and interest of the United States in and to a parcel of real property (including any improvements thereon) consisting of approximately 4 acres located in Dickinson, North Dakota, which has served as the location of a support complex, recreational facilities, and housing facilities for the Radar Bomb Scoring Site, Dickinson, North Dakota.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the Board—

(1) use the property, recreational facilities, and housing facilities conveyed under such subsection for housing, recreation, and other purposes that, as determined by the Secretary, will promote and enhance educational opportunities provided by Dickinson State University; or

(2) enter into an agreement with an appropriate public or private entity to lease such property and facilities to that entity for such uses.

(c) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized under subsection (a), if the Secretary determines that the conveyed property is not being used in accordance with subsection (b), all right, title, and interest in and to the conveyed property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND CONVEYANCE, FINLEY AIR FORCE STATION, FINLEY NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—(1) Subject to subsection (c), the Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the "City"), with the consent of the City, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 12 acres, including improvements thereon, located 1.5 miles west of Finley, North Dakota, which has served as a support complex, recreational facilities, and housing facilities for the Finley Air Force Station and Radar Site, Finley, North Dakota.

(2) The parcel of property to be conveyed under paragraph (1) shall include real property referred to in that paragraph that is the location of a housing complex, the location of a waste water treatment system, and the former site of a trailer court.

(3) The purpose of the conveyance authorized under paragraph (1) is to encourage and facilitate economic redevelopment of Finley, North Dakota, following the closure of the Air Force Station and Radar Site.

(b) CONDITION OF CONVEYANCE.—The conveyance required under subsection (a)(1) shall be subject to the condition that the City—

(1) use the property and recreational facilities conveyed under that subsection for housing and recreation purposes; or

(2) enter into an agreement with an appropriate public or private entity or person to sell or lease the property and facilities to that entity or person for such uses.

(c) EFFECTIVE DATE OF CONVEYANCE.—The conveyance required under subsection (a)(1) shall occur, if at all, not earlier than January 1, 1995, and not later than June 30, 1995.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a)(1) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2836. LAND CONVEYANCE, CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Army may convey to the Hall County, Nebraska, Board of Supervisors (in this section referred to as the "Board"), or the designee of the Board, all right, title and interest of the United States in and to the real property, together with any improvements thereon, located in Hall County, Nebraska, that is the site of the Cornhusker Army Ammunition Plant.

(b) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary may not carry out the conveyance authorized under subsection (a) until the Secretary completes any environmental restoration required with respect to the property to be conveyed.

(c) UTILIZATION OF PROPERTY.—The Board or its designee, as the case may be, shall utilize the real property conveyed under

subsection (a) in a manner consistent with the Cornhusker Army Ammunition Plant Reuse Committee Comprehensive Reuse Plan.

(d) CONSIDERATION.—In consideration for the conveyance under subsection (a), the Board or its designee, as the case may be, shall pay to the United States an amount equal to the fair market value of the real property to be conveyed, as determined by the Secretary.

(e) USE OF PROCEEDS.—(1) The Secretary shall deposit in the special account established under section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)) the amount received from the Board or its designee under subsection (d).

(2) Notwithstanding subparagraph (A) of such section 204(h)(2), the Secretary may use the entire amount deposited in the special account under paragraph (1) for the purposes set forth in subparagraph (B) of such section 204(h)(2).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board or its designee, as the case may be.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, HAWTHORNE ARMY AMMUNITION PLANT, MINERAL COUNTY, NEVADA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Mineral County, Nevada, all right, title, and interest of the United States in and to a parcel consisting of approximately 440 acres located at the Hawthorne Army Ammunition Plant, Mineral County, Nevada, and commonly referred to as the Babbitt Housing Site.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by Mineral County, Nevada.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. LAND CONVEYANCE, FORT DIX, NEW JERSEY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Edison, New Jersey (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) included on the real property inventory of Fort Dix, New Jersey, which consists of approximately 10 acres and contains recreational fields and an unused garage identified as building 1072 on the real property inventory.

(b) CONDITION OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the condition that the City—

(1) maintain and use the recreational fields conveyed under such subsection for recreational purposes; and

(2) permit the women's softball team known as the Edison Angels (and any successor to such team) to continue to use

such recreational fields on the same terms and conditions as contained in the agreement between the team and the Secretary, in existence on the date of the enactment of this Act.

(c) REVERSIONARY INTEREST.—If the Secretary determines that the City is not complying with the conditions specified in subsection (b), all right, title, and interest of the City in and to the property conveyed under subsection (a) (including improvements thereon) shall revert to the United States, and the United States shall have the right of immediate reentry on the property.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2839. LAND CONVEYANCE, DEFENSE FUEL SUPPLY POINT, CASCO BAY, MAINE.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (b), the Secretary of the Navy may convey, without consideration, to the Town of Harpswell, Maine (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements (other than underground fuel storage facilities and above-ground fuel storage facilities) thereon and the pier associated therewith, consisting of approximately 118 acres and located in Harpswell, Maine, the location of the Defense Fuel Supply Point, Casco Bay, Maine.

(b) REQUIREMENTS RELATING TO CONVEYANCE.—The Secretary may not make the conveyance authorized under subsection (a) until the Secretary of Defense—

(1) completes the removal from the parcel of all underground fuel storage facilities and above-ground fuel storage facilities; and

(2) notifies the Secretary of the Navy that the Secretary of Defense has carried out the requirements set forth in section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) with respect to the parcel.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2840. LAND CONVEYANCE, ARMY RESERVE FACILITY, RIO VISTA, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Rio Vista, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) containing the Reserve training facility located in Rio Vista, California.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City use the property for recreational purposes.

(c) CONSIDERATION.—In recognition of the public use to which the conveyed property will be devoted, the Secretary may require the City to pay to the United States an amount equal to less than the fair market value of the property, as determined by the Secretary, as consideration for the conveyance under subsection (a).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2841. LEASE OF PROPERTY, NAVAL SHIPYARD, VALLEJO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease, without consideration, to the City of Vallejo, California (in this section referred to as the "City"), the real property (including improvements thereon) described in subsection (b), which is located on Mare Island in Vallejo, California, and is currently under the control of Mare Island Naval Shipyard Command.

(b) COVERED PROPERTY.—The parcel of real property to be leased under subsection (a) shall consist of all existing active dredge ponds and nontidal areas on Mare Island under the jurisdiction of the Navy, except that the parcel shall not include the nontidal areas identified in figure 3 of the Memorandum of Understanding between the United States Fish and Wildlife Service and Mare Island Naval Shipyard, dated July 28, 1988.

(c) LEASE TERMS.—The lease authorized under subsection (a)—

(1) may be for a period of not more than 15 years; and

(2) shall provide that the City—

(A) retain environmental responsibility for all actions of the City on the property subject to the lease; and

(B) hold harmless, indemnify, and defend the United States from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for injury or damage that results from, or is in any manner predicated upon activities of the City on the leased property during the term of the lease.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LEASE OF PROPERTY, NAVAL RADIO RECEIVING FACILITY, IMPERIAL BEACH, CORONADO, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Young Men's Christian Association of San Diego County, a California nonprofit public benefit corporation (in this section referred to as the "YMCA"), such interests in a parcel of real property (including any improvements thereon) consisting of approximately 45 acres at the Naval Radio Receiving Facility, Imperial Beach, Coronado, California, as the Secretary considers appro-

priate for the YMCA to operate and maintain a summer youth residence camp known as the YMCA San Diego Unified Recreational Facility (Camp SURF). Pursuant to the lease, the Secretary may authorize the YMCA to construct facilities on the parcel.

(b) LEASE TERMS.—The lease authorized in subsection (a) shall be for a period of 50 years, or such longer period as the Secretary determines to be in the best interests of the United States.

(c) CONSIDERATION.—As consideration for the lease of real property under subsection (a), the YMCA shall—

(1) agree to maintain and enhance the natural resources of the leased premises; and

(2) pay to the United States an amount in cash equal to the difference between the rental price prescribed by the Secretary under subsection (d) and the value of natural resources maintenance and enhancements performed by the YMCA, as determined by the Secretary.

(d) DETERMINATION OF RENTAL PRICE.—Acknowledging the benefits the YMCA has provided to the Armed Forces and the specific benefits Camp SURF provides to the children of San Diego, the Secretary may prescribe a rental price for the real property leased under subsection (a) that is less than fair market rental value.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the operation of the Naval Radio Receiving Facility, Imperial Beach, and to protect the interests of the United States.

SEC. 2843. AUTHORITY FOR OXNARD HARBOR DISTRICT, PORT HUENEME, CALIFORNIA, TO USE CERTAIN NAVY PROPERTY.

(a) JOINT USE AGREEMENT AUTHORIZED.—The Secretary of the Navy may enter into an agreement with the Oxnard Harbor District, Port Hueneme, California, a special district of the State of California (in this section referred to as the "District"), under which the District may use United States Navy Wharf Number 3 and associated real property comprising up to 25 acres located at the Naval Construction Battalion Center, Port Hueneme, California (in this section referred to as the "Center").

(b) TERM OF AGREEMENT.—The agreement authorized under subsection (a) may be for an initial period of not more than 15 years. Under the agreement, the Secretary shall provide the District with an option to extend the agreement for three additional periods of 5 years each.

(c) RESTRICTIONS ON USE.—The agreement authorized under subsection (a) shall require the District—

(1) to suspend operations under the agreement in the event Navy contingency operations are conducted at the Center; and

(2) to use the property covered by the agreement in a manner consistent with Navy operations conducted at the Center.

(d) CONSIDERATION.—(1) As consideration for the use of the property covered by the agreement under subsection (a), the District shall pay to the Navy an amount equal to the fair market rental value of the property, as determined by the Secretary taking into consideration the District's use of the property.

(2) The Secretary may include a provision in the agreement requiring the District—

(A) to pay the Navy an amount (as determined by the Secretary) to cover the costs of replacing at the Center any facilities vacated by the Navy on account of the agreement or to construct suitable replacement facilities for the Navy; and

(B) to pay the Navy an amount (as determined by the Secretary) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

Reports.

(e) CONGRESSIONAL NOTIFICATION.—The Secretary may not enter into the agreement authorized by subsection (a) until the end of the 21-day period beginning on the date on which the Secretary submits to Congress a report containing an explanation of the terms of the proposed agreement and a description of the consideration that the Secretary expects to receive under the agreement.

(f) USE OF PAYMENT.—(1) In such amounts as is provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(1) to pay for general supervision, administration, and overhead expenses and for improvement, maintenance, repair, construction, or restoration to the port operations area (or to roads and railways serving the area) at the Center.

(2) In such amounts as is provided in advance in appropriation Acts, the Secretary may use amounts paid under subsection (d)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on account of the agreement under subsection (a) and for relocating operations of the Navy from the vacated facilities to replacement facilities.

(g) CONSTRUCTION BY DISTRICT.—The Secretary may authorize the District to demolish existing facilities located on the property covered by the agreement under subsection (a) and, consistent with the restriction specified in subsection (c)(2), construct new facilities on the property for joint use by the District and the Navy.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the agreement authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

16 USC 119 note.

SEC. 2844. TRANSFER OF JURISDICTION, AIR FORCE HOUSING AT RADAR BOMB SCORING SITE, HOLBROOK, ARIZONA.

(a) TRANSFER AUTHORIZED.—As part of the closure of an Air Force Radar Bomb Scoring Site located near Holbrook, Arizona, the Secretary of the Air Force may transfer, without reimbursement, the administrative jurisdiction, accountability, and control of the housing units and associated support facilities used in connection with the site to the Secretary of the Interior for use in connection with Petrified Forest National Park.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary of the Air Force and the Secretary of the Interior.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the transfer of real property under subsection (a) as the Secretary considers appropriate.

SEC. 2845. TRANSFER OF JURISDICTION, HOLLOMAN AIR FORCE BASE, NEW MEXICO.

(a) IN GENERAL.—Subject to subsections (c) through (g), not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall transfer to the Department of the Air Force, without reimbursement, jurisdiction and control of approximately 1,262 acres of public lands described in subsection (b). Such public lands are located in Otero County, New Mexico, and are contiguous to Holloman Air Force Base.

(b) DESCRIPTION OF LANDS TRANSFERRED.—The lands described in this subsection are as follows:

(1) T17S, R8E, Section 21:	S½ N½:	160 acres
	E½ NW¼ NE¼:	20 acres
	NE¼ NE¼:	40 acres
(2) T17S, R8E, Section 22:	W½:	320 acres
	W½ E½:	160 acres
(3) T17S, R8E, Section 27:	All that part north of New Mexico Highway 70 except for the E½ E½	192 acres more or less
(4) T17S, R8E, Section 28:	NE¼:	160 acres
	N½ SE¼:	80 acres
	SW¼ SE¼:	40 acres
	W½ SE¼ SE¼:	20 acres
(5) T17S, R8E, Section 33:	NW¼ NE¼:	40 acres
	NW¼ NE¼ NE¼:	10 acres
	W½ SW¼ NE¼:	20 acres

(c) USE OF TRANSFERRED LAND.—The lands transferred to the Department of the Air Force under subsection (a) shall be used by the Secretary of the Air Force for the construction of new evaporation ponds to support a wastewater treatment facility that the Secretary shall construct at Holloman Air Force Base.

(d) CATTLE GRAZING RIGHTS.—

(1) IN GENERAL.—The United States recognizes a grazing preference on the lands transferred to the Department of the Air Force under subsection (a).

(2) ADJUSTMENT OF GRAZING ALLOTMENT.—(A) The Secretary of the Air Force shall take such action as is necessary to ensure that—

(i) the boundary of the grazing allotment that contains the lands transferred to the Department of the Air Force is adjusted in such manner as to retain the portion of the allotment located south of United States Highway 70 in New Mexico and remove the portion of the lands that is located north of such highway; and

(ii) the grazing preference referred to in paragraph (1) is retained by means of transferring the preference for the area removed from the allotment under subparagraph (A) to public lands located south of such highway.

(B) The Secretary of the Air Force shall offer to enter into an agreement with each person who holds a permit for grazing on the lands transferred to the Department of the Air Force at the time of the transfer to provide for the continued grazing by livestock on the portion of the lands located south of such highway. Contracts.

(e) ADDITIONAL REQUIREMENTS.—

(1) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The Secretary of the Air Force shall ensure that the transfer made pursuant to subsection (a) and the use specified in subsection

(c) meet any applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL LAWS.—The Secretary of the Air Force shall use and manage the lands transferred under the authority in subsection (a) in such manner as to ensure compliance with applicable environmental laws (including regulations) of the Federal Government and State of New Mexico, and political subdivisions thereof.

(3) RESPONSIBILITY FOR CLEANUP OF HAZARDOUS SUBSTANCES.—Upon the transfer of the lands under subsection (a), the Secretary of the Air Force shall assume any existing or subsequent responsibility for the cost of response for release of hazardous substances (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) located on or within the lands transferred.

(4) MINING.—The transfer of lands under subsection (a) shall be made in such manner as to ensure the continuation of valid, existing rights under the mining laws and the mineral leasing and geothermal leasing laws of the United States. Subject to the preceding sentence, upon the transfer of the lands, mining and mineral management activities shall be carried out in the lands in a manner consistent with the policies of the Department of Defense concerning mineral exploration and extraction on lands under the jurisdiction of the Department.

(f) RIGHTS-OF-WAY.—The transfer of lands under subsection (a) shall not affect the following rights-of-way:

(1) The right-of-way granted to the Otero County Electric Cooperative, numbered NMNM 58293.

(2) The right-of-way granted to U.S. West Corporation, numbered NMNM 59261.

(3) The right-of-way granted to the Highway Department of the State of New Mexico, numbered LC0 54403.

(g) PUBLIC ACCESS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit public access to the lands transferred under subsection (a).

(2) CONSTRUCTION SITE.—The Secretary of the Air Force may not permit public access to the immediate area affected by the construction of a wastewater treatment facility in the area with the legal description of T17S, R8E, Section 22, except that the Secretary of the Air Force shall permit public access on an adjoining unfenced parcel of land—

(A) located along the west boundary of such area; and

(B) that is 50 feet in width.

(3) PUBLIC USES.—Except as provided in paragraph (2), the Secretary of the Air Force shall permit, on the lands transferred under subsection (a), public uses that are consistent with the public uses on adjacent lands under the jurisdiction of the Secretary of the Interior.

(4) PERMIT NOT REQUIRED.—The Secretary of the Air Force may not require a permit for access authorized under this subsection to the lands transferred under subsection (a).

(5) ENTRY GATE.—The Secretary of the Air Force shall ensure that the entry gate to the lands transferred under

subsection (a) that is located along United States Highway 70 shall be open to the public.

SEC. 2846. TRANSFER OF JURISDICTION, FORT DEVENS, MASSACHUSETTS.

16 USC 668dd note.

(a) TRANSFER AUTHORIZED.—The Secretary of the Army may transfer, without reimbursement, administrative jurisdiction of approximately 800 acres of land at Fort Devens, Massachusetts, to the Secretary of the Interior for inclusion in the Oxbow National Wildlife Refuge, Massachusetts. The exact acreage of the land subject to the transfer shall be jointly determined by the Secretary of the Army and the Secretary of the Interior, in consultation with the Joint Boards of Selectmen of the towns of Harvard, Ayer, Shirley, and Lancaster in the State of Massachusetts and the Massachusetts Land Bank.

(b) ADMINISTRATION OF LAND.—The Secretary of the Interior shall administer the land transferred under this section in accordance with all laws applicable to areas in the National Wildlife Refuge System.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Secretary of the Army and the Secretary of the Interior.

SEC. 2847. RELEASE OF REQUIREMENTS AND REVERSIONARY INTEREST ON CERTAIN PROPERTY IN BALTIMORE, MARYLAND.

(a) RELEASE AUTHORIZED.—The Secretary of Defense may release, without consideration, the requirements and the reversionary interest of the United States that are described in section 2 of the Act entitled "An Act granting a site for a dry-dock in the city of Baltimore upon certain conditions", approved June 19, 1878 (Chapter 310; 20 Stat. 167).

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms or conditions in connection with the release required under this section as the Secretary considers appropriate to protect the interests of the United States.

(c) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

SEC. 2848. RELEASE OF REVERSIONARY INTEREST ON CERTAIN PROPERTY IN YORK COUNTY AND JAMES CITY COUNTY, VIRGINIA, AND NEWPORT NEWS, VIRGINIA.

(a) RELEASE AUTHORIZED.—The Secretary of the Navy may release, without consideration, the reversionary interest of the United States in the real property conveyed by the deed described in subsection (b).

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is a deed between the United States and the Commonwealth of Virginia dated August 17, 1966, which conveyed to the Commonwealth of Virginia certain parcels of land located in York County and James City County, Virginia, and the city of Newport News, Virginia.

(c) ADDITIONAL TERMS.—The Secretary may require such terms or conditions in connection with the release under this section as the Secretary considers appropriate to protect the interests of

the United States and to ensure that the real property will continue to be used for public purposes.

(d) INSTRUMENT OF RELEASE.—The Secretary may execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the reversionary interest under this section.

Subtitle E—Other Matters

SEC. 2851. JOINT CONSTRUCTION CONTRACTING FOR COMMISSARIES AND NONAPPROPRIATED FUND INSTRUMENTALITY FACILITIES.

(a) SINGLE CONTRACT CONSTRUCTION.—Section 2685 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of a military department may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

"(2) In paragraph (1), the term 'construction', with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.".

(b) OBLIGATION OF ANTICIPATED PROCEEDS.—Subsection (c) of such section is amended by inserting "or (d)" after "subsection (b)" both places it appears.

SEC. 2852. NATIONAL GUARD FACILITY CONTRACTS SUBJECT TO PERFORMANCE SUPERVISION BY ARMY OR NAVY.

(a) CONTRACTS SUBJECT TO SUPERVISION.—Subsection (a) of section 2237 of title 10, United States Code, is amended by striking out "under any provision" and all that follows through "and (4)" and inserting in lieu thereof "under section 2233(a)(1)".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by striking out "section 2233(a)(2), (3), or (4)" and inserting in lieu thereof "paragraph (2), (3), (4), (5), or (6) of section 2233(a)".

SEC. 2853. REPEAL OF RESTRICTIONS ON LAND TRANSACTIONS RELATING TO PRESIDIO OF SAN FRANCISCO, CALIFORNIA.

Section 2856 of the Military Construction Authorization Act for Fiscal Year 1994 (division B of Public Law 103–160; 107 Stat. 1908) is repealed.

SEC. 2854. REPORT ON USE OF FUNDS FOR ENVIRONMENTAL RESTORATION AT CORNHUSKER ARMY AMMUNITION PLANT, HALL COUNTY, NEBRASKA.

(a) REPORT REQUIRED.—The Secretary of the Army shall submit to Congress a report describing the manner in which funds available to the Army for operation and maintenance (including funds in the Defense Environmental Restoration Account established under section 2703(a)(1) of title 10, United States Code) will be used

by the Secretary for environmental restoration and maintenance of the real property that comprises the Cornhusker Army Ammunition Plant, Hall County, Nebraska.

(b) CONTENTS.—The report shall include the following:

(1) The funding plan for environmental restoration at the Cornhusker Army Ammunition Plant.

(2) A legal opinion stating whether any portion of the funds to be used for such environmental restoration may be used for the repair of the roads at the Plant in order to bring such roads into compliance with applicable State and local public works codes.

(3) A survey of the roads at the Plant that identifies which roads, if any, are in need of repair in order to bring the roads at the Plant into compliance with such codes.

(4) An estimate of the cost of the repair of the roads referred to in paragraph (3) in order to bring the roads into compliance.

(5) An explanation of the purpose, cost, and source of funds for any proposed preservation of documents or other materials relating to the cultural, historical, and natural resources associated with the Plant.

(c) SUBMISSION OF REPORT.—The Secretary shall submit the report required by this section not later than May 1, 1995.

SEC. 2855. ENGINEERING, DESIGN, CONSTRUCTION, AND RELATED SERVICES FOR WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL.

40 USC 1003 note.

The Secretary of the Army is authorized, upon request by the Women in Military Service for America Memorial Foundation, Inc., to provide engineering, design, construction management, and related services, directly or by contract, to the Women in Military Service for America Memorial Foundation, Inc., on a reimbursable basis, for the purpose of repair, restoration, and preservation of the main gate structures, center plaza, and hemicycle of the Arlington National Cemetery, Arlington, Virginia, and the construction of the Women in Military Service for America Memorial.

SEC. 2856. SENSE OF THE SENATE ON AUTHORIZATION OF FUNDS FOR MILITARY CONSTRUCTION PROJECTS NOT REQUESTED IN THE PRESIDENT'S ANNUAL BUDGET REQUEST.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that, to the maximum extent practicable, the Senate should consider the authorization for appropriation of funds for a military construction project not included in the annual budget request of the Department of Defense only if—

(1) the project is consistent with past actions under the base closure laws;

(2) the project is included in the military construction plan of the military department concerned incorporated in the Future Years Defense Program;

(3) the project is necessary for reasons of the national security of the United States; and

(4) a contract for construction of the project can be awarded in that fiscal year.

(b) VIEWS OF THE SECRETARY OF DEFENSE.—In considering these criteria, the Senate should obtain the views of the Secretary of Defense. These views should include whether funds for a military construction project not included in the budget request can be

offset by funds for other programs, projects, or activities, including military construction projects, in the budget request and, if so, the specific offsetting reductions recommended by the Secretary of Defense.

(c) BASE CLOSURE LAWS DEFINED.—For purposes of this section, the term "base closure laws" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) RESEARCH AND DEVELOPMENT.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for research and development in carrying out weapons activities necessary for national security programs in the amount of $1,321,937,000, to be allocated as follows:

(1) For core research and development, $777,251,000, to be allocated as follows:

(A) For operating expenses, $649,341,000.

(B) For capital equipment, $59,420,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $68,490,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,500,000.

Project 95–D–102, Chemical and Metallurgy Research Building upgrades, Los Alamos National Laboratory, New Mexico, $3,300,000.

Project 94–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase V, various locations, $13,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $21,810,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $4,900,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $20,980,000.

(2) For operating expenses for stockpile stewardship, $152,419,000.

(3) For inertial fusion, $176,473,000, to be allocated as follows:

(A) For operating expenses, $166,755,000.

(B) For capital equipment, $9,718,000.

(4) For technology transfer, $215,794,000, to be allocated as follows:

(A) For operating expenses, $209,794,000.

(B) For capital equipment, $6,000,000.

(b) TESTING.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for testing in carrying out weapons activities necessary for national security programs in the amount of $208,000,000, to be allocated as follows:

(1) For weapons programs, $201,000,000, to be allocated as follows:

(A) For testing capabilities and readiness, $165,000,000.

(B) For capital equipment, $15,000,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $21,000,000, to be allocated as follows:

Project GPD–101, general plant projects, various locations, $4,000,000.

Project 93–D–102, Nevada support facility, North Las Vegas, Nevada, $17,000,000.

(2) For Marshall Islands dose reconstruction, $7,000,000, to be allocated as follows:

(A) For operating expenses, $6,530,000.

(B) For capital equipment, $470,000.

(c) STOCKPILE SUPPORT.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for stockpile support in carrying out weapons activities necessary for national security programs in the amount of $1,698,556,000, to be allocated as follows:

(1) For operating expenses for stockpile support, $1,476,785,000.

(2) For operating expenses for reconfiguration, $94,271,000.

(3) For capital equipment, $20,180,000.

(4) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $107,320,000, to be allocated as follows:

Project 88–D–122, facilities capability assurance program, various locations, $14,820,000.

Project GPD–121, general plant projects, various locations, $1,000,000.

Project 95–D–123, replacement transportation safeguards division aviation facility, Albuquerque, New Mexico, $2,000,000.

Project 95–D–122, sanitary sewer upgrade Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 94–D–124, hydrogen fluoride supply system, Y–12 Plant, Oak Ridge, Tennessee, $6,300,000.

Project 94–D–125, upgrade life safety, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 94–D–127, emergency notification system, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 94–D–128, environmental safety and health analytical laboratory, Pantex Plant, Amarillo, Texas, $1,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $5,000,000.

Project 88–D–123, security enhancements, Pantex Plant, Amarillo, Texas, $15,000,000.

Project 93–D–123, complex–21, various locations, $58,000,000.

(d) PROGRAM DIRECTION.—Subject to subsection (e), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out weapons activities necessary for national security programs in the amount of $159,852,000, to be allocated as follows:

(1) For operating expenses for weapons program direction, $157,498,000.

(2) For capital equipment, $2,354,000.

(e) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a) through (d) reduced by the sum of—

(1) $143,276,000, for use of prior year balances; and

(2) $11,000,000, for savings resulting from procurement reform.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) CORRECTIVE ACTIVITIES.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for corrective activities in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $512,000, all of which shall be available for the following plant project (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto):

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California.

(b) ENVIRONMENTAL RESTORATION.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for environmental restoration for operating expenses in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,518,549,000.

(2) Subject to subsection (h), the amount authorized to be appropriated pursuant to this subsection is the amount authorized

to be appropriated in paragraph (1) reduced by $133,900,000, as a result of the productivity savings initiative.

(c) WASTE MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for waste management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,855,772,000, to be allocated as follows:

(A) For operating expenses, $2,390,066,000.

(B) For capital equipment, $90,790,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $374,916,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $16,832,000.

Project 95–E–600, hazardous materials training center, Richland, Washington, $7,000,000.

Project 95–D–401, radiological support facilities, Richland, Washington, $1,585,000.

Project 95–D–402, install permanent electrical service, Waste Isolation Pilot Plant, New Mexico, $700,000.

Project 95–D–403, hazardous waste storage facility, Mound Plant, Miamisburg, Ohio, $597,000.

Project 95–D–405, industrial landfill V and construction demolition landfill VII, Y–12 Plant, Oak Ridge, Tennessee, $1,000,000.

Project 95–D–406, road 5–01 reconstruction, area 5, Nevada Test Site, Nevada, $2,338,000.

Project 95–D–407, 219–S secondary containment upgrade, Richland, Washington, $2,000,000.

Project 95–D–408, Phase II liquid effluent treatment and disposal, Richland, Washington, $7,100,000.

Project 94–D–400, high explosive wastewater treatment system, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 94–D–402, liquid waste treatment system, Nevada Test Site, Nevada, $3,292,000.

Project 94–D–404, Melton Valley storage tank capacity increase, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $21,373,000.

Project 94–D–406, low-level waste disposal facilities, K–25, Oak Ridge, Tennessee, $6,000,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $17,700,000.

Project 94–D–408, office facilities—200 East, Richland, Washington, $4,000,000.

Project 94–D–411, solid waste operation complex, Richland, Washington, $42,200,000.

Project 94–D–416, solvent storage tanks installation, Savannah River, South Carolina, $1,700,000.

Project 94–D–417, intermediate-level and low-activity waste vaults, Savannah River, South Carolina, $300,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,400,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats, Golden, Colorado, $3,300,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $3,300,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $14,810,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $88,605,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $26,525,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $5,000,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $2,846,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $3,995,000.

Project 90–D–172, aging waste transfer line, Richland, Washington, $3,819,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $1,747,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho, $7,594,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $300,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $18,000,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $5,900,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $6,000,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $45,058,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $160,800,000, as a result of the productivity savings initiative.

(d) TECHNOLOGY DEVELOPMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for technology development in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $405,759,000, to be allocated as follows:

(1) For operating expenses, $380,974,000.

(2) For capital equipment, $24,785,000.

(e) TRANSPORTATION MANAGEMENT.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for transportation management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $20,684,000, to be allocated as follows:

(1) For operating expenses, $20,240,000.

(2) For capital equipment, $444,000.

(f) PROGRAM DIRECTION.—Subject to subsection (h), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for program direction in carrying out environ-

mental restoration and waste management activities necessary for national security programs in the amount of $84,948,000, to be allocated as follows:

(1) For operating expenses, $83,748,000.

(2) For capital equipment, $1,200,000.

(g) FACILITY TRANSITION AND MANAGEMENT.—(1) Subject to paragraph (2), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for facility transition and management in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $772,967,000, to be allocated as follows:

(A) For operating expenses, $676,884,000.

(B) For capital equipment, $18,947,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $77,136,000, to be allocated as follows:

Project GPD–171, general plant projects, various locations, $15,211,000.

Project 95–D–454, 324 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 95–D–456, security facilities upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $986,000.

Project 94–D–122, underground storage tanks, Rocky Flats, Golden, Colorado, $2,500,000.

Project 94–D–401, emergency response facility, Idaho National Engineering Laboratory, Idaho, $5,219,000.

Project 94–D–412, 300 area process sewer piping system upgrade, Richland, Washington, $7,800,000.

Project 94–D–415, medical facilities, Idaho National Engineering Laboratory, Idaho, $4,920,000.

Project 94–D–451, infrastructure replacement, Rocky Flats Plant, Golden, Colorado, $10,600,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $7,800,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,000,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $4,000,000.

Project 92–D–125, master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, Golden, Colorado, $2,100,000.

Project 92–D–181, INEL fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 92–D–182, INEL sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $1,900,000.

Project 92–D–186, steam system rehabilitation, Phase II, Richland, Washington, $5,600,000.

(2) Subject to subsection (h), the total amount authorized to be appropriated pursuant to this subsection is the sum of the amounts authorized to be appropriated in paragraph (1) reduced by $5,000,000, as a result of the productivity savings initiative.

(h) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts author-

ized to be appropriated in subsections (a), (b)(2), (c)(2), (d), (e), (f), and (g)(2) reduced by the sum of—

(1) $249,300,000, for use of prior year balances; and

(2) $17,500,000, for savings resulting from procurement reform.

SEC. 3103. NUCLEAR MATERIALS SUPPORT AND OTHER DEFENSE PROGRAMS.

(a) MATERIALS SUPPORT.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for materials support in carrying out nuclear materials support necessary for national security programs in the amount of $902,255,000, to be allocated as follows:

(1) For reactor operations, $163,634,000.

(2) For processing of nuclear materials, $410,468,000.

(3) For support services, $167,776,000.

(4) For capital equipment, $39,427,000.

(5) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $64,950,000, to be allocated as follows:

Project GPD–146, general plant projects, various locations, $15,000,000.

Project 95–D–155, upgrade site road infrastructure, Savannah River, South Carolina, $750,000.

Project 95–D–156, radio trunking system, Savannah River, South Carolina, $2,100,000.

Project 95–D–157, D–area powerhouse life extension, Savannah River, South Carolina, $4,000,000.

Project 95–D–158, disassembly basin upgrades K, L, and P, Savannah River, South Carolina, $13,000,000.

Project 93–D–147, domestic water system upgrade, Phases I and II, Savannah River, South Carolina, $11,300,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $2,700,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,900,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $3,000,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $5,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $2,000,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,200,000.

(6) For program direction, $56,000,000.

(b) OTHER DEFENSE PROGRAMS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for other defense programs in carrying out defense programs necessary for national security programs in the amount of $669,657,000, to be allocated as follows:

(1) For verification and control technology, $348,555,000, to be allocated as follows:

(A) For operating expenses, $332,682,000.
(B) For capital equipment, $15,873,000.

(2) For nuclear safeguards and security, $85,816,000, to be allocated as follows:

(A) For operating expenses, $82,421,000.
(B) For capital equipment, $3,395,000.

(3) For security investigations, $33,827,000.

(4) For security evaluations, $14,780,000.

(5) For the Office of Nuclear Safety, $21,679,000, to be allocated as follows:

(A) For operating expenses, $21,629,000.
(B) For capital equipment, $50,000.

(6) For worker and community transition, $115,000,000.

(7) For fissile material control and disposition, $50,000,000.

(c) NAVAL REACTORS.—Subject to subsection (d), funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for naval reactors in carrying out nuclear materials support and other defense programs necessary for national security programs in the amount of $725,651,000, to be allocated as follows:

(1) For naval reactors development, $693,651,000, to be allocated as follows:

(A) For operating expenses:
(i) For plant development, $146,700,000.
(ii) For reactor development, $348,951,000.
(iii) For reactor operation and evaluation, $131,000,000.
(iv) For program direction, $18,800,000.

(B) For capital equipment, $28,200,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $20,000,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $6,200,000.

Project 95–D–200, laboratory systems and hot cell upgrades, various locations, $2,400,000.

Project 95–D–201, advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $2,800,000.

(2) For operating expenses for enrichment materials, $32,000,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts authorized to be appropriated in subsections (a), (b), and (c) reduced by the sum of—

(1) $40,000,000, for recovery of overpayment to the Savannah River Pension Fund;

(2) $6,500,000, for savings resulting from procurement reform; and

(3) $401,406,000, for use of prior year balances for materials support and other defense programs.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1995 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $129,430,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

Reports.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $2,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $2,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of

the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the action and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY; LIMITATIONS.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same time period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(3) The authority provided by this section to transfer authorizations—

(A) may only be used to provide funds for items that have a higher priority than the items from which the funds are transferred; and

(B) may not be used to provide authority for an item that has been denied funds by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committees on Armed Services of the Senate and House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. CONSTRUCTION DESIGN AND CONCEPTUAL DESIGN FOR CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out advance planning

and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $3,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and construction design exceeds $600,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for advance planning and construction design for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any proposed construction project exceeds $3,000,000, funds for such planning and design must be specifically authorized by law.

(c) REQUIREMENT OF CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) In any case in which the total estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before the Secretary submits a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $2,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy under sections 3101, 3102, and 3103, including those funds authorized to be appropriated for advance planning and construction design, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirements of subsections (b) and (c) of section 3125 do not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title that are made

available for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.

(a) CONDUCT OF PROGRAM.—(1) As part of the stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note), the Secretary of Energy shall conduct a stockpile stewardship recruitment and training program at the Sandia National Laboratories, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory.

(2) The recruitment and training program shall be conducted in coordination with the Chairman of the Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, and the directors of the laboratories referred to in paragraph (1).

(b) SUPPORT OF DUAL-USE PROGRAMS.—(1) As part of the recruitment and training program, the directors of the laboratories referred to in subsection (a)(1) may employ undergraduate students, graduate students, and postdoctoral fellows to carry out research sponsored by such laboratories for military or nonmilitary dual-use programs related to nuclear weapons stockpile stewardship.

(2) Of the amounts authorized to be appropriated to the Secretary of Energy in section 3101(a)(1) for weapons activities for core research and development and allocated by the Secretary for education initiatives, $5,000,000 shall be available for employing students and fellows to carry out research referred to in paragraph (1). The amount available under this paragraph shall be allocated equally among the laboratories referred to in subsection (a)(1).

(c) ESTABLISHMENT OF RETIREE CORPS.—As part of the training and recruitment program, the Secretary, in coordination with the directors of the laboratories referred to in subsection (a)(1), shall establish for the laboratories a retiree corps of retired scientists who have expertise in research and development of nuclear weapons. The directors may employ the retired scientists on a part-time basis to provide appropriate assistance on nuclear weapons issues, to contribute relevant information to be archived, and to help to provide training to other scientists.

(d) REPORT.—(1) Not later than February 1, 1995, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the demographic trends of the personnel of the laboratories referred to in subsection (a)(1) and on actions taken by the Department of Energy to remedy identified deficiencies in various skill areas.

(2) The report shall be prepared in coordination with the Chairman of the Joint Nuclear Weapons Council and the directors of

the laboratories. Information included in the report shall be aggregated and compiled into statistical categories.

(3) The report shall include the following:

(A) An inventory of the weapons-related tasks that the laboratories need to perform to support their nuclear weapons responsibilities.

(B) An inventory of the skills necessary to complete the weapons-related tasks referred to in subparagraph (A).

(C) For each laboratory, the number of scientists needed in each skill area to perform such tasks.

(D) The number of the scientists providing services in each skill area at each laboratory, stated by age.

(E) An assessment of which skill areas are understaffed.

(F) The number of scientists entering the weapons program at each laboratory, and their skill areas.

(G) The number of full-time equivalent personnel with weapon skills, their distribution by skill and, for each such skill, their distribution by age.

(H) The number of scientists retiring from the weapons program in the five-year period ending on the date of the report and the skill areas in which they worked in the year preceding their retirement.

(I) Based on the information contained in subparagraphs (A) through (H), a projection of the skills areas that will become understaffed in the five years following the date of the report.

(J) A statement of alternative actions that may be taken to retain and recruit scientists for the weapons programs at the laboratories in order to preserve a sufficient skill base and to fulfill stockpile stewardship responsibilities.

(K) Any plans of the Secretary to take any of the alternative actions referred to in subparagraph (J).

SEC. 3132. DEFENSE INERTIAL CONFINEMENT FUSION PROGRAM.

Of the funds authorized to be appropriated by this title to the Department of Energy for fiscal year 1995, $176,473,000 shall be available for the defense inertial confinement fusion program.

SEC. 3133. PAYMENT OF PENALTIES.

The Secretary of Energy may pay to the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 (26 U.S.C. 9507), from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3102, stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) in amounts as follows:

(1) $50,000, assessed against the Fernald Environmental Management Project, Ohio, under such Act.

(2) $50,000, assessed against the Portsmouth Gaseous Diffusion Plant, Ohio, under such Act.

SEC. 3134. WATER MANAGEMENT PROGRAMS.

From funds authorized to be appropriated pursuant to section 3102 to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $11,415,000 for the cost of implementing water management programs. Reimbursements for

the water management programs shall not be considered a major Federal action for purposes of section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3135. PROTECTION OF WORKERS AT NUCLEAR WEAPONS FACILITIES.

Of the funds authorized to be appropriated by section 3102 for environmental restoration and waste management activities, $11,000,000 shall be available to carry out activities authorized under section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571; 42 U.S.C. 7274d), relating to worker protection at nuclear weapons facilities.

SEC. 3136. LIMITATION ON USE OF PROGRAM DIRECTION FUNDS.

The Secretary of Energy may not obligate more than 80 percent of the funds appropriated pursuant to this title for fiscal year 1995 for operating expenses for program direction in carrying out environmental restoration and waste management activities necessary for national security programs until the Secretary submits to Congress the reports required to be submitted in 1995 under subsections (a) and (d) of section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950; 42 U.S.C. 7274k).

SEC. 3137. NATIONAL SECURITY PROGRAMS.

Notwithstanding any other provision of law, not more than 80 percent of the funds appropriated to the Department of Energy for national security programs under this title may be obligated for such programs until the Secretary of Energy submits to the congressional defense committees the five-year budget plan with respect to fiscal year 1996 required under section 3144 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1681; 42 U.S.C. 7271b).

SEC. 3138. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION.

(a) FUNDING.—(1) Of the funds authorized to be appropriated to the Department of Energy under section 3101 for fiscal year 1995, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority provided in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834).

(2) The Secretary of Energy may not obligate more than 50 percent of the amount made available under paragraph (1) for activities relating to the Hanford Health Information Network until the States of Washington, Oregon, and Idaho establish the uniform procedures required by section 3138(d)(3)(D) of such Act, as added by subsection (b).

(b) PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834) is amended by adding at the end the following new subsection:

"(d) PROHIBITION ON DISCLOSURE OF EXPOSURE INFORMATION.—(1) Except as provided in paragraph (2), a person may not disclose to the public the following:

"(A) Any information obtained through a program that identifies a person who may have been exposed to radiation released from the Hanford Nuclear Reservation.

"(B) Any information obtained through a program that identifies a person participating in any of the programs developed under this section.

"(C) The name, address, and telephone number of a person requesting information referred to in subsection (b)(1).

"(D) The name, address, and telephone number of a person who has been referred to a health care professional under subsection (b)(2).

"(E) The name, address, and telephone number of a person who has been registered and monitored pursuant to subsection (b)(3).

"(F) Information that identifies the person from whom information referred to in this paragraph was obtained under a program or any other third party involved with, or identified by, any such information so obtained.

"(G) Any other personal or medical information that identifies a person or party referred to in subparagraphs (A) through (F).

"(H) Such other information or categories of information as the chief officers of the health departments of the States of Washington, Oregon, and Idaho jointly designate as information covered by this subsection.

"(2) Information referred to in paragraph (1) may be disclosed to the public if the person identified by the information, or the legal representative of that person, has consented in writing to the disclosure.

Washington. Oregon. Idaho.

"(3) The States of Washington, Oregon, and Idaho shall establish uniform procedures for carrying out this subsection, including procedures governing the following:

"(A) The disclosure of information under paragraph (2).

"(B) The use of the Hanford Health Information Network database.

"(C) The future disposition of the database.

"(D) Enforcement of the prohibition provided in paragraph (1) on the disclosure of information described in that paragraph.".

SEC. 3139. LIMITATION ON STUDY OR RELOCATION OF TRITIUM-RELATED ACTIVITIES AND OPERATIONS.

None of the funds appropriated or otherwise made available to the Department of Energy for fiscal year 1995 pursuant to this title may be used to study or relocate tritium-related activities and operations from the Mound Plant, Ohio, to a facility other than a Department of Energy weapons production facility that has demonstrated tritium production and handling capabilities, as determined by independent consultants pursuant to a review of the June 1993 report of the Department entitled "Nonnuclear Reconfiguration Cost Effectiveness Report".

SEC. 3140. HAZARDOUS MATERIALS MANAGEMENT AND HAZARDOUS MATERIALS EMERGENCY RESPONSE TRAINING PROGRAM.

(a) USE OF FUNDS.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1995 under section 3102(c), not more than $6,000,000 shall be available for operating

expenses to carry out a hazardous materials management and hazardous materials emergency response training program at Hanford Nuclear Reservation, Richland, Washington.

(b) REQUIREMENT OF CONCEPTUAL DESIGN.—None of the funds authorized to be appropriated under section 3102(c) for project 95–E–600 may be obligated or expended until the Secretary of Energy completes a conceptual design for the project.

SEC. 3141. INTERNATIONAL CENTER FOR APPLIED RESEARCH.

(a) ESTABLISHMENT.—(1) The Secretary of Energy shall establish an International Center for Applied Research at the Savannah River Site, South Carolina. The purpose of the Center is to promote the following activities:

(A) The application in the United States of hydrogen technology research derived from tritium production.

(B) The development of beneficial uses of nuclear materials.

(C) The research and development of innovative methods for the treatment and disposal of nuclear waste.

(D) The development of specifications for the decommissioning of nuclear facilities and the disposition of nuclear materials.

(E) The research and development of any technologies that the Secretary considers appropriate and that are likely to be commercialized.

(2) The Secretary shall enter into an arrangement to provide for the location of the Center at a suitable facility at, or adjacent to, the Savannah River Site. Contracts.

(3) The Secretary shall, using competitive procedures, select a nonprofit entity or a group of nonprofit entities to operate the Center. The Center shall promote activities under paragraph (1) in a manner that accomplishes regional development through applied science and technology.

(b) AVAILABILITY OF FUNDS.—Of amounts authorized to be appropriated in section 3101(c), $12,000,000 shall be available to establish the Center referred to in subsection (a).

Subtitle D—Other Matters

SEC. 3151. ACCOUNTING PROCEDURES FOR DEPARTMENT OF ENERGY FUNDS.

(a) IN GENERAL.—The Secretary of Energy shall prescribe procedures to account for the use of funds for the performance of the programs and activities of the Department of Energy for which funds are appropriated pursuant to this title for national security programs of the Department of Energy. The procedures shall provide for such accounting for fiscal years beginning after fiscal year 1996.

(b) COVERED MATTERS.—The Secretary shall prescribe procedures under subsection (a)—

(1) to account for the funds appropriated to the Department pursuant to this title for national security programs and activities of the Department that are not used for the purpose for which such funds were appropriated; and

(2) to provide an accounting for all encumbered funds, unencumbered funds, unobligated funds, costed funds, and uncosted obligations of the national security programs of the Department in that fiscal year.

SEC. 3152. APPROVAL FOR CERTAIN NUCLEAR WEAPONS ACTIVITIES.

(a) APPROVAL BY JOINT NUCLEAR WEAPONS COUNCIL.—Subsection (d) of section 179 of title 10, United States Code, is amended—

(1) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.".

(b) REPORT.—Such section is further amended by adding at the end the following new subsection:

"(e) Each fiscal year, at the same time the President submits the budget pursuant to section 1105 of title 31, the Chairman of the Council, through the Secretary of Energy, shall submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report, in classified form, on the following:

"(1) The effectiveness and efficiency of the Council, and of the deliberative and decisionmaking processes used by the Council, in carrying out the responsibilities described in subsection (d).

"(2) A description of all activities conducted by the Department of Energy during that fiscal year, or planned to be conducted by the Department of Energy during the next fiscal year, for the study, development, production, and retirement of nuclear warheads and that have been approved by the Council, including a description of—

"(A) the concept definition activities and feasibility studies conducted or planned to be conducted by the Department of Energy;

"(B) the schedule for completion of each such activity or study; and

"(C) the degree to which each such activity or study is consistent with United States policy for new nuclear warhead development or warhead modification and with established or projected military requirements.".

(c) TECHNICAL AMENDMENT.—Subsections (a)(3) and (b) of such section are amended by striking out "appointed" each place it appears and inserting in lieu thereof "designated".

SEC. 3153. STUDY OF FEASIBILITY OF CONDUCTING CERTAIN ACTIVITIES AT THE NEVADA TEST SITE, NEVADA.

Reports.

Not later than April 1, 1995, the Secretary of Energy shall submit to Congress a report on the feasibility of conducting the following activities at the Nevada Test Site, Nevada:

(1) The demilitarization of large rocket motors, high energetic explosives, and conventional ordnance.

(2) Disarmament and demilitarization of conventional weapons and components.

(3) Experiments that assist in monitoring compliance with international agreements on the nonproliferation of nuclear weapons.

(4) Programs for the Department of Energy and the Department of Defense to develop simulator technologies for nuclear weapons design and effects, including advanced hydrodynamic simulators, fusion test facilities, and nuclear weapons effects simulators.

(5) The stockpile stewardship program established pursuant to section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note).

(6) Experiments related to the nonproliferation of nuclear weapons, including experiments with respect to disablement of such weapons, nuclear forensics, sensors, and verification and monitoring.

SEC. 3154. REPORT ON WASTE STREAMS GENERATED BY NUCLEAR WEAPONS PRODUCTION CYCLE.

42 USC 2121 note.

(a) REPORT.—Not later than March 31, 1996, the Secretary of Energy shall submit to Congress a report that contains a description of all waste streams generated before 1992 during each step of the complete cycle of production and disposition of nuclear weapon components by the Department of Energy. The description for each such step shall be based on a unit of analysis that is appropriate for that step. The report shall include an estimate of the volume of waste generated per unit of analysis and an analysis of the characteristics of each waste stream.

(b) DEFINITIONS.—In this section:

(1) The term "waste stream" means waste materials the storage, treatment, or disposition of which is regulated under Federal law, except that such term does not include usable source materials, usable byproduct materials, and usable special nuclear materials.

(2) The terms "byproduct material", "source material", and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

SEC. 3155. COMMUNICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

(a) COMMUNICATION OF DATA.—Section 144 of the Atomic Energy Act of 1954 (42 U.S.C. 2164) is amended—

(1) by redesignating subsection d. as subsection e.; and

(2) by inserting after subsection c. the following new subsection d.:

"d. (1) In addition to the cooperation authorized in subsections a., b., and c., the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 142, as is necessary for—

"(A) the support of a program for the control of and accounting for fissile material and other weapons material;

"(B) the support of the control of and accounting for atomic weapons;

"(C) the verification of a treaty; and

"(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

"(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

"(A) will promote the common defense and security interests of the United States and the nation concerned; and

"(B) will not constitute an unreasonable risk to such common defense and security interests.

"(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.".

(b) APPLICABILITY OF NOTICE AND WAIT PROVISIONS.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act, as inserted by subsection (a), until December 31, 1995.

(c) CONFORMING AMENDMENTS.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended as follows:

42 USC 2153.

(1) Section 123 is amended—

(A) by striking out "or 144 c." each place it appears and inserting in lieu thereof "144 c., or 144 d.";

(B) in subsection a., by striking out "or 144 b." and inserting in lieu thereof "144 b., or 144 d."; and

(C) in subsection b., by inserting "(except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d.)" after "the President has submitted text of the proposed agreement for cooperation".

42 USC 2162.

(2) Section 142 d. is amended by striking out "subsection 144 b." and inserting in lieu thereof "subsection b. or d. of section 144.".

Repeal.
42 USC 2164.

(3) Section 142 f. is repealed.

(4) Section 144 e., as redesignated by subsection (a)(1), is amended by striking out "or c." and inserting in lieu thereof "c., or d.".

SEC. 3156. SCHOLARSHIP AND FELLOWSHIP PROGRAM FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) USE OF FUNDS.—Of the funds authorized to be appropriated to the Department of Energy in section 3102 for fiscal year 1995 for environmental restoration and waste management, $1,000,000 shall be available for the scholarship and fellowship program for environmental restoration and waste management carried out under section 3132 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1572; 42 U.S.C. 7274e).

(b) DESIGNATION AS MARILYN LLOYD SCHOLARSHIP AND FELLOWSHIP PROGRAM.—(1) Section 3132(a) of such Act (42 U.S.C. 7274e(a)) is amended by adding at the end the following: "The scholarship and fellowship program shall be known as the 'Marilyn Lloyd Scholarship and Fellowship Program'.".

Effective date.
42 USC 7274e note.

(2) The amendment made by paragraph (1) shall take effect on January 3, 1995.

SEC. 3157. REPORT ON ECONOMIC REDEVELOPMENT AND CONVERSION ACTIVITIES RESULTING FROM RECONFIGURATION OF DEPARTMENT OF ENERGY NUCLEAR WEAPONS COMPLEX.

(a) IN GENERAL.—Not later than May 1, 1995, the Secretary of Energy shall submit to Congress information on economic redevelopment and conversion activities that, in the determination of the Secretary, may result from the reconfiguration of the Department of Energy nuclear weapons complex. The Secretary may submit the information in a report or submit the programmatic environmental impact statement referred to in section 3145(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1949) and include the information in that statement.

(b) CONTENTS.—The information referred to in subsection (a) shall include the following:

(1) An analysis of the existing condition and capabilities of the facilities of the nuclear weapons complex.

(2) A description of the technologies and processes at such facilities that have the potential to be developed in collaboration with private industry, State, local, or tribal governments, institutions of higher education, or non-profit organizations.

(3) An estimate of the costs associated with economic redevelopment and conversion activities as a result of the reconfiguration of the nuclear weapons complex.

(4) A description of how the Secretary will coordinate with local interests regarding such activities.

SEC. 3158. OFFICE OF FISSILE MATERIALS DISPOSITION.

(a) ESTABLISHMENT.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF FISSILE MATERIALS DISPOSITION

"SEC. 212. (a) There shall be within the Department an Office of Fissile Materials Disposition. 42 USC 7143.

"(b) The Secretary shall designate the head of the Office. The head of the Office shall report to the Under Secretary.

"(c) The head of the Office shall be responsible for all activities of the Department relating to the management, storage, and disposition of fissile materials from weapons and weapons systems that are excess to the national security needs of the United States.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 210 the following new items:

"Sec. 211. Office of Minority Economic Impact.
"Sec. 212. Office of Fissile Materials Disposition.".

SEC. 3159. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES AT IDAHO NATIONAL ENGINEERING LABORATORY.

Section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2074), as amended by section 3136 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2641), is further amended—

(1) in the third sentence of subsection (a)(3), by striking out "fiscal years 1993 and 1994" and inserting in lieu thereof "fiscal years 1993, 1994, 1995, 1996, and 1997"; and

(2) in subsection (c), by striking out "September 30, 1994, with respect to the Idaho National Engineering Laboratory" and inserting in lieu thereof "September 30, 1997, with respect to the Idaho National Engineering Laboratory".

SEC. 3160. ELIMINATION OF REQUIREMENT FOR FIVE-YEAR PLAN FOR DEFENSE NUCLEAR FACILITIES.

(a) ELIMINATION OF REQUIREMENT.—Section 3135(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575; 42 U.S.C. 7274g(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A) defense nuclear facilities and (B) all other facilities owned or operated by the Department of Energy" in the first sentence and inserting in lieu thereof "all facilities owned or operated by the Department of Energy except defense nuclear facilities"; and

(B) by inserting "such" in the third sentence after "restoration at all";

(2) in paragraph (4), by striking out "The plan shall contain the following matters:" and inserting in lieu thereof "The plan shall include, with respect to the Department of Energy facilities required by paragraph (1) to be covered by the plan, the following matters:";

(3) by striking out paragraph (6); and

(4) by redesignating paragraph (7) as paragraph (6).

(b) ANNUAL WASTE MANAGEMENT REPORTS.—Section 3153(b)(1) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950; 42 U.S.C. 7274k(b)(1)) is amended—

(1) by inserting "including pollution prevention and" after "waste management,"; and

(2) by striking out "and technology research and development related to such activities and projects".

(c) CONTENTS OF ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT REPORTS.—Section 3153(c) of such Act (42 U.S.C. 7274k(c)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2)(D);

(3) by striking out the period at the end of paragraph (2)(E) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (2) the following new subparagraph:

"(F) a description of the personnel and facilities required to complete the activity or project; and"; and

(5) by adding at the end the following new paragraph:

"(3) contain a description of the research and development necessary to develop the technology to conduct the activities and projects covered by the report.".

(d) PUBLIC PARTICIPATION IN DEVELOPMENT OF INFORMATION.—Section 3153 of such Act (42 U.S.C. 7274k) is further amended by adding at the end the following new subsection:

"(f) PUBLIC PARTICIPATION IN DEVELOPMENT OF INFORMATION.—(1) The Secretary of Energy shall consult with the Administrator

of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in the development of information necessary to complete the reports required by subsections (a), (b), and (d).

"(2) Consultation under paragraph (1) shall not interfere with the timely submission to Congress of the budget for a fiscal year.

"(3) The Secretary may award grants to, and enter into cooperative agreements with, affected States and affected Indian tribes to facilitate the participation of such entities in the development of information under this subsection. The Secretary may also take appropriate action to facilitate the participation of interested members of the public in such development under this subsection.".

(e) PUBLIC PARTICIPATION IN PLANNING.—The Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Attorney General, Governors and Attorneys General of affected States, appropriate representatives of affected Indian tribes, and interested members of the public in any planning conducted by the Secretary for environmental restoration and waste management at Department of Energy defense nuclear facilities. 42 USC 7274g note.

SEC. 3161. AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL. 42 USC 7231 note.

(a) AUTHORITY.—(1) Notwithstanding any provision of title 5, United States Code, governing appointments in the competitive service and General Schedule classification and pay rates, the Secretary of Energy may—

(A) establish and set the rates of pay for not more than 200 positions in the Department of Energy for scientific, engineering, and technical personnel whose duties will relate to safety at defense nuclear facilities of the Department; and

(B) appoint persons to such positions.

(2) The rate of pay for a position established under paragraph (1) may not exceed the rate of pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) To the maximum extent practicable, the Secretary shall appoint persons under paragraph (1)(B) to the positions established under paragraph (1)(A) in accordance with the merit system principles set forth in section 2301 of such title.

(4) The Secretary may not appoint more than 100 persons during fiscal year 1995 under the authority provided in this subsection.

(b) OPM REVIEW.—(1) The Secretary shall enter into an agreement with the Director of the Office of Personnel Management under which agreement the Director shall periodically evaluate the use of the authority set forth in subsection (a)(1). The Secretary shall reimburse the Director for evaluations conducted by the Director pursuant to the agreement. Any such reimbursement shall be credited to the revolving fund referred to in section 1304(e) of title 5, United States Code. Contracts.

(2) If the Director determines as a result of such evaluation that the Secretary of Energy is not appointing persons to positions under such authority in a manner consistent with the merit system principles set forth in section 2301 of title 5, United States Code, or is setting rates of pay at levels that are not appropriate for the qualifications and experience of the persons appointed and

the duties of the positions involved, the Director shall notify the Secretary and Congress of that determination.

(3) Upon receipt of a notification under paragraph (2), the Secretary shall—

(A) take appropriate actions to appoint persons to positions under such authority in a manner consistent with such principles or to set rates of pay at levels that are appropriate for the qualifications and experience of the persons appointed and the duties of the positions involved; or

(B) cease appointment of persons under such authority.

(c) EPA STUDY.—(1) Upon the 50th appointment made by the Secretary pursuant to subsection (a)(1)(B), the Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall conduct a study of the effects of the implementation of such subsection on the conduct of remedial actions at sites on the National Priorities List.

(2) The study shall assess whether serious problems have resulted at any site on the National Priorities List from appointments made pursuant to subsection (a)(1)(B) of persons whose employment, at the time of the appointment, involved remedial actions or other similar activities at the site.

(3) For purposes of this subsection, a serious problem includes any of the following occurrences:

(A) A significant delay or significant disruption of a schedule for completion of a remedial action at the site.

(B) A significant escalation of the personnel costs for the remedial action.

(C) A significant exacerbation of any shortage in the number of critical personnel at the site.

Reports.

(4) The Administrator, in consultation with the Secretary, shall submit to Congress a report on the study conducted under paragraph (1). The report shall be submitted not later than 30 days after the date upon which the Secretary has made the 50th appointment pursuant to subsection (a)(1)(B). The Secretary may not make more than 50 such appointments until the submission of the report.

(5) If, as a result of the study conducted under paragraph (1), the Administrator, in consultation with the Secretary, determines that serious problems have resulted at any site on the National Priorities List from appointments made pursuant to subsection (a)(1)(B), the Administrator and the Secretary shall jointly submit to Congress, together with the report referred to in paragraph (4), a plan to ameliorate the effects of those serious problems. Under the plan, the Administrator and the Secretary shall provide for—

(A) a reduction in the rate at which persons are appointed pursuant to such subsection;

(B) the making of appointments pursuant to such subsection of persons other than persons whose employment, at the time of the appointment, involved remedial actions or other similar activities at sites on the National Priorities List; or

(C) any other effective alternative to appointing persons described in subparagraph (B) that the Administrator and the Secretary consider appropriate.

(6) To carry out this section, the Secretary shall regularly provide to the Administrator the following information:

(A) The relevant previous places of employment of each person appointed pursuant to subsection (a)(1)(B).

(B) The site on the National Priorities List, if the employment of such person, at the time of the appointment of that person pursuant to such subsection, involved remedial actions or other similar activities at the site.

(d) TERMINATION.—(1) The authority provided under subsection (a)(1) shall terminate on September 30, 1997.

(2) An employee may not be separated from employment with the Department of Energy or receive a reduction in pay by reason of the termination of authority under paragraph (1).

SEC. 3162. USE OF FUNDS FOR COMPUTER DECLASSIFICATION SYSTEM.

Of the funds authorized to be appropriated to the Department of Energy under section 3103, $3,000,000 shall be available for a computer system for declassification purposes.

SEC. 3163. SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES. 42 USC 7274m.

(a) SAFETY AT DEFENSE NUCLEAR FACILITIES.—The Secretary of Energy shall take appropriate actions to ensure that—

(1) officials of the Department of Energy who are responsible for independent oversight of matters relating to nuclear safety at defense nuclear facilities and enforcement of nuclear safety standards at such facilities maintain independence from officials who are engaged in, or who are advising persons who are engaged in, management of such facilities;

(2) the independent, internal oversight functions carried out by the Department include activities relating to—

(A) the assessment of the safety of defense nuclear facilities;

(B) the assessment of the effectiveness of Department program offices in carrying out programs relating to the environment, safety, health, and security at defense nuclear facilities;

(C) the provision to the Secretary of oversight reports that—

(i) contain validated technical information; and

(ii) provide a clear analysis of the extent to which line programs governing defense nuclear facilities meet applicable goals for the environment, safety, health, and security at such facilities; and

(D) the development of clear performance standards to be used in assessing the adequacy of the programs referred to in subparagraph (C)(ii);

(3) the Department has a system for bringing issues relating to nuclear safety at defense nuclear facilities to the attention of the officials of the Department (including the Secretary of Energy) who have authority to resolve such issues in an adequate and timely manner; and

(4) an adequate number of qualified personnel of the Department are assigned to oversee matters relating to nuclear safety at defense nuclear facilities and enforce nuclear safety standards at such facilities.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the following:

(1) The actions that the Secretary has taken or will take to fulfill the requirements set forth in paragraphs (1), (2), and (3) of subsection (a).

(2) The actions in addition to the actions described under paragraph (1) that the Secretary could take in order to fulfill such requirements.

(3) The respective roles with regard to nuclear safety at defense nuclear facilities of the following officials:

(A) The Associate Deputy Secretary of Energy for Field Management.

(B) The Assistant Secretary of Energy for Defense Programs.

(C) The Assistant Secretary of Energy for Environmental Restoration and Waste Management.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1995, $17,933,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORIZED USES OF STOCKPILE FUNDS.

Subject to such limitations as may be provided in appropriations Acts, during fiscal year 1995, the National Defense Stockpile Manager may obligate up to $54,200,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section.

SEC. 3302. ROTATION OF MATERIALS TO PREVENT TECHNOLOGICAL OBSOLESCENCE.

Section 6(a)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(4)) is amended by inserting "or technological obsolescence" after "deterioration".

50 USC 98d note.

SEC. 3303. EXTENSION OF LIMITATION ON AUTHORITY TO DISPOSE OF CHROMIUM FERRO AND MANGANESE FERRO.

Section 3302(f) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2651), as amended by section 3303(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1961), is further amended by striking out "October 1, 1994" and inserting in lieu thereof "October 1, 1995".

50 USC 98d note.

SEC. 3304. LIMITATION ON AUTHORITY TO DISPOSE OF ZINC.

(a) LIMITATION ON DISPOSAL AUTHORITY.—The disposal of zinc from the National Defense Stockpile pursuant to any disposal authority provided by law may not commence before April 1, 1995.

(b) CONDITION ON DISPOSAL AFTER EXPIRATION OF LIMITATION.—If any quantity of zinc is proposed for disposal from the National Defense Stockpile during fiscal year 1995 upon the expiration of the limitation prescribed under subsection (a), the President shall submit to Congress not later than February 15, 1995, a revised annual materials plan under section 11(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–2) that specifically describes the proposed disposals. The revised plan shall include the views of the Market Impact Committee regarding the market impact of the disposals, as required under section 10(c) of such Act (50 U.S.C. 98h–1(c)).

(c) EFFECT ON TRANSFERS OF ZINC TO OTHER FEDERAL AGENCIES.—Nothing in this section shall limit the authority of the National Defense Stockpile Manager to transfer zinc in the National Defense Stockpile to the jurisdiction and control of another Federal agency for official Government use.

(d) NATIONAL DEFENSE STOCKPILE DEFINED.—The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3305. LIMITATIONS ON DISPOSAL OF CHROMITE AND MANGANESE ORES.

(a) PREFERENCE FOR DOMESTIC UPGRADING.—In offering to enter into agreements pursuant to any provision of law for the disposal of chromite and manganese ores of metallurgical grade from the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c), the President shall give a right of first refusal on all such offers to domestic ferroalloy upgraders.

(b) DOMESTIC FERROALLOY UPGRADER DEFINED.—For purposes of this section, the term "domestic ferroalloy upgrader" means a company or other business entity that, as determined by the President—

(1) is engaged in operations to upgrade chromite or manganese ores of metallurgical grade or is capable of engaging in such operations; and

(2) conducts a significant level of its research, development, engineering, and upgrading operations in the United States.

(c) APPLICATION OF SECTION.—The requirements specified in subsection (a) shall apply during fiscal year 1995.

SEC. 3306. REPORT ON DOMESTIC PRODUCTION OF HIGH PURITY ELECTROLYTIC CHROMIUM METAL.

(a) AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an agreement with the President of the National Academy of Sciences, under which the Academy will prepare a report regarding the production of high purity electrolytic chromium metal in the United States.

(b) ELEMENTS OF REPORT.—In preparing the report under subsection (a), the National Academy of Sciences shall evaluate—

(1) the capability of industrial facilities in the United States to produce high purity electrolytic chromium metal;

(2) the need to maintain a domestic source for the production of high purity electrolytic chromium metal;

(3) the potential adverse effects on the United States economy and defense capabilities if domestic sources for the production of high purity electrolytic chromium metal are lost;

(4) the availability of high purity electrolytic chromium metal from sources outside the United States; and

(5) the capability and reliability of such foreign sources for the production of high purity electrolytic chromium metal.

(c) SUBMISSION OF REPORT.—Not later than 120 days after the date on which the agreement is entered into under subsection (a), the National Academy of Sciences shall submit to the Secretary of Defense and Congress the report required under such agreement.

TITLE XXXIV—CIVIL DEFENSE

Subtitle A—Authorization of Appropriations

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $129,658,000 for fiscal year 1995 for the purpose of carrying out title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as added by section 3411.

Subtitle B—Reenactment of Federal Civil Defense Act of 1950 in the Robert T. Stafford Disaster Relief and Emergency Assistance Act

SEC. 3411. RESTATEMENT OF FEDERAL CIVIL DEFENSE AUTHORITIES IN THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT.

(a) RESTATEMENT AS NEW TITLE.—The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) by redesignating title VI as title VII;

42 USC 501.

(2) by redesignating sections 601, 602, 603, and 604 as sections 701, 702, 703, and 704, respectively; and

(3) by inserting after title V the following new title VI:

"TITLE VI—EMERGENCY PREPAREDNESS

42 USC 5195.

"SEC. 601. DECLARATION OF POLICY.

"The purpose of this title is to provide a system of emergency preparedness for the protection of life and property in the United States from hazards and to vest responsibility for emergency preparedness jointly in the Federal Government and the States and their political subdivisions. The Congress recognizes that the organizational structure established jointly by the Federal Government and the States and their political subdivisions for emergency preparedness purposes can be effectively utilized to provide relief

and assistance to people in areas of the United States struck by a hazard. The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards.

"SEC. 602. DEFINITIONS. 42 USC 5195a.

"(a) DEFINITIONS.—For purposes of this title only:

"(1) HAZARD.—The term 'hazard' means an emergency or disaster resulting from—

"(A) a natural disaster; or

"(B) an accidental or man-caused event.

"(2) NATURAL DISASTER.—The term 'natural disaster' means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons.

"(3) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following:

"(A) Measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population).

"(B) Measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications).

"(C) Measures to be undertaken following a hazard (including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities).

"(4) ORGANIZATIONAL EQUIPMENT.—The term 'organizational equipment' means equipment determined by the Director to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating

local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

"(5) MATERIALS.—The term 'materials' includes raw materials, supplies, medicines, equipment, component parts and technical information and processes necessary for emergency preparedness.

"(6) FACILITIES.—The term 'facilities', except as otherwise provided in this title, includes buildings, shelters, utilities, and land.

"(7) DIRECTOR.—The term 'Director' means the Director of the Federal Emergency Management Agency.

"(8) NEIGHBORING COUNTRIES.—The term 'neighboring countries' includes Canada and Mexico.

"(9) UNITED STATES AND STATES.—The terms 'United States' and 'States' includes the several States, the District of Columbia, and territories and possessions of the United States.

"(10) STATE.—The term 'State' includes interstate emergency preparedness authorities established under section 611(h).

"(b) CROSS REFERENCE.—The terms 'national defense' and 'defense,' as used in the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), includes emergency preparedness activities conducted pursuant to this title.

42 USC 5195b. **"SEC. 603. ADMINISTRATION OF TITLE.**

"This title shall be carried out by the Director of the Federal Emergency Management Agency.

"Subtitle A—Powers and Duties

42 USC 5196. **"SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.**

"(a) IN GENERAL.—In order to carry out the policy described in section 601, the Director shall have the authorities provided in this section.

"(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The Director may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the Director may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

"(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the Director may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

"(d) COMMUNICATIONS AND WARNINGS.—The Director may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

"(e) EMERGENCY PREPAREDNESS MEASURES.—The Director may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

"(1) research and studies as to the best methods of treating the effects of hazards;

"(2) developing shelter designs and materials for protective covering or construction; and

"(3) developing equipment or facilities and effecting the standardization thereof to meet emergency preparedness requirements.

"(f) TRAINING PROGRAMS.—(1) The Director may—

"(A) conduct or arrange, by contract or otherwise, for training programs for the instruction of emergency preparedness officials and other persons in the organization, operation, and techniques of emergency preparedness;

"(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the Director; and

"(C) provide instructors and training aids as necessary.

"(2) The terms prescribed by the Director for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

"(3) The Director may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

"(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The Director may publicly disseminate appropriate emergency preparedness information by all appropriate means.

"(h) INTERSTATE EMERGENCY PREPAREDNESS COMPACTS.—(1) The Director may—

"(A) assist and encourage the States to negotiate and enter into interstate emergency preparedness compacts;

"(B) review the terms and conditions of such proposed compacts in order to assist, to the extent feasible, in obtaining uniformity between such compacts and consistency with Federal emergency response plans and programs;

"(C) assist and coordinate the activities under such compacts; and

"(D) aid and assist in encouraging reciprocal emergency preparedness legislation by the States which will permit the furnishing of mutual aid for emergency preparedness purposes in the event of a hazard which cannot be adequately met or controlled by a State or political subdivision thereof threatened with or experiencing a hazard.

"(2) A copy of each interstate emergency preparedness compact shall be transmitted promptly to the Senate and the House of Representatives. The consent of Congress is deemed to be granted to each such compact upon the expiration of the 60-day period beginning on the date on which the compact is transmitted to Congress.

"(3) Nothing in this subsection shall be construed as preventing Congress from disapproving, or withdrawing at any time its consent to, any interstate emergency preparedness compact.

"(i) MATERIALS AND FACILITIES.—(1) The Director may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

"(2) Facilities acquired by purchase, donation, or other means of transfer may be occupied, used, and improved for the purposes of this title before the approval of title by the Attorney General as required by section 355 of the Revised Statutes (40 U.S.C. 255).

Reports. "(3) The Director shall submit to Congress a report, at least quarterly, describing all property acquisitions made pursuant to this subsection.

"(4) The Director may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

"(5) The Director may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the Director shall prescribe.

"(j) FINANCIAL CONTRIBUTIONS.—(1) The Director may make financial contributions, on the basis of programs or projects approved by the Director, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the Director shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

"(2) No contribution may be made under this subsection for the procurement of land or for the purchase of personal equipment for State or local emergency preparedness workers.

"(3) The amounts authorized to be contributed by the Director to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

"(4) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the Director for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the Director) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

"(5) The amounts authorized to be contributed by the Director to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the Director may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall

be excluded from the computation of the State share under this subsection.

"(6) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the Director. The Director shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the Director, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the Director may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the Director determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the Director necessary for the use of such facility for emergency preparedness purposes.

"(7) The Director shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection. Reports.

"(8) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the Director under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a–276a–5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The Director shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

"(k) SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.—The Director may arrange for the sale or disposal of materials and facilities found by the Director to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

"SEC. 612. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES. 42 USC 5196a

"The Director shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

42 USC 5196b.

"SEC. 613. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.

"(a) GENERAL AUTHORITY.—To further assist in carrying out the purposes of this title, the Director may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

"(b) PLAN REQUIREMENTS.—A plan submitted under this section shall—

"(1) provide, pursuant to State law, that the plan shall be in effect in all political subdivisions of the State and be mandatory on them and be administered or supervised by a single State agency;

"(2) provide that the State shall share the financial assistance with that provided by the Federal Government under this section from any source determined by it to be consistent with State law;

"(3) provide for the development of State and local emergency preparedness operational plans, pursuant to standards approved by the Director;

"(4) provide for the employment of a full-time emergency preparedness director, or deputy director, by the State;

"(5) provide that the State shall make such reports in such form and content as the Director may require; and

"(6) make available to duly authorized representatives of the Director and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section.

"(c) TERMS AND CONDITIONS.—The Director shall establish such other terms and conditions as the Director considers necessary and proper to carry out this section.

"(d) APPLICATION OF OTHER PROVISIONS.—In carrying out this section, the provisions of section 611(h) and 621(h) shall apply.

"(e) ALLOCATION OF FUNDS.—For each fiscal year concerned, the Director shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the Director shall prescribe. The Director may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

"(f) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the

Director notifies the States of the allocations under this section, the Director may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the Director, will best assure the adequate development of the emergency preparedness capability of the United States.

"(g) ANNUAL REPORTS.—The Director shall report annually to the Congress all contributions made pursuant to this section.

"SEC. 614. REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS. 42 USC 5196c.

"Notwithstanding any other provision of this title, funds appropriated to carry out this title may not be used for the purpose of constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this title for such purpose.

"SEC. 615. USE OF FUNDS TO PREPARE FOR AND RESPOND TO HAZARDS. 42 USC 5196d

"Funds made available to the States under this title may be used by the States for the purposes of preparing for hazards and providing emergency assistance in response to hazards. Regulations prescribed to carry out this section shall authorize the use of emergency preparedness personnel, materials, and facilities supported in whole or in part through contributions under this title for emergency preparedness activities and measures related to hazards.

"Subtitle B—General Provisions

"SEC. 621. ADMINISTRATIVE AUTHORITY.

"(a) IN GENERAL.—For the purpose of carrying out the powers and duties assigned to the Director under this title, the Director may exercise the administrative authorities provided under this section. 42 USC 5197.

"(b) ADVISORY PERSONNEL.—(1) The Director may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United Kingdom or citizens of Canada) as the Director considers to be necessary in carrying out the provisions of this title.

"(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed $180 for each day of service, plus authorized subsistence and travel, as determined by the Director.

"(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The Director may—

"(1) use the services of Federal agencies and, with the consent of any State or local government, accept and use the services of State and local agencies;

"(2) establish and use such regional and other offices as may be necessary; and

"(3) use such voluntary and uncompensated services by individuals or organizations as may from time to time be needed.

"(d) GIFTS.—Notwithstanding any other provision of law, the Director may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

"(e) REIMBURSEMENT.—The Director may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

"(f) PRINTING.—The Director may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the Director considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

"(g) RULES AND REGULATIONS.—The Director may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The Director may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the Director may designate.

"(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the Director finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the Director may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the Director is satisfied that there will no longer be any such failure.

"(2) Until so satisfied, the Director shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations, terms, and conditions governing plans, programs, or projects hereunder.

"(3) As used in this subsection, the term 'person' means the political subdivision of any State or combination or group thereof or any person, corporation, association, or other entity of any nature whatsoever, including instrumentalities of States and political subdivisions.

42 USC 5197a.

"SEC. 622. SECURITY REGULATIONS.

"(a) ESTABLISHMENT.—The Director shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the Director considers necessary.

"(b) LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal

Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the Director.

"(c) NATIONAL SECURITY POSITIONS.—No employee of the Federal Emergency Management Agency shall occupy any position determined by the Director to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the Director of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the Director of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the Director of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the Director of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the Director of the Federal Emergency Management Agency for action.

"(d) EMPLOYEE OATHS.—Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the Director of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows:

> "'I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.
>
> "'And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of _____(name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence.'

After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such

oath shall be punished as provided in section 1621 of title 18, United States Code.

42 USC 5197b. **"SEC. 623. USE OF EXISTING FACILITIES.**

"In performing duties under this title, the Director—

"(1) shall cooperate with the various departments and agencies of the Federal Government;

"(2) shall use, to the maximum extent, the existing facilities and resources of the Federal Government and, with their consent, the facilities and resources of the States and political subdivisions thereof, and of other organizations and agencies; and

"(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the Director, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

42 USC 5197c. **"SEC. 624. ANNUAL REPORT TO CONGRESS.**

"The Director shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the Director considers appropriate.

42 USC 5197d. **"SEC. 625. APPLICABILITY OF TITLE.**

"The provisions of this title shall be applicable to the United States, its States, Territories and possessions, and the District of Columbia, and their political subdivisions.

42 USC 5197e. **"SEC. 626. AUTHORIZATION OF APPROPRIATIONS AND TRANSFERS OF FUNDS.**

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

"(b) TRANSFER AUTHORITY.—Funds made available for the purposes of this title may be allocated or transferred for any of the purposes of this title, with the approval of the Director of the Office of Management and Budget, to any agency or government corporation designated to assist in carrying out this title. Each such allocation or transfer shall be reported in full detail to the Congress within 30 days after such allocation or transfer.

42 USC 5197f. **"SEC. 627. RELATION TO ATOMIC ENERGY ACT OF 1954.**

"Nothing in this title shall be construed to alter or modify the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

42 USC 5197g. **"SEC. 628. FEDERAL BUREAU OF INVESTIGATION.**

"Nothing in this title shall be construed to authorize investigations of espionage, sabotage, or subversive acts by any persons other than personnel of the Federal Bureau of Investigation.".

(b) CONFORMING AMENDMENT REGARDING DEFINITION OF NATIONAL DEFENSE.—Section 702(13) of the Defense Production Act of 1950 (50 U.S.C. App. 2152(13)) is amended by adding at the end the following new sentence: "Such term includes emergency preparedness activities conducted pursuant to title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

SEC. 3412. REPEAL OF FEDERAL CIVIL DEFENSE ACT OF 1950.

(a) REPEAL.—The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) is repealed. 50 USC app. 2251 *et seq.*

(b) CONFORMING AMENDMENTS.—(1) Section 202(c) of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5132(c)) is amended by striking out "section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c))," and inserting in lieu thereof "section 611(c) of this Act".

(2) The paragraph under the heading "CIVIL DEFENSE PROCUREMENT FUND" in chapter XI of the Third Supplemental Appropriation Act, 1951 (50 U.S.C. App. 2264), is repealed.

(3) Section 813(d) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)) is amended by striking out "the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297)." and inserting in lieu thereof "title VI of The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

TITLE XXXV—NAVAL PETROLEUM RESERVES

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Secretary of Energy $199,456,000 for fiscal year 1995 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title). Funds appropriated pursuant to such authorization shall remain available until expended.

SEC. 3502. PRICE REQUIREMENT ON SALE OF CERTAIN PETROLEUM DURING FISCAL YEAR 1995.

Notwithstanding section 7430(b)(2) of title 10, United States Code, during fiscal year 1995, any sale of any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 1, 2, and 3 shall be made at a price not less than 90 percent of the current sales price, as estimated by the Secretary of Energy, of comparable petroleum in the same area.

SEC. 3503. EXTENSION OF OPERATING CONTRACT FOR NAVAL PETROLEUM RESERVE NUMBERED 1.

Notwithstanding section 7432(b) of title 10, United States Code, the Secretary of Energy may extend the operating contract for Naval Petroleum Reserve Numbered 1, in effect on the date of the enactment of this Act, for an additional two years effective on the expiration date of the contract. However, the contract may obligate funds only to the extent that such funds are made available in appropriation Acts.

TITLE XXXVI—PANAMA CANAL COMMISSION

Panama Canal Commission Authorization Act for Fiscal Year 1995.

SEC. 3601. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1995".

SEC. 3602. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1995.

(b) LIMITATIONS.—For fiscal year 1995, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $50,030,000 for administrative expenses, of which not more than—

(1) $11,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $5,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $30,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) REPLACEMENT VEHICLES.—Funds available to the Panama Canal Commission shall be available for the purchase of not to exceed 43 passenger motor vehicles (including large heavy-duty vehicles to be used to transport Commission personnel across the isthmus of Panama). A vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. The purchase price of each vehicle may not exceed $19,500.

SEC. 3603. EXPENDITURES IN ACCORDANCE WITH OTHER LAWS.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3604. COSTS OF EDUCATIONAL SERVICES OBTAINED IN THE UNITED STATES.

Section 1321(e)(2) of the Panama Canal Act of 1979 (22 U.S.C. 3731(e)(2)) is amended by inserting "or the United States" after "schools in the Republic of Panama".

SEC. 3605. SPECIAL IMMIGRANT STATUS OF PANAMANIANS EMPLOYED BY THE UNITED STATES IN THE FORMER CANAL ZONE.

Section 101(a)(27)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(F)) is amended in clause (ii) by inserting "or continues to be employed by the United States Government in an area of the former Canal Zone" after "employment".

Approved October 5, 1994.

LEGISLATIVE HISTORY—S. 2182 (H.R. 4301) (S. 2208) (S. 2209) (S. 2211):

HOUSE REPORTS: Nos. 103-499 accompanying H.R. 4301 (Comm. on Armed Services) and 103-701 (Comm. of Conference).
SENATE REPORTS: No. 103-282 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 18-20, 23, 24, June 8, 9, H.R. 4301 considered and passed House.
June 22-24, 30, S. 2182 considered in Senate.
July 1, S. 2182, S. 2208, S. 2209, S. 2211 considered and passed Senate; H.R. 4301, amended, passed.
July 25, S. 2182 considered and passed House, amended.
Aug. 17, House agreed to conference report.
Sept. 12, 13, Senate considered and agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 5, Presidential statement.

Public Law 103-338
103d Congress

An Act

Oct. 6, 1994
[H.R. 1779]

To designate the facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, as the "Jerry L. Litton United States Post Office Building", and to authorize travel and transportation expenses for certain Federal career appointees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 401 South Washington Street in Chillicothe, Missouri, is designated as the "Jerry L. Litton United States Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Jerry L. Litton United States Post Office Building".

SEC. 3. TRAVEL AND TRANSPORTATION EXPENSES OF CERTAIN FEDERAL CAREER APPOINTEES.

(a) IN GENERAL.—Section 5724(a)(3) of title 5, United States Code, is amended by striking out "November 27, 1988" and inserting in lieu thereof "November 17, 1988".

5 USC 5724 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Technical and Miscellaneous Civil Service Amendments Act of 1992 (Public Law 102-378; 106 Stat. 1346; 5 U.S.C. 1101 note).

SEC. 4. TRAVEL AND TRANSPORTATION EXPENSES FOR FAMILY MEMBERS OF CAREER APPOINTEES.

Paragraph (3) of section 5724(a) of title 5, United States Code, is amended to read as follows:

"(3) upon the separation (or death in service) of a career appointee, as defined in section 3132(a)(4) of this title, the travel expenses of that individual (if applicable), the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds net weight, to the place where the individual will reside (or, in the case of a career appointee who dies in service or who dies after separating but before the travel, transportation, and moving is completed, to the place where the family will reside) within the United States, its territories or possessions, the Commonwealth of Puerto Rico,

or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979, if such individual—

"(A) during or after the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, has been transferred in the interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 17, 1988); and

"(B) is eligible to receive an annuity upon such separation (or, in the case of death in service, met the requirements for being considered eligible to receive an annuity, as of date of death) under the provisions of subchapter III of chapter 83 or chapter 84 of this title.".

SEC. 5. EFFECTIVE DATE. 5 USC 5724 note.

(a) IN GENERAL.—This Act and the amendment made by this Act shall take effect on October 1, 1994, or, if later, the date of the enactment of this Act.

(b) SPECIAL RULE.—

(1) IN GENERAL.—Under regulations prescribed by the President or his designee, an agency shall, as appropriate, pay or make reimbursement for any moving expenses which would be payable under the provisions of section 5724(a)(3) of title 5, United States Code, as amended by section 4 (but which would not have been payable under such provisions, as last in effect before being so amended). President. Regulations.

(2) APPLICABILITY.—The moving expenses to which this subsection applies are those incurred by the family of an individual who died—

(i) before separating from Government service; and

(ii) during the period beginning on January 1, 1994, and ending on the effective date of this Act.

(3) CONDITION.—Payment or reimbursement under this subsection may not be made except upon appropriate written application submitted within 12 months after the date on which the regulations referred to in paragraph (1) take effect.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 1779:

CONGRESSIONAL RECORD:
Vol. 139 (1993): May 24, considered and passed House.
Vol. 140 (1994): Aug. 19, considered and passed Senate, amended.
Sept. 19, House concurred in Senate amendments with amendments.
Sept. 21, Senate concurred in House amendments.

Public Law 103-339
103d Congress

An Act

Oct. 6, 1994
[H.R. 2144]

To provide for the transfer of excess land to the Government of Guam, and for other purposes.

Guam Excess Lands Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guam Excess Lands Act".

SEC. 2. TRANSFER.

(a) IN GENERAL.—The Administrator of General Services shall, subject to section 3, transfer all right, title, and interest of the United States in and to the parcels of land described in subsection (b) (together with any improvements thereon) to the Government of Guam for public benefit use, by quitclaim deed and without reimbursement. Such transfers shall take place after a determination by the head of the Federal agency controlling a parcel that the parcel is excess to the needs of such agency.

(b) DESCRIPTION OF PARCELS TO BE TRANSFERRED.—Unless a parcel of land described in this subsection has been disposed of under other authority on or before the date of the enactment of this Act or is transferred for further Federal utilization as a result of the screening required by section 3(a), the parcels of land required to be transferred under subsection (a) shall consist of the following:

Navy Parcels	
South Finegayan	445 acres
Nimitz Hill Parcels and 1 and 2B	208 acres
NAVMAG Parcel 1	144 acres
Apra Harbor Parcel 7	73 acres
Apra Harbor Parcel 8	6 acres
Apra Harbor Parcel 6	47 acres
Apra Harbor Parcel 9	41 acres
Apra Harbor Parcel 2	30 acres
Apra Harbor Parcel 1	6 acres
Asan Annex	17 acres
NAVCAMS Beach	14 acres
ACEORP Msui Tunnel	4 acres
Agat Parcel 3	5 acres
Air Force Parcels	
Andersen South (portion of Andersen Admin. Annex)	395 acres
Camp Edusa (Family Housing Annex 1)	103 acres
Harmon Communication Annex No. 1	862 acres
Harmon Housing Annex No. 4	396 acres
Harmon POL Storage Annex No. 2	35 acres
Harmon VOR Annex	308 acres
Harmon POL Storage Annex No. 1	14 acres
Andersen Radio Beacon Annex	23 acres
Federal Aviation Administration Parcel	
Talofofo "HH" Homer Facility	37 acres

(c) LEGAL DESCRIPTIONS.—The exact acreages and legal descriptions of all parcels of land to be transferred under this Act shall be determined by surveys which are satisfactory to the head of the controlling Federal agency referred to in subsection (a). The cost of such surveys, together with all direct and indirect costs related to any conveyance under this section, shall be borne by such controlling Federal agency.

SEC. 3. TERMS AND CONDITIONS.

(a) FURTHER FEDERAL UTILIZATION SCREENING.—Parcels of land determined to be excess property pursuant to section 2 shall be screened for further Federal utilization in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and such screening will be completed within 45 days after the date on which they are determined to be excess.

(b) APPRAISALS.—The Administrator shall promptly appraise those parcels that are not needed for further Federal utilization to determine their estimated fair market value. The head of the Federal agency which controls such parcels shall cooperate with the Administrator in carrying out appraisals under this section. The Administrator shall submit a copy of the appraisals to the committees of the Congress specified in subsection (d). The cost of such appraisals shall be paid for under section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)).

(c) LAND USE PLAN.—The parcels of land to be transferred under this Act shall be eligible for transfer after the Government of Guam enacts legislation which establishes a detailed plan for the public benefit use (including, but not limited to, housing, schools, hospitals, libraries, child care centers, parks and recreation, conservation, economic development, public health, and public safety) of such parcels and the Governor of Guam submits such plan to the committees of the Congress specified in subsection (d).

(d) SUBMISSIONS.—The appraisals and land use plan required to be submitted to the committees of the Congress under subsections (b) and (c) shall be submitted to the Committee on Natural Resources, the Committee on Armed Services, the Committee on Government Operations and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Armed Services, and the Committee on Governmental Affairs of the Senate.

(e) REVIEW BY COMMITTEES.—Parcels of land may not be transferred under this Act until 180 days after the submission to the committees of the Congress specified in subsection (d) of—

(1) the appraisals provided for in subsection (b), and

(2) the land use plan provided for in subsection (c).

(f) GOVERNMENT OF GUAM LANDS WITHIN THE WAR IN THE PACIFIC NATIONAL HISTORICAL PARK.—Parcels of land may not be transferred under this Act until after the Government of Guam enters into a cooperative agreement with the Secretary of the Interior, acting through the Director of the National Park Service, which grants to the Secretary, at no cost, the administrative jurisdiction over all undeveloped lands within the boundary of the War in the Pacific National Historical Park, except those lands at Adelup Point, which are owned by the Government of Guam. The lands covered by such cooperative agreement shall be managed in accordance with the general management plan of the park and

in the same manner as lands within the park that are owned by the United States.

SEC. 4. OBJECTS AFFECTING NAVIGABLE AIRSPACE.

The conveyance document for any land transferred under this Act located within 6 nautical miles of an airport shall contain a provision that requires a determination of no hazard to air navigation to be obtained from the Federal Aviation Administration in accordance with applicable regulations governing objects affecting navigable airspace or under the authority of the Federal Aviation Act of 1958 (Public Law 85–726, as amended) in order for construction or alteration on the property to be permitted.

SEC. 5. SEVERE CONTAMINATION.

Notwithstanding any other provision of this Act, the Administrator of General Services, in his discretion, may choose not to transfer any parcel under this Act on which there is severe contamination, the remedy of which would require the United States to incur extraordinary costs.

SEC. 6. APPLICATION OF FEDERAL AND TERRITORIAL LAWS.

All Federal and territorial environmental laws and regulations shall apply to the parcels transferred pursuant to this Act during and after the transfer of such parcels.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 2144:

HOUSE REPORTS: No. 103-391, Pt. 1 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-293 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Jan. 26, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 103-340
103d Congress

An Act

To authorize the Secretary of the Interior to carry out a program to be known as the Junior Duck Stamp Conservation and Design Program, and for other purposes.

Oct. 6, 1994
[H.R. 3679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Junior Duck Stamp Conservation and Design Program Act of 1994.
16 USC 719 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Junior Duck Stamp Conservation and Design Program Act of 1994".

16 USC 719.

SEC. 2. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior (in this Act referred to as the "Secretary") may carry out in accordance with this Act a program to be known as the "Junior Duck Stamp Conservation and Design Program" (in this Act referred to as the "Program") to accomplish the goals of—

(1) providing to school children environmental education opportunities relating to the conservation and management of migratory birds; and

(2) increasing the capacity for schools, States, and other educational programs to conduct conservation and education programs.

(b) PROGRAM FEATURES.—The Program shall consist of—

(1) conducting in all interested States the activities which on the day before the date of the enactment of this Act are conducted under the program known as the Junior Duck Stamp Conservation and Design Program;

(2) other activities authorized under the Program by this or any other Act; and

(3) any other activity necessary to carry out the conservation and education goals of the Program.

(c) EFFORT TO CONDUCT PROGRAM IN ALL STATES.—

(1) IN GENERAL.—The Secretary shall take appropriate steps to seek to conduct the Program in all of the 50 States.

(2) ANNUAL REPORT.—The Secretary shall annually submit a report to the Congress on the status of the Program in each of the 50 States.

16 USC 719a.

SEC. 3. JUNIOR DUCK STAMP.

(a) COMPETITION.—As part of the Program, the Secretary may annually conduct a competition to—

(1) solicit the submission by students at elementary and secondary schools of designs relating to conservation of migratory birds; and

(2) select winning designs from among those submissions for use for licensing and marketing under subsection (b).

(b) LICENSING AND MARKETING OF DESIGN OF JUNIOR DUCK STAMPS.—As part of the Program, the Secretary may—

(1) license and market winning designs selected in competitions under subsection (a); and

(2) license and market stamps bearing those designs, which shall be known as Junior Duck Stamps.

(c) USE OF PROCEEDS FROM LICENSING AND MARKETING OF JUNIOR DUCK STAMPS AND JUNIOR DUCK STAMP DESIGNS.—Amounts received under subsection (b)—

(1) shall be available to the Secretary until expended, without further appropriations, solely for—

Fellowships and scholarships.

(A) awards and scholarships to individuals who submit designs in competitions under subsection (a), that are—

(i) selected in such a competition as winning designs; or

(ii) otherwise determined in such a competition to be superior;

(B) awards to schools and other participants to further education activities related to the conservation education goals of the Program; and

(C) expenses for licensing and marketing under subsection (b); and

(2) may not be used for administrative expenses of the Program.

16 USC 719b.

SEC. 4. ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.

The Secretary may accept and use any gift, devise, or bequest of personal property, or proceeds thereof, for the purpose of funding the activities described in section 3(c)(1) (A) and (B).

16 USC 719c.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for administrative expenses of the Program $250,000 for each of the fiscal years 1995 through 2000.

16 USC 668dd note.

SEC. 6. ENVIRONMENTAL EDUCATION CENTER AND REFUGE HEADQUARTERS AT JOHN HEINZ NATIONAL WILDLIFE REFUGE AT TINICUM.

(a) IN GENERAL.—Notwithstanding other laws and subject to subsection (b), the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may transfer to the National Fish and Wildlife Foundation the Cusano bequest.

(b) CONDITIONS OF TRANSFER.—As a condition of transferring the Cusano bequest under subsection (a), the Secretary of the Interior shall require the National Fish and Wildlife Foundation to enter into an agreement under which the Foundation is required to—

(1) solicit additional non-Federal contributions to provide a dollar for dollar match of the Cusano bequest;

(2) manage the Cusano bequest and those contributions in accordance with all applicable requirements of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.);

(3) use all amounts and proceeds from the Cusano bequest and any non-Federal contributions received pursuant to para-

graph (1) for the purpose of designing and constructing a facility for an environmental education center and refuge headquarters on lands located within the John Heinz National Wildlife Refuge at Tinicum; and

(4) donate the facility to the United States Fish and Wildlife Service upon completion of its construction.

(c) CUSANO BEQUEST DEFINED.—For purposes of this section, the term "Cusano bequest" means the amounts totaling approximately $2,473,971 which were donated to the Department of the Interior in 1994 by Mr. Antonio Cusano of Crum Lynne, Pennsylvania, and includes all proceeds derived from such amounts in the period since the donation was made.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 3679:

HOUSE REPORTS: No. 103-521 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 103-363 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 103-341
103d Congress

An Act

Oct. 6, 1994
[H.R. 3839]

To designate the United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, shall be known and designated as the "Roy M. Wheat Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Roy M. Wheat Post Office.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 3839:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 103-342
103d Congress

An Act

To designate the United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White Post Office".

Oct. 6, 1994
[H.R. 4177]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, shall be known and designated as the "Candace White Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Candace White Post Office.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 4177:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 103-343
103d Congress

An Act

Oct. 6, 1994
[H.R. 4191]

To designate the United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, shall be known and designated as the "Aubrey C. Ottley Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Aubrey C. Ottley Post Office.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 4191:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 103-344
103d Congress

An Act

To amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

Oct. 6, 1994
[H.R. 4230]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

American Indian Religious Freedom Act Amendments of 1994.
42 USC 1996 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Indian Religious Freedom Act Amendments of 1994".

SEC. 2. TRADITIONAL INDIAN RELIGIOUS USE OF THE PEYOTE SACRAMENT.

The Act of August 11, 1978 (42 U.S.C. 1996), commonly referred to as the "American Indian Religious Freedom Act", is amended by adding at the end thereof the following new section:

42 USC 1996a.

"SEC. 3. (a) The Congress finds and declares that—

"(1) for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures;

"(2) since 1965, this ceremonial use of peyote by Indians has been protected by Federal regulation;

"(3) while at least 28 States have enacted laws which are similar to, or are in conformance with, the Federal regulation which protects the ceremonial use of peyote by Indian religious practitioners, 22 States have not done so, and this lack of uniformity has created hardship for Indian people who participate in such religious ceremonies;

"(4) the Supreme Court of the United States, in the case of Employment Division v. Smith, 494 U.S. 872 (1990), held that the First Amendment does not protect Indian practitioners who use peyote in Indian religious ceremonies, and also raised uncertainty whether this religious practice would be protected under the compelling State interest standard; and

"(5) the lack of adequate and clear legal protection for the religious use of peyote by Indians may serve to stigmatize and marginalize Indian tribes and cultures, and increase the risk that they will be exposed to discriminatory treatment.

"(b)(1) Notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States or any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or

transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs.

"(2) This section does not prohibit such reasonable regulation and registration by the Drug Enforcement Administration of those persons who cultivate, harvest, or distribute peyote as may be consistent with the purposes of this Act.

"(3) This section does not prohibit application of the provisions of section 481.111(a) of Vernon's Texas Health and Safety Code Annotated, in effect on the date of enactment of this section, insofar as those provisions pertain to the cultivation, harvest, and distribution of peyote.

"(4) Nothing in this section shall prohibit any Federal department or agency, in carrying out its statutory responsibilities and functions, from promulgating regulations establishing reasonable limitations on the use or ingestion of peyote prior to or during the performance of duties by sworn law enforcement officers or personnel directly involved in public transportation or any other safety-sensitive positions where the performance of such duties may be adversely affected by such use or ingestion. Such regulations shall be adopted only after consultation with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice. Any regulation promulgated pursuant to this section shall be subject to the balancing test set forth in section 3 of the Religious Freedom Restoration Act (Public Law 103–141; 42 U.S.C. 2000bb–1).

"(5) This section shall not be construed as requiring prison authorities to permit, nor shall it be construed to prohibit prison authorities from permitting, access to peyote by Indians while incarcerated within Federal or State prison facilities.

"(6) Subject to the provisions of the Religious Freedom Restoration Act (Public Law 103–141; 42 U.S.C. 2000bb–1), this section shall not be construed to prohibit States from enacting or enforcing reasonable traffic safety laws or regulations.

"(7) Subject to the provisions of the Religious Freedom Restoration Act (Public Law 103–141; 42 U.S.C. 2000bb–1), this section does not prohibit the Secretary of Defense from promulgating regulations establishing reasonable limitations on the use, possession, transportation, or distribution of peyote to promote military readiness, safety, or compliance with international law or laws of other countries. Such regulations shall be adopted only after consultation with representatives of traditional Indian religions for which the sacramental use of peyote is integral to their practice.

"(c) For purposes of this section—

"(1) the term 'Indian' means a member of an Indian tribe;

"(2) the term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(3) the term 'Indian religion' means any religion—

"(A) which is practiced by Indians, and

"(B) the origin and interpretation of which is from within a traditional Indian culture or community; and

"(4) the term 'State' means any State of the United States, and any political subdivision thereof.

"(d) Nothing in this section shall be construed as abrogating, diminishing, or otherwise affecting—

"(1) the inherent rights of any Indian tribe;

"(2) the rights, express or implicit, of any Indian tribe which exist under treaties, Executive orders, and laws of the United States;

"(3) the inherent right of Indians to practice their religions; and

"(4) the right of Indians to practice their religions under any Federal or State law.".

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 4230:

HOUSE REPORTS: No. 103-675 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 8, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 103-345
103d Congress

An Act

Oct. 6, 1994
[H.R. 4569]

To extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

President John F. Kennedy Assassination Records Collection Extension Act of 1994.
44 USC 2107 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Extension Act of 1994".

SEC. 2. EXTENSION OF ACT.

Section 7(o)(1) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended—

(1) by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1996"; and

(2) by striking "2-year".

SEC. 3. AMENDMENTS RELATING TO REVIEW BOARD POWERS.

Section 7(j)(1) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended—

(1) in subparagraph (E) by striking "and" after the semicolon;

(2) in subparagraph (F) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(G) use the Federal Supply Service in the same manner and under the same conditions as other departments and agencies of the United States; and

"(H) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.".

SEC. 4. AMENDMENTS RELATING TO REVIEW BOARD PERSONNEL.

(a) SECURITY CLEARANCE FOR REVIEW BOARD PERSONNEL.—Section 8 of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended by adding at the end the following:

"(e) SECURITY CLEARANCE REQUIRED.—An individual employed in any position by the Review Board (including an individual appointed as Executive Director) shall be required to qualify for any necessary security clearance prior to taking office in that position, but may be employed conditionally in accordance with subsection (b)(3)(B) before qualifying for that clearance.".

(b) APPOINTMENT AND TERMINATION OF STAFF, GENERALLY.—Section 8(b) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended by striking "(b) STAFF.—" and all that follows through the end of paragraph (1) and inserting the following:

"(b) STAFF.—(1) The Review Board, without regard to the civil service laws, may appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform the duties of the Review Board.".

(c) REVIEW BOARD ADMINISTRATIVE STAFF.—Section 8(b)(2) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended—

(1) by striking "A person" and inserting "(A) Except as provided in subparagraph (B), a person"; and

(2) by adding at the end the following:

"(B) An individual who is an employee of the Government may be appointed to the staff of the Review Board if in that position the individual will perform only administrative functions.".

(d) CONDITIONAL EMPLOYMENT OF STAFF.—Section 8(b)(3)(B) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended to read as follows:

"(B)(i) The Review Board may offer conditional employment to a candidate for a staff position pending the completion of security clearance background investigations. During the pendency of such investigations, the Review Board shall ensure that any such employee does not have access to, or responsibility involving, classified or otherwise restricted assassination record materials.

"(ii) If a person hired on a conditional basis under clause (i) is denied or otherwise does not qualify for all security clearances necessary to carry out the responsibilities of the position for which conditional employment has been offered, the Review Board shall immediately terminate the person's employment.".

(e) COMPENSATION OF STAFF.—Section 8(c) of the President John F. Kennedy Assassination Records Collection Act of 1992 (21 U.S.C. 2107 note) is amended to read as follows:

44 USC 2107 note.

"(c) COMPENSATION.—Subject to such rules as may be adopted by the Review Board, the chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, may—

"(1) appoint an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule; and

"(2) appoint and fix compensation of such other personnel as may be necessary to carry out this Act.".

SEC. 5. TECHNICAL CORRECTION.

Section 6(1) of the President John F. Kennedy Assassination Records Collection Act of 1992 (44 U.S.C. 2107 note) is amended in the matter preceding subparagraph (A) by inserting "record" after "the assassination".

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 4569:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 12, considered and passed House.
Aug. 10, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendments.

Public Law 103-346
103d Congress

An Act

To direct the Secretary of the Interior to convey to the City of Imperial Beach, California, approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge.

Oct. 6, 1994
[H.R. 4647]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND IN TIJUANA SLOUGH NATIONAL WILDLIFE REFUGE.

(a) REQUIREMENT.—The Secretary of the Interior shall expeditiously convey to the City of Imperial Beach, California, without compensation, all right, title, and interest of the United States in and to approximately 1 acre of land in the Tijuana Slough National Wildlife Refuge, as depicted on a United States Fish and Wildlife Service map entitled "T-ball Field, Tijuana Slough National Wildlife Refuge", dated June 1994, for use as a public recreational area.

(b) REVERSIONARY INTEREST IN THE UNITED STATES.—Upon any date on which any of the land in which right, title, and interest is conveyed under subsection (a) ceases to be used by the City of Imperial Beach, California, for public recreational purposes—

(1) all such right, title, and interest shall revert to the Government of the United States; and

(2) such land shall be reincorporated into the Tijuana Slough National Wildlife Refuge.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.R. 4647:

SENATE REPORTS: No. 130-360 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 12, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 103-347
103d Congress

Joint Resolution

Oct. 6, 1994
[H.J. Res. 363]

To designate October 1994 as "Crime Prevention Month".

Whereas crime prevention improves the quality of life in every community;

Whereas crime prevention is a cost-effective answer to the problems caused by crime, drug abuse, and fear of crime;

Whereas crime prevention is central to a sound criminal justice system at National, State, and local levels;

Whereas millions of citizens have demonstrated that by working together, they can reduce crime, drug abuse, and fear of crime;

Whereas all people of the United States, from preschoolers to senior citizens, can help themselves, their families, and their neighborhoods prevent crime and build safer more caring communities;

Whereas all kinds of community organizations (including individuals, law enforcement, other State and local agencies, civic and community groups, religious institutions, schools, and businesses) have vital roles to play in reducing crime and building safer, more vibrant communities;

Whereas it is important to honor annually those throughout society who work to prevent crime and to build and sustain communities; and

Whereas the National Citizens' Crime Prevention Campaign (featuring McGruff the Crime Dog and sponsored by the Department of Justice, the Crime Prevention Coalition, and the National Crime Prevention Council) encourages effective partnerships to reduce crime and to improve life throughout the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1994 is designated as "Crime Prevention Month" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month with appropriate ceremonies and activities.

Approved October 6, 1994.

LEGISLATIVE HISTORY—H.J. Res. 363:

CONGRESSIONAL RECORD, Vol. 140 (1994):
July 25, considered and passed House.
Sept. 21, considered and passed Senate.

Public Law 103-348
103d Congress

An Act

To require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes.

Oct. 6, 1994
[S. 716]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Vegetable Ink Printing Act of 1994.
44 USC 501 note.

This Act may be cited as the "Vegetable Ink Printing Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

44 USC 501 note.

(a) FINDINGS.—The Congress finds the following:

(1) More than 95 percent of Federal printing involving documents or publications is performed using lithographic inks.

(2) Various types of oil, including petroleum and vegetable oil, are used in lithographic ink.

(3) Increasing the amount of vegetable oil used in a lithographic ink would—

(A) help reduce the Nation's use of nonrenewable energy resources;

(B) result in the use of products that are less damaging to the environment;

(C) result in a reduction of volatile organic compound emissions; and

(D) increase the use of renewable agricultural products.

(4) The technology exists to use vegetable oil in lithographic ink and, in some applications, to use lithographic ink that uses no petroleum distillates in the liquid portion of the ink.

(5) Some lithographic inks have contained vegetable oils for many years; other lithographic inks have more recently begun to use vegetable oil.

(6) According to the Government Printing Office, using vegetable oil-based ink appears to add little if any additional cost to Government printing.

(7) Use of vegetable oil-based ink in Federal Government printing should further develop—

(A) the commercial viability of vegetable oil-based ink, which could result in demand, for domestic use alone, for 2,500,000,000 pounds of vegetable crops or 500,000,000 pounds of vegetable oil; and

(B) a product that could help the United States retain or enlarge its share of the world market for vegetable oil-ink.

(b) PURPOSE.—The purpose of this Act is to require that all lithographic printing using ink containing oil that is performed or procured by a Federal agency shall use ink containing the maximum amounts of vegetable oil and materials derived from other renewable resources that—

(1) are technologically feasible, and

(2) result in printing costs that are competitive with printing using petroleum-based inks.

44 USC 501 note.

SEC. 3. FEDERAL PRINTING REQUIREMENTS.

(a) GENERAL RULE.—Notwithstanding any other law, and except as provided in subsection (b), a Federal agency may not perform or procure lithographic printing that uses ink containing oil if the ink contains less than the following percentage of vegetable oil:

(1) In the case of news ink, 40 percent.

(2) In the case of sheet-fed ink, 20 percent.

(3) In the case of forms ink, 20 percent.

(4) In the case of heat-set ink, 10 percent.

(b) EXCEPTIONS.—

(1) EXCEPTIONS.—Subsection (a) shall not apply to lithographic printing performed or procured by a Federal agency, if—

(A) the head of the agency determines, after consultation with the Public Printer and within the 3-year period ending on the date of the commencement of the printing or the date of that procurement, respectively, that vegetable oil-based ink is not suitable to meet specific, identified requirements of the agency related to the printing; or

(B) the Public Printer determines—

(i) within the 3-month period ending on the date of the commencement of the printing, in the case of printing of materials that are printed at intervals of less than 6 months, or

(ii) before the date of the commencement of the printing, in the case of printing of materials that are printed at intervals of 6 months or more;

that the cost of performing the printing using vegetable oil-based ink is significantly greater than the cost of performing the printing using other available ink.

Reports.

(2) NOTICE TO CONGRESS.—Not later than 30 days after making a determination under paragraph (1)(A), the head of a Federal agency shall report the determination to the Committee on Government Operations and the Committee on House Administration of the House of Representatives, and the Committee on Rules of the Senate.

(c) FEDERAL AGENCY DEFINED.—In this Act, the term "Federal agency" means—

(1) an executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and

(2) an establishment or component of the legislative or judicial branch of the Government.

Approved October 6, 1994.

LEGISLATIVE HISTORY—S. 716:

HOUSE REPORTS: No. 103-625, Pt. 1 (Comm. on Government Operations).
SENATE REPORTS: No. 103-178 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 18, considered and passed Senate.
Vol. 140 (1994): Sept. 20, considered and passed House, amended.
Sept. 27, Senate concurred in House amendments.

Public Law 103-349
103d Congress

An Act

Oct. 6, 1994
[S. 1406]

To amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Plant Variety Protection Act Amendments of 1994.
7 USC 2321 note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Plant Variety Protection Act Amendments of 1994".

(b) REFERENCES TO PLANT VARIETY PROTECTION ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.

Section 41 (7 U.S.C. 2401) is amended to read as follows:

"§ 41. Definitions and rules of construction

"(a) DEFINITIONS.—As used in this Act:

"(1) BASIC SEED.—The term 'basic seed' means the seed planted to produce certified or commercial seed.

"(2) BREEDER.—The term 'breeder' means the person who directs the final breeding creating a variety or who discovers and develops a variety. If the actions are conducted by an agent on behalf of a principal, the principal, rather than the agent, shall be considered the breeder. The term does not include a person who redevelops or rediscovers a variety the existence of which is publicly known or a matter of common knowledge.

"(3) ESSENTIALLY DERIVED VARIETY.—

"(A) IN GENERAL.—The term 'essentially derived variety' means a variety that—

"(i) is predominantly derived from another variety (referred to in this paragraph as the 'initial variety') or from a variety that is predominantly derived from the initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety;

"(ii) is clearly distinguishable from the initial variety; and

"(iii) except for differences that result from the act of derivation, conforms to the initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of the initial variety.

"(B) METHODS.—An essentially derived variety may be obtained by the selection of a natural or induced mutant or of a somaclonal variant, the selection of a variant individual from plants of the initial variety, backcrossing, transformation by genetic engineering, or other method.

"(4) KIND.—The term 'kind' means one or more related species or subspecies singly or collectively known by one common name, such as soybean, flax, or radish.

"(5) SEED.—The term 'seed', with respect to a tuber propagated variety, means the tuber or the part of the tuber used for propagation.

"(6) SEXUALLY REPRODUCED.—The term 'sexually reproduced' includes any production of a variety by seed, but does not include the production of a variety by tuber propagation.

"(7) TUBER PROPAGATED.—The term 'tuber propagated' means propagated by a tuber or a part of a tuber.

"(8) UNITED STATES.—The terms 'United States' and 'this country' mean the United States, the territories and possessions of the United States, and the Commonwealth of Puerto Rico.

"(9) VARIETY.—The term 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, that, without regard to whether the conditions for plant variety protection are fully met, can be defined by the expression of the characteristics resulting from a given genotype or combination of genotypes, distinguished from any other plant grouping by the expression of at least one characteristic and considered as a unit with regard to the suitability of the plant grouping for being propagated unchanged. A variety may be represented by seed, transplants, plants, tubers, tissue culture plantlets, and other matter.

"(b) RULES OF CONSTRUCTION.—For the purposes of this Act:

"(1) SALE OR DISPOSITION FOR NONREPRODUCTIVE PURPOSES.—The sale or disposition, for other than reproductive purposes, of harvested material produced as a result of experimentation or testing of a variety to ascertain the characteristics of the variety, or as a by-product of increasing a variety, shall not be considered to be a sale or disposition for purposes of exploitation of the variety.

"(2) SALE OR DISPOSITION FOR REPRODUCTIVE PURPOSES.—The sale or disposition of a variety for reproductive purposes shall not be considered to be a sale or disposition for the purposes of exploitation of the variety if the sale or disposition is done as an integral part of a program of experimentation or testing to ascertain the characteristics of the variety, or to increase the variety on behalf of the breeder or the successor in interest of the breeder.

"(3) SALE OR DISPOSITION OF HYBRID SEED.—The sale or disposition of hybrid seed shall be considered to be a sale or disposition of harvested material of the varieties from which the seed was produced.

"(4) APPLICATION FOR PROTECTION OR ENTERING INTO A REGISTER OF VARIETIES.—The filing of an application for the protection or for the entering of a variety in an official register of varieties, in any country, shall be considered to render the variety a matter of common knowledge from the date of the application, if the application leads to the granting of protection or to the entering of the variety in the official register of varieties, as the case may be.

"(5) DISTINCTNESS.—The distinctness of one variety from another may be based on one or more identifiable morphological, physiological, or other characteristics (including any characteristics evidenced by processing or product characteristics, such as milling and baking characteristics in the case of wheat) with respect to which a difference in genealogy may contribute evidence.

"(6) PUBLICLY KNOWN VARIETIES.—

"(A) IN GENERAL.—A variety that is adequately described by a publication reasonably considered to be a part of the public technical knowledge in the United States shall be considered to be publicly known and a matter of common knowledge.

"(B) DESCRIPTION.—A description that meets the requirements of subparagraph (A) shall include a disclosure of the principal characteristics by which a variety is distinguished.

"(C) OTHER MEANS.—A variety may become publicly known and a matter of common knowledge by other means.".

SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT VARIETIES PROTECTABLE.

Section 42 (7 U.S.C. 2402) is amended to read as follows:

"§ 42. Right to plant variety protection; plant varieties protectable

"(a) IN GENERAL.—The breeder of any sexually reproduced or tuber propagated plant variety (other than fungi or bacteria) who has so reproduced the variety, or the successor in interest of the breeder, shall be entitled to plant variety protection for the variety, subject to the conditions and requirements of this Act, if the variety is—

"(1) new, in the sense that, on the date of filing of the application for plant variety protection, propagating or harvested material of the variety has not been sold or otherwise disposed of to other persons, by or with the consent of the breeder, or the successor in interest of the breeder, for purposes of exploitation of the variety—

"(A) in the United States, more than 1 year prior to the date of filing; or

"(B) in any area outside of the United States—

"(i) more than 4 years prior to the date of filing; or

"(ii) in the case of a tree or vine, more than 6 years prior to the date of filing;

"(2) distinct, in the sense that the variety is clearly distinguishable from any other variety the existence of which is

publicly known or a matter of common knowledge at the time of the filing of the application;

"(3) uniform, in the sense that any variations are describable, predictable, and commercially acceptable; and

"(4) stable, in the sense that the variety, when reproduced, will remain unchanged with regard to the essential and distinctive characteristics of the variety with a reasonable degree of reliability commensurate with that of varieties of the same category in which the same breeding method is employed.

"(b) MULTIPLE APPLICANTS.—

"(1) IN GENERAL.—If 2 or more applicants submit applications on the same effective filing date for varieties that cannot be clearly distinguished from one another, but that fulfill all other requirements of subsection (a), the applicant who first complies with all requirements of this Act shall be entitled to a certificate of plant variety protection, to the exclusion of any other applicant.

"(2) REQUIREMENTS COMPLETED ON SAME DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if 2 or more applicants comply with all requirements for protection on the same date, a certificate shall be issued for each variety.

"(B) VARIETIES INDISTINGUISHABLE.—If the varieties that are the subject of the applications cannot be distinguished in any manner, a single certificate shall be issued jointly to the applicants.".

SEC. 4. APPLICATIONS.

Section 52 (7 U.S.C. 2422) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "The variety shall be named in accordance with regulations issued by the Secretary.";

(2) in the first sentence of paragraph (2), by striking "novelty" and inserting "distinctiveness, uniformity, and stability";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following new paragraph:

"(3) A statement of the basis of the claim of the applicant that the variety is new."; and

(5) in paragraph (4) (as redesignated by paragraph (3)), by inserting "(including any propagating material)" after "basic seed".

SEC. 5. BENEFIT OF EARLIER FILING DATE.

Section 55(a) (7 U.S.C. 2425(a)) is amended—

(1) by redesignating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (1) (as so designated), by inserting before the period at the end the following: ", not including the date on which the application is filed in the foreign country"; and

(3) by adding at the end the following new paragraph:

"(3)(A) An applicant entitled to a right of priority under this subsection shall be allowed to furnish any necessary information, document, or material required for the purpose of the examination of the application during—

"(i) the 2-year period beginning on the date of the expiration of the period of priority; or

"(ii) if the first application is rejected or withdrawn, an appropriate period after the rejection or withdrawal, to be determined by the Secretary.

"(B) An event occurring within the period of priority (such as the filing of another application or use of the variety that is the subject of the first application) shall not constitute a ground for rejecting the application or give rise to any third party right.".

SEC. 6. NOTICE OF REFUSAL; RECONSIDERATION.

The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "six months" and inserting "at least 30 days, and not more than 180 days"; and

(2) by striking "in exceptional circumstances".

SEC. 7. CONTENTS AND TERM OF PLANT VARIETY PROTECTION.

Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a)—

(A) by designating the first through fourth sentences as paragraphs (1) through (4), respectively; and

(B) by striking paragraphs (2) and (3) (as so designated) and inserting the following new paragraphs:

"(2) If the owner so elects, the certificate shall—

"(A) specify that seed of the variety shall be sold in the United States only as a class of certified seed; and

"(B) if so specified, conform to the number of generations designated by the owner.

"(3) An owner may waive a right provided under this subsection, other than a right that is elected by the owner under paragraph (2)(A).";

(2) in the first sentence of subsection (b)—

(A) by striking "eighteen" and inserting "20"; and

(B) by inserting before the period at the end the following: ", except that, in the case of a tree or vine, the term of the plant variety protection shall expire 25 years from the date of issue of the certificate"; and

(3) in subsection (c), by striking "repository: *Provided, however*, That" and inserting "repository, or requiring the submission of a different name for the variety, except that".

SEC. 8. PRIORITY CONTEST.

(a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C. 2502 and 2503) are repealed.

(b) INTERFERING PLANT VARIETY PROTECTION.—

(1) REDESIGNATION.—Section 94 of the Act (7 U.S.C. 2504) is redesignated as section 92.

7 USC 2504.

(2) AMENDMENTS.—Section 92 (as so redesignated) is amended—

(A) by striking "The owner" and inserting "(a) The owner"; and

(B) by striking the second sentence.

(c) APPEAL OR CIVIL ACTION IN CONTESTED CASES.—

7 USC 2504.

(1) TRANSFER.—Section 73 (7 U.S.C. 2463) is amended by transferring subsection (b) to the end of section 92 (as redesignated by subsection (b)(1)).

(2) REPEAL.—Section 73 (as amended by paragraph (1)) is repealed. 7 USC 2463.

(d) CONFORMING AMENDMENTS.—

(1) Section 71 (7 U.S.C. 2461) is amended by striking "92,".

(2) Section 102 (7 U.S.C. 2532) is amended by inserting "or tuber propagable" after "sexually reproducible" each place it appears.

SEC. 9. INFRINGEMENT OF PLANT VARIETY PROTECTION.

Section 111 (7 U.S.C. 2541) is amended—

(1) in subsection (a)—

(A) by striking "novel" the first two places it appears and inserting "protected";

(B) in paragraph (1), by striking "the novel" and inserting "or market the protected";

(C) by striking "novel" each place it appears in paragraphs (2) through (7);

(D) in paragraph (3), by inserting ", or propagate by a tuber or a part of a tuber," after "sexually multiply";

(E) by striking "or" each place it appears at the end of paragraphs (3) through (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(G) by inserting after paragraph (6) the following new paragraphs:

"(7) condition the variety for the purpose of propagation, except to the extent that the conditioning is related to the activities permitted under section 113;

"(8) stock the variety for any of the purposes referred to in paragraphs (1) through (7);";

(2) by redesignating subsection (b) as subsection (f); and

(3) by inserting after subsection (a) the following new subsections:

"(b)(1) Subject to paragraph (2), the owner of a protected variety may authorize the use of the variety under this section subject to conditions and limitations specified by the owner.

"(2) In the case of a contract between a seed producer and the owner of a protected variety of lawn, turf, or forage grass seed, or alfalfa or clover seed for the production of seed of the protected variety, the producer shall be deemed to be authorized by the owner to sell such seed and to use the variety if—

"(A) the producer has fulfilled the terms of the contract;

"(B) the owner refuses to take delivery of the seed or refuses to pay any amounts due under the contract within 30 days of the payment date specified in the contract; and

"(C) after the expiration of the period specified in subparagraph (B), the producer notifies the owner of the producer's intent to sell the seed and unless the owner fails to pay the amounts due under the contract and take delivery of the seed within 30 days of such notification. For the purposes of this paragraph, the term 'owner' shall include any licensee of the owner.

"(3) Paragraph (2) shall apply to contracts entered into with respect to plant varieties protected under this Act (7 U.S.C. 2321 et seq.) as in effect on the day before the effective date of this

provision as well as plant varieties protected under this Act as amended by the Plant Variety Protection Act Amendments of 1994.

"(4) Nothing in this subsection shall affect any other rights or remedies of producers or owners that may exist under other Federal or State laws.

"(c) This section shall apply equally to—

"(1) any variety that is essentially derived from a protected variety, unless the protected variety is an essentially derived variety;

"(2) any variety that is not clearly distinguishable from a protected variety;

"(3) any variety whose production requires the repeated use of a protected variety; and

"(4) harvested material (including entire plants and parts of plants) obtained through the unauthorized use of propagating material of a protected variety, unless the owner of the variety has had a reasonable opportunity to exercise the rights provided under this Act with respect to the propagating material.

"(d) It shall not be an infringement of the rights of the owner of a variety to perform any act concerning propagating material of any kind, or harvested material, including entire plants and parts of plants, of a protected variety that is sold or otherwise marketed with the consent of the owner in the United States, unless the act involves further propagation of the variety or involves an export of material of the variety, that enables the propagation of the variety, into a country that does not protect varieties of the plant genus or species to which the variety belongs, unless the exported material is for final consumption purposes.

"(e) It shall not be an infringement of the rights of the owner of a variety to perform any act done privately and for noncommercial purposes.".

SEC. 10. RIGHT TO SAVE SEED; CROP EXEMPTION.

The first sentence of section 113 (7 U.S.C. 2543) is amended by striking "section: *Provided*, That" and all that follows through the period and inserting "section.".

SEC. 11. LIMITATION OF DAMAGES; MARKING AND NOTICE.

Section 127 (7 U.S.C. 2567) is amended by striking "novel" each place it appears.

SEC. 12. OBLIGATION TO USE VARIETY NAME.

Section 128(a) (7 U.S.C. 2568(a)) is amended—

(1) by inserting "or tubers or parts of tubers" after "plant material"; and

(2) by adding at the end the following new paragraph:

"(4) Failure to use the name of a variety for which a certificate of protection has been issued under this Act, even after the expiration of the certificate, except that lawn, turf, or forage grass seed, or alfalfa or clover seed may be sold without a variety name unless use of the name of a variety for which a certificate of protection has been issued under this Act is required under State law.".

SEC. 13. ELIMINATION OF GENDER-BASED REFERENCES.

(a) The last sentence of section 7(a) (7 U.S.C. 2327(a)) is amended by striking "his designee shall act as chairman" and inserting "the designee of the Secretary shall act as chairperson".

(b) Section 10(a) (7 U.S.C. 2330(a)) is amended by striking "he" and inserting "the Secretary".

(c) Section 23 (7 U.S.C. 2353) is amended—

(1) in the second sentence, by striking "he" and inserting "the officer"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(d) Section 24 (7 U.S.C. 2354) is amended—

(1) in the first sentence of subsection (a), by striking "him" and inserting "the witness"; and

(2) in the second sentence of subsection (c)—

(A) by striking "this fees and traveling expenses" and inserting "the fees and traveling expenses of the witness"; and

(B) by striking "him" and inserting "the witness".

(e) The last sentence of section 27 (7 U.S.C. 2357) is amended by striking "he" each place it appears and inserting "the person".

(f) The first sentence of section 44 (7 U.S.C. 2404) is amended by striking "he" and inserting "the Secretary".

(g) Section 53 (7 U.S.C. 2423) is amended—

(1) in subsection (a), by striking "one (or his successor)" and inserting "one person (or the successor of the person)"; and

(2) in subsection (b), by striking "he" and inserting "the Secretary".

(h) Section 54 (7 U.S.C. 2424) is amended by striking "his successor in interest" and inserting "the successor in interest of the breeder".

(i) Section 55 (7 U.S.C. 2425) is amended—

(1) in subsection (a)(2) (as redesignated by section 5(1)), by striking "his application" and inserting "the application filed in the United States"; and

(2) in subsection (b), by striking "his predecessor in title" and inserting "the predecessor in title of the person".

(j) The first sentence of section 62(b) (7 U.S.C. 2442(b)) is amended—

(1) by striking "him" and inserting "an applicant";

(2) by striking "an applicant shall" and inserting "the applicant shall"; and

(3) by striking "he" and inserting "the Secretary".

(k) The second sentence of section 72 (7 U.S.C. 2462) is amended by striking "his variety as specified in his application" and inserting "the variety as specified in the application".

(l) Section 82 (7 U.S.C. 2482) is amended by striking "his signature" and inserting "the signature of the Secretary".

(m) Section 83 (7 U.S.C. 2483) is amended—

(1) in subsection (a) (as amended by section 7(1)(A))—

(A) in paragraph (1), by striking "(or his successor in interest) his heirs and assignees" and inserting "(or the successor in interest of the breeder)"; and

(B) in paragraph (4), by striking "his discretion" and inserting "the discretion of the Secretary"; and

(2) in subsection (c), by striking "he" and inserting "the last owner".

(n) Section 86 (7 U.S.C. 2486) is amended—

(1) in the first sentence, by striking "him" and inserting "the Secretary"; and

(2) in the third sentence, by striking "he" and inserting "the person".

(o) Section 91(c) (7 U.S.C. 2501(c)) is amended by striking "he" and inserting "the Secretary".

(p) The fourth sentence of section 92(b) (as transferred by section 8(c)(1)) is amended by striking "he" and inserting "the Secretary".

(q) The first sentence of section 111(f) (as redesignated by section 9(2)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

(r) Section 112 (7 U.S.C. 2542) is amended by striking "his successor in interest" and inserting "the successor in interest of the person".

(s) Section 113 (7 U.S.C. 2543) is amended—

(1) in the first sentence—

(A) by striking "him" and inserting "the person"; and

(B) by striking "his farm" and inserting "the farm of the person"; and

(2) in the third sentence, by striking "his actions" and inserting "the actions of the purchaser".

(t) Section 121 (7 U.S.C. 2561) is amended by striking "his".

(u) Section 126(b) (7 U.S.C. 2566(b)) is amended by striking "his" and inserting "the".

(v) Section 128(a) (7 U.S.C. 2568(a)) is amended by striking "he" and inserting "the Secretary".

(w) Section 130(a) (7 U.S.C. 2570(a)) is amended by striking "his official capacity" and inserting "the official capacity of the officer or employee".

7 USC 2401 note.

SEC. 14. TRANSITIONAL PROVISIONS. .

(a) IN GENERAL.—Except as provided in this section, any variety for which a certificate of plant variety protection has been issued prior to the effective date of this Act, and any variety for which an application is pending on the effective date of this Act, shall continue to be governed by the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), as in effect on the day before the effective date of this Act.

(b) APPLICATIONS REFILED.—

(1) IN GENERAL.—An applicant may refile a pending application on or after the effective date of this Act.

(2) EFFECT OF REFILING.—If a pending application is refiled on or after the effective date of this Act—

(A) eligibility for protection and the terms of protection shall be governed by the Plant Variety Protection Act, as amended by this Act; and

(B) for purposes of section 42 of the Plant Variety Protection Act, as amended by section 3 of this Act, the date of filing shall be the date of filing of the original application.

(c) LABELING.—

(1) IN GENERAL.—To obtain the protection provided to an owner of a protected variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) (as amended by this Act), a notice given by an owner concerning the variety under section 127 of the Plant Variety Protection Act (7 U.S.C. 2567) shall state that the variety is protected under such Act (as amended by this Act).

(2) SANCTIONS.—Any person that makes a false or misleading statement or claim, or uses a false or misleading label, concerning protection described in paragraph (1) shall be subject to the sanctions described in section 128 of the Plant Variety Protection Act (7 U.S.C. 2568).

SEC. 15. EFFECTIVE DATE. 7 USC 2401 note.

This Act and the amendments made by this Act shall become effective 180 days after the date of enactment of this Act.

Approved October 6, 1994.

LEGISLATIVE HISTORY—S. 1406 (H.R. 2927):

HOUSE REPORTS: No. 103-699 accompanying H.R. 2927 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 25, considered and passed Senate.
Aug. 12, H.R. 2927 considered and passed House; S. 1406, amended, passed in lieu.
Sept. 21, Senate concurred in House amendment.

Public Law 103-350
103d Congress

An Act

Oct. 6, 1994
[S. 1703]

To expand the boundaries of the Piscataway Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Piscataway Park Expansion Act of 1994.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Piscataway Park Expansion Act of 1994".

SEC. 2. EXPANSION OF PARK.

(a) The boundaries of Piscataway Park in Maryland are hereby revised to reflect the addition of approximately 163 acres of lands as generally depicted on the map entitled "Proposed Boundary Map—Piscataway Park", numbered 838–80137, and dated November 17, 1993.

(b) The Secretary of the Interior is authorized to acquire lands and interests therein within the areas added to the park pursuant to subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 6, 1994.

LEGISLATIVE HISTORY—S. 1703:

HOUSE REPORTS: No. 103-682 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-275 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 16, considered and passed Senate.
Aug. 8, considered and passed House, amended.
Sept. 21, Senate concurred in House amendments.

Public Law 103-351
103d Congress

Joint Resolution

To express the sense of the Congress in Commemoration of the 75th anniversary of Grand Canyon National Park.

Oct. 8, 1994
[S.J. Res. 221]

Whereas the Grand Canyon of the Colorado River is a feature of enormous scientific interest and significance, whose unique geological, biological and cultural resources represent a natural laboratory of unparalleled diversity;

Whereas Grand Canyon National Park represents an integral part of the greater Colorado Plateau Ecosystem whose significance to the health of the natural systems of the American West increases with time;

Whereas the Grand Canyon of the Colorado River is one of the most spectacular examples of arid-land erosion anywhere in the world and reveals a geologic record whose significance is unparalleled;

Whereas Grand Canyon is a world Heritage Site and a natural feature of international significance whose aesthetic beauty reflects the aspirations of a free and independent people;

Whereas Grand Canyon National Park has received over 100,000,000 visitors since its establishment in 1919 and continues to serve the people of the United States and the world in their need for a place of outstanding natural beauty and refuge; and

Whereas Grand Canyon National Park was established by Act of Congress on February 26, 1919: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States of America on this date salutes Grand Canyon National Park and its custodians, the employees of the National Park Service, in honor of the park's 75th anniversary year.

Approved October 8, 1994.

LEGISLATIVE HISTORY—S.J. Res. 221:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 22, considered and passed Senate.
Oct. 6, considered and passed House.

Public Law 103-352
103d Congress

An Act

Oct. 10, 1994
[H.R. 5060]

To provide for the continuation of certain fee collections for the expenses of the Securities and Exchange Commission for fiscal year 1995.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

15 USC 77f note.

SECTION 1. CONTINUED COLLECTION OF REVENUES AUTHORIZED.

During fiscal year 1995, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall remain at 1/29 of 1 percent.

15 USC 77f note.

SEC. 2. DEPOSIT OF COLLECTIONS.

The fees collected under section 6(b) of the Securities Act of 1933 (to the extent attributable to a rate in excess of 1/50 of 1 percent by reason of section 1 of this Act) shall be deposited as an offsetting collection to the amounts appropriated to the Securities and Exchange Commission for fiscal year 1995, to remain available until expended.

Approved October 10, 1994.

LEGISLATIVE HISTORY—H.R. 5060:

HOUSE REPORTS: No. 103-739, Pt. 1 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 27, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-353
103d Congress

An Act

To amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

Oct. 13, 1994
[H R. 995]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Uniformed Services Employment and Reemployment Rights Act of 1994.
38 USC 101 note.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1994".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—GENERAL

"4301. Purposes; sense of Congress.
"4302. Relation to other law and plans or agreements.
"4303. Definitions.
"4304. Character of service.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4312. Reemployment rights of persons who serve in the uniformed services.
"4313. Reemployment positions.
"4314. Reemployment by the Federal Government.
"4315. Reemployment by certain Federal agencies.
"4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4317. Health plans.
"4318. Employee pension benefit plans.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"4321. Assistance in obtaining reemployment or other employment rights or benefits.
"4322. Enforcement of employment or reemployment rights.
"4323. Enforcement of rights with respect to a State or private employer.
"4324. Enforcement of rights with respect to Federal executive agencies.
"4325. Enforcement of rights with respect to certain Federal agencies.
"4326. Conduct of investigation; subpoenas.

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"4331. Regulations.

"4332. Reports.
"4333. Outreach.

"SUBCHAPTER I—GENERAL

"§ 4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

"§ 4302. Relation to other law and plans or agreements

"(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

"§ 4303. Definitions

"For the purposes of this chapter—

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"(3) The term 'employee' means any person employed by an employer.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

"(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

"(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

"(7) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(8) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

"(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

"(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

"(11) Notwithstanding section 101, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis

in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

"(A) the nature and cost of the action needed under this chapter;

"(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

Regulations.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§ 4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).

"§ 4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d) and to section 4304, any person who is absent from a position of employment by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to Regulations.

regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable;

"(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313, such employment would impose an undue hardship on the employer; or

"(C) the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

"(2) In any proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances,

"(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 would impose an undue hardship on the employer, or

"(C) the employment referred to in paragraph (1)(C) is brief or for a nonrecurrent period and without a reasonable expectation that such employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

"(3) A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304.

Regulations.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4318(a)(2)(A).

"(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

"§ 4313. Reemployment positions

"(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in accordance with the following order of priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(3) In the case of a person who has a disability incurred in, or aggravated during, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment

of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with the circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"§ 4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

"(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

"(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 and for which the person is qualified; and

"(B) ensure that the person is offered such position.

"(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

"(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

"(B) it is impossible or unreasonable for the agency to reemploy the person.

"(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

"§ 4315. Reemployment by certain Federal agencies

"(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

"(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313.

"(c)(1) The procedures prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

"(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

"(3) A determination pursuant to this subsection shall not be subject to judicial review.

"(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence and the Committee on Veterans' Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Veterans' Affairs of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination. Reports.

"(d)(1) Except as provided in this section, nothing in this section, section 4313, or section 4325 shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

"(2) This section may not be construed—

"(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

"(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

"(2) the appropriate officer of the agency determines under subsection (c) that reemployment of the person by the agency is impossible or unreasonable; and

"(3) the person submits an application to the Director for an offer of employment under this subsection.

"§ 4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

"(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

"(b)(1) Subject to paragraphs (2) through (6), a person who is absent from a position of employment by reason of service in the uniformed services shall be—

"(A) deemed to be on furlough or leave of absence while performing such service; and

"(B) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

"(2)(A) Subject to subparagraph (B), a person who—

"(i) is absent from a position of employment by reason of service in the uniformed services, and

"(ii) knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service,

is not entitled to rights and benefits under paragraph (1)(B).

"(B) For the purposes of subparagraph (A), the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and, in doing so, was aware

of the specific rights and benefits to be lost under subparagraph (A).

"(3) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

"(4) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph (1) to the extent other employees on furlough or leave of absence are so required.

"(5) The entitlement of a person to coverage under a health plan is provided for under section 4317.

"(6) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4318.

"(c) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

"(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

"(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

"(d) Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service.

"§ 4317. Health plans

"(a)(1)(A) Subject to paragraphs (2) and (3), in any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—

"(i) the 18-month period beginning on the date on which the person's absence begins; or

"(ii) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

"(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

"(C) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

"(i) by the plan in such manner as the plan sponsor shall provide; or

"(ii) if the sponsor does not provide—

"(I) to the last employer employing the person before the period served by the person in the uniformed services, or

"(II) if such last employer is no longer functional, to the plan.

"(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion or waiting period would not have been imposed under a health plan had coverage of such person by such plan not been terminated as a result of such service. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

"(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

"§ 4318. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer

contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

"(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

"(B) if the sponsor does not provide—

"(i) to the last employer employing the person before the period served by the person in the uniformed services, or

"(ii) if such last employer is no longer functional, to the plan.

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, not to exceed five years.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

"(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

"(B) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

"The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"§ 4322. Enforcement of employment or reemployment rights

"(a) A person who claims that—

"(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

"(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

"(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(c) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

"(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation; and

"(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency).

"(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

"§ 4323. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

"(2) A person may commence an action for relief with respect to a complaint if that person—

"(A) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4322(c);

"(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

"(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person claiming a right or benefit under this chapter—

"(i) to require the employer to comply with the provisions of this chapter;

"(ii) to require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

"(3) The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

"(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

"(5) In any such action, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

"(6) No State statute of limitations shall apply to any proceeding under this chapter.

"(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

"§ 4324. Enforcement of rights with respect to Federal executive agencies

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

"(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

"(B) If the Special Counsel declines to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

"(b) A person may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board if that person—

"(1) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4322(c);

"(2) has received a notification from the Secretary under section 4322(e);

"(3) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

"(4) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

"(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b). A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

"(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

"(3) Any compensation received by a person pursuant to an order under paragraph (2) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

"(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to a complaint submitted by a person directly to the Board pursuant to subsection (b) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

"(d)(1) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

"(2) Such person may be represented in the Federal Circuit proceeding by the Special Counsel unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

"§ 4325. Enforcement of rights with respect to certain Federal agencies

"(a) This section applies to any person who alleges that—

"(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

"(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

"(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

"(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4322(d).

"(d) This section may not be construed—

"(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

"(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

"§ 4326. Conduct of investigation; subpoenas

"(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable

times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

"(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

"(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

"(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"§ 4331. Regulations

"(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

"(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers, except that employees of the Federal Government may be given greater or additional rights.

"(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

"(A) The Merit Systems Protection Board.

"(B) The Office of Special Counsel.

"(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

"§ 4332. Reports

"The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1) and no later than February 1, 1996, and annually thereafter through 2000, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

"(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

"(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year.

"(3) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

"(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

"(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

"(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

"§ 4333. Outreach

"The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.".

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of members of the uniformed services ..... 4301".

(2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".

(B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

(c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);

(2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) to benefits under chapter 43 of this title.".

SEC. 4. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§ 8432b. Contributions of persons who perform military service

"(a) This section applies to any employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

"(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—

"(1) by the agency to which the employee is restored or in which such employee is reemployed;

"(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(i) The Executive Director shall prescribe regulations to carry out this section.". Regulations.

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

Regulations.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(1) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

5 USC 8432b note.

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following: 5 USC 8432b note.

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between the date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432b(b)(2)(A) of such title to be amended by striking "ending on the day before the date of restoration or reemployment (as applicable)" and inserting "ending on the date determined under section 4(f)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1994".

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) CREDITABLE MILITARY SERVICE UNDER CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(b) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER CSRS.—Section 8334(j) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed

the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(c) CREDITABLE MILITARY SERVICE UNDER FERS.—Section 8401(31) of such title is amended by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(d) PAY DEDUCTIONS FOR MILITARY SERVICE UNDER FERS.—Section 8422(e) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(e) TECHNICAL AMENDMENTS.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out "1954" in the flush matter above clause (i) and inserting in lieu thereof "1986".

(2) In section 8422(a)(2)(A)(ii), by striking out "1954" and inserting in lieu thereof "1986".

(3) In section 8432(d), by striking out "1954" in the first sentence and inserting in lieu thereof "1986".

(4) In section 8433(i)(4), by striking out "1954" and inserting in lieu thereof "1986".

(5) In section 8440—

(A) by striking out "1954" in subsection (a) and inserting in lieu thereof "1986"; and

(B) by striking out "1954" in subsection (c) and inserting in lieu thereof "1986".

SEC. 6. TECHNICAL AMENDMENT.

38 USC 4214 note.

(a) TECHNICAL AMENDMENT.—Section 9(d) of Public Law 102–16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

38 USC 4214 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 102–16 to which such amendment relates.

SEC. 7. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out "$46,000" and inserting in lieu thereof "$50,750".

SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.

38 USC 4301 note.

(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniformed services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) INSURANCE.—(1) The provisions of section 4316 of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage (other than health) shall become effective with respect to furloughs or leaves of absence initiated on or after the date of enactment of this Act.

(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4326 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) RIGHTS AND BENEFITS RELATIVE TO NOTICE OF INTENT NOT TO RETURN.—Section 4316(b)(2) of title 38, United States Code, as added by the amendments made by this Act, applies only to the rights and benefits provided in section 4316(b)(1)(B) and does not apply to any other right or benefit of a person under chapter 43 of title 38, United States Code. Such section shall apply only to persons who leave a position of employment for service in the uniformed services more than 60 days after the date of enactment of this Act.

(h) EMPLOYER PENSION BENEFIT PLANS.—(1) Nothing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a pension plan (or provide pension benefits), or to relieve the obligation of a pension plan to provide pension benefits, which is required by the provisions of chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect.

(2) If any employee pension benefit plan is not in compliance with section 4318 of such title or paragraph (1) of this subsection on the date of enactment of this Act, such plan shall have two years to come into compliance with such section and paragraph.

(i) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given

such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

Approved October 13, 1994.

LEGISLATIVE HISTORY—H.R. 995 (S. 843):

HOUSE REPORTS: No. 103-65, Pt. 1 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 103-158 accompanying S. 843 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): May 4, considered and passed House.
Nov. 2, S. 843 considered and passed Senate.
Nov. 8, H.R. 995 considered and passed Senate, amended, in lieu of S. 843.
Vol. 140 (1994): Sept. 13, House concurred in Senate amendment with an amendment.
Sept. 28, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 13, Presidential statement.

Public Law 103-354
103d Congress

An Act

Oct. 13, 1994
[H.R. 4217]

To reform the Federal crop insurance program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994.
7 USC 6901 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL CROP INSURANCE REFORM

Sec. 101. Short title; references.
Sec. 102. Definitions.
Sec. 103. Members of Board of Directors of Corporation.
Sec. 104. General powers.
Sec. 105. Personnel.
Sec. 106. Crop insurance.
Sec. 107. Crop insurance yield coverage.
Sec. 108. Preemption.
Sec. 109. Advisory Committee.
Sec. 110. Funding.
Sec. 111. Noninsured crop disaster assistance.
Sec. 112. Payment and income limitations.
Sec. 113. Producer eligibility.
Sec. 114. Ineligibility for catastrophic risk and noninsured assistance payments.
Sec. 115. Elimination of gender references.
Sec. 116. Prevented planting.
Sec. 117. Report on improving dissemination of crop insurance information.
Sec. 118. Crop insurance provider evaluation.
Sec. 119. Conforming amendments.
Sec. 120. Effective date.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

Sec. 201. Short title.
Sec. 202. Purpose.
Sec. 203. Definitions.

Subtitle A—General Reorganization Authorities

Sec. 211. Transfer of Department functions to Secretary of Agriculture.
Sec. 212. Authority of Secretary to delegate transferred functions.
Sec. 213. Reductions in number of department personnel.
Sec. 214. Consolidation of headquarters offices.
Sec. 215. Combination of field offices.
Sec. 216. Improvement of information sharing.
Sec. 217. Reports by the Secretary.
Sec. 218. Assistant Secretaries of Agriculture.
Sec. 219. Pay increases prohibited.

Subtitle B—Farm and Foreign Agricultural Services

Sec. 225. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Sec. 226. Consolidated Farm Service Agency.
Sec. 227. State, county, and area committees.

Subtitle C—Rural Economic and Community Development

Sec. 231. Under Secretary of Agriculture for Rural Economic and Community Development.
Sec. 232. Rural Utilities Service.
Sec. 233. Rural Housing and Community Development Service.
Sec. 234. Rural Business and Cooperative Development Service.
Sec. 235. Conforming amendments regarding Rural Electrification Administration.

Subtitle D—Food, Nutrition, and Consumer Services

Sec. 241. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

Subtitle E—Natural Resources and Environment

Sec. 245. Under Secretary of Agriculture for Natural Resources and Environment.
Sec. 246. Natural Resources Conservation Service.
Sec. 247. Reorganization of Forest Service.

Subtitle F—Research, Education, and Economics

Sec. 251. Under Secretary of Agriculture for Research, Education, and Economics.
Sec. 252. Program staff.

Subtitle G—Food Safety

Sec. 261. Under Secretary of Agriculture for Food Safety.
Sec. 262. Conditions for implementation of alterations in the level of additives allowed in animal diets.

Subtitle H—National Appeals Division

Sec. 271. Definitions.
Sec. 272. National Appeals Division and Director.
Sec. 273. Transfer of functions.
Sec. 274. Notice and opportunity for hearing.
Sec. 275. Informal hearings.
Sec. 276. Right of participants to Division hearing.
Sec. 277. Division hearings.
Sec. 278. Director review of determinations of hearing officers.
Sec. 279. Judicial review.
Sec. 280. Implementation of final determinations of Division.
Sec. 281. Conforming amendments relating to National Appeals Division.
Sec. 282. Expansion of issues covered by State mediation programs.
Sec. 283. Authorization of appropriations.

Subtitle I—Miscellaneous Reorganization Provisions

Sec. 291. Successorship provisions relating to bargaining units and exclusive representatives.
Sec. 292. Purchase of American-made equipment and products.
Sec. 293. Miscellaneous conforming amendments.
Sec. 294. Removal of obsolete administrative provisions.
Sec. 295. Proposed conforming amendments.
Sec. 296. Termination of authority.

TITLE III—MISCELLANEOUS

Sec. 301. Poultry labeling.
Sec. 302. First Amendment rights of employees of the United States Department of Agriculture.
Sec. 303. Adjusted cost of thrifty food plan.
Sec. 304. Office of Risk Assessment and Cost-Benefit Analysis.
Sec. 305. Fair and equitable treatment of socially disadvantaged producers.
Sec. 306. Aviation inspections.

TITLE I—FEDERAL CROP INSURANCE REFORM

Federal Crop Insurance Reform Act of 1994.

SEC. 101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Federal Crop Insurance Reform Act of 1994". 7 USC 1501 note.

(b) REFERENCES TO FEDERAL CROP INSURANCE ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 502 (7 U.S.C. 1502) is amended—

(1) by striking the section heading and "SEC. 502." and inserting the following:

"SEC. 502. PURPOSE AND DEFINITIONS.

"(a) PURPOSE.—"; and

(2) by adding at the end the following new subsection:

"(b) DEFINITIONS.—As used in this title:

"(1) ADDITIONAL COVERAGE.—The term 'additional coverage' means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

"(2) APPROVED INSURANCE PROVIDER.—The term 'approved insurance provider' means a private insurance provider that has been approved by the Corporation to provide insurance coverage to producers participating in the Federal crop insurance program established under this title.

"(3) BOARD.—The term 'Board' means the Board of Directors of the Corporation established under section 505(a).

"(4) CORPORATION.—The term 'Corporation' means the Federal Crop Insurance Corporation established under section 503.

"(5) DEPARTMENT.—The term 'Department' means the United States Department of Agriculture.

"(6) LOSS RATIO.—The term 'loss ratio' means the ratio of all sums paid by the Corporation as indemnities under any eligible crop insurance policy to that portion of the premium designated for anticipated losses and a reasonable reserve, other than that portion of the premium designated for operating and administrative expenses.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(8) TRANSITIONAL YIELD.—The term 'transitional yield' means the maximum average production per acre or equivalent measure that is assigned to acreage for a crop year by the Corporation in accordance with the regulations of the Corporation whenever the producer fails—

"(A) to certify that acceptable documentation of production and acreage for the crop year is in the possession of the producer; or

"(B) to present the acceptable documentation on the demand of the Corporation or an insurance company reinsured by the Corporation.".

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 503 (7 U.S.C. 1503) is amended by striking "(herein called the Corporation)".

(2) Section 504 (7 U.S.C. 1504) is amended—

(A) in subsection (a), by striking "Board of Directors of the Corporation" and inserting "Board"; and

(B) in subsection (d), by striking "Federal Crop Insurance Corporation" and inserting "Corporation".

(3) The first sentence of section 505(a) (7 U.S.C. 1505(a)) is amended by striking "(hereinafter called the 'Board')".

(4) Except in section 502, the Act is amended— 7 USC 1501 *et seq.*

(A) by striking "Board of Directors" each place it appears and inserting "Board";

(B) by striking "Department of Agriculture" each place it appears and inserting "Department"; and

(C) by striking "Secretary of Agriculture" each place it appears and inserting "Secretary".

SEC. 103. MEMBERS OF BOARD OF DIRECTORS OF CORPORATION.

The second sentence of section 505(a) (7 U.S.C. 1505(a)) is amended—

(1) by striking "or Assistant Secretary" the first place it appears; and

(2) by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture" and inserting "one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture)".

SEC. 104. GENERAL POWERS.

Section 506 (7 U.S.C. 1506) is amended—

(1) by redesignating subsections (j) through (n) as subsections (k) through (o), respectively;

(2) by inserting after subsection (i) the following new subsection:

"(j) SETTLING CLAIMS.—The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.";

(3) in subsection (l) (as so redesignated)—

(A) in the first sentence, by inserting ", and issue regulations," after "agreements"; and

(B) in the second sentence, by striking "contracts or agreements" each place it appears and inserting "contracts, agreements, or regulations";

(4) in subsection (n)(1) (as so redesignated), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this title for a period of not to exceed 10 years.";

(5) in subsection (o) (as so redesignated)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D) and aligning the margins of each subparagraph with the margins of subparagraph (A) of subsection (n)(1) (as redesignated by paragraph (1));

(B) by striking "(o) ACTUARIAL SOUNDNESS.—The Corporation" and inserting the following:

"(o) ACTUARIAL SOUNDNESS.—

"(1) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1995.—The Corporation";

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by striking "from obtaining adequate Federal crop insurance, as determined by the Corporation" and

inserting "(as defined by the Secretary) from obtaining Federal crop insurance";

(D) in subparagraph (C) (as so redesignated)—

(i) by inserting ", agents, and loss adjusters" after "participating producers"; and

(ii) by inserting ", agents, and loss adjusters" after "identify insured producers"; and

(E) by adding at the end the following new paragraphs:

"(2) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1998.—The Corporation shall take such actions, including the establishment of adequate premiums, as are necessary to improve the actuarial soundness of Federal multiperil crop insurance made available under this title to achieve, on and after October 1, 1998, an overall projected loss ratio of not greater than 1.075.

"(3) NONSTANDARD CLASSIFICATION SYSTEM.—To the extent that the Corporation uses the nonstandard classification system, the Corporation shall apply the system to all insured producers in a fair and consistent manner."; and

(6) by adding at the end the following new subsections:

"(p) REGULATIONS.—The Secretary and the Corporation are each authorized to issue such regulations as are necessary to carry out this title.

"(q) PROGRAM COMPLIANCE.—

"(1) TIMELINESS.—The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as the issues develop.

"(2) NOTIFICATION OF COMPLIANCE PROBLEMS.—The Corporation shall notify in writing any approved insurance provider with whom the Corporation has an agreement under this title of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation. The notice shall be given within 3 years of the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limit shall not apply with respect to errors, omissions, or procedural violations that are willful or intentional. The failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

"(r) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Corporation using funds made available to the Corporation should be American-made.

"(2) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity for the purchase of equipment and products to carry out this title, the Corporation, to the greatest extent practicable, shall provide to the entity a notice describing the statement made in paragraph (1).".

SEC. 105. PERSONNEL.

Section 507 (7 U.S.C. 1507) is amended—

(1) in subsection (a), by striking ", and county crop insurance committeemen";

(2) in subsection (d), by striking "of this Act," and all that follows through "agency"; and

(3) by adding at the end the following new subsection:

"(g)(1) The Corporation shall establish a management-level position to be known as the Specialty Crops Coordinator.

"(2) The Specialty Crops Coordinator shall have primary responsibility for addressing the needs of specialty crop producers, and for providing information and advice, in connection with the activities of the Corporation to improve and expand the insurance program for specialty crops. In carrying out this paragraph, the Specialty Crops Coordinator shall act as the liaison of the Corporation with representatives of specialty crop producers and assist the Corporation with the knowledge, expertise, and familiarity of the producers with risk management and production issues pertaining to specialty crops.

"(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which specialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.".

SEC. 106. CROP INSURANCE.

Section 508 (7 U.S.C. 1508) is amended to read as follows:

"SEC. 508. CROP INSURANCE.

"(a) AUTHORITY TO OFFER INSURANCE.—

"(1) IN GENERAL.—If sufficient actuarial data are available (as determined by the Corporation), the Corporation may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

"(2) PERIOD.—Except in the cases of tobacco and potatoes, insurance shall not extend beyond the period during which the insured commodity is in the field. As used in the preceding sentence, in the case of an aquacultural species, the term 'field' means the environment in which the commodity is produced.

"(3) EXCLUSIONS.—Insurance provided under this subsection shall not cover losses due to—

"(A) the neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

"(C) the failure of the producer to follow good farming practices (as determined by the Secretary).

"(4) EXPANSION TO OTHER AREAS OR SINGLE PRODUCERS.—

"(A) AREA EXPANSION.—The Corporation may offer plans of insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia,

and the Republic of Palau in the same manner as provided in this section for production of agricultural commodities in the United States.

"(B) PRODUCER EXPANSION.—In an area in the United States or specified in subparagraph (A) where crop insurance is not available for a particular agricultural commodity, the Corporation may offer to enter into a written agreement with an individual producer operating in the area for insurance coverage under this title if the producer has actuarially sound data relating to the production by the producer of the commodity and the data is acceptable to the Corporation.

"(5) DISSEMINATION OF CROP INSURANCE INFORMATION.—The Corporation shall make available to producers through local offices of the Department—

"(A) current and complete information on all aspects of Federal crop insurance; and

"(B) a listing of insurance agents and companies offering to sell crop insurance in the area of the producers.

"(6) ADDITION OF NEW AND SPECIALTY CROPS.—

Federal Register, publication.

"(A) DATA COLLECTION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

Reports.

"(B) ADDITION OF NEW CROPS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this title to new and specialty crops.

"(C) ADDITION OF DIRECT SALE PERISHABLE CROPS.—Not later than 1 year after the date of enactment of this paragraph, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

"(b) CATASTROPHIC RISK PROTECTION.—

"(1) IN GENERAL.—The Corporation shall offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting, if provided by the Corporation, when the producer is unable, because of drought, flood, or other natural disaster (as determined by the Secretary), to plant other crops for harvest on the acreage for the crop year.

"(2) AMOUNT OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B)—

"(i) in the case of each of the 1995 through 1998 crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 60 percent of the expected market price, or a comparable coverage (as determined by the Corporation); and

"(ii) in the case of each of the 1999 and subsequent crop years, catastrophic risk protection shall offer a

producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price, or a comparable coverage (as determined by the Corporation).

"(B) REDUCTION IN ACTUAL PAYMENT.—The amount paid to a producer on a claim under catastrophic risk protection may reflect a reduction that is proportional to the out-of-pocket expenses that are not incurred by the producer as a result of not planting, growing, or harvesting the crop for which the claim is made, as determined by the Corporation.

"(3) YIELD AND LOSS BASIS.—A producer shall have the option of basing the catastrophic coverage of the producer on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

"(4) SALE OF CATASTROPHIC RISK COVERAGE.—

"(A) IN GENERAL.—Catastrophic risk coverage may be offered by—

"(i) approved insurance providers, if available in an area; and

"(ii) at the option of the Secretary that is based on considerations of need, local offices of the Department.

"(B) NEED.—For purposes of considering need under subparagraph (A)(ii), the Secretary may take into account the most efficient and cost-effective use of resources, the availability of personnel, fairness to local producers, the needs and convenience of local producers, and the availability of private insurance carriers.

"(5) ADMINISTRATIVE FEE.—

"(A) FEE REQUIRED.—Producers shall pay an administrative fee for catastrophic risk protection. The administrative fee for each producer shall be $50 per crop per county, but not to exceed $200 per producer per county up to a maximum of $600 per producer for all counties in which a producer has insured crops. The administrative fee shall be paid by the producer at the time the producer applies for catastrophic risk protection.

"(B) USE OF FEES.—

"(i) FEES UP TO $100.—

"(I) FEES COLLECTED BY USDA OFFICES.—Not more than $100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an office of the Department shall be credited to the appropriations account providing funds for the payment of operating and administrative expenses incurred for the delivery of catastrophic risk protection under this section. The fees shall be collected in accordance with appropriation Acts and shall be available until expended without fiscal year limitation for the payment of the expenses.

"(II) FEES COLLECTED BY APPROVED INSURANCE PROVIDERS.—Not more than $100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an approved insurance provider shall be retained by the pro-

vider as payment for operating and administrative expenses incurred for the delivery of catastrophic risk protection.

"(ii) FEES IN EXCESS OF $100.—Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, all fees collected under this subsection in excess of $100 per producer per county shall be deposited in the crop insurance fund established under section 516(c), to be available for the programs and activities of the Corporation.

"(C) WAIVER OF FEE.—The Corporation shall waive the administrative fee for limited resource farmers, as defined by the Corporation.

"(6) PARTICIPATION REQUIREMENT.—A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county only if the producer obtains the coverage for the crop on all insurable land of the producer in the county.

"(7) ELIGIBILITY FOR DEPARTMENT PROGRAMS.—

"(A) IN GENERAL.—To be eligible for any price support or production adjustment program, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.

"(B) DEFINITION OF CROP OF ECONOMIC SIGNIFICANCE.—As used in this paragraph, the term 'crop of economic significance' means a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer.

"(8) LIMITATION DUE TO RISK.—The Corporation may limit catastrophic risk coverage in any county or area, or on any farm, on the basis of the insurance risk concerned.

"(9) TRANSITIONAL COVERAGE FOR 1995 CROPS.—Effective only for a 1995 crop planted or for which insurance attached prior to January 1, 1995, the Corporation shall allow producers of the crops until not later than the end of the 180-day period beginning on the date of enactment of the Federal Crop Insurance Reform Act of 1994 to obtain catastrophic risk protection for the crop. On enactment of such Act, a producer who made timely purchases of a crop insurance policy before the date of enactment of such Act, under the provisions of this title then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c).

"(10) SIMPLIFICATION.—

"(A) CATASTROPHIC RISK PROTECTION PLANS.—In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this title, the Corporation shall, to the maximum extent practicable, minimize the paperwork required and the complexity and

costs of procedures governing applications for, processing, and servicing of the plan for all parties involved.

"(B) OTHER PLANS.—To the extent that the policies and procedures developed under subparagraph (A) may be applied to other plans of insurance offered under this title without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

"(c) GENERAL COVERAGE LEVELS.—

"(1) ADDITIONAL COVERAGE GENERALLY.—

"(A) IN GENERAL.—The Corporation shall offer to producers of agricultural commodities grown in the United States plans of crop insurance that provide additional coverage.

"(B) PURCHASE.—To be eligible for additional coverage, a producer must apply to an approved insurance provider for purchase of additional coverage if the coverage is available from an approved insurance provider. If additional coverage is unavailable privately, the Corporation may offer additional coverage plans of insurance directly to producers.

"(2) TRANSFER OF RELEVANT INFORMATION.—If a producer has already applied for catastrophic risk protection at the local office of the Department and elects to purchase additional coverage, the relevant information for the crop of the producer shall be transferred to the approved insurance provider servicing the additional coverage crop policy.

"(3) YIELD AND LOSS BASIS.—A producer shall have the option of purchasing additional coverage based on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

"(4) LEVEL OF COVERAGE.—The level of coverage shall be dollar denominated and may be purchased at any level not to exceed 85 percent of the individual yield or 95 percent of the area yield (as determined by the Corporation). Not later than the beginning of the 1996 crop year, the Corporation shall provide producers with information on catastrophic risk and additional coverage in terms of dollar coverage (within the allowable limits of coverage provided in this paragraph).

"(5) PRICE LEVEL.—The Corporation shall establish a price level for each commodity on which insurance is offered that—

"(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

"(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).

"(6) PRICE ELECTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than the price election established by the Corporation. The coverage shall be quoted in terms of dollars per acre.

"(B) MINIMUM PRICE ELECTIONS.—The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

"(C) WHEAT CLASSES AND MALTING BARLEY.—The Corporation shall, as the Corporation determines practicable, offer producers different price elections for classes of wheat and malting barley (including contract prices in the case of malting barley), in addition to the standard price election, that reflect different market prices, as determined by the Corporation. The Corporation shall, as the Corporation determines practicable, offer additional coverage for each class determined under this subparagraph and charge a premium for each class that is actuarially sound.

"(7) FIRE AND HAIL COVERAGE.—For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

"(8) STATE PREMIUM SUBSIDIES.—The Corporation may enter into an agreement with any State or agency of a State under which the State or agency may pay to the approved insurance provider an additional premium subsidy to further reduce the portion of the premium paid by producers in the State.

"(9) LIMITATIONS ON ADDITIONAL COVERAGE.—The Board may limit the availability of additional coverage under this subsection in any county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

"(10) ADMINISTRATIVE FEE.—

"(A) FEE REQUIRED.—Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. Subsection (b)(5) shall apply in determining the amount and use of the administrative fee or in determining whether to waive the administrative fee.

"(B) EXCEPTION.—If a producer elects to purchase additional coverage for a crop equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall not be subject to the administrative fee required by this paragraph or subsection (b)(5). If the producer has already paid the administrative fee for a lower level of coverage for the crop, the administrative fee shall be refunded to the producer unless the refund would reduce to less than $200 the total amount of the administrative fees paid by the producer for 2 or more crops in the same county for which a lower level of coverage is obtained.

"(C) ADDITIONAL FEE.—If a producer elects to purchase additional coverage for a crop equal to or exceeding 65 percent of the recorded or appraised average yield and 100 percent of the expected market price or an equivalent coverage, the producer shall pay an administrative fee of $10 for the coverage. If a producer has already paid an administrative fee for lesser coverage for the crop, the fee for lesser coverage shall be refunded to the producer unless the producer has paid the maximum fee for lesser coverage and refund of the fee will not reduce the amount to be paid below the maximum amount.

"(D) DEPOSIT OF FEES.—Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, administrative fees collected under subparagraph (B) in excess of $100 per producer per county and under subparagraph (C) shall be deposited in the insurance fund established under section 516(c) to be available for the programs and activities of the Corporation.

"(d) PREMIUMS.—

"(1) PREMIUMS REQUIRED.—The Corporation shall fix adequate premiums for all the plans of insurance of the Corporation at such rates as the Board determines are actuarially sufficient to attain an expected loss ratio of not greater than 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.

"(2) PREMIUM AMOUNTS.—The premium amounts for catastrophic risk protection under subsection (b) and additional coverage under subsection (c) shall be fixed as follows:

"(A) In the case of catastrophic risk protection, the amount of the premium shall be sufficient to cover anticipated losses and a reasonable reserve.

"(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation.

"(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

"(e) PAYMENT OF PORTION OF PREMIUM BY CORPORATION.—

"(1) IN GENERAL.—For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) and the additional coverage provided under subsection (c), the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

"(2) AMOUNT OF PAYMENT.—The amount of the premium to be paid by the Corporation shall be as follows:

"(A) In the case of catastrophic risk protection, the amount shall be equivalent to the premium established for catastrophic risk protection under subsection (d)(2)(A).

"(B) In the case of coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equivalent to the amount of premium established for catastrophic risk protection coverage and the amount of operating and administrative expenses established under subsection (d)(2)(B).

"(C) In the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, on an individual or area basis, the amount shall be equivalent to an amount equal to the premium established for 50 percent loss in yield indemnified at 75 percent of the expected market price and the amount of operating and administrative expenses established under subsection (d)(2)(C).

"(3) PREMIUM REDUCTION.—If an approved insurance provider determines that the provider may provide insurance more efficiently than the expense reimbursement amount established by the Corporation, the approved insurance provider may reduce, subject to the approval of the Corporation, the premium charged the insured by an amount corresponding to the efficiency. The approved insurance provider shall apply to the Corporation for authority to reduce the premium before making such a reduction, and the reduction shall be subject to the rules, limitations, and procedures established by the Corporation.

"(4) INDIVIDUAL AND AREA CROP INSURANCE COVERAGE.—The Corporation shall allow approved insurance providers to

offer a plan of insurance to producers that combines both individual yield coverage and area yield coverage at a premium rate determined by the provider under the following conditions:

"(A) The individual yield coverage shall be equal to or greater than catastrophic risk protection as described in subsection (b).

"(B) The combined policy shall include area yield coverage that is offered by the Corporation or similar area coverage, as determined by the Corporation.

"(C) The Corporation shall provide reinsurance on the area yield portion of the combined policy at the request of the provider, except that the provider shall agree to pay to the producer any portion of the area yield and loss indemnity payment received from the Corporation or a commercial reinsurer that exceeds the individual indemnity payment made by the provider to the producer.

"(D) The Corporation shall pay a part of the premium equivalent to—

"(i) the amount authorized under paragraph (2) (except provisions regarding operating and administrative expenses); and

"(ii) the amount of operating and administrative expenses authorized by the Corporation for the area yield coverage portion of the combined policy.

"(E) The provider shall provide all underwriting services for the combined policy, including the determination of individual yield coverage premium rates, the terms and conditions of the policy, and the acceptance and classification of applicants into risk categories, subject to subparagraph (F).

"(F) The Corporation shall approve the combined policy unless the Corporation determines that the policy is not actuarially sound or that the interests of producers are not adequately protected.

"(f) ELIGIBILITY.—

"(1) IN GENERAL.—To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

"(2) SALES CLOSING DATE.—For coverage under this title, each producer shall purchase crop insurance on or before the sales closing date for the crop by providing the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department. Beginning with the 1995 crop year, the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

"(3) RECORDS AND REPORTING.—To obtain catastrophic risk protection under subsection (b) or additional coverage under subsection (c), a producer shall—

"(A) provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage

and production of the crops for which the insurance is sought or accept a yield determined by the Corporation; and

"(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

"(g) YIELD DETERMINATIONS.—

Regulations.

"(1) IN GENERAL.—Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) or additional coverage under subsection (c).

"(2) YIELD COVERAGE PLANS.—

"(A) ACTUAL PRODUCTION HISTORY.—Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

"(B) ASSIGNED YIELD.—If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

"(C) AREA YIELD.—The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

"(D) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between individual yield or area yield coverage or combined coverage (as provided in subsection (e)(4)), if available, on a commodity-by-commodity basis.

"(3) TRANSITIONAL YIELDS FOR PRODUCERS OF FEED OR FORAGE.—

"(A) IN GENERAL.—If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

"(i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and

"(ii) over 50 percent of the net farm income of the producer is derived from the operation.

"(B) YIELD CALCULATION.—The Corporation shall—

"(i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and

"(ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

"(C) TERMINATION OF AUTHORITY.—The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

"(h) SUBMISSION OF POLICIES AND MATERIALS TO BOARD.—

"(1) IN GENERAL.—In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c), a person may prepare for submission or propose to the Board—

"(A) other crop insurance policies and provisions of policies; and

"(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

"(2) SUBMISSION OF POLICIES.—A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this title, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board. In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e).

"(3) REVIEW AND APPROVAL BY THE BOARD.—A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

"(4) GUIDELINES FOR SUBMISSION AND REVIEW.—The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following: Regulations.

"(A) A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5, United States Code, until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.

"(B) The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

"(C) The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval. An applicant that receives the notification may modify the application of the applicant. Any modification shall be considered an original application for purposes of this paragraph.

"(D) Specific guidelines shall prescribe the timing of submission of proposals under this subsection and timely consideration by the Board so that any approved proposal may be made available to all persons reinsured by the Corporation in a manner permitting the persons to participate, if the persons so desire, in offering such a proposal in the first crop year in which the proposal is approved by the Board for reinsurance, premium subsidy, or other support offered by this title.

Federal Register, publication.

"(5) REQUIRED PUBLICATION.—Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.

"(6) PILOT COST OF PRODUCTION RISK PROTECTION PLAN.—

"(A) IN GENERAL.—The Corporation shall offer, to the extent practicable, a cost of production risk protection plan of insurance that indemnifies producers (including new producers) for insurable losses as provided in this paragraph.

"(B) PILOT BASIS.—The cost of production risk protection plan shall—

"(i) be established as a pilot project for each of the 1996 and 1997 crop years; and

"(ii) be carried out in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the plan.

"(C) INSURABLE LOSS.—An insurable loss shall be incurred by a producer if the gross income of the producer (as determined by the Corporation) is less than an amount determined by the Corporation, as a result of a reduction in yield or price resulting from an insured cause.

"(D) DEFINITION OF NEW PRODUCER.—As used in this paragraph, the term 'new producer' means a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary.

"(7) ADDITIONAL PREVENTED PLANTING POLICY COVERAGE.—

"(A) IN GENERAL.—Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

"(B) APPROVED INSURANCE PROVIDERS.—Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

"(C) TIMING OF LOSS.—A crop loss shall be covered by the additional prevented planting coverage if—

"(i) crop insurance policies were obtained for—

"(I) the crop year the loss was experienced; and

"(II) the crop year immediately preceding the year of the prevented planting loss; and

"(ii) the cause of the loss occurred—

"(I) after the sales closing date for the crop in the crop year immediately preceding the loss; and

"(II) before the sales closing date for the crop in the year in which the loss is experienced.

"(8) PILOT PROGRAM OF ASSIGNED YIELDS FOR NEW PRODUCERS.—

"(A) PROGRAM REQUIRED.—For each of the 1995 and 1996 crop years, the Corporation shall carry out a pilot program to assign to eligible new producers higher assigned yields than would otherwise be assigned to the producers under subsection (g). The Corporation shall include in the pilot program 30 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among new producers for increased assigned yields.

"(B) INCREASED ASSIGNED YIELDS.—In the case of an eligible new producer participating in the pilot program, the Corporation shall assign to the new producer a yield that is equal to not less than 110 percent of the transitional yield otherwise established by the Corporation.

"(C) ELIGIBLE NEW PRODUCER.—The Secretary shall establish a definition of new producer for purposes of determining eligibility to participate in the pilot program.

"(i) ADOPTION OF RATES AND COVERAGES.—The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.

"(j) CLAIMS FOR LOSSES.—

"(1) IN GENERAL.—Under rules prescribed by the Corporation, the Corporation may provide for adjustment and payment of claims for losses. The rules prescribed by the Corporation shall establish standards to ensure that all claims for losses are adjusted, to the extent practicable, in a uniform and timely manner. Regulations.

"(2) DENIAL OF CLAIMS.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a claim for indemnity is denied by the Corporation or an approved provider, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

"(B) STATUTE OF LIMITATIONS.—A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.

"(3) INDEMNIFICATION.—The Corporation shall provide approved insurance providers with indemnification, including

costs and reasonable attorney fees incurred by the approved insurance provider, due to errors or omissions on the part of the Corporation.

"(k) REINSURANCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Corporation shall, to the maximum extent practicable, provide reinsurance to insurers approved by the Corporation that insure producers of any agricultural commodity under 1 or more plans acceptable to the Corporation.

"(2) TERMS AND CONDITIONS.—The reinsurance shall be provided on such terms and conditions as the Board may determine to be consistent with subsections (b) and (c) and sound reinsurance principles.

"(3) SHARE OF RISK.—The reinsurance agreements of the Corporation with the reinsured companies shall require the reinsured companies to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured companies and the availability of private reinsurance.

"(4) RATE.—The rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

"(A) for the 1997 reinsurance year, 29 percent of the premium used to define loss ratio;

"(B) for the 1998 reinsurance year, 28 percent of the premium used to define loss ratio; and

"(C) for the 1999 reinsurance year, 27.5 percent of the premium used to define loss ratio.

"(5) COST AND REGULATORY REDUCTION.—Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4) during the 5-year period beginning on the date of enactment of this paragraph.

"(6) AGENCY DISCRETION.—The determination of whether the Corporation is achieving, or has achieved, corresponding administrative cost savings shall not be subject to administrative review, and is wholly committed to agency discretion within the meaning of section 701(a)(2) of title 5, United States Code.

"(7) PLAN.—The Corporation shall submit to Congress a plan outlining the measures that will be used to achieve the reduction required under paragraph (5). If the Corporation can identify additional cost reduction measures, the Corporation shall describe the measures in the plan.

"(l) OPTIONAL COVERAGES.—The Corporation may offer specific risk protection programs, including protection against prevented planting, wildlife depredation, tree damage and disease, and insect infestation, under such terms and conditions as the Board may determine, except that no program may be undertaken if insurance

for the specific risk involved is generally available from private companies.

"(m) RESEARCH.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique special risks related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board.

"(2) EXCEPTION.—No action may be undertaken with respect to a risk under paragraph (1) if insurance protection against the risk is generally available from private companies.

"(3) EVALUATION.—After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.".

SEC. 107. CROP INSURANCE YIELD COVERAGE.

Section 508A (7 U.S.C. 1508a) is repealed.

SEC. 108. PREEMPTION.

Section 511 (7 U.S.C. 1511) is amended by adding at the end the following sentence: "A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.".

SEC. 109. ADVISORY COMMITTEE.

The Act is amended by inserting after section 514 (7 U.S.C. 1514) the following new section:

"SEC. 515. ADVISORY COMMITTEE FOR FEDERAL CROP INSURANCE. 7 USC 1515.

"(a) ESTABLISHMENT.—The Secretary may establish within the Department an advisory committee to be known as the 'Advisory Committee for Federal Crop Insurance'.

"(b) PRIMARY RESPONSIBILITY.—The primary responsibility of the Advisory Committee shall be to advise the Secretary on the implementation of this title and on other issues related to crop insurance, as determined by the Manager of the Corporation.

"(c) MEMBERSHIP.—The Advisory Committee shall be composed of the Manager of the Corporation, the Secretary (or a designee of the Secretary), and not fewer than 12 members representing organizations and agencies involved in the provision of crop insurance under this title. Not fewer than 3 of the members of the Advisory Committee shall be representatives of the specialty crops industry. The organizations or agencies represented by members on the Advisory Committee may include insurance companies, insurance agents, farm producer organizations, experts on agronomic practices, and banking and lending institutions.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) TERMS.—Members of the Advisory Committee (other than the Manager of the Corporation and the Secretary) shall be appointed by the Secretary for a term of up to 2 years from nominations made by the organizations and agencies specified in subsection (c). The terms of the members (other than the Manager of the Corporation and the Secretary) shall be staggered.

"(2) CHAIRPERSON.—The Advisory Committee shall be chaired by the Manager of the Corporation.

"(3) MEETINGS.—The Advisory Committee shall meet at least annually. The meetings of the Advisory Committee shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Advisory Committee shall be kept and made available to the public on request.

"(e) REPORTS.—Not later than June 30 of each year, the Advisory Committee shall submit to the Secretary a report specifying the conclusions and recommendations of the Advisory Committee regarding—

"(1) the progress toward implementation of this title;

"(2) the actuarial soundness of the Federal crop insurance program;

"(3) the rate of producer participation in both catastrophic risk protection under section 508(b) and additional coverage under section 508(c); and

"(4) the progress toward improved crop insurance coverage for new and specialty crops.

"(f) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 1998.".

SEC. 110. FUNDING.

Section 516 (7 U.S.C. 1516) is amended to read as follows:

"SEC. 516. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) DISCRETIONARY EXPENSES.—There are authorized to be appropriated for each of fiscal years 1995 through 2001 such sums as are necessary to cover—

"(A) the salaries and expenses of the Corporation; and

"(B) the administrative and operating expenses of the Corporation for the sales commissions of agents.

"(2) MANDATORY EXPENSES.—There are authorized to be appropriated such sums as are necessary to cover—

"(A) in the case of each of the 1995 through 1997 reinsurance years, the administrative and operating expenses of the Corporation for the sales commissions of agents, consistent with subsection (b)(1);

"(B) premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage; and

"(C) payments for noninsured assistance losses under section 519.

"(b) PAYMENT OF EXPENSES.—

"(1) ADMINISTRATIVE AND OPERATING EXPENSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of each of the 1995 through 1997 reinsurance years, the Corporation is authorized to pay from the

insurance fund established under subsection (c), the administrative and operating expenses of an approved insurance provider, including expenses covered by subsection (a)(1)(B).

"(B) SALES COMMISSIONS FOR 1997 REINSURANCE YEAR.—In the case of the 1997 reinsurance year, the amount of the payments from the insurance fund established under subsection (c) for the expenses of the Corporation for the sales commissions of agents may not exceed 8.5 percent of the total amount of premiums paid for additional coverage for the 1997 reinsurance year.

"(2) OTHER EXPENSES.—The Corporation is authorized to pay from the insurance fund established under subsection (c)—

"(A) all other expenses of the Corporation (other than expenses covered by subsection (a)(1)), including all premium subsidies, noninsured assistance benefits, and indemnities;

"(B) subject to paragraph (1)(B), in the case of each of the 1995 through 1997 reinsurance years, all administrative and expense reimbursements due under a reinsurance agreement with an approved insurance provider; and

"(C) to the extent necessary, expenses incurred by the Corporation to carry out research and development.

"(c) INSURANCE FUND.—

"(1) IN GENERAL.—There is established an insurance fund, for the deposit of premium income and amounts made available under subsection (a)(2), to be available without fiscal year limitation.

"(2) COMMODITY CREDIT CORPORATION FUNDS.—If at any time the amounts in the insurance fund are insufficient to enable the Corporation to carry out subsection (b), to the extent the funds of the Commodity Credit Corporation are available—

"(A) the Corporation may request the Secretary to use the funds of the Commodity Credit Corporation to carry out subsection (b); and

"(B) the Secretary may use the funds of the Commodity Credit Corporation to carry out subsection (b).".

SEC. 111. NONINSURED CROP DISASTER ASSISTANCE.

Section 519 (7 U.S.C. 1519) is amended to read as follows:

"SEC. 519. NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—In the case of an eligible crop described in paragraph (2), the Corporation shall establish a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b).

"(2) ELIGIBLE CROPS.—

"(A) IN GENERAL.—As used in this section, the term 'eligible crop' means each commercial crop or other agricultural commodity (except livestock)—

"(i) for which catastrophic risk protection under section 508(b) is not available; and

"(ii) that is produced for food or fiber.

"(B) CROPS SPECIFICALLY INCLUDED.—The term 'eligible crop' shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, and industrial crops.

"(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

"(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

"(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Corporation may require.

"(2) RECORDS.—A producer shall annually provide records, as required by the Corporation, of previous crop acreage, acreage yields, and production, or the producer shall accept a yield under subsection (e)(3) determined by the Corporation.

"(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Corporation, by the designated acreage reporting date for the crop and location as established by the Corporation.

"(c) LOSS REQUIREMENTS.—

"(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Corporation.

"(2) PREVENTED PLANTING.—Subject to paragraph (1), the Corporation shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

"(3) REDUCED YIELDS.—Subject to paragraph (1), the Corporation shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Corporation, factored for the interest of the producer for the crop.

"(d) PAYMENT.—The Corporation shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

"(1) the quantity that is less than 50 percent of the established yield for the crop; by

"(2)(A) in the case of each of the 1995 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); or

"(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); by

"(3) a payment rate for the type of crop (as determined by the Corporation) that—

"(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

"(i) harvested;

"(ii) planted but not harvested; and

"(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

"(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Corporation.

"(e) YIELD DETERMINATIONS.—

"(1) ESTABLISHMENT.—The Corporation shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

"(2) ACTUAL PRODUCTION HISTORY.—The Corporation shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

"(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Corporation shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

"(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

"(A) IN GENERAL.—

"(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Corporation. If the Corporation determines that the documentation provided is not sufficient, the Corporation may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

"(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

"(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

"(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

"(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Deputy Administrator for State and County Operations of the Agricultural Stabilization and Conservation Service; and

"(II) the Deputy Administrator approves the recommendation.

"(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

"(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Corporation shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

"(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

"(g) PAYMENT OF LOSSES.—Payments for noninsured crop disaster assistance losses under this section shall be made from the insurance fund established under section 516. The losses shall not be included in calculating the premiums charged to producers for insurance under section 508.

"(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

"(1) the neglect or malfeasance of the producer;

"(2) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

"(3) the failure of the producer to follow good farming practices, as determined by the Corporation.".

SEC. 112. PAYMENT AND INCOME LIMITATIONS.

Section 519 (7 U.S.C. 1519) (as amended by section 111) is further amended by adding at the end the following new subsection:

"(h) PAYMENT AND INCOME LIMITATIONS.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) PERSON.—The term 'person' has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

"(B) QUALIFYING GROSS REVENUES.—The term 'qualifying gross revenues' means—

"(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry oper-

ations, the gross revenue from the farming, ranching, and forestry operations of the person; and

"(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

"(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this title may not exceed $100,000.

"(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under section 508(b) or noninsured crop disaster assistance under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under section 508(c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.

"(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

"(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.".

SEC. 113. PRODUCER ELIGIBILITY.

Section 520 (7 U.S.C. 1520) is amended to read as follows:

"SEC. 520. PRODUCER ELIGIBILITY.

"Except as otherwise provided in this title, a producer shall not be denied insurance under this title if—

"(1) for purposes of catastrophic risk protection coverage, the producer is a 'person' (as defined by the Secretary); and

"(2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant, or sharecropper.".

SEC. 114. INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

The Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following new section:

7 USC 1521.

"SEC. 521. INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

"If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain catastrophic risk, additional coverage, or noninsured assistance benefits under this title to which the person is not entitled, has evaded this title, or has acted with the purposes of evading this title, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted. The authority provided by this section shall be in addition to, and shall not supplant, the authority provided by section 506(n).".

SEC. 115. ELIMINATION OF GENDER REFERENCES.

(a) MANAGEMENT OF CORPORATION.—Section 505 (7 U.S.C. 1505) is amended—

(1) in subsection (a), by striking the third sentence and inserting "The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board."; and

(2) in subsection (d)—

(A) by striking "upon him"; and

(B) by striking "He shall be appointed by," and inserting "The manager shall be appointed by,".

(b) PERSONNEL.—Section 507 (7 U.S.C. 1507) is amended—

(1) in subsection (a), by striking "as he may determine: *Provided,* That" and inserting "as the Secretary may determine appropriate. However,"; and

(2) in subsection (d), by striking "as he may request" and inserting "that the Secretary requests".

(c) INDEMNITIES EXEMPT FROM LEVY.—Section 509 (7 U.S.C. 1509) is amended by striking "or his estate" and inserting "or the estate of the insured".

7 USC 1508 note.

SEC. 116. PREVENTED PLANTING.

(a) IN GENERAL.—Effective for the 1994 crop year, a producer described in subsection (b) shall receive compensation under the prevented planting coverage policy provision described in subsection (b)(1) by—

(1) obtaining from the Secretary of Agriculture the applicable amount that is payable under the conserving use program described in subsection (b)(4); and

(2) obtaining from the Federal Crop Insurance Corporation the amount that is equal to the difference between—

(A) the amount that is payable under the conserving use program; and

(B) the amount that is payable under the prevented planting coverage policy.

(b) ELIGIBLE PRODUCERS.—Subsection (a) shall apply to a producer who—

(1) purchased a prevented planting policy for the 1994 crop year from the Federal Crop Insurance Corporation prior to the spring sales closing date for the 1994 crop year;

(2) is unable to plant a crop due to major, widespread flooding in the Midwest, or excessive ground moisture, that occurred prior to the spring sales closing date for the 1994 crop year;

(3) had a reasonable expectation of planting a crop on the prevented planting acreage for the 1994 crop year; and

(4) participates in a conserving use program established for the 1994 crop of wheat, feed grains, upland cotton, or rice established under section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D), respectively, of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(c)(1)(E), 1444f(c)(1)(E), 1444–2(c)(1)(D), or 1441–2(c)(1)(D)).

(c) OILSEED PREVENTED PLANTING PAYMENTS.—

(1) IN GENERAL.—Effective for the 1994 crop year, a producer of a crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 (7 U.S.C. 1446f(a))) shall receive a prevented planting payment for the crop if the requirements of paragraphs (1), (2), and (3) of subsection (b) are satisfied.

(2) SOURCE OF PAYMENT.—The total amount of payments required under this subsection shall be made by the Federal Crop Insurance Corporation.

(d) PAYMENT.—A payment under this section may not be made before October 1, 1994.

SEC. 117. REPORT ON IMPROVING DISSEMINATION OF CROP INSURANCE INFORMATION. 7 USC 1508 note.

Not later than 180 days after the date of enactment of this Act and at the end of each of the 2 1-year periods thereafter, the Federal Crop Insurance Corporation shall submit a report to Congress containing a plan to implement a sound program for producer education regarding the crop insurance program and for the dissemination of crop insurance information to producers, as required by section 508(a)(5) of the Federal Crop Insurance Act (as amended by section 106).

SEC. 118. CROP INSURANCE PROVIDER EVALUATION. 7 USC 1506 note.

(a) IN GENERAL.—The Comptroller General of the United States and the Federal Crop Insurance Corporation (referred to in this section as the "Corporation") shall jointly evaluate the financial arrangement between the Corporation and approved insurance providers to determine the quality, costs, and efficiencies of providing the benefits of multiple peril crop insurance to producers of agricultural commodities covered under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(b) COLLECTION OF INFORMATION AND PROPOSALS.—The Corporation shall require private insurance providers and agents to supply, and the private insurance providers and agents shall supply, records and information necessary to make the determinations and evaluations required under this section. The Corporation shall solicit from the approved insurance providers and agents proposals for modifying or altering the requirements, regulations, procedures, and processes related to implementing the Federal Crop Insurance Act to reduce the operating and administrative costs of the providers and agents.

(c) INITIAL REPORT.—Not later than 180 days after receipt of information and cost-reduction proposals under subsection (b), the Corporation shall evaluate the information and proposals obtained and report the results of the evaluation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General and the Corporation

shall submit a final report that provides the evaluation required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In making the evaluation, the Comptroller General and the Corporation shall—

(1) consider the changes made by the Corporation in response to increased program participation resulting from the enactment of this Act;

(2) include an evaluation and opinion of the accuracy and reasonableness of—

(A) the average actual costs for approved insurance providers to deliver multiple peril crop insurance;

(B) the cost per policy of complying with the requirements, regulations, procedures, and processes of the Federal Crop Insurance Act;

(C) the cost differences for various provider firm sizes and any business delivered by the Federal Government;

(D) the adequacy of the standard reimbursement for potential new providers; and

(E) the identification of any new costs related to the enactment of this Act not previously identified in the information reported by the providers;

(3) compare delivery costs of multiple peril crop insurance to other insurance coverages that the provider may sell and determine the extent, if any, to which any funds provided to carry out the Federal Crop Insurance Act are being used to fund any other business enterprise operated by the provider;

(4)(A) assess alternative methods for reimbursing providers for reasonable and necessary expenses associated with delivery of multiple peril crop insurance;

(B) recommend changes under this paragraph that reasonably demonstrate the need to achieve the greatest operating efficiencies on the part of the provider and the Corporation has been recognized; and

(C) identify areas for improved operating efficiencies, if any, in the requirements made by the Corporation for compliance and program integrity;

(5) assess the potential for alternative forms of reinsurance arrangements for providers of different firm sizes, taking into consideration—

(A) the need to achieve a reasonable return on the capital of the provider compared to other lines of insurance;

(B) the relative risk borne by the provider for the different lines of insurance;

(C) the availability and price of commercial reinsurance; and

(D) any additional costs that may be incurred by the Federal Government in carrying out the Federal Crop Insurance Act; and

(6) include an analysis of the effect of the current or proposed reinsurance arrangements on providers having different business levels.

(e) INFORMATION.—

(1) PRIVACY.—In conducting the evaluation required by this section, the Comptroller General and the Corporation shall maintain the privacy of proprietary information.

(2) SUBPOENAS.—The Comptroller General shall have the power to subpoena information relevant to the evaluation required by this section from any private insurance provider. The Comptroller General shall allow the Corporation access to the information subpoenaed taking into consideration the necessity of preserving the privacy of proprietary information.

SEC. 119. CONFORMING AMENDMENTS.

(a) PRICE SUPPORT PROGRAMS.—

(1) IN GENERAL.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 427. CROP INSURANCE REQUIREMENT. 7 USC 1433f.

"As a condition of receiving any benefit (including payments) under title I or II for each of the 1995 and subsequent crops of tobacco, rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, oilseeds, and sugar, a producer must obtain at least catastrophic risk protection insurance coverage under section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.".

(2) RICE.—Section 101B(c) of such Act (7 U.S.C. 1441–2(c)) is amended—

(A) in paragraph (1), by striking subparagraph (F); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CROP INSURANCE REQUIREMENT.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(3) UPLAND COTTON.—Section 103B(c) of such Act (7 U.S.C. 1444–2(c)) is amended—

(A) in paragraph (1), by striking subparagraph (F); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CROP INSURANCE REQUIREMENT.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(4) FEED GRAINS.—Section 105B(c) of such Act (7 U.S.C. 1444f(c)) is amended—

(A) in paragraph (1), by striking subparagraph (G); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CROP INSURANCE REQUIREMENT.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(5) WHEAT.—Section 107B(c) of such Act (7 U.S.C. 1445b–3a(c)) is amended—

(A) in paragraph (1), by striking subparagraph (G); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CROP INSURANCE REQUIREMENT.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(6) DISASTER PAYMENTS.—Section 208 of such Act (7 U.S.C. 1446i) is repealed.

(b) FARMERS HOME ADMINISTRATION PROGRAMS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following new section:

7 USC 2008f.

"SEC. 371. CROP INSURANCE REQUIREMENT.

"(a) IN GENERAL.—As a condition of obtaining any benefit (including a direct loan, loan guarantee, or payment) described in subsection (b), a borrower must obtain at least catastrophic risk protection insurance coverage under section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

"(b) APPLICABLE BENEFITS.—Subsection (a) shall apply to—

"(1) a farm ownership loan (FO) under section 303;

"(2) an operating loan (OL) under section 312; and

"(3) an emergency loan (EM) under section 321.".

(c) DISASTER ASSISTANCE.—Subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by striking chapter 3.

Effective dates.

(d) EMERGENCY APPROPRIATIONS.—

(1) IN GENERAL.—Effective January 1, 1995, section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.".

(2) EMERGENCY LEGISLATION.—Effective January 1, 1995, section 252(e) of such Act (2 U.S.C. 902(e)) is amended by adding at the end the following new sentence: "This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.".

(e) FALSE STATEMENTS.—Section 1014 of title 18, United States Code, is amended by inserting "or a company the Corporation reinsures" after "Federal Crop Insurance Corporation".

(f) TECHNICAL AMENDMENTS.—

(1) The first sentence of section 506(d) (7 U.S.C. 1506(d)) is amended by striking "508(f)" and inserting "508(j)".

(2) The last sentence of section 507(c) (7 U.S.C. 1507(c)) is amended by striking "508(b)" and inserting "508(h)".

(3) Section 518 (7 U.S.C. 1518) is amended by striking "(k)" and inserting "(m)".

7 USC 1502 note.

SEC. 120. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall become effective on the date of enactment of this Act and shall apply to the provision of crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with the 1995 crop year. With respect to the 1994 crop year, the Federal Crop Insurance Act (as in effect on the day before the date of enactment of this Act) shall continue to apply.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

Department of Agriculture Reorganization Act of 1994.

SEC. 201. SHORT TITLE. 7 USC 6901 note.

(a) SHORT TITLE.—This title may be cited as the "Department of Agriculture Reorganization Act of 1994".

SEC. 202. PURPOSE. 7 USC 6901.

The purpose of this title is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out by the Department.

SEC. 203. DEFINITIONS. 7 USC 6902.

Except where the context requires otherwise, for purposes of this title:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term "National Appeals Division" means the National Appeals Division of the Department established under section 272.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) FUNCTION.—The term "function" means an administrative, financial, or regulatory activity of an agency, office, officer, or employee of the Department.

Subtitle A—General Reorganization Authorities

SEC. 211. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE. 7 USC 6911.

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary on the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

7 USC 6912.

SEC. 212. AUTHORITY OF SECRETARY TO DELEGATE TRANSFERRED FUNCTIONS.

(a) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under section 211(a) or any other function vested in the Secretary as of the date of the enactment of this Act. The authority provided in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any agency, office, or other administrative unit of the Department.

(2) CONDITION ON AUTHORITY.—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 232, 251(d), 273, and 304 and subsections (a) and (b)(1) of section 261;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(b) COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.—

(1) ANALYSIS REQUIRED.—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any name change required or authorized by this title.

(c) PUBLIC COMMENT ON PROPOSED REORGANIZATION.—To the extent that the implementation of the authority provided to the Secretary by this title to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers or employees of such agency or office), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(d) INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.—

(1) RELATED TRANSFERS.—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this title, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) APPLICABLE LAW RELATING TO FUNDS TRANSFER.—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

(e) EXHAUSTION OF ADMINISTRATIVE APPEALS.—Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary or required by law before the person may bring an action in a court of competent jurisdiction against—

(1) the Secretary;

(2) the Department; or

(3) an agency, office, officer, or employee of the Department.

SEC. 213. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL. 7 USC 6913.

(a) DEFINITIONS.—For purposes of this section:

(1) HEADQUARTERS OFFICES.—The term "headquarters offices", with respect to agencies, offices, or other administrative units of the Department, means the offices, functions, and employee positions that are located or performed—

(A) in Washington, District of Columbia; or

(B) in such other locations as are identified by the Secretary for purposes of this section.

(2) FIELD STRUCTURE.—The term "field structure" means the offices, functions, and employee positions of all agencies, offices, or other administrative units of the Department, other than the headquarters offices, except that the term does not include State, county, or area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). The term includes the physical and geographic locations of such agencies, offices, or other administrative units.

(b) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(c) EMPHASIS ON HEADQUARTERS OFFICES REDUCTIONS.—In achieving the employee reductions required by subsection (b), the Secretary shall pursue a goal so that the percentage of the total number of employee staff years reduced in headquarters offices is at least twice the percentage of the total number of employee staff years reduced in the field structure.

(d) SCHEDULE.—The personnel reductions in headquarters offices and in the field structure should be accomplished concurrently in a manner determined by the Secretary.

SEC. 214. CONSOLIDATION OF HEADQUARTERS OFFICES. 7 USC 6914.

Subject to the availability of appropriated funds for this purpose, the Secretary shall develop and carry out a plan to consolidate offices located in Washington, District of Columbia, of agencies, offices, and other administrative units of the Department.

SEC. 215. COMBINATION OF FIELD OFFICES. 7 USC 6915.

(a) COMBINATION OF OFFICES REQUIRED.—Where practicable and to the extent consistent with efficient, effective, and improved service, the Secretary shall combine field offices of agencies within the Department to reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies of the Department share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

7 USC 6916.

SEC. 216. IMPROVEMENT OF INFORMATION SHARING.

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

7 USC 6917.

SEC. 217. REPORTS BY THE SECRETARY.

(a) IN GENERAL.—Subject to subsection (b), notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report solely to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) LIMITATION.—For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a).

(c) SELECTION OF REPORTS.—In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports, if any, the Secretary will prepare and submit in accordance with subsection (b).

7 USC 6918.

SEC. 218. ASSISTANT SECRETARIES OF AGRICULTURE.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the positions of—

(1) Assistant Secretary of Agriculture for Congressional Relations;

(2) Assistant Secretary of Agriculture for Administration; and

(3) Assistant Secretary of Agriculture for Marketing and Regulatory Programs.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes any position of Assistant Secretary authorized under subsection (a), the Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration or Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed as such Assistant Secretary by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(d) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7)." and inserting "Assistant Secretaries of Agriculture (3).".

(e) REPEAL OF SUPERSEDED PROVISIONS REGARDING ASSISTANT SECRETARIES.—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture.", approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "OFFICE OF THE SECRETARY:" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven.", approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94-561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97-325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

SEC. 219. PAY INCREASES PROHIBITED. 7 USC 6919.

The compensation of any officer or employee of the Department on the date of the enactment of this Act shall not be increased as a result of the enactment of this title.

Subtitle B—Farm and Foreign Agricultural Services

SEC. 225. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES. 7 USC 6931.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Sec-

retary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services.".

7 USC 6932.

SEC. 226. CONSOLIDATED FARM SERVICE AGENCY.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain in the Department a Consolidated Farm Service Agency.

(b) FUNCTIONS OF CONSOLIDATED FARM SERVICE AGENCY.—If the Secretary establishes the Consolidated Farm Service Agency under subsection (a), the Secretary is authorized to assign to the Agency jurisdiction over the following functions:

(1) Agricultural price and income support programs, production adjustment programs, and related programs.

(2) General supervision of the Federal Crop Insurance Corporation.

(3) Agricultural credit programs assigned before the date of the enactment of this Act by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for agricultural producers and others engaged in the production of agricultural commodities.

(4) Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831–3836) and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.).

(5) Such other functions as the Secretary considers appropriate, except for those programs assigned by the Secretary to the Natural Resources Conservation Service or another agency of the Department under section 246(b).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in subsection (b)(4), the Secretary shall—

(1) acting on the recommendations of the Consolidated Farm Service Agency, with the concurrence of the Natural Resources Conservation Service, issue regulations to carry out such programs;

(2) ensure that the Consolidated Farm Service Agency, in establishing policies, priorities, and guidelines for such programs, does so with the concurrence of the Natural Resources Conservation Service at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Consolidated Farm Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Natural Resources Conservation Service.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Natural Resources Conservation Service, the Consolidated Farm Service Agency, by rule with the concurrence of the Natural Resources Conservation Service, shall establish procedures for obtaining review by the Natural Resources Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Natural Resources Conservation Service shall be used by the Consolidated Farm Service Agency as the basis for any decisions regarding technical determinations. If no review is requested, the technical determination of the Natural Resources Conservation Service shall be the technical basis for any decision rendered by a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). If the committee requests a review by the Natural Resources Conservation Service of a wetlands determination of the Service, the Consolidated Farm Service Agency shall consult with other Federal agencies whenever required by law or under a memorandum of agreement in existence on the date of the enactment of this Act.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(e) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of programs and activities assigned to the Consolidated Farm Service Agency, the Secretary may use interchangeably in local offices of the Agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(f) COLLOCATION.—To the maximum extent practicable, the Secretary shall collocate county offices of the Consolidated Farm

Service Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to agricultural producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) SAVINGS PROVISION.—For purposes of subsections (c) through (f) of this section:

(1) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under this section.

(2) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b).

(h) CONFORMING AMENDMENT.—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period at the end of the subsection and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.".

SEC. 227. STATE, COUNTY, AND AREA COMMITTEES.

(a) COMMITTEES UNDER THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) STATE, COUNTY, AND AREA COMMITTEES.—

"(A) APPOINTMENT OF STATE COMMITTEES.—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) ESTABLISHMENT OF COUNTY, AREA, OR LOCAL COMMITTEES.—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the agricultural producers in the county or area and who shall be elected by the agricultural producers in such county or area under such procedures as the Secretary may prescribe.

"(iii) The Secretary may designate local administrative areas within the county or larger area covered by a committee established under clause (i). Only agricultural producers within a local administrative area who participate or cooperate in

programs administered within their area shall be eligible for nomination and election to the local committee for that area, under such regulations as the Secretary may prescribe.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county, area, or local committee shall serve for terms not to exceed 3 years.

"(C) TERMINATION OR COMBINATION OF COMMITTEES.—The Secretary may not terminate a county or area committee or combine or consolidate two or more county or area committees unless—

"(i) the Secretary first notifies the committee or committees involved of the proposed action; and

"(ii) the State committee of the State in which the affected counties are located approves of such action in a vote taken after the end of the 60-day period beginning on the date the notification is received.

"(D) USE OF COMMITTEES.—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals as provided by section 226(d) of the Department of Agriculture Reorganization Act of 1994. The Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary.

"(E) REGULATIONS.—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (D). Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994. Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(F) MANDATORY DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(G) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

"(H) LIMITATIONS.—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land.".

(b) ELIMINATION OF FmHA COUNTY COMMITTEES.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

Subtitle C—Rural Economic and Community Development

7 USC 6941.

SEC. 231. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Rural Economic and Community Development authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in connection with the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned on review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(f) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development.".

(3) REPEAL OF RURAL DEVELOPMENT ADMINISTRATION.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is repealed.

SEC. 232. RURAL UTILITIES SERVICE. 7 USC 6942.

(a) ESTABLISHMENT REQUIRED.—The Secretary shall establish and maintain within the Department the Rural Utilities Service and assign to the Service such functions as the Secretary considers appropriate.

(b) ADMINISTRATOR.—

(1) APPOINTMENT.—The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. President.

(2) SUCCESSION.—Any official who is serving as Administrator of the Rural Electrification Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(A) may be considered to be serving in the successor position established under paragraph (1); and

(B) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(3) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Rural Utilities Service, Department of Agriculture.".

(c) FUNCTIONS.—The Secretary shall carry out through the Rural Utilities Service the following functions that are under the jurisdiction of the Department:

(1) Electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1); and

(2) Water and waste facility programs and activities authorized by law, including—

(A) sections 306, 306A, 306B, and 306C, the provisions of sections 309 and 309A relating to assets, terms, and conditions of water and sewer programs, section 310B(b)(2), and the amendment made by section 342 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926, 1926a, 1926b, 1926c, 1929, 1929a, 1932(b)(2), and 1013a); and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926 note).

SEC. 233. RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE. 7 USC 6943.

(a) ESTABLISHMENT AUTHORIZED.—Notwithstanding any other provision of law, the Secretary is authorized to establish and main-

tain within the Department the Rural Housing and Community Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) FUNCTIONS.—If the Secretary establishes the Rural Housing and Community Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) Programs and activities authorized under section 310B(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(i)) and related provisions of law.

(3) Programs and activities that relate to rural community lending programs, including programs authorized by sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d).

7 USC 6944.

SEC. 234. RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE.

(a) ESTABLISHMENT AUTHORIZED.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) FUNCTIONS.—If the Secretary establishes the Rural Business and Cooperative Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.).

(2) Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.).

(3) Sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932).

(4) Section 1323 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) The Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

SEC. 235. CONFORMING AMENDMENTS REGARDING RURAL ELECTRIFICATION ADMINISTRATION.

(a) AMENDMENTS TO RURAL ELECTRIFICATION ACT OF 1936.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) by striking the first section (7 U.S.C. 901) and inserting the following:

Rural Electrification Act of 1936.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Rural Electrification Act of 1936'.";

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of

the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period at the end the following: "; and the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary,";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "OF REA ADMINISTRATOR"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(b) MISCELLANEOUS AMENDMENTS.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.)".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333— 7 USC 950aaa-2.

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and 7 USC 950aaa-3.

(C) by striking "Administrator" each place it appears and inserting "Secretary".

(5) Section 306(a)(15) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)) is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C).

(6) Section 2322(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1(d)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

Subtitle D—Food, Nutrition, and Consumer Services

7 USC 6951.

SEC. 241. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 261(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 225(e)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.".

Subtitle E—Natural Resources and Environment

SEC. 245. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT. 7 USC 6961.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Natural Resources and Environment authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions under the jurisdiction of the Department that are related to natural resources and environment (except to the extent those functions are delegated under section 226).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 241(e)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment.".

SEC. 246. NATURAL RESOURCES CONSERVATION SERVICE. 7 USC 6962.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department a Natural Resources Conservation Service.

(b) FUNCTIONS.—If the Secretary establishes the Natural Resources Conservation Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) The rural environmental conservation program under title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.).

(2) The Great Plains Conservation Program under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(3) The Water Bank Act (16 U.S.C. 1301 et seq.).

(4) The forestry incentive program under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(5) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), except subchapter B of chapter 1 of subtitle D of such title.

(6) Salinity control program under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)).

(7) The Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(8) Such other functions as the Secretary considers appropriate, except functions under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831–3836) and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in paragraphs (2), (3), (4), and (6) of subsection (b) and the program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837–3837f), the Secretary shall—

(1) acting on the recommendations of the Natural Resources Conservation Service, with the concurrence of the Consolidated Farm Service Agency, issue regulations to carry out such programs;

(2) ensure that the Natural Resources Conservation Service, in establishing policies, priorities, and guidelines for each such program, does so with the concurrence of the Consolidated Farm Service Agency at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of functions assigned to the Natural Resources Conservation Service, the Secretary may use interchangeably in local offices of the Service both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) SAVINGS PROVISION.—For purposes of subsections (c) and (d) of this section:

(1) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under this section.

(2) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(f) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting ", has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

(3) STATE TECHNICAL COMMITTEES.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended by adding at the end the following new subsection:

"(e) FACA REQUIREMENTS.—The committees established under section 1261 shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 247. REORGANIZATION OF FOREST SERVICE. 7 USC 6963.

(a) REQUIRED ELEMENTS OF REORGANIZATION PROPOSALS.—Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Reinvention Lab pursuant to the National Performance Review, dated September 1993, shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained

at organizational levels below regional offices, research stations, and the area office of the Service.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a), identifies any disparities in regional funding patterns, and contains the rationale behind the disparities.

Subtitle F—Research, Education, and Economics

7 USC 6971.

SEC. 251. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

(1) ESTABLISHMENT.—There is established in the Department a Cooperative State Research, Education, and Extension Service.

(2) FUNCTIONS.—The Secretary shall delegate to the Cooperative State Research, Education, and Extension Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics, the officer in charge of the Cooperative State Research, Education, and Extension Service shall report directly to the Under Secretary.

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 245(e)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics.".

SEC. 252. PROGRAM STAFF. 7 USC 6972.

In making the personnel reductions required under section 213, the Secretary shall reduce the number of Federal research and education personnel of the Department by a percentage equal to at least the percentage of overall Department personnel reductions. The Secretary shall achieve such reduction in research and education personnel in a manner that minimizes duplication and maximizes coordination between Federal and State research and extension activities.

Subtitle G—Food Safety

SEC. 261. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY. 7 USC 6981.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs. President.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are primarily related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 251(e)) the following:

"Under Secretary of Agriculture for Food Safety.".

(d) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary, acting through the Under Secretary for Research, Education, and Economics, may, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates—

(1) establish such technical and scientific review groups as are needed to carry out the functions of the Department; and

(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.

SEC. 262. CONDITIONS FOR IMPLEMENTATION OF ALTERATIONS IN THE LEVEL OF ADDITIVES ALLOWED IN ANIMAL DIETS. 7 USC 6982.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

Subtitle H—National Appeals Division

7 USC 6991.

SEC. 271. DEFINITIONS.

For purposes of this subtitle:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226).

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Natural Resources Conservation Service (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b)).

(G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this subtitle.

(4) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) IMPLEMENT.—The term "implement" refers to those actions necessary to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination.

(9) PARTICIPANT.—The term "participant" shall have the meaning given that term by the Secretary by regulation.

SEC. 272. NATIONAL APPEALS DIVISION AND DIRECTOR. 7 USC 6992.

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this subtitle.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) TERM AND REMOVAL.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) POSITION CLASSIFICATION.—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) DIVISION PERSONNEL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this subtitle.

7 USC 6993. **SEC. 273. TRANSFER OF FUNCTIONS.**

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this subtitle (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service (as in effect on the day before the date of the enactment of this Act).

7 USC 6994. **SEC. 274. NOTICE AND OPPORTUNITY FOR HEARING.**

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with written notice of such adverse decision and the rights available to the participant under this subtitle or other law for the review of such adverse decision.

7 USC 6995. **SEC. 275. INFORMAL HEARINGS.**

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned to carry out the programs authorized for the Consolidated Farm Service Agency under section 226), the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the subtitle. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

7 USC 6996. **SEC. 276. RIGHT OF PARTICIPANTS TO DIVISION HEARING.**

(a) APPEAL TO DIVISION FOR HEARING.—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 277.

(b) TIME FOR APPEAL.—To be entitled to a hearing under section 277, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

7 USC 6997. **SEC. 277. DIVISION HEARINGS.**

(a) GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.—

(1) ACCESS TO CASE RECORD.—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) ADMINISTRATIVE PROCEDURES.—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) TIME FOR HEARING.—Upon a timely request for a hearing under section 276(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) LOCATION AND ELEMENTS OF HEARING.—

(1) LOCATION.—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) EVIDENTIARY HEARING.—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) INFORMATION AT HEARING.—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) BURDEN OF PROOF.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) DETERMINATION NOTICE.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 278, the notice provided by the hearing officer shall be considered to be a notice of an administratively final determination.

(e) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

7 USC 6998.

SEC. 278. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.

(a) REQUESTS FOR DIRECTOR REVIEW.—

(1) TIME FOR REQUEST BY APPELLANT.—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 277, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) TIME FOR REQUEST BY AGENCY HEAD.—Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 277, the head of the agency may make a written request that the Director review the determination.

(b) DETERMINATION OF DIRECTOR.—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 277, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) BASIS FOR DETERMINATION.—The determination of the hearing officer and the Director shall be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate.

Regulations.

(d) EQUITABLE RELIEF.—Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after an administratively final determination is issued by the Division.

(e) EFFECTIVE DATE.—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 279. JUDICIAL REVIEW. 7 USC 6999.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 280. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION. 7 USC 7000.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

SEC. 281. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION. 7 USC 7001.

(a) DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only with respect to functions of the Consolidated Farm Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) FINALITY.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this subtitle; or

(B) modified by the Administrator of the Consolidated Farm Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) RECOVERY OF AMOUNTS.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Consolidated Farm Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(4) SAVINGS PROVISION.—For purposes of this subsection, a reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(b) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) FARMERS HOME ADMINISTRATION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

SEC. 282. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.".

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.".

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

SEC. 283. AUTHORIZATION OF APPROPRIATIONS. 7 USC 7002.

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Division.

Subtitle I—Miscellaneous Reorganization Provisions

SEC. 291. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES. 7 USC 7011.

(a) VOLUNTARY AGREEMENT.—

(1) IN GENERAL.—If the exercise of the Secretary's authority under this title results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) CRITERIA.—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) EFFECT OF AN AGREEMENT.—

(1) IN GENERAL.—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) RESTRICTIONS.—

(A) CONDITIONS REQUIRING NONCERTIFICATION.—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) DEFINITION.—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this title, any labor organization affected thereby; and

(2) the Department of Agriculture.

SEC. 292. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS. 7 USC 7012.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this title should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this title, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 293. MISCELLANEOUS CONFORMING AMENDMENTS.

(a) UNITED STATES GRAIN STANDARDS ACT.—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);

(3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(*l*)(2) (7 U.S.C. 79(j)(2) and 79a(*l*)(2)), by striking "supervision by Service personnel of its field office personnel" in the first sentence of both sections and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 294. REMOVAL OF OBSOLETE ADMINISTRATIVE PROVISIONS.

Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

7 USC 7013.

SEC. 295. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this title.

7 USC 7014.

SEC. 296. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority delegated to the Secretary by this title to reorganize the Department shall terminate on the date that is 2 years after the date of enactment of this Act.

(b) FUNCTIONS.—Subsection (a) shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after the date of enactment of this Act;

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App.; 7 U.S.C. 2201 note); or

(3) the authority of an agency, office, officer, or employee of the Department to continue to perform all functions delegated or assigned to the entity or person as of that termination date.

TITLE III—MISCELLANEOUS

SEC. 301. POULTRY LABELING.

It is the sense of Congress that—

(1) the United States Department of Agriculture should—

(A) carry out the plans of the Department to hold public hearings for the purpose of receiving public input on issues related to the conditions under which poultry sold in the United States may be labeled "fresh"; and

(B) finalize and publish a decision on the issues as expeditiously as possible after holding the hearings; and

(2) no person serving on the expert advisory committee established to advise the Secretary of Agriculture on the issues should stand to profit, or represent any interest that would stand to profit, from the decision of the Department on the issues.

SEC. 302. FIRST AMENDMENT RIGHTS OF EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE. 7 USC 2231b.

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

SEC. 303. ADJUSTED COST OF THRIFTY FOOD PLAN.

(a) IN GENERAL.—Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting "and (in the case of households residing in Alaska) on October 1, 1994," after "1992,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 1994. 7 USC 2012 note.

SEC. 304. OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS. 7 USC 2204e.

(a) OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.—The Secretary of Agriculture shall establish in the Department of Agriculture an Office of Risk Assessment and Cost-Benefit Analysis, which shall be under the direction of a Director appointed by the Secretary.

(b) FUNCTIONS.—The Director shall ensure that any regulatory analysis that is conducted under this section includes a risk assessment and cost-benefit analysis that is performed consistently and uses reasonably obtainable and sound scientific, technical, economic, and other data.

(1) IN GENERAL.—Effective six months after the date of enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register, for each proposed major regulation the primary purpose of which is to regulate issues of human health, human safety, or the environment that is promulgated by the Department after the enactment of this Act, an analysis with as much specificity as practicable, of— Federal Register, publication.

(A) the risk, including the effect of the risk, to human health, human safety, or the environment, and any combination thereof, addressed by the regulation, including, where applicable and practicable, the health and safety risks to persons who are disproportionately exposed or particularly sensitive;

(B) the costs associated with the implementation of, and compliance with, the regulation;

(C) where appropriate and meaningful, a comparison of that risk relative to other similar risks regulated by the Department or other Federal Agency, resulting from comparable activities and exposure pathways (such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks); and

(D) the quantitative and qualitative benefits of the regulation, including the reduction or prevention of risk expected from the regulation.

Where such a regulatory analysis is not practicable because of compelling circumstances, the Director shall provide an explanation in lieu of conducting an analysis under this section.

(2) EVALUATION.—The regulatory analysis referred to in paragraph (1) should also contain a statement that the Secretary of Agriculture evaluated—

(A) whether the regulation will advance the purpose of protecting against the risk referred to in paragraph (1)(A); and

(B) whether the regulation will produce benefits and reduce risks to human health, human safety, or the environment, and any combination thereof, in a cost-effective manner as a result of the implementation of and compliance with the regulation, by local, State, and Federal Government and other public and private entities, as estimated in paragraph (1)(B).

(3) This section shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person. The Secretary of Agriculture shall perform the analyses required in this section in such a manner that does not delay the promulgation or implementation of regulations mandated by statute or judicial order.

(c) DEFINITION.—As used in this section, the term "major regulation" means any regulation that the Secretary of Agriculture estimates is likely to have an annual impact on the economy of the United States of $100,000,000 in 1994 dollars.

7 USC 2279a.

SEC. 305. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.

(a) FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.—

(1) REPORT REQUIRED.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, area, or local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or local review committees established under section 363

of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) SUBMISSION OF REPORT.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) DEFINITION.—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

SEC. 306. AVIATION INSPECTIONS. 7 USC 2204 note.

(a) STUDY OF AIRCRAFT INSPECTIONS.—

(1) INTENT OF STUDY.—The intent of the study required by this subsection is to examine the cost efficiencies of conducting inspections of aircraft and pilots by one Federal agency without reducing aircraft, passenger, or pilot safety standards or lowering mission preparedness.

(2) STUDY REQUIRED.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of the inspection specifications and procedures by which aircraft and pilots contracted by the Department are certified to determine the cost efficiencies of eliminating duplicative Department inspection requirements and transferring some or all inspection requirements to the Federal Aviation Administration, while ensuring that neither aircraft, passenger, nor pilot safety is reduced and that mission preparedness is maintained.

(3) SPECIAL CONSIDERATIONS.—In conducting the study, the Secretaries shall evaluate current inspection specifications and procedures mandated by the Department and the Forest Service, taking into consideration the unique requirements and risks of particular Department and Forest Service missions that may require special inspection specifications and procedures to ensure the safety of Department and Forest Service personnel and their contractees.

(4) MAINTENANCE OF STANDARDS AND PREPAREDNESS.—In making recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures, the Secretaries shall ensure that the implementation of any such recommendations does not lower aircraft or pilot standards or preparedness for Department or Forest Service missions.

(5) SUBMISSION OF RESULTS.—Not later than 180 days after the date of the enactment of this Act, the Secretaries shall submit to Congress the results of the study, including any recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures and a cost-benefit analysis of such recommendations.

(b) REVIEW OF RECENTLY ADOPTED AIRCRAFT POLICY.—

(1) REVIEW REQUIRED.—The Secretaries shall review the policy initiated by the Secretary of Agriculture on July 1, 1994, to accept Federal Aviation Administration inspections on aircraft and pilots that provide "airport to airport" service for the Forest Service. The policy is currently being cooperatively developed by the Department and the Federal Aviation Administration and is intended to reduce duplicative inspections and to reduce Government costs, while maintaining aircraft, passenger, and pilot safety standards, specifications and procedures currently required by the Department and the Forest Service.

(2) EXPANSION OF POLICY.—As part of the review, the Secretaries shall examine the feasibility and desirability of applying this policy on a Government-wide basis.

(3) SUBMISSION OF RESULTS.—Not later than one year after the date of the implementation of the policy, the Secretary of Agriculture shall submit to Congress the results of the review, including any recommendations that the Secretary considers appropriate.

Approved October 13, 1994.

LEGISLATIVE HISTORY—H.R. 4217 (S. 2095):

HOUSE REPORTS: No. 103-649 (Comm. on Agriculture).
SENATE REPORTS: No. 103-301 accompanying S. 2095 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 5, considered and passed House.
Aug. 25, considered and passed Senate, amended, in lieu of S. 2095.
Oct. 3, House concurred in Senate amendment with an amendment.
Oct. 4, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 13, Presidential statement.

Public Law 103-355
103d Congress

An Act

To revise and streamline the acquisition laws of the Federal Government, and for other purposes.

Oct. 13, 1994
[S. 1587]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Acquisition Streamlining Act of 1994. Contracts. 42 USC 251 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Acquisition Streamlining Act of 1994".

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TITLE I—CONTRACT FORMATION

Subtitle A—Competition Statutes

PART I—ARMED SERVICES ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1001. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 2304 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "note)" and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1002. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 2304(b)(1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 2304(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.".

SEC. 1003. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 2304(f)(1)(B)(i) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1004. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2304 the following new sections:

"§ 2304a. Task and delivery order contracts: general authority

"(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task or delivery order

contract (as defined in section 2304d of this title) for procurement of services or property.

"(b) SOLICITATION.—The solicitation for a task or delivery order contract shall include the following:

"(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

"(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

"(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES.—The head of an agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if an exception in subsection (c) of section 2304 of this title applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(d) SINGLE AND MULTIPLE CONTRACT AWARDS.—(1) The head of an agency may exercise the authority provided in this section—

"(A) to award a single task or delivery order contract; or

"(B) if the solicitation states that the head of the agency has the option to do so, to award separate task or delivery order contracts for the same or similar services or property to two or more sources.

"(2) No determination under section 2304(b) of this title is required for award of multiple task or delivery order contracts under paragraph (1)(B).

Regulations.

"(3) The regulations implementing this subsection shall—

"(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

"(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

"(e) CONTRACT MODIFICATIONS.—A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.—Except as otherwise specifically provided in section 2304b of this title, this section does not apply to a task or delivery order contract for the procurement of advisory and assistance services (as defined in section 1105(g) of title 31).

"(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit or expand any authority of the head of an agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

"§ 2304b. Task order contracts: advisory and assistance services

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, section 2304c of this title, and other applicable law, the head of an agency may enter into a task order contract (as defined in section 2304d of this title) for procurement of advisory and assistance services.

"(2) The head of an agency may enter into a task order contract for procurement of advisory and assistance services only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTENT OF NOTICE.—The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT.—(1) The solicitation for the proposed task order contract shall include the information (regarding services) described in section 2304a(b) of this title.

"(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

"(e) MULTIPLE AWARDS.—(1) The head of an agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the agency has the option to do so.

"(2) If, in the case of a task order contract for advisory and assistance services to be entered into under this section, the contract period is to exceed three years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(A) provide for a multiple award authorized under paragraph (1); and

"(B) include a statement that the head of the agency may also elect to award only one task order contract if the head of the agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the agency concerned determines in writing that, because the services required under the task order contract are unique or highly specialized, it is not practicable to award more than one contract.

"(f) CONTRACT MODIFICATIONS.—(1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 2304

of this title and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(g) CONTRACT EXTENSIONS.—(1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a task order contract entered into by the head of an agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such agency determines that—

"(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

"(h) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of an agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31.

"§ 2304c. Task and delivery order contracts: orders

"(a) ISSUANCE OF ORDERS.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

"(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 2304(f) of this title) that is separate from that used for entering into the contract.

"(b) MULTIPLE AWARD CONTRACTS.—When multiple task or delivery order contracts are awarded under section 2304a(d)(1)(B) or 2304b(e) of this title, all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of $2,500 that is to be issued under any of the contracts unless—

"(1) the agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

"(2) only one such contractor is capable of providing the services or property required at the level of quality required

because the services or property ordered are unique or highly specialized;

"(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

"(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

"(c) STATEMENT OF WORK.—A task or delivery order shall include a statement of work that clearly specifies all tasks to be performed or property to be delivered under the order.

"(d) PROTESTS.—A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) TASK AND DELIVERY ORDER OMBUDSMAN.—Each head of an agency who awards multiple task or delivery order contracts pursuant to section 2304a(d)(1)(B) or 2304b(e) of this title shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (b). The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the agency's competition advocate.

"(f) APPLICABILITY.—This section applies to task and delivery order contracts entered into under sections 2304a and 2304b of this title.

"§ 2304d. Task and delivery order contracts: definitions

"In sections 2304a, 2304b, and 2304c of this title:

"(1) The term 'task order contract' means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

"(2) The term 'delivery order contract' means a contract for property that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of property during the period of the contract.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2304 the following new items:

"2304a. Task and delivery order contracts: general authority.
"2304b. Task order contracts: advisory and assistance services.
"2304c. Task and delivery order contracts: orders.
"2304d. Task and delivery order contracts: definitions.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2304 of title 10, United States Code, is amended by striking out subsection (j).

(c) CONFORMING AMENDMENT FOR PROFESSIONAL AND TECHNICAL SERVICES.—Section 2331 of title 10, United States Code, is amended by striking out subsection (c).

(d) PROVISIONS NOT AFFECTED.—Nothing in section 2304a, 2304b, 2304c, or 2304d of title 10, United States Code, as added

10 USC 2304a note.

by subsection (a), and nothing in the amendments made by subsections (b) and (c), shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)); and

(2) the Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)).

SEC. 1005. ACQUISITION OF EXPERT SERVICES.

Section 2304(c)(3) of title 10, United States Code, is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1011. SOURCE SELECTION FACTORS.

(a) CONTENT OF SOLICITATION.—Paragraph (2) of section 2305(a) of title 10, United States Code, is amended—

(1) in subparagraph (A)(i)—

(A) by striking out "(and significant subfactors)" and inserting in lieu thereof "and significant subfactors"; and

(B) by striking out "cost- or price-related factors, and noncost- or nonprice-related factors" and inserting in lieu thereof "cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors";

(2) in subparagraph (A)(ii), by striking out "(and subfactors)" and inserting "and subfactors"; and

(3) in subparagraph (B)(ii), by amending subclause (I) to read as follows:

"(I) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and".

(b) EVALUATION FACTORS.—Such section is further amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency—

"(i) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality

of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(ii) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(iii) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(I) significantly more important than cost or price;

"(II) approximately equal in importance to cost or price; or

"(III) significantly less important than cost or price.

"(B) The regulations implementing clause (iii) of subparagraph (A) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations or a class of solicitations.

"(4) Nothing in this subsection prohibits an agency from—

"(A) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors on a case-by-case basis; or

"(B) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

SEC. 1012. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Subsection (a) of section 2305 of title 10, United States Code, as amended by section 1011, is further amended by adding at the end the following new paragraph:

"(5) The head of an agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1013. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Paragraph (3) of section 2305(b) of title 10, United States Code, is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within three days after the date of contract award, the head of the agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (4)(B) of such section is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within three days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1014. POST-AWARD DEBRIEFINGS.

Section 2305(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) When a contract is awarded by the head of an agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The head of the agency shall debrief the offeror within, to the maximum extent practicable, five days after receipt of the request by the agency.

"(B) The debriefing shall include, at a minimum—

"(i) the agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(ii) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(iii) the overall ranking of all offers;

"(iv) a summary of the rationale for the award;

"(v) in the case of a proposal that includes a commercial item that is an end item under the contract, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(vi) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

"(C) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure under section 552(b) of title 5.

"(D) Each solicitation for competitive proposals shall include a statement that information described in subparagraph (B) may be disclosed in post-award debriefings.

"(E) If, within one year after the date of the contract award and as a result of a successful procurement protest, the agency seeks to fulfill the requirement under the protested contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the agency shall make available to all offerors—

"(i) the information provided in debriefings under this paragraph regarding the offer of the contractor awarded the contract; and

"(ii) the same information that would have been provided to the original offerors.

"(F) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1015. PROTEST FILE.

Section 2305 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31 and an actual or prospective offeror so requests, a file of the protest shall be

established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5 may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1016. AGENCY ACTIONS ON PROTESTS.

Section 2305 of title 10, United States Code, as amended by section 1015, is further amended by adding at the end the following new subsection:

"(f) AGENCY ACTIONS ON PROTESTS.—If, in connection with a protest, the head of an agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of the agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2) of such section.".

Subpart C—Kinds of Contracts

SEC. 1021. REPEAL OF REQUIREMENT FOR SECRETARIAL DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Subsection (c) of section 2306 of title 10, United States Code, is repealed.

SEC. 1022. REVISION AND REORGANIZATION OF MULTIYEAR CONTRACTING AUTHORITY.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2306a the following new section:

"§ 2306b. Multiyear contracts

"(a) IN GENERAL.—To the extent that funds are otherwise available for obligation, the head of an agency may enter into multiyear contracts for the purchase of property whenever the head of that agency finds—

"(1) that the use of such a contract will result in substantial savings of the total anticipated costs of carrying out the program through annual contracts;

"(2) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(3) that there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

"(4) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive;

"(5) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic; and

"(6) in the case of a purchase by the Department of Defense, that the use of such a contract will promote the national security of the United States.

"(b) REGULATIONS.—(1) Each official named in paragraph (2) shall prescribe acquisition regulations for the agency or agencies under the jurisdiction of such official to promote the use of multiyear contracting as authorized by subsection (a) in a manner that will allow the most efficient use of multiyear contracting.

"(2)(A) The Secretary of Defense shall prescribe the regulations applicable to the Department of Defense.

"(B) The Secretary of Transportation shall prescribe the regulations applicable to the Coast Guard, except that the regulations prescribed by the Secretary of Defense shall apply to the Coast Guard when it is operating as a service in the Navy.

"(C) The Administrator of the National Aeronautics and Space Administration shall prescribe the regulations applicable to the National Aeronautics and Space Administration.

"(c) CONTRACT CANCELLATIONS.—The regulations may provide for cancellation provisions in multiyear contracts to the extent that such provisions are necessary and in the best interests of the United States. The cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(d) PARTICIPATION BY SUBCONTRACTORS, VENDORS, AND SUPPLIERS.—In order to broaden the defense industrial base, the regulations shall provide that, to the extent practicable—

"(1) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(2) upon accrual of any payment or other benefit under such a multiyear contract to any subcontractor, vendor, or supplier company participating in such contract, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(e) PROTECTION OF EXISTING AUTHORITY.—The regulations shall provide that, to the extent practicable, the administration of this section, and of the regulations prescribed under this section, shall not be carried out in a manner to preclude or curtail the existing ability of an agency—

"(1) to provide for competition in the production of items to be delivered under such a contract; or

"(2) to provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(f) CANCELLATION OR TERMINATION FOR INSUFFICIENT FUNDING.—In the event funds are not made available for the continuation of a contract made under this section into a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid from—

"(1) appropriations originally available for the performance of the contract concerned;

"(2) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(3) funds appropriated for those payments.

"(g) CONTRACT CANCELLATION CEILINGS EXCEEDING $100,000,000.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the head of the agency concerned shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(h) DEFENSE ACQUISITIONS OF WEAPON SYSTEMS.—In the case of the Department of Defense, the authority under subsection (a) includes authority to enter into the following multiyear contracts in accordance with this section:

"(1) A multiyear contract for the purchase of a weapon system, items and services associated with a weapon system, and logistics support for a weapon system.

"(2) A multiyear contract for advance procurement of components, parts, and materials necessary to the manufacture of a weapon system, including a multiyear contract for such advance procurement that is entered into in order to achieve economic-lot purchases and more efficient production rates.

"(i) DEFENSE ACQUISITIONS SPECIFICALLY AUTHORIZED BY LAW.—(1) A multiyear contract may not be entered into for any fiscal year under this section for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority unless each of the following conditions is satisfied:

"(A) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

"(B) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

"(2) If for any fiscal year a multiyear contract to be entered into under this section is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that substantial savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.

"(j) DEFENSE CONTRACT OPTIONS FOR VARYING QUANTITIES.—The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear

contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

"(k) INAPPLICABILITY TO AUTOMATIC DATA PROCESSING CONTRACTS.—This section does not apply to contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(l) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2306a the following:

"2306b. Multiyear contracts.".

(b) CONFORMING CROSS REFERENCE.—Subsection (h) of section 2306 of title 10, United States Code, is amended to read as follows:

"(h) Multiyear contracting authority is provided in section 2306b of this title.".

Subpart D—Miscellaneous

SEC. 1031. REPEAL OF REQUIREMENT FOR ANNUAL REPORT BY ADVOCATES FOR COMPETITION.

Subsection (c) of section 2318 of title 10, United States Code, is repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

Subpart A—Competition Requirements

SEC. 1051. REFERENCES TO FEDERAL ACQUISITION REGULATION.

Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in subsection (a)(1)(A), by striking out "modifications" and all that follows through "of 1984" and inserting in lieu thereof "Federal Acquisition Regulation"; and

(2) in subsection (g)(1), by striking out "regulations modified" and all that follows through "of 1984," and inserting in lieu thereof "Federal Acquisition Regulation".

SEC. 1052. ESTABLISHMENT OR MAINTENANCE OF ALTERNATIVE SOURCES OF SUPPLY.

(a) ADDITIONAL JUSTIFICATION FOR ESTABLISHING OR MAINTAINING ALTERNATIVE SOURCES.—Section 303(b)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) would ensure the continuous availability of a reliable source of supply of such property or service;

"(E) would satisfy projected needs for such property or service determined on the basis of a history of high demand for the property or service; or

"(F) in the case of medical supplies, safety supplies, or emergency supplies, would satisfy a critical need for such supplies.".

(b) PROHIBITION ON USE OF CLASSES OF PURCHASES OR CONTRACTS.—Section 303(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)) is amended by adding at the end the following:

"(4) A determination under paragraph (1) may not be made for a class of purchases or contracts.".

SEC. 1053. CLARIFICATION OF APPROVAL AUTHORITY FOR USE OF PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.

Section 303(f)(1)(B)(i) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(i)) is amended by inserting before the semicolon at the end the following: "or by an official referred to in clause (ii), (iii), or (iv)".

SEC. 1054. TASK AND DELIVERY ORDER CONTRACTS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new sections:

"SEC. 303H. TASK AND DELIVERY ORDER CONTRACTS: GENERAL AUTHORITY. 41 USC 253h.

"(a) AUTHORITY TO AWARD.—Subject to the requirements of this section, section 303J, and other applicable law, the head of an executive agency may enter into a task or delivery order contract (as defined in section 303K) for procurement of services or property.

"(b) SOLICITATION.—The solicitation for a task or delivery order contract shall include the following:

"(1) The period of the contract, including the number of options to extend the contract and the period for which the contract may be extended under each option, if any.

"(2) The maximum quantity or dollar value of the services or property to be procured under the contract.

"(3) A statement of work, specifications, or other description that reasonably describes the general scope, nature, complexity, and purposes of the services or property to be procured under the contract.

"(c) APPLICABILITY OF RESTRICTION ON USE OF NONCOMPETITIVE PROCEDURES.—The head of an executive agency may use procedures other than competitive procedures to enter into a task or delivery order contract under this section only if an exception in subsection (c) of section 303 applies to the contract and the use of such procedures is approved in accordance with subsection (f) of such section.

"(d) SINGLE AND MULTIPLE CONTRACT AWARDS.—(1) The head of an executive agency may exercise the authority provided in this section—

"(A) to award a single task or delivery order contract; or

"(B) if the solicitation states that the head of the executive agency has the option to do so, to award separate task or

delivery order contracts for the same or similar services or property to two or more sources.

"(2) No determination under section 303(b) is required for an award of multiple task or delivery order contracts under paragraph (1)(B).

Regulations.

"(3) The regulations implementing this subsection shall—

"(A) establish a preference for awarding, to the maximum extent practicable, multiple task or delivery order contracts for the same or similar services or property under the authority of paragraph (1)(B); and

"(B) establish criteria for determining when award of multiple task or delivery order contracts would not be in the best interest of the Federal Government.

"(e) CONTRACT MODIFICATIONS.—A task or delivery order may not increase the scope, period, or maximum value of the task or delivery order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(f) INAPPLICABILITY TO CONTRACTS FOR ADVISORY AND ASSISTANCE SERVICES.—Except as otherwise specifically provided in section 303I, this section does not apply to a task or delivery order contract for the acquisition of advisory and assistance services (as defined in section 1105(g) of title 31, United States Code).

"(g) RELATIONSHIP TO OTHER CONTRACTING AUTHORITY.—Nothing in this section may be construed to limit or expand any authority of the head of an executive agency or the Administrator of General Services to enter into schedule, multiple award, or task or delivery order contracts under any other provision of law.

41 USC 253i.

"SEC. 303I. TASK ORDER CONTRACTS: ADVISORY AND ASSISTANCE SERVICES.

"(a) AUTHORITY TO AWARD.—(1) Subject to the requirements of this section, section 303J, and other applicable law, the head of an executive agency may enter into a task order contract (as defined in section 303K) for procurement of advisory and assistance services.

"(2) The head of an executive agency may enter into a task order contract for advisory and assistance services only under the authority of this section.

"(b) LIMITATION ON CONTRACT PERIOD.—The period of a task order contract entered into under this section, including all periods of extensions of the contract under options, modifications, or otherwise, may not exceed five years unless a longer period is specifically authorized in a law that is applicable to such contract.

"(c) CONTENT OF NOTICE.—The notice required by section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall reasonably and fairly describe the general scope, magnitude, and duration of the proposed task order contract in a manner that would reasonably enable a potential offeror to decide whether to request the solicitation and consider submitting an offer.

"(d) REQUIRED CONTENT OF SOLICITATION AND CONTRACT.—(1) The solicitation shall include the information (regarding services) described in section 303H(b).

"(2) A task order contract entered into under this section shall contain the same information that is required by paragraph (1) to be included in the solicitation of offers for that contract.

"(e) MULTIPLE AWARDS.—(1) The head of an executive agency may, on the basis of one solicitation, award separate task order contracts under this section for the same or similar services to two or more sources if the solicitation states that the head of the executive agency has the option to do so.

"(2) If, in the case of a task order contract for advisory and assistance services to be entered into under the authority of this section, the contract period is to exceed three years and the contract amount is estimated to exceed $10,000,000 (including all options), the solicitation shall—

"(A) provide for a multiple award authorized under paragraph (1); and

"(B) include a statement that the head of the executive agency may also elect to award only one task order contract if the head of the executive agency determines in writing that only one of the offerers is capable of providing the services required at the level of quality required.

"(3) Paragraph (2) does not apply in the case of a solicitation for which the head of the executive agency concerned determines in writing that, because the services required under the contract are unique or highly specialized, it is not practicable to award more than one contract.

"(f) CONTRACT MODIFICATIONS.—(1) A task order may not increase the scope, period, or maximum value of the task order contract under which the order is issued. The scope, period, or maximum value of the contract may be increased only by modification of the contract.

"(2) Unless use of procedures other than competitive procedures is authorized by an exception in subsection (c) of section 303 and approved in accordance with subsection (f) of such section, competitive procedures shall be used for making such a modification.

"(3) Notice regarding the modification shall be provided in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(g) CONTRACT EXTENSIONS.—(1) Notwithstanding the limitation on the contract period set forth in subsection (b) or in a solicitation or contract pursuant to subsection (e), a contract entered into by the head of an executive agency under this section may be extended on a sole-source basis for a period not exceeding six months if the head of such executive agency determines that—

"(A) the award of a follow-on contract has been delayed by circumstances that were not reasonably foreseeable at the time the initial contract was entered into; and

"(B) the extension is necessary in order to ensure continuity of the receipt of services pending the award of, and commencement of performance under, the follow-on contract.

"(2) A task order contract may be extended under the authority of paragraph (1) only once and only in accordance with the limitations and requirements of this subsection.

"(h) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to a contract for the acquisition of property or services that includes acquisition of advisory and assistance services if the head of the executive agency entering into such contract determines that, under the contract, advisory and assistance services are necessarily incident to, and not a significant component of, the contract.

"(i) ADVISORY AND ASSISTANCE SERVICES DEFINED.—In this section, the term 'advisory and assistance services' has the meaning given such term in section 1105(g) of title 31, United States Code.

41 USC 253j.

"SEC. 303J. TASK AND DELIVERY ORDER CONTRACTS: ORDERS.

"(a) ISSUANCE OF ORDERS.—The following actions are not required for issuance of a task or delivery order under a task or delivery order contract:

"(1) A separate notice for such order under section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) or section 8(e) of the Small Business Act (15 U.S.C. 637(e)).

"(2) Except as provided in subsection (b), a competition (or a waiver of competition approved in accordance with section 303(f)) that is separate from that used for entering into the contract.

"(b) MULTIPLE AWARD CONTRACTS.—When multiple contracts are awarded under section 303H(d)(1)(B) or 303I(e), all contractors awarded such contracts shall be provided a fair opportunity to be considered, pursuant to procedures set forth in the contracts, for each task or delivery order in excess of $2,500 that is to be issued under any of the contracts unless—

"(1) the executive agency's need for the services or property ordered is of such unusual urgency that providing such opportunity to all such contractors would result in unacceptable delays in fulfilling that need;

"(2) only one such contractor is capable of providing the services or property required at the level of quality required because the services or property ordered are unique or highly specialized;

"(3) the task or delivery order should be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to a task or delivery order already issued on a competitive basis; or

"(4) it is necessary to place the order with a particular contractor in order to satisfy a minimum guarantee.

"(c) STATEMENT OF WORK.—A task or delivery order shall include a statement of work that clearly specifies all tasks to be performed or property to be delivered under the order.

"(d) PROTESTS.—A protest is not authorized in connection with the issuance or proposed issuance of a task or delivery order except for a protest on the ground that the order increases the scope, period, or maximum value of the contract under which the order is issued.

"(e) TASK AND DELIVERY ORDER OMBUDSMAN.—The head of each executive agency who awards multiple task or delivery order contracts pursuant to section 303H(d)(1)(B) or 303I(e) shall appoint or designate a task and delivery order ombudsman who shall be responsible for reviewing complaints from the contractors on such contracts and ensuring that all of the contractors are afforded a fair opportunity to be considered for task or delivery orders when required under subsection (b). The task and delivery order ombudsman shall be a senior agency official who is independent of the contracting officer for the contracts and may be the executive agency's competition advocate.

"(f) APPLICABILITY.—This section applies to task and delivery order contracts entered into under sections 303H and 303I.

"SEC. 303K. TASK AND DELIVERY ORDER CONTRACTS: DEFINITIONS. 41 USC 253k.

"In sections 303H, 303I, and 303J:

"(1) The term 'task order contract' means a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

"(2) The term 'delivery order contract' means a contract for property that does not procure or specify a firm quantity of property (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of property during the period of the contract.".

(b) PROVISIONS NOT AFFECTED.—Nothing in section 303H, 303I, 303J, or 303K of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under— 41 USC 253h note.

(1) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)); and

(2) the Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)).

SEC. 1055. ACQUISITION OF EXPERT SERVICES.

(a) EXCEPTION TO REQUIREMENT FOR USE OF COMPETITIVE PROCEDURES.—Section 303(c)(3) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(2) by inserting before the semicolon at the end the following: ", or (C) to procure the services of an expert for use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government, in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify".

(b) PROCUREMENT NOTICE.—(1) Section 18(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

(2) Section 8(g)(1) of the Small Business Act (15 U.S.C. 637(c)) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(F) the procurement is for the services of an expert for use in any litigation or dispute (including preparation for any foreseeable litigation or dispute) that involves or could involve the Federal Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, or in any part of an alternative dispute resolution process, whether or not the expert is expected to testify.".

41 USC 261.

(c) REPEAL OF AMENDMENTS TO UNCODIFIED TITLE.—The following provisions of law are repealed:

(1) Section 532 of Public Law 101–509 (104 Stat. 1470) and the provision of law set out in quotes in that section.

(2) Section 529 of Public Law 102–393 (106 Stat. 1761) and the matters inserted and added by that section.

Subpart B—Planning, Solicitation, Evaluation, and Award

SEC. 1061. SOLICITATION, EVALUATION, AND AWARD.

(a) CONTENT OF SOLICITATION.—Subsection (b) of section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) all significant factors and significant subfactors which the executive agency reasonably expects to consider in evaluating sealed bids (including price) or competitive proposals (including cost or price, cost-related or price-related factors and subfactors, and noncost-related or nonprice-related factors and subfactors); and"; and

(B) in subparagraph (B), by inserting "and subfactors" after "factors"; and

(2) in paragraph (2)(B), by amending clause (i) to read as follows:

"(i) either a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) unless discussions are determined to be necessary; and".

(b) EVALUATION FACTORS.—Such section is further amended by adding at the end the following new subsections:

"(c)(1) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, an executive agency—

"(A) shall clearly establish the relative importance assigned to the evaluation factors and subfactors, including the quality of the product or services to be provided (including technical capability, management capability, prior experience, and past performance of the offeror);

"(B) shall include cost or price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals; and

"(C) shall disclose to offerors whether all evaluation factors other than cost or price, when combined, are—

"(i) significantly more important than cost or price;

"(ii) approximately equal in importance to cost or price; or

"(iii) significantly less important than cost or price.

"(2) The regulations implementing subparagraph (C) of paragraph (1) may not define the terms 'significantly more important' and 'significantly less important' as specific numeric weights that would be applied uniformly to all solicitations or a class of solicitations.

"(d) Nothing in this section prohibits an executive agency from—

"(1) providing additional information in a solicitation, including numeric weights for all evaluation factors and subfactors on a case-by-case basis; or

"(2) stating in a solicitation that award will be made to the offeror that meets the solicitation's mandatory requirements at the lowest cost or price.".

(c) EVALUATION AND AWARD.—Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in subsection (a), by inserting ", and award a contract," after "competitive proposals";

(2) in subsection (c), by inserting "in accordance with subsection (a)" in the second sentence after "shall evaluate the bids"; and

(3) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) An executive agency shall evaluate competitive proposals in accordance with subsection (a) and may award a contract—

"(A) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(B) based on the proposals received and without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), if, as required by section 303A(b)(2)(B)(i), the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out paragraphs (2) and (3) and by redesignating paragraph (4) as paragraph (2); and

(C) in paragraph (2), as redesignated by subparagraph (B), by inserting "cost or" before "price" in the first sentence.

SEC. 1062. SOLICITATION PROVISION REGARDING EVALUATION OF PURCHASE OPTIONS.

Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a), as amended by section 1061, is further amended by adding at the end the following new subsection:

"(e) An executive agency, in issuing a solicitation for a contract to be awarded using sealed bid procedures, may not include in such solicitation a clause providing for the evaluation of prices for options to purchase additional property or services under the contract unless the executive agency has determined that there is a reasonable likelihood that the options will be exercised.".

SEC. 1063. PROMPT NOTICE OF AWARD.

(a) SEALED BID PROCEDURES.—Subsection (c) of section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) in the last sentence, by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by adding at the end the following: "Within 3 days after the date of contract award, the executive agency shall notify, in writing or by electronic means, each bidder not awarded the contract that the contract has been awarded.".

(b) COMPETITIVE PROPOSALS PROCEDURES.—Paragraph (2) of subsection (d) of such section, as redesignated by section 1061(c)(3)(B), is amended in the second sentence—

(1) by striking out "transmitting written notice" and inserting in lieu thereof "transmitting, in writing or by electronic means, notice"; and

(2) by striking out "shall promptly notify" and inserting in lieu thereof ", within 3 days after the date of contract award, shall notify, in writing or by electronic means,".

SEC. 1064. POST-AWARD DEBRIEFINGS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) When a contract is awarded by the head of an executive agency on the basis of competitive proposals, an unsuccessful offeror, upon written request received by the agency within 3 days after the date on which the unsuccessful offeror receives the notification of the contract award, shall be debriefed and furnished the basis for the selection decision and contract award. The executive agency shall debrief the offeror within, to the maximum extent practicable, 5 days after receipt of the request by the executive agency.

"(2) The debriefing shall include, at a minimum—

"(A) the executive agency's evaluation of the significant weak or deficient factors in the offeror's offer;

"(B) the overall evaluated cost and technical rating of the offer of the contractor awarded the contract and the overall evaluated cost and technical rating of the offer of the debriefed offeror;

"(C) the overall ranking of all offers;

"(D) a summary of the rationale for the award;

"(E) in the case of a proposal that includes a commercial item that is an end item under the contract, the make and model of the item being provided in accordance with the offer of the contractor awarded the contract; and

"(F) reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the executive agency.

"(3) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose

any information that is exempt from disclosure under section 552(b) of title 5, United States Code.

"(4) Each solicitation for competitive proposals shall include a statement that information described in paragraph (2) may be disclosed in post-award debriefings.

"(5) If, within one year after the date of the contract award and as a result of a successful procurement protest, the executive agency seeks to fulfill the requirement under the protested contract either on the basis of a new solicitation of offers or on the basis of new best and final offers requested for that contract, the head of such executive agency shall make available to all offerors—

"(A) the information provided in debriefings under this subsection regarding the offer of the contractor awarded the contract; and

"(B) the same information that would have been provided to the original offerors.

"(6) The contracting officer shall include a summary of the debriefing in the contract file.".

SEC. 1065. PROTEST FILE.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1064(1), is further amended by adding at the end the following:

"(h) PROTEST FILE.—(1) If, in the case of a solicitation for a contract issued by, or an award or proposed award of a contract by, the head of an executive agency, a protest is filed pursuant to the procedures in subchapter V of chapter 35 of title 31, United States Code, and an actual or prospective offeror so requests, a file of the protest shall be established by the procuring activity and reasonable access shall be provided to actual or prospective offerors.

"(2) Information exempt from disclosure under section 552 of title 5, United States Code, may be redacted in a file established pursuant to paragraph (1) unless an applicable protective order provides otherwise.

"(3) Regulations implementing this subsection shall be consistent with the regulations regarding the preparation and submission of an agency's protest file (the so-called 'rule 4 file') for protests to the General Services Board of Contract Appeals under section 111 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 759).".

SEC. 1066. AGENCY ACTIONS ON PROTESTS.

Section 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b), as amended by section 1065, is further amended by adding at the end the following new subsection:

"(i) AGENCY ACTIONS ON PROTESTS.—If, in connection with a protest, the head of an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of such executive agency—

"(1) may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code; and

"(2) may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.".

Subpart C—Kinds of Contracts

SEC. 1071. REPEAL OF AGENCY HEAD DETERMINATION REGARDING USE OF COST TYPE OR INCENTIVE CONTRACT.

Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out the second sentence.

SEC. 1072. MULTIYEAR CONTRACTING AUTHORITY.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 304 the following new section:

41 USC 254c.

"SEC. 304B. MULTIYEAR CONTRACTS.

"(a) AUTHORITY.—An executive agency may enter into a multiyear contract for the acquisition of property or services if—

"(1) funds are available and obligated for such contract, for the full period of the contract or for the first fiscal year in which the contract is in effect, and for the estimated costs associated with any necessary termination of such contract; and

"(2) the executive agency determines that—

"(A) the need for the property or services is reasonably firm and continuing over the period of the contract; and

"(B) a multiyear contract will serve the best interests of the United States by encouraging full and open competition or promoting economy in administration, performance, and operation of the agency's programs.

"(b) TERMINATION CLAUSE.—A multiyear contract entered into under the authority of this section shall include a clause that provides that the contract shall be terminated if funds are not made available for the continuation of such contract in any fiscal year covered by the contract. Amounts available for paying termination costs shall remain available for such purpose until the costs associated with termination of the contract are paid.

"(c) CANCELLATION CEILING NOTICE.—Before any contract described in subsection (a) that contains a clause setting forth a cancellation ceiling in excess of $10,000,000 may be awarded, the executive agency shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Congress, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(d) MULTIYEAR CONTRACT DEFINED.—For the purposes of this section, a multiyear contract is a contract for the purchase of property or services for more than one, but not more than five, program years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(e) RULE OF CONSTRUCTION.—Nothing in this section is intended to modify or affect any other provision of law that authorizes multiyear contracts.".

SEC. 1073. SEVERABLE SERVICES CONTRACTS CROSSING FISCAL YEARS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1054, is further amended by inserting after section 303I the following new section:

"SEC. 303L. SEVERABLE SERVICES CONTRACTS FOR PERIODS CROSSING FISCAL YEARS. 41 USC 253*l*.

"(a) AUTHORITY.—The head of an executive agency may enter into a contract for procurement of severable services for a period that begins in one fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed one year.

"(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).".

SEC. 1074. ECONOMY ACT PURCHASES. 31 USC 1535 note.

(a) REGULATIONS REQUIRED.—The Federal Acquisition Regulation shall be revised to include regulations governing the exercise of the authority under section 1535 of title 31, United States Code, for Federal agencies to purchase goods and services under contracts entered into or administered by other agencies.

(b) CONTENT OF REGULATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) require that each purchase described in subsection (a) be approved in advance by a contracting officer of the ordering agency with authority to contract for the goods or services to be purchased or by another official in a position specifically designated by regulation to approve such purchase;

(2) provide that such a purchase of goods or services may be made only if—

(A) the purchase is appropriately made under a contract that the agency filling the purchase order entered into, before the purchase order, in order to meet the requirements of such agency for the same or similar goods or services;

(B) the agency filling the purchase order is better qualified to enter into or administer the contract for such goods or services by reason of capabilities or expertise that is not available within the ordering agency; or

(C) the agency or unit filling the order is specifically authorized by law or regulations to purchase such goods or services on behalf of other agencies;

(3) prohibit any such purchase under a contract or other agreement entered into or administered by an agency not covered by the provisions of chapter 137 of title 10, United States Code, or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) and not covered by the Federal Acquisition Regulation unless the purchase is approved in advance by the senior procurement official responsible for purchasing by the ordering agency; and

(4) prohibit any payment to the agency filling a purchase order of any fee that exceeds the actual cost or, if the actual cost is not known, the estimated cost of entering into and

administering the contract or other agreement under which the order is filled.

(c) MONITORING SYSTEM REQUIRED.—The Administrator for Federal Procurement Policy shall ensure that, not later than one year after the date of the enactment of this Act, systems for collecting and evaluating procurement data are capable of collecting and evaluating appropriate data on procurements conducted under the regulations prescribed pursuant to subsection (a).

(d) TERMINATION.—This section shall cease to be effective one year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

PART III—ACQUISITIONS GENERALLY

SEC. 1091. POLICY REGARDING CONSIDERATION OF CONTRACTOR PAST PERFORMANCE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(14) establishing policies and procedures that encourage the consideration of the offerors' past performance in the selection of contractors.".

41 USC 405 note.

(b) GUIDANCE REQUIRED.—(1) Congress makes the following findings:

(A) Past contract performance of an offeror is one of the relevant factors that a contracting official of an executive agency should consider in awarding a contract.

(B) It is appropriate for a contracting official to consider past contract performance of an offeror as an indicator of the likelihood that the offeror will successfully perform a contract to be awarded by that official.

(2) Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended by adding at the end the following:

"(j)(1) The Administrator shall prescribe for executive agencies guidance regarding consideration of the past contract performance of offerors in awarding contracts. The guidance shall include—

"(A) standards for evaluating past performance with respect to cost (when appropriate), schedule, compliance with technical or functional specifications, and other relevant performance factors that facilitate consistent and fair evaluation by all executive agencies;

"(B) policies for the collection and maintenance of information on past contract performance that, to the maximum extent practicable, facilitate automated collection, maintenance, and dissemination of information and provide for ease of collection, maintenance, and dissemination of information by other methods, as necessary;

"(C) policies for ensuring that—

"(i) offerors are afforded an opportunity to submit relevant information on past contract performance, including performance under contracts entered into by the executive agency concerned, contracts entered into by other departments and agencies of the Federal Government, contracts

entered into by agencies of State and local governments, and contracts entered into by commercial customers; and

"(ii) such information submitted by offerors is considered; and

"(D) the period for which information on past performance of offerors may be maintained and considered.

"(2) In the case of an offeror with respect to which there is no information on past contract performance or with respect to which information on past contract performance is not available, the offeror may not be evaluated favorably or unfavorably on the factor of past contract performance.".

SEC. 1092. REPEAL OF REQUIREMENT FOR ANNUAL REPORT ON COMPETITION.

Section 23 of the Office of Federal Procurement Policy Act (41 U.S.C. 419) is repealed.

SEC. 1093. DISCOURAGEMENT OF NONSTANDARD CONTRACT CLAUSES.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 29. NONSTANDARD CONTRACT CLAUSES. 41 USC 425.

"The Federal Acquisition Regulatory Council shall promulgate regulations to discourage the use of a nonstandard contract clause on a repetitive basis. The regulations shall include provisions that—

"(1) clearly define what types of contract clauses are to be treated as nonstandard clauses; and

"(2) require prior approval for the use of a nonstandard clause on a repetitive basis by an official at a level of responsibility above the contracting officer.".

Subtitle B—Truth in Negotiations

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1201. STABILIZATION OF DOLLAR THRESHOLD OF APPLICABILITY.

(a) REPEAL OF REVERSION TO LOWER THRESHOLD.—Paragraph (1)(A) of section 2306a(a) of title 10, United States Code, is amended—

(1) in clause (i), by striking out "and before January 1, 1996,"; and

(2) in clause (ii), by striking out "or after December 31, 1995,".

(b) ADJUSTMENTS FOR CHANGES IN DOLLAR VALUES.—Section 2306a(a) of such title is amended by adding at the end the following new subparagraph:

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

(c) REPEAL.—Paragraph (6) of section 2306a(a) of such title is amended—

(1) by striking out "(A)"; and

(2) by striking out subparagraph (B).

SEC. 1202. EXCEPTIONS TO COST OR PRICING DATA REQUIREMENTS.

(a) EXCEPTIONS STATED.—Subsection (b) of section 2306a of title 10, United States Code, is amended to read as follows:

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the prohibition on the submission of cost or pricing data in paragraph (1)(A), submission of cost or pricing data shall not be required under subsection (a) if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.".

"(3) FAR STANDARDS.— The Federal Acquisition Regulation shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall provide that the exception applies to items that are sold in substantial quantities to the general public, without regard to the quantity of items that may be sold to the Federal Government.".

(b) CONFORMING AMENDMENT TO REFERENCE.—Subsection (a)(5) of such section is amended by striking out "subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)".

SEC. 1203. RESTRICTIONS ON ADDITIONAL AUTHORITY TO REQUIRE COST OR PRICING DATA OR OTHER INFORMATION.

Subsection (c) of section 2306a of title 10, United States Code, is amended to read as follows:

"(c) RESTRICTIONS ON ADDITIONAL AUTHORITY TO REQUIRE COST OR PRICING DATA OR OTHER INFORMATION.—

"(1) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(A) Subject to subparagraph (B), when cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification

of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

"(B) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subsection (b)(1)(A).

"(C) The head of a procuring activity may not delegate functions under this paragraph.

"(2) AUTHORITY TO REQUIRE INFORMATION OTHER THAN CERTIFIED COST OR PRICING DATA.—When certified cost or pricing data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the head of the procuring activity may require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract.".

SEC. 1204. ADDITIONAL SPECIAL RULES FOR COMMERCIAL ITEMS.

Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsections (d), (e), (f), and (g) as subsections (e), (f), (g), and (i), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—

"(1) PROCUREMENTS BASED ON ADEQUATE PRICE COMPETITION.—To the maximum extent practicable, the head of an agency shall conduct procurements of commercial items on a competitive basis. In any procurement of a commercial item conducted on a competitive basis and based upon adequate price competition, the head of the agency conducting the procurement shall not require cost or pricing data to be submitted under subsection (a) for the contract, subcontract, or modification of the contract or subcontract under the procurement. If additional information is necessary to determine the reasonableness of the price of the contract, subcontract, or modification, the head of the agency shall, to the maximum extent practicable, obtain the additional information from sources other than the offeror.

"(2) PROCUREMENTS NOT BASED ON ADEQUATE PRICE COMPETITION.—(A)(i) In any case in which it is not practicable to conduct a procurement of a commercial item covered by subsection (a) on a competitive basis, and the procurement is not covered by an exception in subsection (b), the contracting officer shall seek to obtain from the offeror or contractor information described in clause (ii). When such information is not available from that source, the contracting officer shall seek to obtain such information from another source or sources.

"(ii) The information referred in clause (i) is information on prices at which the same item or similar items have been sold in the commercial market that is adequate for evaluating, through price analysis, the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract under the procurement.

"(B) The contracting officer shall exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains the information described in subparagraph (A)(ii) in accordance with standards and procedures set forth in the Federal Acquisition Regulation.

"(C) A contracting officer may require submission of cost or pricing data under subsection (a) only if the contracting officer makes a written determination that the agency is unable to obtain the information described in subparagraph (A)(ii).

"(3) AUTHORITY TO AUDIT.—(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an agency is authorized to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2)(A) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this subsection.

"(B) The right under subparagraph (A) shall expire 2 years after the date of award of the contract, or 2 years after the date of the modification of the contract, with respect to which the information was provided.

"(4) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall include reasonable limitations on requests under this section for sales data relating to commercial items.

"(5) FORM OF INFORMATION.—In requesting information from an offeror under this subsection, a contracting officer shall, to the maximum extent practicable, limit the scope of the request to include only information that is in the form regularly maintained by the offeror in commercial operations.

"(6) CONFIDENTIALITY.—Any information received under this subsection that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.".

SEC. 1205. RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.

Section 2306a of title 10, United States Code, is amended by striking out subsection (g), as redesignated by section 1204(1), and inserting in lieu thereof the following:

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section, the head of an agency shall have the authority provided by section 2313(a)(2) of this title.".

SEC. 1206. REQUIRED REGULATIONS.

Section 2306a of title 10, United States Code, as amended by sections 1204 and 1205, is further amended by inserting after subsection (g) the following new subsection:

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall contain provisions concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed the applicable threshold amount set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the proposed contract or subcontract for the procurement.".

SEC. 1207. CONSISTENCY OF TIME REFERENCES.

Section 2306a of title 10, United States Code, as amended by section 1204(1), is further amended in subparagraphs (A)(ii) and (B)(ii) of subsection (e)(4), by inserting "or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties," after "(or price of the modification)".

SEC. 1208. EXCEPTION FOR TRANSFERS BETWEEN DIVISIONS, SUBSIDIARIES, AND AFFILIATES.

Subsection (i) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended to read as follows:

"(i) DEFINITIONS.—In this section:

"(1) COST OR PRICING DATA.—The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification), or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) SUBCONTRACT.—The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.

"(3) COMMERCIAL ITEM.—The term 'commercial item' has the meaning provided such term in section 4(12) of the Office of Federal Procurement Policy Act.".

SEC. 1209. COVERAGE OF COAST GUARD AND NASA FOR INTEREST AND PAYMENTS ON CERTAIN OVERPAYMENTS.

Paragraph (1) of subsection (f) of section 2306a of title 10, United States Code, as redesignated by section 1204(1), is amended by striking out "with the Department of Defense" in the matter preceding subparagraph (A).

SEC. 1210. REPEAL OF SUPERSEDED PROVISION.

Subsections (b) and (c) of section 803 of Public Law 101-510 (10 U.S.C. 2306a note) are repealed.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1251. REVISION OF CIVILIAN AGENCY PROVISIONS TO ENSURE UNIFORM TREATMENT OF COST OR PRICING DATA.

(a) REVISION.—Title III of the Federal Property and Administrative Services Act of 1949 is amended—

(1) in section 304 (41 U.S.C. 254), by striking out subsection (d); and

(2) by inserting before section 304B, as added by section 1072, the following new section:

41 USC 254b.

"SEC. 304A. COST OR PRICING DATA: TRUTH IN NEGOTIATIONS.

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an executive agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this title to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract if—

"(i) in the case of a prime contract entered into after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $500,000; and

"(ii) in the case of a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a prime contract under this title shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if—

"(i) in the case of a change or modification made to a prime contract referred to in subparagraph (A)(i), the price adjustment is expected to exceed $500,000;

"(ii) in the case of a change or modification made to a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price adjustment is expected to exceed $500,000; and

"(iii) in the case of a change or modification not covered by clause (i) or (ii), the price adjustment is expected to exceed $100,000.

"(C) An offeror for a subcontract (at any tier) of a contract under this title shall be required to submit cost or pricing data before the award of the subcontract if the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section and—

"(i) in the case of a subcontract under a prime contract referred to in subparagraph (A)(i), the price of the subcontract is expected to exceed $500,000;

"(ii) in the case of a subcontract entered into under a prime contract that was entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, and that has been modified pursuant to paragraph (6), the price of the subcontract is expected to exceed $500,000; and

"(iii) in the case of a subcontract not covered by clause (i) or (ii), the price of the subcontract is expected to exceed $100,000.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if—

"(i) in the case of a change or modification to a subcontract referred to in subparagraph (C)(i) or (C)(ii), the price adjustment is expected to exceed $500,000; and

"(ii) in the case of a change or modification to a subcontract referred to in subparagraph (C)(iii), the price adjustment is expected to exceed $100,000.

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the procuring activity concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an executive agency on behalf of a foreign government.

"(5) For purposes of paragraph (1)(C), a contractor or subcontractor granted a waiver under subsection (b)(1)(B) shall be considered as having been required to make available cost or pricing data under this section.

"(6) Upon the request of a contractor that was required to submit cost or pricing data under paragraph (1) in connection with a prime contract entered into on or before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the head of the executive agency that entered into such contract shall modify the contract to reflect subparagraphs (B)(ii) and (C)(ii) of paragraph (1). All such modifications shall be made without requiring consideration.

"(7) Effective on October 1 of each year that is divisible by 5, each amount set forth in paragraph (1) shall be adjusted to the amount that is equal to the fiscal year 1994 constant dollar value of the amount set forth. Any amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Submission of cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or a modification of a contract or subcontract—

"(A) for which the price agreed upon is based on—

"(i) adequate price competition;

"(ii) established catalog or market prices of commercial items that are sold in substantial quantities to the general public; or

"(iii) prices set by law or regulation; or

"(B) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

"(2) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL ITEMS.—In the case of a modification of a contract or subcontract for a commercial item that is not covered by the prohibition on the submission of cost or pricing data in paragraph (1)(A), submission of cost or pricing data shall not be required under subsection (a) if—

"(A) the contract or subcontract being modified is a contract or subcontract for which submission of cost or pricing data may not be required by reason of paragraph (1)(A); and

"(B) the modification would not change the contract or subcontract, as the case may be, from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

"(3) FAR STANDARDS.—The Federal Acquisition Regulation shall provide clear standards for determining whether the exceptions provided in paragraph (1)(A) apply. In the case of the exception provided in paragraph (1)(A)(i), the regulations shall specify the criteria to be used to determine whether adequate price competition exists. In the case of the exception provided in paragraph (1)(A)(ii), the regulations shall provide that the exception applies to items that are sold in substantial quantities to the general public, without regard to the quantity of items that may be sold to the Federal Government.

"(c) RESTRICTIONS ON ADDITIONAL AUTHORITY TO REQUIRE COST OR PRICING DATA OR OTHER INFORMATION.—

"(1) AUTHORITY TO REQUIRE COST OR PRICING DATA ON BELOW-THRESHOLD CONTRACTS.—(A) Subject to subparagraph (B), when cost or pricing data are not required to be submitted by subsection (a) for a contract, subcontract, or modification of a contract or subcontract, such data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires such data to be submitted under this subsection, the head of the procuring activity shall justify in writing the reason for such requirement.

"(B) The head of the procuring activity may not require certified cost or pricing data to be submitted under this paragraph for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in subsection (b)(1)(A).

"(C) The head of a procuring activity may not delegate the functions under this paragraph.

"(2) AUTHORITY TO REQUIRE INFORMATION OTHER THAN CERTIFIED COST OR PRICING DATA.—When certified cost or pricing

data are not required to be submitted under this section for a contract, subcontract, or modification of a contract or subcontract, the head of the procuring activity may require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract.

"(d) ADDITIONAL EXCEPTION PROVISIONS REGARDING COMMERCIAL ITEMS.—

"(1) PROCUREMENTS BASED ON ADEQUATE PRICE COMPETITION.—To the maximum extent practicable, the head of an executive agency shall conduct procurements of commercial items on a competitive basis. In any procurement of a commercial item conducted on a competitive basis and based upon adequate price competition, the head of the executive agency conducting the procurement shall not require cost or pricing data to be submitted under subsection (a) for the contract, subcontract, or modification of the contract or subcontract under the procurement. If additional information is necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract, the head of the executive agency shall, to the maximum extent practicable, obtain the additional information from sources other than the offeror.

"(2) PROCUREMENTS NOT BASED ON ADEQUATE PRICE COMPETITION.—(A)(i) In any case in which it is not practicable to conduct a procurement of a commercial item covered by subsection (a) on a competitive basis, and the procurement is not covered by an exception in subsection (b), the contracting officer shall seek to obtain from the offeror or contractor information described in clause (ii). When such information is not available from that source, the contracting officer shall seek to obtain such information from another source or sources.

"(ii) The information referred in clause (i) is information on prices at which the same item or similar items have been sold in the commercial market that is adequate for evaluating, through price analysis, the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract under the procurement.

"(B) The contracting officer shall exempt a contract, subcontract, or modification of a contract or subcontract under the procurement from the requirements of subsection (a) if the contracting officer obtains the information described in subparagraph (A)(ii) in accordance with standards and procedures set forth in the Federal Acquisition Regulation.

"(C) A contracting officer may require submission of cost or pricing data under subsection (a) only if the contracting officer makes a written determination that the agency is unable to obtain the information described in subparagraph (A)(ii).

"(3) AUTHORITY TO AUDIT.—(A) In accordance with procedures prescribed in the Federal Acquisition Regulation, the head of an executive agency is authorized to examine all information provided by an offeror, contractor, or subcontractor pursuant to paragraph (2)(A) and all books and records of such offeror, contractor, or subcontractor that directly relate to such information in order to determine whether the agency is receiving accurate information required under this section.

"(B) The right under subparagraph (A) shall expire 2 years after the date of award of the contract, or 2 years after the date of the modification of the contract, with respect to which the information was provided.

"(4) LIMITATIONS ON REQUESTS FOR DATA.—The Federal Acquisition Regulation shall include reasonable limitations on requests under this subsection for sales data relating to commercial items.

"(5) FORM OF INFORMATION.—In requesting information from an offeror under this subsection, a contracting officer shall, to the maximum extent practicable, limit the scope of the request to include only information that is in the form regularly maintained by the offeror in commercial operations.

"(6) CONFIDENTIALITY.—Any information received under this subsection that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.

"(e) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the executive agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost or pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost or pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification), or, if applicable consistent with paragraph (1)(B), another date agreed upon between the parties, and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification) or, if applicable under paragraph (1)(B), another date agreed upon between the parties, the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(f) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with an executive agency subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1986; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Any liability under this subsection of a contractor that submits cost or pricing data but refuses to submit the certification required by subsection (a)(2) with respect to the cost or pricing data shall not be affected by the refusal to submit such certification.

"(g) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—For the purpose of evaluating the accuracy, complete-

ness, and currency of cost or pricing data required to be submitted by this section, an executive agency shall have the authority provided by section 304C(a)(2).

"(h) REQUIRED REGULATIONS.—The Federal Acquisition Regulation shall include regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under this section because the price of the procurement to the United States is not expected to exceed the applicable threshold amount set forth in subsection (a) (as adjusted pursuant to paragraph (7) of such subsection). Such information, at a minimum, shall include appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of a proposed contract or subcontract for the procurement.

"(i) DEFINITIONS.—In this section:

"(1) COST OR PRICING DATA.—The term 'cost or pricing data' means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with subsection (e)(1)(B), another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.

"(2) SUBCONTRACT.—The term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.

"(3) COMMERCIAL ITEM.—The term 'commercial item' has the meaning provided such term by section 4(12) of the Office of Federal Procurement Policy Act.".

41 USC 254b note.

(b) APPLICABILITY.—Subsection (a) of section 304A of the Office of Federal Procurement Policy Act, as added by subsection (a), shall apply according to the provisions thereof on and after the date of the enactment of this Act, notwithstanding section 10001(b).

SEC. 1252. REPEAL OF OBSOLETE PROVISION.

Section 303E of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253e) is repealed.

Subtitle C—Research and Development

SEC. 1301. RESEARCH PROJECTS.

(a) GENERAL AUTHORITY.—Section 2358 of title 10, United States Code, is amended to read as follows:

"§ 2358. Research and development projects

"(a) AUTHORITY.—The Secretary of Defense or the Secretary of a military department may engage in basic research, applied research, advanced research, and development projects that—

"(1) are necessary to the responsibilities of such Secretary's department in the field of research and development; and

"(2) either—

"(A) relate to weapon systems and other military needs; or

"(B) are of potential interest to the Department of Defense.

"(b) AUTHORIZED MEANS.—The Secretary of Defense or the Secretary of a military department may perform research and development projects—

"(1) by contract, cooperative agreement, or grant, in accordance with chapter 63 of title 31;

"(2) through one or more military departments;

"(3) by using employees and consultants of the Department of Defense; or

"(4) by mutual agreement with the head of any other department or agency of the Federal Government.

"(c) REQUIREMENT OF POTENTIAL DEPARTMENT OF DEFENSE INTEREST.—Funds appropriated to the Department of Defense or to a military department may not be used to finance any research project or study unless the project or study is, in the opinion of the Secretary of Defense or the Secretary of that military department, respectively, of potential interest to the Department of Defense or to such military department, respectively.

"(d) ADDITIONAL PROVISIONS APPLICABLE TO COOPERATIVE AGREEMENTS.—Additional authorities, conditions, and requirements relating to certain cooperative agreements authorized by this section are provided in section 2371 of this title.".

(b) TRANSACTIONS OTHER THAN CONTRACTS AND GRANTS.—Section 2371 of such title is amended to read as follows:

"§ 2371. Research projects: transactions other than contracts and grants

"(a) ADDITIONAL FORMS OF TRANSACTIONS AUTHORIZED.—The Secretary of Defense and the Secretary of each military department may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection in carrying out basic, applied, and advanced research projects. The authority under this subsection is in addition to the authority provided in section 2358 of this title to use contracts, cooperative agreements, and grants in carrying out such projects.

"(b) EXERCISE OF AUTHORITY BY SECRETARY OF DEFENSE.—In any exercise of the authority in subsection (a), the Secretary of Defense shall act through the Advanced Research Projects Agency or any other element of the Department of Defense that the Secretary may designate.

"(c) ADVANCE PAYMENTS.—The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31.

"(d) RECOVERY OF FUNDS.—(1) A cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title and a transaction authorized by subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense or any other department or agency of the Federal Government as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the appropriate account established under subsection (f). Amounts so credited shall be merged with other funds in the

account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(e) CONDITIONS.—The Secretary of Defense shall ensure that—

"(1) to the maximum extent practicable, no cooperative agreement containing a clause under subsection (d) and no transaction entered into under subsection (a) provides for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent that the Secretary determines practicable, the funds provided by the Government under a cooperative agreement containing a clause under subsection (d) or a transaction authorized by subsection (a) do not exceed the total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) a cooperative agreement containing a clause under subsection (d) or a transaction authorized under subsection (a) is used for a research project only when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.

"(f) SUPPORT ACCOUNTS.—There is hereby established on the books of the Treasury separate accounts for each of the military departments and the Advanced Research Projects Agency for support of research projects and development projects provided for in cooperative agreements containing a clause under subsection (d) and research projects provided for in transactions entered into under subsection (a). Funds in those accounts shall be available for the payment of such support.

"(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(h) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on all cooperative agreements entered into under section 2358 of this title during such fiscal year that contain a clause authorized by subsection (d) and on all transactions entered into under subsection (a) during such fiscal year. The report shall contain, with respect to each such cooperative agreement and transaction, the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such research.

"(4) The amount of the payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause included in such cooperative agreement or other transaction pursuant to subsection (d).

"(5) The amount of the payments reported under paragraph (4), if any, that were credited to each account established under subsection (f).

"(i) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS UNDER STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—The Secretary of Defense, in carrying out research projects through the Advanced Research Projects Agency, and the Secretary

of each military department, in carrying out research projects, may permit the director of any federally funded research and development center to enter into cooperative research and development agreements with any person, any agency or instrumentality of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of such Act (15 U.S.C. 3710, 3710a).".

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 139 of such title is amended—

(1) by striking out the item relating to section 2358 and inserting in lieu thereof the following:

"2358. Research and development projects.";

and

(2) by striking out the item relating to section 2371 and inserting in lieu thereof the following:

"2371. Research projects: transactions other than contracts and grants.".

Subtitle D—Procurement Protests

PART I—PROTESTS TO THE COMPTROLLER GENERAL

SEC. 1401. PROTEST DEFINED.

(a) IN GENERAL.—Paragraph (1) of section 3551 of title 31, United States Code, is amended to read as follows:

"(1) The term 'protest' means a written objection by an interested party to any of the following:

"(A) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(B) The cancellation of such a solicitation or other request.

"(C) An award or proposed award of such a contract.

"(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.".

(b) TECHNICAL AMENDMENTS.—Section 3551 of such title is further amended—

(1) in paragraph (2)—

(A) by inserting "The term" after "(2)"; and

(B) by striking out "; and" and inserting in lieu thereof a period; and

(2) in paragraph (3), by inserting "The term" after "(3)".

SEC. 1402. REVIEW OF PROTESTS AND EFFECT ON CONTRACTS PENDING DECISION.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3553 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking out "one working day of" and inserting in lieu thereof "one day after"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "25 working days from" and inserting in lieu thereof "35 days after"; and

(ii) in subparagraph (C), by striking out "10 working days from" and inserting in lieu thereof "20 days after"; and

(2) in subsection (c)(3), by striking out "thereafter" and inserting in lieu thereof "after the making of such finding".

(b) SUSPENSION OF PERFORMANCE.—Subsection (d) of such section is amended to read as follows:

"(d)(1) A contractor awarded a Federal agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

"(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

"(A) a protest is likely to be filed; and

"(B) the immediate performance of the contract is not in the best interests of the United States.

"(3)(A) If the Federal agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

"(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

"(ii) if authorization for contract performance to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

"(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

"(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the Federal agency has notice under this section)—

"(i) upon a written finding that—

"(I) performance of the contract is in the best interests of the United States; or

"(II) urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest; and

"(ii) after the Comptroller General is notified of that finding.

"(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

"(A) the date that is 10 days after the date of the contract award; or

"(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.".

SEC. 1403. DECISIONS ON PROTESTS.

(a) PERIODS FOR CERTAIN ACTIONS.—Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "90 working days from" and inserting in lieu thereof "125 days after";

(2) in paragraph (2), by striking out "45 calendar days from" and inserting "65 days after";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph (3):

"(3) An amendment to a protest that adds a new ground of protest, if timely made, should be resolved, to the maximum extent practicable, within the time limit established under paragraph (1) of this subsection for final decision of the initial protest. If an amended protest cannot be resolved within such time limit, the Comptroller General may resolve the amended protest through the express option under paragraph (2) of this subsection.".

(b) GAO RECOMMENDATIONS ON PROTESTS.—(1) Section 3554 of title 31, United States Code, is amended in subsection (b) by adding at the end the following new paragraph:

"(3) If the Federal agency fails to implement fully the recommendations of the Comptroller General under this subsection with respect to a solicitation for a contract or an award or proposed award of a contract within 60 days after receiving the recommendations, the head of the procuring activity responsible for that contract shall report such failure to the Comptroller General not later than 5 days after the end of such 60-day period.".

(2) Subsection (c) of such section is amended to read as follows:

"(c)(1) If the Comptroller General determines that a solicitation for a contract or a proposed award or the award of a contract does not comply with a statute or regulation, the Comptroller General may recommend that the Federal agency conducting the procurement pay to an appropriate interested party the costs of—

"(A) filing and pursuing the protest, including reasonable attorneys' fees and consultant and expert witness fees; and

"(B) bid and proposal preparation.

"(2) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be paid, pursuant to a recommendation made under the authority of paragraph (1)—

"(A) costs for consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government; or

"(B) costs for attorneys' fees that exceed $150 per hour unless the agency determines, based on the recommendation of the Comptroller General on a case by case basis, that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

"(3) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency shall—

"(A) pay the costs promptly; or

"(B) if the Federal agency does not make such payment, promptly report to the Comptroller General the reasons for the failure to follow the Comptroller General's recommendation.

"(4) If the Comptroller General recommends under paragraph (1) that a Federal agency pay costs to an interested party, the Federal agency and the interested party shall attempt to reach an agreement on the amount of the costs to be paid. If the Federal agency and the interested party are unable to agree on the amount to be paid, the Comptroller General may, upon the request of the interested party, recommend to the Federal agency the amount of the costs that the Federal agency should pay.".

(3) Subsection (e) of such section is amended to read as follows:

"(e)(1) The Comptroller General shall report promptly to the Committee on Governmental Affairs and the Committee on Appropriations of the Senate and to the Committee on Government Operations and the Committee on Appropriations of the House of Representatives any case in which a Federal agency fails to implement fully a recommendation of the Comptroller General under subsection (b) or (c). The report shall include—

"(A) a comprehensive review of the pertinent procurement, including the circumstances of the failure of the Federal agency to implement a recommendation of the Comptroller General; and

"(B) a recommendation regarding whether, in order to correct an inequity or to preserve the integrity of the procurement process, the Congress should consider—

"(i) private relief legislation;

"(ii) legislative rescission or cancellation of funds;

"(iii) further investigation by Congress; or

"(iv) other action.

"(2) Not later than January 31 of each year, the Comptroller General shall transmit to the Congress a report containing a summary of each instance in which a Federal agency did not fully implement a recommendation of the Comptroller General under subsection (b) or (c) during the preceding year. The report shall also describe each instance in which a final decision in a protest was not rendered within 125 days after the date the protest is submitted to the Comptroller General.".

31 USC 3554 note.

(4) Costs to which the Comptroller General declared an interested party to be entitled under section 3554 of title 31, United States Code, as in effect immediately before the enactment of this Act, shall, if not paid or otherwise satisfied by the Federal agency concerned before the date of the enactment of this Act, be paid promptly.

(c) RESTRICTION ON ACCESS TO CERTAIN INFORMATION.—Section 3553(f) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2)(A) The Comptroller General may issue protective orders which establish terms, conditions, and restrictions for the provision of any document to a party under paragraph (1), that prohibit or restrict the disclosure by the party of information described in subparagraph (B) that is contained in such a document.

"(B) Information referred to in subparagraph (A) is procurement sensitive information, trade secrets, or other proprietary or confidential research, development, or commercial information.

"(C) A protective order under this paragraph shall not be considered to authorize the withholding of any document or information from Congress or an executive agency.".

SEC. 1404. REGULATIONS.

(a) COMPUTATION OF PERIODS.—Section 3555 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) The procedures shall provide that, in the computation of any period described in this subchapter—

"(1) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(2) the last day after such act, event, or default be included, unless—

"(A) such last day is a Saturday, a Sunday, or a legal holiday; or

"(B) in the case of a filing of a paper at the General Accounting Office or a Federal agency, such last day is a day on which weather or other conditions cause the closing of the General Accounting Office or Federal agency, in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.".

(b) ELECTRONIC FILINGS AND DISSEMINATIONS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (b) the following new subsection:

"(c) The Comptroller General may prescribe procedures for the electronic filing and dissemination of documents and information required under this subchapter. In prescribing such procedures, the Comptroller General shall consider the ability of all parties to achieve electronic access to such documents and records.".

(c) REPEAL OF OBSOLETE DEADLINE.—Subsection (a) of such section is amended by striking out "Not later than January 15, 1985, the" and inserting in lieu thereof "The".

PART II—PROTESTS IN PROCUREMENTS OF AUTOMATIC DATA PROCESSING

SEC. 1431. REVOCATION OF DELEGATIONS OF PROCUREMENT AUTHORITY.

Section 111(b)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(b)(3)) is amended by inserting before the period at the end of the third sentence the following: ", including the authority to revoke a delegation of authority with respect to a particular contract after award of the contract, except that the Administrator may revoke a delegation of authority after the contract is awarded only when there is a finding of a violation of law or regulation in connection with the contract award.".

SEC. 1432. AUTHORITY OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS.

The first sentence of section 111(f)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(1)) is amended to read as follows: "Upon request of an interested party in connection with any procurement that is subject to this section (including any such procurement that is subject to delegation of

procurement authority), the board of contract appeals of the General Services Administration (hereafter in this subsection referred to as the 'board') shall review, as provided in this subsection, any decision by a contracting officer that is alleged to violate a statute, a regulation, or the conditions of a delegation of procurement authority.".

SEC. 1433. PERIODS FOR CERTAIN ACTIONS.

(a) SUSPENSION OF PROCUREMENT AUTHORITY.—Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is amended—

(1) in paragraph (2)(B)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(B) by inserting "(i)" after "(B)"; and

(C) by adding at the end the following:

"(ii) A suspension under this subparagraph shall not preclude the Federal agency concerned from continuing the procurement process up to but not including award of the contract unless the board determines such action is not in the best interests of the United States."; and

(2) in paragraph (3), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) If, with respect to an award of a contract, the board receives notice of a protest under this subsection within the period described in clause (ii), the board shall, at the request of an interested party, hold a hearing to determine whether the board should suspend the procurement authority of the Administrator or the Administrator's delegation of procurement authority for the protested procurement on an interim basis until the board can decide the protest.

"(ii) The period referred to in clause (i) is the period beginning on the date on which the contract is awarded and ending at the end of the later of—

"(I) the tenth day after the date of contract award; or

"(II) the fifth day after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

"(iii) The board shall hold the requested hearing within 5 days after the date of the filing of the protest or, in the case of a request for debriefing under the provisions of section 2305(b)(5) of title 10, United States Code, or section 303B(e) of this Act, within 5 days after the later of the date of the filing of the protest or the date of the debriefing.".

(b) FINAL DECISION.—Paragraph (4)(B) of such section 111(f) is amended—

(1) by striking out "45 working days" and inserting in lieu thereof "65 days"; and

(2) by adding at the end the following: "An amendment which adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.".

SEC. 1434. DISMISSALS OF PROTESTS.

Section 111(f)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(4)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The board may dismiss a protest that the board determines—

"(i) is frivolous;

"(ii) has been brought or pursued in bad faith; or

"(iii) does not state on its face a valid basis for protest.".

SEC. 1435. AWARD OF COSTS.

(a) AWARD.—Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)) is amended by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Whenever the board makes such a determination, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the cost of filing and pursuing the protest (including reasonable attorneys' fees and consultant and expert witness fees), and bid and proposal preparation. However, no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to costs for consultants and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government, and no party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled to attorneys' fees that exceed $150 per hour unless the board, on a case by case basis, determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.".

(b) DEFINITION OF PREVAILING PARTY.—Section 111(f)(9) of such Act (40 U.S.C. 759(f)(9)) is amended by adding at the end the following:

"(C) The term 'prevailing party', with respect to a determination of the board under paragraph (5)(B) that a challenged action of a Federal agency violates a statute or regulation or the conditions of a delegation of procurement authority issued pursuant to this section, means a party that demonstrated such violation.".

SEC. 1436. DISMISSAL AGREEMENTS.

Section 111(f)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(5)), as amended by section 1435, is further amended by adding at the end the following new subparagraphs:

"(D) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the board and shall be made a part of the public record (subject to any protective order considered appropriate by the board) before dismissal of the protest. If a Federal agency is a party to a settlement agreement, the submission of the agreement to the board shall include a memorandum, signed by the contracting officer concerned, that describes in detail the procurement, the grounds for protest, the Federal Government's position regarding the grounds for protest, the terms of the settlement, and the agency's position regarding the propriety of the award or proposed award of the contract at issue in the protest.

"(E) Payment of amounts due from an agency under subparagraph (C) or under the terms of a settlement agreement under subparagraph (D) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of

judgments. The Federal agency concerned shall reimburse that appropriation account out of funds available for the procurement.".

SEC. 1437. MATTERS TO BE COVERED IN REGULATIONS.

Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) is further amended—

(1) by inserting after paragraph (6) the following:

"(7)(A) The board shall adopt and issue such rules and procedures as may be necessary to the expeditious disposition of protests filed under the authority of this subsection.

"(B) The procedures shall provide that, in the computation of any period described in this subsection—

"(i) the day of the act, event, or default from which the designated period of time begins to run not be included; and

"(ii) the last day after such act, event, or default be included, unless—

"(I) such last day is a Saturday, a Sunday, or a legal holiday; or

"(II) in the case of a filing of a paper at the board, such last day is a day on which weather or other conditions cause the closing of the board in which event the next day that is not a Saturday, Sunday, or legal holiday shall be included.

"(C) The procedures may provide for electronic filing and dissemination of documents and information required under this subsection and in so providing shall consider the ability of all parties to achieve electronic access to such documents and records.

"(D) The procedures shall provide that if the board expressly finds that a protest or a portion of a protest is frivolous or has been brought or pursued in bad faith, or that any person has willfully abused the board's process during the course of a protest, the board may impose appropriate procedural sanctions, including dismissal of the protest."; and

(2) by striking out paragraph (8).

SEC. 1438. DEFINITION OF PROTEST.

Section 111(f)(9) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)(9)) is amended—

(1) by striking out "subsection—" and inserting in lieu thereof "subsection:";

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The term 'protest' means a written objection by an interested party to any of the following:

"(i) A solicitation or other request by a Federal agency for offers for a contract for the procurement of property or services.

"(ii) The cancellation of such a solicitation or other request.

"(iii) An award or proposed award of such a contract.

"(iv) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract."; and

(3) by capitalizing the first letter of the first word in subparagraph (B).

SEC. 1439. OVERSIGHT OF ACQUISITION OF AUTOMATIC DATA PROCESSING EQUIPMENT BY FEDERAL AGENCIES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended by adding at the end the following new subsection:

"(h) DATA COLLECTION.—(1) The Administrator shall collect and compile data regarding the procurement of automatic data processing equipment under this section. The data collected and compiled shall include, at a minimum, with regard to each contract for such a procurement, the following:

"(A) The procuring agency.

"(B) The contractor.

"(C) The automatic data processing equipment and services procured.

"(D) The manufacturer of the equipment procured.

"(E) The amount of the contract, to the extent that the amount is not proprietary information.

"(F) The type of contract used.

"(G) The extent of competition for award.

"(H) Whether compatibility restrictions were used in awarding the contract.

"(I) Significant modifications of the contract.

"(J) Contract price, to the extent that the price is not proprietary information.

"(2) The head of each Federal agency shall report to the Administrator in accordance with regulations issued by the Administrator all information that the Administrator determines necessary in order to satisfy the requirements in paragraph (1).

"(3) The Administrator—

"(A) shall carry out a systematic, periodic review of information received under this subsection;

"(B) shall use such information, as appropriate, to determine the compliance of Federal agencies with the requirements of this section; and

"(C) may take appropriate corrective action regarding an agency's authority to lease and purchase automatic data processing equipment upon any substantial failure by the head of the agency to report to the Administrator in accordance with this subsection.

"(4) The Administrator shall take appropriate corrective action upon failure of a Federal agency to comply with the terms of any delegation of authority to lease or purchase automatic data processing equipment or failure to comply with any applicable law or regulation.

"(5) The Administrator shall require in the regulations implementing this subsection that (A) data collected pursuant to this subsection be drawn from existing Federal agency information; and (B) no new or additional information reporting requirements may be imposed on offerors or contractors to collect such data.".

Subtitle E—Policy, Definitions, and Other Matters

PART I—ARMED SERVICES ACQUISITIONS

SEC. 1501. REPEAL OF POLICY STATEMENT.

(a) REPEAL.—Section 2301 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2301.

SEC. 1502. DEFINITIONS.

Section 2302 of title 10, United States Code, is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The following terms have the meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403):

"(A) The term 'procurement'.
"(B) The term 'procurement system'.
"(C) The term 'standards'.
"(D) The term 'full and open competition'.
"(E) The term 'responsible source'.
"(F) The term 'item'.
"(G) The term 'item of supply'.
"(H) The term 'supplies'.
"(I) The term 'commercial item'.
"(J) The term 'nondevelopmental item'.
"(K) The term 'commercial component'
"(L) The term 'component'."; and

(2) by striking out paragraph (7) and inserting in lieu thereof the following new paragraph (7):

"(7) The term 'simplified acquisition threshold' has the meaning provided that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.".

SEC. 1503. DELEGATION OF PROCUREMENT FUNCTIONS.

(a) CONSOLIDATION OF DELEGATION AUTHORITY.—(1) Section 2311 of title 10, United States Code, is amended to read as follows:

"§ 2311. Assignment and delegation of procurement functions and responsibilities

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an agency may delegate, subject to his direction, to any other officer or official of that agency, any power under this chapter.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this chapter by each agency named in section 2303 of this title for any other agency, and to facilitate joint procurement by those agencies—

"(1) the head of an agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within such agency;

"(2) the heads of two or more agencies may by agreement delegate procurement functions and assign procurement responsibilities from one agency to another of those agencies or to an officer or civilian employee of another of those agencies; and

"(3) the heads of two or more agencies may create joint or combined offices to exercise procurement functions and responsibilities.

"(c) APPROVAL OF TERMINATIONS AND REDUCTIONS OF JOINT ACQUISITION PROGRAMS.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition and Technology from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition and Technology to require a military department whose participation in a joint acquisition program has been approved for termination or substantial reduction to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2311 and inserting in lieu thereof the following:

"2311. Assignment and delegation of procurement functions and responsibilities.".

(b) CONFORMING REPEAL.—(1) Section 2308 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2308.

SEC. 1504. DETERMINATIONS AND DECISIONS.

Section 2310 of title 10, United States Code, is amended to read as follows:

"§ 2310. Determinations and decisions

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this chapter by the head of an agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination or decision under section 2306(g)(1), 2307(d), or 2313(c)(2)(B) of this title shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final. The head of the agency making such finding shall maintain a copy of the finding for not less than 6 years after the date of the determination or decision.".

SEC. 1505. RESTRICTIONS ON UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) CLARIFICATION OF LIMITATION.—Subsection (b) of section 2326 of title 10, United States Code, is amended—

(1) in the subsection heading, by striking out "AND EXPENDITURE";

(2) in paragraph (1)(B), by striking out "or expended";

(3) in paragraph (2), by striking out "expend" and inserting in lieu thereof "obligate"; and

(4) in paragraph (3)—

(A) by striking out "expended" and inserting in lieu thereof "obligated"; and

(B) by striking out "expend" and inserting in lieu thereof "obligate".

(b) WAIVER AUTHORITY.—Such subsection is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) The head of an agency may waive the provisions of this subsection with respect to a contract of that agency if such head of an agency determines that the waiver is necessary in order to support a contingency operation.".

(c) INAPPLICABILITY OF RESTRICTIONS TO CONTRACTS WITHIN THE SIMPLIFIED ACQUISITION THRESHOLD.—Subsection (g)(1)(B) of such section is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

SEC. 1506. REPEAL OF REQUIREMENT RELATING TO PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TEST EQUIPMENT.

(a) REPEAL.—Section 2329 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by striking out the item related to section 2329.

SEC. 1507. REGULATIONS FOR BIDS.

Section 2381(a) of title 10, United States Code, is amended by striking out "(a) The Secretary" and all that follows through the end of paragraph (1) and inserting in lieu thereof the following:

"(a) The Secretary of Defense may—

"(1) prescribe regulations for the preparation, submission, and opening of bids for contracts; and".

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 1551. DEFINITIONS.

Section 309 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The following terms have the meanings provided such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403):

"(1) The term 'procurement'.
"(2) The term 'procurement system'.
"(3) The term 'standards'.
"(4) The term 'full and open competition'.
"(5) The term 'responsible source'.
"(6) The term 'technical data'.
"(7) The term 'major system'.
"(8) The term 'item'.
"(9) The term 'item of supply'.
"(10) The term 'supplies'.
"(11) The term 'commercial item'.
"(12) The term 'nondevelopmental item'.
"(13) The term 'commercial component'.
"(14) The term 'component'.

"(d) The term 'simplified acquisition threshold' has the meaning provided that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403), except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation, the term means an amount equal to two times the amount specified for that term in section 4 of such Act.

"(e) The term 'Federal Acquisition Regulation' means the Federal Acquisition Regulation issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)).".

SEC. 1552. DELEGATION OF PROCUREMENT FUNCTIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 311. ASSIGNMENT AND DELEGATION OF PROCUREMENT FUNCTIONS AND RESPONSIBILITIES. 41 USC 261.

"(a) IN GENERAL.—Except to the extent expressly prohibited by another provision of law, the head of an executive agency may delegate to any other officer or official of that agency, any power under this title.

"(b) PROCUREMENTS FOR OR WITH OTHER AGENCIES.—Subject to subsection (a), to facilitate the procurement of property and services covered by this title by each executive agency for any other executive agency, and to facilitate joint procurement by those executive agencies—

"(1) the head of an executive agency may delegate functions and assign responsibilities relating to procurement to any officer or employee within such agency;

"(2) the heads of two or more executive agencies may by agreement delegate procurement functions and assign procurement responsibilities, consistent with section 1535 of title 31, United States Code, and regulations issued under section 1074 of the Federal Acquisition Streamlining Act of 1994, from one executive agency to another of those executive agencies or to an officer or civilian employee of another of those executive agencies; and

"(3) the heads of two or more executive agencies may establish joint or combined offices to exercise procurement functions and responsibilities.".

SEC. 1553. DETERMINATIONS AND DECISIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 1552, is further amended by adding at the end the following new section:

41 USC 262.

"SEC. 312. DETERMINATIONS AND DECISIONS.

"(a) INDIVIDUAL OR CLASS DETERMINATIONS AND DECISIONS AUTHORIZED.—Determinations and decisions required to be made under this title by the head of an executive agency may be made for an individual purchase or contract or, except to the extent expressly prohibited by another provision of law, for a class of purchases or contracts. Such determinations and decisions are final.

"(b) WRITTEN FINDINGS REQUIRED.—(1) Each determination under section 305(d) or section 304C(c)(2)(B) shall be based on a written finding by the person making the determination or decision. The finding shall set out facts and circumstances that support the determination or decision.

"(2) Each finding referred to in paragraph (1) is final.

"(3) The head of an executive agency shall maintain for a period of not less than 6 years a copy of each finding referred to in paragraph (1) that is made by a person in that executive agency. The period begins on the date of the determination or decision to which the finding relates.".

SEC. 1554. REPEAL OF PREFERENCE FOR RECYCLED TONER CARTRIDGES.

The following provisions of law, relating to a preference for procurement of recycled toner cartridges, are repealed:

(1) Section 630 of Public Law 102–393 (106 Stat. 1773) and the provision of law enclosed in quotation marks in that section (42 U.S.C. 6962(j)).

(2) Section 401 of Public Law 103–123 (107 Stat. 1238; 42 U.S.C. 6962 note).

SEC. 1555. COOPERATIVE PURCHASING.

Subsection (b) of section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), is amended to read as follows:

"(b)(1) The Administrator shall, as far as practicable, provide any of the services specified in subsection (a) of this section to any other Federal agency, mixed-ownership Government corporation (as defined in section 9101 of title 31, United States Code), or the District of Columbia, upon its request.

"(2)(A) The Administrator may provide for the use of Federal supply schedules of the General Services Administration by any of the following entities upon request:

"(i) A State, any department or agency of a State, and any political subdivision of a State, including a local government.

"(ii) The Commonwealth of Puerto Rico.

"(iii) The government of an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).

"(B) Subparagraph (A) may not be construed to authorize an entity referred to in that subparagraph to order existing stock or inventory from federally owned and operated, or federally owned and contractor operated, supply depots, warehouses, or similar facilities.

"(C) In any case in which an entity listed in subparagraph (A) uses a Federal supply schedule, the Administrator may require the entity to reimburse the General Services Administration for any administrative costs of using the schedule.

"(3)(A) Upon the request of a qualified nonprofit agency for the blind or other severely handicapped that is to provide a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.), the Administrator may provide any of the services specified in subsection (a) to such agency to the extent practicable.

"(B) A nonprofit agency receiving services under the authority of subparagraph (A) shall use the services directly in making or providing an approved commodity or approved service to the Federal Government.

"(C) In this paragraph:

"(i) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(I) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(II) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(ii) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.".

TITLE II—CONTRACT ADMINISTRATION

Subtitle A—Contract Payment

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2001. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 2307 of title 10, United States Code, is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"§ 2307. Contract financing";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c);

(5) by inserting "CONDITIONS FOR PROGRESS PAYMENTS.—" after "(d)" in subsection (d);

(6) by inserting "ACTION IN CASE OF FRAUD.—" after "(e)" in subsection (e); and

(7) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (h), respectively.

(b) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (a) the following new subsection (b):

"(b) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (a) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(c) TERMINOLOGY CORRECTION.—Subsection (a)(2) of such section is amended by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(7), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) CONDITIONS FOR PROGRESS PAYMENTS.—Such section, as amended by subsection (a)(7), is further amended in subsection (e)—

(1) in the first sentence of paragraph (1), by striking out "work, which" and all that follows through "accomplished" and inserting in lieu thereof "work accomplished that meets standards established under the contract"; and

(2) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) This subsection applies to any contract in an amount greater than $25,000.".

(f) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—Such section, as amended by subsection (a)(7), is further amended by inserting after subsection (e) the following new subsection (f):

"(f) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate or customary in the commercial marketplace and are in the best interests of the United States. The head of the agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (d) and (e) need not be applied if they would be inconsistent, as determined by the head of the agency, with commercial terms and conditions pursuant to paragraphs (1) and (2).".

(g) NAVY CONTRACTS.—Such section, as amended by subsection (f), is further amended by inserting after subsection (f) the following new subsection (g):

"(g) CERTAIN NAVY CONTRACTS.—(1) The Secretary of the Navy shall provide that the rate for progress payments on any contract

awarded by the Secretary for repair, maintenance, or overhaul of a naval vessel shall be not less than—

"(A) 95 percent, in the case of a firm considered to be a small business; and

"(B) 90 percent, in the case of any other firm.

"(2) The Secretary of the Navy may advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations. Advances under this paragraph shall be made on terms that the Secretary considers adequate for the protection of the United States.

"(3) The Secretary of the Navy shall provide, in each contract for construction or conversion of a naval vessel, that, when partial, progress, or other payments are made under such contract, the United States is secured by a lien upon work in progress and on property acquired for performance of the contract on account of all payments so made. The lien is paramount to all other liens.".

(h) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendments made by this section are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law (as such procedures are in effect on the date of the enactment of this Act), except that the Government may accept payment terms offered by a contractor offering a commercial item. 10 USC 2307 note.

(i) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2307 and inserting in lieu thereof the following:

"2307. Contract financing.".

(j) REPEAL OF SUPERSEDED PROVISIONS.—(1) Sections 7312, 7364, and 7521 of title 10, United States Code, are repealed.

(2) Section 7522 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(3) Chapters 633, 637, and 645 of such title are amended by striking out items in the tables of sections for such chapters as follows:

(A) For chapter 633, the item relating to section 7312.

(B) For chapter 637, the item relating to section 7364.

(C) For chapter 645, the item relating to section 7521.

SEC. 2002. REPEAL OF VOUCHERING PROCEDURES SECTION.

(a) REPEAL.—Section 2355 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2355.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2051. CONTRACT FINANCING.

(a) REORGANIZATION OF PRINCIPAL AUTHORITY PROVISION.—Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255) is amended—

(1) by striking out the section heading and the section designation and inserting in lieu thereof the following:

"SEC. 305. CONTRACT FINANCING.";

(2) by inserting "PAYMENT AUTHORITY.—" after "(a)" in subsection (a);

(3) by inserting "PAYMENT AMOUNT.—" after "(b)" in subsection (b);

(4) by inserting "SECURITY FOR ADVANCE PAYMENTS.—" after "(c)" in subsection (c); and

(5) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively.

(b) PERFORMANCE-BASED PAYMENTS.—Such section, as amended by subsection (a), is further amended by inserting after subsection (a) the following new subsection (b):

"(b) PERFORMANCE-BASED PAYMENTS.—Whenever practicable, payments under subsection (a) shall be made on any of the following bases:

"(1) Performance measured by objective, quantifiable methods such as delivery of acceptable items, work measurement, or statistical process controls.

"(2) Accomplishment of events defined in the program management plan.

"(3) Other quantifiable measures of results.".

(c) TERMINOLOGY CORRECTION.—Subsection (a)(2) of such section is amended by striking out "bid".

(d) EFFECTIVE DATE OF LIEN RELATED TO ADVANCE PAYMENTS.—Such section, as amended by subsection (a)(5), is further amended in subsection (d) by inserting before the period at the end of the third sentence the following: "and is effective immediately upon the first advancement of funds without filing, notice, or any other action by the United States".

(e) REVISION OF CIVILIAN AGENCY PROVISION TO ENSURE UNIFORM REQUIREMENTS FOR PROGRESS PAYMENTS.—Such section is further amended by adding at the end the following new subsections:

"(e) CONDITIONS FOR PROGRESS PAYMENTS.—(1) The executive agency shall ensure that any payment for work in progress (including materials, labor, and other items) under a contract of an executive agency that provides for such payments is commensurate with the work accomplished that meets standards established under the contract. The contractor shall provide such information and evidence as the executive agency determines necessary to permit the executive agency to carry out the preceding sentence.

"(2) The executive agency shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under the contract so long as the executive agency has not made the contractual terms, specifications, and price definite.

"(3) This subsection applies to any contract in an amount greater than $25,000.

"(f) CONDITIONS FOR PAYMENTS FOR COMMERCIAL ITEMS.—(1) Payments under subsection (a) for commercial items may be made under such terms and conditions as the head of the executive agency determines are appropriate or customary in the commercial marketplace and are in the best interests of the United States. The head of the executive agency shall obtain adequate security for such payments. If the security is in the form of a lien in favor of the United States, such lien is paramount to all other

liens and is effective immediately upon the first payment, without filing, notice, or other action by the United States.

"(2) Advance payments made under subsection (a) for commercial items may include payments, in a total amount of not more than 15 percent of the contract price, in advance of any performance of work under the contract.

"(3) The conditions of subsections (d) and (e) need not be applied if they would be inconsistent, as determined by the head of the executive agency, with commercial terms and conditions pursuant to paragraphs (1) and (2).".

"(g) ACTION IN CASE OF FRAUD.—(1) In any case in which the remedy coordination official of an executive agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that executive agency is based on fraud, the remedy coordination official shall recommend that the executive agency reduce or suspend further payments to such contractor.

"(2) The head of an executive agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the head of the executive agency may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by an executive agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the head of an executive agency whether to reduce or suspend payments under paragraph (2), and for each recommendation received by the executive agency in connection with such decision, shall be prepared and be retained in the files of the executive agency.

"(5) The head of each executive agency shall prescribe procedures to ensure that, before the head of the executive agency decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the executive agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which the head of an executive agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of the executive agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the head of such executive agency whether the suspension or reduction should continue.

"(7) The head of each executive agency who receives recommendations made by a remedy coordination official of the executive agency to reduce or suspend payments under paragraph (2) during a fiscal year shall prepare for such year a report that contains the recommendations, the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. Any

such report shall be available to any Member of Congress upon request.

"(8) The head of an executive agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(9) In this subsection, the term 'remedy coordination official', with respect to an executive agency, means the person or entity in that executive agency who coordinates within that executive agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

41 USC 255 note.

(f) RELATIONSHIP TO PROMPT PAYMENT REQUIREMENTS.—The amendments made by this section are not intended to impair or modify procedures required by the provisions of chapter 39 of title 31, United States Code, and the regulations issued pursuant to such provisions of law (as such procedures are in effect on the date of the enactment of this Act), except that the Government may accept payment terms offered by a contractor offering a commercial item.

PART III—ACQUISITIONS GENERALLY

SEC. 2091. GOVERNMENT-WIDE APPLICATION OF PAYMENT PROTECTIONS FOR SUBCONTRACTORS AND SUPPLIERS.

Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 10 U.S.C. 2301 note) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c) GOVERNMENT-WIDE APPLICABILITY.—The Federal Acquisition Regulatory Council (established by section 25(a) of the Office of Federal Procurement Policy Act) shall modify the Federal Acquisition Regulation (issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) to apply Government-wide the requirements that the Secretary is required under subsection (a) to prescribe in regulations applicable with respect to the Department of Defense contracts.".

Subtitle B—Cost Principles

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2101. ALLOWABLE CONTRACT COSTS.

(a) EXTENSION OF COVERAGE TO COAST GUARD AND NASA; OTHER MISCELLANEOUS AMENDMENTS.—Section 2324 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting after "(a)" the following: "INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—";

(B) by striking out "Secretary of Defense" and inserting in lieu thereof "head of an agency";

(C) by striking out "Department of Defense" and inserting in lieu thereof "agency"; and

(D) by striking out "the Department of Defense Supplement" and inserting in lieu thereof "applicable agency supplement".

(2) Subsection (b) is amended—

(A) by inserting after "(b)" the following: "PENALTY FOR VIOLATION OF COST PRINCIPLE.—";

(B) in subparagraph (B) of paragraph (1) by striking out "regulations issued by the Secretary" and inserting in lieu thereof "provisions in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "head of the agency".

(3) Subsection (c) is amended—

(A) by inserting after "(c)" the following: "WAIVER OF PENALTY.—"; and

(B) by striking out "The Secretary shall prescribe regulations providing" in the first sentence and inserting in lieu thereof "The Federal Acquisition Regulation shall provide".

(4) Subsection (d) is amended—

(A) by inserting after "(d)" the following: "APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—"; and

(B) by striking out "the Secretary" and inserting in lieu thereof "the head of an agency".

(5) Subsection (e) is amended—

(A) by inserting after "(e)" the following: "SPECIFIC COSTS NOT ALLOWABLE.—";

(B) in subparagraph (D) of paragraph (1), by striking out "regulations of the Secretary of Defense" and inserting in lieu thereof "provisions of the Federal Acquisition Regulation";

(C) in subparagraph (M) of paragraph (1), by striking out "regulations prescribed by the Secretary of Defense" and inserting in lieu thereof "the Federal Acquisition Regulation";

(D) in subparagraph (A) of paragraph (2), by inserting "of Defense" after "Secretary" the first place it occurs;

(E) in subparagraph (C) of paragraph (2), by striking out "head of the agency" in the first sentence and inserting in lieu thereof "Secretary of Defense";

(F) in subparagraph (A) of paragraph (3), by striking out "regulations prescribed by the Secretary" and inserting in lieu thereof "the Federal Acquisition Regulation"; and

(G) by amending paragraph (4) to read as follows:

"(4) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications.".

(6) Subsection (f) is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" and all that follows through "The amendments" and inserting in lieu thereof the following: "REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions", and

(ii) by striking out "These regulations" and inserting in lieu thereof "The regulations"; and

(B) in paragraphs (2), (3), and (4)—

(i) by striking out "defense" before "contract auditor" each place it appears, and

(ii) by striking out "regulation" each place it appears and inserting in lieu thereof "Federal Acquisition Regulation".

(7) Subsection (g) is amended to read as follows:

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.".

(8) Subsection (h) is amended—

(A) by inserting after "(h)" the following: "CONTRACTOR CERTIFICATION REQUIRED.—";

(B) by striking out "by the Secretary" in paragraph (1) and inserting in lieu thereof "in the Federal Acquisition Regulation"; and

(C) by striking out "Secretary of Defense" in paragraph (2) and inserting in lieu thereof "head of the agency".

(9) Subsection (i) is amended by striking out "The submission to the Department of Defense" and inserting in lieu thereof "PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an agency".

(10) Subsection (j) is amended—

(A) by inserting after "(j)" the following: "CONTRACTOR TO HAVE BURDEN OF PROOF.—"; and

(B) by striking out "United States Claims Court" and inserting in lieu thereof "United States Court of Federal Claims".

(11) Subsection (k) is amended—

(A) by inserting after "(k)" the following: "PROCEEDING COSTS NOT ALLOWABLE.—";

(B) in paragraph (2), by striking out "decision by the Department of Defense—" and inserting in lieu thereof "decision—"; and

(C) in paragraph (4)—

(i) by inserting after "head of the agency" the following: "or Secretary of the military department concerned",

(ii) by striking out "under regulations prescribed by such agency head" and inserting in lieu thereof "in accordance with the Federal Acquisition Regulation",

(iii) by inserting "or Secretary" after "agency head", and

(iv) by inserting before the period at the end the following: "or military department".

(b) UNALLOWABILITY OF COSTS TO INFLUENCE LOCAL LEGISLATIVE BODIES.—Subsection (e)(1)(B) of section 2324 of title 10, United States Code, is amended by striking out "or a State legislature" and inserting in lieu thereof ", a State legislature, or a legislative body of a political subdivision of a State".

(c) CLARIFICATION OF COST PRINCIPLES.—Subsection (f)(1) of such section is amended by adding at the end the following:

"(Q) Conventions.".

(d) COVERED CONTRACT DEFINED.—Such section is further amended by striking out subsections (l) and (m) and inserting in lieu thereof the following:

"(l) DEFINITIONS.—In this section:

"(1)(A) The term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by the head of an agency, except that such term does not include a fixed-price contract without cost incentives or any firm fixed-price contract for the purchase of commercial items.

"(B) Effective on October 1 of each year that is divisible by five, the amount set forth in subparagraph (A) shall be adjusted to the equivalent amount in constant fiscal year 1994 dollars. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.

"(2) The term 'head of the agency' or 'agency head' does not include the Secretary of a military department.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

(e) REGULATIONS.—The regulations of the Secretary of Defense implementing section 2324 of title 10, United States Code, shall remain in effect until the Federal Acquisition Regulation is revised to implement the amendments made by this section. 10 USC 2324 note.

SEC. 2102. REPEAL OF AUTHORITY FOR CONTRACT PROFIT CONTROLS DURING EMERGENCY PERIODS.

(a) REPEAL.—Section 2382 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2382.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2151. ALLOWABLE CONTRACT COSTS.

Section 306 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256) is amended to read as follows:

"SEC. 306. ALLOWABLE COSTS.

"(a) INDIRECT COST THAT VIOLATES A FAR COST PRINCIPLE.—An executive agency shall require that a covered contract provide that if the contractor submits to the executive agency a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation (referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) or an executive agency supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b) PENALTY FOR VIOLATION OF COST PRINCIPLE.—(1) If the executive agency determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the executive agency shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted; plus

"(B) interest (to be computed based on provisions in the Federal Acquisition Regulation) to compensate the United States for the use of any funds which a contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the executive agency determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the executive agency shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted.

"(c) WAIVER OF PENALTY.—The Federal Acquisition Regulation shall provide for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.

"(d) APPLICABILITY OF CONTRACT DISPUTES PROCEDURE TO DISALLOWANCE OF COST AND ASSESSMENT OF PENALTY.—An action of an executive agency under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).

"(e) SPECIFIC COSTS NOT ALLOWABLE.—(1) The following costs are not allowable under a covered contract:

"(A) Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

"(B) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress, a State legislature, or a legislative body of a political subdivision of a State.

"(C) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or had pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of a false certification).

"(D) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or

foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable provisions of the Federal Acquisition Regulation.

"(E) Costs of membership in any social, dining, or country club or organization.

"(F) Costs of alcoholic beverages.

"(G) Contributions or donations, regardless of the recipient.

"(H) Costs of advertising designed to promote the contractor or its products.

"(I) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

"(J) Costs for travel by commercial aircraft which exceed the amount of the standard commercial fare.

"(K) Costs incurred in making any payment (commonly known as a 'golden parachute payment') which is—

"(i) in an amount in excess of the normal severance pay paid by the contractor to an employee upon termination of employment; and

"(ii) is paid to the employee contingent upon, and following, a change in management control over, or ownership of, the contractor or a substantial portion of the contractor's assets.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under the Federal Acquisition Regulation.

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country.

"(O) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).

"(2)(A) Pursuant to the Federal Acquisition Regulation and subject to the availability of appropriations, an executive agency, in awarding a covered contract, may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the executive agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for employees of the executive agency posted outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to

minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) An executive agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the executive agency will consider granting such a waiver, and, if the executive agency will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) An executive agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.

"(3) The provisions of the Federal Acquisition Regulation implementing this section may establish appropriate definitions, exclusions, limitations, and qualifications. Any submission by a contractor of costs which are incurred by the contractor and which are claimed to be allowable under Department of Energy management and operating contracts shall be considered a 'proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued', as used in this section.

"(f) REQUIRED REGULATIONS.—(1) The Federal Acquisition Regulation shall contain provisions on the allowability of contractor costs. Such provisions shall define in detail and in specific terms those costs which are unallowable, in whole or in part, under covered contracts. The regulations shall, at a minimum, clarify the cost principles applicable to contractor costs of the following:

"(A) Air shows.

"(B) Membership in civic, community, and professional organizations.

"(C) Recruitment.

"(D) Employee morale and welfare.

"(E) Actions to influence (directly or indirectly) executive branch action on regulatory and contract matters (other than costs incurred in regard to contract proposals pursuant to solicited or unsolicited bids).

"(F) Community relations.

"(G) Dining facilities.

"(H) Professional and consulting services, including legal services.

"(I) Compensation.

"(J) Selling and marketing.

"(K) Travel.

"(L) Public relations.

"(M) Hotel and meal expenses.

"(N) Expense of corporate aircraft.

"(O) Company-furnished automobiles.

"(P) Advertising.

"(Q) Conventions.

"(2) The Federal Acquisition Regulation shall require that a contracting officer not resolve any questioned costs until the contracting officer has obtained—

"(A) adequate documentation with respect to such costs; and

"(B) the opinion of the contract auditor on the allowability of such costs.

"(3) The Federal Acquisition Regulation shall provide that, to the maximum extent practicable, a contract auditor be present at any negotiation or meeting with the contractor regarding a determination of the allowability of indirect costs of the contractor.

"(4) The Federal Acquisition Regulation shall require that all categories of costs designated in the report of a contract auditor as questioned with respect to a proposal for settlement be resolved in such a manner that the amount of the individual questioned costs that are paid will be reflected in the settlement.

"(g) APPLICABILITY OF REGULATIONS TO SUBCONTRACTORS.—The regulations referred to in subsections (e) and (f)(1) shall require prime contractors of a covered contract, to the maximum extent practicable, to apply the provisions of such regulations to all subcontractors of the covered contract.

"(h) CONTRACTOR CERTIFICATION REQUIRED.—(1) A proposal for settlement of indirect costs applicable to a covered contract shall include a certification by an official of the contractor that, to the best of the certifying official's knowledge and belief, all indirect costs included in the proposal are allowable. Any such certification shall be in a form prescribed in the Federal Acquisition Regulation.

"(2) An executive agency may, in an exceptional case, waive the requirement for certification under paragraph (1) in the case of any contract if the agency—

"(A) determines in such case that it would be in the interest of the United States to waive such certification; and

"(B) states in writing the reasons for that determination and makes such determination available to the public.

"(i) PENALTIES FOR SUBMISSION OF COST KNOWN AS NOT ALLOWABLE.—The submission to an executive agency of a proposal for settlement of costs for any period after such costs have been accrued that includes a cost that is expressly specified by statute or regulation as being unallowable, with the knowledge that such cost is unallowable, shall be subject to the provisions of section 287 of title 18, United States Code, and section 3729 of title 31, United States Code.

"(j) CONTRACTOR TO HAVE BURDEN OF PROOF.—In a proceeding before a board of contract appeals, the United States Court of Federal Claims, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the United States is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.

"(k) PROCEEDING COSTS NOT ALLOWABLE.—(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision—

"(i) to debar or suspend the contractor,

"(ii) to rescind or void the contract, or

"(iii) to terminate the contract for default,

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the executive agency determines, in accordance with the Federal Acquisition Regulation, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the executive agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the Federal Acquisition Regulation.

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of

another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(6) In this subsection:

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.

"(l) COVERED CONTRACT DEFINED.—(1) In this section, the term 'covered contract' means a contract for an amount in excess of $500,000 that is entered into by an executive agency, except that such term does not include a fixed-price contract without cost incentives or any firm, fixed price contract for the purchase of commercial items.

"(2) Effective on October 1 of each year that is divisible by five, the amount set forth in paragraph (1) shall be adjusted to the equivalent amount in constant fiscal year 1994 dollars. An amount, as so adjusted, that is not evenly divisible by $50,000 shall be rounded to the nearest multiple of $50,000. In the case of an amount that is evenly divisible by $25,000 but is not evenly divisible by $50,000, the amount shall be rounded to the next higher multiple of $50,000.".

PART III—ACQUISITIONS GENERALLY

SEC. 2191. TRAVEL EXPENSES OF GOVERNMENT CONTRACTORS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is repealed.

SEC. 2192. REVISION OF COST PRINCIPLE RELATING TO ENTERTAINMENT, GIFT, AND RECREATION COSTS FOR CONTRACTOR EMPLOYEES.

41 USC 256 note.

(a) COSTS NOT ALLOWABLE.—(1) The costs of gifts or recreation for employees of a contractor or members of their families that are provided by the contractor to improve employee morale or performance or for any other purpose are not allowable under a covered contract unless, within 120 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council prescribes amendments to the Federal Acquisition Regulation specifying circumstances under which such costs are allowable under a covered contract.

(2) Not later than 90 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the cost principle in the Federal Acquisition Regulation that is

set out in section 31.205–14 of title 48, Code of Federal Regulations, relating to unallowability of entertainment costs—

(A) by inserting in the cost principle a statement that costs made specifically unallowable under that cost principle are not allowable under any other cost principle; and

(B) by striking out "(but see 31.205–1 and 31.205–13)".

(b) DEFINITIONS.—In this section:

(1) The term "employee" includes officers and directors of a contractor.

(2) The term "covered contract" has the meaning given such term in section 2324(l) of title 10, United States Code (as amended by section 2101(c)), and section 306(l) of the Federal Property and Administrative Services Act of 1949 (as added by section 2151).

(c) EFFECTIVE DATE.—Any amendments to the Federal Acquisition Regulation made pursuant to subsection (a) shall apply with respect to costs incurred after the date on which the amendments made by section 2101 apply (as provided in section 10001) or the date on which the amendments made by section 2151 apply (as provided in section 10001), whichever is later.

Subtitle C—Audit and Access to Records

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2201. CONSOLIDATION AND REVISION OF AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—(1) Section 2313 of title 10, United States Code, is amended to read as follows:

"§ 2313. Examination of records of contractor

"(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of certified cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be redelegated.

"(4) The Director (or any successor official) shall submit an annual report to the Secretary of Defense on the exercise of such authority during the preceding year and the reasons why such authority was exercised in any instance. The Secretary shall forward a copy of each such report to the Committees on Armed Services of the Senate and House of Representatives.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—The head of an agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this chapter in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of the head of an agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORMS OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—The head of an agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(2) The item relating to such section in the table of sections at the beginning of chapter 137 of title 10, United States Code, is amended to read as follows:

"2313. Examination of records of contractor.".

(b) REPEAL OF SUPERSEDED PROVISION.—(1) Section 2406 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2406.

PART II—CIVILIAN AGENCY ACQUISITIONS

SEC. 2251. AUTHORITY TO EXAMINE RECORDS OF CONTRACTORS.

(a) AUTHORITY.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by sections 1072 and 1251(a), is further amended by inserting after section 304B the following new section:

41 USC 254d.

"SEC. 304C. EXAMINATION OF RECORDS OF CONTRACTOR.

"(a) AGENCY AUTHORITY.—(1) The head of an executive agency, acting through an authorized representative, is authorized to inspect the plant and audit the records of—

"(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that executive agency under this title; and

"(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

"(2) The head of an executive agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of certified cost or pricing data required to be submitted pursuant to section 304B with respect

to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(b) SUBPOENA POWER.—(1) The Inspector General of an executive agency appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) or, upon request of the head of an executive agency, the Director of the Defense Contract Audit Agency (or any successor agency) of the Department of Defense or the Inspector General of the General Services Administration may require by subpoena the production of records of a contractor, access to which is provided for that executive agency by subsection (a).

"(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

"(3) The authority provided by paragraph (1) may not be delegated.

"(4) In the year following a year in which authority provided in paragraph (1) is exercised for an executive agency, the head of the executive agency shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report on the exercise of such authority during such preceding year and the reasons why such authority was exercised in any instance.

"(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract.

"(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the executive agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required—

"(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

"(B) where the executive agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

"(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

"(d) LIMITATION ON PREAWARD AUDITS RELATING TO INDIRECT COSTS.—An executive agency may not perform a preaward audit to evaluate proposed indirect costs under any contract, subcontract, or modification to be entered into in accordance with this title

in any case in which the contracting officer determines that the objectives of the audit can reasonably be met by accepting the results of an audit conducted by any other department or agency of the Federal Government within one year preceding the date of the contracting officer's determination.

"(e) LIMITATION.—The authority of an executive agency under subsection (a), and the authority of the Comptroller General under subsection (c), with respect to a contract or subcontract shall expire three years after final payment under such contract or subcontract.

"(f) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section does not apply to the following contracts:

"(1) Contracts for utility services at rates not exceeding those established to apply uniformly to the public, plus any applicable reasonable connection charge.

"(g) FORM OF ORIGINAL RECORD STORAGE.—Nothing in this section shall be construed to preclude a contractor from duplicating or storing original records in electronic form.

"(h) USE OF IMAGES OF ORIGINAL RECORDS.—An executive agency shall not require a contractor or subcontractor to provide original records in an audit carried out pursuant to this section if the contractor or subcontractor provides photographic or electronic images of the original records and meets the following requirements:

"(1) The contractor or subcontractor has established procedures to ensure that the imaging process preserves the integrity, reliability, and security of the original records.

"(2) The contractor or subcontractor maintains an effective indexing system to permit timely and convenient access to the imaged records.

"(3) The contractor or subcontractor retains the original records for a minimum of one year after imaging to permit periodic validation of the imaging systems.

"(i) RECORDS DEFINED.—In this section, the term 'records' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254) is amended by striking out subsection (c).

Subtitle D—Claims and Disputes

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2301. CERTIFICATION OF CONTRACT CLAIMS.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2409a the following new section 2410:

"§ 2410. Requests for equitable adjustment or other relief: certification

"(a) CERTIFICATION REQUIREMENT.—A request for equitable adjustment to contract terms or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceeds the simplified acquisition threshold may not be paid unless a person authorized to certify the request on behalf of the contractor certifies, at the time the request is submitted, that—

"(1) the request is made in good faith, and

"(2) the supporting data are accurate and complete to the best of that person's knowledge and belief.

"(b) RESTRICTION ON LEGISLATIVE PAYMENT OF CLAIMS.—In the case of a contract of an agency named in section 2303(a) of this title, no provision of a law enacted after September 30, 1994, that directs the payment of a particular claim under such contract, a particular request for equitable adjustment to any term of such contract, or a particular request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) regarding such contract may be implemented unless such provision of law—

"(1) specifically refers to this subsection; and

"(2) specifically states that this subsection does not apply with respect to the payment directed by that provision of law.

"(c) DEFINITION.—In this section, the term 'simplified acquisition threshold' has the meaning given that term in section 4(11) of the Office of Federal Procurement Policy Act.".

(b) REPEAL OF RELATED PROVISION.—Section 2410e of title 10, United States Code, is repealed.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 141 of such title is amended—

(A) by striking out the items relating to sections 2410 and 2410e; and

(B) by inserting after the item relating to section 2409a the following:

"2410. Requests for equitable adjustment or other relief: certification.".

SEC. 2302. SHIPBUILDING CLAIMS.

(a) INCREASE IN TIME PERIOD DURING WHICH ADJUSTMENTS TO SHIPBUILDING CLAIMS MAY BE MADE.—Section 2405 of title 10, United States Code, is amended in subsection (a)—

(1) by striking out "entered into after December 7, 1983,"; and

(2) by striking out "occurring more than 18 months before the submission of the claim, request, or demand." and inserting in lieu thereof the following: "that—

"(1) in the case of a contract entered into after December 7, 1983, and before the date of the enactment of the Federal Acquisition Streamlining Act of 1994, occurred more than 18 months before the submission of the claim, request, or demand; and

"(2) in the case of a contract entered into on or after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, occurred more than 6 years before the submission of the claim, request, or demand.".

(b) RESUBMISSION WITH CORRECTED CERTIFICATION.—Subsection (c) of such section is amended by adding at the end the following:

"(4) This subsection applies only with respect to a claim, request, or demand submitted before the effective date of this paragraph.".

(c) APPLICABILITY.—Paragraphs (1) and (2) of section 2405(a) of title 10, United States Code, as added by subsection (a)(2), shall apply according to the provisions thereof on and after the date of the enactment of this Act, notwithstanding section 10001(b). 10 USC 2405 note.

PART II—ACQUISITIONS GENERALLY

SEC. 2351. CONTRACT DISPUTES ACT IMPROVEMENTS.

(a) PERIOD FOR FILING CLAIMS.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) is amended in subsection (a) by inserting after the second sentence the following: "Each claim by a contractor against the government relating to a contract and each claim by the government against a contractor relating to a contract shall be submitted within 6 years after the accrual of the claim. The preceding sentence does not apply to a claim by the government against a contractor that is based on a claim by the contractor involving fraud.".

41 USC 605 note.

(2) Notwithstanding the third sentence of section 6(a) of the Contract Disputes Act of 1978, as added by paragraph (1), if a contract in existence on the date of the enactment of this Act requires that a claim referred to in that sentence be submitted earlier than 6 years after the accrual of the claim, then the claim shall be submitted within the period required by the contract. The preceding sentence does not apply to a claim by the Federal Government against a contractor that is based on a claim by the contractor involving fraud.

(b) INCREASED THRESHOLD FOR CERTIFICATION, DECISION, AND NOTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) INCREASED MAXIMUM FOR APPLICABILITY OF ACCELERATED PROCEDURES.—Section 8(f) of the Contract Disputes Act of 1978 (41 U.S.C. 607(f)) is amended by striking out "$50,000" in the first sentence and inserting in lieu thereof "$100,000".

(d) INCREASED MAXIMUM FOR APPLICABILITY OF SMALL CLAIMS PROCEDURE.—Section 9(a) of the Contract Disputes Act of 1978 (41 U.S.C. 608(a)) is amended by striking out "$10,000" in the first sentence and inserting in lieu thereof "$50,000".

(e) REQUESTS FOR ISSUANCE OF DECISIONS.—Paragraph (4) of section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(1) by striking out "agency board of contract appeals" and inserting in lieu thereof "tribunal concerned"; and

(2) by striking out "board," and inserting in lieu thereof "tribunal concerned,".

SEC. 2352. EXTENSION OF ALTERNATIVE DISPUTE RESOLUTION AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Section 6(e) of the Contracts Disputes Act of 1978 (41 U.S.C. 605(e)) is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1999".

(b) AVAILABILITY OF PROCEDURES TO SMALL BUSINESS GOVERNMENT CONTRACTORS.—Section 6(e) of such Act is amended by inserting after the first sentence the following: "In any case in which the contracting officer rejects a contractor's request for alternative dispute resolution proceedings, the contracting officer shall provide the contractor with a written explanation, citing one or more of the conditions in section 572(b) of title 5, United States Code, or such other specific reasons that alternative dispute resolution procedures are inappropriate for the resolution of the dispute. In any case in which a contractor rejects a request of an agency

for alternative dispute resolution proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.".

SEC. 2353. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION MATTERS. 15 USC 644 note.

(a) REGULATIONS REQUIRED.—(1) The Federal Acquisition Regulation shall include provisions that require a contracting officer—

(A) to make every reasonable effort to respond in writing within 30 days to any written request made to a contracting officer with respect to a matter relating to the administration of a contract that is received from a small business concern; and

(B) in the event that the contracting officer is unable to reply within the 30-day period, to transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

(2) The provisions shall not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be considered as creating any rights under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

(c) DEFINITION.—In this section, the term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to that section.

SEC. 2354. AUTHORITY FOR DISTRICT COURTS TO OBTAIN ADVISORY OPINIONS FROM BOARDS OF CONTRACT APPEALS IN CERTAIN CASES.

Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended by adding at the end the following new paragraph:

"(f)(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

"(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this Act.

"(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this Act to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

"(4) After receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion in a timely manner to the district court making the request.".

Subtitle E—Miscellaneous

PART I—ARMED SERVICES ACQUISITIONS

SEC. 2401. CLARIFICATION OF PROVISION RELATING TO QUALITY CONTROL OF CERTAIN SPARE PARTS.

The second sentence of subsection (a) of section 2383 of title 10, United States Code, is amended to read as follows: "In establishing the appropriate qualification requirements, the Secretary of Defense shall use the Department of Defense qualification requirements that were used to qualify the original production part unless the Secretary determines in writing—

"(1) that there are other requirements sufficiently similar to those requirements that should be used instead; or

"(2) that any or all such requirements are unnecessary.".

SEC. 2402. CONTRACTOR GUARANTEES REGARDING WEAPON SYSTEMS.

(a) REPEAL OF REQUIREMENT FOR REPORT ON WAIVERS.—Subsection (e) of section 2403 of title 10, United States Code, is amended—

(1) by striking out "(1)"; and

(2) by striking out paragraph (2).

(b) PROVISIONS TO BE ADDRESSED BY REGULATIONS.—Subsection (h) of such section is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The regulations shall include the following:

"(A) Guidelines for negotiating contractor guarantees that are reasonable and cost effective, as determined on the basis of the likelihood of defects and the estimated cost of correcting such defects.

"(B) Procedures for administering contractor guarantees.

"(C) Guidelines for determining the cases in which it may be appropriate to waive the requirements of this section.".

PART II—ACQUISITIONS GENERALLY

SEC. 2451. SECTION 3737 OF THE REVISED STATUTES: EXPANSION OF AUTHORITY TO PROHIBIT SETOFFS AGAINST ASSIGNEES; REORGANIZATION OF SECTION; REVISION OF OBSOLETE PROVISIONS.

Section 3737 of the Revised Statutes (41 U.S.C. 15) is amended to read as follows:

"SEC. 3737. (a) No contract or order, or any interest therein, shall be transferred by the party to whom such contract or order is given to any other party, and any such transfer shall cause the annulment of the contract or order transferred, so far as the United States is concerned. All rights of action, however, for any breach of such contract by the contracting parties, are reserved to the United States.

"(b) The provisions of subsection (a) shall not apply in any case in which the moneys due or to become due from the United States or from any agency or department thereof, under a contract providing for payments aggregating $1,000 or more, are assigned to a bank, trust company, or other financing institution, including any Federal lending agency, provided:

"(1) That, in the case of any contract entered into after October 9, 1940, no claim shall be assigned if it arises under a contract which forbids such assignment.

"(2) That, unless otherwise expressly permitted by such contract, any such assignment shall cover all amounts payable under such contract and not already paid, shall not be made to more than one party, and shall not be subject to further assignment, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing.

"(3) That, in the event of any such assignment, the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of the assignment with—

"(A) the contracting officer or the head of his department or agency;

"(B) the surety or sureties upon the bond or bonds, if any, in connection with such contract; and

"(C) the disbursing officer, if any, designated in such contract to make payment.

"(c) Notwithstanding any law to the contrary governing the validity of assignments, any assignment pursuant to this section shall constitute a valid assignment for all purposes.

"(d) In any case in which moneys due or to become due under any contract are or have been assigned pursuant to this section, no liability of any nature of the assignor to the United States or any department or agency thereof, whether arising from or independently of such contract, shall create or impose any liability on the part of the assignee to make restitution, refund, or repayment to the United States of any amount heretofore since July 1, 1950, or hereafter received under the assignment.

"(e) Any contract of the Department of Defense, the General Services Administration, the Department of Energy, or any other department or agency of the United States designated by the President, except any such contract under which full payment has been made, may, upon a determination of need by the President, provide or be amended without consideration to provide that payments to be made to the assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff. Each such determination of need shall be published in the Federal Register.

"(f) If a provision described in subsection (e) or a provision to the same general effect has been at any time heretofore or is hereafter included or inserted in any such contract, payments to be made thereafter to an assignee of any moneys due or to become due under such contract shall not be subject to reduction or setoff for any liability of any nature of the assignor to the United States or any department or agency thereof which arises independently of such contract, or hereafter for any liability of the assignor on account of—

"(1) renegotiation under any renegotiation statute or under any statutory renegotiation article in the contract;

"(2) fines;

"(3) penalties (which term does not include amounts which may be collected or withheld from the assignor in accordance with or for failure to comply with the terms of the contract); or

"(4) taxes, social security contributions, or the withholding or non withholding of taxes or social security contributions, whether arising from or independently of such contract.

"(g) Except as herein otherwise provided, nothing in this section shall be deemed to affect or impair rights of obligations heretofore accrued.".

SEC. 2452. REPEAL OF REQUIREMENT FOR DEPOSIT OF CONTRACTS WITH GAO.

Section 3743 of the Revised Statutes (41 U.S.C. 20) is repealed.

SEC. 2453. REPEAL OF OBSOLETE DEADLINE REGARDING PROCEDURAL REGULATIONS FOR THE COST ACCOUNTING STANDARDS BOARD.

Section 26(f)(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(3)) is amended in the first sentence by striking out "Not later than 180 days after the date of the enactment of this section, the Administrator" and inserting in lieu thereof "The Administrator".

SEC. 2454. CODIFICATION OF ACCOUNTING REQUIREMENT FOR CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

(a) FUNDING TO BE IDENTIFIED IN BUDGET.—Section 1105 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

"(2)(A) In paragraph (1), except as provided in subparagraph (B), the term 'advisory and assistance services' means the following services when provided by nongovernmental sources:

"(i) Management and professional support services.

"(ii) Studies, analyses, and evaluations.

"(iii) Engineering and technical services.

"(B) In paragraph (1), the term 'advisory and assistance services' does not include the following services:

"(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

"(ii) Architectural and engineering services, as defined in section 901 of the Brooks Architect-Engineers Act (40 U.S.C. 541).

"(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.".

(b) REPEAL OF SOURCE LAW.—Section 512 of Public Law 102-394 (106 Stat. 1826) is repealed.

31 USC 1105 note.

(c) REPEAL OF SUPERSEDED PROVISIONS.—(1) Section 2212 of title 10, United States Code, is repealed.

(2) Section 1114 of title 31, United States Code, is repealed.

(3)(A) The table of sections at the beginning of chapter 131 of title 10, United States Code, is amended by striking out the item relating to section 2212.

(B) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

SEC. 2455. UNIFORM SUSPENSION AND DEBARMENT.

31 USC 6101 note.

(a) REQUIREMENT FOR REGULATIONS.—Regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order No. 12549, shall have government-wide effect. No agency shall allow a party to participate in any procurement or nonprocurement activity if any agency has debarred, suspended, or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in a procurement or nonprocurement activity.

(b) AUTHORITY TO GRANT EXCEPTION.—The regulations issued pursuant to subsection (a) shall provide that an agency may grant an exception permitting a debarred, suspended, or otherwise excluded party to participate in procurement activities of that agency to the extent exceptions are authorized under the Federal Acquisition Regulation, or to participate in nonprocurement activities of that agency to the extent exceptions are authorized under regulations issued pursuant to Executive Order No. 12549.

(c) DEFINITIONS.—In this section:

(1) The term "procurement activities" means all acquisition programs and activities of the Federal Government, as defined in the Federal Acquisition Regulation.

(2) The term "nonprocurement activities" means all programs and activities involving Federal financial and nonfinancial assistance and benefits, as covered by Executive Order No. 12549 and the Office of Management and Budget guidelines implementing that order.

(3) The term "agency" means an Executive agency as defined in section 103 of title 5, United States Code.

TITLE III—SERVICE SPECIFIC AND MAJOR SYSTEMS STATUTES

Subtitle A—Major Systems Statutes

SEC. 3001. WEAPON DEVELOPMENT AND PROCUREMENT SCHEDULES.

(a) DEADLINE AND PURPOSE.—Subsection (a) of section 2431 of title 10, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "at the same time" and inserting in lieu thereof "not later than 45 days after"; and

(B) by striking out "a written report" and inserting in lieu thereof "budget justification documents"; and

(2) in the second and third sentences, by striking out "report" and inserting in lieu thereof "documents".

(b) ADDITIONAL MATTERS TO BE INCLUDED.—Subsection (b) of such section is amended—

(1) by striking out "include—" and inserting in lieu thereof "include each of the following:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1), (2), and (3);

(3) by striking out the semicolon at the end of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by amending paragraph (4) to read as follows:

"(4)(A) The most efficient production rate, the most efficient acquisition rate, and the minimum sustaining rate, consistent with the program priority established for such weapon system by the Secretary concerned.

"(B) In this paragraph:

"(i) The term 'most efficient production rate' means the maximum rate for each budget year at which the weapon system can be produced with existing or planned plant capacity and tooling, with one shift a day running for eight hours a day and five days a week.

"(ii) The term 'minimum sustaining rate' means the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.".

SEC. 3002. SELECTED ACQUISITION REPORT REQUIREMENT.

(a) DEFINITION OF PROCUREMENT UNIT COST.—(1) Paragraph (2) of section 2432(a) of title 10, United States Code, is amended—

(A) in clause (A), by striking out "for a fiscal year" and all that follows through "such program in such fiscal year";

(B) in clause (B), by striking out "with such funds during such fiscal year." and inserting in lieu thereof a period; and

(C) by striking out the last sentence.

(2) Section 2433 of such title is amended—

(A) in subparagraph (B) of subsection (c)(1), by striking out "current" before "procurement unit cost";

(B) in subsection (d), by striking out "current" before "procurement unit cost" each place it appears; and

(C) in subsection (e), by striking out "current" before "procurement unit cost" both places it appears.

(b) EXCLUSION OF FIRM, FIXED-PRICE CONTRACTS.—Subsection (a) of section 2432 of such title is amended in paragraph (3) by inserting before the period at the end the following: "and that is not a firm, fixed price contract".

(c) DEFINITION OF FULL LIFE-CYCLE COST.—Such subsection is further amended in paragraph (4) by striking out "has the meaning" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "means all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control.".

(d) NOTICE OF PROPOSED CHANGES IN SAR.—Subsection (c) of such section is amended in paragraph (2) by striking out the second sentence and inserting in lieu thereof the following: "Whenever the Secretary of Defense proposes to make changes in the content of a Selected Acquisition Report, the Secretary shall submit a notice of the proposed changes to such committees. The changes shall be considered approved by the Secretary, and may be incorporated into the report, only after the end of the 60-day period beginning on the date on which the notice is received by those committees.".

(e) ELIMINATION OF CERTAIN SAR REQUIREMENTS.—Such subsection is further amended in paragraph (3) by striking out subparagraph (C).

(f) UNIFORM IMPLEMENTATION OF LIFE-CYCLE COST ANALYSIS.—Such subsection is further amended—

(1) by striking out paragraph (5); and

(2) by adding at the end of subparagraph (A) of paragraph (3) the following: "The Secretary of Defense shall ensure that this subparagraph is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(g) ELIMINATION OF PRELIMINARY REPORT.—Subsection (f) of such section is amended by striking out the second sentence.

(h) TERMINOLOGY CORRECTIONS.—Such section is further amended as follows:

(1) Subsection (b)(3)(A) is amended by striking out "full scale development or" in clause (i).

(2) Subsection (c)(3) is amended by striking out "full-scale engineering" in subparagraph (A) and inserting in lieu thereof "engineering and manufacturing".

(3) Subsection (h)(1) is amended by striking out "full-scale engineering" both places it appears and inserting in lieu thereof "engineering and manufacturing".

SEC. 3003. UNIT COST REPORT REQUIREMENT.

(a) REVISION OF BASELINE REPORT DEFINITIONS.—(1) Section 2433(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking out "Baseline Selected Acquisition Report" and inserting in lieu thereof "Baseline Estimate"; and

(ii) by striking out "Selected Acquisition Report in which" and all that follows through the end of the paragraph and inserting in lieu thereof "cost estimate included in the baseline description for the program under section 2435 of this title."; and

(B) by striking out paragraph (4).

(2) Section 2433 of such title is further amended—

(A) in subsection (c)(1), by striking out "Baseline Report" in subparagraphs (A) and (B) and inserting in lieu thereof "Baseline Estimate"; and

(B) in subsection (d), by striking out "Baseline Report" in paragraphs (1) and (2) and inserting in lieu thereof "Baseline Estimate".

(b) CONTENTS OF UNIT COST REPORT.—Section 2433(b) of such title is amended in paragraph (3) by striking out "Baseline Report was submitted." and inserting in lieu thereof "contract was entered into.".

(c) ELIMINATION OF CERTAIN UNIT COST REPORT REQUIREMENT.—Section 2433(c) of such title, as amended by subsection (a), is further amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) CONSTANT BASE YEAR DOLLARS.—Section 2433(f) of such title is amended by striking out "include expected inflation" and inserting in lieu thereof "be stated in terms of constant base year dollars (as described in section 2430 of this title)".

(e) CONTENTS OF SAR.—Subparagraph (I) of section 2433(g)(1) of such title is amended to read as follows:

"(I) The type of the Baseline Estimate that was included in the baseline description under section 2435 of this title and the date of the Baseline Estimate.".

SEC. 3004. REQUIREMENT FOR INDEPENDENT COST ESTIMATE AND MANPOWER ESTIMATE BEFORE DEVELOPMENT OR PRODUCTION.

(a) CONTENT AND SUBMISSION OF ESTIMATES.—Subsection (b) of section 2434 of title 10, United States Code, is amended to read as follows:

"(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the content and submission of the estimates required by subsection (a). The regulations shall require—

"(1) that the independent estimate of the full life-cycle cost of a program—

"(A) be prepared by an office or other entity that is not under the supervision, direction, or control of the military department, Defense Agency, or other component of the Department of Defense that is directly responsible for carrying out the development or acquisition of the program; and

"(B) include all costs of development, procurement, military construction, and operations and support, without regard to funding source or management control; and

"(2) that the manpower estimate include an estimate of the total number of personnel required—

"(A) to operate, maintain, and support the program upon full operational deployment; and

"(B) to train personnel to carry out the activities referred to in subparagraph (A).".

(b) TERMINOLOGY CORRECTION, ETC.—Subsection (a) of such section is amended—

(1) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development"; and

(2) by striking out "cost of the program, together with a manpower estimate, has" and inserting in lieu thereof "full life-cycle cost of the program and a manpower estimate for the program have".

SEC. 3005. BASELINE DESCRIPTION.

(a) IN GENERAL.—Section 2435 of title 10, United States Code, is amended to read as follows:

"§ 2435. Baseline description

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for each major defense acquisition program under the jurisdiction of such Secretary.

"(2) The baseline shall include sufficient parameters to describe the cost estimate (referred to as the 'Baseline Estimate' in section 2433 of this title), schedule, performance, supportability, and any other factor of such major defense acquisition program.

"(b) FUNDING LIMIT.—No amount appropriated or otherwise made available to the Department of Defense for carrying out a major defense acquisition program may be obligated after the program enters engineering and manufacturing development without an approved baseline description unless such obligation is

specifically approved by the Under Secretary of Defense for Acquisition and Technology.

"(c) SCHEDULE.—A baseline description for a major defense acquisition program shall be prepared under this section—

"(1) before the program enters demonstration and validation;

"(2) before the program enters engineering and manufacturing development; and

"(3) before the program enters production and deployment.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the following:

"(1) The content of baseline descriptions under this section.

"(2) The submission to the Secretary of the military department concerned and the Under Secretary of Defense for Acquisition and Technology by the program manager for a program for which there is an approved baseline description under this section of reports of deviations from the baseline of the cost, schedule, performance, supportability, or any other factor of the program.

"(3) Procedures for review of such deviation reports within the Department of Defense.

"(4) Procedures for submission to, and approval by, the Secretary of Defense of revised baseline descriptions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by amending the item relating to section 2435 to read as follows:

"2435. Baseline description.".

SEC. 3006. REPEAL OF REQUIREMENT FOR COMPETITIVE PROTOTYPING FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2438 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2438.

SEC. 3007. REPEAL OF REQUIREMENT FOR COMPETITIVE ALTERNATIVE SOURCES FOR MAJOR PROGRAMS.

(a) REPEAL.—Section 2439 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by striking out the item relating to section 2439.

Subtitle B—Testing Statutes

SEC. 3011. AUTHORITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION TO COMMUNICATE VIEWS DIRECTLY TO SECRETARY OF DEFENSE.

Section 139(c) of title 10, United States Code, is amended by inserting after "(c)" the following: "The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.".

SEC. 3012. RESPONSIBILITY OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION FOR LIVE FIRE TESTING.

(a) OVERSIGHT OF LIVE FIRE TESTING.—Subsection (b) of section 139 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(6) monitor and review the live fire testing activities of the Department of Defense provided for under section 2366 of this title.".

(b) ANNUAL REPORT ON LIVE FIRE TESTING.—Subsection (f) of such section is amended by inserting "(including live fire testing activities)" in the first sentence after "operational test and evaluation activities".

SEC. 3013. REQUIREMENT FOR UNCLASSIFIED VERSION OF ANNUAL REPORT ON OPERATIONAL TEST AND EVALUATION.

Section 139(f) of title 10, United States Code, is amended by inserting after the second sentence the following new sentence: "If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.".

SEC. 3014. SURVIVABILITY AND LETHALITY TESTING.

(a) IN GENERAL.—Section 2366(c) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3) and in that paragraph by striking out "such certification" and inserting in lieu thereof "certification under paragraph (1) or (2)"; and

(3) by inserting before paragraph (3) (as so designated) the following new paragraph:

"(2) In the case of a covered system (or covered product improvement program for a covered system), the Secretary may waive the application of the survivability and lethality tests of this section to such system or program and instead allow testing of the system or program in combat by firing munitions likely to be encountered in combat at components, subsystems, and subassemblies, together with performing design analyses, modeling and simulation, and analysis of combat data. Such alternative testing may not be carried out in the case of any covered system (or covered product improvement program for a covered system) unless the Secretary certifies to Congress, before the system or program enters engineering and manufacturing development, that the survivability and lethality testing of such system or program otherwise required by this section would be unreasonably expensive and impracticable.".

(b) TERMINOLOGY CORRECTION.—Section 2366(c)(1) of such title is amended by striking out "full-scale engineering development" in the first sentence and inserting in lieu thereof "engineering and manufacturing development".

SEC. 3015. LIMITATION ON QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.

Section 2400(a) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "this section"; and

(B) by striking out "full-scale engineering development" and inserting in lieu thereof "engineering and manufacturing development";

(2) by redesignating paragraph (4) as paragraph (5) and in that paragraph by inserting after the first sentence the following: "If the quantity exceeds 10 percent of the total number of articles to be produced, as determined at the milestone II decision with respect to that system, the Secretary shall include in the statement the reasons for such quantity."; and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4) The quantity of articles of a major system that may be procured for low-rate initial production may not be less than one operationally configured production unit unless another quantity is established at the milestone II decision.".

Subtitle C—Service Specific Laws

SEC. 3021. GRATUITOUS SERVICES OF OFFICERS OF CERTAIN RESERVE COMPONENTS.

(a) ACCEPTANCE BY SECRETARY OF DEFENSE.—Section 10212 of title 10, United States Code, is amended—

(1) by designating the text as subsection (b); and

(2) by inserting before such subsection the following new subsection:

"(a) Notwithstanding section 1342 of title 31, the Secretary of Defense may accept the gratuitous services of an officer of a reserve component (other than an officer of the Army National Guard of the United States or the Air National Guard of the United States) in consultation upon matters relating to the armed forces.".

(b) EFFECTIVE DATE.—Notwithstanding section 10001, the amendments made by subsection (a) shall take effect on December 1, 1994, immediately after the amendments made by the Reserve Officer Personnel Management Act. 10 USC 10212 note.

SEC. 3022. AUTHORITY TO RENT SAMPLES, DRAWINGS, AND OTHER INFORMATION TO OTHERS.

Subsection (a) of section 2539b of title 10, United States Code, as redesignated by section 1070(a)(13)(A) of the National Defense Authorization Act for Fiscal Year 1995, is amended by inserting "rent," after "sell," each place it appears in paragraphs (1) and (2).

SEC. 3023. REPEAL OF APPLICATION OF PUBLIC CONTRACTS ACT TO CERTAIN NAVAL VESSEL CONTRACTS.

(a) REPEAL.—Section 7299 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7299.

SEC. 3024. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF VESSELS ON PACIFIC COAST.

(a) REPEAL.—Section 7302 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 633 of such title is amended by striking out the item relating to section 7302.

SEC. 3025. SCIENTIFIC INVESTIGATION AND RESEARCH FOR THE NAVY.

(a) REPEAL.—Section 7203 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7203.

Subtitle D—Civil Reserve Air Fleet

SEC. 3031. DEFINITIONS.

(a) CONTRACTOR DEFINED.—Section 9511(8) of title 10, United States Code, is amended—

(1) in clause (A)—

(A) by inserting "under section 9512 of this title" after "and who contracts with the Secretary"; and

(B) by striking out "or" at the end; and

(2) by inserting before the period at the end the following: ", or (C) who owns or controls, or will own or control, new or existing aircraft and who, by contract, commits some or all of such aircraft to the Civil Reserve Air Fleet".

(b) OTHER DEFINITIONS.—Section 9511 of such title is further amended—

(1) in paragraph (1)—

(A) by inserting "'civil aircraft'," before "'person',";

(B) by striking out "meaning" and inserting in lieu thereof "meanings"; and

(C) by striking out "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and inserting in lieu thereof "section 40102 of title 49";

(2) by striking out paragraph (6);

(3) by redesignating paragraphs (7), (8), (9), (10), (11), and (12) as paragraphs (6), (7), (8), (9), (10), and (11), respectively; and

(4) in paragraph (11), as so redesignated—

(A) by striking out "interoperability" and inserting in lieu thereof "compatibility"; and

(B) by inserting "an aeromedical aircraft or" before "a cargo-convertible,".

(c) TECHNICAL CORRECTION.—Such section is amended by striking out "In this subchapter:" and inserting in lieu thereof "In this chapter:".

SEC. 3032. CONSOLIDATION OF PROVISIONS RELATING TO CONTRACTUAL COMMITMENT OF AIRCRAFT.

Chapter 931 of title 10, United States Code, is amended—

(1) in subsection (a) of section 9512, by inserting "AUTHORITY TO CONTRACT.—" after "(a)";

(2) in subsection (c) of section 9512, by striking out "(c)" and inserting in lieu thereof "(d) AUTHORITY TO CONTRACT AND PAY DIRECTLY.—";

(3) in subsection (b) of section 9512, by striking out "(b)" and inserting in lieu thereof "(c) TERMS AND REQUIRED REPAYMENT.—";

(4) by redesignating subsection (a) of section 9513 as subsection (b), transferring such subsection (as so redesignated) to section 9512, and inserting such subsection after subsection (a);

(5) by redesignating subsection (b) of section 9513 as subsection (e) and transferring such subsection (as so redesignated) to the end of section 9512;

(6) in subsection (b) of section 9512, as redesignated and transferred to such section by paragraph (4)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(B) by inserting "COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(b)";

(7) in subsection (c) of section 9512, as redesignated by paragraph (3), by striking out "the terms required by section 9513 of this title and";

(8) in subsection (e) of section 9512, as redesignated and transferred to such section by paragraph (5)—

(A) by striking out "under section 9512 of this title" and inserting in lieu thereof "entered into under this section"; and

(B) by inserting "EXCLUSIVITY OF COMMITMENT TO CIVIL RESERVE AIR FLEET.—" after "(e)"; and

(9) by striking out the heading of section 9513.

SEC. 3033. USE OF MILITARY INSTALLATIONS BY CONTRACTORS.

(a) AUTHORITY.—Chapter 931 of title 10, United States Code, as amended by section 3022, is further amended by adding at the end the following new section 9513:

"§ 9513. Use of military installations by Civil Reserve Air Fleet contractors

"(a) CONTRACT AUTHORITY.—(1) The Secretary of the Air Force—

"(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and

"(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.

"(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.

"(b) PURPOSES OF USE.—A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation

within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.

"(c) DISPOSITION OF PAYMENTS FOR USE.—Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.

"(d) HOLD HARMLESS REQUIREMENT.—A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.

"(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR.—A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 9513 and inserting in lieu thereof the following:

"9513. Use of military installations by Civil Reserve Air Fleet contractors.".

Subtitle E—Miscellaneous

SEC. 3061. REGULATIONS ON PROCUREMENT, PRODUCTION, WAREHOUSING, AND SUPPLY DISTRIBUTION FUNCTIONS.

(a) IN GENERAL.—Section 2202 of title 10, United States Code, is amended to read as follows:

"§ 2202. Regulations on procurement, production, warehousing, and supply distribution functions

"The Secretary of Defense shall prescribe regulations governing the performance within the Department of Defense of the procurement, production, warehousing, and supply distribution functions, and related functions, of the Department of Defense.".

(b) CLERICAL AMENDMENT.—The item relating to section 2202 in the table of sections at the beginning of chapter 131 of such title is amended to read as follows:

"2202. Regulations on procurement, production, warehousing, and supply distribution functions.".

SEC. 3062. REPEAL OF REQUIREMENTS REGARDING PRODUCT EVALUATION ACTIVITIES.

(a) REPEAL.—Section 2369 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 139 of such title is amended by striking out the item related to section 2369.

SEC. 3063. DEPARTMENT OF DEFENSE ACQUISITION OF INTELLECTUAL PROPERTY RIGHTS.

Section 2386 of title 10, United States Code, is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) Technical data and computer software.

"(4) Releases for past infringement of patents or copyrights or for unauthorized use of technical data or computer software.".

SEC. 3064. LIQUID FUELS AND NATURAL GAS: CONTRACTS FOR STORAGE, HANDLING, OR DISTRIBUTION.

Section 2388(a) of title 10, United States Code, is amended by striking out "liquid fuels and natural gas" and inserting in lieu thereof "liquid fuels or natural gas".

SEC. 3065. CODIFICATION AND REVISION OF LIMITATION ON LEASE OF VESSELS, AIRCRAFT, AND VEHICLES.

(a) LIMITATION.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2401 the following new section:

"§ 2401a. Lease of vessels, aircraft, and vehicles

"The Secretary of Defense or the Secretary of a military department may not enter into any contract with a term of 18 months or more, or extend or renew any contract for a term of 18 months or more, for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement, unless the Secretary has considered all costs of such contract (including estimated termination liability) and has determined in writing that the contract is in the best interest of the Government.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2401 the following new item:

"2401a. Lease of vessels, aircraft, and vehicles.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 9081 of Public Law 101-165 (103 Stat. 1147; 10 U.S.C. 2401 note) is repealed.

SEC. 3066. SOFT DRINK SUPPLIES.

Section 2424 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Paragraphs (1) and (2) of subsection (b) do not apply to contracts for the procurement of soft drinks that are manufactured in the United States. The Secretary of Defense shall prescribe in regulations the standards and procedures for determining whether a particular drink is a soft drink and whether the drink was manufactured in the United States.".

SEC. 3067. DISBURSEMENT OF FUNDS OF MILITARY DEPARTMENT TO COVER OBLIGATIONS OF ANOTHER AGENCY OF DEPARTMENT OF DEFENSE.

Subsection (c)(2) of section 3321 of title 31, United States Code, is amended by striking out "military departments of the" and inserting in lieu thereof "The".

TITLE IV—SIMPLIFIED ACQUISITION THRESHOLD

Subtitle A—Establishment of Threshold

SEC. 4001. SIMPLIFIED ACQUISITION THRESHOLD DEFINED.

Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) is amended to read as follows:

"(11) The term 'simplified acquisition threshold' means $100,000.".

SEC. 4002. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD FOR ARMED SERVICES.

(a) ESTABLISHMENT IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302 the following new sections:

"§ 2302a. Simplified acquisition threshold

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by agencies named in section 2303 of this title, the simplified acquisition threshold is as specified in section 4(11) of the Office of Federal Procurement Policy Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302 the following new item:

"2302a. Simplified acquisition threshold.".

SEC. 4003. ESTABLISHMENT OF SIMPLIFIED ACQUISITION THRESHOLD FOR CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302 the following new section:

41 USC 252a.

"SEC. 302A. SIMPLIFIED ACQUISITION THRESHOLD.

"(a) SIMPLIFIED ACQUISITION THRESHOLD.—For purposes of acquisitions by executive agencies, the simplified acquisition threshold is as specified in section 4(11) of the Office of Federal Procurement Policy Act.".

SEC. 4004. SMALL BUSINESS RESERVATION.

Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended to read as follows:

"(j)(1) Each contract for the purchase of goods and services that has an anticipated value greater than $2,500 but not greater than $100,000 shall be reserved exclusively for small business concerns unless the contracting officer is unable to obtain offers from two or more small business concerns that are competitive with market prices and are competitive with regard to the quality and delivery of the goods or services being purchased.

"(2) In carrying out paragraph (1), a contracting officer shall consider a responsive offer timely received from an eligible small business offeror.

"(3) Nothing in paragraph (1) shall be construed as precluding an award of a contract with a value not greater than $100,000 under the authority of subsection (a) of section 8 of this Act, section 2323 of title 10, United States Code, section 712 of the

Business Opportunity Development Reform Act of 1988 (Public Law 100–656; 15 U.S.C. 644 note), or section 7102 of the Federal Acquisition Streamlining Act of 1994.".

Subtitle B—Inapplicability of Laws to Acquisitions at or Below the Simplified Acquisition Threshold

SEC. 4101. LIST OF INAPPLICABLE LAWS IN FEDERAL ACQUISITION REGULATION.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"SEC. 33. LIST OF LAWS INAPPLICABLE TO CONTRACTS NOT GREATER THAN THE SIMPLIFIED ACQUISITION THRESHOLD IN FEDERAL ACQUISITION REGULATION.

41 USC 429.

"(a) LIST OF INAPPLICABLE PROVISIONS OF LAW.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to such contracts or subcontracts (as the case may be) by an executive agency. Nothing in this section shall be construed to render inapplicable to contracts and subcontracts in amounts not greater than the simplified acquisition threshold any provision of law that is not included on such list.

"(2) A provision of law described in subsection (b) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall be included on the list of inapplicable provisions of law required by paragraph (1), unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts or subcontracts in amounts not greater than the simplified acquisition threshold from the applicability of the provision.

"(b) COVERED LAW.—A provision of law referred to in subsection (a)(2) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

"(1) provides for criminal or civil penalties; or

"(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts or subcontracts in amounts not greater than the simplified acquisition threshold.

"(c) PETITION.—In the event that a provision of law described in subsection (b) is not included on the list of inapplicable provisions of law as required by subsection (a), and no written determination has been made by the Federal Acquisition Regulatory Council pursuant to subsection (a)(2), a person may petition the Administrator for Federal Procurement Policy to take appropriate action. The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of

law unless the Federal Acquisition Regulatory Council makes a determination pursuant to subsection (a)(2) within 60 days after the date on which the petition is received.".

SEC. 4102. ARMED SERVICES ACQUISITIONS.

(a) LIST OF INAPPLICABLE LAWS IN FAR.—Section 2302a of title 10, United States Code, as added by section 4002, is amended by adding at the end the following:

"(b) INAPPLICABLE LAWS.—No law properly listed in the Federal Acquisition Regulation pursuant to section 33 of the Office of Federal Procurement Policy Act shall apply to or with respect to a contract or subcontract that is not greater than the simplified acquisition threshold.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, is amended by adding at the end the following: "This subsection does not apply to a contract that is for an amount not greater than the simplified acquisition threshold.".

(c) INAPPLICABILITY OF AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 2313 of title 10, United States Code, as amended by section 2201, is further amended by adding at the end of subsection (f) the following:

"(2) A contract or subcontract that is for an amount not greater than the simplified acquisition threshold.".

(d) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Section 2384(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The regulations prescribed pursuant to paragraph (1) do not apply to a contract for an amount not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(e) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, is amended in the second sentence by striking out "above" and all that follows and inserting in lieu thereof "greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(f) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 2402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract that is for an amount not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).".

(g) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Section 2408(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The prohibition in paragraph (1) does not apply with respect to the following:

"(A) A contract referred to in subparagraph (A), (B), (C), or (D) of such paragraph that is not greater than the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(C) A subcontract referred to in such subparagraph that is under a contract described in subparagraph (A).".

(h) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) The regulations prescribed pursuant to subsection (a) shall not apply to a contract that is for an amount not greater than the simplified acquisition threshold.".

(i) INAPPLICABILITY OF MISCELLANEOUS PROCUREMENT LIMITATIONS.—Section 2534 of title 10, United States Code, is amended by adding at the end the following:

"(g) INAPPLICABILITY TO CONTRACTS UNDER SIMPLIFIED ACQUISITION THRESHOLD.—This section does not apply to a contract or subcontract for an amount that does not exceed the simplified acquisition threshold.".

SEC. 4103. CIVILIAN AGENCY ACQUISITIONS.

(a) LIST OF INAPPLICABLE LAWS IN FAR.—Section 302A of the Federal Property and Administrative Services Act of 1949, as added by section 4003, is amended by adding at the end the following: 41 USC 252a.

"(b) INAPPLICABLE LAWS.—No law properly listed in the Federal Acquisition Regulation pursuant to section 33 of the Office of Federal Procurement Policy Act shall apply to or with respect to a contract or subcontract that is not greater than the simplified acquisition threshold.".

(b) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g) is amended by adding at the end the following new subsection:

"(c) This section does not apply to a contract for an amount that is not greater than the simplified acquisition threshold.".

(c) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) is amended by adding at the end the following: "The preceding sentence does not apply to a contract for an amount that is not greater than the simplified acquisition threshold.".

(d) AUTHORITY TO EXAMINE BOOKS AND RECORDS OF CONTRACTORS.—Section 304C of the Federal Property and Administrative Services Act of 1949, as added by section 2251(a), is amended by adding at the end of subsection (f) the following: 41 USC 254d.

"(2) A contract or subcontract that is not greater than the simplified acquisition threshold.".

SEC. 4104. ACQUISITIONS GENERALLY.

(a) REQUIREMENT FOR CONTRACT CLAUSE RELATING TO KICKBACKS.—Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57) is amended by adding at the end the following new subsections:

"(d) Subsections (a) and (b) do not apply to a prime contract that is not greater than $100,000.

"(e) Notwithstanding subsection (d), a prime contractor shall cooperate fully with any Federal Government agency investigating a violation of section 3.".

(b) MILLER ACT.—(1)(A) The Miller Act is amended by adding at the end the following new section:

40 USC 270d-1.

"SEC. 5. This Act does not apply to a contract in an amount that is not greater than $100,000.".

40 USC 270a.

(B) Subsection (a) of the first section of such Act is amended by striking out ", exceeding $25,000 in amount,".

40 USC 270a note.

(2)(A) The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in subparagraph (C).

(B) The contracting officer for a contract shall—

(i) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subparagraph (A), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for such contract; and

(ii) specify in the solicitation of offers for such contract the payment protection or protections so selected.

(C) The regulations required under subparagraph (A) and the requirements of subparagraph (B) apply with respect to contracts referred to in subsection (a) of the first section of the Miller Act that are greater than $25,000 but not greater than $100,000.

(c) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—(1) Section 103 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 329) is amended by adding at the end the following new subsection:

"(c) This title does not apply to a contract in an amount that is not greater than $100,000.".

(2) Section 107(a) of such Act (40 U.S.C. 333(a)) is amended by inserting after "It shall be a condition of each contract" the following: "(other than a contract referred to in section 103(c))".

(d) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of the Anti-Drug Abuse Act of 1988; Public Law 100–690; 41 U.S.C. 701(a)(1)) is amended by striking out "of $25,000 or more from any Federal agency" and inserting in lieu thereof "greater than the simplified acquisition threshold (as defined in section 4(11) of such Act (41 U.S.C. 403(11))) by any Federal agency".

(e) SOLID WASTE DISPOSAL ACT.—Paragraph (3) of section 6002(c) of the Solid Waste Disposal Act (42 U.S.C. 6962(c)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(3)"; and

(4) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) applies only to a contract in an amount greater than $100,000.".

Subtitle C—Simplified Acquisition Procedures

SEC. 4201. SIMPLIFIED ACQUISITION PROCEDURES.

(a) REQUIREMENT FOR SIMPLIFIED PROCEDURES IN FAR.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is further amended by inserting before section 33, as added by section 4101, the following new section:

"SEC. 31. SIMPLIFIED ACQUISITION PROCEDURES. 41 USC 427.

"(a) REQUIREMENT.—In order to promote efficiency and economy in contracting and to avoid unnecessary burdens for agencies and contractors, the Federal Acquisition Regulation shall provide for special simplified procedures for contracts for acquisition of property and services that are not greater than the simplified acquisition threshold.

"(b) PROHIBITION ON DIVIDING PURCHASES.—A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the simplified acquisition procedures required by subsection (a).

"(c) PROMOTION OF COMPETITION REQUIRED.—In using simplified acquisition procedures, the head of an executive agency shall promote competition to the maximum extent practicable.

"(d) CONSIDERATION OF OFFERS TIMELY RECEIVED.—The simplified acquisition procedures contained in the Federal Acquisition Regulation shall include a requirement that a contracting officer consider each responsive offer timely received from an eligible offeror.

"(e) SPECIAL RULES FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES.—

"(1) EFFECT OF INTERIM FACNET CAPABILITY.—The simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may not be used by a procuring activity of an agency for contracts in amounts greater than $50,000 and not greater than the simplified acquisition threshold until a certification has been made pursuant to section 30A(a)(1) that the procuring activity has implemented an interim FACNET capability.

"(2) EFFECT OF FULL FACNET CAPABILITY.—(A)(i) In the case of a procuring activity described in clause (ii), the simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may be used by the activity for contracts in amounts greater than $50,000 and not greater than the simplified acquisition threshold.

"(ii) Clause (i) applies to any procuring activity—

"(I) that has not certified, pursuant to section 30A(a)(1), that it has implemented interim FACNET capability; and

"(II) that is in an agency that has excluded the procuring activity from the agency's full FACNET certification under section 30A(a)(2) on the basis that implementation of full FACNET capability would not be cost effective or practicable in that activity.

"(B) The simplified acquisition procedures provided in the Federal Acquisition Regulation pursuant to this section may not be used by an agency after December 31, 1999, for contracts in amounts greater than $50,000 and not greater than the simplified acquisition threshold until a certification has been made pursuant to section 30A(a)(2) that the agency has implemented a full FACNET capability.

"(f) INTERIM REPORTING RULE.—Until October 1, 1999, procuring activities shall continue to report under section 19(d) procurement awards with a dollar value of at least $25,000, but less than $100,000, in conformity with the procedures for the reporting of a contract award greater than $25,000 that were in effect on October 1, 1992.".

(b) OPPORTUNITY FOR ALL RESPONSIBLE POTENTIAL OFFERORS.—Subsection (a) of section 18 of such Act is amended by adding at the end the following:

"(4) An executive agency intending to solicit offers for a contract for which a notice of solicitation is required to be posted under paragraph (1)(B) shall ensure that contracting officers consider each responsive offer timely received from an offeror.".

(c) ESTABLISHMENT OF DEADLINE FOR SUBMISSION OF OFFERS.—Subsection (a) of section 18 of such Act is further amended by adding after paragraph (4), as added by subsection (b), the following new paragraph:

"(5) An executive agency shall establish a deadline for the submission of all bids or proposals in response to a solicitation with respect to which no such deadline is provided by statute. Each deadline for the submission of offers shall afford potential offerors a reasonable opportunity to respond.".

SEC. 4202. PROCUREMENT NOTICE.

(a) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (a) of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(2) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order expected to be greater than the simplified acquisition threshold,".

(b) CONTENT OF NOTICE.—Subsection (b) of such section is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to be greater than $25,000 but not greater than the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(c) NOTICE NOT REQUIRED FOR PROCUREMENT MADE THROUGH FACNET.—Subsection (c)(1) of such section, as amended by section 1055(b), is further amended—

(1) by redesignating subparagraphs (A), (B), (C), (D), (E), and (F) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(2) by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) the proposed procurement is for an amount not greater than the simplified acquisition threshold and is to be made through a system with interim FACNET capability certified pursuant to section 30A(a)(1) or with full FACNET capability certified pursuant to section 30A(a)(2);

"(B)(i) the proposed procurement is for an amount not greater than $250,000 and is to be made through a system

with full FACNET capability certified pursuant to section 30A(a)(2); and

"(ii) a certification has been made pursuant to section 30A(b) that Government-wide FACNET capability has been implemented;".

(d) NOTICE UNDER THE SMALL BUSINESS ACT.—

(1) CONTINUATION OF EXISTING NOTICE THRESHOLDS.—Subsection (e) of section 8 of the Small Business Act (15 U.S.C. 637) is amended—

(A) in paragraph (1), by striking out "the small purchase threshold" each place it appears and inserting in lieu thereof "$25,000"; and

(B) in paragraph (3)(B), by inserting after "(B)" the following: "in the case of a contract or order estimated to be greater than the simplified acquisition threshold,".

(2) CONTENT OF NOTICE.—Subsection (f) of such section is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(6) in the case of a contract in an amount estimated to be greater than $25,000 but not greater than the simplified acquisition threshold—

"(A) a description of the procedures to be used in awarding the contract; and

"(B) a statement specifying the periods for prospective offerors and the contracting officer to take the necessary preaward and award actions.".

(3) NOTICE NOT REQUIRED FOR PROCUREMENT MADE THROUGH FACNET.—Subsection (g)(1) of such section is amended—

(A) by redesignating subparagraphs (A), (B), (C), (D), (E), and (F) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(B) by inserting before subparagraph (C), as so redesignated, the following new subparagraphs:

"(A) the proposed procurement is for an amount not greater than the simplified acquisition threshold and is to be made through a system with interim FACNET capability certified pursuant to section 30A(a)(1) of the Office of Federal Procurement Policy Act or with full FACNET capability certified pursuant to section 30A(a)(2) of such Act;

"(B)(i) the proposed procurement is for an amount not greater than $250,000 and is to be made through a system with full FACNET capability certified pursuant to section 30A(a)(2) of the Office of Federal Procurement Policy Act; and

"(ii) a certification has been made pursuant to section 30A(b) of such Act that Government-wide FACNET capability has been implemented;".

SEC. 4203. IMPLEMENTATION OF SIMPLIFIED ACQUISITION PROCEDURES.

(a) IMPLEMENTATION IN TITLE 10.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2302a, as added by section 4002(a), the following new section:

"§ 2302b. Implementation of simplified acquisition procedures

"The simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 31 of the Office of Federal Procurement Policy Act shall apply as provided in such section to the agencies named in section 2303(a) of this title.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302a, as added by section 4002(b), the following new item:

"2302b. Implementation of simplified acquisition procedures.".

(b) IMPLEMENTATION IN CIVILIAN AGENCIES.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302A, as added by section 4003 and amended by section 4103, the following new section:

41 USC 252b.

"SEC. 302B. IMPLEMENTATION OF SIMPLIFIED ACQUISITION PROCEDURES.

"The simplified acquisition procedures contained in the Federal Acquisition Regulation pursuant to section 31 of the Office of Federal Procurement Policy Act shall apply in executive agencies as provided in such section.".

Subtitle D—Micro-Purchase Procedures

SEC. 4301. PROCEDURES FOR PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

(a) PROCEDURES.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding after section 31, as added by section 4201, the following new section:

41 USC 428.

"SEC. 32. PROCEDURES APPLICABLE TO PURCHASES BELOW MICRO-PURCHASE THRESHOLD.

"(a) REQUIREMENTS.—(1) The head of each executive agency shall ensure that procuring activities of that agency, in awarding a contract with a price exceeding the micro-purchase threshold, comply with the requirements of section 8(a) of the Small Business Act (15 U.S.C. 637(a)), section 2323 of title 10, United States Code, and section 7102 of the Federal Acquisition Streamlining Act of 1994.

"(2) The authority under part 13.106(a)(1) of the Federal Acquisition Regulation (48 C.F.R. 13.106(a)(1)), as in effect on November 18, 1993, to make purchases without securing competitive quotations does not apply to any purchases with a price exceeding the micro-purchase threshold.

"(b) EXCLUSION FOR MICRO-PURCHASES.—A purchase by an executive agency with an anticipated value of the micro-purchase threshold or less is not subject to section 15(j) of the Small Business Act (15 U.S.C. 644(j)) and the Buy American Act (41 U.S.C. 10a–10c).

"(c) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of section 27, an officer or employee of an executive agency, or a member of the Armed Forces of the United States, shall not be considered a procurement official if—

"(1) the contracting authority of the officer, employee, or member does not exceed $2,500; and

"(2) the head of the contracting activity concerned (or a designee of the head of the contracting activity concerned) determines that the duties of the position of that officer, employee, or member are such that is it unlikely that the officer, employee, or member will be required to conduct procurements in a total amount greater than $20,000 in any 12-month period.

"(d) PURCHASES WITHOUT COMPETITIVE QUOTATIONS.—A purchase not greater than $2,500 may be made without obtaining competitive quotations if the contracting officer determines that the price for the purchase is reasonable.

"(e) EQUITABLE DISTRIBUTION.—Purchases not greater than $2,500 shall be distributed equitably among qualified suppliers.

"(f) IMPLEMENTATION THROUGH FAR.—This section shall be implemented through the Federal Acquisition Regulation.

"(g) MICRO-PURCHASE THRESHOLD DEFINED.—For purposes of this section, the micro-purchase threshold is the amount of $2,500.".

(b) EXCEPTION TO BUY AMERICAN ACT FOR MICRO-PURCHASES.—Section 2 of the Buy American Act (41 U.S.C. 10a) is amended by adding at the end the following: "This section shall not apply to manufactured articles, materials, or supplies procured under any contract the award value of which is less than or equal to the micro-purchase threshold under section 32 of the Office of Federal Procurement Policy Act.".

(c) EFFECTIVE DATE.—Notwithstanding any other provision of law— 41 USC 10a note.

(1) section 32 of the Office of Federal Procurement Policy Act, as added by subsection (a); and

(2) the amendment made by subsection (b);

shall take effect on the date of the enactment of this Act and shall be implemented in the Federal Acquisition Regulation not later than 60 days after such date of enactment.

Subtitle E—Conforming Amendments

SEC. 4401. ARMED SERVICES ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not greater than the simplified acquisition threshold";

(2) by striking out paragraph (2);

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(4) in paragraph (2), as so redesignated—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures"; and

(5) in paragraph (3), as redesignated by paragraph (3), by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures".

(b) SOLICITATION CONTENT REQUIREMENT.—Section 2305(a)(2) of such title is amended by striking out "small purchases)" in

the matter preceding subparagraph (A) and inserting in lieu thereof "a purchase for an amount not greater than the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 2306(e)(2)(A) of such title is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

(d) REPORTS OF EMPLOYEES OR FORMER EMPLOYEES OF DEFENSE CONTRACTORS.—Subsection (a)(1) of section 2397 of title 10, United States Code, is amended by striking out "small purchase threshold (as defined in section 2302(7) of this title)" and inserting in lieu thereof "simplified acquisition threshold".

10 USC 2241 note.

(e) CROSS REFERENCE AMENDMENT.—Section 9005 of Public Law 102-396 (10 U.S.C. 2441 note) is amended in the first sentence by striking out "small purchases covered by section 2304(g)" and inserting in lieu thereof "purchases for amounts not greater than the simplified acquisition threshold covered by section 2304(g)".

SEC. 4402. CIVILIAN AGENCY ACQUISITIONS.

(a) SIMPLIFIED ACQUISITION PROCEDURES.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)) is amended—

(1) in paragraph (1)—

(A) by striking out "small purchases of property and services" and inserting in lieu thereof "purchases of property and services for amounts not greater than the simplified acquisition threshold", and

(B) by striking out "regulations modified, in accordance with section 2752 of the Competition in Contracting Act of 1984," and inserting in lieu thereof "Federal Acquisition Regulation";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

Regulations.

"(2)(A) The Administrator of General Services shall prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold.

"(B) For purposes of subparagraph (A), the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual amount of the rent payable for the period of the lease does not exceed the simplified acquisition threshold.";

(3) in paragraph (3)—

(A) by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold"; and

(B) by striking out "small purchase procedures" and inserting in lieu thereof "simplified procedures";

(4) in paragraph (4), by striking out "small purchase procedures" and inserting in lieu thereof "the simplified procedures"; and

(5) by striking out paragraph (5).

(b) SOLICITATION CONTENT REQUIREMENT.—Section 303A(b) of such Act (41 U.S.C. 253a(b)) is amended by striking out "small purchases)" in the matter preceding paragraph (1) and inserting in lieu thereof "a purchase for an amount not greater than the simplified acquisition threshold)".

(c) COST TYPE CONTRACTS.—Section 304(b) of such Act (41 U.S.C. 254(b)) is amended in the sentence beginning with "All cost and cost-plus-a-fixed-fee" by striking out "either $25,000" and inserting in lieu thereof "either the simplified acquisition threshold".

SEC. 4403. OFFICE OF FEDERAL PROCUREMENT POLICY ACT.

Section 19(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 417(a)) is amended by striking out "procurements, other than small purchases," and inserting in lieu thereof "procurements greater than the simplified acquisition threshold".

SEC. 4404. SMALL BUSINESS ACT.

(a) DEFINITION.—Section 3(m) of the Small Business Act (15 U.S.C. 632(m)) is amended by striking out "'small purchase threshold'" and inserting in lieu thereof "'simplified acquisition threshold'".

(b) USE OF SIMPLIFIED ACQUISITION THRESHOLD TERM.—Section 8(d)(2)(A) of the Small Business Act (15 U.S.C. 637(d)(2)(A)) is amended by striking out "small purchase threshold" and inserting in lieu thereof "simplified acquisition threshold".

TITLE V—ACQUISITION MANAGEMENT

Subtitle A—Armed Services Acquisitions

SEC. 5001. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2220. Performance based management: acquisition programs

"(a) ESTABLISHMENT OF GOALS.—(1) The Secretary of Defense shall approve or define the cost, performance, and schedule goals for major defense acquisition programs of the Department of Defense and for each phase of the acquisition cycle of such programs.

"(2) The Comptroller of the Department of Defense shall evaluate the cost goals proposed for each major defense acquisition program of the Department.

"(b) ANNUAL REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report submitted to Congress pursuant to section 113(c) of this title an assessment of whether major and nonmajor acquisition programs of the Department of Defense are achieving, on average, 90 percent of cost, performance, and schedule goals established pursuant to subsection (a) and whether the average period for converting emerging technology into operational capability has decreased by 50 percent or more from the average period required for such conversion as of the date of the enactment of the Federal Acquisition Streamlining Act of 1994. The Secretary shall use data from existing management systems in making the assessment.

"(c) PERFORMANCE EVALUATION.—Whenever the Secretary of Defense, in the assessment required by subsection (b), determines that major defense acquisition programs of the Department of Defense are not achieving, on average, 90 percent of cost, perform-

ance, and schedule goals established pursuant to subsection (a), the Secretary shall ensure that there is a timely review of major defense acquisition programs and other programs as appropriate. In conducting the review, the Secretary shall—

"(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

"(2) identify suitable actions to be taken, including termination, with respect to such programs.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2220. Performance based management: acquisition programs.".

10 USC 2220 note.

(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Secretary of Defense shall review the incentives and personnel actions available to the Secretary of Defense for encouraging excellence in the management of defense acquisition programs and provide an enhanced system of incentives to facilitate the achievement of goals approved or defined pursuant to section 2220(a) of title 10, United States Code. The enhanced system of incentives shall, to the maximum extent consistent with applicable law—

(1) relate pay to performance (including the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, as added by subsection (a)); and

(2) provide for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such programs contributes to achieving the cost goals, performance goals, and schedule goals established for acquisition programs of the Department of Defense pursuant to section 2220(a) of title 10, United States Code, as added by subsection (a).

10 USC 2220 note.

(c) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 2220 of title 10, United States Code, as added by subsection (a), and otherwise to facilitate and enhance management of Department of Defense acquisition programs on the basis of performance.

SEC. 5002. REVIEW OF ACQUISITION PROGRAM CYCLE.

10 USC 2435 note.

(a) REVIEW.—The Secretary of Defense shall review the regulations of the Department of Defense to ensure that acquisition program cycle procedures are focused on achieving the goals that are consistent with the program baseline description established pursuant to section 2435 of title 10, United States Code.

10 USC 2430 note.

(b) REPEALS.—Sections 835 and 836 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1717) are hereby repealed.

Subtitle B—Civilian Agency Acquisitions

SEC. 5051. PERFORMANCE BASED MANAGEMENT.

(a) POLICY AND GOALS FOR PERFORMANCE BASED MANAGEMENT OF PROGRAMS.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 301 et seq.), as amended by sections 1552 and 1553, is further amended by adding at the end the following new section:

"SEC. 313. PERFORMANCE BASED MANAGEMENT: ACQUISITION PROGRAMS. 41 USC 263.

"(a) CONGRESSIONAL POLICY.—It is the policy of Congress that the head of each executive agency should achieve, on average, 90 percent of the cost and schedule goals established for major and nonmajor acquisition programs of the agency without reducing the performance or capabilities of the items being acquired.

"(b) ESTABLISHMENT OF GOALS.—(1) The head of each executive agency shall approve or define the cost, performance, and schedule goals for major acquisition programs of the agency.

"(2) The chief financial officer of an executive agency shall evaluate the cost goals proposed for each major acquisition program of the agency.

"(c) IDENTIFICATION OF NONCOMPLIANT PROGRAMS.—Whenever it is necessary to do so in order to implement the policy set out in subsection (a), the head of an executive agency shall—

"(1) determine whether there is a continuing need for programs that are significantly behind schedule, over budget, or not in compliance with performance or capability requirements; and

"(2) identify suitable actions to be taken, including termination, with respect to such programs.".

(b) ANNUAL REPORTING REQUIREMENT.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405), as amended by section 1091, is further amended by adding at the end the following new subsection:

"(k) The Administrator shall submit to Congress, on an annual basis, an assessment of the progress made in executive agencies in implementing the policy stated in section 313(a) of the Federal Property and Administrative Services Act of 1949. The Administrator shall use data from existing management systems in making the assessment.".

(c) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—Within one year after the date of the enactment of this Act, the Deputy Director for Management of the Office of Management and Budget, in consultation with appropriate officials in other departments and agencies of the Federal Government, shall, to the maximum extent consistent with applicable law— 41 USC 263 note.

(1) establish policies and procedures for the heads of such departments and agencies to designate acquisition positions and manage employees (including the accession, education, training and career development of employees) in the designated acquisition positions; and

(2) review the incentives and personnel actions available to the heads of departments and agencies of the Federal Government for encouraging excellence in the acquisition workforce of the Federal Government and provide an enhanced

system of incentives for the encouragement of excellence in such workforce which—

(A) relates pay to performance (including the extent to which the performance of personnel in such workforce contributes to achieving the cost goals, schedule goals, and performance goals established for acquisition programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949, as added by subsection (a)); and

(B) provides for consideration, in personnel evaluations and promotion decisions, of the extent to which the performance of personnel in such workforce contributes to achieving such cost goals, schedule goals, and performance goals.

41 USC 263 note.

(d) RECOMMENDED LEGISLATION.—Not later than one year after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress any recommended legislation that the Secretary considers necessary to carry out section 313 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), and otherwise to facilitate and enhance management of Federal Government acquisition programs and the acquisition workforce of the Federal Government on the basis of performance.

41 USC 405 note.

SEC. 5052. RESULTS-ORIENTED ACQUISITION PROCESS.

(a) DEVELOPMENT OF PROCESS REQUIRED.—The Administrator for Federal Procurement Policy, in consultation with the heads of appropriate Federal agencies, shall develop results-oriented acquisition process guidelines for implementation by agencies in acquisitions of property and services by the Federal agencies. The process guidelines shall include the identification of quantitative measures and standards for determining the extent to which an acquisition of items other than commercial items by a Federal agency satisfies the needs for which the items are being acquired.

(b) INAPPLICABILITY OF PROCESS TO DEPARTMENT OF DEFENSE.—The process guidelines developed pursuant to subsection (a) may not be applied to the Department of Defense.

Subtitle C—Pilot Programs

41 USC 413 note.

SEC. 5061. OFPP TEST PROGRAM FOR EXECUTIVE AGENCIES.

(a) IN GENERAL.—The Administrator for Federal Procurement Policy (in this section referred to as the "Administrator") may conduct a program of tests of alternative and innovative procurement procedures. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413). No more than 6 such tests shall be conducted under the authority of this subsection, and not more than 1 such test shall be conducted under such authority in an agency.

(b) DESIGNATION OF AGENCIES.—Each test conducted pursuant to subsection (a) shall be carried out in not more than 2 specific procuring activities in an agency designated by the Administrator. Each agency so designated shall select the procuring activities participating in the test with the approval of the Administrator and shall designate a procurement testing official who shall be

responsible for the conduct and evaluation of tests within that agency.

(c) TEST REQUIREMENTS AND LIMITATIONS.—(1) Each test conducted under subsection (a)—

(A) shall be developed and structured by the Administrator or by the agency senior procurement executive designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) in close coordination with the Administrator; and

(B) shall be limited to specific programs of agencies or specific acquisitions.

(2) The total estimated life-cycle cost to the Federal Government for each test conducted under subsection (a) may not exceed $100,000,000.

(3)(A) Except as provided in subparagraph (B), each contract awarded in conducting the tests under subsection (a) (including the cost of options if all options were to be exercised) may not exceed $5,000,000.

(B) For one of the tests conducted under subsection (a), the amount of each contract awarded in conducting the test (including options) may exceed $5,000,000.

(4) The program of tests conducted under subsection (a) shall include, either as a test or as part of a test, the use of the Federal acquisition computer network ("FACNET") capability required by section 30 of the Office of Federal Procurement Policy Act (as added by section 9001) for procurement actions in amounts greater than the simplified acquisition threshold.

(d) LIMITATION ON TOTAL VALUE OF CONTRACTS UNDER PROGRAM.—(1) The Administrator shall ensure that the total amount obligated under contracts awarded pursuant to the program under this section does not exceed $600,000,000. In calculating such amount, the Administrator shall not include any contract awarded for the test conducted by the National Aeronautics and Space Administration pursuant to section 5062 of this Act.

(2) The Administrator shall monitor the value of contracts awarded pursuant to the program under this section.

(3) No contract may be awarded under the program under this section if the award of the contract would result in obligation of more than $600,000,000 under contracts awarded pursuant to the program under this section.

(e) PROCEDURES AUTHORIZED.—Tests conducted under this section may include any of the following procedures:

(1) Publication of agency needs before drafting of a solicitation.

(2) Issuance of draft solicitations for comment.

(3) Streamlined solicitations that specify as the evaluation factors the minimum factors necessary, require sources to submit the minimum information necessary, provide abbreviated periods for submission of offers, and specify page limitations for offers.

(4) Limitation of source selection factors to—

(A) cost to the Federal Government;

(B) past experience and performance; and

(C) quality of the content of the offer.

(5) Evaluation of proposals by small teams of highly qualified people over a period not greater than 30 days.

(6) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

(7) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

(8) Alternative notice and publication requirements.

(9) A process in which—

(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

(f) MEASURABLE TEST CRITERIA.—The Administrator shall require each agency conducting a test pursuant to subsection (a) to establish, to the maximum extent practicable, measurable criteria for evaluation of the effects of the procedure or technique to be tested.

(g) TEST PLAN.—At least 270 days before a test may be conducted under this section, the Administrator shall—

(1) provide a detailed test plan, including lists of any regulations that are to be waived, and any written determination under subsection (h)(1)(B) to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(2) provide a copy of the plan to the appropriate authorization and appropriations committees of the House of Representatives and the Senate; and

(3) publish the plan in the Federal Register and provide an opportunity for public comment.

(h) WAIVER OF PROCUREMENT REGULATIONS.—(1) For purposes of a test conducted under subsection (a), the Administrator may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct any test of any of the procedures described in subsection (e).

(2) The provisions of law referred to in paragraph (1) are as follows:

(A) The following provisions of title 10, United States Code:

(i) Section 2304.

(ii) Section 2305.

(iii) Section 2319.

(B) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(C) The following provisions of the Revised Statutes:

(i) Section 3709 (41 U.S.C. 5).

(ii) Section 3710 (41 U.S.C. 8).

(iii) Section 3735 (41 U.S.C. 13).

(D) The following provisions of the Federal Property and Administrative Services Act of 1949:

(i) Section 303 (41 U.S.C. 253).

(ii) Section 303A (41 U.S.C. 253a).

(iii) Section 303B (41 U.S.C. 253b).

(iv) Section 303C (41 U.S.C. 253c).

(v) Section 310 (41 U.S.C. 260).

(E) The following provisions of the Office of Federal Procurement Policy Act:

(i) Section 4(6) (41 U.S.C. 403(6)).

(ii) Section 18 (41 U.S.C. 416).

(3) If the Administrator determines that the conduct of a test requires the waiver of a law not listed in paragraph (2) or requires approval of an estimated dollar amount not permitted under subsection (c)(4), the Administrator may propose legislation to authorize the waiver or grant the approval. Before proposing such legislation, the Administrator may provide and publish a test plan as described in subsection (g).

(i) REPORT.—Not later than 6 months after completion of a test conducted under subsection (a), the Comptroller General shall submit to Congress a report for the test setting forth in detail the results of the test, including such recommendations as the Comptroller General considers appropriate.

(j) COMMENCEMENT AND EXPIRATION OF AUTHORITY.—(1) The Administrator may not exercise the authority to conduct a test under subsection (a) in an agency and to award contracts under such a test before the date on which the head of the agency certifies to Congress under section 30A(a)(2) of the Office of Federal Procurement Policy Act that the agency has implemented a full FACNET capability.

(2) The authority to conduct a test under subsection (a) in an agency and to award contracts under such a test shall expire 4 years after the date on which the head of the agency makes the certification referred to in paragraph (1). Contracts entered into before such authority expires in an agency pursuant to a test shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the tests conducted pursuant to subsection (a).

42 USC 2473 note.

SEC. 5062. NASA MID-RANGE PROCUREMENT TEST PROGRAM.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration (in this section referred to as the "Administrator") may conduct a test of alternative notice and publication requirements for procurements conducted by the National Aeronautics and Space Administration. To the extent consistent with this section, such program shall be conducted consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413).

(b) APPLICABILITY.—The test conducted under subsection (a) shall apply to acquisitions with an estimated annual total obligation of funds of $500,000 or less.

(c) LIMITATION ON TOTAL COST.—The total estimated life-cycle cost to the Federal Government for the test conducted under subsection (a) may not exceed $100,000,000.

(d) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Administrator, with the approval of the Administrator for Federal Procurement Policy, may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to conduct the test.

(2) The provisions of law referred to in paragraph (1) are as follows:

(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(B) Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416).

(e) REPORT.—Not later than 6 months after completion of the test conducted under subsection (a), the Comptroller General shall submit to Congress a report for the test setting forth in detail the results of the test, including such recommendations as the Comptroller General considers appropriate.

(f) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).

49 USC 40110 note.

SEC. 5063. FEDERAL AVIATION ADMINISTRATION ACQUISITION PILOT PROGRAM.

(a) AUTHORITY.—The Secretary of Transportation may conduct a test of alternative and innovative procurement procedures in carrying out acquisitions for one of the modernization programs under the Airway Capital Investment Plan prepared pursuant to section 44501(b) of title 49, United States Code. In conducting such test, the Secretary shall consult with the Administrator for Federal Procurement Policy.

(b) PILOT PROGRAM IMPLEMENTATION.—(1) The Secretary of Transportation should prescribe policies and procedures for the interaction of the program manager and the end user executive

responsible for the requirement for the equipment acquired. Such policies and procedures should include provisions for enabling the end user executive to participate in acceptance testing.

(2) Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall identify for the pilot program quantitative measures and goals for reducing acquisition management costs.

(3) The Secretary of Transportation shall establish for the pilot program a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

(B) reduce data requirements from the current program review reporting requirements.

(c) SPECIAL AUTHORITIES.—The authority provided by subsection (a) shall include authority for the Secretary of Transportation—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such program—

(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(d) APPLICABILITY.—Subsection (c) applies with respect to—

(1) a contract that is awarded or modified after the date occurring 45 days after the date of the enactment of this Act; and

(2) a contract that is awarded before such date and is to be performed (or may be performed), in whole or in part, after such date.

(e) PROCEDURES AUTHORIZED.—The test conducted under this section may include any of the following procedures:

(1) Restriction of competitions to sources determined capable in a precompetition screening process, provided that the screening process affords all interested sources a fair opportunity to be considered.

(2) Restriction of competitions to sources of preevaluated products, provided that the preevaluation process affords all interested sources a fair opportunity to be considered.

(3) Alternative notice and publication requirements.

(4) A process in which—

(A) the competitive process is initiated by publication in the Commerce Business Daily, or by dissemination through FACNET, of a notice that—

(i) contains a synopsis of the functional and performance needs of the executive agency conducting the test, and, for purposes of guidance only, other specifications; and

(ii) invites any interested source to submit information or samples showing the suitability of its product for meeting those needs, together with a price quotation, or, if appropriate, showing the source's technical capability, past performance, product supportability, or other qualifications (including, as appropriate, information regarding rates and other cost-related factors);

(B) contracting officials develop a request for proposals (including appropriate specifications and evaluation criteria) after reviewing the submissions of interested sources and, if the officials determine necessary, after consultation with those sources; and

(C) a contract is awarded after a streamlined competition that is limited to all sources that timely provided product information in response to the notice or, if appropriate, to those sources determined most capable based on the qualification-based factors included in an invitation to submit information pursuant to subparagraph (A).

(f) WAIVER OF PROCUREMENT REGULATIONS.—(1) In conducting the test under this section, the Secretary of Transportation, with the approval of the Administrator for Federal Procurement Policy, may waive—

(A) any provision of the Federal Acquisition Regulation that is not required by statute; and

(B) any provision of the Federal Acquisition Regulation that is required by a provision of law described in paragraph (2), the waiver of which the Administrator determines in writing to be necessary to test procedures authorized by subsection (e).

(2) The provisions of law referred to in paragraph (1) are as follows:

(A) Subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637).

(B) The following provisions of the Federal Property and Administrative Services Act of 1949:

(i) Section 303 (41 U.S.C. 253).

(ii) Section 303A (41 U.S.C. 253a).

(iii) Section 303B (41 U.S.C. 253b).

(iv) Section 303C (41 U.S.C. 253c).

(C) The following provisions of the Office of Federal Procurement Policy Act:

(i) Section 4(6) (41 U.S.C. 403(6)).

(ii) Section 18 (41 U.S.C. 416).

(g) DEFINITION.—In this section, the term "commercial item" has the meaning provided that term in section 4(12) of the Office of Federal Procurement Policy Act.

(h) EXPIRATION OF AUTHORITY.—The authority to conduct the test under subsection (a) and to award contracts under such test shall expire 4 years after the date of the enactment of this Act. Contracts entered into before such authority expires shall remain in effect, notwithstanding the expiration of the authority to conduct the test under this section.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the test conducted pursuant to subsection (a).

SEC. 5064. DEPARTMENT OF DEFENSE ACQUISITION PILOT PROGRAMS. 10 USC 2430 note.

(a) IN GENERAL.—The Secretary of Defense is authorized to designate the following defense acquisition programs for participation in the defense acquisition pilot program authorized by section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note):

(1) FIRE SUPPORT COMBINED ARMS TACTICAL TRAINER (FSCATT).—The Fire Support Combined Arms Tactical Trainer program with respect to all contracts directly related to the procurement of a training simulation system (including related hardware, software, and subsystems) to perform collective training of field artillery gunnery team components, with development of software as required to generate the training exercises and component interfaces.

(2) JOINT DIRECT ATTACK MUNITION (JDAM I).—The Joint Direct Attack Munition program with respect to all contracts directly related to the development and procurement of a strap-on guidance kit, using an inertially guided, Global Positioning System updated guidance kit to enhance the delivery accuracy of 1000-pound and 2000-pound bombs in inventory.

(3) JOINT PRIMARY AIRCRAFT TRAINING SYSTEM (JPATS).—The Joint Primary Aircraft Training System (JPATS) with respect to all contracts directly related to the acquisition of a new primary trainer aircraft to fulfill Air Force and Navy joint undergraduate aviation training requirements, and an associated ground-based training system consisting of air crew training devices (simulators), courseware, a Training Management System, and contractor support for the life of the system.

(4) COMMERCIAL-DERIVATIVE AIRCRAFT (CDA).—

(A) All contracts directly related to the acquisition or upgrading of commercial-derivative aircraft for use in meeting airlift and tanker requirements and the air vehicle component for airborne warning and control systems.

(B) For purposes of this paragraph, the term "commercial-derivative aircraft" means any of the following:

(i) Any aircraft (including spare parts, support services, support equipment, technical manuals, and data related thereto) that is or was of a type customarily used in the course of normal business operations for other than Federal Government purposes, that has been issued a type certificate by the Administrator of the Federal Aviation Administration, and that has been sold or leased for use in the commercial marketplace or that has been offered for sale or lease for use in the commercial marketplace.

(ii) Any aircraft that, but for modifications of a type customarily available in the commercial marketplace, or minor modifications made to meet Federal Government requirements, would satisfy or would have satisfied the criteria in subclause (I).

(iii) For purposes of a potential complement or alternative to the C–17 program, any nondevelopmental airlift aircraft, other than the C–

17 or any aircraft derived from the C–17, shall be considered a commercial-derivative aircraft.

(5) COMMERCIAL-DERIVATIVE ENGINE (CDE).—The commercial derivative engine program with respect to all contracts directly related to the acquisition of (A) commercial derivative engines (including spare engines and upgrades), logistics support equipment, technical orders, management data, and spare parts, and (B) commercially derived engines for use in supporting the purchase of commercial-derivative aircraft for use in airlift and tanker requirements (including engine replacement and upgrades) and the air vehicle component for airborne warning and control systems. For purposes of a potential complement or alternative to the C–17 program, any nondevelopmental airlift aircraft engine shall be considered a commercial-derivative engine.

(b) PILOT PROGRAM IMPLEMENTATION.—(1) The text of section 833 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1716) is amended to read as follows:

10 USC 2430 note.

"(a) MISSION-ORIENTED PROGRAM MANAGEMENT.—In the exercise of the authority provided in section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note), the Secretary of Defense should propose for one or more of the defense acquisition programs covered by the Defense Acquisition Pilot Program to utilize the concept of mission-oriented program management.

"(b) POLICIES AND PROCEDURES.—In the case of each defense acquisition program covered by the Defense Acquisition Pilot Program, the Secretary of Defense should prescribe policies and procedures for the interaction of the program manager and the commander of the operational command (or a representative) responsible for the requirement for the equipment acquired, and for the interaction with the commanders of the unified and specified combatant commands. Such policies and procedures should include provisions for enabling the user commands to participate in acceptance testing.".

(2) The text of section 837 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1718) is amended to read as follows:

10 USC 2430 note.

"The Secretary of Defense shall take any additional actions that the Secretary considers necessary to waive regulations not required by statute that affect the efficiency of the contracting process within the Department of Defense. Such actions shall include, in the Secretary's discretion, developing methods to streamline the procurement process, streamlining the period for entering into contracts, and defining alternative techniques to reduce reliance on military specifications and standards, in contracts for the defense acquisition programs participating in the Defense Acquisition Pilot Program.".

(3) The text of section 838 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1718) is amended to read as follows:

10 USC 2430 note.

"For at least one participating defense acquisition program for which a determination is made to make payments for work in progress under the authority of section 2307 of title 10, United States Code, the Secretary of Defense should define payment milestones on the basis of quantitative measures of results.".

(4) Not later than 45 days after the date of the enactment of the Federal Acquisition Streamlining Act of 1994, the Secretary of Defense shall identify for each defense acquisition program participating in the pilot program quantitative measures and goals for reducing acquisition management costs.

(5) For each defense acquisition program participating in the pilot program, the Secretary of Defense shall establish a review process that provides senior acquisition officials with reports on the minimum necessary data items required to ensure the appropriate expenditure of funds appropriated for the program and that—

(A) contain essential information on program results at appropriate intervals, including the criteria to be used in measuring the success of the program; and

(B) reduce data requirements from the current program review reporting requirements.

(c) SPECIAL AUTHORITY.—The authority delegated under subsection (a) may include authority for the Secretary of Defense—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot programs before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such programs—

(A) any authority provided in this Act (or in an amendment made by a provision of this Act) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act (or an amendment made by a provision of this Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(d) APPLICABILITY.—(1) Subsection (c) applies with respect to—

(A) a contract that is awarded or modified during the period described in paragraph (2); and

(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as authorizing the appropriation or obligation of funds for the programs designated for participation in the defense acquisition pilot program under the authority of subsection (a).

Subtitle D—Miscellaneous

SEC. 5091. VENDOR AND EMPLOYEE EXCELLENCE AWARDS.

Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (12); and

(3) by adding at the end the following new paragraphs:

"(8) providing for a Government-wide award to recognize and promote vendor excellence;

"(9) providing for a Government-wide award to recognize and promote excellence in officers and employees of the Federal Government serving in procurement-related positions;".

SEC. 5092. WAITING PERIOD FOR SIGNIFICANT CHANGES PROPOSED FOR ACQUISITION REGULATIONS.

(a) INCREASED PERIOD.—Section 22(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) is amended—

(1) by striking out "30 days" and inserting in lieu thereof "60 days"; and

(2) by adding at the end the following: "Notwithstanding the preceding sentence, such a policy, regulation, procedure, or form may take effect earlier than 60 days after the publication date when there are compelling circumstances for the earlier effective date, but in no event may that effective date be less than 30 days after the publication date.".

(b) TECHNICAL AMENDMENT.—Section 22(d) of such Act is amended by designating the second sentence as paragraph (3).

SEC. 5093. SENSE OF CONGRESS ON NEGOTIATED RULEMAKING.

(a) FINDINGS.—The Congress finds the following:

(1) The use of negotiated rulemaking or similar policy discussion group techniques can be an appropriate tool for—

(A) fostering effective implementation of, and compliance with, laws and regulations;

(B) avoiding litigation; and

(C) achieving more productive and equitable relationships between the Federal Government and the regulated segments of the private sector.

(2) The use of negotiated rulemaking or similar techniques in Federal procurement regulations could be appropriate given the extreme complexity and intricate interactions between buyer and seller in Federal procurements.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in prescribing acquisition regulations, the Federal Acquisition Regulatory Council should consider using negotiated rulemaking procedures in appropriate circumstances in accordance with sections 561 through 570 of title 5, United States Code, or similar techniques intended to achieve the benefits described in subsection (a)(1).

TITLE VI—OTHER PROCUREMENT-RELATED MATTERS

SEC. 6001. POST-EMPLOYMENT RULES.

(a) REPEAL.—(1) Section 801 of title 37, United States Code, is repealed.

(2) The table of sections for chapter 15 of title 37, United States Code, is amended by striking out the item relating to section 801.

18 USC 281 note.

(b) SUSPENSION OF EFFECT OF CERTAIN PROVISION OF LAW.—Section 281 of title 18, United States Code, shall not be effective during the period beginning on the date of the enactment of this Act and ending at the end of December 31, 1996. Such section shall not apply after that date to any relationship otherwise punishable under such section that existed during such period.

SEC. 6002. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL.

(a) AMENDMENT OF OFPP ACT.—The Office of Federal Procurement Policy Act, as amended by section 1092, is further amended by inserting after section 22 the following new section 23:

"SEC. 23. CONTRACTING FUNCTIONS PERFORMED BY FEDERAL PERSONNEL. 41 USC 419.

"(a) LIMITATION ON PAYMENT FOR ADVISORY AND ASSISTANCE SERVICES.—(1) No person who is not a person described in subsection (b) may be paid by an executive agency for services to conduct evaluations or analyses of any aspect of a proposal submitted for an acquisition unless personnel described in subsection (b) with adequate training and capabilities to perform such evaluations and analyses are not readily available within the agency or another Federal agency, as determined in accordance with standards and procedures prescribed in the Federal Acquisition Regulation.

"(2) In the administration of this subsection, the head of each executive agency shall determine in accordance with the standards and procedures set forth in the Federal Acquisition Regulation whether—

"(A) a sufficient number of personnel described in subsection (b) within the agency or another Federal agency are readily available to perform a particular evaluation or analysis for the head of the executive agency making the determination; and

"(B) the readily available personnel have the training and capabilities necessary to perform the evaluation or analysis.

"(b) COVERED PERSONNEL.—For purposes of subsection (a), the personnel described in this subsection are as follows:

"(1) An employee, as defined in section 2105 of title 5, United States Code.

"(2) A member of the Armed Forces of the United States.

"(3) A person assigned to a Federal agency pursuant to subchapter VI of chapter 33 of title 5, United States Code.

"(c) RULE OF CONSTRUCTION.—Nothing in this section is intended to affect the relationship between the Federal Government and a federally funded research and development center.".

(b) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulatory Council established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall— 41 USC 419 note.

(1) review part 37 of title 48 of the Code of Federal Regulations as it relates to the use of advisory and assistance services; and

(2) provide guidance and promulgate regulations regarding—

(A) what actions Federal agencies are required to take to determine whether expertise is readily available within the Federal Government before contracting for advisory and technical services to conduct acquisitions; and

(B) the manner in which personnel with expertise may be shared with agencies needing expertise for such acquisitions.

SEC. 6003. REPEAL OF EXECUTED REQUIREMENT FOR STUDY AND REPORT.

Section 17 of the Office of Federal Procurement Policy Act (41 U.S.C. 415) is repealed.

SEC. 6004. INTERESTS OF MEMBERS OF CONGRESS.

Section 3741 of the Revised Statutes (41 U.S.C. 22) is amended to read as follows:

"No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.".

SEC. 6005. WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES OF DEPARTMENT OF DEFENSE, COAST GUARD, AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES.—Section 2409 of title 10, United States Code, is amended to read as follows:

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) PROHIBITION OF REPRISALS.—An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of an agency or the Department of Justice information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of an agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of the agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the agency may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action

for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5.

"(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) DEFINITIONS.—In this section:

"(1) The term 'agency' means an agency named in section 2303 of this title.

"(2) The term 'head of an agency' has the meaning provided by section 2302(1) of this title.".

"(3) The term 'contract' means a contract awarded by the head of an agency.

"(4) The term 'contractor' means a person awarded a contract with an agency.

"(5) The term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

(b) RELATED LAW.—(1) Section 2409a of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2409a.

SEC. 6006. WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR EMPLOYEES OF CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 315. CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION. 41 USC 265.

"(a) PROHIBITION OF REPRISALS.—An employee of a contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of an executive agency or the Department of Justice information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the head of the agency. In the case of an executive agency that does not have an inspector general,

the duties of the inspector general under this section shall be performed by an official designated by the head of the executive agency.

"(c) REMEDY AND ENFORCEMENT AUTHORITY.—(1) If the head of an executive agency determines that a contractor has subjected a person to a reprisal prohibited by subsection (a), the head of the executive agency may take one or more of the following actions:

"(A) Order the contractor to take affirmative action to abate the reprisal.

"(B) Order the contractor to reinstate the person to the position that the person held before the reprisal, together with the compensation (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

"(C) Order the contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

"(2) Whenever a person fails to comply with an order issued under paragraph (1), the head of the executive agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(3) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform to chapter 7 of title 5, United States Code.

"(d) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

"(e) DEFINITIONS.—In this section:

"(1) The term 'contract' means a contract awarded by the head of an executive agency.

"(2) The term 'contractor' means a person awarded a contract with an executive agency.

"(3) The term 'Inspector General' means an Inspector General appointed under the Inspector General Act of 1978.".

SEC. 6007. COMPTROLLER GENERAL REVIEW OF THE PROVISION OF LEGAL ADVICE FOR INSPECTORS GENERAL.

(a) REVIEW AND REPORT REQUIRED.—Not later than March 1, 1995, the Comptroller General of the United States shall—

(1) conduct a review of the independence of the legal services being provided to Inspectors General appointed under the Inspector General Act of 1978; and

(2) submit to Congress a report on the results of the review.

(b) MATTERS REQUIRED FOR REPORT.—The report shall include the following matters:

(1) With respect to each department or agency of the Federal Government that has an Inspector General appointed in accordance with the Inspector General Act of 1978 whose only or principal source of legal advice is the general counsel or other chief legal officer of the department or agency, an assessment of the extent of the independence of the legal advisers providing advice to the Inspector General.

(2) A comparison of the findings under the assessment referred to in paragraph (1) with findings on the same matters with respect to each Inspector General whose source of legal advice is legal counsel accountable solely to the Inspector General.

SEC. 6008. COST SAVINGS FOR OFFICIAL TRAVEL. 5 USC 5702 note.

(a) GUIDELINES.—The Administrator of the General Services Administration shall issue guidelines to ensure that agencies promote, encourage, and facilitate the use of frequent traveler programs offered by airlines, hotels, and car rental vendors by Federal employees who engage in official air travel, for the purpose of realizing to the maximum extent practicable cost savings for official travel.

(b) REQUIREMENT.—Any awards granted under such a frequent traveler program accrued through official travel shall be used only for official travel.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall report to Congress on efforts to promote the use of frequent traveler programs by Federal employees.

SEC. 6009. PROMPT RESOLUTION OF AUDIT RECOMMENDATIONS. 5 USC app. 5 note.

Federal agencies shall resolve or take corrective action on all Office of Inspector General audit report findings within a maximum of six months after their issuance, or, in the case of audits performed by non-Federal auditors, six months after receipt of the report by the Federal Government.

TITLE VII—SMALL BUSINESS AND SOCIOECONOMIC LAWS

Subtitle A—Small Business Laws

SEC. 7101. REPEAL OF CERTAIN REQUIREMENTS.

(a) SET-ASIDE PRIORITY.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by striking out subsections (e) and (f).

(b) CERTIFICATE OF COMPETENCE.—Section 804 of Public Law 102-484 (106 Stat. 2447; 10 U.S.C. 2305 note) is repealed.

SEC. 7102. CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS. 15 USC 644 note.

(a) PROCUREMENT PROCEDURES AUTHORIZED.—(1) To facilitate the attainment of a goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals that is established for a Federal agency

pursuant to section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)), the head of the agency may enter into contracts using—

(A) less than full and open competition by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals described in subsection (d)(3)(C) of section 8 of the Small Business Act (15 U.S.C. 637); and

(B) a price evaluation preference not in excess of 10 percent when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

(2) Paragraph (1) does not apply to the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

(b) IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.—

(1) IN GENERAL.—The Federal Acquisition Regulation shall be revised to provide for uniform implementation of the authority provided in subsection (a).

(2) MATTERS TO BE ADDRESSED.—The revisions of the Federal Acquisition Regulation made pursuant to paragraph (1) shall include—

(A) conditions for the use of advance payments;

(B) provisions for contract payment terms that provide for—

(i) accelerated payment for work performed during the period for contract performance; and

(ii) full payment for work performed;

(C) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to subsection (a)(1)(B), to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(D)(i) procedures for a person to request the head of a Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(ii) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

(c) TERMINATION.—This section shall cease to be effective at the end of September 30, 2000.

SEC. 7103. EXTENSION OF TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

Section 834(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 15 U.S.C. 637

note) is amended by striking out "September 30, 1994." in the second sentence and inserting in lieu thereof "September 30, 1998.".

SEC. 7104. SMALL BUSINESS PROCUREMENT ADVISORY COUNCIL. 15 USC 644 note.

(a) ESTABLISHMENT.—There is hereby established an interagency council to be known as the "Small Business Procurement Advisory Council" (hereinafter in this section referred to as the "Council").

(b) DUTIES.—The duties of the Council are—

(1) to develop positions on proposed procurement regulations affecting the small business community; and

(2) to submit comments reflecting such positions to appropriate regulatory authorities.

(c) MEMBERSHIP.—The Council shall be composed of the following members:

(1) The Administrator of the Small Business Administration (or the designee of the Administrator).

(2) The Director of the Minority Business Development Agency.

(3) The head of each Office of Small and Disadvantaged Business Utilization (established under section 15(k) of the Small Business Act (15 U.S.C. 644(k)) in each Federal agency having procurement powers.

(d) CHAIRMAN.—The Council shall be chaired by the Administrator of the Small Business Administration.

(e) MEETINGS.—The Council shall meet at the call of the chairman as necessary to consider proposed procurement regulations affecting the small business community.

(f) CONSIDERATION OF COUNCIL COMMENTS.—The Federal Acquisition Regulatory Council and other appropriate regulatory authorities shall consider comments submitted in a timely manner pursuant to subsection (b)(2).

SEC. 7105. EXTENSION OF DEFENSE CONTRACT GOAL TO COAST GUARD AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Contract goal for small disadvantaged businesses and certain institutions of higher education

"(a) GOAL.—(1) Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration in each fiscal year for the total combined amount obligated for contracts and subcontracts entered into with—

"(A) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;

"(B) historically Black colleges and universities, including any nonprofit research institution that was an integral part of such a college or university before November 14, 1986; and

"(C) minority institutions (as defined in section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)),

which, for the purposes of this section, shall include Hispanic-serving institutions (as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

"(2) The head of the agency shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section.

"(3) The Federal Acquisition Regulation (issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall provide procedures or guidelines for contracting officers to set goals which agency prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the agency's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.

"(b) AMOUNT.—With respect to the Department of Defense, the requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

"(A) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

"(B) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

"(C) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

"(D) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

"(2) With respect to the Coast Guard, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the Coast Guard for such fiscal year.

"(3) With respect to the National Aeronautics and Space Administration, the requirements of subsection (a) for any fiscal year apply to the total value of all prime contract and subcontract awards entered into by the National Aeronautics and Space Administration for such fiscal year.

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the head of an agency shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about agency procurement procedures, instruction in preparation of proposals, and other such assistance as the head of the agency considers appropriate. If the resources of the agency are inadequate to provide such assistance, the head of the agency may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, acquisition agencies, and prime contractors. Agency contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically

Black colleges and universities, and minority institutions that each such entity brings into the program.

"(3) Infrastructure assistance provided by the Department of Defense under this section to historically Black colleges and universities and to minority institutions may include programs to do the following:

"(A) Establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(B) Make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense.

"(C) Establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines critical to the national security functions of the Department of Defense.

"(D) Award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense.

"(E) Attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense.

"(F) Equip and renovate laboratories for the performance of defense research.

"(G) Expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense.

"(H) Provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The head of the agency shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.

"(d) APPLICABILITY.—Subsection (a) does not apply to the Department of Defense—

"(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

"(2) if the Secretary notifies Congress of such determination and the reasons for such determination.

"(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a):

"(1)(A) The head of the agency shall—

"(i) ensure that substantial progress is made in increasing awards of agency contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence;

"(iii) in the case of the Department of Defense, actively monitor and assess the progress of the military depart-

ments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal; and

"(iv) in the case of the Coast Guard and the National Aeronautics and Space Administration, actively monitor and assess the progress of the prime contractors of the agency in attaining such goal.

"(B) In making the assessment under clauses (iii) and (iv) of subparagraph (A), the head of the agency shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.

"(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the head of an agency shall make advance payments under section 2307 of this title to contractors described in subsection (a). The Federal Acquisition Regulation shall provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section.

"(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the head of an agency may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act) and partial set asides for entities described in subsection (a)(1), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). The head of an agency shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.

"(4) To the extent practicable, the head of an agency shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

"(5) Each head of an agency shall prescribe regulations which provide for the following:

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to agency personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to an agency procurement which is reasonably likely to be set aside for entities described

in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).

"(f) PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by imprisonment for not more than one year, or a fine under title 18, or both.

"(2) The Federal Acquisition Regulation shall prohibit awarding a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).

"(g) INDUSTRY CATEGORIES.—(1) To the maximum extent practicable, the head of the agency shall—

"(A) ensure that no particular industry category bears a disproportionate share of the contracts awarded to attain the goal established by subsection (a); and

"(B) ensure that contracts awarded to attain the goal established by subsection (a) are made across the broadest possible range of industry categories.

"(2) Under procedures prescribed by the head of the agency, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the head of the agency shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Federal Acquisition Regulation shall contain regulations to ensure that potential contractors submitting sealed bids

or competitive proposals to the agency for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.

"(i) ANNUAL REPORT.—(1) Not later than December 15 of each year, the head of the agency shall submit to Congress a report on the progress of the agency toward attaining the goal of subsection (a) during the preceding fiscal year.

"(2) The report required under paragraph (1) shall include the following:

"(A) A full explanation of any progress toward attaining the goal of subsection (a).

"(B) A plan to achieve the goal, if necessary.

"(3) The report required under paragraph (1) shall also include the following:

"(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

"(B) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the agency.

"(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

"(j) DEFINITIONS.—In this section:

"(1) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(k) EFFECTIVE DATE.—(1) This section applies in the Department of Defense to each of fiscal years 1987 through 2000.

"(2) This section applies in the Coast Guard and the National Aeronautics and Space Administration in each of fiscal years 1995 through 2000.".

SEC. 7106. PROCUREMENT GOALS FOR SMALL BUSINESS CONCERNS OWNED BY WOMEN.

(a) GOALS.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" each place it appears in the first sentence and fourth sentences of subsection (g)(1), the second sentence of

subsection (g)(2), and paragraphs (1), (2)(A), (2)(D), and (2)(E) of subsection (h) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) in subsection (g)—

(A) by inserting after the third sentence of paragraph (1) the following: "The Government-wide goal for participation by small business concerns owned and controlled by women shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year.";

(B) in the first sentence of paragraph (2), by striking out "and by small business concerns owned and controlled by socially and economically disadvantaged individuals," and inserting in lieu thereof ", by small business concerns owned and controlled by socially and economically disadvantaged individuals, and by small business concerns owned and controlled by women"; and

(C) in the fourth sentence of paragraph (2), by inserting after "including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals" the following: "and participation by small business concerns owned and controlled by women"; and

(3) in subsection (h)(2)(F), by striking out "women-owned small business enterprises" and inserting in lieu thereof "small business concerns owned and controlled by women".

(b) SUBCONTRACT PARTICIPATION.—Section 8(d) of such Act (15 U.S.C. 637(d)) is amended—

(1) by striking out "and small business concerns owned and controlled by socially and economically disadvantaged individuals" both places it appears in paragraph (1), both places it appears in paragraph (3)(A), in paragraph (4)(D), in subparagraphs (A), (C), and (F) of paragraph (6), and in paragraph (10)(B) and inserting in lieu thereof ", small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women";

(2) by striking out subparagraph (D) in paragraph (3) and inserting in lieu thereof the following:

"(E) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women.";

(3) in paragraph (3), by inserting after subparagraph (C) the following new subparagraph (D):

"(D) The term 'small business concern owned and controlled by women' shall mean a small business concern—

"(i) which is at least 51 per centum owned by one or more women; or, in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by one or more women; and

"(ii) whose management and daily business operations are controlled by one or more women."; and

(4) in paragraph (4)(E), by inserting "and for small business concerns owned and controlled by women" after "as defined in paragraph (3) of this subsection".

(c) MISREPRESENTATIONS OF STATUS.—(1) Subsection (d)(1) of section 16 of such Act (15 U.S.C. 645) is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(2) Subsection (e) of such section is amended by striking out "or 'small business concern owned and controlled by socially and economically disadvantaged individuals'" and inserting in lieu thereof ", a 'small business concern owned and controlled by socially and economically disadvantaged individuals', or a 'small business concerns owned and controlled by women'".

(d) DEFINITION.—Section 3 of such Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) For the purposes of this Act, a small business concern is a small business concern owned and controlled by women if—

"(1) at least 51 percent of small business concern is owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

"(2) the management and daily business operations of the business are controlled by one or more women.".

41 USC 405 note.

SEC. 7107. DEVELOPMENT OF DEFINITIONS REGARDING CERTAIN SMALL BUSINESS CONCERNS.

(a) REVIEW REQUIRED.—(1) The Administrator for Federal Procurement Policy shall conduct a comprehensive review of Federal laws, as in effect on November 1, 1994, to identify and catalogue all of the provisions in such laws that define (or describe for definitional purposes) the small business concerns set forth in paragraph (2) for purposes of authorizing the participation of such small business concerns as prime contractors or subcontractors in—

(A) contracts awarded directly by the Federal Government or subcontracts awarded under such contracts; or

(B) contracts and subcontracts funded, in whole or in part, by Federal financial assistance under grants, cooperative agreements, or other forms of Federal assistance.

(2) The small business concerns referred to in paragraph (1) are as follows:

(A) Small business concerns owned and controlled by socially and economically disadvantaged individuals.

(B) Minority-owned small business concerns.

(C) Small business concerns owned and controlled by women.

(D) Woman-owned small business concerns.

(b) MATTERS TO BE DEVELOPED.—On the basis of the results of the review carried out under subsection (a), the Administrator for Federal Procurement Policy shall develop—

(1) uniform definitions for the small business concerns referred to in subsection (a)(2);

(2) uniform agency certification standards and procedures for—

(A) determinations of whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) under an applicable standard for purposes of contracts and subcontracts referred to in subsection (a)(1); and

(B) reciprocal recognition by an agency of a decision of another agency regarding whether a small business concern qualifies as a small business concern referred to in subsection (a)(2) for such purposes; and

(3) such other related recommendations as the Administrator determines appropriate consistent with the review results.

(c) PROCEDURES AND SCHEDULE.—(1) The Administrator for Federal Procurement Policy shall provide for the participation in the review and activities under subsections (a) and (b) by representatives of—

(A) the Small Business Administration (including the Office of the Chief Counsel for Advocacy);

(B) the Minority Business Development Agency of the Department of Commerce;

(C) the Department of Transportation;

(D) the Environmental Protection Agency; and

(E) such other executive departments and agencies as the Administrator considers appropriate.

(2) In carrying out subsections (a) and (b), the Administrator shall consult with representatives of organizations representing—

(A) minority-owned business enterprises;

(B) women-owned business enterprises; and

(C) other organizations that the Administrator considers appropriate.

(3) Not later than 60 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register a notice which—

(A) lists the provisions of law identified in the review carried out under subsection (a);

(B) describes the matters to be developed on the basis of the results of the review pursuant to subsection (b);

(C) solicits public comment regarding the matters described in the notice pursuant to subparagraphs (A) and (B) for a period of not less than 60 days; and

(D) addresses such other matters as the Administrator considers appropriate to ensure the comprehensiveness of the review and activities under subsections (a) and (b).

(d) REPORT.—Not later than May 1, 1996, the Administrator for Federal Procurement Policy shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of the review carried out under subsection (a) and the actions taken under subsection (b). The report shall include a discussion of the results of the review, a description of the consultations conducted and public comments received, and the Administrator's recommendations with regard to the matters identified under subsection (b).

SEC. 7108. FUNCTIONS OF OFFICE OF FEDERAL PROCUREMENT POLICY RELATING TO SMALL BUSINESS.

(a) POLICIES.—Section 6(d) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)) is amended by adding after paragraph (9), as added by section 5091, the following new paragraphs:

"(10) developing policies, in consultation with the Administrator of the Small Business Administration, that ensure that small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, and small businesses owned and controlled by women are provided with the maximum practicable opportunities to participate in procurements that are conducted for amounts below the simplified acquisition threshold;

"(11) developing policies that will promote achievement of goals for participation by small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, and small business owned and controlled by women; and".

(b) EDUCATION AND TRAINING.—Section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) establish policies and procedures for the establishment and implementation of education and training programs authorized by this Act, including the establishment and implementation of training, in conjunction with the General Services Administration, for critical procurement personnel designed to increase the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, women, and other minorities in procurement activities conducted by an executive agency.".

Subtitle B—Socioeconomic Laws

SEC. 7201. ACQUISITIONS GENERALLY.

The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", is amended—

41 USC 35. (1) in the first section, by striking out subsection (a) and redesignating subsections (b), (c), (d), and (e), as subsections (a), (b), (c), and (d), respectively;

41 USC 43a. (2) in section 10(b) by striking out "manufacturer of, or regular dealer in," and inserting in lieu thereof "supplier of";

(3) in section 10(c) by striking out " 'regular dealer', 'manufacturer',"; and

(4) by adding at the end the following new sections:

41 USC 43b. "SEC. 11. (a) The Secretary of Labor may prescribe in regulations the standards for determining whether a contractor is a manufacturer of or a regular dealer in materials, supplies, articles, or equipment to be manufactured or used in the performance of a contract entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation all

the stock of which is beneficially owned by the 'Jnited States, for the manufacture or furnishing of materials, supplies, articles, and equipment.

"(b) Any interested person shall have the right of judicial review of any legal question regarding the interpretation of the terms 'regular dealer' and 'manufacturer', as defined pursuant to subsection (a).".

SEC. 7202. PROHIBITION ON USE OF FUNDS FOR DOCUMENTING ECONOMIC OR EMPLOYMENT IMPACT OF CERTAIN ACQUISITION PROGRAMS.

(a) REVISION AND CODIFICATION.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs

"No funds appropriated by the Congress may be obligated or expended to assist any contractor of the Department of Defense in preparing any material, report, lists, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2247. Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.".

(b) REPEAL OF SUPERSEDED LAW.—Section 9048 of Public Law 102–396 (106 Stat. 1913) is repealed.

SEC. 7203. MERIT-BASED AWARD OF CONTRACTS AND GRANTS.

(a) ARMED SERVICES ACQUISITIONS.—(1) Section 2304 of title 10, United States Code, as amended by section 1005, is further amended—

(A) in subsection (c)(5), by inserting "subject to subsection (j)," after "(5)"; and

(B) by adding at the end the following new subsection:

"(j)(1) It is the policy of Congress that an agency named in section 2303(a) of this title should not be required by legislation to award a new contract to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring a new contract to be awarded to a specified non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity involved; and

"(C) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in paragraph (1).

"(3) For purposes of this subsection, a contract is a new contract unless the work provided for in the contract is a continuation

of the work performed by the specified entity under a preceding contract.

"(4) This subsection shall not apply with respect to any contract that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 2303(a) of this title and to report on such matters to the Congress or any agency of the Federal Government.".

(2) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2374. Merit-based award of grants for research and development

"(a) It is the policy of Congress that an agency named in section 2303(a) of this title should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

"(b) A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

"(1) specifically refers to this subsection;

"(2) specifically identifies the particular non-Federal Government entity involved; and

"(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

"(c) For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

"(d) This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an agency named in section 2303(a) of this title and to report on such matters to the Congress or any agency of the Federal Government.".

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2374. Merit-based award of grants for research and development.".

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(A) in subsection (c)(5), by inserting "subject to subsection (h)," after "(5)"; and

(B) by adding at the end the following new subsection:

"(h)(1) It is the policy of Congress that an executive agency should not be required by legislation to award a new contract to a specific non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be procured through merit-based selection procedures.

"(2) A provision of law may not be construed as requiring a new contract to be awarded to a specified non-Federal Government entity unless that provision of law—

"(A) specifically refers to this subsection;

"(B) specifically identifies the particular non-Federal Government entity involved; and

"(C) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in paragraph (1).

"(3) For purposes of this subsection, a contract is a new contract unless the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract.

"(4) This subsection shall not apply with respect to any contract that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on such matters to the Congress or any agency of the Federal Government.".

(2) Title III of such Act, as amended by section 6006, is further amended by adding at the end the following new section:

"SEC. 316. MERIT-BASED AWARD OF GRANTS FOR RESEARCH AND DEVELOPMENT 41 USC 266.

"(a) POLICY.—It is the policy of Congress that an executive agency should not be required by legislation to award a new grant for research, development, test, or evaluation to a non-Federal Government entity. It is further the policy of Congress that any program, project, or technology identified in legislation be awarded through merit-based selection procedures.

"(b) RULE OF CONSTRUCTION.—A provision of law may not be construed as requiring a new grant to be awarded to a specified non-Federal Government entity unless that provision of law—

"(1) specifically refers to this subsection;

"(2) specifically identifies the particular non-Federal Government entity involved; and

"(3) specifically states that the award to that entity is required by such provision of law in contravention of the policy set forth in subsection (a).

"(c) NEW GRANT DEFINED.—For purposes of this section, a grant is a new grant unless the work provided for in the grant is a continuation of the work performed by the specified entity under a preceding grant.

"(d) INAPPLICABILITY TO CERTAIN GRANTS.—This section shall not apply with respect to any grant that calls upon the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on such matters to Congress or any agency of the Federal Government.".

SEC. 7204. MAXIMUM PRACTICABLE OPPORTUNITIES FOR APPRENTICES ON FEDERAL CONSTRUCTION PROJECTS.

It is the sense of the House of Representatives that—

(1) contractors performing Federal construction contracts should, to the maximum extent practicable, give preference in the selection of subcontractors to subcontractors participating in apprenticeship programs registered with the Department of Labor or with a State apprenticeship agency recognized by such Department; and

(2) contractors and subcontractors performing Federal construction contracts should provide maximum practicable opportunities for employment of apprentices who are participating in or who have completed such apprenticeship programs.

SEC. 7205. REPEAL OF OBSOLETE PROVISION.

Section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258) is repealed.

SEC. 7206. REPEAL OF OBSOLETE AND REDUNDANT PROVISIONS OF LAW.

(a) REPEAL OF REQUIREMENT FOR POLICY GUIDANCE.—Title III of the Act of March 3, 1933 (41 U.S.C. 10a et seq.), commonly referred to as the "Buy American Act", is amended in section 4(g) (41 U.S.C. 10b–1(g)) by striking out paragraphs (2)(C) and (3).

(b) REPEAL OF REPORTING REQUIREMENT.—Section 9096(b) of Public Law 102–396 (106 Stat. 1924; 41 U.S.C. 10b–2(b)) is repealed.

41 USC 10b–2 note.

(c) REPEAL OF STUDIES OF WAIVERS.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516) is repealed.

Community Improvement Volunteer Act of 1994.

Subtitle C—Waiver of Application of Prevailing Wage-Setting Requirements to Volunteers

40 USC 276d note.

SEC. 7301. SHORT TITLE.

This subtitle may be cited as the "Community Improvement Volunteer Act of 1994".

40 USC 276d.

SEC. 7302. PURPOSE.

It is the purpose of this subtitle to promote and provide opportunities for people who wish to volunteer their services to State or local governments, public agencies, or nonprofit charitable organizations in the construction, repair or alteration (including painting and decorating) of public buildings and public works that are funded, in whole or in part, with Federal financial assistance authorized under certain Federal programs and that might not otherwise be possible without the use of volunteers.

40 USC 276d–1.

SEC. 7303. WAIVER FOR INDIVIDUALS WHO PERFORM VOLUNTEER SERVICES FOR PUBLIC ENTITIES.

(a) IN GENERAL.—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 7305 shall not apply to an individual—

(1) who volunteers—

(A) to perform a service directly to a State or local government or a public agency for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, other than expenses, reasonable benefits, or a nominal fee (as defined in subsection (b)), but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer.

(b) EXPENSES.—Payments of expenses, reasonable benefits, or a nominal fee may be provided to volunteers described in subsection (a) only in accordance with regulations issued by the Secretary of Labor. In prescribing the regulations, the Secretary shall take into consideration criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(1) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or for the cost or expense of meals and transportation;

(2) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(3) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

The decision as to what constitutes a nominal fee for purposes of paragraph (3) shall be determined based on the context of the economic realities of the situation involved and shall be made by the Secretary of Labor.

(c) ECONOMIC REALITY.—For purposes of subsection (b), in determining whether an expense, benefit, or fee described in such subsection may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary of Labor may not permit any such expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

SEC. 7304. WAIVER FOR INDIVIDUALS WHO PERFORM VOLUNTEER SERVICES FOR NONPROFIT ENTITIES. 40 USC 276d-2.

The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.) as set forth in any of the Acts or provisions described in section 7305 shall not apply to any individual—

(1) who volunteers—

(A) to perform a service directly to a public or private nonprofit recipient of Federal assistance for civic, charitable, or humanitarian reasons, without promise, expectation, or receipt of compensation for services rendered, but solely for the personal purpose or pleasure of the individual; and

(B) to provide such services freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who is not otherwise employed by the recipient of Federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

40 USC 276d-3.

SEC. 7305. CONTRACTS AFFECTED.

For purposes of sections 7303 and 7304, the Acts or provisions described in this section are—

(1) the Library Services and Construction Act (20 U.S.C. 351 et seq.);

(2) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);

(3) section 329 of the Public Health Service Act (42 U.S.C. 254b);

(4) section 330 of the Public Health Service Act (42 U.S.C. 254c);

(5) the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.); and

(6) the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

40 USC 276d note.

SEC. 7306. REPORT.

Not later than December 31, 1997, the Secretary of Labor shall prepare and submit to the appropriate committees of Congress a report that—

(1) to the maximum extent practicable—

(A) identifies and assesses the barriers that prevent private for-profit entities from using volunteers permitted under this subtitle; and

(B) assesses whether private for-profit entities should be permitted to use volunteers on projects relating to the construction, repair, or alteration of public buildings and public works if—

(i) such volunteers are performing services for civic, charitable, humanitarian or educational reasons;

(ii) the contribution of such services is not for the direct or indirect benefit of the private for-profit entity that is performing or seeking to perform work on such projects; and

(iii) such projects would not otherwise be possible without the use of volunteers; and

(2) contains recommendations with respect to other Acts related to the Davis-Bacon Act that may be considered in legislation to permit volunteer work.

TITLE VIII—COMMERCIAL ITEMS

Subtitle A—Definitions and Regulations

SEC. 8001. DEFINITIONS.

(a) DEFINITIONS.—Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following new paragraphs:

"(12) The term 'commercial item' means any of the following:

"(A) Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and that—

"(i) has been sold, leased, or licensed to the general public; or

"(ii) has been offered for sale, lease, or license to the general public.

"(B) Any item that evolved from an item described in subparagraph (A) through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation.

"(C) Any item that, but for—

"(i) modifications of a type customarily available in the commercial marketplace, or

"(ii) minor modifications made to meet Federal Government requirements,

would satisfy the criteria in subparagraph (A) or (B).

"(D) Any combination of items meeting the requirements of subparagraph (A), (B), (C), or (E) that are of a type customarily combined and sold in combination to the general public.

"(E) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in subparagraph (A), (B), (C), or (D) and if the source of such services—

"(i) offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

"(ii) offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public.

"(F) Services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog prices for specific tasks performed and under standard commercial terms and conditions.

"(G) Any item, combination of items, or service referred to in subparagraphs (A) through (F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

"(H) A nondevelopmental item, if the procuring agency determines, in accordance with conditions set forth in the Federal Acquisition Regulation, that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

"(13) The term 'nondevelopmental item' means any of the following:

"(A) Any commercial item.

"(B) Any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

"(C) Any item of supply described in subparagraph (A) or (B) that requires only minor modification or modification of the type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.

"(D) Any item of supply currently being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item is not yet in use.

"(14) The term 'component' means any item supplied to the Federal Government as part of an end item or of another component.

"(15) The term 'commercial component' means any component that is a commercial item.".

(b) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking out "Act—" in the matter preceding paragraph (1) and inserting in lieu thereof "Act:";

(2) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(3) by striking out the semicolon at the end of each of paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) and inserting in lieu thereof a period; and

(4) by striking out "; and" at the end of paragraphs (4) and (10) and inserting in lieu thereof a period.

41 USC 264 note.

SEC. 8002. REGULATIONS ON ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide regulations to implement paragraphs (12) through (15) of section 4 of the Office of Federal Procurement Policy Act, chapter 140 of title 10, United States Code, and sections 314 through 314B of the Federal Property and Administrative Services Act of 1949.

(b) CONTRACT CLAUSES.—(1) The regulations prescribed under subsection (a) shall contain a list of contract clauses to be included in contracts for the acquisition of commercial end items. Such list shall, to the maximum extent practicable, include only those contract clauses—

(A) that are required to implement provisions of law or executive orders applicable to acquisitions of commercial items or commercial components, as the case may be; or

(B) that are determined to be consistent with standard commercial practice.

(2) Such regulations shall provide that a prime contractor shall not be required by the Federal Government to apply to any of its divisions, subsidiaries, affiliates, subcontractors, or suppliers that are furnishing commercial items any contract clause except those—

(A) that are required to implement provisions of law or executive orders applicable to subcontractors furnishing commercial items or commercial components, as the case may be; or

(B) that are determined to be consistent with standard commercial practice.

(3) To the maximum extent practicable, only the contract clauses listed pursuant to paragraph (1) may be used in a contract, and only the contract clauses referred to in paragraph (2) may be required to be used in a subcontract, for the acquisition of commercial items or commercial components by or for an executive agency.

(4) The Federal Acquisition Regulation shall provide standards and procedures for waiving the use of contract clauses required pursuant to paragraph (1), other than those required by law, including standards for determining the cases in which a waiver is appropriate.

(5) For purposes of this subsection, the term "subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

(c) MARKET ACCEPTANCE.—(1) The Federal Acquisition Regulation shall provide that under appropriate conditions the head of an executive agency may require offerors to demonstrate that the items offered—

(A) have either—

(i) achieved commercial market acceptance; or

(ii) been satisfactorily supplied to an executive agency under current or recent contracts for the same or similar requirements; and

(B) otherwise meet the item description, specifications, or other criteria prescribed in the public notice and solicitation relating to the contract.

(2) The Federal Acquisition Regulation shall provide guidance to ensure that the criteria for determining commercial market acceptance include the consideration of—

(A) the minimum needs of the executive agency concerned; and

(B) the entire relevant commercial market, including small businesses.

(d) USE OF FIRM, FIXED PRICE CONTRACTS.—The Federal Acquisition Regulation shall include, for acquisitions of commercial items—

(1) a requirement that firm, fixed price contracts or fixed price with economic price adjustment contracts be used to the maximum extent practicable; and

(2) a prohibition on use of cost type contracts.

(e) CONTRACT QUALITY REQUIREMENTS.—The regulations prescribed under subsection (a) shall include provisions that—

(1) permit, to the maximum extent practicable, a contractor under a commercial items acquisition to use the existing quality assurance system of the contractor as a substitute for compliance with an otherwise applicable requirement for the Government to inspect or test the commercial items before the contractor's tender of those items for acceptance by the Government;

(2) require that, to the maximum extent practicable, the executive agency take advantage of warranties (including extended warranties) offered by offerors of commercial items and use such warranties for the repair and replacement of commercial items; and

(3) set forth guidance regarding the use of past performance of commercial items and sources as a factor in contract award decisions.

(f) DEFENSE CONTRACT CLAUSES.—(1) Section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note) shall cease to be effective on the date on which the regulations implementing this section become effective.

(2) Notwithstanding subsection (b), a contract of the Department of Defense entered into before the date on which section 824(b) ceases to be effective under paragraph (1), and a subcontract entered into before such date under such a contract, may include clauses developed pursuant to paragraphs (2) and (3) of section 824(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2325 note).

SEC. 8003. LIST OF INAPPLICABLE LAWS IN FEDERAL ACQUISITION REGULATION.

(a) LIST.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), is amended by adding after section 33, as added by section 4101, the following new section:

41 USC 430.

"SEC. 34. LIST OF LAWS INAPPLICABLE TO PROCUREMENTS OF COMMERCIAL ITEMS IN FEDERAL ACQUISITION REGULATION.

"(a) LIST OF INAPPLICABLE PROVISIONS OF LAW.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial items. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to purchases of commercial items by an executive agency. Nothing in this section shall be construed to render inapplicable to contracts for the procurement of commercial items any provision of law that is not included on such list.

"(2) A provision of law described in subsection (c) that is enacted after the date of the enactment of the Federal Acquisition Streamlining Act of 1994 shall be included on the list of inapplicable provisions of law required by paragraph (1), unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercial items from the applicability of the provision.

"(b) SUBCONTRACTS.—(1) The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to subcontracts under either a contract for the procurement of commercial items or a subcontract for the procurement of commercial items. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as applicable to such subcontracts. Nothing in this section shall be construed to render inapplicable to subcontracts under a contract for the procurement of commercial items any provision of law that is not included on such list.

"(2) A provision of law described in subsection (c) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Federal Acquisition Regulatory Council makes a written determination that it would not be in the best interest of the Federal Government to exempt subcontracts under

a contract for the procurement of commercial items from the applicability of the provision.

"(3) Nothing in this subsection shall be construed to authorize the waiver of the applicability of any provision of law with respect to any subcontract under a contract with a prime contractor reselling or distributing commercial items of another contractor without adding value.

"(4) In this subsection, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.

"(c) COVERED LAW.—A provision of law referred to in subsections (a)(2) and (b) is any provision of law that, as determined by the Federal Acquisition Regulatory Council, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

"(1) provides for criminal or civil penalties; or

"(2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial items.

"(d) PETITION.—In the event that a provision of law described in subsection (c) is not included on the list of inapplicable provisions of law as required by subsection (a) or (b), and no written determination has been made by the Federal Acquisition Regulatory Council pursuant to subsection (a)(2) or (b)(2), a person may petition the Administrator for Federal Procurement Policy to take appropriate action. The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Federal Acquisition Regulatory Council makes a determination pursuant to subsection (a)(2) or (b)(2) within 60 days after the date on which the petition is received.".

(b) EFFECTIVE DATE OF PETITION PROVISION.—No petition may be filed under section 34(d) of the Office of Federal Procurement Policy Act, as added by subsection (a), until after the date occurring 6 months after the date of the enactment of this Act. 41 USC 430 note.

Subtitle B—Armed Services Acquisitions

SEC. 8101. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) ESTABLISHMENT.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 139 the following new chapter 140:

"CHAPTER 140—PROCUREMENT OF COMMERCIAL ITEMS

"Sec.

"2375. Relationship of commercial item provisions to other provisions of law.
"2376. Definitions.
"2377. Preference for acquisition of commercial items.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are amended by inserting after the item relating to chapter 139 the following new item:

"140. Procurement of Commercial Items ..... 2375".

SEC. 8102. RELATIONSHIP TO OTHER PROVISIONS OF LAW.

Chapter 140 of title 10, United States Code, as added by section 8101, is amended by adding after the table of sections the following:

"§ 2375. Relationship of commercial item provisions to other provisions of law

"(a) APPLICABILITY OF TITLE.—Unless otherwise specifically provided, nothing in this chapter shall be construed as providing that any other provision of this title relating to procurement is inapplicable to the procurement of commercial items.

"(b) LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.—No contract for the procurement of a commercial item entered into by the head of an agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 34 of the Office of Federal Procurement Policy Act).

"(c) CROSS REFERENCE TO EXCEPTION TO COST OR PRICING DATA REQUIREMENTS FOR COMMERCIAL ITEMS.—For provisions relating to exceptions for requirements for cost or pricing data for contracts for the procurement of commercial items, see section 2306a(d) of this title.".

SEC. 8103. DEFINITIONS.

Chapter 140 of title 10, United States Code, as amended by section 8102, is further amended by adding after section 2375 the following new section:

"§ 2376. Definitions

"In this chapter:

"(1) The terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.

"(2) The term 'head of an agency' means the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration.

"(3) The term 'agency' means the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration.".

SEC. 8104. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

(a) IN GENERAL.—Chapter 140 of title 10, United States Code, as amended by section 8103, is further amended by adding after section 2376 the following new section:

"§ 2377. *Preference for acquisition of commercial items*

"(a) PREFERENCE.—The head of an agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items, may be procured to fulfill such requirements; and

"(3) offerors of commercial items and nondevelopmental items other than commercial items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of an agency shall ensure that procurement officials in that agency, to the maximum extent practicable—

"(1) acquire commercial items or nondevelopmental items other than commercial items to meet the needs of the agency;

"(2) require prime contractors and subcontractors at all levels under the agency contracts to incorporate commercial items or nondevelopmental items other than commercial items as components of items supplied to the agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items in response to the agency solicitations;

"(5) revise the agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the agency's needs are not available, nondevelopmental items other than commercial items available that—

"(A) meet the agency's requirements;

"(B) could be modified to meet the agency's requirements; or

"(C) could meet the agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

(b) REPEAL OF SUPERSEDED PROVISION.—(1) Section 2325 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2325.

SEC. 8105. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 2306(b) of title 10, United States Code, as amended by section 4102(b), is further amended by inserting before the period at the end of the sentence added by that section the following: "or to a contract for the acquisition of commercial items".

(b) INAPPLICABILITY OF REQUIREMENT TO IDENTIFY SUPPLIERS AND SOURCES OF SUPPLIES.—Paragraph (2) of section 2384(b) of title 10, United States Code, is amended to read as follows:

"(2) The regulations prescribed pursuant to paragraph (1) do not apply to a contract that requires the delivery of supplies that are commercial items, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(c) INAPPLICABILITY OF PROHIBITION AGAINST DOING BUSINESS WITH CERTAIN OFFERORS OR CONTRACTORS.—Section 2393(d) of title 10, United States Code, as amended by section 4102(e), is further amended by adding at the end the following: "The requirement shall not apply in the case of a subcontract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(d) REPORTS BY EMPLOYEES OR FORMER EMPLOYEES OF DEFENSE CONTRACTORS.—Section 2397(a)(1) of title 10, United States Code, as amended by section 4401(d), is further amended by adding at the end the following: "The term does not include a contract for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(e) LIMITS ON EMPLOYMENT FOR CERTAIN FORMER DOD OFFICIALS.—Section 2397b(f) of title 10, United States Code, is amended in paragraph (2)(B)—

(A) by striking out "or" at the end of clause (i);

(B) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following new clause:

"(iii) any person who contracts to supply the Department of Defense only commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

(f) DEFENSE CONTRACTOR REQUIREMENTS CONCERNING FORMER DOD OFFICIALS.—Section 2397c of title 10, United States Code, is amended by adding at the end the following:

"(e) This section does not apply to contracts for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(g) INAPPLICABILITY OF PROHIBITION ON LIMITATION OF SUBCONTRACTOR DIRECT SALES.—Section 2402 of title 10, United States Code, as amended by section 4102(f), is further amended by adding at the end the following new subsection:

"(d)(1) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the United States being treated differently with regard to the restriction than

any other prospective purchaser of such commercial items from that subcontractor.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(h) INAPPLICABILITY OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-RELATED FELONIES.—Paragraph (4) of section 2408(a) of title 10, United States Code, as added by section 4102(g), is amended—

(1) by inserting after subparagraph (A) the following:

"(B) A contract referred to in such subparagraph that is for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).''; and

(2) by inserting "or (B)" before the period at the end of subparagraph (C).

(i) INAPPLICABILITY OF CONTRACTOR INVENTORY ACCOUNTING SYSTEM STANDARDS.—Section 2410b of title 10, United States Code, is amended by adding after subsection (b), as added by section 4102(h), the following:

"(c) The regulations prescribed pursuant to subsection (a) shall not apply to a contract for the purchase of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(j) INAPPLICABILITY OF REPORTING REQUIREMENT REGARDING DEALINGS WITH TERRORIST COUNTRIES.—Section 843(a) of Public Law 103-160 (107 Stat. 1720) is amended by adding at the end the following: 10 USC 2327 note.

"(3) This section does not apply with respect to a contract for the procurement of a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).".

(k) AMENDMENTS TO ARMED SERVICES PROVISION.—Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 2301 note) is amended by striking out subsection (b) and inserting in lieu thereof the following: 10 USC 2301 note.

"(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to a contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act).".

SEC. 8106. PRESUMPTION THAT TECHNICAL DATA UNDER CONTRACTS FOR COMMERCIAL ITEMS ARE DEVELOPED EXCLUSIVELY AT PRIVATE EXPENSE.

(a) REGULATIONS REQUIRED TO INCLUDE PRESUMPTION OF DEVELOPMENT AT PRIVATE EXPENSE.—Paragraph (1) of section 2320(b) of title 10, United States Code, is amended by inserting before the semicolon at the end the following: "and providing that, in the case of a contract for a commercial item, the item shall be presumed to be developed at private expense unless shown otherwise in accordance with section 2321(f)".

(b) ASSERTION OF RESTRICTION PRESUMED JUSTIFIED.—Section 2321 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j); and

(2) by inserting after subsection (e) the following new subsection:

"(f) PRESUMPTION OF DEVELOPMENT EXCLUSIVELY AT PRIVATE EXPENSE FOR COMMERCIAL ITEMS CONTRACTS.—In the case of a challenge to a use or release restriction that is asserted with respect to technical data of a contractor or subcontractor under a contract for commercial items, the contracting officer shall presume that the contractor or subcontractor has justified the restriction on the basis that the item was developed exclusively at private expense, whether or not the contractor or subcontractor submits a justification in response to the notice provided pursuant to subsection (d)(3). In such a case, the challenge to the use or release restriction may be sustained only if information provided by the Department of Defense demonstrates that the item was not developed exclusively at private expense.".

Subtitle C—Civilian Agency Acquisitions

SEC. 8201. RELATIONSHIP TO OTHER PROVISIONS OF LAW.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 5051(a), is further amended by adding after section 313 the following new section:

41 USC 264.

"SEC. 314. RELATIONSHIP OF COMMERCIAL ITEM PROVISIONS TO OTHER PROVISIONS OF LAW.

"(a) APPLICABILITY OF TITLE.—Unless otherwise specifically provided, nothing in this section, section 314A, or section 314B shall be construed as providing that any other provision of this title relating to procurement is inapplicable to the procurement of commercial items.

"(b) LIST OF LAWS INAPPLICABLE TO CONTRACTS FOR THE ACQUISITION OF COMMERCIAL ITEMS.—No contract for the procurement of a commercial item entered into by the head of an executive agency shall be subject to any law properly listed in the Federal Acquisition Regulation (pursuant to section 34 of the Office of Federal Procurement Policy Act).".

SEC. 8202. DEFINITIONS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 8201, is further amended by adding after section 314 the following new section:

41 USC 264a.

"SEC. 314A. DEFINITIONS.

"As used in this title, the terms 'commercial item', 'nondevelopmental item', 'component', and 'commercial component' have the meanings provided in section 4 of the Office of Federal Procurement Policy Act.".

SEC. 8203. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS.

Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), as amended by section 8202, is further amended by adding after section 314A the following new section:

"SEC. 314B. PREFERENCE FOR ACQUISITION OF COMMERCIAL ITEMS. 41 USC 264b.

"(a) PREFERENCE.—The head of each executive agency shall ensure that, to the maximum extent practicable—

"(1) requirements of the executive agency with respect to a procurement of supplies or services are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items, may be procured to fulfill such requirements; and

"(3) offerors of commercial items and nondevelopmental items other than commercial items are provided an opportunity to compete in any procurement to fill such requirements.

"(b) IMPLEMENTATION.—The head of each executive agency shall ensure that procurement officials in that executive agency, to the maximum extent practicable—

"(1) acquire commercial items or nondevelopmental items other than commercial items to meet the needs of the executive agency;

"(2) require prime contractors and subcontractors at all levels under the executive agency contracts to incorporate commercial items or nondevelopmental items other than commercial items as components of items supplied to the executive agency;

"(3) modify requirements in appropriate cases to ensure that the requirements can be met by commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items;

"(4) state specifications in terms that enable and encourage bidders and offerors to supply commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items in response to the executive agency solicitations;

"(5) revise the executive agency's procurement policies, practices, and procedures not required by law to reduce any impediments in those policies, practices, and procedures to the acquisition of commercial items; and

"(6) require training of appropriate personnel in the acquisition of commercial items.

"(c) PRELIMINARY MARKET RESEARCH.—(1) The head of an executive agency shall conduct market research appropriate to the circumstances—

"(A) before developing new specifications for a procurement by that executive agency; and

"(B) before soliciting bids or proposals for a contract in excess of the simplified acquisition threshold.

"(2) The head of an executive agency shall use the results of market research to determine whether there are commercial items or, to the extent that commercial items suitable to meet the executive agency's needs are not available, nondevelopmental items other than commercial items available that—

"(A) meet the executive agency's requirements;

"(B) could be modified to meet the executive agency's requirements; or

"(C) could meet the executive agency's requirements if those requirements were modified to a reasonable extent.

"(3) In conducting market research, the head of an executive agency should not require potential sources to submit more than the minimum information that is necessary to make the determinations required in paragraph (2).".

SEC. 8204. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) INAPPLICABILITY OF PROHIBITION ON LIMITING SUBCONTRACTOR DIRECT SALES TO THE UNITED STATES.—Section 303G of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253g), as amended by section 4103(b), is further amended by adding at the end the following new subsection:

"(d) An agreement between the contractor in a contract for the acquisition of commercial items and a subcontractor under such contract that restricts sales by such subcontractor directly to persons other than the contractor may not be considered to unreasonably restrict sales by that subcontractor to the United States in violation of the provision included in such contract pursuant to subsection (a) if the agreement does not result in the Federal Government being treated differently with regard to the restriction than any other prospective purchaser of such commercial items from that subcontractor.".

(b) INAPPLICABILITY OF REQUIREMENT FOR CONTRACT CLAUSE REGARDING CONTINGENT FEES.—Section 304(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)), as amended by section 4103(c), is further amended by inserting before the period at the end of the sentence added by section 4103(c) the following: "or to a contract for the acquisition of commercial items".

Subtitle D—Acquisitions Generally

SEC. 8301. INAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.

(a) FEDERAL WATER POLLUTION CONTROL ACT.—Section 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement of this section or a prohibition or requirement issued in the implementation of this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(b) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.—The Contract Work Hours and Safety Standards Act (title I of the Work Hours and Safety Act of 1962 (40 U.S.C. 327 et seq.)) is amended by adding at the end the following new section:

40 USC 334.

"SEC. 108. (a) No certification by a contractor, and no contract clause, may be required in the case of a contract for the acquisition of commercial items in order to implement a prohibition or requirement in this title.

"(b) In subsection (a), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

(c) ANTI-KICKBACK ACT OF 1986.—(1) Section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57), as amended by section 4104(a), is further amended by inserting before the period at the end of subsection (d) the following: "or to a prime contract for the acquisition of commercial items (as defined in section 4(12) of such Act (41 U.S.C. 403(12)))".

(2) Section 8 of such Act (41 U.S.C. 58) is amended by adding at the end the following: "This section does not apply with respect to a prime contract for the acquisition of commercial items (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)))".

(d) COST ACCOUNTING STANDARDS BOARD.—Section 26(f)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out ", other than contracts or subcontracts" and all that follows and inserting in lieu thereof a period; and

(3) by inserting at the end the following:

"(B) Subparagraph (A) does not apply to the following contracts or subcontracts:

"(i) Contracts or subcontracts where the price negotiated is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

"(iii) Any other firm fixed-price contract or subcontract (without cost incentives) for commercial items.

"(C) In this paragraph, the term 'subcontract' includes a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or subcontractor.".

(e) CERTIFICATION REQUIREMENTS.—Subsection (e)(1)(B) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting after "certifies in writing to such contracting officer" the following: ", except in the case of a contract for the procurement of commercial items,".

(f) DRUG-FREE WORKPLACE ACT OF 1988.—Section 5152(a)(1) of the Drug-Free Workplace Act of 1988 (subtitle D of title V of Public Law 100–690; 41 U.S.C. 701 et seq.), as amended by section 4104(d), is further amended by inserting after the matter inserted by such section 4104(d) the following: ", other than a contract for the procurement of commercial items as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403),".

(g) CLEAN AIR ACT.—The Federal Acquisition Regulation may not contain a requirement for a certification by a contractor under a contract for the acquisition of commercial items, or a requirement that such a contract include a contract clause, in order to implement a prohibition or requirement of section 306 of the Clean Air Act (42 U.S.C. 7606) or a prohibition or requirement issued in the implementation of that section, since there is nothing in such section 306 that requires such a certification or contract clause. 42 USC 7606 note.

(h) FLY AMERICAN REQUIREMENTS.—Section 40118 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) No certification by a contractor, and no contract clause, may be required in the case of a contract for the transportation of commercial items in order to implement a requirement in this section.

"(2) In paragraph (1), the term 'commercial item' has the meaning given such term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).".

SEC. 8302. FLEXIBLE DEADLINES FOR SUBMISSION OF OFFERS OF COMMERCIAL ITEMS.

Section 18(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)), as amended by section 4201(c), is further amended by adding at the end the following new paragraph:

"(6) The Administrator shall prescribe regulations defining limited circumstances in which flexible deadlines can be used under paragraph (3) for the submission of bids or proposals for the procurement of commercial items.".

SEC. 8303. ADDITIONAL RESPONSIBILITIES FOR ADVOCATES FOR COMPETITION.

(a) RESPONSIBILITIES OF THE ADVOCATE FOR COMPETITION.—Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting full and open competition, promoting the acquisition of commercial items, and challenging barriers to such acquisition, including such barriers as unnecessarily restrictive statements of need, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 28 of such Act (41 U.S.C. 424) is repealed.

41 USC 264 note.

SEC. 8304. PROVISIONS NOT AFFECTED.

Nothing in this title shall be construed as modifying or superseding, or as intended to impair or restrict, authorities or responsibilities under—

(1) section 2323 of title 10, United States Code, or section 7102 of the Federal Acquisition Streamlining Act of 1994;

(2) the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759));

(3) Brooks Architect-Engineers Act (title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.));

(4) subsections (a) and (d) of section 8 of the Small Business Act (15 U.S.C. 637 (a) and (d)); or

(5) the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c).

41 USC 264b note.

SEC. 8305. COMPTROLLER GENERAL REVIEW OF FEDERAL GOVERNMENT USE OF MARKET RESEARCH.

(a) REPORT REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the use of market research by the Federal Government in support of the procurement of commercial items and nondevelopmental items.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) A review of existing Federal Government market research efforts to gather data concerning commercial and other nondevelopmental items.

(2) A review of the feasibility of creating a Government-wide data base for storing, retrieving, and analyzing market data, including use of existing Federal Government resources.

(3) Any recommendations for changes in law or regulations that the Comptroller General considers appropriate.

TITLE IX—FEDERAL ACQUISITION COMPUTER NETWORK

SEC. 9001. FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE AND IMPLEMENTATION.

(a) FEDERAL ACQUISITION COMPUTER NETWORK ARCHITECTURE.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding after section 29, as added by section 1093, the following new sections:

"SEC. 30. FEDERAL ACQUISITION COMPUTER NETWORK (FACNET) ARCHITECTURE. 41 USC 426.

"(a) IN GENERAL.—(1) The Administrator shall establish a program for the development and implementation of a Federal acquisition computer network architecture (hereinafter in this section referred to as 'FACNET') that will be Government-wide and provide interoperability among users. The Administrator shall assign a program manager for FACNET and shall provide for overall direction of policy and leadership in the development, coordination, installation, operation, and completion of implementation of FACNET by executive agencies.

"(2) In carrying out paragraph (1), the Administrator shall consult with the heads of appropriate Federal agencies with applicable technical and functional expertise, including the Office of Information and Regulatory Affairs, the National Institute of Standards and Technology, the General Services Administration, and the Department of Defense.

"(3) Government-wide FACNET capability (as defined in section 30A(b)) shall be implemented not later than January 1, 2000.

"(b) FUNCTIONS OF FACNET.—The FACNET architecture shall provide for the following functions:

"(1) GOVERNMENT FUNCTIONS.—Allow executive agencies to do the following electronically:

"(A) Provide widespread public notice of solicitations for contract opportunities issued by an executive agency.

"(B) Receive responses to solicitations and associated requests for information through such system.

"(C) Provide public notice of contract awards (including price) through such system.

"(D) In cases in which it is practicable, receive questions regarding solicitations through such system.

"(E) In cases in which it is practicable, issue orders to be made through such system.

"(F) In cases in which it is practicable, make payments to contractors by bank card, electronic funds transfer, or other automated methods.

"(G) Archive data relating to each procurement action made using such system.

"(2) PRIVATE SECTOR USER FUNCTIONS.—Allow private sector users to do the following electronically:

"(A) Access notice of solicitations for contract opportunities issued by an executive agency.

"(B) Access and review solicitations issued by an executive agency.

"(C) Respond to solicitations issued by the executive agency.

"(D) In cases in which it is practicable, receive orders from the executive agency.

"(E) Access information on contract awards (including price) made by the executive agency.

"(F) In cases in which it is practicable, receive payment by bank card, electronic funds transfer, or other automated means.

"(3) GENERAL FUNCTIONS.—

"(A) Allow the electronic interchange of procurement information between the private sector and the Federal Government and among Federal agencies.

"(B) Employ nationally and internationally recognized data formats that serve to broaden and ease the electronic interchange of data.

"(C) Allow convenient and universal user access through any point of entry.

"(c) NOTICE AND SOLICITATION REGULATIONS.—In connection with implementation of the architecture referred to in subsection (a), the Federal Acquisition Regulatory Council shall ensure that the Federal Acquisition Regulation contains appropriate notice and solicitation provisions applicable to acquisitions conducted through a FACNET capability. The provisions shall specify the required form and content of notices of acquisitions and the minimum periods for notifications of solicitations and for deadlines for the submission of offers under solicitations. Each minimum period specified for a notification of solicitation and each deadline for the submission of offers under a solicitation shall afford potential offerors a reasonable opportunity to respond.

"(d) ARCHITECTURE DEFINED.—For purposes of this section, the term 'architecture' means the conceptual framework that—

"(1) uses a combination of commercial hardware and commercial software to enable contractors to conduct business with the Federal Government by electronic means; and

"(2) includes a description of the functions to be performed to achieve the mission of streamlining procurement through electronic commerce, the system elements and interfaces needed to perform the functions, and the designation of performance levels of those system elements.

41 USC 426a.

"SEC. 30A. FEDERAL ACQUISITION COMPUTER NETWORK IMPLEMENTATION.

"(a) CERTIFICATION OF FACNET CAPABILITY IN PROCURING ACTIVITIES AND AGENCIES.—(1) When the senior procurement executive of an executive agency or, in the case of the Department

of Defense, the Under Secretary of Defense for Acquisition and Technology, determines that a procuring activity of the executive agency has implemented an interim FACNET capability (as defined in subsection (c)), the executive or the Under Secretary shall certify to the Administrator that such activity has implemented an interim FACNET capability.

"(2) When the head of an executive agency, with the concurrence of the Administrator for Federal Procurement Policy, determines that the executive agency has implemented a full FACNET capability (as defined in subsection (d)), the head of the executive agency shall certify to Congress that the executive agency has implemented a full FACNET capability.

"(3) The head of each executive agency shall provide for implementation of both interim FACNET capability and full FACNET capability, with priority on providing convenient and universal user access as required by section 30(b)(3)(C), in that executive agency as soon as practicable after the date of the enactment of the Federal Acquisition Streamlining Act of 1994.

"(b) CERTIFICATION OF GOVERNMENT-WIDE FACNET CAPABILITY.—When the Administrator for Federal Procurement Policy determines that the Federal Government is making at least 75 percent of eligible contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold entered into by the Government during the preceding fiscal year through a system with full FACNET capability, the Administrator shall certify to Congress that the Government has implemented a Government-wide FACNET capability.

"(c) IMPLEMENTATION OF INTERIM FACNET CAPABILITY.—A procuring activity shall be considered to have implemented an interim FACNET capability if—

"(1) with respect to each procurement expected to be in an amount greater than the micro-purchase threshold and not greater than the simplified acquisition threshold, the procuring activity has implemented the FACNET functions described in paragraphs (1)(A), (1)(B), (2)(A), (2)(B), and (2)(C) of section 30(b); and

"(2) for each such procurement (other than a procurement for which notice is not required under section 18(c) or with respect to which the head of the procuring activity determines that it is not cost effective or practicable), the procuring activity issues notices of solicitations and receives responses to solicitations through a system having those functions.

"(d) IMPLEMENTATION OF FULL FACNET CAPABILITY.—An executive agency shall be considered to have implemented a full FACNET capability if (except in the case of procuring activities (or portions thereof) of the executive agency for which the head of the executive agency determines that implementation is not cost effective or practicable)—

"(1) the executive agency has implemented all of the FACNET functions described in section 30(b); and

"(2) more than 75 percent of the eligible contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold entered into by the executive agency during the preceding fiscal year have been made through a system with those functions.

"(e) ELIGIBLE CONTRACTS.—For purposes of subsections (b) and (d), a contract is eligible if it is not in any class of contracts

determined by the Federal Acquisition Regulatory Council (pursuant to section 9004 of the Federal Acquisition Streamlining Act of 1994) to be unsuitable for acquisition through a system with full FACNET capability.".

(b) TECHNICAL AMENDMENTS.—Section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) is amended—

(1) in subsection (a)(1)(A), by striking out "notice" in the matter following clause (ii) and inserting in lieu thereof "notice of solicitation"; and

(2) in subsection (d), by striking out "a notice under subsection (e)" in the first sentence and inserting in lieu thereof "a notice of solicitation under subsection (a)".

SEC. 9002. IMPLEMENTATION OF FACNET CAPABILITY IN ARMED SERVICES.

(a) IMPLEMENTATION IN TITLE 10.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302b, as added by section 4203, the following new section:

"§ 2302c. Implementation of FACNET capability

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each agency named in section 2303 of this title shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act. In the case of the Department of Defense, the implementation shall be by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, for the Department of Defense as a whole. For purposes of this section, the term 'head of an agency' does not include the Secretaries of the military departments.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each agency named in paragraph (5) or (6) of section 2303 of this title shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 137 of such title is amended by inserting after the item relating to section 2302b the following new item:

"2302c. Implementation of FACNET capability.".

10 USC 2302c note.

(c) EFFECTIVE DATE.—A FACNET capability may be implemented and used in an agency before the promulgation of regulations implementing this section (as provided in section 10002). If such implementation and use occurs, the period for submission of bids or proposals under section 18(a)(3)(B) of the Office of Federal Procurement Policy Act, in the case of a solicitation through FACNET, may be less than the period otherwise applicable under that section, but shall be at least 10 days. The preceding sentence shall not be in effect after September 30, 1995.

SEC. 9003. IMPLEMENTATION OF FACNET CAPABILITY IN CIVILIAN AGENCIES.

Title III of the Federal Property and Administrative Services Act of 1949 is amended by inserting after section 302B, as added by section 4203, the following new section:

"SEC. 302C. IMPLEMENTATION OF FACNET CAPABILITY. 41 USC 252c.

"(a) IMPLEMENTATION OF FACNET CAPABILITY.—(1) The head of each executive agency shall implement the Federal acquisition computer network ('FACNET') capability required by section 30 of the Office of Federal Procurement Policy Act.

"(2) In implementing the FACNET capability pursuant to paragraph (1), the head of an executive agency shall consult with the Administrator for Federal Procurement Policy.

"(b) DESIGNATION OF AGENCY OFFICIAL.—The head of each executive agency shall designate a program manager to have responsibility for implementation of FACNET capability for that agency and otherwise to implement this section. Such program manager shall report directly to the senior procurement executive designated for the executive agency under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).".

SEC. 9004. GAO DETERMINATION OF ELIGIBLE AGENCY CONTRACTS. 41 USC 426a note.

(a) REPORT ON CONTRACTS NOT SUITABLE FOR ACQUISITION THROUGH FULL FACNET CAPABILITY.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall submit to the Administrator for Federal Procurement Policy and the congressional committees referred to in subsection (d) a report on the classes of contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold that are not suitable for acquisition through a system with full FACNET capability.

(b) FAR COUNCIL DETERMINATIONS.—Not earlier than 3 years after the date of the enactment of this Act, and after consideration of the report of the Comptroller General required by subsection (a), the Federal Acquisition Regulatory Council (established by section 25 of the Office of Federal Procurement Policy Act) may make a determination that a class or classes of contracts in amounts greater than the micro-purchase threshold and not greater than the simplified acquisition threshold are not suitable for acquisition through a system with full FACNET capability. Any such determination shall be submitted to the congressional committees referred to in subsection (d). Each determination under this subsection shall take effect 60 days after the date on which it is submitted to those committees.

(c) APPLICABILITY OF DETERMINATIONS.—Each determination under subsection (b) shall apply for purposes of determining eligible contracts under section 30A(e) of the Office of Federal Procurement Policy Act, as added by section 9001.

(d) COMMITTEES.—The report required by subsection (a), and any determination made under subsection (b), shall be submitted to the Committees on Governmental Affairs, on Armed Services, and on Small Business of the Senate and the Committees on Government Operations, on Armed Services, and on Small Business of the House of Representatives.

(e) DEFINITIONS.—In this section:

(1) The term "simplified acquisition threshold" has the meaning provided by section 4(11) of the Office of Federal Procurement Policy Act, as amended by section 4001.

(2) The term "micro-purchase threshold" has the meaning provided by section 32(g) of the Office of Federal Procurement Policy Act, as added by section 4301.

(3) The term "full FACNET capability" has the meaning described in section 30A(d) of the Office of Federal Procurement Policy Act, as added by section 9001(a).

TITLE X—EFFECTIVE DATES AND IMPLEMENTATION

41 USC 251 note.

SEC. 10001. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—(1) An amendment made by this Act shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 10002 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).

(2) An amendment made by this Act shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 10002 to implement such amendment, with respect to any matter related to—

(A) a contract that is in effect on the date described in paragraph (3);

(B) an offer under consideration on the date described in paragraph (3); or

(C) any other proceeding or action that is ongoing on the date described in paragraph (3).

(3) The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be October 1, 1995, or any earlier date that is not within 30 days after the date on which such final regulations are published.

(c) IMMEDIATE APPLICABILITY OF CERTAIN AMENDMENTS.—Notwithstanding subsection (b), the amendments made by the following provisions of this Act apply on and after the date of the enactment of this Act: sections 1001, 1021, 1031, 1051, 1071, 1092, 1201, 1506(a), 1507, 1554, 2002(a), 2191, 3062(a), 3063, 3064, 3065(a)(1), 3065(b), 3066, 3067, 6001(a), 7101, 7103, 7205, and 7206, the provisions of subtitles A, B, and C of title III, and the provisions of title V.

41 USC 251 note.

SEC. 10002. IMPLEMENTING REGULATIONS.

(a) PROPOSED REVISIONS.—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this Act shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.

(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.

(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act. Federal Register, publication.

(d) MODIFICATIONS.—Final regulations promulgated pursuant to this section to implement an amendment made by this Act may provide for modification of an existing contract without consideration upon the request of the contractor.

(e) REQUIREMENT FOR CLARITY.—Officers and employees of the Federal Government who prescribe regulations to implement this Act and the amendments made by this Act shall make every effort practicable to ensure that the regulations are concise and are easily understandable by potential offerors as well as by Government officials.

(f) SAVINGS PROVISIONS.—(1) Nothing in this Act shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regulations pursuant to section 10001(b)(3) except to the extent and in the manner prescribed in such regulations.

(2) Except as specifically provided in this Act, nothing in this Act shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.

(3) Except as otherwise provided in this Act, a law amended by this Act shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—

(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or

(B) if no such date is specified in regulations, October 1, 1995.

SEC. 10003. EVALUATION BY THE COMPTROLLER GENERAL. 41 USC 251 note.

(a) EVALUATION RELATING TO ISSUANCE OF REGULATIONS.—Not later than 180 days after the issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 10002, the Comptroller General shall submit to Congress a report evaluating compliance with such section.

(b) EVALUATION OF IMPLEMENTATION OF REGULATIONS.—Not later than 18 months after issuance in final form of revisions to the Federal Acquisition Regulation pursuant to section 10002, the Comptroller General shall submit to the committees referred to in subsection (c) a report evaluating the effectiveness of the regulations implementing this Act in streamlining the acquisition system and fulfilling the other purposes of this Act.

(c) COMMITTEES DESIGNATED TO RECEIVE THE REPORTS.—The Comptroller General shall submit the reports required by this section to—

(1) the Committees on Governmental Affairs, on Armed Services, and on Small Business of the Senate; and

(2) the Committees on Government Operations, on Armed Services, and on Small Business of the House of Representatives.

SEC. 10004. DATA COLLECTION THROUGH THE FEDERAL PROCUREMENT DATA SYSTEM. 41 USC 405 note.

(a) DATA COLLECTION REQUIRED.—The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal

Procurement Policy Act (41 U.S.C. 405(d)(4)(A)) shall be modified to collect from contracts in excess of the simplified acquisition threshold data identifying the following matters:

(1) Contract awards made pursuant to competitions conducted pursuant to section 2323 of title 10, United States Code, or section 7102 of the Federal Acquisition Streamlining Act of 1994.

(2) Awards to business concerns owned and controlled by women.

(3) Number of offers received in response to a solicitation.

(4) Task order contracts.

(5) Contracts for the acquisition of commercial items.

(b) DEFINITION.—In this section, the term "simplified acquisition threshold" has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SEC. 10005. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TABLE OF CONTENTS AMENDMENTS.—

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The first section of the Office of Federal Procurement Policy Act (41 U.S.C. 401 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Office of Federal Procurement Policy Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Findings and purpose.
"Sec. 4. Definitions.
"Sec. 5. Office of Federal Procurement Policy.
"Sec. 6. Authority and functions of the Administrator.
"Sec. 7. Administrative powers.
"Sec. 8. Responsiveness to Congress.
"Sec. 9. Effect on existing laws.
"Sec. 10. Effect on existing regulations.
"Sec. 11. Authorization of appropriations.
"Sec. 12. Delegation.
"Sec. 14. Access to information.
"Sec. 15. Tests of innovative procurement methods and procedures.
"Sec. 16. Executive agency responsibilities.
"Sec. 18. Procurement notice.
"Sec. 19. Record requirements.
"Sec. 20. Advocates for competition.
"Sec. 21. Rights in technical data.
"Sec. 22. Publication of proposed regulations.
"Sec. 23. Contracting functions performed by Federal personnel.
"Sec. 25. Federal Acquisition Regulatory Council.
"Sec. 26. Cost Accounting Standards Board.
"Sec. 27. Procurement integrity.
"Sec. 28. Advocate for the Acquisition of Commercial Products.
"Sec. 29. Nonstandard contract clauses.
"Sec. 30. Federal acquisition computer network (FACNET).
"Sec. 30A. Federal acquisition computer network implementation.
"Sec. 31. Simplified acquisition procedures.
"Sec. 32. Procedures applicable to purchases below micro-purchase threshold.
"Sec. 33. List of laws inapplicable to contracts not greater than the simplified acquisition threshold in Federal Acquisition Regulation.
"Sec. 34. List of laws inapplicable to procurements of commercial items in Federal Acquisition Regulation.".

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The first section of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended to read as follows:

40 USC 471 note.

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Property and Administrative Services Act of 1949'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Declaration of policy.
"Sec. 3. Definitions.

"TITLE I—ORGANIZATION

"Sec. 101. General Services Administration.
"Sec. 102. Transfer of affairs of Bureau of Federal Supply.
"Sec. 103. Transfer of affairs of the Federal Works Agency.
"Sec. 104. Records management: Transfer of the National Archives.
"Sec. 106. Redistribution of functions.
"Sec. 107. Transfer of funds.
"Sec. 109. General supply fund.
"Sec. 110. Information Technology Fund.
"Sec. 111. Automatic data processing equipment.
"Sec. 112. Federal information centers.

"TITLE II—PROPERTY MANAGEMENT

"Sec. 201. Procurement, warehousing, and related activities.
"Sec. 202. Property utilization.
"Sec. 203. Disposal of surplus property.
"Sec. 204. Proceeds from transfer or disposition of property.
"Sec. 205. Policies, regulations, and delegations.
"Sec. 206. Surveys, standardization, and cataloging.
"Sec. 207. Applicability of antitrust laws.
"Sec. 208. Employment of personnel.
"Sec. 209. Civil remedies and penalties.
"Sec. 210. Operation of buildings and related activities.
"Sec. 211. Motor vehicle identification and operation.
"Sec. 212. Reports to Congress.

"TITLE III—PROCUREMENT PROCEDURE

"Sec. 301. Declaration of purpose.
"Sec. 302. Application and procurement methods.
"Sec. 302A. Simplified acquisition threshold.
"Sec. 302B. Implementation of simplified acquisition procedures.
"Sec. 302C. Implementation of FACNET capability.
"Sec. 303. Competition requirements.
"Sec. 303A. Planning and solicitation requirements.
"Sec. 303B. Evaluation and award.
"Sec. 303C. Encouragement of new competition.
"Sec. 303D. Validation of proprietary data restrictions.
"Sec. 303F. Economic order quantities.
"Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
"Sec. 303H. Task and delivery order contracts: general authority.
"Sec. 303I. Task order contracts: advisory and assistance services.
"Sec. 303J. Task and delivery order contracts: orders.
"Sec. 303K. Task and delivery order contracts: definitions.
"Sec. 303L. Severable services contracts for periods crossing fiscal years.
"Sec. 304. Contract requirements.
"Sec. 304A. Cost or pricing data: truth in negotiations.
"Sec. 304B. Multiyear contracts.
"Sec. 304C. Examination of records of contractor.
"Sec. 305. Contract financing.
"Sec. 306. Allowable costs.
"Sec. 307. Administrative determinations and delegations.
"Sec. 309. Definitions.
"Sec. 310. Statutes not applicable.
"Sec. 311. Assignment and delegation of procurement functions and responsibilities.
"Sec. 312. Determinations and decisions.
"Sec. 313. Performance based management: acquisition programs.
"Sec. 314. Relationship of commercial item provisions to other provisions of law.
"Sec. 314A. Definitions relating to procurement of commercial items.
"Sec. 314B. Preference for acquisition of commercial items.

"Sec. 315. Contractor employees: protection from reprisal for disclosure of certain information.

"TITLE IV—FOREIGN EXCESS PROPERTY

"Sec. 401. Disposal of foreign excess property.
"Sec. 402. Methods and terms of disposal.
"Sec. 403. Proceeds; foreign currencies.
"Sec. 404. Miscellaneous provisions.

"TITLE VI—GENERAL PROVISIONS

"Sec. 601. Applicability of existing procedures.
"Sec. 602. Repeal and saving provisions.
"Sec. 603. Authorization for appropriations and transfer of authority.
"Sec. 604. Separability.
"Sec. 605. Effective date.

"TITLE VIII—URBAN LAND UTILIZATION

"Sec. 801. Short title.
"Sec. 802. Declaration of purpose and policy.
"Sec. 803. Disposal of urban lands.
"Sec. 804. Acquisition or change of use of real property.
"Sec. 805. Waiver during national emergency.
"Sec. 806. Definitions.

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"Sec. 901. Definitions.
"Sec. 902. Policy.
"Sec. 903. Requests for data on architectural and engineering services.
"Sec. 904. Negotiation of contracts for architectural and engineering services.
"Sec. 905. Short title.".

(b) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

41 USC 401 note.

(1) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

41 USC 471 note.

(2) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—The Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.) is amended so that the section designation and section heading of each section of such Act is in the same form and typeface as the section designation and heading of this section.

(c) REPEALS OF EXECUTED PROVISIONS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended—

(1) by striking out section 13; and

(2) by striking out the first section 15 (which made amendments to the Federal Property and Administrative Services Act of 1949).

(d) CROSS REFERENCE CORRECTIONS.—Section 3552 of title 31, United States Code, is amended—

(1) by striking out "section 111(h)" and inserting in lieu thereof "section 111(f)"; and

(2) by striking out "759(h)" and inserting in lieu thereof "759(f)".

(e) CONSISTENCY OF TERMINOLOGY WITH CUSTOMARY USAGE.—Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(f) ENACTMENT OF POPULAR NAMES OF CERTAIN ACTS.—

(1) MILLER ACT.—The Act of August 24, 1935 (40 U.S.C. 270a–270d), commonly referred to as the "Miller Act", is amended by adding at the end the following new section:

"SEC. 6. This Act may be cited as the 'Miller Act'.". Miller Act. 40 USC 270a note.

(2) BROOKS ARCHITECT-ENGINEERS ACT.—Title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541–544) is amended by adding at the end the following new section:

"SEC. 905. SHORT TITLE. Brooks Architect-Engineers Act. 40 USC 541 note.

"This title may be cited as the 'Brooks Architect-Engineers Act'.".

(3) BROOKS AUTOMATIC DATA PROCESSING ACT.—Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), as amended by section 1439, is further amended by adding at the end the following new subsection:

"(i) This section may be cited as the 'Brooks Automatic Data Processing Act'.". Brooks Automatic Data Processing Act.

(4) BUY AMERICAN ACT.—The Act of March 3, 1933 (41 U.S.C. 10a–10c), commonly referred to as the "Buy American Act", is amended by adding at the end the following new section:

"SEC. 5. This Act may be cited as the 'Buy American Act'.". Buy American Act. 41 USC 10a note.

(5) WALSH-HEALEY ACT.—The Act of June 30, 1936 (41 U.S.C. 35 et seq.), commonly referred to as the "Walsh-Healey Act", as amended by section 7201, is further amended by adding at the end the following new section:

"SEC. 12. This Act may be cited as the 'Walsh-Healey Act'.". Walsh-Healey Act. 41 USC 35 note.

(6) JAVITS-WAGNER-O'DAY ACT.—The Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), is amended by adding at the end the following new section:

"SHORT TITLE

"SEC. 7. This Act may be cited as the 'Javits-Wagner-O'Day Act'.". Javits-Wagner-O'Day Act. 41 USC 46 note.

Approved October 13, 1994.

LEGISLATIVE HISTORY—S. 1587 (H.R. 2238) (S. 2206) (S. 2207):

HOUSE REPORTS: Nos. 103-545, Pt. 1, accompanying H.R. 2238 (Comm. on Government Operations) and Pt. 2 (Comm. on Armed Services), and 103-712 (Comm. of Conference).
SENATE REPORTS: Nos. 103-258 (Comm. on Governmental Affairs) and 103-259 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 7, 8, considered and passed Senate.
June 27, H.R. 2238 considered and passed House; S. 1587, amended, passed in lieu.
Aug. 23, Senate agreed to conference report.
Sept. 20, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 13, Presidential remarks.

Public Law 103-356
103d Congress

An Act

Oct. 13, 1994
[S. 2170]

To provide a more effective, efficient, and responsive Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government Management Reform Act of 1994
31 USC 3301 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—LIMITATION ON PAY

Sec. 101. Limitation on certain annual pay adjustments.

TITLE II—HUMAN RESOURCE MANAGEMENT

Sec. 201. SES annual leave accumulation.

TITLE III—STREAMLINING MANAGEMENT CONTROL

Sec. 301. Authority to increase efficiency in reporting to Congress.

TITLE IV—FINANCIAL MANAGEMENT

Sec. 401. Short title.
Sec. 402. Electronic payments.
Sec. 403. Franchise fund pilot programs.
Sec. 404. Simplification of management reporting process.
Sec. 405. Annual financial reports.

TITLE I—LIMITATION ON PAY

SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective date.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

TITLE II—HUMAN RESOURCE MANAGEMENT

SEC. 201. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows: Effective date

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) USE OF EXCESS LEAVE.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 5 USC 6304 note.

6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE III—STREAMLINING MANAGEMENT CONTROL

31 USC 1113 note.

SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE IV—FINANCIAL MANAGEMENT

Federal Financial Management Act of 1994. 31 USC 3301 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1994".

SEC. 402. ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 403. FRANCHISE FUND PILOT PROGRAMS. 31 USC 501 note.

(a) ESTABLISHMENT.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) USES.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

Appropriations authorization.

(c) FUNDING.—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) REPORT ON PILOT PROGRAMS.—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

(1) the structure of the fund;

(2) the composition of the funding mechanism;

(3) the capacity of the fund to promote competition; and

(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) PROCUREMENT.—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) TERMINATION.—The provisions of this section shall expire on October 1, 1999.

31 USC 501 note.

SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;

(2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101–410; 104 Stat. 890).

(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

(c) ADJUSTMENTS IN REPORTING.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and

(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.

SEC. 405. ANNUAL FINANCIAL REPORTS.

(a) FINANCIAL STATEMENTS.—Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) AUDITS BY AGENCIES.—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

(c) GOVERNMENTWIDE FINANCIAL STATEMENT.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

"(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

"(2) The Comptroller General of the United States shall audit the financial statement required by this section.".

Approved October 13, 1994.

LEGISLATIVE HISTORY—S. 2170:

SENATE REPORTS: No. 103-281 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 28, considered and passed Senate.
Oct. 3, 4, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 13, Presidential statement.

Public Law 103-357
103d Congress

An Act

Oct. 14, 1994
[H.R. 734]

To amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOVEREIGNTY OF PASCUA YAQUI TRIBE.

(a) IN GENERAL.—Subsection (a) of the first section of the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f(a)) is amended by inserting after the first sentence the following: "The Pascua Yaqui Tribe, a historic Indian tribe, is acknowledged as a federally recognized Indian tribe possessing all the attributes of inherent sovereignty which have not been specifically taken away by Acts of Congress and which are not inconsistent with such tribal status.".

(b) EXTENSION OF ENROLLMENT DEADLINE.—Section 3 of such Act (25 U.S.C. 1300f–2) is amended—

(1) in paragraph (B) by striking "and"; and

(2) by redesignating paragraph (C) as paragraph (D) and inserting after paragraph (B) the following new paragraph (C):

"(C) all those persons of Yaqui blood who are citizens of the United States and who, within three years after the date of enactment of this paragraph, apply for enrollment in the Pascua Yaqui Tribe pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe; and".

SEC. 2. STUDY.

The Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f et seq.) is amended by adding at the end the following new section:

25 USC 1300f-3.

"SEC. 4. STUDY.

"(a) IN GENERAL.—The Secretary of the Interior shall conduct one or more studies to determine—

"(1) whether the lands held in trust on the date of enactment of this section by the United States for the Pascua Yaqui Tribe are adequate for the needs of the tribe for the foreseeable future;

"(2) if such lands are not adequate—

"(A) whether suitable additional lands are available for acquisition by exchange or purchase; and

"(B) the cost and location of the suitable additional lands;

"(3) whether the Pascua Yaqui Tribe has sufficient water rights and allocations to meet the needs of the tribe for the foreseeable future;

"(4) if such water rights and allocations are not adequate—

"(A) whether additional water can be acquired; and

"(B) the potential sources and associated costs of such additional water;

"(5) whether the Bureau of Indian Affairs and the Indian Health Service have limited funding to the Pascua Yaqui Tribe based on a determination of the tribal enrollment in 1978, rather than the current enrollment;

"(6) if funding has been based on 1978 enrollment, how the funding levels can be adjusted to ensure that the Pascua Yaqui Tribe receives a fair and equitable portion of Bureau of Indian Affairs and Indian Health Service funding;

"(7) the genealogy of the Pascua Yaqui Tribe; and

"(8) the economic development opportunities available to the tribe as a result of the North American Free Trade Agreement.

"(b) TRIBAL PARTICIPATION.—The Secretary shall provide for the participation of members of the Pascua Yaqui tribe to carry out subsection (a).

"(c) REPORT.—Not later than 2 years after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit a report to Congress that contains the results of each study conducted pursuant to subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.R. 734:

HOUSE REPORTS: No. 103-204 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-338 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Aug. 2, considered and passed House.
Vol. 140 (1994): Aug. 19, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendment.

Public Law 103-358
103d Congress

An Act

Oct. 14, 1994
[H.R. 3694]

To amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgment against an annuitant for physically, sexually, or emotionally abusing a child.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Abuse Accountability Act.
5 USC 8331 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Accountability Act".

SEC. 2. GARNISHMENT AUTHORITY.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—(1) Section 8345(j)(1) of title 5, United States Code, is amended to read as follows:

"(j)(1) Payments under this subchapter which would otherwise be made to an employee, Member, or annuitant based on service of that individual shall be paid (in whole or in part) by the Office to another person if and to the extent expressly provided for in the terms of—

"(A) any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation; or

"(B) any court order or other similar process in the nature of garnishment for the enforcement of a judgment rendered against such employee, Member, or annuitant, for physically, sexually, or emotionally abusing a child.

In the event that the Office is served with more than 1 decree, order, or other legal process with respect to the same moneys due or payable to any individual, such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(2) Section 8345(j)(2) of title 5, United States Code, is amended by inserting "other legal process," after "order,".

(3) Section 8345(j)(3) of title 5, United States Code, is amended to read as follows:

"(3) For the purpose of this subsection—

"(A) the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court;

"(B) the term 'judgment rendered for physically, sexually, or emotionally abusing a child' means any legal claim perfected through a final enforceable judgment, which claim is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence; and

"(C) the term 'child' means an individual under 18 years of age.".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8467(a) of title 5, United States Code, is amended to read as follows:

"(a) Payments under this chapter which would otherwise be made to an employee, Member, or annuitant (including an employee, Member, or annuitant as defined in section 8331) based on service of that individual shall be paid (in whole or in part) by the Office or the Executive Director, as the case may be, to another person if and to the extent expressly provided for in the terms of—

"(1) any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation; or

"(2) any court order or other similar process in the nature of garnishment for the enforcement of a judgment rendered against such employee, Member, or annuitant, for physically, sexually, or emotionally abusing a child.

In the event that the Office or the Executive Director, as the case may be, is served with more than 1 decree, order, or other legal process with respect to the same moneys due or payable to any individual, such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(2) Section 8467(b) of title 5, United States Code, is amended by inserting "other legal process," after "order,".

(3) Section 8467 of title 5, United States Code, is amended by adding at the end the following:

"(c) For the purpose of this section—

"(1) the term 'judgment rendered for physically, sexually, or emotionally abusing a child' means any legal claim perfected through a final enforceable judgment, which claim is based in whole or in part upon the physical, sexual, or emotional abuse of a child, whether or not that abuse is accompanied by other actionable wrongdoing, such as sexual exploitation or gross negligence; and

"(2) the term 'child' means an individual under 18 years of age.".

(4) Section 8437(e)(3) of title 5, United States Code, is amended by striking the period at the end of the first sentence and inserting the following: "or relating to the enforcement of a judgment for physically, sexually, or emotionally abusing a child as provided under section 8467(a).".

5 USC 8345 note.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act, and shall apply with respect to any decree, order, or other legal process, or notice of agreement received by the Office of Personnel Management or the Executive Director of the Federal Retirement Thrift Investment Board on or after such date of enactment.

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.R. 3694:

HOUSE REPORTS: No. 103-721 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 103-359
103d Congress

An Act

To authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Oct. 14, 1994
[H.R. 4299]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intelligence Authorization Act for Fiscal Year 1995.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Community management account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Intelligence community contracting.
Sec. 304. Repeal of restriction on intelligence cooperation with South Africa.
Sec. 305. Report regarding mandatory retirement for expiration of time in class.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Illness or injury requiring hospitalization.
Sec. 402. Inspector General of the Central Intelligence Agency.
Sec. 403. Advanced information presentation project.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 501. Central Imagery Office.
Sec. 502. Exception to public availability of certain Department of Defense maps, charts, and geodetic data.
Sec. 503. Disclosure of governmental affiliation by Department of Defense intelligence personnel outside of the United States.
Sec. 504. Exception from authority for obligation of certain unauthorized fiscal year 1994 Defense appropriations.

TITLE VI—CONSTRUCTION OF FACILITIES FOR THE INTELLIGENCE COMMUNITY

Sec. 601. Limitations on funding of the National Reconnaissance Office.
Sec. 602. Limitation on construction of facilities to be used primarily by the intelligence community.

Sec. 603. Identification of constituent components of base intelligence budget.
Sec. 604. Definitions.

TITLE VII—CLASSIFICATION MANAGEMENT

Sec. 701. Classification and declassification of information.
Sec. 702. Declassification plan.

TITLE VIII—COUNTERINTELLIGENCE AND SECURITY

Sec. 801. Short title.
Sec. 802. Access to classified information.
Sec. 803. Rewards for information concerning espionage.
Sec. 804. Criminal forfeiture for violation of certain espionage laws.
Sec. 805. Denial of annuities or retired pay to persons convicted of espionage in foreign courts involving United States information.
Sec. 806. Postemployment assistance for certain terminated intelligence employees of the Department of Defense.
Sec. 807. Providing a court order process for physical searches undertaken for foreign intelligence purposes.
Sec. 808. Lesser criminal offense for unauthorized removal of classified documents.
Sec. 809. Reports on foreign industrial espionage.
Sec. 810. Counternarcotics targets funding.
Sec. 811. Coordination of counterintelligence activities.

TITLE IX—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

Sec. 901. Establishment.
Sec. 902. Composition and qualifications.
Sec. 903. Duties of the Commission.
Sec. 904. Reports.
Sec. 905. Powers.
Sec. 906. Personnel matters.
Sec. 907. Payment of Commission expenses.
Sec. 908. Termination of the Commission.
Sec. 909. Definitions.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1995 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The National Reconnaissance Office.
(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(7) The Department of State.
(8) The Department of the Treasury.
(9) The Department of Energy.
(10) The Federal Bureau of Investigation.
(11) The Drug Enforcement Administration.
(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1995, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the

conference report on the bill H.R. 4299 of the One Hundred Third Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1995 the sum of $86,900,000. Within such amounts authorized, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1996.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Account of the Director of Central Intelligence is authorized 241 full-time personnel as of September 30, 1995. Such personnel of the Community Management Account may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1995, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1995 the sum of $198,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence

activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 303. INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner that would maximize the procurement of products properly designated as having been made in the United States.

SEC. 304. REPEAL OF RESTRICTION ON INTELLIGENCE COOPERATION WITH SOUTH AFRICA.

22 USC 5072a.

Section 107 of the Intelligence Authorization Act for Fiscal Year 1987 (Public Law 99–569) is repealed.

SEC. 305. REPORT REGARDING MANDATORY RETIREMENT FOR EXPIRATION OF TIME IN CLASS.

(a) REPORT REQUIRED.—Not later than December 1, 1994, the Director of Central Intelligence shall submit a report to the committees of Congress specified in subsection (d) on the advisability of providing for mandatory retirement for expiration of time in class in a manner comparable to that established by the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007) for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Reconnaissance Office, the Central Imagery Office, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps.

(b) REQUIRED CONTENTS.—The report required by subsection (a) shall include—

(1) an assessment of the feasibility of instituting such a mandatory retirement policy and of alternative means to achieve the objectives of such a mandatory retirement policy;

(2) an assessment which the Secretary of Defense shall conduct of the impact of such a mandatory retirement policy for intelligence community civilian employees on all other Department of Defense civilian employees; and

(3) any appropriate legislative recommendations.

(c) COORDINATION.—The report required by subsection (a) shall be coordinated as appropriate with elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

(d) COMMITTEES OF CONGRESS.—The committees of Congress referred to in subsection (a) are the Committees on Armed Services of the Senate and House of Representatives, the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ILLNESS OR INJURY REQUIRING HOSPITALIZATION.

Section 4(a)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403(e)(a)) is amended— 50 USC 403e.

(1) in subparagraph (A)—

(A) by striking ", not the result of vicious habits, intemperance, or misconduct on his part,";

(B) by striking "he shall deem" and inserting "the Director deems";

(C) by striking "section 10 of the Act of March 3, 1933 (47 Stat. 1516; 5 U.S.C. 73b)" and inserting "section 5731 of title 5, United States Code";

(D) by striking "his recovery" and inserting "the recovery of such officer or employee"; and

(E) by striking "his return to his post" and inserting "the return to the post of duty of such officer or employee";

(2) in subparagraph (B), by striking "his opinion" both places it appears and inserting "the opinion of the Director"; and

(3) in subparagraph (C), by striking ", not the result of vicious habits, intemperance, or misconduct on his part,".

SEC. 402. INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

Section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) in subsection (b)(1)—

(A) by striking "or" after "analysis,"; and

(B) by striking the period at the end thereof and inserting ", or auditing.";

(2) in subsection (c)(1), by striking "to conduct" and inserting "to plan, conduct";

(3) in subsection (d)(1)—

(A) by striking "June 30 and December 31" and inserting "January 31 and July 31";

(B) by striking "period." at the end of the first sentence and inserting "periods ending December 31 (of the preceding year) and June 30, respectively."; and

(C) by inserting "of receipt of such reports" after "thirty days";

(4) in subsection (d)(3)(C), by inserting "inspection, or audit," after "investigation,";

(5) in subsection (d)(4), by inserting "or findings and recommendations" after "report"; and

(6) in subsection (e)(6)—

(A) by striking "it is the sense of Congress that"; and

(B) by striking "should" and inserting "shall".

SEC. 403. ADVANCED INFORMATION PRESENTATION PROJECT.

Of the funds made available under this Act, the Director of Central Intelligence is authorized during fiscal year 1995 to expend not more than $3,000,000 to develop products to demonstrate multimedia and graphical data interface techniques on topics of general interest to policy makers and the public. The products shall utilize

unclassified Government information, augmented if appropriate by commercially available information, and the project shall be limited to the development of not more than six products. In carrying out this section, the Director may acquire commercially available technology. Not later than August 1, 1995, the Director shall submit the products developed under this section to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. CENTRAL IMAGERY OFFICE.

(a) AMENDMENTS OF THE NATIONAL SECURITY ACT OF 1947.—(1) Section 3(4)(E) of the National Security Act of 1947 (50 U.S.C. 401a(4)(E)) is amended by striking out "the central imagery authority within the Department of Defense" and inserting in lieu thereof "the Central Imagery Office".

(2) Section 105(b)(2) of such Act (50 U.S.C. 403–5(b)(2)) is amended by striking out "a central imagery authority" and inserting in lieu thereof "the Central Imagery Office".

(3) Section 106(b) of such Act (50 U.S.C. 403–6(b)) is amended—

(A) in the subsection caption, by striking out "CENTRAL IMAGERY AUTHORITY" and inserting in lieu thereof "CENTRAL IMAGERY OFFICE"; and

(B) by striking out "central imagery authority" and inserting in lieu thereof "Central Imagery Office".

(b) TITLE 10, UNITED STATES CODE.—(1) Chapter 83 of title 10, United States Code, is amended as follows:

(A) By amending the heading of the chapter to read as follows:

"CHAPTER 83—DEFENSE INTELLIGENCE AGENCY AND CENTRAL IMAGERY OFFICE CIVILIAN PERSONNEL".

(B) In section 1601—

(i) by inserting "and the Central Imagery Office" after "Defense Intelligence Agency" in subsection (a);

(ii) by inserting "or the Central Imagery Office" after "outside the Defense Intelligence Agency" and inserting ", the Central Imagery Office," after "to the Defense Intelligence Agency" in subsection (d); and

(iii) by inserting "and the Central Imagery Office" after "Defense Intelligence Agency" in subsection (e).

(C) In section 1602, by inserting "and Central Imagery Office" after "Defense Intelligence Agency".

(D) In section 1604—

(i) by inserting "and the Central Imagery Office," after "Defense Intelligence Agency" in subsection (a)(1);

(ii) by inserting "or the Central Imagery Office" after "Defense Intelligence Agency" in both places it occurs in the second sentence of subsection (b);

(iii) by inserting "or the Central Imagery Office" after "Defense Intelligence Agency" in subsection (c);

(iv) by inserting "and the Central Imagery Office" after "Defense Intelligence Agency" in subsection (d);

(v) by inserting "or the Central Imagery Office" after "Defense Intelligence Agency" in subsection (e)(1); and

(vi) in subsection (e)(3)—

(I) by amending the first sentence to read as follows: "The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense, the Director of the Defense Intelligence Agency, the Director of the Central Imagery Office, or all three."; and

(II) by striking "either" and inserting "any".

(2) The items relating to chapter 83 in the tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended to read as follows:

"83. Defense Intelligence Agency and Central Imagery Office Civilian Personnel ..... 1601".

(c) CHAPTER 23 OF TITLE 5.—Section 2302(a)(2)(C)(ii) of title 5, United States Code, is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

(d) CHAPTER 31 OF TITLE 5.—Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

(e) CHAPTER 43 OF TITLE 5.—Section 4301(1)(B)(ii) of title 5, United States Code, is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

(f) CHAPTER 47 OF TITLE 5.—Section 4701(a)(1)(B) of title 5, United States Code, is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

(g) CHAPTER 51 OF TITLE 5.—Section 5102(a)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (ix);

(2) by striking the period at the end of clause (x) and inserting "; or"; and

(3) by adding at the end the following:

"(xi) the Central Imagery Office, Department of Defense.".

(h) CHAPTER 51 OF TITLE 5.—Section 5342(a)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (J);

(2) by inserting "or" after the semicolon at the end of subparagraph (K); and

(3) by adding at the end the following:

"(L) the Central Imagery Office, Department of Defense;".

(i) ADDITIONAL LEAVE TRANSFER PROGRAMS.—(1) Section 6339(a)(1) of title 5, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting after subparagraph (D) the following new subparagraph (E):

"(E) the Central Imagery Office; and".

(2) Section 6339(a)(2) of such title is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F);

(C) by inserting after subparagraph (D) the following new subparagraph (E):

"(E) with respect to the Central Imagery Office, the Director of the Central Imagery Office; and"; and

(D) in subparagraph (F), as redesignated by subparagraph (B) of this paragraph, by striking "paragraph (1)(E)" and inserting "paragraph (1)(F)" both places it appears.

(j) CHAPTER 71 OF TITLE 5.—Section 7103(a)(3) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by inserting "or" at the end of subparagraph (G); and

(3) by adding at the end the following:

"(H) the Central Imagery Office;".

(k) CHAPTER 73 OF TITLE 5.—Section 7323(b)(2)(B)(i) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subclause (XI); and

(2) by adding at the end the following:

"(XIII) the Central Imagery Office; or".

(l) CHAPTER 75 OF TITLE 5.—Section 7511(b)(8) of title 5, United States Code, is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

(m) ETHICS IN GOVERNMENT ACT OF 1978.—Section 105(a)(1) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

(n) EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.—Section 7(b)(2)(A)(i) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2006(b)(2)(A)(i)) is amended by inserting "the Central Imagery Office," after "Defense Intelligence Agency,".

SEC. 502. EXCEPTION TO PUBLIC AVAILABILITY OF CERTAIN DEPARTMENT OF DEFENSE MAPS, CHARTS, AND GEODETIC DATA.

Section 2796(b)(1) of title 10, United States Code, is amended by inserting "jeopardize or interfere with ongoing military or intelligence operations or" in subparagraph (C) after "disclosed,".

10 USC 424 note.

SEC. 503. DISCLOSURE OF GOVERNMENTAL AFFILIATION BY DEPARTMENT OF DEFENSE INTELLIGENCE PERSONNEL OUTSIDE OF THE UNITED STATES.

(a) IN GENERAL.—Notwithstanding section 552a(e)(3) of title 5, United States Code, intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources shall not be required, when making an initial assessment contact outside the United States, to give notice of governmental affiliation to potential sources who are United States persons.

(b) RECORDS.—Records concerning such contacts shall be maintained by the Department of Defense and made available upon request to the appropriate committees of the Congress in accordance with applicable security procedures. Such records shall include for each such contact an explanation of why notice of government affiliation could not reasonably be provided, the nature of the information obtained from the United States person as a result of the contact, and whether additional contacts resulted with the person concerned.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "United States" includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana

Islands, and any territory or possession of the United States; and

(2) the term "United States person" means any citizen, national, or permanent resident alien of the United States.

SEC. 504. EXCEPTION FROM AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1994 DEFENSE APPROPRIATIONS.

Section 1006 of the National Defense Authorization Act for Fiscal Year 1995 shall not apply to amounts which remain available for obligation on the date of the enactment of this Act for national foreign intelligence programs, projects, and activities.

TITLE VI—CONSTRUCTION OF FACILITIES FOR THE INTELLIGENCE COMMUNITY

SEC. 601. LIMITATIONS ON FUNDING OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) REVIEW OF PROJECT; COMPLIANCE WITH DOD PROCUREMENT AND CONTRACTING PROCEDURES.—

(1) IN GENERAL.—Of the funds authorized to be made available by this Act for the National Reconnaissance Office under the classified Schedule of Authorizations referred to in section 102—

(A) $50,000,000 out of the Miscellaneous Support account of the Mission Support Consolidated Expenditure Center may not be obligated or expended until the Director of Central Intelligence and the Secretary of Defense have completed a review of the National Reconnaissance Office Headquarters Building project and the results of such review have been disclosed to the intelligence committees; and

(B) no such funds authorized to be made available by this Act may be obligated or expended for the purchase of any real property, or to contract for any construction or acquisition, in connection with the construction of buildings or facilities, unless (and to the extent that)—

(i) such purchase or contract is made or entered into in accordance with the policies and procedures applicable to other elements of the Department of Defense; or

(ii) the President determines that the national security interest of the United States requires that such policies and procedures shall not apply to a particular purchase or contract and reports such determination in accordance with subsection (b).

(2) APPLICATION OF PROVISIONS.—Paragraph (1)(B) shall not apply to contracts made or entered into for the purchase of real property, or for construction or acquisition, before the date of enactment of this Act.

(b) WAIVER PROCEDURES.—Not later than 30 days after making a determination under subsection (a)(1)(B)(ii), the President shall report in writing the determination to the intelligence committees. President. Reports.

(c) SPECIFIC AUTHORIZATION AND APPROPRIATIONS REQUIRED.—Except to the extent and in the amounts specifically provided in an Act authorizing appropriations, in an appropriation Act, or in accordance with established reprogramming procedures, no funds made available under any provision of law may be obligated or expended for the construction of the National Reconnaissance Office Headquarters Building project if such funds would cause the total amount obligated or expended for such project to exceed $310,000,000.

(d) DEFINITION.—As used in this section, the term "National Reconnaissance Office Headquarters Building project" means the project for the headquarters buildings of the National Reconnaissance Office, situated at the so-called Westfields site, and includes all construction and improvement of facilities (including "fit up") and all actions related to the acquisition of land, communications, computers, furniture and other building furnishings, and vehicle parking facilities.

50 USC 403-2b.

SEC. 602. LIMITATION ON CONSTRUCTION OF FACILITIES TO BE USED PRIMARILY BY THE INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in subsection (b), no project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost in excess of $750,000 may be undertaken in any fiscal year unless such project is specifically identified as a separate item in the President's annual fiscal year budget request and is specifically authorized by the Congress.

(2) NOTIFICATION.—In the case of a project for the construction of any facility to be used primarily by personnel of any component of the intelligence community which has an estimated Federal cost greater than $500,000 but less than $750,000, or where any improvement project to such a facility has an estimated Federal cost greater than $500,000, the Director of Central Intelligence shall submit a notification to the intelligence committees specifically identifying such project.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a) but subject to paragraphs (2) and (3), a project for the construction of a facility to be used primarily by personnel of any component of the intelligence community may be carried out if the Secretary of Defense and the Director of Central Intelligence jointly determine—

(A) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and

(B) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Act authorizing appropriations for the intelligence community would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) REPORT.—When a decision is made to carry out a construction project under this subsection, the Secretary of Defense and the Director of Central Intelligence jointly shall submit a report in writing to the appropriate committees of

Congress on that decision. Each such report shall include (A) the justification for the project and the current estimate of the cost of the project, (B) the justification for carrying out the project under this subsection, and (C) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

(3) PROJECTS PRIMARILY FOR CIA.—If a project referred to in paragraph (1) is primarily for the Central Intelligence Agency, the Director of Central Intelligence shall make the determination and submit the report required by paragraphs (1) and (2).

(4) LIMITATION.—A project carried out under this subsection shall be carried out within the total amount of funds appropriated for intelligence and intelligence-related activities that have not been obligated.

(c) APPLICATION.—This section shall not apply to any project which is subject to subsection (a)(1)(A) or (c) of section 601.

SEC. 603. IDENTIFICATION OF CONSTITUENT COMPONENTS OF BASE INTELLIGENCE BUDGET.

50 USC 403-3 note.

The Director of Central Intelligence shall include the same level of budgetary detail for the Base Budget that is provided for Ongoing Initiatives and New Initiatives to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in the congressional justification materials for the annual submission of the National Foreign Intelligence Program of each fiscal year.

SEC. 604. DEFINITIONS.

50 USC 403-2b note.

As used in this title:

(1) INTELLIGENCE COMMITTEES.—The term "intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the same meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

TITLE VII—CLASSIFICATION MANAGEMENT

SEC. 701. CLASSIFICATION AND DECLASSIFICATION OF INFORMATION.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President shall, by Executive order, provide for the classification and declassification of information. It is the sense of Congress that the Executive order should provide for the following:

President.

(1) The qualification of information for classification only when its public disclosure would cause identifiable damage to the national security.

(2) The declassification of information if the appropriate authority within the Executive branch determines that the Government's interest in continuing to protect such information

is outweighed by the public's interest in having the information made available.

(3) The automatic declassification of information that is more than 25 years old unless such information is within a category designated by the President as requiring document-by-document review to identify that information whose disclosure to unauthorized persons would clearly damage the national security.

(b) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—The Executive order referred to in subsection (a) may not take effect until after 30 days after the date on which such proposed Executive order is submitted to the Permanent Select Committee on Intelligence and the Committee on Government Operations of the House of Representatives and the Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate.

SEC. 702. DECLASSIFICATION PLAN.

Each agency of the National Foreign Intelligence Program to which is appropriated more than $1,000,000 in the security, countermeasures, and related activities structural category for fiscal year 1995 shall allocate at least two percent of its total expenditure in this structural category for fiscal year 1995 to the classification management consolidated expenditure center, to be used for the following activities:

(1) Development of a phased plan to implement declassification guidelines contained in the Executive order which replaces Executive Order 12356. Each such agency shall provide the plan to Congress within 90 days after the beginning of fiscal year 1995 or 90 days after the publication of such replacement Executive order, whichever is later. This plan shall include an accounting of the amount of archived material, levels of classification, types of storage media and locations, review methods to be employed, and estimated costs of the declassification activity itself; as well as an assessment by the agency of the appropriate types and amounts of information to be maintained in the future, how it will be stored, safeguarded, and reviewed, and the projected costs of these classification management activities for the succeeding five years.

(2) Commencement of the process of declassification and reduction of the amount of archived classified documents maintained by each agency.

(3) Submission of a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate within 90 days after the end of fiscal year 1995 on the progress made in carrying out paragraph (2), with reference to the plan required by paragraph (1).

Counter-intelligence and Security Enhancements Act of 1994.

TITLE VIII—COUNTERINTELLIGENCE AND SECURITY

50 USC 401 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "Counterintelligence and Security Enhancements Act of 1994".

SEC. 802. ACCESS TO CLASSIFIED INFORMATION.

(a) AMENDMENT OF THE NATIONAL SECURITY ACT OF 1947.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

"PROCEDURES

"SEC. 801. (a) Not later than 180 days after the date of enactment of this title, the President shall, by Executive order or regulation, establish procedures to govern access to classified information which shall be binding upon all departments, agencies, and offices of the executive branch of Government. Such procedures shall, at a minimum— President. 50 USC 435.

"(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the executive branch of Government unless, based upon an appropriate background investigation, such access is determined to be clearly consistent with the national security interests of the United States;

"(2) establish uniform minimum requirements governing the scope and frequency of background investigations and reinvestigations for all employees in the executive branch of Government who require access to classified information as part of their official responsibilities;

"(3) provide that all employees in the executive branch of Government who require access to classified information shall be required as a condition of such access to provide to the employing department or agency written consent which permits access by an authorized investigative agency to relevant financial records, other financial information, consumer reports, and travel records, as determined by the President, in accordance with section 802 of this title, during the period of access to classified information and for a period of three years thereafter;

"(4) provide that all employees in the executive branch of Government who require access to particularly sensitive classified information, as determined by the President, shall be required, as a condition of maintaining access to such information, to submit to the employing department or agency, during the period of such access, relevant information concerning their financial condition and foreign travel, as determined by the President, as may be necessary to ensure appropriate security; and

"(5) establish uniform minimum standards to ensure that employees in the executive branch of Government whose access to classified information is being denied or terminated under this title are appropriately advised of the reasons for such denial or termination and are provided an adequate opportunity to respond to all adverse information which forms the basis for such denial or termination before final action by the department or agency concerned.

"(b)(1) Subsection (a) shall not be deemed to limit or affect the responsibility and power of an agency head pursuant to other law or Executive order to deny or terminate access to classified

information if the national security so requires. Such responsibility and power may be exercised only when the agency head determines that the procedures prescribed by subsection (a) cannot be invoked in a manner that is consistent with the national security.

Reports. "(2) Upon the exercise of such responsibility, the agency head shall submit a report to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

50 USC 436. "SEC. 802. (a)(1) Any authorized investigative agency may request from any financial agency, financial institution, or holding company, or from any consumer reporting agency, such financial records, other financial information, and consumer reports as may be necessary in order to conduct any authorized law enforcement investigation, counterintelligence inquiry, or security determination. Any authorized investigative agency may also request records maintained by any commercial entity within the United States pertaining to travel by an employee in the executive branch of Government outside the United States.

"(2) Requests may be made under this section where—

"(A) the records sought pertain to a person who is or was an employee in the executive branch of Government required by the President in an Executive order or regulation, as a condition of access to classified information, to provide consent, during a background investigation and for such time as access to the information is maintained, and for a period of not more than three years thereafter, permitting access to financial records, other financial information, consumer reports, and travel records; and

"(B)(i) there are reasonable grounds to believe, based on credible information, that the person is, or may be, disclosing classified information in an unauthorized manner to a foreign power or agent of a foreign power;

"(ii) information the employing agency deems credible indicates the person has incurred excessive indebtedness or has acquired a level of affluence which cannot be explained by other information known to the agency; or

"(iii) circumstances indicate the person had the capability and opportunity to disclose classified information which is known to have been lost or compromised to a foreign power or an agent of a foreign power.

"(3) Each such request—

"(A) shall be accompanied by a written certification signed by the department or agency head or deputy department or agency head concerned, or by a senior official designated for this purpose by the department or agency head concerned (whose rank shall be no lower than Assistant Secretary or Assistant Director), and shall certify that—

"(i) the person concerned is or was an employee within the meaning of paragraph (2)(A);

"(ii) the request is being made pursuant to an authorized inquiry or investigation and is authorized under this section; and

"(iii) the records or information to be reviewed are records or information which the employee has previously

agreed to make available to the authorized investigative agency for review;

"(B) shall contain a copy of the agreement referred to in subparagraph (A)(iii);

"(C) shall identify specifically or by category the records or information to be reviewed; and

"(D) shall inform the recipient of the request of the prohibition described in subsection (b).

"(b) Notwithstanding any other provision of law, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person, other than those officers, employees, or agents of such entity necessary to satisfy a request made under this section, that such entity has received or satisfied a request made by an authorized investigative agency under this section.

"(c)(1) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986), an entity receiving a request for records or information under subsection (a) shall, if the request satisfies the requirements of this section, make available such records or information within 30 days for inspection or copying, as may be appropriate, by the agency requesting such records or information.

"(2) Any entity (including any officer, employee, or agent thereof) that discloses records or information for inspection or copying pursuant to this section in good faith reliance upon the certifications made by an agency pursuant to this section shall not be liable for any such disclosure to any person under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(d) Any agency requesting records or information under this section may, subject to the availability of appropriations, reimburse a private entity for any cost reasonably incurred by such entity in responding to such request, including the cost of identifying, reproducing, or transporting records or other data.

"(e) An agency receiving records or information pursuant to a request under this section may disseminate the records or information obtained pursuant to such request outside the agency only—

"(1) to the agency employing the employee who is the subject of the records or information;

"(2) to the Department of Justice for law enforcement or counterintelligence purposes; or

"(3) with respect to dissemination to an agency of the United States, if such information is clearly relevant to the authorized responsibilities of such agency.

"(f) Nothing in this section may be construed to affect the authority of an investigative agency to obtain information pursuant to the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

"EXCEPTIONS

"SEC. 803. Except as otherwise specifically provided, the provisions of this title shall not apply to the President and Vice President, Members of the Congress, Justices of the Supreme Court, and Federal judges appointed by the President. 50 USC 437.

"DEFINITIONS

50 USC 438.

"SEC. 804. For purposes of this title—

"(1) the term 'authorized investigative agency' means an agency authorized by law or regulation to conduct a counterintelligence investigation or investigations of persons who are proposed for access to classified information to ascertain whether such persons satisfy the criteria for obtaining and retaining access to such information;

"(2) the term 'classified information' means any information that has been determined pursuant to Executive Order No. 12356 of April 2, 1982, or successor orders, or the Atomic Energy Act of 1954, to require protection against unauthorized disclosure and that is so designated;

"(3) the term 'consumer reporting agency' has the meaning given such term in section 603 of the Consumer Credit Protection Act (15 U.S.C. 1681a);

"(4) the term 'employee' includes any person who receives a salary or compensation of any kind from the United States Government, is a contractor of the United States Government or an employee thereof, is an unpaid consultant of the United States Government, or otherwise acts for or on behalf of the United States Government, except as otherwise determined by the President;

"(5) the terms 'financial agency' and 'financial institution' have the meanings given to such terms in section 5312(a) of title 31, United States Code, and the term 'holding company' has the meaning given to such term in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401);

"(6) the terms 'foreign power' and 'agent of a foreign power' have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(7) the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and any other possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of contents of the National Security Act of 1947 is amended by adding at the end the following:

"TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

"Sec. 801. Procedures.
"Sec. 802. Requests by authorized investigative agencies.
"Sec. 803. Exceptions.
"Sec. 804. Definitions.".

50 USC 435 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 180 days after the date of enactment of this Act.

SEC. 803. REWARDS FOR INFORMATION CONCERNING ESPIONAGE.

(a) REWARDS.—Section 3071 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "With respect to"; and

(2) by adding at the end the following new subsection:

"(b) With respect to acts of espionage involving or directed at the United States, the Attorney General may reward any individual who furnishes information—

"(1) leading to the arrest or conviction, in any country, of any individual or individuals for commission of an act of espionage against the United States;

"(2) leading to the arrest or conviction, in any country, of any individual or individuals for conspiring or attempting to commit an act of espionage against the United States; or

"(3) leading to the prevention or frustration of an act of espionage against the United States.".

(b) DEFINITIONS.—Section 3077 of such title is amended— 18 USC 3077.

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) 'act of espionage' means an activity that is a violation of—

"(A) section 793, 794, or 798 of title 18, United States Code; or

"(B) section 4 of the Subversive Activities Control Act of 1950.".

(c) CLERICAL AMENDMENTS.—(1) The item relating to chapter 204 in the table of chapters for part II of such title is amended to read as follows:

"204. Rewards for information concerning terrorist acts and espionage ..... 3071".

(2) The heading for chapter 204 of such title is amended to read as follows:

"CHAPTER 204—REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS AND ESPIONAGE".

SEC. 804. CRIMINAL FORFEITURE FOR VIOLATION OF CERTAIN ESPIONAGE LAWS.

(a) IN GENERAL.—Section 798 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1). Courts.

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)), shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

"(5) As used in this subsection, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.".

(b) AMENDMENTS FOR CONSISTENCY IN APPLICATION OF FORFEITURE UNDER TITLE 18.—(1) Section 793(h)(3) of such title is amended in the matter preceding subparagraph (A) by striking out "(*o*)" each place it appears and inserting in lieu thereof "(p)".

(2) Section 794(d)(3) of such title is amended in the matter preceding subparagraph (A) by striking out "(*o*)" each place it appears and inserting in lieu thereof "(p)".

(c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(e)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

Courts.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

"(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

"(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

"(5) As used in this subsection, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.".

SEC. 805. DENIAL OF ANNUITIES OR RETIRED PAY TO PERSONS CONVICTED OF ESPIONAGE IN FOREIGN COURTS INVOLVING UNITED STATES INFORMATION.

Section 8312 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) For purposes of subsections (b)(1) and (c)(1), an offense within the meaning of such subsections is established if the Attorney General of the United States certifies to the agency administering the annuity or retired pay concerned—

"(A) that an individual subject to this chapter has been convicted by an impartial court of appropriate jurisdiction within a foreign country in circumstances in which the conduct violates the provisions of law enumerated in subsections (b)(1) and (c)(1), or would violate such provisions had such conduct taken place within the United States, and that such conviction is not being appealed or that final action has been taken on such appeal;

"(B) that such conviction was obtained in accordance with procedures that provided the defendant due process rights comparable to such rights provided by the United States Constitution, and such conviction was based upon evidence which would have been admissible in the courts of the United States; and

"(C) that such conviction occurred after the date of enactment of this subsection.

"(2) Any certification made pursuant to this subsection shall be subject to review by the United States Court of Claims based upon the application of the individual concerned, or his or her attorney, alleging that any of the conditions set forth in subparagraphs (A), (B), or (C) of paragraph (1), as certified by the Attorney General, have not been satisfied in his or her particular circumstances. Should the court determine that any of these conditions has not been satisfied in such case, the court shall order any annuity or retirement benefit to which the person concerned is entitled to be restored and shall order that any payments which may have been previously denied or withheld to be paid by the department or agency concerned.".

SEC. 806. POSTEMPLOYMENT ASSISTANCE FOR CERTAIN TERMINATED INTELLIGENCE EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) CONSOLIDATION AND EXTENSION OF AUTHORITY.—

(1) IN GENERAL.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1599. Postemployment assistance: certain terminated intelligence employees

"(a) AUTHORITY.—Subject to subsection (c), the Secretary of Defense may, in the case of any individual who is a qualified former intelligence employee, use appropriated funds—

"(1) to assist that individual in finding and qualifying for employment other than in an intelligence component of the Department of Defense;

"(2) to assist that individual in meeting the expenses of treatment of medical or psychological disabilities of that individual; and

"(3) to provide financial support to that individual during periods of unemployment.

"(b) QUALIFIED FORMER INTELLIGENCE EMPLOYEES.—For purposes of this section, a qualified former intelligence employee is an individual who was employed as a civilian employee of the Department of Defense in a sensitive position in an intelligence component of the Department of Defense—

"(1) who has been found to be ineligible for continued access to information designated as 'Sensitive Compartmented Information' and employment with the intelligence component; or

"(2) whose employment with the intelligence component has been terminated.

"(c) CONDITIONS.—Assistance may be provided to a qualified former intelligence employee under subsection (a) only if the Secretary determines that such assistance is essential to—

"(1) maintain the judgment and emotional stability of the qualified former intelligence employee; and

"(2) avoid circumstances that might lead to the unlawful disclosure of classified information to which the qualified former intelligence employee had access.

"(d) DURATION OF ASSISTANCE.—Assistance may not be provided under this section in the case of any individual after the end of the five-year period beginning on the date of the termination of the employment of the individual with an intelligence component of the Department of Defense.

"(e) ANNUAL REPORT.—(1) The Secretary of Defense shall submit to the congressional committees specified in paragraph (2) an annual report with respect to any expenditure made under this section.

"(2) The committees referred to in paragraph (1) are the following:

"(A) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

"(B) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

"(f) DEFINITION.—In this section, the term 'intelligence component of the Department of Defense' means any of the following:

"(1) The National Security Agency.

"(2) The Defense Intelligence Agency.

"(3) The National Reconnaissance Office.

"(4) The Central Imagery Office.

"(5) The intelligence components of any of the military departments.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1599. Postemployment assistance: certain terminated intelligence employees.".

(b) REPEAL OF PREDECESSOR AUTHORITY.—

(1) DEFENSE INTELLIGENCE AGENCY.—Paragraph (4) of section 1604(e) of title 10, United States Code, is repealed.

(2) NATIONAL SECURITY AGENCY.—Section 17 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is repealed.

SEC. 807. PROVIDING A COURT ORDER PROCESS FOR PHYSICAL SEARCHES UNDERTAKEN FOR FOREIGN INTELLIGENCE PURPOSES.

(a) AMENDMENT OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title III as title IV and section 301 as section 401, respectively; 50 USC 1801 note.

(2) in section 401 (as so redesignated) by inserting "(other than title III)" after "provisions of this Act"; and

(3) by inserting after title II the following new title:

"TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"DEFINITIONS

"SEC. 301. As used in this title: 50 USC 1821.

"(1) The terms 'foreign power', 'agent of a foreign power', 'international terrorism', 'sabotage', 'foreign intelligence information', 'Attorney General', 'United States person', 'United States', 'person', and 'State' shall have the same meanings as in section 101 of this Act, except as specifically provided by this title.

"(2) 'Aggrieved person' means a person whose premises, property, information, or material is the target of physical search or any other person whose premises, property, information, or material was subject to physical search.

"(3) 'Foreign Intelligence Surveillance Court' means the court established by section 103(a) of this Act.

"(4) 'Minimization procedures' with respect to physical search, means—

"(A) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purposes and technique of the particular physical search, to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

"(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in section 101(e)(1) of this Act, shall not be disseminated in a manner that identifies any United States person, without such person's consent, unless such person's identity is necessary to understand such foreign intelligence information or assess its importance;

"(C) notwithstanding subparagraphs (A) and (B), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes; and

"(D) notwithstanding subparagraphs (A), (B), and (C), with respect to any physical search approved pursuant to section 302(a), procedures that require that no information, material, or property of a United States person shall be disclosed, disseminated, or used for any purpose or retained for longer than 24 hours unless a court order under section 304 is obtained or unless the Attorney General determines that the information indicates a threat of death or serious bodily harm to any person.

"(5) 'Physical search' means any physical intrusion within the United States into premises or property (including examination of the interior of property by technical means) that is intended to result in a seizure, reproduction, inspection, or alteration of information, material, or property, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, but does not include (A) 'electronic surveillance', as defined in section 101(f) of this Act, or (B) the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101(f) of this Act.

"AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN INTELLIGENCE PURPOSES

50 USC 1822.

"SEC. 302. (a)(1) Notwithstanding any other provision of law, the President, acting through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for periods of up to one year if—

"(A) the Attorney General certifies in writing under oath that—

"(i) the physical search is solely directed at premises, information, material, or property used exclusively by, or under the open and exclusive control of, a foreign power or powers (as defined in section 101(a) (1), (2), or (3));

"(ii) there is no substantial likelihood that the physical search will involve the premises, information, material, or property of a United States person; and

"(iii) the proposed minimization procedures with respect to such physical search meet the definition of minimization procedures under paragraphs (1) through (4) of section 301(4); and

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"(B) the Attorney General reports such minimization procedures and any changes thereto to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at least 30 days before their effective date, unless the Attorney General determines that immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

"(2) A physical search authorized by this subsection may be conducted only in accordance with the certification and minimization procedures adopted by the Attorney General. The Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on

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Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under the provisions of section 306.

"(3) The Attorney General shall immediately transmit under seal to the Foreign Intelligence Surveillance Court a copy of the certification. Such certification shall be maintained under security measures established by the Chief Justice of the United States with the concurrence of the Attorney General, in consultation with the Director of Central Intelligence, and shall remain sealed unless—

"(A) an application for a court order with respect to the physical search is made under section 301(4) and section 303; or

"(B) the certification is necessary to determine the legality of the physical search under section 305(g).

"(4)(A) With respect to physical searches authorized by this subsection, the Attorney General may direct a specified landlord, custodian, or other specified person to—

"(i) furnish all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search; and

"(ii) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain.

"(B) The Government shall compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid.

"(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Foreign Intelligence Surveillance Court. Notwithstanding any other provision of law, a judge of the court to whom application is made may grant an order in accordance with section 304 approving a physical search in the United States of the premises, property, information, or material of a foreign power or an agent of a foreign power for the purpose of collecting foreign intelligence information.

"(c) The Foreign Intelligence Surveillance Court shall have jurisdiction to hear applications for and grant orders approving a physical search for the purpose of obtaining foreign intelligence information anywhere within the United States under the procedures set forth in this title, except that no judge shall hear the same application which has been denied previously by another judge designated under section 103(a) of this Act. If any judge so designated denies an application for an order authorizing a physical search under this title, such judge shall provide immediately for the record a written statement of each reason for such decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established under section 103(b).

"(d) The court of review established under section 103(b) shall have jurisdiction to review the denial of any application made under this title. If such court determines that the application was properly denied, the court shall immediately provide for the record a written statement of each reason for its decision and, on petition of the United States for a writ of certiorari, the record shall be

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transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

"(e) Judicial proceedings under this title shall be concluded as expeditiously as possible. The record of proceedings under this title, including applications made and orders granted, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the Attorney General and the Director of Central Intelligence.

"APPLICATION FOR AN ORDER

50 USC 1823.

"SEC. 303. (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include—

"(1) the identity of the Federal officer making the application;

"(2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application;

"(3) the identity, if known, or a description of the target of the search, and a detailed description of the premises or property to be searched and of the information, material, or property to be seized, reproduced, or altered;

"(4) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power;

"(B) the premises or property to be searched contains foreign intelligence information; and

"(C) the premises or property to be searched is owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;

"(5) a statement of the proposed minimization procedures;

"(6) a statement of the nature of the foreign intelligence sought and the manner in which the physical search is to be conducted;

"(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President, by and with the advice and consent of the Senate—

"(A) that the certifying official deems the information sought to be foreign intelligence information;

"(B) that the purpose of the search is to obtain foreign intelligence information;

"(C) that such information cannot reasonably be obtained by normal investigative techniques;

"(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

"(E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D);

"(8) where the physical search involves a search of the residence of a United States person, the Attorney General shall state what investigative techniques have previously been utilized to obtain the foreign intelligence information concerned and the degree to which these techniques resulted in acquiring such information; and

"(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

"(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

"(c) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 304.

"ISSUANCE OF AN ORDER

"SEC. 304. (a) Upon an application made pursuant to section 303, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that— 50 USC 1824.

"(1) the President has authorized the Attorney General to approve applications for physical searches for foreign intelligence purposes;

"(2) the application has been made by a Federal officer and approved by the Attorney General;

"(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

"(A) the target of the physical search is a foreign power or an agent of a foreign power, except that no United States person may be considered an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

"(B) the premises or property to be searched is owned, used, possessed by, or is in transit to or from an agent of a foreign power or a foreign power;

"(4) the proposed minimization procedures meet the definition of minimization contained in this title; and

"(5) the application which has been filed contains all statements and certifications required by section 303, and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 303(a)(7)(E) and any other information furnished under section 303(c).

"(b) An order approving a physical search under this section shall—

"(1) specify—

"(A) the identity, if known, or a description of the target of the physical search;

"(B) the nature and location of each of the premises or property to be searched;

"(C) the type of information, material, or property to be seized, altered, or reproduced;

"(D) a statement of the manner in which the physical search is to be conducted and, whenever more than one physical search is authorized under the order, the author-

ized scope of each search and what minimization procedures shall apply to the information acquired by each search; and

"(E) the period of time during which physical searches are approved; and

"(2) direct—

"(A) that the minimization procedures be followed;

"(B) that, upon the request of the applicant, a specified landlord, custodian, or other specified person furnish the applicant forthwith all information, facilities, or assistance necessary to accomplish the physical search in such a manner as will protect its secrecy and produce a minimum of interference with the services that such landlord, custodian, or other person is providing the target of the physical search;

"(C) that such landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the search or the aid furnished that such person wishes to retain;

"(D) that the applicant compensate, at the prevailing rate, such landlord, custodian, or other person for furnishing such aid; and

"(E) that the Federal officer conducting the physical search promptly report to the court the circumstances and results of the physical search.

"(c)(1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for forty-five days, whichever is less, except that an order under this section shall approve a physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a), for the period specified in the application or for one year, whichever is less.

"(2) Extensions of an order issued under this title may be granted on the same basis as the original order upon an application for an extension and new findings made in the same manner as required for the original order, except that an extension of an order under this Act for a physical search targeted against a foreign power, as defined in section 101(a) (5) or (6), or against a foreign power, as defined in section 101(a)(4), that is not a United States person, may be for a period not to exceed one year if the judge finds probable cause to believe that no property of any individual United States person will be acquired during the period.

"(3) At or before the end of the period of time for which a physical search is approved by an order or an extension, or at any time after a physical search is carried out, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

"(d)(1)(A) Notwithstanding any other provision of this title, whenever the Attorney General reasonably makes the determination specified in subparagraph (B), the Attorney General may authorize the execution of an emergency physical search if—

"(i) a judge having jurisdiction under section 103 is informed by the Attorney General or the Attorney General's

designee at the time of such authorization that the decision has been made to execute an emergency search, and

"(ii) an application in accordance with this title is made to that judge as soon as practicable but not more than 24 hours after the Attorney General authorizes such search.

"(B) The determination referred to in subparagraph (A) is a determination that—

"(i) an emergency situation exists with respect to the execution of a physical search to obtain foreign intelligence information before an order authorizing such search can with due diligence be obtained, and

"(ii) the factual basis for issuance of an order under this title to approve such a search exists.

"(2) If the Attorney General authorizes an emergency search under paragraph (1), the Attorney General shall require that the minimization procedures required by this title for the issuance of a judicial order be followed.

"(3) In the absence of a judicial order approving such a physical search, the search shall terminate the earlier of—

"(A) the date on which the information sought is obtained;

"(B) the date on which the application for the order is denied; or

"(C) the expiration of 24 hours from the time of authorization by the Attorney General.

"(4) In the event that such application for approval is denied, or in any other case where the physical search is terminated and no order is issued approving the search, no information obtained or evidence derived from such search shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such search shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General, if the information indicates a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 302.

"(e) Applications made and orders granted under this title shall be retained for a period of at least 10 years from the date of the application.

"USE OF INFORMATION

"SEC. 305. (a) Information acquired from a physical search conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No information acquired from a physical search pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes. 50 USC 1825.

"(b) Where a physical search authorized and conducted pursuant to section 304 involves the residence of a United States person, and, at any time after the search the Attorney General determines there is no national security interest in continuing to maintain the secrecy of the search, the Attorney General shall provide notice Notification.

to the United States person whose residence was searched of the fact of the search conducted pursuant to this Act and shall identify any property of such person seized, altered, or reproduced during such search.

"(c) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(d) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from a physical search pursuant to the authority of this title, the United States shall, prior to the trial, hearing, or the other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

"(e) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof against an aggrieved person any information obtained or derived from a physical search pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

"(f)(1) Any person against whom evidence obtained or derived from a physical search to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such search on the grounds that—

"(A) the information was unlawfully acquired; or

"(B) the physical search was not made in conformity with an order of authorization or approval.

"(2) Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

"(g) Whenever a court or other authority is notified pursuant to subsection (d) or (e), or whenever a motion is made pursuant to subsection (f), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to a physical search authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from a physical search authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the

same district as the authority shall, notwithstanding any other provision of law, if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the physical search as may be necessary to determine whether the physical search of the aggrieved person was lawfully authorized and conducted. In making this determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the physical search, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the physical search.

"(h) If the United States district court pursuant to subsection (g) determines that the physical search was not lawfully authorized or conducted, it shall, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the physical search of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court determines that the physical search was lawfully authorized or conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(i) Orders granting motions or requests under subsection (h), decisions under this section that a physical search was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the physical search shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

"(j)(1) If an emergency execution of a physical search is authorized under section 304(d) and a subsequent order approving the search is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to the search as the judge may determine in his discretion it is in the interests of justice to serve, notice of—

"(A) the fact of the application;

"(B) the period of the search; and

"(C) the fact that during the period information was or was not obtained.

"(2) On an ex parte showing of good cause to the judge, the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed 90 days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

"CONGRESSIONAL OVERSIGHT

"SEC. 306. On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all physical searches conducted pursuant to this title. On a semiannual basis the Attorney General shall also provide to those committees and the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period— 50 USC 1826. Reports.

"(1) the total number of applications made for orders approving physical searches under this title;

"(2) the total number of such orders either granted, modified, or denied; and

"(3) the number of physical searches which involved searches of the residences, offices, or personal property of United States persons, and the number of occasions, if any, where the Attorney General provided notice pursuant to section 305(b).

"PENALTIES

50 USC 1827.

"SEC. 307. (a) A person is guilty of an offense if he intentionally—

"(1) under color of law for the purpose of obtaining foreign intelligence information, executes a physical search within the United States except as authorized by statute; or

"(2) discloses or uses information obtained under color of law by physical search within the United States, knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.

"(b) It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the physical search was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

"(c) An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

"(d) There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

"CIVIL LIABILITY

50 USC 1828.

"SEC. 308. An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 307 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

"(1) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

"(2) punitive damages; and

"(3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

"AUTHORIZATION DURING TIME OF WAR

50 USC 1829.

"SEC. 309. Notwithstanding any other provision of law, the President, through the Attorney General, may authorize physical searches without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by the Congress.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 is amended by striking the items relating to title III and inserting the following:

"TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

"Sec. 301. Definitions.
"Sec. 302. Authorization of physical searches for foreign intelligence purposes.
"Sec. 303. Application for an order.
"Sec. 304. Issuance of an order.
"Sec. 305. Use of information.
"Sec. 306. Congressional oversight.
"Sec. 307. Penalties.
"Sec. 308. Civil liability.
"Sec. 309. Authorization during time of war.

"TITLE IV—EFFECTIVE DATE

"Sec. 401. Effective date.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 90 days after the date of enactment of this Act, except that any physical search approved by the Attorney General of the United States to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of title III of the Foreign Intelligence Surveillance Act of 1978 (as added by this Act), if that search is conducted within 180 days after the date of enactment of this Act pursuant to regulations issued by the Attorney General, which were in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the date of enactment of this Act. 50 USC 1821 note.

SEC. 808. LESSER CRIMINAL OFFENSE FOR UNAUTHORIZED REMOVAL OF CLASSIFIED DOCUMENTS.

(a) IN GENERAL.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1924. Unauthorized removal and retention of classified documents or material

"(a) Whoever, being an officer, employee, contractor, or consultant of the United States, and, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials containing classified information of the United States, knowingly removes such documents or materials without authority and with the intent to retain such documents or materials at an unauthorized location shall be fined not more than $1,000, or imprisoned for not more than one year, or both.

"(b) For purposes of this section, the provision of documents and materials to the Congress shall not constitute an offense under subsection (a).

"(c) In this section, the term 'classified information of the United States' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"1924. Unauthorized removal and retention of classified documents or material.".

50 USC app. 2170b. President.

SEC. 809. REPORTS ON FOREIGN INDUSTRIAL ESPIONAGE.

(a) IN GENERAL.—

(1) SUBMISSION AND CONTENTS.—In order to assist Congress in its oversight functions with respect to this Act and to improve the awareness of United States industry of foreign industrial espionage and the ability of such industry to protect against such espionage, the President shall submit to Congress a report that describes, as of the time of the report, the following:

(A) The respective policy functions and operational roles of the agencies of the executive branch of the Federal Government in identifying and countering threats to United States industry of foreign industrial espionage, including the manner in which such functions and roles are coordinated.

(B) The means by which the Federal Government communicates information on such threats, and on methods to protect against such threats, to United States industry in general and to United States companies known to be targets of foreign industrial espionage.

(C) The specific measures that are being or could be undertaken in order to improve the activities referred to in subparagraphs (A) and (B), including proposals for any modifications of law necessary to facilitate the undertaking of such activities.

(D) The threat to United States industry of foreign industrial espionage and any trends in that threat, including—

(i) the number and identity of the foreign governments conducting foreign industrial espionage;

(ii) the industrial sectors and types of information and technology targeted by such espionage; and

(iii) the methods used to conduct such espionage.

(2) DATE OF SUBMISSION.—The President shall submit the report required under this subsection not later than six months after the date of the enactment of this Act.

President.

(b) ANNUAL UPDATE.—Not later than one year after the date referred to in paragraph (2) of subsection (a), and on the expiration of each year thereafter, the President shall submit to Congress a report updating the information referred to in paragraph (1)(D) of that subsection.

(c) FORM OF REPORTS.—To the maximum extent practicable, the reports referred to in subsections (a) and (b) shall be submitted in an unclassified form, but may be accompanied by a classified appendix.

(d) REPORT UNDER DEFENSE PRODUCTION ACT.—Section 721(k)(1)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)(1)(B)) is amended by inserting "or directly assisted" after "directed".

(e) DEFINITION.—For the purposes of this section, "foreign industrial espionage" means industrial espionage conducted by a foreign government or by a foreign company with direct assistance of a foreign government against a private United States company and aimed at obtaining commercial secrets.

SEC. 810. COUNTERNARCOTICS TARGETS FUNDING.

Not less than $5,000,000 from the base budget for the National Security Agency shall be transferred to United States Army signals intelligence activities directed at counternarcotics targets. A detailed operations plan with special emphasis on the United States/Mexico border and including the participation of the National Security Agency, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the United States Customs Service, shall be provided to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives no later than November 15, 1994. This plan shall include a detailed description of the planned targets and the type of intelligence collection, dissemination, analysis and tasking that will be included in these operations.

SEC. 811. COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES. 50 USC 402a.

(a) ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD.—There is established within the executive branch of Government a National Counterintelligence Policy Board (in this section referred to as the "Board"). The Board shall report to the President through the National Security Council.

(b) FUNCTION OF THE BOARD.—The Board shall serve as the principal mechanism for—

(1) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

(2) resolving conflicts, as directed by the President, which may arise between elements of the Government which carry out such activities.

(c) COORDINATION OF COUNTERINTELLIGENCE MATTERS WITH THE FEDERAL BUREAU OF INVESTIGATION.—(1) Except as provided in paragraph (3), the head of each department or agency within the executive branch shall ensure that—

(A) the Federal Bureau of Investigation is advised immediately of any information, regardless of its origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power;

(B) following a report made pursuant to subparagraph (A), the Federal Bureau of Investigation is consulted with respect to all subsequent actions which may be undertaken by the department or agency concerned to determine the source of such loss or compromise; and

(C) where, after appropriate consultation with the department or agency concerned, the Federal Bureau of Investigation undertakes investigative activities to determine the source of the loss or compromise, the Federal Bureau of Investigation is given complete and timely access to the employees and records of the department or agency concerned for purposes of such investigative activities.

(2) Except as provided in paragraph (3), the Director of the Federal Bureau of Investigation shall ensure that espionage information obtained by the Federal Bureau of Investigation pertaining to the personnel, operations, or information of departments or agencies of the executive branch, is provided through appropriate channels to the department or agency concerned, and that such departments or agencies are consulted with respect to

espionage investigations undertaken by the Federal Bureau of Investigation which involve the personnel, operations, or information of such department or agency after a report has been provided pursuant to paragraph (1)(A).

(3) Where essential to meet extraordinary circumstances affecting vital national security interests of the United States, the President may on a case-by-case basis waive the requirements of paragraph (1) or (2), as they apply to the head of a particular department or agency, or the Director of the Federal Bureau of Investigation. Such waiver shall be in writing and shall fully state the justification for such waiver. Within thirty days, the President shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives that such waiver has been issued, and at that time or as soon as national security considerations permit, provide these committees with a complete explanation of the circumstances which necessitated such waiver.

President.

(4) The Director of the Federal Bureau of Investigation shall, in consultation with the Director of Central Intelligence and the Secretary of Defense, report annually, beginning on February 1, 1995, and continuing each year thereafter, to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in accordance with applicable security procedures, the Committees on the Judiciary of the House of Representatives and the Senate with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

(5) Nothing in this section may be construed to alter the existing jurisdictional arrangements between the Federal Bureau of Investigation and the Department of Defense with respect to investigations of persons subject to the Uniform Code of Military Justice, nor to impose additional reporting requirements upon the Department of Defense with respect to such investigations beyond those required by existing law and executive branch policy.

(6) As used in this section, the terms "foreign power" and "agent of a foreign power" have the same meanings as set forth in sections 101 (a) and (b), respectively, of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

50 USC 401 note.

TITLE IX—COMMISSION ON THE ROLES AND CAPABILITIES OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. 901. ESTABLISHMENT.

There is established a commission to be known as the Commission on the Roles and Capabilities of the United States Intelligence Community (hereafter in this title referred to as the "Commission").

SEC. 902. COMPOSITION AND QUALIFICATIONS.

(a) MEMBERSHIP.—(1) The Commission shall be composed of 17 members, as follows:

(A) Nine members shall be appointed by the President from private life, no more than four of whom shall have previously held senior leadership positions in the intelligence

community and no more than five of whom shall be members of the same political party.

(B) Two members shall be appointed by the majority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(C) Two members shall be appointed by the minority leader of the Senate, of whom one shall be a Member of the Senate and one shall be from private life.

(D) Two members shall be appointed by the Speaker of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(E) Two members shall be appointed by the Minority Leader of the House of Representatives, of whom one shall be a Member of the House and one shall be from private life.

(2) The members of the Commission appointed from private life under paragraph (1) shall be persons of demonstrated ability and accomplishment in government, business, law, academe, journalism, or other profession, who have a substantial background in national security matters.

(b) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate two of the members appointed from private life to serve as Chairman and Vice Chairman, respectively, of the Commission. President.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner as the original appointment.

(d) DEADLINE FOR APPOINTMENTS.—The appointments required by subsection (a) shall be made within 45 days after the date of enactment of this Act.

(e) MEETINGS.—(1) The Commission shall meet at the call of the Chairman.

(2) The Commission shall hold its first meeting not later than four months after the date of enactment of this Act.

(f) QUORUM.—Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings, take testimony, or receive evidence.

(g) SECURITY CLEARANCES.—Appropriate security clearances shall be required for members of the Commission who are private United States citizens. Such clearances shall be processed and completed on an expedited basis by appropriate elements of the executive branch of Government and shall, in any case, be completed within 90 days of the date such members are appointed.

(h) APPLICATION OF CERTAIN PROVISIONS OF LAW.—In light of the extraordinary and sensitive nature of its deliberations, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursuant to that Act, shall not apply to the Commission. Further, the provisions of section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), shall not apply to the Commission; however, records of the Commission shall be subject to the Federal Records Act and, when transferred to the National Archives and Records Agency, shall no longer be exempt from the provisions of such section 552.

SEC. 903. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Commission—

(1) to review the efficacy and appropriateness of the activities of the United States intelligence community in the post-cold war global environment; and

(2) to prepare and transmit the reports described in section 904.

(b) IMPLEMENTATION.—In carrying out subsection (a), the Commission shall specifically consider the following:

(1) What should be the roles and missions of the intelligence community in terms of providing support to the defense and foreign policy establishments and how should these relate to tactical intelligence activities.

(2) Whether the roles and missions of the intelligence community should extend beyond the traditional areas of providing support to the defense and foreign policy establishments, and, if so, what areas should be considered legitimate for intelligence collection and analysis, and whether such areas should include, for example, economic issues, environmental issues, and health issues.

(3) What functions, if any, should continue to be assigned to the organizations of the intelligence community, including the Central Intelligence Agency, and what capabilities should these organizations retain for the future.

(4) Whether the existing organization and management framework of the organizations of the intelligence community, including the Central Intelligence Agency, provide the optimal structure for the accomplishment of their missions.

(5) Whether existing principles and strategies governing the acquisition and maintenance of intelligence collection capabilities should be retained and what collection capabilities should the Government retain to meet future contingencies.

(6) Whether intelligence analysis, as it is currently structured and executed, adds sufficient value to information otherwise available to the Government to justify its continuation, and, if so, at what level of resources.

(7) Whether the existing decentralized system of intelligence analysis results in significant waste or duplication, and, if so, what can be done to correct these deficiencies.

(8) Whether the existing arrangements for allocating available resources to accomplish the roles and missions assigned to intelligence agencies are adequate.

(9) Whether the existing framework for coordinating among intelligence agencies with respect to intelligence collection and analysis and other activities, including training and operational activities, provides an optimal structure for such coordination.

(10) Whether current personnel policies and practices of intelligence agencies provide an optimal work force to satisfy the needs of intelligence consumers.

(11) Whether resources for intelligence activities should continue to be allocated as part of the defense budget or be treated by the President and Congress as a separate budgetary program.

(12) Whether the existing levels of resources allocated for intelligence collection or intelligence analysis, or to provide a capability to conduct covert actions, are seriously at variance with United States needs.

(13) Whether there are areas of redundant or overlapping activity or areas where there is evidence of serious waste, duplication, or mismanagement.

(14) To what extent, if any, should the budget for United States intelligence activities be publicly disclosed.

(15) To what extent, if any, should the United States intelligence community collect information bearing upon private commercial activity and the manner in which such information should be controlled and disseminated.

(16) Whether counterintelligence policies and practices are adequate to ensure that employees of intelligence agencies are sensitive to security problems, and whether intelligence agencies themselves have adequate authority and capability to address perceived security problems.

(17) The manner in which the size, missions, capabilities, and resources of the United States intelligence community compare to those of other countries.

(18) Whether existing collaborative arrangements between the United States and other countries in the area of intelligence cooperation should be maintained and whether such arrangements should be expanded to provide for increased burdensharing.

(19) Whether existing arrangements for sharing intelligence with multinational organizations in support of mutually shared objectives are adequate.

SEC. 904. REPORTS.

(a) INITIAL REPORT.—Not later than two months after the first meeting of the Commission, the Commission shall transmit to the congressional intelligence committees a report setting forth its plan for the work of the Commission.

(b) INTERIM REPORTS.—Prior to the submission of the report required by subsection (c), the Commission may issue such interim reports as it finds necessary and desirable.

(c) FINAL REPORT.—No later than March 1, 1996, the Commission shall submit to the President and to the congressional intelligence committees a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for the enactment of legislation that the Commission considers advisable. To the extent feasible, such report shall be unclassified and made available to the public. Such report shall be supplemented as necessary by a classified report or annex, which shall be provided separately to the President and the congressional intelligence committees.

SEC. 905. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any intelligence agency or from any other Federal department or agency any information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section. Upon request of the Chairman

of the Commission, the head of any such department or agency shall furnish such information expeditiously to the Commission.

(c) POSTAL, PRINTING AND BINDING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) SUBCOMMITTEES.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(e) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 906. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is a private United States citizen shall be paid, if requested, at a rate equal to the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. All members of the Commission who are Members of Congress shall serve without compensation in addition to that received for their services as Members of Congress.

(b) TRAVEL EXPENSES.—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The staff director of the Commission shall be appointed from private life, and such appointment shall be subject to the approval of the Commission as a whole. No member of the professional staff may be a current officer or employee of an intelligence agency, except that up to three current employees of intelligence agencies who are on rotational assignment to the Executive Office of the President may serve on the Commission staff, subject to the approval of the Commission as a whole.

(2) COMPENSATION.—The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay

for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its administrative and clerical functions.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a nonreimbursable basis, any administrative and support services requested by the Commission consistent with this title.

SEC. 907. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

SEC. 908. TERMINATION OF THE COMMISSION.

The Commission shall terminate one month after the date of the submission of the report required by section 904(c).

SEC. 909. DEFINITIONS.

For purposes of this title—

(1) the term "intelligence agency" means any agency, office, or element of the intelligence community;

(2) the term "intelligence community" shall have the same meaning as set forth in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(3) the term "congressional intelligence committees" refers to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.R. 4299 (S. 2056) (S 2082):

HOUSE REPORTS: No. 103-541, Pt. 1 (Permanent Select Comm. on Intelligence) and 103-753 (Comm. of Conference).

SENATE REPORTS: No. 103-256 (Select Comm. on Intelligence) and 103-295 (Comm. on Armed Services), both accompanying S. 2082, and 103-296 accompanying S. 2056 (Select Comm. on Intelligence).

CONGRESSIONAL RECORD, Vol. 140 (1994):

July 19, 20, considered and passed House.

Aug. 12, considered and passed Senate, amended, in lieu of S. 2082.

Sept. 30, House and Senate agreed to conference report.

Public Law 103-360
103d Congress

An Act

Oct. 14, 1994
[H.R. 4543]

To designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, shall be known and designated as the "Matthew J. Perry, Jr. United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Matthew J. Perry, Jr. United States Courthouse".

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.R. 4543:

HOUSE REPORTS: No. 103-636 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 8, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 103-361
103d Congress

Joint Resolution

To designate the second Sunday in October of 1994 as "National Children's Day".

Oct. 14, 1994
[H.J. Res. 389]

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;
Whereas children represent the future, hope, and inspiration of the United States;
Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;
Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;
Whereas it is important for parents to spend time listening to their children on a daily basis;
Whereas modern societal and economic demands often pull the family apart;
Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;
Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;
Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;
Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;
Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and
Whereas children are the responsibility of all Americans, thus everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second

Sunday in October of 1994 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.J. Res. 389:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 103-362
103d Congress

Joint Resolution

To establish the fourth Sunday of July as "Parents' Day".

Oct. 14, 1994
[H.J. Res. 398]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth Sunday of every July shall be established as "Parents' Day" to be recognized as a recurring, perennial day of commemoration.

36 USC 142c.

SEC. 2. RECOGNITION.

36 USC 142c-1.

All private citizens, organizations, and governmental and legislative bodies at the local, State, and Federal level are encouraged to recognize Parents' Day through proclamations, activities, and educational efforts in furtherance of recognizing, uplifting, and supporting the role of parents in the rearing of their children.

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.J. Res. 398:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 103-363
103d Congress

Joint Resolution

Oct. 14, 1994
[H.J. Res. 415]

Designating the week beginning October 16, 1994, as "National Penny Charity Week".

Whereas 170 billion pennies—$1.7 billion—are circulating in the economy;

Whereas financial institutions, merchants, and retail establishments are reporting a shortage of pennies;

Whereas this shortage is a result of American people hoarding their pennies;

Whereas, during fiscal year 1994, the United States Mint will spend $1.64 million to produce 13.3 billion pennies in order to counter the effect of hoarding;

Whereas donating hoarded pennies to charities provides the charities with funds, diminishes the shortage of pennies, lowers the demand on the United States Mint to produce additional pennies, and ultimately saves the United States Treasury money;

Whereas Penny Lover's of America is a not-for-profit charitable organization that seeks to promote character, scholarship, and patriotism among America's youth by collecting penny donations to finance their educational pursuits;

Whereas Penny Lover's of America is celebrating its 10th anniversary this year by conducting a penny recycling campaign; and

Whereas "National Penny Charity Week" coincides with Penny Lover's of America's "National Penny Campaign Recycling Project" both of which will assist in alleviating the penny shortage and raise funds for charitable and community causes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of October 16, 1994, as "National Penny Charity Week" and to call on the people of the United States to observe such week with appropriate ceremonies and activities, including the donation of pennies to charities, particularly to those which provide direct services to the Nation's underprivileged and disadvantaged population, and to worthy community causes.

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.J. Res. 415:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 103-364
103d Congress

An Act

To establish the Saguaro National Park in the State of Arizona, and for other purposes.

Oct. 14, 1994
[S. 316]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Saguaro National Park Establishment Act of 1994.
16 USC 410zz note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saguaro National Park Establishment Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

16 USC 410zz.

The Congress finds that—

(1) the Saguaro National Monument was established by Presidential Proclamation in 1933;

(2) the Tucson Mountain unit was established by Presidential Proclamation in 1961;

(3) in recognition of the need to provide increased protection for the monument, the boundaries of Tucson Mountain unit were expanded in 1976, and the boundaries of Rincon unit were expanded in 1991;

(4) the Tucson Mountain unit continues to face threats to the integrity of its natural resources, scenic beauty, and habitat protection for which the unit was established;

(5) these threats impede opportunities for public enjoyment, education, and safety within the monument, as well as opportunities for solitude within the wilderness areas of the monument designated by Congress in 1976;

(6) the residential and commercial growth of the greater Tucson, Arizona metropolitan area is causing increasing threats to the monument's resources; and

(7) the Tucson Mountain unit should be enlarged by the addition of adjacent lands of National Park caliber and Saguaro National Monument should be afforded full recognition and statutory protection as a National Park.

SEC. 3. ESTABLISHMENT OF SAGUARO NATIONAL PARK.

16 USC 410zz-1.

There is hereby established the Saguaro National Park (hereinafter in this Act referred to as the "park") in the State of Arizona. The Saguaro National Monument is abolished as such, and all lands and interests therein are hereby incorporated within and made part of Saguaro National Park. Any reference to Saguaro National Monument shall be deemed a reference to Saguaro National Park, and any funds available for the purposes of the monument shall be available for purposes of the park.

16 USC 431 note.

16 USC 410zz-2.

SEC. 4. EXPANSION OF PARK BOUNDARIES.

(a) IN GENERAL.—The boundaries of the park are hereby modified to reflect the addition of approximately 3,460 acres of land and interests therein as generally depicted on the map entitled "Saguaro National Monument Additions" and dated April, 1994.

(b) LAND ACQUISITION.—(1) Within the lands added to the park pursuant to subsection (a), the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange: *Provided,* That no such lands or interests therein may be acquired without the consent of the owner thereof unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is determental to the integrity of the park.

(2) Lands or interests therein owned by the State of Arizona or a political subdivision thereof may only be acquired by donation or exchange.

(c) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the United States mining laws, and from disposition under all laws relating to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

16 USC 410zz-3.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 14, 1994.

LEGISLATIVE HISTORY—S. 316:

HOUSE REPORTS: No. 103-815 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-270 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 16, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 103-365
103d Congress

An Act

To resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes.

Oct. 14, 1994
[S. 1233]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Arizona Wilderness Land Title Resolution Act of 1994. 16 USC 1132 note.

This Act may be cited as the "Arizona Wilderness Land Title Resolution Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

16 USC 1132 note.

(a) FINDINGS.—Congress finds that—

(1) the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (14 Stat. 292), granted a right-of-way in Arizona to the Atlantic and Pacific Railroad Company, together with certain alternate sections of public lands on both sides of the right-of-way;

(2) patents were not issued to some of the lands in the grant described in paragraph (1);

(3) as successors in interest to the Atlantic and Pacific Railroad Company, the Santa Fe Pacific Railroad, and Perrin Properties, Inc., a California corporation—

(A) claim rights to approximately 14,632.72 acres of the lands described in paragraph (1); and

(B) applied to the Secretary of the Interior for a patent to the lands;

(4) the Secretary of the Interior denied the application for the patent, which was filed in the name of the Santa Fe Railroad Company for the benefit of Perrin Properties, Inc., on the ground that the claim had been extinguished by failure to record the claim in accordance with the Act entitled "An Act to require the recordation of scrip, lieu selection, and similar rights", approved August 5, 1955 (69 Stat. 534; 43 U.S.C. 274 note) (commonly known as the "Recordation Act");

(5) on appeal, the United States Court of Appeals for the District of Columbia Circuit ruled in Santa Fe Pacific Railroad Company, et al. v. Secretary of the Interior, 830 F.2d 1168 (D.C. Cir. 1987), that such Act was not applicable and did not bar the issuance of a patent;

(6) ultimate resolution of the question of the title to the 14,632.72 acres may require years of additional litigation;

(7) the Arizona Wilderness Act of 1984 (Public Law 98–406) designated certain lands in the Prescott National Forest in Arizona as components of the National Wilderness Preservation System established by the Wilderness Act (16 U.S.C. 1131 et seq.), including the Apache Creek Wilderness and the Juniper Mesa Wilderness;

(8) the 14,632.72 acres are in the Prescott National Forest and comprise large portions of the Apache Creek and Juniper Mesa Wilderness areas; and

(9) if the 14,632.72 acres are patented to private owners, the creation of a checkerboard ownership pattern over the wilderness areas will effectively preclude management of the areas as wilderness.

(b) PURPOSES.—The purposes of this Act are—

(1) to resolve the status of the title to the approximately 14,632.72 acres in the Prescott National Forest described in section 3(c);

(2) to ensure that the lands are permanently retained in Federal ownership; and

(3) to preserve the integrity of the Apache Creek and Juniper Mesa Wilderness areas consistent with the Arizona Wilderness Act of 1984 (Public Law 98–406).

16 USC 1132 note.

SEC. 3. RESOLUTION OF STATUS OF LANDS.

(a) PAYMENT BY THE SECRETARY OF THE TREASURY.—

Perrin Properties, Inc.

(1) PAYMENT.—Subject to subsection (b), the Secretary of the Treasury shall pay to Perrin Properties, Inc., the sum of $3,854,000 from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(2) INTEREST.—No funds shall be made available for the payment of interest on the amounts payable under paragraph (1).

Santa Fe Pacific Railroad Company, *et al.*

(b) CONDITIONS OF PAYMENT.—The Secretary of the Treasury shall make the payment described in subsection (a) if the Attorney General of the United States notifies the Secretary of the Treasury that the appellants in Santa Fe Pacific Railroad Company, et al. v. Secretary of the Interior, 830 F.2d 1168 (1987), and Perrin Properties, Inc., have executed in forms satisfactory to the Attorney General all documents necessary—

(1) to dismiss with prejudice all litigation involving the title to the lands described in subsection (c); and

Missouri. Arkansas.

(2) to release and quitclaim to the United States all right, title, and interest of the appellants and of Perrin Properties, Inc., arising out of the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (14 Stat. 292), in and to lands in the Prescott National Forest.

(c) DESCRIPTION OF LANDS.—The lands described in this subsection are the approximately 14,632.72 acres of land in the Prescott National Forest in Arizona described in the decision by the Interior Board of Land Appeals, Santa Fe Pacific Railroad Co., No. 82–449, 72 IBLA 197 (April 19, 1983).

(d) MANAGEMENT OF LANDS.—Upon the execution of documents and dismissal of the litigation as described in subsection (b), the lands described in subsection (c) shall be managed in accordance

with the laws, rules, and regulations pertaining to the National Forest System. Lands described in subsection (c) that lie within the boundaries of a wilderness area, as designated on or before the date of enactment of this Act, shall also be managed in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.).

Approved October 14, 1994.

LEGISLATIVE HISTORY—H.R. 1233:

HOUSE REPORTS: Nos. 103-773, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-274 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
June 24, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 103-366
103d Congress

Joint Resolution

Oct. 14, 1994
[S.J. Res. 157]

To designate 1994 as "The Year of Gospel Music".

Whereas Gospel music is a uniquely American art form, one that has provided hope and inspiration for generations of Americans;
Whereas Gospel music is the forerunner of many forms of popular music in the United States;
Whereas Gospel music is an important art form, and a vital part of our cultural heritage; and
Whereas it is in our national interest to promote and preserve Gospel music for generations of Americans to come: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1994 is designated "The Year of Gospel Music", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to mark that year with appropriate ceremonies and activities.

Approved October 14, 1994.

LEGISLATIVE HISTORY—S.J. Res. 157:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 2, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 103-367
103d Congress

Joint Resolution

To designate October 1994 as "National Breast Cancer Awareness Month".

Oct. 14, 1994
[S.J. Res. 185]

Whereas breast cancer will strike an estimated 182,000 women and 1,000 men in the United States in 1994;
Whereas the risk of developing breast cancer increases as a woman grows older;
Whereas breast cancer is the second leading cause of cancer death in women, and will kill an estimated 46,000 women and 300 men in 1994;
Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940's to over 90 percent today;
Whereas most breast cancers are detected by the woman herself;
Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;
Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;
Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women who have been screened by mammography;
Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, or fear;
Whereas access to screening mammography is directly related to socioeconomic status;
Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and
Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1994 is designated as "National Breast Cancer Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

Approved October 14, 1994.

LEGISLATIVE HISTORY—S.J. Res. 185:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 12, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 103-368
103d Congress

Joint Resolution

Designating 1995 the "Year of the Grandparent".

Oct. 14, 1994
[S.J. Res. 198]

Whereas grandparents bring a tremendous amount of love and power for good into the lives of their grandchildren;
Whereas grandparents, in partnership with parents, help deepen every child's roots and strengthen every child's wings so that every child may soar into adulthood with a glad heart and a confident spirit;
Whereas grandparents are a strong and important voice in support of the happiness and well-being of children;
Whereas grandparents often serve as the primary caregivers for their grandchildren, providing a stable and supportive home environment;
Whereas grandparents should be acknowledged for the important role they play within families, and for the many and varied contributions they make to enhance and further the value of the family and family traditions;
Whereas public awareness of and appreciation for the contributions of grandparents should be strengthened;
Whereas grandparents should be encouraged to continue as a vital force in the shaping of American families today and into the future;
Whereas the Nation acknowledges the contributions of grandparents by celebrating National Grandparents Day each September; and
Whereas there should be a year-long national celebration of grandparents and grandparenting: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1995 is designated the "Year of the Grandparent", and the President is

authorized and requested to issue a proclamation calling on the people of the United States to observe that year with appropriate programs, ceremonies, and activities.

Approved October 14, 1994.

LEGISLATIVE HISTORY—S.J. Res. 198:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 12, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 103-369
103d Congress

An Act

To amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

Oct. 18, 1994
[S. 2406]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Satellite Home Viewer Act of 1994.
17 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Home Viewer Act of 1994".

SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a)(2)(C) is amended—

(A) by striking "90 days after the effective date of the Satellite Home Viewer Act of 1988, or";

(B) by striking "whichever is later,";

(C) by inserting "name and" after "identifying (by" each place it appears; and

(D) by striking ", on or after the effective date of the Satellite Home Viewer Act of 1988,".

(2) Subsection (a)(5) is amended by adding at the end the following:

"(D) BURDEN OF PROOF.—In any action brought under this paragraph, the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a network station is for private home viewing to an unserved household.".

(3) Subsection (b)(1)(B) is amended—

(A) in clause (i) by striking "12 cents" and inserting "17.5 cents per subscriber in the case of superstations not subject to syndicated exclusivity under the regulations of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations subject to such syndicated exclusivity"; and

(B) in clause (ii) by striking "3" and inserting "6".

(4) Subsection (c) is amended—

(A) in paragraph (1) by striking "December 31, 1992,";

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "July 1, 1991" and inserting "July 1, 1996"; and

(ii) in subparagraph (D) by striking "December 31, 1994" and inserting "December 31, 1999, or in

accordance with the terms of the agreement, whichever is later"; and

(C) in paragraph (3)—

(i) in subparagraph (A) by striking "December 31, 1991" and inserting "January 1, 1997";

(ii) by amending subparagraph (D) to read as follows:

"(D) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this paragraph, the Copyright Arbitration Panel shall establish fees for the retransmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions. In determining the fair market value, the Panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

"(i) the competitive environment in which such programming is distributed, the cost for similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

"(ii) the economic impact of such fees on copyright owners and satellite carriers; and

"(iii) the impact on the continued availability of secondary transmissions to the public.";

(iii) in subparagraph (E) by striking "60" and inserting "180"; and

(iv) in subparagraph (C)—

(I) by striking ", or until December 31, 1994"; and

(II) by inserting "or July 1, 1997, whichever is later" after "section 802(g)".

(5) Subsection (a) is amended—

(A) in paragraph (5)(C) by striking "the Satellite Home Viewer Act of 1988" and inserting "this section"; and

(B) by adding at the end the following:

"(8) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—

"(A) IN GENERAL.—Subject to subparagraph (C), upon a challenge by a network station regarding whether a subscriber is an unserved household within the predicted Grade B Contour of the station, the satellite carrier shall, within 60 days after the receipt of the challenge—

"(i) terminate service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household after giving reasonable notice to the network station of the satellite carrier's intent to conduct the measurement.

"(B) EFFECT OF MEASUREMENT.—If the satellite carrier conducts a signal intensity measurement under subparagraph (A) and the measurement indicates that—

"(i) the household is not an unserved household, the satellite carrier shall, within 60 days after the

measurement is conducted, terminate the service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) the household is an unserved household, the station challenging the service shall reimburse the satellite carrier for the costs of the signal measurement within 60 days after receipt of the measurement results and a statement of the costs of the measurement.

"(C) LIMITATION ON MEASUREMENTS.—(i) Notwithstanding subparagraph (A), a satellite carrier may not be required to conduct signal intensity measurements during any calendar year in excess of 5 percent of the number of subscribers within the network station's local market that have subscribed to the service as of the effective date of the Satellite Home Viewer Act of 1994.

"(ii) If a network station challenges whether a subscriber is an unserved household in excess of 5 percent of the subscribers within the network's station local market within a calendar year, subparagraph (A) shall not apply to challenges in excess of such 5 percent, but the station may conduct its own signal intensity measurement of the subscriber's household after giving reasonable notice to the satellite carrier of the network station's intent to conduct the measurement. If such measurement indicates that the household is not an unserved household, the carrier shall, within 60 days after receipt of the measurement, terminate service to the household of the signal that is the subject of the challenge and within 30 days thereafter notify the network station that made the challenge that service has been terminated. The carrier shall also, within 60 days after receipt of the measurement and a statement of the costs of the measurement, reimburse the network station for the cost it incurred in conducting the measurement.

"(D) OUTSIDE THE PREDICTED GRADE B CONTOUR.—(i) If a network station challenges whether a subscriber is an unserved household outside the predicted Grade B Contour of the station, the station may conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household after giving reasonable notice to the satellite carrier of the network station's intent to conduct the measurement.

"(ii) If the network station conducts a signal intensity measurement under clause (i) and the measurement indicates that—

"(I) the household is not an unserved household, the station shall forward the results to the satellite carrier who shall, within 60 days after receipt of the measurement, terminate the service to the household of the signal that is the subject of the challenge, and shall reimburse the station for the costs of the measurement within 60 days after receipt of the measurement results and a statement of such costs; or

"(II) the household is an unserved household, the station shall pay the costs of the measurement.

"(9) LOSER PAYS FOR SIGNAL INTENSITY MEASUREMENT; RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households as unserved households—

"(A) a network station challenging such eligibility shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the satellite carrier for any signal intensity measurement that is conducted by that carrier in response to a challenge by the network station and that establishes the household is an unserved household; and

"(B) a satellite carrier shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the network station challenging such eligibility for any signal intensity measurement that is conducted by that station and that establishes the household is not an unserved household.

"(10) INABILITY TO CONDUCT MEASUREMENT.—If a network station makes a reasonable attempt to conduct a site measurement of its signal at a subscriber's household and is denied access for the purpose of conducting the measurement, and is otherwise unable to conduct a measurement, the satellite carrier shall within 60 days notice thereof, terminate service of the station's network to that household.".

(6) Subsection (d) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) NETWORK STATION.—The term 'network station' means—

"(A) a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

"(B) a noncommercial educational broadcast station (as defined in section 397 of the Communications Act of 1934).";

(B) in paragraph (6) by inserting "and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations" after "Commission"; and

(C) by adding at the end the following:

"(11) LOCAL MARKET.—The term 'local market' means the area encompassed within a network station's predicted Grade B contour as that contour is defined by the Federal Communications Commission.".

SEC. 3. DEFINITIONS.

(a) CABLE SYSTEM.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "cable system" by inserting "microwave," after "wires, cables,".

(b) LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "local service area of a primary transmitter" by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

SEC. 4. TERMINATION.

(a) EXPIRATION OF AMENDMENTS.—Section 119 of title 17, United States Code, as amended by section 2 of this Act, ceases to be effective on December 31, 1999. 17 USC 119 note.

(b) CONFORMING AMENDMENT.—Section 207 of the Satellite Home Viewer Act of 1988 (17 U.S.C. 119 note) is repealed.

SEC. 5. LIMITATION. 17 USC 119 note.

The amendments made by this section apply only to section 119 of title 17, United States Code.

SEC. 6. EFFECTIVE DATE. 17 USC 119 note.

(a) IN GENERAL.—Except as provided in subsections (b) and (d), this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) of title 17, United States Code (as added by section 2(2) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

(c) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—The provisions of section 119(a)(8) of title 17, United States Code (as added by section 2(5) of this Act), relating to transitional signal intensity measurements, shall cease to be effective on December 31, 1996.

(d) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The amendment made by section 3(b), relating to the definition of the

local service area of a primary transmitter, shall take effect on July 1, 1994.

Approved October 18, 1994.

LEGISLATIVE HISTORY—S. 2406:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 18, considered and passed Senate.
Sept. 20, considered and passed House, amended.
Oct. 4, Senate concurred in House amendment.

Public Law 103-370
103d Congress

Joint Resolution

To designate October 19, 1994, as "National Mammography Day".

Oct. 18, 1994
[S.J. Res. 220]

Whereas, according to the American Cancer Society, 182,000 women will be diagnosed with breast cancer in 1994, and 46,000 women will die from this disease;

Whereas, in the decade of the 1990's, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with 50 percent of the breast cancer cases occurring in women over age 65;

Whereas 80 percent of women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at an accredited facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers up to two years before regular clinical breast examinations or breast self-examinations (BSE), saving as many as a third more lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1994, be designated as "National Mammography Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

Approved October 18, 1994.

LEGISLATIVE HISTORY—S.J. Res. 220:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 6, considered and passed Senate.
Oct. 7, considered and passed House.

Public Law 103-371
103d Congress

An Act

Oct. 19, 1994
[H.R. 1520]

To amend the Petroleum Marketing Practices Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Petroleum Marketing Practices Act Amendments of 1994.
15 USC 2801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Petroleum Marketing Practices Act Amendments of 1994".

SEC. 2. CONVERSION TO COMPANY OPERATION.

Section 102(b)(3)(A)(ii) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(3)(A)(ii)) is amended by inserting after "purpose of" the following: "converting the leased marketing premises to operation by employees or agents of the franchisor for the benefit of the franchisor or otherwise".

SEC. 3. UNDERLYING LEASES.

Section 102(c)(4) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(c)(4)) is amended—

(1) by striking "lease, if" and all that follows through "(B) of" and inserting the following: "lease, if—

"(A) the franchisee was notified in writing, prior to the commencement of the term of the then existing franchise—

"(i) of the duration of the underlying lease; and

"(ii) of"; and

(2) by adding at the end the following new subparagraphs:

"(B) during the 90-day period after notification was given pursuant to section 104, the franchisor offers to assign to the franchisee any option to extend the underlying lease or option to purchase the marketing premises that is held by the franchisor, except that the franchisor may condition the assignment upon receipt by the franchisor of—

"(i) an unconditional release executed by both the landowner and the franchisee releasing the franchisor from any and all liability accruing after the date of the assignment for—

"(I) financial obligations under the option (or the resulting extended lease or purchase agreement);

"(II) environmental contamination to (or originating from) the marketing premises; or

"(III) the operation or condition of the marketing premises; and

"(ii) an instrument executed by both the landowner and the franchisee that ensures the franchisor and the contractors of the franchisor reasonable access to the marketing premises for the purpose of testing for and remediating any environmental contamination that may be present at the premises; and

"(C) in a situation in which the franchisee acquires possession of the leased marketing premises effective immediately after the loss of the right of the franchisor to grant possession (through an assignment pursuant to subparagraph (B) or by obtaining a new lease or purchasing the marketing premises from the landowner), the franchisor (if requested in writing by the franchisee not later than 30 days after notification was given pursuant to section 104), during the 90-day period after notification was given pursuant to section 104—

"(i) made a bona fide offer to sell, transfer, or assign to the franchisee the interest of the franchisor in any improvements or equipment located on the premises; or

"(ii) if applicable, offered the franchisee a right of first refusal (for at least 45 days) of an offer, made by another person, to purchase the interest of the franchisor in the improvements and equipment.".

SEC. 4. WAIVER OF RIGHTS.

Section 105 of the Petroleum Marketing Practices Act (15 U.S.C. 2805) is amended by adding at the end the following new subsection:

"(f)(1) No franchisor shall require, as a condition of entering into or renewing the franchise relationship, a franchisee to release or waive—

"(A) any right that the franchisee has under this title or other Federal law; or

"(B) any right that the franchisee may have under any valid and applicable State law.

"(2) No provision of any franchise shall be valid or enforceable if the provision specifies that the interpretation or enforcement of the franchise shall be governed by the law of any State other than the State in which the franchisee has the principal place of business of the franchisee.".

SEC. 5. PREEMPTION.

Section 106 of the Petroleum Marketing Practices Act (15 U.S.C. 2806) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) No State or political subdivision of a State may adopt, enforce, or continue in effect any provision of law (including a regulation) that requires a payment for the goodwill of a franchisee on the termination of a franchise or nonrenewal of a franchise relationship authorized by this title."; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) Nothing in this title shall prohibit any State from specifying the terms and conditions under which any franchise or franchise

relationship may be transferred to the designated successor of a franchisee upon the death of the franchisee.".

SEC. 6. DEFINITION OF FAILURE.

Section 101(13) of the Petroleum Marketing Practices Act (15 U.S.C. 2801(13)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) any failure based on a provision of the franchise which is illegal or unenforceable under the law of any State (or subdivision thereof).".

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 1520 (S. 338):

HOUSE REPORTS: No. 103-737 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 103-387 accompanying S. 338 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, 4, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 103-372
103d Congress

An Act

To provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

Oct. 19, 1994
[H.R. 2826]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES CITIZENS MISSING FROM CYPRUS.

President.

(a) INVESTIGATION.—As soon as is practicable, the President shall undertake, in cooperation with appropriate international organizations or nongovernmental organizations, a thorough investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974. Any information on others missing from Cyprus that is learned or discovered during this investigation shall be reported to the appropriate international or nongovernmental organizations. The investigation shall focus on the countries and communities which were combatants in Cyprus in 1974, all of which currently receive United States foreign assistance.

Reports.

(b) REPORT TO THE FAMILIES.—The President shall report the findings of this investigation of the missing Americans to the family of each of the United States citizens. Such reports shall include the whereabouts of the missing.

(c) REPORT TO THE CONGRESS.—The information learned or discovered during this investigation shall be reported to the Congress.

(d) RETURNING THE MISSING.—The President, in cooperation with appropriate international organizations or nongovernmental organizations, shall do everything possible to return to their families, as soon as is practicable, the United States citizens who have been missing from Cyprus since 1974, and others who have been missing, including returning the remains of those who are no longer alive.

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 2826 (S. 1329):

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 1, considered and passed House.
Oct. 3, considered and passed Senate, amended, in lieu of S. 1329.
Oct. 4, 5, House concurred in Senate amendment.

Public Law 103-373
103d Congress

An Act

Oct. 19, 1994
[H.R. 2902]

To amend the District of Columbia Self-Government and Governmental Reorganization Act to reauthorize the annual Federal payment to the District of Columbia for fiscal year 1996, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Payment Reauthorization Act of 1994.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Payment Reauthorization Act of 1994".

SEC. 2. AUTHORIZATION OF ANNUAL FEDERAL PAYMENT TO DISTRICT OF COLUMBIA FOR FISCAL YEAR 1996.

Section 503 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47-3406.1, D.C. Code) is amended by adding at the end the following new subsection:

"(c) There is authorized to be appropriated as the annual Federal payment to the District of Columbia for fiscal year 1996 $660,000,000.".

SEC. 3. PERFORMANCE AND FINANCIAL ACCOUNTABILITY REQUIREMENTS FOR DISTRICT GOVERNMENT.

(a) IN GENERAL.—Subpart 2 of part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) in the heading for such subpart, by striking "Audit" and inserting "Audits and Accountability Requirements"; and

(2) by adding at the end the following new section:

"PERFORMANCE AND FINANCIAL ACCOUNTABILITY

"SEC. 456. (a) PERFORMANCE ACCOUNTABILITY PLAN.—

"(1) SUBMISSION OF ANNUAL PLAN.—Not later than March 1 of each year (beginning with 1995), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a performance accountability plan for all departments, agencies, and programs of the government of the District of Columbia for the subsequent fiscal year.

"(2) CONTENTS OF PLAN.—The performance accountability plan for a fiscal year shall contain the following:

"(A) A statement of measurable, objective performance goals established for all significant activities of the government of the District of Columbia during the fiscal year

(including activities funded in whole or in part by the District but performed in whole or in part by some other public or private entity) that describe an acceptable level of performance by the government and a superior level of performance by the government.

"(B) A description of the measures of performance to be used in determining whether the government has met the goals established under subparagraph (A) with respect to an activity for a fiscal year. Such measures shall analyze the quantity and quality of the activities involved, and shall include measures of program outcomes and results.

"(C) The title of the District of Columbia management employee most directly responsible for the achievement of each goal and the title of such employee's immediate supervisor or superior.

"(3) DESCRIPTION OF ACTIVITIES SUBJECT TO COURT ORDER.—In addition to the material included in the performance accountability plan for a fiscal year under paragraph (2), the plan shall include a description of the activities of the government of the District of Columbia that are subject to a court order during the fiscal year and the requirements placed on such activities by the court order.

"(b) PERFORMANCE ACCOUNTABILITY REPORT.—

"(1) SUBMISSION OF REPORT.—Not later than March 1 of each year (beginning with 1997), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a performance accountability report on activities of the government of the District of Columbia during the fiscal year ending on the previous September 30.

"(2) CONTENTS OF REPORT.—The performance accountability report for a fiscal year shall contain the following:

"(A) For each goal of the performance accountability plan submitted under subsection (a) for the year, a statement of the actual level of performance achieved compared to the stated goal for an acceptable level of performance and the goal for a superior level of performance.

"(B) The title of the District of Columbia management employee most directly responsible for the achievement of each goal and the title of such employee's immediate supervisor or superior.

"(C) A statement of the status of any court orders applicable to the government of the District of Columbia during the year and the steps taken by the government to comply with such orders.

"(3) EVALUATION OF REPORT.—The Comptroller General, in consultation with the Director of the Office of Management and Budget, shall review and evaluate each performance accountability report submitted under this subsection and not later than April 15 of each year shall submit comments on such report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

"(c) FINANCIAL ACCOUNTABILITY PLAN AND REPORT.—

"(1) DEVELOPMENT AND SUBMISSION.—Not later than March 1 of each year (beginning with 1995), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a 5-year financial plan for the government of the District of Columbia that contains a description of the steps the government will take to eliminate any differences between expenditures from, and revenues attributable to, each fund of the District of Columbia during the first 5 fiscal years beginning after the submission of the plan.

"(2) REPORT ON COMPLIANCE.—

"(A) SUBMISSION OF REPORT.—Not later than March 1 of every year (beginning with 1997), the Mayor shall submit a report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, the Comptroller General, and the Director of the Congressional Budget Office on the extent to which the government of the District of Columbia was in compliance during the preceding fiscal year with the applicable requirements of the financial accountability plan submitted for such fiscal year under this subsection.

"(B) EVALUATION OF REPORT.—The Comptroller General, in consultation with the Director of the Congressional Budget Office, shall review and evaluate the financial accountability compliance report submitted under subparagraph (A) and not later than April 15 of each year shall submit comments on such report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

"(d) QUARTERLY FINANCIAL REPORTS.—

"(1) SUBMISSION OF QUARTERLY FINANCIAL REPORTS.—Not later than fifteen days after the end of every calendar quarter (beginning with a report for the quarter beginning October 1, 1994), the Mayor shall submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate, a report on the financial and budgetary status of the government of the District of Columbia for the previous quarter.

"(2) CONTENTS OF REPORT.—Each quarterly financial report submitted under paragraph (1) shall include the following information:

"(A) A comparison of actual to forecasted cash receipts and disbursements for each month of the quarter, as presented in the District's fiscal year consolidated cash forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds other than the capital projects fund and trust and agency funds.

"(B) A projection of the remaining months cash forecast for that fiscal year.

"(C) Explanations of (i) the differences between actual and forecasted cash amounts for each of the months in the quarter, and (ii) any changes in the remaining months forecast as compared to the original forecast for such months of that fiscal year.

"(D) The effect of such changes, actual and projected, on the total cash balance of the remaining months and for the fiscal year.

"(E) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy decisions may be necessary which may require the agencies to reduce expenditures in other areas.

"(F) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements.

"(G) For each department or agency, the actual number of full-time equivalent positions, the actual number of full-time employees, the actual number of part-time employees, and the actual number of temporary employees, together with the source of funding for each such category of positions and employees.".

(b) CLERICAL AMENDMENTS.—The table of contents of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) in the item relating to subpart 2 of part D of title IV, by striking "Audit" and inserting "Audits and Accountability Requirements"; and

(2) by inserting after the item relating to section 455 the following new item:

"Sec. 456. Performance and financial accountability.".

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 2902:

HOUSE REPORTS: No. 103-754 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 103-374
103d Congress

An Act

Oct. 19, 1994
[H.R. 3485]

To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1995 and 1996.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—

(1) in subsection (a)(7)—

(A) by inserting "of the Agency" after "to the Director";

(B) by striking "and" after "September 30, 1992,"; and

(C) by inserting ", $25,000,000 for the fiscal year ending September 30, 1995, and $25,750,000 for the fiscal year ending September 30, 1996" after "September 30, 1993";

(2) in subsection (b)—

(A) by striking "and" after "September 30, 1992;"; and

(B) by inserting "; $49,200,000 for the fiscal year ending September 30, 1995; and $50,676,000 for the fiscal year ending September 30, 1996" after "September 30, 1993";

(3) by adding at the end of subsection (c) the following new sentence: "There are authorized to be appropriated, out of funds otherwise authorized to be appropriated to the National Science Foundation: (1) $16,200,000 for engineering research and $10,900,000 for geosciences research for the fiscal year ending September 30, 1995, and (2) $16,686,000 for engineering research and $11,227,000 for geosciences research for the fiscal year ending September 30, 1996."; and

(4) by adding at the end of subsection (d) the following new sentence: "There are authorized to be appropriated, out of funds otherwise authorized to be appropriated to the National Institute of Standards and Technology, $1,900,000 for the fiscal year ending September 30, 1995, and $1,957,000 for the fiscal year ending September 30, 1996.".

SEC. 2. EARTHQUAKE ENGINEERING ASSESSMENT.

President.

(a) ASSESSMENT.—The President shall conduct an assessment of earthquake engineering research and testing capabilities in the United States. This assessment shall include—

(1) the need for shake tables and other earthquake engineering research and testing facilities in the United States;

(2) options to cooperate with other countries that have developed complementary earthquake engineering research and testing programs and facilities;

(3) projected costs for construction, maintenance, and operation of new earthquake engineering research and testing facilities in the United States; and

(4) options and recommendations to provide funding for the construction and operation of new earthquake engineering and testing facilities, including the feasibility and advisability of developing a comprehensive earthquake engineering research and testing program within the scope of the Earthquake Hazards Reduction Act of 1977.

(b) DEADLINE.—The assessment required by subsection (a) shall be transmitted to Congress within nine months after the date of enactment of this Act.

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 3485:

HOUSE REPORTS: No. 103-360, Pt. 1 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 103-354 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 15, considered and passed House.
Vol. 140 (1994): Sept. 30, considered and passed Senate, amended.
Oct. 4, 5, House concurred in Senate amendments.

Public Law 103-375
103d Congress

An Act

Oct. 19, 1994
[H.R. 4308]

To authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

North American Wetlands Conservation Act Amendments of 1994.
16 USC 4401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "North American Wetlands Conservation Act Amendments of 1994".

SEC. 2. MATCHING, REPORTING, AND REVISING REQUIREMENTS.

(a) MATCHING REQUIREMENT.—Section 8(b) of the North American Wetlands Conservation Act (16 U.S.C. 4407(b)) is amended by adding at the end the following new sentence: "In the case of a project carried out in Mexico, the non-Federal share of the United States contribution to the costs of the project may include cash contributions from non-United States sources that are used to pay costs of the project.".

(b) REPORT TO CONGRESS.—Section 10(1) of such Act (16 U.S.C. 4409(a)(1)) is amended in subparagraph (B) by striking "and" after the semicolon, in subparagraph (C) by striking the period and inserting "; and", and by adding at the end the following:

"(D) wetlands conservation projects funded under this Act, listed and identified by type, conservation mechanism (such as acquisition, easement, or lease), location, and duration.".

(c) REVISIONS TO PLAN.—Section 11 of such Act (16 U.S.C. 4410) is amended—

(1) in the first sentence—

(A) by striking "1991" and inserting "1998"; and

(B) by inserting "and Mexico" after "Canada"; and

(2) by striking the second sentence.

SEC. 3. ASSESSMENT OF PROGRESS IN WETLANDS CONSERVATION.

The North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.) is amended by adding at the end the following new section:

16 USC 4414.

"SEC. 19. ASSESSMENT OF PROGRESS IN WETLANDS CONSERVATION.

"Not later than January 31, 1996, the Secretary, in cooperation with the Council, to further the purposes of the Act shall—

"(1) develop and implement a strategy to assist in the implementation of this Act in conserving the full complement of North American wetlands systems and species dependent on those systems, that incorporates information existing on the date of the issuance of the strategy in final form on types

of wetlands habitats and species dependent on the habitats; and

"(2) develop and implement procedures to monitor and evaluate the effectiveness of wetlands conservation projects completed under this Act.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR ALLOCATIONS UNDER NORTH AMERICAN WETLANDS CONSERVATION ACT.

Section 7(c) of the North American Wetlands Conservation Act (16 U.S.C. 4406(c)) is amended by striking "$15,000,000" and all that follows through the end of the sentence and inserting the following: "$20,000,000 for each of fiscal years 1995 and 1996 and $30,000,000 for each of fiscal years 1997 and 1998.".

SEC. 5. CONSERVATION OF COASTAL WETLANDS.

Section 306(c) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3955(c)) is amended by inserting "in coastal wetlands ecosystems" after "wetlands conservation projects".

SEC. 6. WILDLIFE PARTNERSHIP PROGRAM.

The Partnerships For Wildlife Act (16 U.S.C. 3741 et seq.) is amended—

(1) in section 7103(3) (16 U.S.C. 3742(3)) by inserting "the States and of" after "under the leadership of";

(2) in section 7104 (16 U.S.C. 3743)—

(A) by amending paragraph (2) to read as follows:

"(2) The term 'designated State agency' means the government agency, department, or division of any State that is empowered under the laws of the State to exercise the functions ordinarily exercised by a State fish and wildlife agency.";

(B) in paragraph (4) by striking "section 5(f)" and inserting "section 7105(g)";

(C) in paragraph (8)(A) by striking the period and inserting a semicolon; and

(D) in paragraph (8)(C) by—

(i) striking "section 3(5)" and inserting "section 3(6)"; and

(ii) striking "(16 U.S.C. 1362(5))" and inserting "(16 U.S.C. 1362(6))";

(3) in section 7104 (16 U.S.C. 3743) by—

(A) redesignating paragraph (8) as paragraph (9); and

(B) inserting after paragraph (7) the following:

"(8) The term 'State' means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, or American Samoa.";

(4) in section 7105(d) (16 U.S.C. 3744(d))—

(A) in paragraph (3) by inserting "and" after the semicolon;

(B) in paragraph (4) by striking "; and" and inserting a period; and

(C) by striking paragraph (5);

(5) in section 7105 (16 U.S.C. 3744) by amending subsection (e) to read as follows:

"(e) NON-FEDERAL SHARE OF PROJECTS.—

"(1) STATE SHARE.—Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary

under subsection (a), at least ⅓ shall be paid with amounts from State, non-Federal sources, except that if designated State agencies from 2 or more States cooperate in implementing such a project at least 30 percent shall be paid with amounts from such State, non-Federal sources. Payments required by this paragraph may not be in the form of an in-kind contribution.

"(2) PRIVATE SHARE.—Of the total cost each fiscal year of each project carried out with amounts provided by the Secretary under subsection (a), at least ⅓ shall be paid with amounts from voluntary contributions by private entities or persons, except that if designated State agencies from 2 or more States cooperate in implementing such a project, at least 30 percent shall be paid from such sources. Subject to the approval of the Secretary, such contributions for a project may be in the form of, but are not required to be limited to, private cash donations, and the contribution of materials, equipment, or services necessary for the project.";

(6) in section 7105(g) (16 U.S.C. 3744(g))—

(A) by amending paragraph (2) to read as follows: "(2) The Secretary shall deposit into the Fund amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary to defray the costs of administering this chapter and evaluating wildlife conservation and appreciation projects."; and

(B) by striking paragraphs (3) and (4); and

(7) in section 7105(h) (16 U.S.C. 3744(h))—

(A) by striking "1995" and inserting "1998"; and

(B) by striking "to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation".

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 4308 (S. 1857):

HOUSE REPORTS: No. 103-717 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 103-326 accompanying S. 1857 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 12, 13, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 103-376
103d Congress

An Act

To amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

Oct. 19, 1994
[H.R. 4379]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Farm Credit System Agricultural Export and Risk Management Act.
12 USC 2001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Credit System Agricultural Export and Risk Management Act".

SEC. 2. PARTICIPATION DEFINED.

Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended by adding at the end the following new clause:

"(iv) As used in this subparagraph, the term 'participate' or 'participation' refers to multilender transactions, including syndications, assignments, loan participations, subparticipations, or other forms of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.".

SEC. 3. AGRICULTURAL EXPORT FINANCING.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(A) in paragraph (1)—

(i) by striking "assistance to (A)" and inserting "assistance to";

(ii) by striking "the export or" and inserting "the"; and

(iii) by striking "and (B)" and all that follows through "subparagraph (A): *Provided,* That a" and inserting "if the"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A bank for cooperatives may make or participate in loans and commitments to, and extend other technical and financial assistance to—

"(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products thereof, farm supplies, or aquatic products from the United States under policies and procedures established by the bank to ensure that the commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations described in section 3.8(a) on a priority basis, except that if the total

amount of the balances outstanding on loans made by a bank under this clause that—

"(I) are made to finance the export of commodities, products, or supplies that are not originally sourced from a cooperative, and

"(II) are not guaranteed or insured, in an amount equal to at least 95 percent of the amount loaned, by a department, agency, bureau, board, commission, or establishment of the United States or a corporation wholly-owned directly or indirectly by the United States,

exceeds an amount that is equal to 50 percent of the bank's capital, then a sufficient interest in the loans shall be sold by the bank for cooperatives to commercial banks and other non-System lenders to reduce the total amount of such outstanding balances to an amount not greater than an amount equal to 50 percent of the bank's capital; and

"(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association described in section 3.8(a) (including, for the purpose of facilitating its domestic business operations only, a cooperative or other entity described in section 3.8(b)(1)(A)) has an ownership interest, for the purpose of facilitating the domestic or foreign business operations of the association, except that if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, the financing shall be limited to the percentage held in the party by the association or associations.

"(B) A bank for cooperatives shall not use the authority provided in subparagraph (A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of a plant or facility from the United States to another country.".

SEC. 4. CONFORMING AMENDMENT.

Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)) is amended—

(A) by striking subparagraph (B);

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(C) by aligning the margin of subparagraph (D) (as so redesignated) so as to align with the margin of subparagraph (C) (as so redesignated).

SEC. 5. LOAN PARTICIPATION AUTHORITY FOR FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS.

IN GENERAL.—Title IV of the Farm Credit Act of 1971 (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.18 (12 U.S.C. 2206) the following new section:

12 USC 2206a.

"SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS TO PARTICIPATE IN LOANS TO SIMILAR ENTITIES FOR RISK MANAGEMENT PURPOSES.

"(a) DEFINITIONS.—As used in this section:

"(1) PARTICIPATE AND PARTICIPATION.—The terms 'participate' and 'participation' shall have the meaning provided in section 3.1(11)(B)(iv).

"(2) SIMILAR ENTITY.—The term 'similar entity' means a person that—

"(A) is not eligible for a loan from the Farm Credit Bank or association; and

"(B) has operations that are functionally similar to a person that is eligible for a loan from the Farm Credit Bank or association in that the person derives a majority of the income of the person from, or has a majority of the assets of the person invested in, the conduct of activities that are functionally similar to the activities that are conducted by an eligible person.

"(b) LOAN PARTICIPATION AUTHORITY—Notwithstanding any other provision of this Act, any Farm Credit Bank or direct lender association chartered under this Act may participate in any loan of a type otherwise authorized under title I or II made to a similar entity by any person in the business of extending credit, except that a Farm Credit Bank or direct lender association may not participate in a loan under this section if—

"(1) the participation would cause the total amount of all participations by the Farm Credit Bank or association under this section involving a single credit risk to exceed 10 percent (or the applicable higher lending limit authorized under regulations issued by the Farm Credit Administration if the stockholders of the respective Farm Credit Bank or association so approve) of the total capital of the Farm Credit Bank or association;

"(2) the participation by the Farm Credit Bank or association would equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, would cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

"(3) the participation would cause the cumulative amount of participations that the Farm Credit Bank or association has outstanding under this section to exceed 15 percent of the total assets of the Farm Credit Bank or association; or

"(4) the loan is of the type authorized under section 1.11(b) or 2.4(a)(2).

"(c) PRIOR APPROVAL REQUIRED.—

"(1) IN GENERAL.—With respect to a similar entity that is eligible to borrow from a bank for cooperatives under title III, the authority of a Farm Credit Bank or association to participate in a loan to the entity under this section shall be subject to the prior approval of the bank for cooperatives having, at the time the loan is made, the greatest loan volume in the State in which the headquarters office of the similar entity is located.

"(2) TERMS AND CONDITIONS.—Approval under paragraph (1) may be granted on an annual basis and under such terms and conditions as may be agreed on between the Farm Credit Bank or association, as the case may be, and the bank for cooperatives granting the approval.

"(3) APPROVAL BY SUPERVISING FARM CREDIT BANK.—An association may not participate in a loan to a similar entity under this section without the approval of the supervising Farm Credit Bank of the association.".

SEC. 6. CONFORMING AMENDMENTS.

Section 3.1(11)(B)(i)(I)(bb) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)(i)(I)(bb)) is amended—

(A) by striking "the other banks for cooperatives under this subparagraph" and inserting "other Farm Credit System institutions"; and

(B) by striking "all banks for cooperatives" and inserting "all Farm Credit System institutions".

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 4379:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 29, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 103-377
103d Congress

An Act

To settle Indian land claims within the State of Connecticut, and for other purposes.

Oct. 19, 1994
[H.R. 4653]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mohegan Nation of Connecticut Land Claims Settlement Act of 1994.
25 USC 1775 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mohegan Nation of Connecticut Land Claims Settlement Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

25 USC 1775.

(a) FINDINGS.—Congress finds the following:

(1) The Mohegan Tribe of Indians of Connecticut received recognition by the United States pursuant to the administrative process under part 83 of title 25 of the Code of Federal Regulations.

(2) The Mohegan Tribe of Indians of Connecticut is the successor in interest to the aboriginal entity known as the Mohegan Indian Tribe.

(3) The Mohegan Tribe has existed in the geographic area that is currently the State of Connecticut for a long period preceding the colonial period of the history of the United States.

(4) Certain lands were sequestered as tribal lands by the Colony of Connecticut and subsequently by the State of Connecticut.

(5) The Mohegan Tribe of Indians of Connecticut v. State of Connecticut, et al. (Civil Action No. H-77-434, pending before the United States District Court for the Southern District of Connecticut) relates to the ownership of certain lands within the State of Connecticut.

(6) Such action will likely result in economic hardships for residents of the State of Connecticut, including residents of the town of Montville, Connecticut, by encumbering the title to lands in the State, including lands that are not currently the subject of the action.

(7) The State of Connecticut and the Mohegan Tribe have executed agreements for the purposes of resolving all disputes between the State of Connecticut and the Mohegan Tribe and providing a settlement for the action referred to in paragraph (5).

(8) In order to implement the agreements referred to in paragraphs (5) and (6) of section 3 that address matters of jurisdiction with respect to certain offenses committed by and against members of the Mohegan Tribe and other Indians in Indian country and matters of gaming-related development, it is necessary for the Congress to enact legislation.

(9) The town of Montville, Connecticut, will—

(A) be affected by the loss of a tax base from, and jurisdiction over, lands that will be held in trust by the United States on behalf of the Mohegan Tribe; and

(B) serve as the host community for the gaming operations of the Mohegan Tribe.

(10) The town of Montville and the Mohegan Tribe have entered into an agreement to resolve issues extant between them and to establish the basis for a cooperative government-to-government relationship.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To facilitate the settlement of claims against the State of Connecticut by the Mohegan Tribe.

(2) To facilitate the removal of any encumbrance to any title to land in the State of Connecticut that would have resulted from the action referred to in subsection (a).

25 USC 1775a.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LANDS OR NATURAL RESOURCES.—The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including any right or interest in minerals, timber, or water, and any hunting or fishing rights.

(2) MOHEGAN TRIBE.—The term "Mohegan Tribe" means the Mohegan Tribe of Indians of Connecticut, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations, and the State of Connecticut pursuant to section 47–59a(b) of the Connecticut General Statutes.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Connecticut.

(5) STATE AGREEMENT.—The term "State Agreement" means the Agreement between the Mohegan Tribe and the State of Connecticut, executed on May 17, 1994, by the Governor of the State of Connecticut and the Chief of the Mohegan Tribe, that was filed with the Secretary of State of the State of Connecticut.

(6) TOWN AGREEMENT.—The term "Town Agreement" means the agreement executed on June 16, 1994, by the Mayor of the town of Montville and the Chief of the Mohegan Tribe.

(7) TRANSFER.—The term "transfer" includes any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or any event that results in a change of possession or control of land or natural resources.

25 USC 1775b.

SEC. 4. ACTION BY SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to carry out the duties specified in subsection (b) at such time as the Secretary makes a determination that—

(1) in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), the State of Connecticut has entered into a binding compact with the Mohegan Tribe providing for class III tribal gaming operations (as defined in section 4(8) of such Act (25 U.S.C. 2703(8)));

(2) the compact has been approved by the Secretary pursuant to section 11(d)(8) of such Act (25 U.S.C. 2710(d)(8)); and

(3) pursuant to transfers carried out pursuant to the State Agreement, the United States holds title to lands described in exhibit B of the State Agreement in trust for the Mohegan Tribe to be used as the initial Indian reservation of the Mohegan Tribe.

(b) PUBLICATION BY SECRETARY.—If the Secretary makes a determination under subsection (a) that the conditions specified in paragraphs (1) through (3) of that subsection have been met, the Secretary shall publish the determination, together with the State Agreement, in the Federal Register.

Federal Register, publication.

(c) EFFECT OF PUBLICATION.—

(1) IN GENERAL.—Upon the publication of the determination and the State Agreement in the Federal Register pursuant to subsection (b), a transfer, waiver, release, relinquishment, or other commitment made by the Mohegan Tribe in accordance with the terms and conditions of the State Agreement shall be in full force and effect.

(2) APPROVAL BY THE UNITED STATES.—(A) The United States hereby approves any transfer, waiver, release, relinquishment, or other commitment carried out pursuant to paragraph (1).

(B) A transfer made pursuant to paragraph (1) shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)). The approval of the United States made pursuant to subparagraph (A) shall apply to the transfer beginning on the date of the transfer.

(d) EXTINGUISHMENT OF CLAIMS.—

(1) IN GENERAL.—Subject to subsections (f)(2) and (g), the following claims are hereby extinguished:

(A) Any claim to land within the State of Connecticut based upon aboriginal title by the Mohegan Tribe.

(B) Any other claim that the Mohegan Tribe may have with respect to any public or private lands or natural resources in Connecticut, including any claim or right based on recognized title, including—

(i) any claim that the Mohegan Tribe may have to the tribal sequestered lands bounded out to the Tribe in 1684, consisting of some 20,480 acres lying between the Thames River, New London bounds, Norwich bounds, and Colchester bounds;

(ii) any claim that the Mohegan Tribe may have based on a survey conducted under the authority of the Connecticut General Assembly in 1736 of lands reserved and sequestered by the General Assembly for the sole use and improvement of the Mohegan Indian Tribe; and

(iii) any claim that the Mohegan Tribe may have based on any action by the State carried out in 1860 or 1861 or otherwise made by the State to allot, reallot, or confirm any lands of the Mohegan Tribe to individual Indians or other persons.

(2) APPROVAL BY THE UNITED STATES.—An extinguishment made pursuant to this subsection shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)).

(e) TRANSFERS.—Subject to subsection (g), any transfer of lands or natural resources located within the State of Connecticut, including any such transfer made pursuant to any applicable Federal or State law (including any applicable treaty), made by, from, or on behalf of the Mohegan Tribe or any predecessor or successor in interest of the Mohegan Tribe shall be deemed to be in full force and effect, as provided in subsection (c)(1).

(f) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subject to subsection (g), by virtue of the approval by the United States under this section of a transfer of land or the extinguishment of aboriginal title, any claim by the Mohegan Tribe against the United States, any State or political subdivision of a State, or any other person or entity, by the Mohegan Tribe, that—

(A) arises after the transfer or extinguishment is carried out; and

(B) is based on any interest in or right involving any claim to lands or natural resources described in this section, including claims for trespass damages or claims for use and occupancy,

shall, beginning on the date of the transfer of land or the extinguishment of aboriginal title, be considered an extinguished claim.

(2) EXCEPTION.—The limitation under paragraph (1) shall not apply to any interest in lands or natural resources that is lawfully acquired by the Mohegan Tribe or a member of the Mohegan Tribe after the applicable date specified in paragraph (1).

(g) STATUTORY CONSTRUCTION.—

(1) ABORIGINAL INTERESTS.—Nothing in this section may be construed to extinguish any aboriginal right, title, interest, or claim to lands or natural resources, to the extent that such right, title, interest, or claim is an excepted interest, as defined under section 1(a) of the State Agreement.

(2) PERSONAL CLAIMS.—Nothing in this section may be construed to offset or eliminate the personal claim of any individual Indian if the individual Indian pursues such claim under any law of general applicability.

25 USC 1775c.

SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES TO BE HELD IN TRUST FOR THE MOHEGAN TRIBE.

(a) IN GENERAL.—Subject to the environmental requirements that apply to land acquisitions covered under part 151 of title 25, Code of Federal Regulations (or any subsequent similar regulation), the Secretary shall take such action as may be necessary to facilitate the conveyance to the United States of title to lands described in exhibits A and B of the State Agreement. Such lands shall be held by the United States in trust for the use and benefit

of the Mohegan Tribe as the initial Indian reservation of the Mohegan Tribe.

(b) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the appropriate official of the town of Montville concerning any tract of land subject to exhibit B of the State Agreement but not specifically identified in such exhibit with respect to the impact on the town resulting from—

(A) the removal of the land from taxation by the town;

(B) problems concerning the determination of jurisdiction; and

(C) potential land use conflicts.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may affect the right of the town of Montville to participate, under any applicable law, in decisionmaking processes concerning the acquisition of any lands by the Federal Government to be held in trust for the Mohegan Tribe.

SEC. 6. CONSENT OF UNITED STATES TO STATE ASSUMPTION OF CRIMINAL JURISDICTION. 25 USC 1775d.

(a) IN GENERAL.—Subject to subsection (b), the consent of the United States is hereby given to the assumption of jurisdiction by the State of Connecticut over criminal offenses committed by or against Indians on the reservation of the Mohegan Tribe. The State shall have such jurisdiction to the same extent as the State has jurisdiction over such offenses committed elsewhere within the State. The criminal laws of the State shall have the same force within such reservation and Indian country as such laws have elsewhere within the State.

(b) STATUTORY CONSTRUCTION.—

(1) EFFECT ON CONCURRENT JURISDICTION OF THE MOHEGAN TRIBE.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not affect the concurrent jurisdiction of the Mohegan Tribe over matters concerning such criminal offenses.

(2) STATUTORY CONSTRUCTION.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not be construed as a waiver of the jurisdiction of the United States under section 1153 of title 18, United States Code.

SEC. 7. RATIFICATION OF TOWN AGREEMENT. 25 USC 1775e.

(a) IN GENERAL.—Notwithstanding any other provision of law, the consent of the United States is hereby given to the Town Agreement and the Town Agreement shall be in full force and effect.

(b) APPROVAL OF TOWN AGREEMENT.—The Secretary shall approve any subsequent amendments made to the Town Agreement after the date of enactment of this Act that are—

(1) mutually agreed on by the parties to the Town Agreement; and

(2) consistent with applicable law.

SEC. 8. GENERAL DISCHARGE AND RELEASE OF OBLIGATIONS OF STATE OF CONNECTICUT. 25 USC 1775f.

Except as expressly provided in this Act, the State Agreement, or the Town Agreement, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and the political subdivisions, agencies, departments, officers, or employees

of the State of Connecticut arising from any treaty or agreement with, or on behalf of, the Mohegan Tribe or the United States as trustee for the Mohegan Tribe.

25 USC 1775g.

SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.

(a) IN GENERAL.—If, during the 15-year period beginning on the date on which the Secretary publishes a determination pursuant to section 4(b), the State Agreement is invalidated by a court of competent jurisdiction, or if the gaming compact described in section 4(a)(1) or any agreement between the State of Connecticut and the Mohegan Tribe to implement the compact is invalidated by a court of competent jurisdiction—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Mohegan Tribe under section 1(a) of the State Agreement shall cease to be of any force or effect;

(2) section 4 of this Act shall not apply to the lands or interests in lands or natural resources of the Mohegan Tribe or any of its members, and the title to the lands or interests in lands or natural resources shall be determined as if such section were never enacted; and

(3) the approval by the United States of prior transfers and the extinguishment of claims and aboriginal title of the Mohegan Tribe otherwise made under section 4 shall be void.

(b) RIGHT OF MOHEGAN TRIBE TO REINSTATE CLAIM.—

(1) IN GENERAL.—If a State Agreement or compact or agreement described in subsection (a) is invalidated by a court of competent jurisdiction, the Mohegan Tribe or its members shall have the right to reinstate a claim to lands or interests in lands or natural resources to which the Tribe or members are entitled as a result of the invalidation, within a reasonable time, but not later than the later of—

(A) 180 days after the Mohegan Tribe receives written notice of such determination of an invalidation described in subsection (a); or

(B) if the determination of the invalidation is subject to an appeal, 180 days after the court of last resort enters a judgment.

(2) DEFENSES.—Notwithstanding any other provision of law, if a party to an action described in paragraph (1) reinstates the action during the period described in paragraph (1)(B)—

(A) no defense, such as laches, statute of limitations, law of the case, res judicata, or prior disposition may be asserted based on the withdrawal of the action and reinstatement of the action; and

(B) the substance of any discussions leading to the State Agreement may not be admissible in any subsequent litigation, except that, if any such action is reinstated, any defense that would have been available to the State of Connecticut at the time the action was withdrawn—

(i) may be asserted; and

(ii) is not waived by anything in the State Agreement or by subsequent events occurring between the withdrawal action and commencement of the reinstated action.

SEC. 10. JUDICIAL REVIEW. 25 USC 1775h.

(a) JURISDICTION.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on the date that is 180 days after such date, the United States District Court for the Southern District of Connecticut shall have exclusive jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act.

(b) DEADLINE FOR FILING.—Effective with the termination of the period specified in subsection (a), no court shall have jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act, unless such action was filed prior to the date of termination of the period specified in subsection (a).

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 4653 (S. 2329):

HOUSE REPORTS: No. 103-676 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-339 accompanying S. 2329 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 8, considered and passed House.
Oct. 3, considered and passed Senate, amended, in lieu of S. 2329.
Oct. 4, 5, House concurred in Senate amendment.

Public Law 103-378
103d Congress

An Act

Oct. 19, 1994
[H.R. 5155]

To authorize the transfer of naval vessels to certain foreign countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) ARGENTINA.—The Secretary of the Navy is authorized to transfer to the Government of Argentina the "NEWPORT" class tank landing ship SCHENECTADY (LST 1185). Such transfer shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(b) CHILE.—The Secretary of the Navy is authorized to transfer to the Government of Chile the "NEWPORT" class tank landing ships NEWPORT (LST 1179) and SAN BERNARDINO (LST 1189). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(c) MALAYSIA.—The Secretary of the Navy is authorized to transfer to the Government of Malaysia the "NEWPORT" class tank landing ship SPARTANBURG COUNTY (LST 1197). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(d) SPAIN.—The Secretary of the Navy is authorized to transfer to the Government of Spain the "NEWPORT" class tank landing ship HARLAN COUNTY (LST 1196). Such transfer shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(e) TAIWAN.—The Secretary of the Navy is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the "NEWPORT" class tank landing ships MANITOWOC (LST 1180) and SUMTER (LST 1181). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(f) VENEZUELA.—The Secretary of the Navy is authorized to transfer to the Government of Venezuela the "NEWPORT" class tank landing ships PEORIA (LST 1183) and BARBOUR COUNTY (LST 1195). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

SEC. 2. WAIVER OF REQUIREMENTS FOR NOTIFICATION TO CONGRESS.

The following provisions do not apply with respect to the transfers authorized by this Act:

(1) In the case of a sale under section 21 of the Arms Export Control Act, section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) and any similar, successor provision.

(2) In the case of a lease under section 61 of the Arms Export Control Act, section 62 of that Act (except that section 62 of that Act shall apply to any renewal of the lease).

SEC. 3. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this Act shall be charged to the recipient.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1 of this Act shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into during that period under section 1 may be renewed.

SEC. 5. REPAIR AND REFURBISHMENT OF VESSELS IN THE UNITED STATES.

It is the sense of the Congress that the Secretary of the Navy should request that each country to which a naval vessel is transferred under this Act have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at shipyards located in the United States, including United States Navy shipyards.

SEC. 6. CONDITION FOR TRANSFER.

No vessel may be transferred under this Act until the Secretary of Defense certifies in writing to Congress that, after the transfer—

(1) the amphibious lift capacity remaining available in the Navy is sufficient in all lift categories to transport 2½ Marine Corps expeditionary brigades simultaneously; and

(2) the amphibious lift capacity planned to be available in the Navy under the future-years defense program will be sufficient in all lift categories, throughout the period covered by the future-years defense program, to transport 2½ Marine Corps expeditionary brigades simultaneously.

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.R. 5155:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-379
103d Congress

Joint Resolution

Oct. 19, 1994
[H.J. Res. 401]

Designating the months of March 1995 and March 1996 as "Irish-American Heritage Month".

Whereas 150 years ago, the blight that struck Ireland's potato crop ("the single root that changed the history of the world"), known as the Great Famine, caused 2,000,000 of Ireland's population to emigrate, mostly to America's shores;

Whereas in 1847 alone, 25,000 Irish immigrants arrived in Boston;

Whereas by 1851, the end of the famine exodus, 1,712 emigrant ships had sailed up the Narrows into New York harbor;

Whereas during the "Great Hunger" (1845–1851) more people left Ireland than had emigrated in the previous 250 years;

Whereas within a few years of their arrival in the United States, these Irish immigrants took jobs as laborers, built railroads, canals, and schools, dedicated themselves to help build this Nation, and this same legacy remains a part of today's American mainstream;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas Irish-born James Hoban designed and supervised the building of the White House and its restoration after it was burned in 1814;

Whereas more than 200 Irish-Americans have been awarded the Congressional Medal of Honor;

Whereas 19 Presidents of the United States proudly claim Irish heritage, included among them, the first President, George Washington;

Whereas John W. O'Beirne, Founder of the American Foundation for Irish Heritage, first requested in 1990 that Congress designate March as "Irish-American Heritage Month"; and

Whereas the 44,000,000 Americans of Irish ancestry, like their forebears, continue to enrich all aspects of life in the United States, in science, education, art, agriculture, business, industry, literature, music, athletics, military and governmental service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of March 1995 and March 1996 are designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe these months with appropriate ceremonies and activities.

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.J. Res. 401:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 103-380
103d Congress

Joint Resolution

Oct. 19, 1994
[H.J. Res. 417]

Providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY PROHIBITION.

The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended through February 28, 1995, with respect to the dispute referred to in Executive Order No. 12925 of August 29, 1994. During this extension period no change, except by agreement, shall be made by the rail carrier, the Soo Line Railroad Company, or by the employees of such carrier represented by the United Transportation Union, in the conditions out of which the dispute arose as such conditions existed before July 14, 1994.

Approved October 19, 1994.

LEGISLATIVE HISTORY—H.J. Res. 417:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 103-381
103d Congress

An Act

To authorize assistance to promote the peaceful resolution of conflicts in Africa.

Oct. 19, 1994
[S. 2475]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

African Conflict Resolution Act. 22 USC 2151 note.

SECTION. 1. SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

22 USC 2151 note.

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make

a significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Excessive military expenditures threaten political and economic stability in Africa while diverting scarce resources from development needs. Demobilization and other measures to reduce the size of African armies, and civilian control of the military under the rule of law are in the interest of international security and economic development.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The effectiveness of U.S. support for conflict resolution programs requires coordination and collaboration with multilateral institutions and other bilateral donors.

(11) African institutions are playing an active role in conflict resolution and mediation utilizing the experience of elder statesmen. Groups such as the All African Council of Churches have assisted in defusing conflicts. The Economic Community of West African States (ECOWAS) has sought to address the conflict in Liberia by deploying an African peacekeeping force. The Southern African states have been working to prevent a crisis in Lesotho. The Intergovernmental Authority on Desertification and Drought (IGADD) has been engaged in attempting to resolve the conflict in Sudan.

(12) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

22 USC 2151 note.

SEC. 3. IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability, including providing technical assistance.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, not less than $1,500,000 for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

22 USC 2151 note.

SEC. 4. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution

capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such organizations for use in supporting their conflict resolution capability, including providing technical assistance.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such organizations.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 5. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF NONGOVERNMENTAL ORGANIZATIONS. 22 USC 2151 note.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 6. AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM. 22 USC 2151 note.

(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to—

(1) provide assistance for the encampment and related activities for the purpose of demobilization of such forces; and

(2) provide assistance for the reintegration of demobilized military personnel into civilian society through activities such as retraining for civilian occupations, creation of income-generating opportunities, their reintegration into agricultural activities, and the transportation to the home areas of such personnel.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

(c) CIVILIAN INVOLVEMENT.—The President is also authorized to promote civilian involvement in the planning and organization of demobilization and reintegration activities.

SEC. 7. TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING. 22 USC 2151 note.

(a) AUTHORIZATION.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Of the funds made available under chapter 5 of part II of the Foreign Assistance Act of 1961, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used for the purposes of subsection (a).

22 USC 2151 note.

SEC. 8. PLAN FOR UNITED STATES SUPPORT FOR CONFLICT RESOLUTION AND DEMOBILIZATION IN SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Pursuant to the provisions of sections 3 through 7, the President should develop an integrated long-term plan, which incorporates local perspectives, to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa.

(b) CONTENTS OF PLAN.—Such plan should include:

(1) The type, purpose, amount, and duration of assistance that is planned to be provided to conflict resolution units in sub-Saharan Africa.

(2) The type and amount of assistance that is planned to be provided for the demobilization of military personnel of countries of sub-Saharan Africa, including—

(A) a list of which countries will receive such assistance and an explanation of why such countries were chosen for such assistance; and

(B) a list of other countries and international organizations that are providing assistance for such demobilization.

(3) The type and amount of assistance that is planned to be provided to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(4) A description of proposed training programs for Africans in conflict resolution and peacekeeping under section 7, including a list of prospective participants and plans to expand such programs.

(5) The mechanisms to be used to coordinate interagency efforts to administer the plan.

(6) Efforts to seek the participation of other countries and international organizations to achieve the objectives of the plan.

President.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing a description of the plan developed under this section.

President. 22 USC 2151 note.

SEC. 9. REPORTING REQUIREMENT.

(a) REQUIREMENT.—The President shall submit to the appropriate congressional committees a report describing the efforts and progress made in carrying out the provisions of this Act.

(b) DATE OF SUBMISSION.—The first report submitted under subsection (a) shall be submitted no later than 180 days after the date of the enactment of this Act, and shall be submitted annually thereafter.

President. 22 USC 2151 note.

SEC. 10. CONSULTATION REQUIREMENT.

The President shall consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

22 USC 2151 note.

SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

For purposes of this Act, the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and

the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Approved October 19, 1994.

LEGISLATIVE HISTORY—S. 2475:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 103-382
103d Congress

An Act

Oct. 20, 1994
[H.R. 6]

To extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Improving America's Schools Act of 1994.
Intergovernmental relations.
20 USC 6301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving America's Schools Act of 1994".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

TITLE III—AMENDMENTS TO OTHER ACTS

TITLE IV—NATIONAL EDUCATION STATISTICS

TITLE V—MISCELLANEOUS

SEC. 3. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATES.—

20 USC 6301 note.

(1) TITLE I.—

(A) Title I and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965, as amended by this Act, and to programs under such Act that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

(B) Title VIII of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act, shall take effect on the date of the enactment of this Act.

20 USC 1221 note.

(2) TITLE II.—Title II of this Act and the amendments made by title II of this Act shall take effect on the date of enactment of this Act, except that section 236 (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(3) TITLE III.—(A) Parts A and B of title III of this Act and the amendments made by such parts shall take effect on July 1, 1995. 20 USC 1411 note.

(B) Part C of title III of this Act and the amendments made by such part shall take effect on October 1, 1994. 20 USC 236 note.

(b) TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as such Act was in effect on the day preceding the date of enactment of this Act, may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act. 20 USC 6301 note.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended to read as follows:

"SECTION 1. TABLE OF CONTENTS.

20 USC 6301 note.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

20 USC 6301.

"(a) STATEMENT OF POLICY.—

"(1) IN GENERAL.—The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

"(2) ADDITIONAL POLICY.—The Congress further declares it to be the policy of the United States to expand the program authorized by this title over the fiscal years 1996 through 1999 by increasing funding for this title by at least $750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

"(b) RECOGNITION OF NEED.—The Congress recognizes that—

"(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

"(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

"(3) educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services;

"(4) while title I and other programs funded under this Act contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

"(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 102(3) of the Goals 2000: Educate America Act, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

"(c) WHAT HAS BEEN LEARNED SINCE 1988.—To enable schools to provide all children a high-quality education, this title builds upon the following learned information:

"(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

"(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

"(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

"(4) Resources are more effective when resources are used to ensure that children have full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

"(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

"(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role technology can play in professional development and improved teaching and learning.

"(7) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.

"(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.

"(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

"(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.

"(11) Resources provided under this title can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

"(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

"(d) STATEMENT OF PURPOSE.—The purpose of this title is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

"(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

"(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

"(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

"(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

"(5) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

"(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

"(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

"(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this title are achieving challenging State student performance standards expected of all children; and

"(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

20 USC 6302.

"SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

"(a) LOCAL EDUCATIONAL AGENCY GRANTS.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated $7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) EVEN START.—For the purpose of carrying out part B, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(c) EDUCATION OF MIGRATORY CHILDREN.—For the purpose of carrying out part C, there are authorized to be appropriated $310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT.—For the purpose of carrying out part D, there are authorized to be appropriated $40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) CAPITAL EXPENSES.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) ADDITIONAL ASSISTANCE FOR SCHOOL IMPROVEMENT.—For the purpose of providing additional needed assistance to carry out sections 1116 and 1117, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

"(g) FEDERAL ACTIVITIES.—

"(1) SECTION 1501.—For the purpose of carrying out section 1501, there are authorized to be appropriated $9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) SECTIONS 1502 AND 1503.—For the purpose of carrying out sections 1502 and 1503, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

20 USC 6303.

"SEC. 1003. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.

"(a) PAYMENT FOR SCHOOL IMPROVEMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 1116, and section 1117, one-half of 1 percent of the funds allocated to the State under subsections (a), (c), and (d), of section 1002 for fiscal year 1995 and each succeeding fiscal year.

"(2) MINIMUM.—The total amount that may be reserved by each State, other than the outlying areas, under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated to the State under subsection (b), if any, may not be less than $200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated under subsection (b) to the outlying area, if any, may not be less than $25,000.

"(3) SPECIAL RULE.—If the amount reserved under paragraph (1) when added to the amount made available under section 1002(f) for a State is less than $200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 1002 as are necessary to make $200,000 available to such State.

"(b) ADDITIONAL STATE ALLOCATIONS FOR SCHOOL IMPROVEMENT.—From the amount appropriated under section 1002(f) for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 1120(e)) bears to the total amount allocated to all States under this part (other than section 1120(e)).

"PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Program Requirements

"SEC. 1111. STATE PLANS. 20 USC 6311.

"(a) PLANS REQUIRED.—

"(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with section 14306. Grants.

"(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 14302.

"(b) STANDARDS AND ASSESSMENTS.—

"(1) CHALLENGING STANDARDS.—(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

"(B) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

"(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which

standards shall include the same knowledge, skills, and levels of performance expected of all children.

"(D) Standards under this paragraph shall include—

"(i) challenging content standards in academic subjects that—

"(I) specify what children are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

"(III) encourage the teaching of advanced skills;

"(ii) challenging student performance standards that—

"(I) are aligned with the State's content standards;

"(II) describe two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

"(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

"(E) For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed such standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

"(2) YEARLY PROGRESS.—

"(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

"(i) any school served under this part toward enabling children to meet the State's student performance standards; and

"(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

"(B) Adequate yearly progress shall be defined in a manner—

"(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

"(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

"(3) ASSESSMENTS.—Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of

each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

"(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

"(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

"(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

"(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

"(F) provide for—

"(i) the participation in such assessments of all students;

"(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

"(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English;

"(G) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, however the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

"(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

"(I) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

"(4) SPECIAL RULE.—Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one

of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

"(5) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

"(6) STANDARD AND ASSESSMENT DEVELOPMENT.—(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994.

"(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language arts shall develop and test such assessments within four years (one year of which shall be used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994 and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

"(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

"(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

"(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an extension under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

"(7) TRANSITIONAL ASSESSMENTS.—(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly

statewide assessments that will assess the performance of complex skills and challenging subject matter.

"(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 1116(d), and schools under paragraphs (1) and (7) of section 1116(c), that rely on accurate information about the academic progress of each such local educational agency and school.

"(8) REQUIREMENT.—Each State plan shall describe—

"(A) how the State educational agency will help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school; and

"(B) such other factors the State deems appropriate (which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act) to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

"(c) OTHER PROVISIONS TO SUPPORT TEACHING AND LEARNING.—Each State plan shall contain assurances that—

"(1)(A) the State educational agency will implement a system of school support teams under section 1117(c), including provision of necessary professional development for those teams;

"(B) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 1119 and technical assistance under section 1117; and

"(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

"(ii) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

"(2) the State educational agency will notify local educational agencies and the public of the standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

"(3) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

"(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

"(5) the Committee of Practitioners established under section 1603(b) will be substantially involved in the development

of the plan and will continue to be involved in monitoring the plan's implementation by the State; and

"(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate.

"(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

"(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

"(C) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (a), (b), and (c);

"(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

"(E) not decline to approve a State's plan before—

"(i) offering the State an opportunity to revise its plan;

"(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

"(iii) providing a hearing; and

"(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

"(2) WITHHOLDING.—The Secretary may withhold funds for State administration and activities under section 1117 until the Secretary determines that the State plan meets the requirements of this section.

"(e) DURATION OF THE PLAN.—

"(1) IN GENERAL.—Each State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(2) ADDITIONAL INFORMATION.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

"(f) LIMITATION ON CONDITIONS.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, opportunity-to-learn standards or strategies, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

"(g) PROHIBITION.—Nothing in this Act shall be construed to require any State educational agency, local educational agency, or school, to implement opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(h) SPECIAL RULE.—If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) PLANS REQUIRED.—

"(1) SUBGRANTS.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

"(2) CONSOLIDATED APPLICATION.—The plan may be submitted as part of a consolidated application under section 14304.

"(b) PLAN PROVISIONS.—Each local educational agency plan shall include—

"(1) a description of additional high-quality student assessments, if any, other than the assessments described in the State plan under section 1111, that the local educational agency and schools served under this part will use to—

"(A) determine the success of children served under this part in meeting the State's student performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111(b)(1)(D)(ii);

"(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

"(C) determine what revisions are needed to projects under this part so that such children will meet the State's student performance standards;

"(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

"(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, where appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 1119;

"(4) a description of how the local educational agency will coordinate and integrate services provided under this part with

other educational services at the local educational agency or individual school level, such as—

"(A) Even Start, Head Start, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

"(B) services for children with limited English proficiency or with disabilities, migratory children served under part C or who were formerly eligible for services under part C in the two-year period preceding the date of the enactment of the Improving America's School Act of 1994, neglected or delinquent youth and youth at risk of dropping out served under part D, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

"(5) a description of the poverty criteria that will be used to select school attendance areas under section 1113;

"(6) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;

"(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

"(8) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

"(9) where appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, agencies operating Even Start programs, or another comparable public early childhood development program.

"(c) ASSURANCES.—

"(1) IN GENERAL.—Each local educational agency plan shall provide assurances that the local educational agency will—

"(A) inform eligible schools and parents of schoolwide project authority;

"(B) provide technical assistance and support to schoolwide programs;

"(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting

the State content standards and State student performance standards;

"(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(4);

"(E) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

"(F) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

"(G) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part; and

"(H) beginning in fiscal year 1997 and in the case that a local educational agency chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

"(2) SPECIAL RULE.—In carrying out subparagraph (H) of paragraph (1) the Secretary—

"(A) in fiscal year 1995, shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

"(B) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 641A(a) of the Head Start Act, and such agencies effected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

"(3) INAPPLICABILITY.—The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

"(d) PLAN DEVELOPMENT AND DURATION.—Each local educational agency plan shall—

"(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

"(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

"(e) STATE APPROVAL.—

"(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after the date of enactment of the Improving America's Schools Act of 1994 to have such plan provisionally approved by the State educational agency and not more than two years after the date of enactment of such Act to have such plan finally approved by the State educational agency.

"(2) APPROVAL.—The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 1111(b)(1).

"(3) REVIEW.—The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 1119.

"(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

20 USC 6313.

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

"(a) DETERMINATION.—

"(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

"(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

"(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

"(B) the term 'eligible school attendance area' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

"(3) RANKING ORDER.—If funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

"(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order.

"(4) REMAINING FUNDS.—If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

"(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

"(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act, the number of children in families receiving assistance under the Aid to Families with Dependent Children program, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

"(B) to determine the ranking of each area; and

"(C) to determine allocations under subsection (c).

"(6) EXCEPTION.—This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

"(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

"(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

"(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency; and

"(C) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

"(i) the school meets the comparability requirements of section 1120A(c);

"(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

"(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1)(C), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under paragraph (1).

"(c) ALLOCATIONS.—

"(1) IN GENERAL.—A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsection (a) or (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

"(2) SPECIAL RULE.—(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

"(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(3) RESERVATION.—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

"(A) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

"(B) children in local institutions for neglected or delinquent children; and

"(C) where appropriate, neglected and delinquent children in community day school programs.

20 USC 6314.

"SEC. 1114. SCHOOLWIDE PROGRAMS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

"(1) IN GENERAL.—A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

"(A) For the school year 1995–1996—

"(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

"(ii) not less than 60 percent of the children enrolled in the school are from such families.

"(B) For the school year 1996–1997 and subsequent years—

"(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

"(ii) not less than 50 percent of the children enrolled in the school are from such families.

"(2) STATE ASSURANCES.—(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 1117.

"(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections (c)(1) and (e) of section 1117 shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

"(3) IDENTIFICATION.—(A) No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

"(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

"(4) SPECIAL RULE.—(A) Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act), to support schoolwide programs, if the intent and purposes of such other programs are met.

"(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal

funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

"(5) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

"(1) IN GENERAL.—A schoolwide program shall include the following components:

"(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 1111(b)(1).

"(B) Schoolwide reform strategies that—

"(i) provide opportunities for all children to meet the State's proficient and advanced levels of student performance described in section 1111(b)(1)(D);

"(ii) are based on effective means of improving the achievement of children;

"(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

"(I) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

"(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

"(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

"(aa) counseling, pupil services, and mentoring services;

"(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

"(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

"(dd) incorporation of gender-equitable methods and practices; and

"(II) address how the school will determine if such needs have been met; and

"(vii) are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act.

"(C) Instruction by highly qualified professional staff.

"(D) In accordance with section 1119 and subsection (a)(5), professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

"(E) Strategies to increase parental involvement, such as family literary services.

"(F) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs.

"(G) Measures to include teachers in the decisions regarding the use of assessments described in section 1112(b)(1) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

"(H) Activities to ensure that students who experience difficulty mastering any of the standards required by section 1111(b) during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

"(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

"(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

"(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

"(I) what the school will do to help the student meet such standards;

"(II) what the parents can do to help the student improve the student's performance; and

"(III) additional assistance which may be available to the student at the school or elsewhere in the community.

"(2) PLAN.—(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before the date of enactment of the Improving America's Schools Act of 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 1117, a comprehensive plan for reforming the total instructional program in the school that—

"(i) incorporates the components described in paragraph (1);

"(ii) describes how the school will use resources under this part and from other sources to implement those components;

"(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) that will be included in the schoolwide program;

"(iv) describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

"(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

"(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

"(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

"(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 1111(b) shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

"(C) The comprehensive plan shall be—

"(i) developed during a one-year period, unless—

"(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 1117, determines that less time is needed to develop and implement the schoolwide program; or

"(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994, in which case such school may continue to operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

"(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

"(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

"(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of

participating children in the school speak as their primary language; and

"(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994, the Carl D. Perkins Vocational and Applied Technology Education Act, and the National and Community Service Act of 1990.

"(c) ACCOUNTABILITY.—A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS. 20 USC 6315.

"(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

"(b) ELIGIBLE CHILDREN.—

"(1) ELIGIBLE POPULATION.—(A) The eligible population for services under this part is—

"(i) children not older than age 21 who are entitled to a free public education through grade 12; and

"(ii) children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

"(B) From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

"(2) CHILDREN INCLUDED.—(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

"(ii) Funds received under this part may not be used to provide services that are otherwise required by law to be made available to such children but may be used to coordinate or supplement such services.

"(B) A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

"(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delinquent, or at risk of dropping out under part D (or its predecessor authority) may be eligible for services under this part.

"(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children may be eligible for services under this part.

"(D) A child who is homeless and attending any school in the local educational agency may be eligible for services under this part.

"(c) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM.—

"(1) IN GENERAL.—To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

"(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

"(B) be based on effective means for improving achievement of children;

"(C) ensure that planning for students served under this part is incorporated into existing school planning;

"(D) use effective instructional strategies that—

"(i) give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer, programs and opportunities;

"(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

"(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

"(E) coordinate with and support the regular education program, which may include—

"(i) counseling, mentoring, and other pupil services;

"(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

"(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

"(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

"(F) provide instruction by highly qualified staff;

"(G) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating

children in programs under this section or in the regular education program; and

"(H) provide strategies to increase parental involvement, such as family literary services.

"(2) REQUIREMENTS.—Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of performance by—

"(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

"(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student performance standards, such as an extended school year, before- and after-school, and summer, programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student performance standards in the classroom.

"(d) ASSIGNMENT OF PERSONNEL.—To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

"(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

"(2) participate in general professional development and school planning activities; and

"(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

"(e) SPECIAL RULES.—

"(1) SIMULTANEOUS SERVICE.—Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(2) COMPREHENSIVE SERVICES.—If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

"(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

"(B) compensation of a coordinator; and

"(C) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

"(3) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) in accordance with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

20 USC 6316.

"SEC. 1115A. SCHOOL CHOICE.

"(a) CHOICE PROGRAMS.—A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their children will attend.

"(b) CHOICE PLAN.—A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

"(1) all eligible students across grade levels will have equal access to the program;

"(2) the program does not include schools which follow a racially discriminatory policy;

"(3) describe how the school will use resources under this part and from other sources to implement the plan;

"(4) describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

"(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

"(6) the plan will be made available to parents and the public;

"(7) the program will not include schools that do not receive funds under this part;

"(8) the program will not use funds under this part to pay for transportation costs;

"(9) both the sending and receiving schools agree to the student transfer; and

"(10) such local educational agency will comply with the other requirements of this part.

"SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

"(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

"(1) use the State assessments described in the State plan;

"(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) toward enabling its stu-

dents to meet the State's student performance standards described in the State plan;

"(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 1111(b)(3)(I); and

"(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

"(b) DESIGNATION OF DISTINGUISHED SCHOOLS.—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

"(c) SCHOOL IMPROVEMENT.—

"(1) IN GENERAL.—A local educational agency shall identify for school improvement any school served under this part that—

"(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), for at least two consecutive school years prior to such day;

"(B) has not made adequate progress as defined in the State's plan under section 1111(b)(2)(A)(i) for two consecutive school years, except that—

"(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

"(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

"(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(2) REQUIREMENT.—(A) Each school identified under paragraph (1) shall—

"(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards, which may include reviewing the schools' plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act; and

"(ii) submit the plan or revised plan to the local educational agency for approval.

"(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive

reasons, such school may provide evidence to the local educational agency to support such belief.

"(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

"(3) PROFESSIONAL DEVELOPMENT.—(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

"(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

"(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

"(B) A school may use funds from any source to meet the requirements of this subsection.

"(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

"(4) TECHNICAL ASSISTANCE.—(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

"(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

"(5) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

"(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

"(I) withholding funds;

"(II) interagency collaborative agreements between the school and other public agencies to provide health, counseling, and other social services needed to remove barriers to learning;

"(III) revoking authority for a school to operate a schoolwide program;

"(IV) decreasing decisionmaking authority at the school level;

"(V) making alternative governance arrangements such as the creation of a public charter school;

"(VI) reconstituting the school staff;

"(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency; and

"(VIII) implementing opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclause (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 1111(b)(3).

"(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

"(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

"(A) make technical assistance under section 1117 available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

"(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

"(7) SPECIAL RULE.—Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall—

"(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 1111(b)(2)(A)(ii) toward meeting the State's student performance standards; and

"(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including

statistically sound disaggregated results, as required by section 1111(b)(3)(I).

"(2) REWARDS.—In the case of a local educational agency that for three consecutive years has met or exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(ii), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117(c).

"(3) IDENTIFICATION.—(A) A State educational agency shall identify for improvement any local educational agency that—

"(i) for two consecutive years, is not making adequate progress as defined in section 1111(b)(2)(A)(ii) in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part; or

"(ii) has failed to meet the criteria established by the State through such State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

"(4) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (3) shall, in consultation with schools, parents, and educational experts, revise its local educational agency plan under section 1112 in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency under this part in meeting the State's student performance standards.

"(B) Such revision shall include determining why the local educational agency's plan failed to bring about increased achievement, and may include reviewing the local educational agency's plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(5) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (3), the State educational agency shall—

"(i) provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency to—

"(I) develop and implement the local educational agency's revised plan; and

"(II) work with schools needing improvement; and

"(ii) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance under section 1117.

"(B) Technical or other assistance may be provided by the State educational agency directly, or by an institution of

higher education, a private nonprofit organization, an educational service agency or other local consortium, a technical assistance center, or other entities with experience in assisting local educational agencies improve achievement, and may include—

"(i) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning; and

"(ii) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students.

"(6) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time against a local educational agency that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

"(B)(i) Corrective actions are those actions, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

"(I) the withholding of funds;

"(II) reconstitution of school district personnel;

"(III) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools;

"(IV) implementation of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act;

"(V) appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board;

"(VI) the abolition or restructuring of the local educational agency;

"(VII) the authorizing of students to transfer from a school operated by one local educational agency to a school operated by another local educational agency; and

"(VIII) a joint plan between the State and the local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (II), and (III) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(C) of section 1111(b).

"(C) Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing (if State law provides for such due process and a hearing) to any local educational agency identified under paragraph (3) and may refrain from such corrective action for one year

after the four-year period described in subparagraph (A) to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the State educational agency.

"(7) SPECIAL RULE.—Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

20 USC 6318.

"SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

"(a) SYSTEM FOR SUPPORT.—

"(1) STATE SUPPORT.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content standards and student performance standards.

"(2) MEETING REQUIREMENTS.—Funds reserved under section 1003(a) or appropriated under section 1002(f) shall be used to meet the requirements of this section. In addition to such funds a State educational agency may use State administrative funds reserved under section 1603(c) to meet such requirements.

"(b) REGIONAL CENTERS.—Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of title XIII and the educational regional laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(c) PROVISIONS.—The system shall include at a minimum, the following:

"(1) SCHOOL SUPPORT TEAMS.—

"(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

"(B) If funds are sufficient, school support teams shall provide information and assistance to—

"(i) schools—

"(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

"(II) identified as in need of improvement under section 1116(c)(1); and

"(ii) other schools in need of improvement.

"(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low-achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

"(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

"(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

"(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

"(ii) identify problems in the design and operation of the instructional program; and

"(iii) make recommendations for improvement to the school and the local educational agency.

"(2) DISTINGUISHED SCHOOLS.—

"(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(i), and, any school in which—

"(i) virtually all students have met the State's advanced level of student performance; and

"(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

"(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

"(C) States shall use funds reserved under section 1003(a) and funds made available under section 1002(f) to allow schools identified under this paragraph to carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

"(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level,

increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

"(3) DISTINGUISHED EDUCATORS.—

"(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 1003(a) and made available under section 1002(f), shall establish a corps of distinguished educators.

"(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

"(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

"(d) IMPLEMENTATION.—In order to implement this section funds reserved under section 1003(a) and funds made available under section 1002(f) may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

"(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 1003 and funds made available under section 1002(f) for such approaches as part of the State plan.

20 USC 6319.

"SEC. 1118. PARENTAL INVOLVEMENT.

"(a) LOCAL EDUCATIONAL AGENCY POLICY.—

"(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

"(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

"(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

"(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

"(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

"(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

"(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy developed under this section—

"(i) to determine the effectiveness of the policy in increasing the participation of parents; and

"(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

"(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1).

"(3) RESERVATION.—(A) Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 1002(e)) for the fiscal year for which the determination is made is $5,000 or less.

"(B) Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

"(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

"(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Such policy shall be updated periodically to meet the changing needs of parents and the school.

"(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

"(3) AMENDMENT.—If the local educational agency has a school district-level parental involvement policy that applies

to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

"(4) PARENTAL COMMENTS.—If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

"(c) POLICY INVOLVEMENT.—Each school served under this part shall—

"(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

"(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

"(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

"(4) provide parents of participating children—

"(A) timely information about programs under this part;

"(B) school performance profiles required under section 1116(a)(3) and their child's individual student assessment results, including an interpretation of such results, as required under section 1111(b)(3)(H);

"(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

"(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

"(E) timely responses to parents' suggestions under subparagraph (D); and

"(5) if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

"(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

"(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

"(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

"(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

"(B) frequent reports to parents on their children's progress; and

"(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

"(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

"(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, the provisions of section 1111(b)(8), State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

"(2) shall provide materials and training, such as—

"(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

"(B) training to help parents to work with their children to improve their children's achievement;

"(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

"(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

"(5) shall develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between

elementary, middle, and secondary schools and local businesses that include a role for parents;

"(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

"(7) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the homes of participating children in the language used in such homes;

"(8) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents;

"(9) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

"(10) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

"(11) may train and support parents to enhance the involvement of other parents;

"(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

"(13) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

"(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

"(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

"(f) ACCESSIBILITY.—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

"(g) PARENTAL INFORMATION AND RESOURCE CENTERS.—In States where parental information and resource centers have been established pursuant to section 401 of the Goals 2000: Educate America Act of 1994 (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

"SEC. 1119. PROFESSIONAL DEVELOPMENT. 20 USC 6320.

"(a) PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

"(2) PROGRAM DESIGN.—Such professional development activities shall be designed by principals, teachers, and other school staff in schools receiving assistance under this part.

"(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—

"(1) REQUIRED ACTIVITIES.—Such professional development activities shall—

"(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

"(B) support local educational agency plans under section 1112 and school plans under section 1114;

"(C) draw on resources available under this part, title III of the Goals 2000: Educate America Act, title II of this Act, and from other sources;

"(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

"(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

"(2) OPTIONAL ACTIVITIES.—Such professional development activities may include—

"(A) instruction in the use of assessments;

"(B) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

"(C) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(D) instruction in the use of technology;

"(E) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers;

"(F) instruction in ways to teach special needs children;

"(G) instruction in gender-equitable education methods, techniques, and practices;

"(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

"(I) instruction in experiential-based teaching methods such as service learning.

"(c) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part is encouraged to design professional development programs so that—

"(1) all school staff in schools participating in a schoolwide program under section 1114 can participate in professional development activities; and

"(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

"(d) PARENTAL PARTICIPATION.—Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

"(e) CONSORTIA.—In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

"(f) EFFECTIVE TEACHING STRATEGIES.—Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

"(g) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, title III of the Goals 2000: Educate America Act, and other sources.

"(h) STATE REVIEW.—

"(1) IN GENERAL.—The State educational agency shall review the local educational agency's plan under section 1112(b) to determine if such agency's professional development activities—

"(A) are tied to challenging State student content and student performance standards;

"(B) reflect research on teaching and learning where possible;

"(C) are designed to have a positive impact on the teacher's performance in the classroom;

"(D) contribute to continuous improvement in the classroom or throughout the school;

"(E) include methods to teach children with special needs;

"(F) are developed with the extensive participation of teachers; and

"(G) include gender-equitable education methods, techniques, and practices.

"(2) TECHNICAL ASSISTANCE.—If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward inclusion of such activities in the local educational agency's professional development activities.

"(3) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities

under this part, except that this paragraph shall not apply with respect to requirements under section 1116(d)(6).

"(i) INSTRUCTIONAL AIDES.—

"(1) IN GENERAL.—If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

"(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

"(B) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an instructional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

"(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

"(2) INCLUSION IN ACTIVITIES.—Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

"SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS. 20 USC 6321.

"(a) GENERAL REQUIREMENT.—

"(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment).

"(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

"(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

"(5) PROVISION OF SERVICES.—The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and devel-

opment of such agency's programs under this part, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided;

"(D) how the services will be assessed; and

"(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) for such services.

"(2) TIMING.—Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

"(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

"(c) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(d) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

"(1) waive the requirements of this section for such local educational agency; and

"(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 14505 and 14506.

"(e) CAPITAL EXPENSES.—

"(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(e) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

"(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the

purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

"(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

"(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

"(3) USES OF FUNDS.—Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

"(4) DEFINITION.—For the purpose of this subsection, the term 'capital expenses' means—

"(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

"(B) insurance and maintenance costs;

"(C) transportation; and

"(D) other comparable goods and services.

"SEC. 1120A. FISCAL REQUIREMENTS. 20 USC 6322.

"(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational agency has maintained its fiscal effort in accordance with section 14501 of this Act.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

"(B) For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

"(c) COMPARABILITY OF SERVICES.—

"(1) IN GENERAL.—(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

"(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds

under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

"(2) WRITTEN ASSURANCE.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

"(i) a local educational agency-wide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

"(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

"(3) PROCEDURES AND RECORDS.—Each local educational agency assisted under this part shall—

"(A) develop procedures for compliance with this subsection; and

"(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

"(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

"(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

"(A) bilingual education for children of limited English proficiency; and

"(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

20 USC 6323.

"SEC. 1120B. COORDINATION REQUIREMENTS.

"(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

"(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

"(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

"(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

"(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

"(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

"Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR. 20 USC 6331.

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

"(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

"(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c). Territories.

"(b) ASSISTANCE TO THE OUTLYING AREAS.—

"(1) IN GENERAL.—From amounts made available under subsection (a) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

"(2) COMPETITIVE GRANTS.—(A) The Secretary shall reserve $5,000,000 from the amounts made available under subsection (a) in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

"(B) Except as provided in subparagraph (D), grant funds awarded under this part only may be used for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

"(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

"(D) The Secretary may provide 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

"(c) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

Indians.

"(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

"(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

"(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

"(A) 40 percent of the average per pupil expenditure in the State in which the agency is located; or

"(B) 48 percent of such expenditure in the United States.

20 USC 6332.

"SEC. 1122. ALLOCATIONS TO STATES.

"(a) IN GENERAL.—

"(1) FISCAL YEAR 1995.—For fiscal year 1995, appropriations for this part shall be allocated according to the provisions of sections 1005, except subsection (a)(3), and 1006, part A of chapter 1 of title I, Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, except that the State minimum for section 1005 shall be the lesser of 0.25 percent of total appropriations or the average of 0.25 percent of total appropriations and 150 percent of the national average grant per child counted for grants under section 1005 multiplied by the State's number of children counted for such grants, and for grants under section 1006, the State minimum shall be the lesser of—

"(A) 0.25 percent of total appropriations; and

"(B) the average of—

"(i) 0.25 percent of total appropriations; and

"(ii) the greater of 150 percent of the national average grant per child counted for grants under such section 1006 multiplied by the State total number of such children, or $340,000.

"(2) SUCCEEDING FISCAL YEARS.—For fiscal years 1996 through 1999, an amount of the appropriations for this part equal to the appropriation for fiscal year 1995 for section 1005, shall be allocated in accordance with section 1124, and an amount equal to the appropriation for fiscal year 1995 for section 1006 shall be allocated in accordance with section 1124A. Any additional appropriations under section 1002(a)

for any fiscal year, after application of the preceding sentence, shall be allocated in accordance with section 1125.

"(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—If the sums available under this part for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

"(c) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—For fiscal year 1995, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under such section 1005 shall be at least 85 percent of the amount such local educational agency received for the preceding year under such section 1005.

"(2) FISCAL YEAR 1996.—Notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, for fiscal year 1996 the total amount made available to each local educational agency under each of sections 1124 and 1124A for any fiscal year shall be at least 100 percent of the total amount such local educational agency was allocated under such sections (or their predecessor authorities) for the preceding fiscal year.

"(3) FISCAL YEARS 1997–1999.—For fiscal years 1997 through 1999, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under each of sections 1124 and 1125 shall be at least 95 percent of the previous year's amount if the number of children counted for grants under section 1124 is at least 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency, 90 percent of the previous year amount if this percentage is between 15 percent and 30 percent, and 85 percent if this percentage is below 15 percent. For fiscal years 1997 and 1998, in calculating grants on the basis of population data for counties, the Secretary shall apply the hold-homeless percentages in the preceding sentence to counties. For fiscal years 1996 through 1998, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this paragraph for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this paragraph.

"(d) RATABLE REDUCTIONS.—

"(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (c) for

such year, the Secretary shall ratably reduce such amounts for such year.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (c) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts reduced.

"(e) DEFINITION.—For the purpose of this section and sections 1124 and 1125, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 6333.

"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in section 1126), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that—

"(A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States; or

"(B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(2) BASIS FOR CALCULATING GRANTS.—For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under subsection (c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

"(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with subsection (c); or

"(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. Beginning in fiscal year 1999, grants shall be calculated by the Secretary on the basis of population data compiled for local educational agencies, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall jointly issue a report setting forth their reasons in detail. In years when grants are calculated by the Secretary on the basis of local educational agency data, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either— Reports.

"(i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; and

"(ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then such local educational agency may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt.

"(3) PUERTO RICO.—For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence; and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—Subject to the succeeding sentence, a local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the number of children counted under subsection (c) in the school district of such local educational agency is at least 10. Beginning in fiscal year 1996, no local educational agency shall be eligible for a grant under this section if the number of children counted for grants under this section is equal to 2 percent or less of the total school age population in the local educational agency. For fiscal years 1996 through 1998, grants not made as a result of applying the preceding sentence shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (5); and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. For fiscal year 1999 and beyond, the District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

District of Columbia. Puerto Rico.

"(3) POPULATION UPDATES.—In fiscal year 1997 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agen-

Disadvantaged persons.

cies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall jointly issue a report setting forth their reasons in detail. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

Reports.

"(4) STUDY.—(A) The Secretary of Education shall, within 30 days after the date of enactment of the Improving America's School's Act of 1994, contract with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to study the program to produce intercensal poverty data for small geographic areas and certain age cohorts being developed by the Bureau of the Census.

Contracts.

"(B) In conducting its study, the Academy shall consider such matters as—

"(i) the methodology used to produce and publish intercensal poverty data, and possible alternative methods to improve the usefulness of the data for Federal program purposes;

"(ii) the availability of alternative indicators of poverty for small geographic areas, against which the poverty data produced and published by the Bureau of the Census could be compared;

"(iii) the reliability of the poverty data produced and published by the Bureau of the Census, particularly for less populous geographic areas;

"(iv) the reliability of intercensal poverty data produced and published by the Bureau of the Census, as compared over time to similar data produced by the Bureau of the Census during the most recent decennial census; and

"(v) the usefulness of poverty data produced and published by the Bureau of the Census for Federal programs that allocate funds to State and sub-State areas based, in whole or in part, on such data.

"(C) The Academy shall submit to the Secretary and the Secretary of Commerce, as well as to the Committee on Education and Labor and the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate—

Reports.

"(i) not later than 18 months after the date on which a contract is entered into under subsection (a), and not later than every 18 months thereafter, such interim reports on the Academy's activities under this Act that the Academy deems appropriate, including a detailed statement of the Academy's findings and conclusions with respect to any poverty data which the Bureau of the Census pub-

lishes and produces, within 90 days of such publication; and

"(ii) not later than December 31, 1998, a final report which shall include a more detailed statement of the Academy's findings and conclusions with respect to the use of any intercensal poverty data produced and published by the Bureau of the Census as the basis for allocating Federal funds under this Act.

"(D) Of the funds appropriated under section 1002(f) of this Act, the Secretary shall use such sums as are necessary in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this paragraph.

"(5) OTHER CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(6) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) STATE MINIMUM.—Notwithstanding subsection (b)(1) or (d) of section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

"(1) 0.25 percent of total grants under this section; or
"(2) the average of—
"(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and
"(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

"SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES. 20 USC 6334.

"(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—
"(1) IN GENERAL.—(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be eligible for an additional grant under this section for that fiscal year if—
"(i) the number of children counted under section 1124(c) in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) for the fiscal year exceeds 6,500; or
"(ii) the number of children counted under section 1124(c) exceeds 15 percent of the total number of children aged 5 to 17, inclusive, in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) in that fiscal year.
"(B) Notwithstanding such subsections (b)(1) and (d) of section 1122, no State described in subparagraph (A) shall receive less than the lesser of—
"(i) 0.25 percent of total grants; or
"(ii) the average of—
"(I) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and
"(II) the greater of—
"(aa) $340,000; or
"(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.
"(2) SPECIAL RULE.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—
"(A) the number of children counted under section 1124(c) for that fiscal year; and
"(B) the quotient resulting from the division of the amount determined for those agencies under section 1124(a)(1) for the fiscal year for which the determination is being made divided by the total number of children counted under section 1124(c) for that agency for fiscal year.
"(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount

which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

"(4) SUBALLOCATION.—For fiscal years 1996 through 1998, county amounts shall be suballocated to local educational agencies meeting the criteria of paragraph (1)(A) by State educational agencies, in accordance with regulations published by the Secretary. For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than this section) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this paragraph, the State educational agency shall provide assurances that—

"(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

"(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. A State may reserve not more than 2 percent of its allocations in fiscal years 1996 through 1998 under this section for the purpose of making grants to local educational agencies that meet the criteria of clause (i) or (ii) of paragraph (1)(A), but are in ineligible counties. For fiscal years beginning with 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's

local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

"(b) RESERVATION OF FUNDS.—Of the total amount of funds available for this section and sections 1124 and 1125, an amount equal to the appropriation for fiscal year 1995 for section 1006 of this Act (as such section was in effect on the day preceding the date of enactment of this Act) shall be available to carry out this section.

"(c) RATABLE REDUCTION RULE.—If the sums available under subsection (b) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) for such fiscal year, the maximum amounts which all States are eligible to receive under subsection (a) for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(d) STATES RECEIVING MINIMUM GRANTS.—In States that receive the minimum grant under subsection (a)(1)(B), the State educational agency shall allocate such funds among the local educational agencies in each State either—

"(1) in accordance with paragraphs (2) and (4) of subsection (a); or

"(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

"SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES. 20 USC 6335.

"(a) ELIGIBILITY OF LOCAL EDUCATIONAL AGENCIES.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection 1124(c), before application of the weighting factor described in subsection (c), is at least 10, and if the number of children counted for grants under section 1124 is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency

Funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(b) GRANTS FOR LOCAL EDUCATIONAL AGENCIES, THE DISTRICT OF COLUMBIA, AND PUERTO RICO.—

"(1) IN GENERAL.—The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

"(A) the weighted child count determined under subsection (c); and

"(B) the amount in the second sentence of subparagraph 1124(a)(1)(A).

"(2) PUERTO RICO.—For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) for Puerto Rico, multiplied by the amount determined in subparagraph 1124(a)(3).

"(c) WEIGHTED CHILD COUNT.—

"(1) FISCAL YEARS 1966–1998.—

"(A) IN GENERAL.—The weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clause (i) or (ii), as follows:

"(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) for that county constituting up to 12.20 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children constituting more than 12.20 percent, but not more than 17.70 percent, of such population, multiplied by 1.75;

"(III) the number of such children constituting more than 17.70 percent, but not more than 22.80 percent, of such population, multiplied by 2.5;

"(IV) the number of such children constituting more than 22.80 percent, but not more than 29.70 percent, of such population, multiplied by 3.25; and

"(V) the number of such children constituting more than 29.70 percent of such population, multiplied by 4.0.

"(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) constituting up to 1,917, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 1,918 and 5,938, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 5,939 and 20,199, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 20,200 and 77,999, inclusive, in such population, multiplied by 2.5; and

"(V) the number of such children in excess of 77,999 in such population, multiplied by 3.0.

"(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection 1124(c) multiplied by 1.72.

"(2) FISCAL YEARS AFTER 1999.—

"(A) IN GENERAL.—For each fiscal year beginning with fiscal year 1999 for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (i) and (ii), as follows:

"(i) BY PERCENTAGE OF CHILDREN.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) for that local educational agency constituting up to 14.265 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children constituting more than 14.265 percent, but not more than 21.553 percent, of such population, multiplied by 1.75;

"(III) the number of such children constituting more than 21.553 percent, but not more than 29.223 percent, of such population, multiplied by 2.5;

"(IV) the number of such children constituting more than 29.223 percent, but not more than 36.538 percent, of such population, multiplied by 3.25; and

"(V) the number of such children constituting more than 36.538 percent of such population, multiplied by 4.0.

"(ii) BY NUMBER OF CHILDREN.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) constituting up to 575, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 576 and 1,870, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 1,871 and 6,910, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 6,911 and 42,000, inclusive, in such population, multiplied by 2.5; and

"(V) the number of such children in excess of 42,000 in such population, multiplied by 3.0.

"(B) PUERTO RICO.—Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this para-

graph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATIONS.—For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124 for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

"(1) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(2) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

"(3) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. For fiscal years beginning in 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then the local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt.

"(e) STATE MINIMUM.—Notwithstanding any other provision of this section or subsection (b)(1) or (d) of section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

"(1) 0.25 percent of total appropriations; or
"(2) the average of—
"(A) one-quarter of 1 percent of the total amount available to carry out this section; and
"(B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

"SEC. 1125A. EDUCATION FINANCE INCENTIVE PROGRAM. 20 USC 6336.

"(a) GRANTS.—The Secretary is authorized to make grants to States from the sums appropriated pursuant to subsection (e) to carry out the purposes of this part.

"(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—
"(1) IN GENERAL.—Funds appropriated pursuant to subsection (e) shall be allotted to each State based upon the number of children aged 5 to 17, inclusive, of such State multiplied by the product of—
"(A) such State's effort factor described in paragraph (2); multiplied by
"(B) 1.30 minus such State's equity factor described in paragraph (3),
except that for each fiscal year no State shall receive less than one-quarter of 1 percent of the total amount appropriated pursuant to subsection (e) for such fiscal year.

"(2) EFFORT FACTOR.—(A) Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the three-year average per-pupil expenditure in the State multiplied by the three-year average per capita income in the United States and the denominator of which is the product of the three-year average per capita income in such State multiplied by the three-year average per-pupil expenditure in the United States.

"(B) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

"(3) EQUITY FACTOR.—(A)(i) Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

"(ii)(I) For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), (IV), and (V).

"(II) In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils in the local educational agency.

"(III) In determining the number of pupils under this paragraph in each local educational agency and each State, the Secretary shall multiply the number of children from low-income families by 1.4 under this paragraph.

"(IV) In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

"(V) The Secretary shall compute separate coefficients of variation for elementary, secondary, and unified local educational agencies and shall combine such coefficients into a single weighted average coefficient for the State by multiplying each coefficient by the total enrollments of the local educational agencies in each group, adding such products, and dividing such sum by the total enrollments of the local educational agencies in the State.

"(B) The equity factor for a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of this Act) or a State with only one local educational agency shall be not greater than .10.

"(C) The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited-English proficiency or other meaningful educational needs, which deserve additional support. In addition and also with the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

"(c) USE OF FUNDS.—All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 1124, 1124A, and 1125 to carry out activities under this part.

"(d) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disas-

ter or a precipitous and unforeseen decline in the financial resources of the State.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated $200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the three succeeding fiscal years.

"SEC. 1126. SPECIAL ALLOCATION PROCEDURES. 20 USC 6337.

"(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

"(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph 1124(c)(1)(C), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

"(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

"(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 among the affected local educational agencies—

"(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

"(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

"(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

"(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

"SEC. 1127. CARRYOVER AND WAIVER. 20 USC 6338.

"(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

"(b) WAIVER.—A State educational agency may, once every three years, waive the percentage limitation in subsection (a) if—

"(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

"(2) supplemental appropriations for this subpart become available.

"(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

Disadvantaged persons.
Grants.

"PART B—EVEN START FAMILY LITERACY PROGRAMS

20 USC 6361.

"SEC. 1201. STATEMENT OF PURPOSE.

"It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as 'Even Start'. The program shall—

"(1) be implemented through cooperative projects that build on existing community resources to create a new range of services;

"(2) promote achievement of the National Education Goals; and

"(3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards.

20 USC 6362.

"SEC. 1202. PROGRAM AUTHORIZED.

"(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 1002(b) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for—

"(A) children of migratory workers;

"(B) the outlying areas; and

"(C) Indian tribes and tribal organizations.

"(2) SPECIAL RULE.—If the amount of funds made available under this subsection exceeds $4,600,000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

"(b) RESERVATION FOR FEDERAL ACTIVITIES.—From amounts appropriated under section 1002(b), the Secretary may reserve not more than three percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) of subsection (a) for the fiscal year 1994, whichever is greater, for purposes of—

"(1) carrying out the evaluation required by section 1209; and

"(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

"(c) RESERVATION FOR GRANTS.—

"(1) GRANTS AUTHORIZED.—In any fiscal year in which the amount appropriated to carry out this part exceeds the amount appropriated to carry out this part for the preceding fiscal year, the Secretary may reserve such funds in excess of the amount appropriated for such preceding fiscal years as do not exceed $1,000,000 to award grants, on a competitive basis, to States to enable such States to plan and implement, statewide family literacy initiatives to coordinate and integrate exist-

ing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education Act, Head Start, Even Start, and the Family Support Act of 1988.

"(2) MATCHING REQUIREMENT.—The Secretary shall not make a grant to a State under paragraph (1) unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

"(d) STATE ALLOCATION.—

"(1) IN GENERAL.—From amounts appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c), the Secretary shall make grants to States from allocations under paragraph (2).

"(2) ALLOCATIONS.—Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under part A to that State bears to the total amount allocated under that section to all the States.

"(3) MINIMUM.—No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than $250,000, or one-half of 1 percent of the amount appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

"(e) DEFINITIONS.—For the purpose of this part—

"(1) the term 'eligible entity' means a partnership composed of both—

"(A) a local educational agency; and

"(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

"(2) the term 'eligible organization' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

"(3) the terms 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act; and

"(4) the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1203. STATE PROGRAMS. 20 USC 6363.

"(a) STATE LEVEL ACTIVITIES.—Each State that receives a grant under section 1202(d)(1) may use not more than 5 percent of the grant funds for the costs of—

"(1) administration; and

"(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b).

"(b) SUBGRANTS FOR LOCAL PROGRAMS.—

"(1) IN GENERAL.—Each State shall use the grant funds received under section 1202(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

"(2) MINIMUM.—No State shall award a subgrant under paragraph (1) in an amount less than $75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of $75,000 or greater, less than $75,000 is available to the State to award such subgrants.

"SEC. 1204. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out an Even Start program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing family-centered education programs that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) FEDERAL SHARE LIMITATION.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

"(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

"(ii) 80 percent in the second such year;

"(iii) 70 percent in the third such year;

"(iv) 60 percent in the fourth such year; and

"(v) 50 percent in any subsequent such year.

"(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this Act.

"(2) WAIVER.—The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

"(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

"(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

"(3) PROHIBITION.—Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1202(a)(1)(C) demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

20 USC 6365.

"SEC. 1205. PROGRAM ELEMENTS.

"Each program assisted under this part shall—

"(1) include the identification and recruitment of families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or English

language proficiency of the eligible parent or parents, and other need-related indicators;

"(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this part, including testing, referral to necessary counselling, other developmental and support services, and related services;

"(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this part, such as—

"(A) scheduling and locating of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

"(4) include high-quality instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

"(5) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

"(6) provide and monitor integrated instructional services to participating parents and children through home-based programs;

"(7) operate on a year-round basis, including the provision of some program services, instructional or enrichment, during the summer months;

"(8) be coordinated with—

"(A) programs assisted under other parts of this title and this Act;

"(B) any relevant programs under the Adult Education Act, the Individuals with Disabilities Education Act, and the Job Training Partnership Act; and

"(C) the Head Start program, volunteer literacy programs, and other relevant programs;

"(9) ensure that the programs will serve those families most in need of the activities and services provided by this part; and

"(10) provide for an independent evaluation of the program.

"SEC. 1206. ELIGIBLE PARTICIPANTS. 20 USC 6366.

"(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

"(1) a parent or parents—

"(A) who are eligible for participation in an adult basic education program under the Adult Education Act; or

"(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

"(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

"(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

"(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

"(2) SPECIAL RULE.—Any family participating in a program assisted under this part that becomes ineligible for such participation as a result of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

"(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

"(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of eight.

20 USC 6367.

"SEC. 1207. APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

"(b) REQUIRED DOCUMENTATION.—Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

"(1) to develop, administer, and implement an Even Start program under this part; and

"(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

"(c) PLAN.—

"(1) IN GENERAL.—Such application shall also include a plan of operation for the program which shall include—

"(A) a description of the program goals;

"(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1205;

"(C) a description of the population to be served and an estimate of the number of participants to be served;

"(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

"(E) a statement of the methods that will be used—

"(i) to ensure that the programs will serve families most in need of the activities and services provided by this part;

"(ii) to provide services under this part to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

"(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose; and

"(F) a description of how the plan is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

"(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1)(A) shall—

"(A) remain in effect for the duration of the eligible entity's participation under this part; and

"(B) be periodically reviewed and revised by the eligible entity as necessary.

"(d) CONSOLIDATED APPLICATION.—The plan described in subsection (c)(1)(F) may be submitted as part of a consolidated application under section 14302.

"SEC. 1208. AWARD OF SUBGRANTS. 20 USC 6368.

"(a) SELECTION PROCESS.—

"(1) IN GENERAL.—The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

"(A) are most likely to be successful in—

"(i) meeting the purpose of this part; and

"(ii) effectively implementing the program elements required under section 1205;

"(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, including a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A;

"(C) provide services for at least a three-year age range, which may begin at birth;

"(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(E) include cost-effective budgets, given the scope of the application;

"(F) demonstrate the applicant's ability to provide the Federal share required by section 1204(b);

"(G) are representative of urban and rural regions of the State; and

"(H) show the greatest promise for providing models that may be adopted by other local educational agencies.

"(2) PRIORITY FOR SUBGRANTS.—The State educational agency shall give priority for subgrants under this subsection to applications that—

"(A) target services primarily to families described in paragraph (1)(B); or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(3) REVIEW PANEL.—A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one or more of the following individuals:

"(A) A representative of a parent-child education organization.

"(B) A representative of a community-based literacy organization.

"(C) A member of a local board of education.

"(D) A representative of business and industry with a commitment to education.

"(E) An individual who has been involved in the implementation of programs under this title in the State.

"(b) DURATION.—

"(1) IN GENERAL.—Subgrants under this part may be awarded for a period not to exceed four years.

"(2) STARTUP PERIOD.—The State educational agency may provide subgrant funds to an eligible recipient, at such recipient's request, for a three- to six-month startup period during the first year of the four-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall review the progress being made toward meeting the objectives of the program after the conclusion of the startup period, if any.

"(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(5) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this part may reapply under this part for additional subgrants. An eligible recipient may receive funds under this part for a period not to exceed eight years.

"(B) The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.

20 USC 6369.

"SEC. 1209. EVALUATION.

"From funds reserved under section 1202(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this part—

"(1) to determine the performance and effectiveness of programs assisted under this part; and

"(2) to identify effective Even Start programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs.

20 USC 6370.

"SEC. 1210. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"PART C—EDUCATION OF MIGRATORY CHILDREN

"SEC. 1301. PROGRAM PURPOSE. 20 USC 6391.

"It is the purpose of this part to assist States to—

"(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

"(2) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

"(3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

"(5) ensure that migratory children benefit from State and local systemic reforms.

"SEC. 1302. PROGRAM AUTHORIZED. Grants. 20 USC 6392.

"In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

"SEC. 1303. STATE ALLOCATIONS. 20 USC 6393.

"(a) STATE ALLOCATIONS.—Each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for each fiscal year, an amount equal to—

"(1) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

"(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

"(b) ALLOCATION TO PUERTO RICO.—For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

"(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1); multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) RATABLE REDUCTIONS; REALLOCATIONS.—

"(1) IN GENERAL.—(A) If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

"(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

"(2) SPECIAL RULE.—(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1304.

"(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

"(d) CONSORTIUM ARRANGEMENTS.—

"(1) IN GENERAL.—In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

"(2) PROPOSALS.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

"(3) APPROVAL.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

"(A) reduce administrative costs or program function costs for State programs; and

"(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

"(e) DETERMINING NUMBERS OF ELIGIBLE CHILDREN.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

"(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

"(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

"(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

"(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

"(B) the additional costs of operating such programs; and

"(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

"SEC. 1304. STATE APPLICATIONS; SERVICES. 20 USC 6394.

"(a) APPLICATION REQUIRED.—Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(b) PROGRAM INFORMATION.—Each such application shall include—

"(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through a comprehensive plan for needs assessment and service delivery that meets the requirements of section 1306;

"(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

"(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

"(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the requirements of paragraph (1); and

"(6) such budgetary and other information as the Secretary may require.

"(c) ASSURANCES.—Each such application shall also include assurances, satisfactory to the Secretary, that—

"(1) funds received under this part will be used only—

"(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306(b)(1); and

"(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

"(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, section 1120, and subsections (b) and (c) of section 1120A, and part F;

"(3) in the planning and operation of programs and projects at both the State and local operating agency level, there is appropriate consultation with parent advisory councils for pro-

grams of one school year in duration, and that all such programs and projects are carried out, to the extent feasible, in a manner consistent with section 1118;

"(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

"(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

"(6) to the extent feasible, such programs and projects will provide for—

"(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

"(B) professional development programs, including mentoring, for teachers and other program personnel;

"(C) family literacy programs, including such programs that use models developed under Even Start;

"(D) the integration of information technology into educational and related programs; and

"(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

"(7) the State will assist the Secretary in determining the number of migratory children under section 1303(e), through such procedures as the Secretary may require.

"(d) PRIORITY FOR SERVICES.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards, and whose education has been interrupted during the regular school year.

"(e) CONTINUATION OF SERVICES.—Notwithstanding any other provision of this part—

"(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

"(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and

"(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

20 USC 6395.

"SEC. 1305. SECRETARIAL APPROVAL; PEER REVIEW.

"(a) SECRETARIAL APPROVAL.—The Secretary shall approve each State application that meets the requirements of this part.

"(b) PEER REVIEW.—The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

"SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES. 20 USC 6396.

"(a) COMPREHENSIVE PLAN.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

"(A) is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306;

"(B) may be submitted as a part of consolidated application under section 14302;

"(C) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

"(D) specifies measurable program goals and outcomes;

"(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

"(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and bilingual education programs under part A of title VII; and

"(G) provides for the integration of services available under this part with services provided by such other programs.

"(2) DURATION OF THE PLAN.—Each such comprehensive State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—In implementing the comprehensive plan described in subsection (a), each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

"(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

"(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

"(ii) are not addressed by services provided under other programs, including programs under part A; and

"(B) all migratory children who are eligible to receive services under part A shall receive such services with funds provided under this part or under part A.

"(2) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(3) SPECIAL RULE.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1)(A).

20 USC 6397.

"SEC. 1307. BYPASS.

"The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

"(1) the State is unable or unwilling to conduct educational programs for migratory children;

"(2) such arrangements would result in more efficient and economic administration of such programs; or

"(3) such arrangements would add substantially to the welfare or educational attainment of such children.

20 USC 6398.

"SEC. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

"(a) IMPROVEMENT OF COORDINATION.—

"(1) IN GENERAL.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

"(2) DURATION.—Grants under this subpart may be awarded for not more than five years.

"(b) ASSISTANCE AND REPORTING.—

"(1) STUDENT RECORDS.—(A) The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population.

"(B) The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

"(2) REPORT TO CONGRESS.—(A) Not later than April 30, 1995, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the Secretary's findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program.

Records.

"(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.

"(c) AVAILABILITY OF FUNDS.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $6,000,000 of the amount appropriated to carry out this part for such year.

"(d) INCENTIVE GRANTS.—

"(1) IN GENERAL.—From the amounts made available to carry out this section, the Secretary shall reserve not more than $1,500,000 to award, on a competitive basis, grants in

the amount of not more than $250,000 to State educational agencies with consortium agreements under section 1303(d).

"(2) LIMITATION.—Not less than 10 of such grants shall be awarded to States which receive allocations of less than $1,000,000 if such States have approved agreements.

"SEC. 1309. DEFINITIONS. 20 USC 6399.

"As used in this part:

"(1) LOCAL OPERATING AGENCY.—The term 'local operating agency' means—

"(A) a local educational agency to which a State educational agency makes a subgrant under this part;

"(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

"(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

"(2) MIGRATORY CHILD.—The term 'migratory child' means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

"(A) has moved from one school district to another;

"(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

"(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

"PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT RISK OF DROPPING OUT

"SEC. 1401. FINDINGS; PURPOSE; PROGRAM AUTHORIZED. 20 USC 6421.

"(a) FINDINGS.—Congress finds the following:

"(1) A large percentage of youth in the juvenile justice system have poor academic achievement, are a year or more behind grade level, and have dropped out of school.

"(2) There is a strong correlation between academic failure and involvement in delinquent activities.

"(3) Preventing students from dropping out of local schools and addressing the educational needs of delinquent youth can help reduce the dropout rate and involvement in delinquent activities at the same time.

"(4) Many schools and correctional facilities fail to communicate regarding a youth's academic needs and students often return to their home school ill-prepared to meet current curriculum requirements.

"(5) Schools are often reluctant to deal with youth returning from facilities and receive no funds to deal with the unique educational and other needs of such youth.

"(6) A continuing need exists for activities and programs to reduce the incidence of youth dropping out of school.

"(7) Federal dropout prevention programs have demonstrated effectiveness in keeping children and youth in school.

"(8) Pregnant and parenting teens are a high at-risk group for dropping out of school and should be targeted by dropout prevention programs.

"(9) Such youth need a strong dropout prevention program which provides such youth with high level skills and which provides supports to youth returning from correctional facilities in order to keep such youth in school.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to improve educational services to children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State will be expected to meet;

"(2) to provide such children and youth the services needed to make a successful transition from institutionalization to further schooling or employment; and

"(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

"(c) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

20 USC 6422.

"SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS PART.

"(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies.

"(b) LOCAL SUBGRANTS.—Each State shall retain, for purposes of subpart 2, funds generated throughout the State under part A based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

"(c) USE OF REMAINING FUNDS.—Each State shall use any funds remaining after allocations are made under subsection (a).

"Subpart 1—State Agency Programs

20 USC 6431.

"SEC. 1411. ELIGIBILITY.

"A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children—

"(1) in institutions for neglected or delinquent children;

"(2) attending community day programs for neglected or delinquent children; or

"(3) in adult correctional institutions.

20 USC 6432.

"SEC. 1412. ALLOCATION OF FUNDS.

"(a) SUBGRANTS TO STATE AGENCIES.—

"(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto

Rico) is eligible to receive a subgrant under this part, for each fiscal year, an amount equal to the product of—

"(A) the number of neglected or delinquent children and youth described in section 1411 who—

"(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

"(ii) are enrolled for at least 20 hours per week—

"(I) in education programs in institutions for neglected or delinquent children; or

"(II) in community day programs for neglected or delinquent children; and

"(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

"(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children on a specific date set by the Secretary; and

"(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

"(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

"(1) the number of children and youth counted under subsection (a)(1) for the Commonwealth of Puerto Rico; multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

"SEC. 1413. STATE REALLOCATION OF FUNDS. 20 USC 6433.

"If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this part for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

"SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS. 20 USC 6434.

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent youth and, where applicable, youth at risk of dropping out of school which is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

"(2) CONTENTS.—Each such State plan shall—

"(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

"(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

"(C) contain assurances that the State educational agency will—

"(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

"(ii) carry out the evaluation requirements of section 1416;

"(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

"(iv) provide such other information as the Secretary may reasonably require.

"(3) DURATION OF THE PLAN.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) SECRETARIAL APPROVAL; PEER REVIEW.—

"(1) IN GENERAL.—The Secretary shall approve each State plan that meets the requirements of this part.

"(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

"(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

"(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

"(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

"(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

"(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

"(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

"(6) describes how the agency will carry out the evaluation requirements of section 14701 and how the results of the most recent evaluation are used to plan and improve the program;

"(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 14501 of this title;

"(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under the Job Training Partnership Act, vocational education programs, State and local dropout prevention programs, and special education programs;

"(9) describes how appropriate professional development will be provided to teachers and other staff;

"(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

"(11) describes how the agency will, endeavor to coordinate with businesses for training and mentoring for participating youth;

"(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

"(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

"(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

"(A) is identified as in need of special education services while the youth is in the facility; and

"(B) intends to return to the local school;

"(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

"(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

"(17) describes any additional services provided to youth, such as career counseling, and assistance in securing student loans and grants; and

"(18) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 or other comparable programs, if applicable.

20 USC 6435. **"SEC. 1415. USE OF FUNDS.**

"(a) IN GENERAL.—

"(1) USES.—A State agency shall use funds received under this subpart only for programs and projects that—

"(A) are consistent with the State plan under section 1414(a); and

"(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

"(2) PROGRAMS AND PROJECTS.—Such programs and projects—

"(A) may include the acquisition of equipment;

"(B) shall be designed to support educational services that—

"(i) except for institution-wide projects under section 1416, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

"(ii) supplement and improve the quality of the educational services provided to such children by the State agency; and

"(iii) afford such children an opportunity to learn to such challenging State standards;

"(C) shall be carried out in a manner consistent with section 1120A and part F of this title; and

"(D) may include the costs of meeting the evaluation requirements of section 14701.

"(b) SUPPLEMENT, NOT SUPPLANT.—A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A without regard to the subject areas in which instruction is given during those hours.

20 USC 6436. **"SEC. 1416. INSTITUTION-WIDE PROJECTS.**

"A State agency that provides free public education for children and youth in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

"(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

"(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

"(3) describes the steps the State agency has taken, or will take, to provide all children under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the students will complete second-

ary school, attain secondary diploma or its recognized equivalent, or find employment after leaving the institution;

"(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

"(5) specifically describes how such funds will be used;

"(6) describes the measures and procedures that will be used to assess student progress;

"(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

"(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

"SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS. 20 USC 6437.

"If a State agency operates a program or project under this subpart in which individual children are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this part for a period of not more than three years.

"SEC. 1418. TRANSITION SERVICES. 20 USC 6438.

"(a) TRANSITION SERVICES.—Each State agency shall reserve not more than 10 percent of the amount such agency receives under this subpart for any fiscal year to support projects that facilitate the transition of children from State-operated institutions to local educational agencies.

"(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) LIMITATION.—Any funds reserved under subsection (a) shall be used only to provide transitional educational services, which may include pupil services and mentoring, to neglected and delinquent children in schools other than State-operated institutions.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"Subpart 2—Local Agency Programs

"SEC. 1421. PURPOSE. 20 USC 6451.

"The purpose of this subpart is to support the operation of local educational agency programs which involve collaboration with locally operated correctional facilities to—

"(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

"(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

"(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

20 USC 6452.

"SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

"(a) LOCAL SUBGRANTS.—With funds retained made available under section 1402(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in day programs).

"(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

"(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

20 USC 6453.

"SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

"Eligible local educational agencies desiring assistance under this section shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

"(1) a description of the program to be assisted;

"(2) a description of formal agreements between—

"(A) the local educational agency; and

"(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

"(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

"(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at-risk youth in participating schools and youth returning from correctional facilities;

"(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will be coordinating existing educational programs to meet unique education needs;

"(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

"(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

"(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

"(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under the Job Training and Partnership Act and vocational education programs serving this at-risk population of youth;

"(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

"(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of youth returning from correctional facilities;

"(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

"(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

"SEC. 1424. USES OF FUNDS. 20 USC 6454.

"Funds provided to local educational agencies under this subpart may be used, where appropriate, for—

"(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

"(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

"(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

"SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION. Contracts. 20 USC 6455.

"Each correctional facility entering into an agreement with a local educational agency under section 1422(a) to provide services to youth under this section shall—

"(1) where feasible, ensure educational programs in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

"(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

"(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

"(4) provide support programs which encourage youth who have dropped out to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

"(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

"(6) ensure educational programs in correctional facilities are related to assisting students meet high educational standards;

"(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

"(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

"(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds under the Job Training Partnership Act, and vocational education funds;

"(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

"(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

20 USC 6456.

"SEC. 1426. ACCOUNTABILITY.

"The State educational agency may—

"(1) reduce or terminate funding for projects under this section if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

"(2) require juvenile facilities to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

"Subpart 3—General Provisions

20 USC 6471.

"SEC. 1431. PROGRAM EVALUATIONS.

"(a) SCOPE OF EVALUATION.—Each State agency or local educational agency that conducts a program under subpart 1 or 2 shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every three years to determine the program's impact on the ability of participants to—

"(1) maintain and improve educational achievement;

"(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

"(3) make the transition to a regular program or other education program operated by a local educational agency; and

"(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution.

"(b) EVALUATION MEASURES.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

"(c) EVALUATION RESULTS.—Each State agency and local educational agency shall—

"(1) submit evaluation results to the State educational agency; and

"(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

"SEC. 1432. DEFINITIONS. 20 USC 6472.

"For the purpose of this part:

"(1) The term 'adult correctional institution' means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.

"(2) The term 'at-risk youth' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

"(3) The term 'community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children.

"(4) The term 'institution for delinquent children and youth' means a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

"(5) The term 'institution for neglected children' means a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.

"PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS

"SEC. 1501. EVALUATIONS. 20 USC 6491.

"(a) NATIONAL ASSESSMENT.—

"(1) IN GENERAL.—The Secretary shall conduct a national assessment of programs assisted under this title, in coordination with the ongoing National Evaluation under subsection (b) that shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

"(2) EXAMINATION.—The assessment shall examine how well schools, local educational agencies, and States are—

"(A) progressing toward the goal of all children served under this title reaching the State's challenging State content standards and challenging State student performance standards; and

"(B) accomplishing the purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—

"(i) ensuring challenging State content standards and challenging State student performance standards for all children served under this title and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

"(ii) providing children served under this title an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

"(iii) promoting schoolwide reform and access for all children served under this title to effective instructional strategies and challenging academic content;

"(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

"(v) using and evaluating the usefulness of opportunity-to-learn standards or strategies in improving learning in schools receiving assistance under this part;

"(vi) coordinating services provided under all parts of this title with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

"(vii) affording parents of children served under this title meaningful opportunities to participate in the education of their children at home and at school, such as the provision of family literacy services;

"(viii) distributing resources to areas where needs are greatest;

"(ix) improving accountability, as well as teaching and learning, by making assessments under this title congruent with State assessment systems; and

"(x) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

"(3) NAEP INFORMATION.—Where feasible, the Secretary shall use information gathered from a variety of sources, including the National Assessment of Educational Progress, State evaluations, and available research studies, in carrying out this subsection.

"(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the appropriate committees of the Congress an interim report by January 1, 1996, summarizing the preliminary findings of the assessment and a final report of the findings of the assessment by January 1, 1998.

"(b) STUDIES AND DATA COLLECTION.—

"(1) IN GENERAL.—The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this title and to report on such effectiveness on a periodic basis. The Secretary shall report not later than December 31, 1997 to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on how schoolwide programs are meeting the needs of children from migratory families. Reports.

"(2) MINIMUM INFORMATION.—At a minimum, the Secretary shall collect trend information on the effect of programs under this title. Such data shall complement the data collected and reported under subsections (a) and (c).

"(c) NATIONAL EVALUATION OF PART A OF TITLE I.—

"(1) IN GENERAL.—The Secretary shall carry out an ongoing evaluation of the program assisted under part A of title I in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet challenging State content standards and challenging State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

"(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least three years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

"(B) be separate and independent from State and local assessments and evaluations as required under this title;

"(C) utilize the highest available content standards that are generally accepted as national in scope;

"(D) provide information on all students, students served under part A, and, if funds are sufficient, information on students from low-income families, limited-English-proficient students, and students with disabilities; and

"(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

"(2) USE.—The Secretary shall use the results of the evaluation described in paragraph (1) as part of the national assessment required by subsection (a) and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4). Reports.

"(d) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under subsection (a) and the national ongoing evaluation under subsection (c), the Secretary shall use developmentally appropriate measures to assess student performance and progress.

"(e) PARENTAL INVOLVEMENT, STUDY, REPORT AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary, through the Office of Education Research and Improvement, shall conduct a study to identify and describe—

"(A) common barriers to effective parental involvement in the education of participating children; and

"(B) successful local policies and programs which improve parental involvement and the performance of participating children.

"(2) DUTIES OF SECRETARY.—The Secretary shall—

"(A) complete such study by December 31, 1996;

Reports.

"(B) report the findings of such study to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate; and

"(C) disseminate the findings, relating to the successful local policies and programs which improve parental involvement and the performance of participating children, to local educational agencies.

20 USC 6492.

"SEC. 1502. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

"(a) DEMONSTRATION PROGRAMS TO IMPROVE ACHIEVEMENT.—

"(1) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(g)(2), the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State content standards and challenging State student performance standards. Such projects shall include promising strategies such as—

"(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

"(B) integration of education services with each other and with health, family, and other social services such as mentoring programs, particularly in empowerment zones and enterprise communities;

"(C) effective approaches to whole school reform;

"(D) programs that have been especially effective with limited-English-proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth;

"(E) programs which are especially effective in recruiting, inducting, and retaining highly qualified teachers for service in schools with low student achievement; and

"(F) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community, which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other compentencies in students, and make school relevant to the workplace and

the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities.

"(2) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

"(b) PARTNERSHIPS.—From funds appropriated under section 1002(g)(2) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.

"SEC. 1503. INNOVATIVE ELEMENTARY SCHOOL TRANSITION PROJECTS. 20 USC 6493.

"(a) IN GENERAL.—From the amount appropriated under section 1002(g)(2), the Secretary shall provide not less than $10,000,000, but not more than $40,000,000 to support innovative transition projects in elementary schools authorized under this section.

"(b) GRANTS.—

"(1) LOCAL PROGRAMS.—The Secretary shall award grants to local educational agencies (including such agencies that operate Follow Through programs, Even Start, and other comparable programs) that have formed consortia with early childhood programs (including Head Start, where available) for the purpose of supporting projects, for children from low-income families who previously attended a Head Start program, Even Start program, or similar preschool program, which provide education and other services in early elementary grades.

"(2) PURPOSES OF PROJECTS.—The purposes of projects assisted under this section are to—

"(A) assist eligible children and their families in making a successful transition from preschool through the early elementary grades;

"(B) enable eligible children to achieve challenging academic standards through a model, developmentally appropriate, instructional program; and

"(C) support the active involvement of parents in the education of their children.

"(3) COMPONENTS.—A program assisted under this subsection—

"(A) shall provide transition to elementary school activities, such as—

"(i) development of a transition plan for each child which provides for instruction, support, and assistance through the third grade;

"(ii) transfer of each child's preschool records to the elementary school (with parental consent);

"(iii) formal meetings between a child's parent, preschool teacher, and kindergarten or first grade teacher; and

"(iv) kindergarten visits and other orientation activities for preschool children prior to enrollment in elementary school;

"(B) shall use an instructional approach which—

"(i) has been shown to be effective in providing transition services; or

"(ii) shows promise of providing effective transition services;

"(C) shall provide for the direct participation of the parents of such children in the development, operation, and evaluation of such program;

"(D) shall provide directly or through referral comprehensive educational, health, nutritional, social, and other services that aid in the continued development of eligible children to their full potential;

"(E) shall ensure that each supportive services team developed pursuant to subsection (c)(8) includes a sufficient number of family service coordinators to adequately meet the needs of eligible children and their families; and

"(F) may provide for the use of mentors who are secondary school students to assist elementary and secondary students who were formerly enrolled in Head Start or Even Start programs.

"(c) APPLICATIONS.—An application for a grant under subsection (b) shall—

"(1) describe the goals which the applicant plans to achieve;

"(2) describe the instructional approach the applicant will use, and the manner in which the applicant will implement such approach;

"(3) describe the transition to elementary school activities for which assistance is sought;

"(4) describe the members of the consortium required by subsection (b)(1);

"(5) shall include evidence that the consortium members each have performed assessments of their programs to ensure that such members have the capacity to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse, education, and prevention), and educational needs of low-income students and their families whom the consortium members plan to serve;

"(6) describe how the project will be coordinated with title I, title VII, and other programs under this Act;

"(7) provide evidence that the proposed transition activities, instruction, and other services to be provided by the applicant have been specifically designed to build upon, and coordinate with, the services provided to eligible children and their parents by local Head Start, Even Start, and other similar preschool programs;

"(8) include—

"(A) a plan for the development of a support services team, including a family service coordinator, to—

"(i) assist families, administrators, and teachers to respond to health, immunization, mental health, nutrition, social service, and educational needs of eligible students;

"(ii) conduct home visits and help students and their families to obtain health, immunization, mental

health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education, and prevention), for which students and their families are eligible;

"(iii) coordinate a family outreach and support program, including a plan for involving parents in the management of the program under subsection (b), in cooperation with parental involvement efforts undertaken pursuant to this part, the Head Start Act, and the Individuals with Disabilities Education Act, including school-parent compacts, parent volunteer activities, parent education services and training such as the services and training provided through the Even Start program, and regular meetings; and

"(iv) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act, other early childhood development programs, and elementary school classes; or

"(B) a description of the comprehensive, coordinated services currently provided to children eligible for services under this section;

"(9) designate a member of the support services team described in paragraph (8) who will serve as the supervisor of such support services team;

"(10) contain assurances that State agencies, local agencies, and community-based organizations that provide support services to low-income students served by the local educational agency consortium have been consulted in the preparation of the plan described in paragraph (8);

"(11) contain assurances that State agencies, local agencies, and community-based organizations served by the local educational agency consortium will designate an individual who will act as a liaison to the support services team described in paragraph (8);

"(12) describe the target population to be served by the support services team described in paragraph (8), including families previously served under part C of the Head Start Act, or other comparable early childhood development program;

"(13) describe the support services to be provided, directly or through referral;

"(14) describe the Federal and non-Federal resources that will be used to carry out the program;

"(15) contain assurances that the support services described in paragraph (8) will be equipped to assist children and families with limited-English proficiency or with disabilities;

"(16) include a plan describing how the program assisted under this section will be sustained, with funding received under part A or other Federal and non-Federal funding sources, after the grant has expired; and

"(17) contain such other information as the Secretary may reasonably require.

"(d) NATIONAL ACTIVITIES.—

"(1) IN GENERAL.—Of the amount provided under subsection (a) to carry out this section, the Secretary shall use not less than $3,000,000 but not more than $5,000,000 to carry out

national activities to evaluate and improve the use of innovative transition programs.

"(2) TECHNICAL ASSISTANCE AND TRAINING.— Of the amount reserved under paragraph (1), the Secretary shall use not less than $3,000,000 to award grants to public and private nonprofit agencies, institutions, and organizations to provide to consortia which receive grants under subsection (b)(1) and, to the extent feasible, to schools that are designated schoolwide programs under section 1114—

"(A) technical assistance in the implementation and expanded use of model transition and instructional approaches, including the use of appropriate pedagogy, efforts to increase parental involvement and providing access to coordinated services; and

"(B) training in conjunction with the implementation and operation of such model approaches.

"(3) COORDINATION AND DISSEMINATION.—The Secretary, in cooperation with the Secretary of Health and Human Services, may promote coordination of activities assisted under this section with the projects funded under the Head Start Transition Projects Act, including a process to—

"(A) collect information on program activities and results; and

"(B) disseminate information on successful transition programs.

"(4) EVALUATION.—(A) The Secretary, in cooperation with the Secretary of Health and Human Services, is authorized to award grants, or enter into contracts or cooperative agreements, to provide for the evaluation of the programs assisted under this section.

"(B) To the extent practicable, such evaluations shall be conducted jointly with evaluations of Head Start Transition Projects.

"(5) OTHER ACTIVITIES.—The Secretary may undertake other activities to promote the replication of successful transition programs.

"(e) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this section with regulations promulgated under the Head Start Act Amendments of 1994.

"(f) GENERAL PROVISIONS.—

Grants.

"(1) PRIORITY.—In awarding grants under subsection (b)(1), the Secretary shall give priority to applicants that—

"(A) will operate a project under this section at a school designated as a schoolwide program under section 1114;

"(B) serve local educational agencies that have the highest numbers or percentages of poor children; and

"(C) demonstrate a significant commitment by the community to the proposed program, as evidenced by the level of resources, both cash and in-kind, from other public and private sources available to the consortium.

"(2) SUPPLEMENT.—An application for assistance under this section may not be approved unless the Secretary is satisfied that the services to be provided by the applicant will supplement, and not supplant, services that previously provided other Federal assistance.

"(3) SUFFICIENT SIZE.—A grant under subsection (b)(1) shall be of sufficient size and scope to enable the grantee to operate a project which meets the requirements of this section.

"(4) URBAN AND RURAL GRANTS.—To the extent practicable, the Secretary shall award grants under subsection (b)(1) to consortia in both urban and rural areas.

"(5) RENEWAL GRANT.—To be eligible to renew a grant under the section, an applicant that received assistance under subsection (b)(1) shall demonstrate that the project achieved the purposes described in subsection (b)(2).

"(g) DEFINITIONS.—As used in this section:

"(1) FAMILY SERVICES COORDINATOR.—The term 'family services coordinator' means an individual who has the skills necessary to assist families in obtaining support services and may be an existing employee of a local educational agency or Head Start agency.

"(2) HEAD START AGENCY.—The term 'Head Start agency' means any agency designated as a Head Start agency under the Head Start Act (42 U.S.C. 9831 et seq.).

"(3) SUPPORT SERVICES.—The term 'support services' means services that enhance the physical, social, emotional, and intellectual development of low-income children, including the provision of necessary support to the parents and other family members of such children.

"PART F—GENERAL PROVISIONS

"SEC. 1601. FEDERAL REGULATIONS. 20 USC 6511.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to reasonably ensure that there is compliance with this title.

"(b) NEGOTIATED RULEMAKING PROCESS.—

Federal Register, publication.

"(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation and operation of programs under this title.

"(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

"(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

"(A) establish a negotiated rulemaking process on a minimum of two key issues, including—

"(i) schoolwide programs; and

"(ii) standards and assessment;

"(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

"(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (A) not less than 15 days prior to the first meeting under such process.

"(4) PROCESS.—Such process—

"(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than July 1, 1995; and

"(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

"(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued with a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

"(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

20 USC 6512.

"SEC. 1602. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

"(a) PROGRAM ASSISTANCE MANUAL.—The Secretary shall, not later than six months after the publication of final regulations under this title, prepare and distribute to State educational agencies, State agencies operating programs under parts C and D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a manual for this title to—

"(1) assist such agencies in—

"(A) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

"(B) applying for program funds under this title; and

"(C) meeting the program objectives under this title;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this title; and

"(4) ensure that officers and employees of the Department, including officers and employees of the Secretary and officers and employees of the Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices are required under section 552 of title 5, United States Code, to be published or made available. The manual shall include—

"(1) a statement of the requirements applicable to the programs carried out under this title, including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements; and

"(3) model forms and instructions developed by the Secretary for use by State and local educational agencies, at the discretion of such agencies, including, application forms, application review checklists, and instruments for monitoring programs under this title.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not later than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this title is received. In the case of a request from a local educational agency, such agency is required to address its request to the State educational agency first.

"SEC. 1603. STATE ADMINISTRATION. 20 USC 6513.

"(a) RULEMAKING.—

"(1) IN GENERAL.—Each State that receives funds under this title shall—

"(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners under subsection (b) for their review and comment;

"(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject; and

"(C) identify any such rule, regulation, or policy as a State-imposed requirement.

"(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State content standards and challenging State student performance standards.

"(b) COMMITTEE OF PRACTITIONERS.—

"(1) IN GENERAL.—Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

"(2) MEMBERSHIP.—Each such committee shall include—

"(A) as a majority of its members, representatives from local educational agencies;

"(B) administrators;

"(C) teachers, including vocational educators;

"(D) parents;

"(E) members of local boards of education;

"(F) representatives of private school children; and

"(G) pupil services personnel.

"(3) DUTIES.—The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situa-

tion where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) PAYMENT FOR STATE ADMINISTRATION.—Each State may reserve for the proper and efficient performance of its duties under this title the greater of—

"(1) 1.00 percent of the funds received under subsections (a), (c), and (d) of section 1002; or

"(2) $400,000, or $50,000 in the case of the outlying areas.

20 USC 6514.

"SEC. 1604. CONSTRUCTION.

"(a) PROHIBITION OF FEDERAL MANDATES, DIRECTION, OR CONTROL.—Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this title.

"(b) EQUALIZED SPENDING.—Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"(c) BUILDING STANDARDS.—Nothing in this title shall be construed to mandate national school building standards for a State, local educational agency, or school.

"TITLE II—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

20 USC 6601.

"SEC. 2001. FINDINGS.

"The Congress finds as follows:

"(1) Reaching the National Education Goals, particularly the third, fourth, and fifth National Education Goals, requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

"(2) A crucial component of the strategy for achieving such goals is ensuring, through sustained and intensive high-quality professional development, that all teachers will provide challenging learning experiences in the core academic subjects for their students.

"(3) Decisionmaking as to what activities a State or local educational agency should undertake to improve teaching and learning are best made by individuals in the schools closest to the classroom and most knowledgeable about the needs of schools and students.

"(4) The potential positive impact of high-quality professional development is underscored by recent research findings that—

"(A) professional development must be focused on teaching and learning in order to improve the opportunities of all students to achieve higher standards;

"(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, and, where appropriate, administrators and pupil services personnel, in a school and, through professional networks of teachers, and, where appropriate, teacher educators, administrators, pupil services personnel, and parents, is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

"(C) professional development can dramatically improve classroom instruction and learning when teachers, and, where appropriate, administrators, pupil services personnel, and parents, are partners in the development and implementation of such professional development; and

"(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

"(5) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

"(6) Professional development is often a victim of budget reductions in fiscally difficult times.

"(7) The Federal Government has a vital role in helping States and local educational agencies to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

"(8) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects.

"(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

"SEC. 2002. PURPOSES. 20 USC 6602.

"The purposes of this title are to provide assistance to State and local educational agencies and to institutions of higher education with teacher education programs so that such agencies and institutions can determine how best to improve the teaching and learning of all students by—

"(1) helping to ensure that teachers, and, where appropriate, other staff and administrators, have access to sustained and intensive high-quality professional development that is aligned to challenging State content standards and challenging

State student performance standards, and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

"(2) helping to ensure that teachers, and, where appropriate, administrators, other staff, pupil services personnel, and parents, have access to professional development that—

"(A) is tied to challenging State content standards and challenging State student performance standards;

"(B) reflects recent research on teaching and learning;

"(C) includes strong academic content and pedagogical components;

"(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

"(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

20 USC 6603.

"SEC. 2003. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION BETWEEN PARTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) ALLOCATION BETWEEN PARTS.—Of the amounts appropriated to carry out this title for any fiscal year, the Secretary shall make available—

"(1) 5 percent of such amounts to carry out subpart 1, of which 5 percent of such 5 percent shall be available to carry out section 2103;

"(2) 94 percent of such amounts to carry out part B; and

"(3) 1 percent of such amounts to carry out part C except that such 1 percent shall not exceed $3,200,000 in any fiscal year.

"PART A—FEDERAL ACTIVITIES

Grants.
20 USC 6621.

"SEC. 2101. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

"(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

"(2) evaluate activities carried out under this part and parts B and C, in accordance with section 14701.

"(b) REQUIREMENTS.—In carrying out the activities described in subsection (a), the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational Research and Improvement and the Office of Special Education and Rehabilitative Services, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and other appropriate Federal agencies and entities.

"SEC. 2102. AUTHORIZED ACTIVITIES.

Grants.
20 USC 6622.

"(a) ACTIVITIES.—The Secretary shall use funds available to carry out this part for—

"(1) providing seed money to the entities described in section 2101(a) to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

"(2) awarding a grant or contract, in consultation with the Director of the National Science Foundation, to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the 'Clearinghouse'); and

"(3) evaluating programs assisted under this part and parts B and C, in accordance with section 14701.

"(b) CLEARINGHOUSE.—

"(1) APPLICATION AND AWARD BASIS.—Each entity desiring to establish and operate the Clearinghouse authorized by subsection (a)(2) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to subsection (a)(2) shall be made on a competitive, merit basis.

"(2) DURATION.—The grant or contract awarded under subsection (a)(2) shall be awarded for a period of five years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

"(3) USE OF FUNDS.—The grant or contract awarded under subsection (a)(2) shall be used to—

"(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortia established under part C of title XIII and by the general public;

"(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

"(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortia established under part C of title XIII;

"(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international, data bases;

"(E) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortia established under part C of title XIII to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortia, except that not more than 3 percent of the funds awarded under subsection (a)(2) shall be used to carry out this subparagraph; and

"(F) gather qualitative and evaluative data on submissions to the Clearinghouse.

"(4) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

"(5) PEER REVIEW.—The Secretary shall establish a peer review process to select the recipient of the award under subsection (a)(2).

"(6) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(7) APPLICATION OF COPYRIGHT LAWS.—Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17, United States Code.

"(8) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"(c) USES OF FUNDS.—The Secretary may use funds available to carry out this part for—

"(1) the development and maintenance of national clearinghouses for core academic subjects as the Secretary determines are needed and which shall be administered as adjunct clearinghouses of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) professional development institutes that provide teachers or teams of teachers, and, where appropriate, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

"(3) encouraging the development of local and national professional networks, such as the Teacher Research Dissemi-

nation Demonstration Program under section 941(j) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

"(4) efforts to train teachers in the innovative uses and applications of technology to enhance student learning;

"(5) the development and dissemination of model teaching standards in the core academic subjects;

"(6) disseminating standards in the core academic subjects, including information on voluntary national content standards and voluntary national student performance standards and related models of high-quality professional development;

"(7) the dissemination of information about voluntary national content standards, State content standards, voluntary national student performance standards and State student performance standards, and related models of high-quality professional development;

"(8) efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive, interdisciplinary team teaching, and other alternative teaching strategies, such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

"(9) disseminating models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited-English-proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(10) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

"(11) supporting the National Board for Professional Teaching Standards;

"(12) developing activities to prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects;

"(13) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups; and

"(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts.

"SEC. 2103. NATIONAL TEACHER TRAINING PROJECT.

National Teacher Training Project Act of 1994.
20 USC 6623.

"(a) SHORT TITLE; FINDINGS; DEFINITIONS.—

"(1) SHORT TITLE.—This section may be cited as the 'National Teacher Training Project Act of 1994'.

"(2) FINDINGS.—The Congress finds that—

"(A) teachers must be major players in educational reform in the United States;

"(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

"(C) there is a shortage of sustained, year-round professional development programs for teachers;

"(D) successful teaching methods are not adequately shared among teachers;

"(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

"(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

"(G) pertinent research is not shared among teachers in a professional setting;

"(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

"(I) each State should support a nationally based teacher training program, that is modeled after the National Writing Project, for teachers of early childhood education, and for teachers of core academic subjects including teachers of mathematics, science, English, civics and government, foreign languages, and arts;

"(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

"(L) each year, over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through one of the 155 sites located within the United States, and in 18 sites located outside of the United States;

"(M) in the 20 years of its existence, over 1,100,000 teachers, administrators, and parents have participated in National Writing Project programs;

"(N) less than $16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991–1992;

"(O) for every dollar in Federal support, the National Writing Project provides over $5 in matching funds from States, local universities and schools, and the private sector;

"(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training

Project sites needed, and the future of the program is in jeopardy without secure financial support;

"(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

"(R) each of the 50 States should participate in the National Teacher Training Project by establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

"(3) DEFINITIONS.—For the purpose of this section—

"(A) the term 'contractor' means—

"(i) a local educational agency;

"(ii) an educational service agency; or

"(iii) an institution of higher education that awards a bachelor's degree; and

"(B) the term 'eligible recipient' means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2).

"(b) GRANTS AUTHORIZED.—

"(1) GRANTS TO ELIGIBLE RECIPIENTS.—The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

"(A) to support and promote the establishment of teacher training programs in early childhood development and one of the nine core subject areas described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

"(B) to support classroom research on effective teaching practices in such area; and

"(C) to pay the Federal share of the cost of such programs and research.

"(2) CORE SUBJECT AREAS.—To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core subject areas:

"(A) Mathematics.
"(B) Science.
"(C) English.
"(D) Civics and government.
"(E) Foreign languages.
"(F) Arts.
"(G) Geography.
"(H) History.
"(I) Economics.

"(3) NUMBER OF GRANTS AND ELIGIBLE RECIPIENTS.—The Secretary shall award not more than ten grants under paragraph (1) to ten different eligible recipients.

"(4) EQUITABLE DISTRIBUTION.—The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

"(5) SPECIAL RULE.—Each grant under paragraph (1) shall be of sufficient size, scope, and quality to be effective.

"(6) ADMINISTRATIVE COSTS AND TECHNICAL ASSISTANCE.—Each eligible recipient receiving a grant under paragraph (1) may use not more than a total of 5 percent of the grant funds for administrative costs and the costs of providing technical assistance to a contractor.

"(c) GRANT REQUIREMENTS.—Each eligible recipient receiving a grant under subsection (b) shall—

Contracts.

"(1) enter into a contract with a contractor under which such contractor agrees—

"(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the core academic subjects for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child's education; and

"(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

Reports.

"(2) to submit annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

"(3) meet such other conditions and standards as the Secretary determines to be necessary to ensure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

"(d) TEACHER TRAINING PROGRAMS.—The teacher training programs described in subsection (b) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area subject matter served by the National Teacher Training Project site;

"(4) use teacher training principles and receive technical assistance from the National Writing Project; and

"(5) encourage teachers from all disciplines to participate in such teacher training programs.

"(e) FEDERAL SHARE.—The term 'Federal share' means, with respect to the costs of teacher training programs described in subsection (b), 50 percent of such costs to the contractor.

"(f) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(g) PARTICIPANTS AND SELECTION PROCESS.—The selection process for participation in a teacher training program described in subsection (b) shall—

"(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

"(2) involve an application process to select participants for a summer program;

"(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teachers of both public and private institutions in rural, urban, and suburban settings in each State; and

"(4) automatically offer a place in a summer program to the 'Teacher of the Year' chosen pursuant to a Federal or State teacher recognition program.

"(h) LIMITATION.—A contractor entering into a contract under subsection (c)(1) shall not spend more than 5 percent of funds received under the contract for administrative costs. Contracts.

"PART B—STATE AND LOCAL ACTIVITIES Grants.

"SEC. 2201. PROGRAM AUTHORIZED. 20 USC 6641.

"The Secretary is authorized to make grants to State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional development activities in the core academic subjects at the State and local levels.

"SEC. 2202. ALLOCATION OF FUNDS. 20 USC 6642.

"(a) RESERVATION OF FUNDS.—From the amount available to carry out this part for any fiscal year, the Secretary shall reserve—

"(1) ½ of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part; and

"(2) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

"(b) STATE ALLOCATIONS.—The Secretary shall allocate the amount available to carry out this part and not reserved under subsection (a) to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than ½ of 1 percent of such amount:

"(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

"(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of title I for the preceding fiscal year, or for fiscal year 1995 only, such part's predecessor authority.

"(c) REALLOCATION.—If any jurisdiction does not apply for an allotment under subsection (b) for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with such subsection.

"SEC. 2203. WITHIN-STATE ALLOCATIONS. 20 USC 6643.

"Of the amounts received by a State under this part for any fiscal year—

"(1) 84 percent shall be available for local allowable activities under section 2210(b), of which—

"(A) not more than 5 percent may be used for the administrative costs of the State educational agency and for State-level activities described in section 2207; and

"(B) of the remaining amount—

"(i) 50 percent shall be distributed to local educational agencies—

"(I) for use in accordance with section 2210; and

"(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 50 percent of such amount shall be distributed to local educational agencies—

"(I) for use in accordance with section 2210; and

"(II) in accordance with the relative amount such agencies received under part A of title I or for fiscal year 1995 for the preceding fiscal year, such part's predecessor authority; and

"(2) 16 percent shall be available to the State agency for higher education for activities under section 2211, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

20 USC 6644.

"SEC. 2204. CONSORTIUM REQUIREMENT.

"(a) IN GENERAL.—A local educational agency receiving a grant under this part of less than $10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

"(b) WAIVER.—The State educational agency may waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation under this part is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

"(1) give special consideration to local educational agencies serving rural areas if distances or traveling time between schools make formation of the consortium more costly or less effective; and

"(2) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.

"(c) SPECIAL RULE.—Each consortium shall rely, as much as possible, on technology or other arrangements to provide staff development programs tailored to the needs of each school or school district participating in a consortium described in subsection (a).

20 USC 6645.

"SEC. 2205. STATE APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each State educational agency that wishes to receive an allotment under this part for any fiscal year shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(b) STATE PLAN TO IMPROVE TEACHING AND LEARNING.—

"(1) IN GENERAL.—Each application under this section shall include a State plan that is coordinated with the State's plan under other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with the provisions of section 14306.

"(2) CONTENTS.—Each such State plan shall—

"(A) be developed in conjunction with the State agency for higher education, community-based and other nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators and pupil services personnel and show the role of each such entity in implementation of the plan;

"(B) be designed to give teachers, and, where appropriate, administrators and pupil services personnel in the State, the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

"(D) include a description of how the plan has assessed the needs of local educational agencies serving rural and urban areas, and what actions are planned to meet such needs;

"(E) include a description of how the activities assisted under this part will address the needs of teachers in schools receiving assistance under part A of title I;

"(F) a description of how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs;

"(G) be consistent with the State's needs assessment under subparagraph (C), and describe how the State will work with teachers, including teachers in schools receiving assistance under part A of title I, administrators, parents, local educational agencies, schools, educational service agencies, institutions of higher education, and nonprofit organizations of demonstrated effectiveness, to ensure that such individuals develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

"(H) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards and whether such requirements are aligned with such standards;

"(I) address the need for improving teaching and learning through teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically underrepresented groups;

"(J) describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities;

"(K) describe how the State will prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

"(L) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, and, where appropriate, administrators and pupil services personnel;

"(M) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing such teachers and administrators to provide instruction consistent with challenging State content standards and challenging State student performance standards;

"(N) set specific performance indicators for professional development; and

"(O) describe how parents can be involved in professional development programs to enhance the participation of parents in the education of their children.

"(3) DURATION OF THE PLAN.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(c) ADDITIONAL MATERIAL.—Each State application shall include—

"(1) a description of how the activities assisted under this part will be coordinated, as appropriate, with—

"(A) other activities conducted with Federal funds, especially activities supported under part A of title I of this Act and the Individuals with Disabilities Education Act;

"(B) programs supported by State and local funds;

"(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

"(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum Services, and the National Endowment for the Humanities; and

"(2) a description of the activities to be sponsored under the State-level activities under section 2207 and the higher education activities under section 2211.

"(d) PEER REVIEW AND SECRETARIAL APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve an application of a State educational agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

"(2) REVIEW.—In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

"SEC. 2206. PRIORITY FOR PROFESSIONAL DEVELOPMENT IN MATHEMATICS AND SCIENCE. 20 USC 6646.

"(a) APPROPRIATION OF LESS THAN $250,000,000.—In any fiscal year for which the amount appropriated for this title is less than $250,000,000, each State shall ensure that all funds distributed in accordance with section 2203(1)(C) are used for professional development in mathematics and science.

"(b) APPROPRIATION EQUAL TO OR ABOVE $250,000,000.—In any fiscal year for which the amount appropriated for this title is equal to or exceeds $250,000,000, each State and local educational agency shall use for professional development activities in mathematics and science the amount of funds that would have been made available to each such agency in accordance with sections 2202 and 2203 if the amount appropriated was $250,000,000, consistent with subsection (a), and are permitted and encouraged to use the amount of funds in excess of $250,000,000 that is made available in accordance with sections 2202 and 2203 for professional development activities in mathematics and science.

"SEC. 2207. STATE-LEVEL ACTIVITIES. 20 USC 6647.

"Each State may use funds made available under section 2203(1)(A) to carry out activities described in the plan under section 2205(b), such as—

"(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

"(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

"(3) providing technical assistance to schools and local educational agencies, especially schools and local educational agencies that receive assistance under part A of title I, to help such schools and agencies provide effective professional development in the core academic subjects;

"(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

"(5) supporting partnerships between schools, consortia of schools, or local educational agencies and institutions of higher education, including schools of education, which encourage—

"(A) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

"(B) students at institutions of higher education studying to become teachers to have direct, practical experience at the schools;

"(6) providing professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods of achieving gender equity both in students' access to computers and other educational technology and in teaching practices used in the application of educational technology;

"(7) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

"(8) providing professional development to enable teachers, and, where appropriate, pupil services personnel, and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged students have the full opportunity to achieve challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

"(9) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities, and women teaching in the core academic subjects in which such individuals are underrepresented;

"(10) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

"(11) providing professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

"(12) identifying, developing, or supporting professional development strategies to better equip parents to assist their children in raising their children's achievement in the core academic subjects; and

"(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools.

20 USC 6648.

"SEC. 2208. LOCAL PLAN AND APPLICATION FOR IMPROVING TEACHING AND LEARNING.

"(a) LOCAL APPLICATION.—

"(1) IN GENERAL.—Each local educational agency that wishes to receive a subgrant under this part shall submit an application (singly or as a consortium as described in section 2204) to the State educational agency at such time as the State educational agency shall require, but not less frequently than every three years, that is coordinated with other programs under this Ac' the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with the provisions of section 14306.

"(2) INDICATORS.—A local educational agency shall set specific performance indicators for improving teaching and learning through professional development.

"(b) NEEDS ASSESSMENT.—

"(1) IN GENERAL.—A local educational agency that wishes to receive a subgrant under this part shall include in its application an assessment of local needs for professional development as identified by the local educational agency and school staff.

"(2) REQUIREMENTS.—Such needs assessment shall be carried out with the involvement of teachers, including teachers in schools receiving assistance under part A of title I, and shall take into account what activities need to be conducted in order to give teachers and, where appropriate, administrators, the means, including the knowledge and skills, to provide students with the opportunity to meet challenging State or local student performance standards.

"(c) APPLICATION CONTENTS.—Each application under this section shall include the local educational agency's plan for professional development that—

"(1) focuses on teaching and learning in the core academic subjects; and

"(2) has been developed with the extensive participation of administrators, staff, and pupil services personnel, which teachers shall also be representative of the grade spans within schools to be served and of schools which receive assistance under part A of title I.

"(d) PLAN CONTENTS.—

"(1) IN GENERAL.—Based on the needs assessment required under subsection (b), the local educational agency's plan shall—

"(A) include a description of how the plan contributes to the local educational agency's overall efforts for school reform and educational improvement;

"(B) include a description of how the activities funded under this section will address the needs of teachers in schools receiving assistance under part A of title I;

"(C) be aligned with the State's challenging State content standards and challenging State student performance standards;

"(D) describe a strategy, tied to challenging State content standards and challenging State student performance standards, consistent with the needs assessment under subsection (b);

"(E) be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom;

"(F) describe how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including girls and women, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational need;

"(G) contain an assurance that the activities conducted with funds received under this part will be assessed at least every three years using the performance indicators;

"(H) describe how the program funded under this part will be coordinated, as appropriate, with—

"(i) activities conducted under section 2131 and other services of institutions of higher education;

"(ii) similar State and local activities;

"(iii) resources provided under part A of title I and other provisions of this Act;

"(iv) resources from business, industry, public and private nonprofit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations and associations specializing in, or with a demonstrated expertise in the core academic subjects);

"(v) funds or programming from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the Institute of Museum Services, the National Endowment for the Humanities, and the National Endowment for the Arts;

"(vi) services of educational service agencies; and

"(vii) resources provided under the Individuals with Disabilities Education Act;

"(I) identify the sources of funding that will provide the local educational agency's contribution under section 2209; and

"(J) describe the professional development strategies to be employed to more fully and effectively involve parents in the education of their children.

"(2) DURATION OF THE PLAN.—Each local plan described in subsection (b)(1) shall—

"(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) be periodically reviewed and revised by the local educational agency, as necessary, to reflect changes in the local educational agency's strategies and programs under this part.

20 USC 6649.

"SEC. 2209. LOCAL COST-SHARING.

"(a) IN GENERAL.—Each local educational agency shall provide not less than 33 percent of the cost of the activities assisted under this part, excluding the cost of services provided to private school teachers.

"(b) AVAILABLE RESOURCES FOR COST-SHARING.—

"(1) IN GENERAL.—A local educational agency may meet the requirement of subsection (a) through one or more of the following:

"(A) Cash expenditures from non-Federal sources, including private contributions, directed toward professional development activities.

"(B) Release time for teachers participating in professional development assisted under this part.

"(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

"(i) Helping disadvantaged children meet high standards under part A of title I.

"(ii) The Safe and Drug-Free Schools and Communities program under title IV.

"(iii) Bilingual Education Programs under part A of title VII.

"(iv) Programs under the Women's Educational Equity Act of 1994.

"(v) Programs under title III of the Goals 2000: Educate America Act.

"(vi) Programs that are related to the purposes of this Act that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and the Department of Energy.

"(vii) Programs under the Individuals with Disabilities Education Act.

"(2) SPECIAL RULE.—A local educational agency may meet the requirement of subsection (a) through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

"(c) WAIVER.—The State educational agency may approve an application which has not fully met the requirements of subsection (a) and waive the requirements of subsection (a) if a local educational agency can demonstrate that such agency is unable to meet the requirements of subsection (a) due to economic hardship and that compliance with such requirements would preclude such agency's participation in the program.

"SEC. 2210. LOCAL ALLOCATION OF FUNDS AND ALLOWABLE ACTIVITIES. 20 USC 6650.

"(a) LOCAL ALLOCATION OF FUNDS.—Each local educational agency that receives funds under this part for any fiscal year—

"(1) shall use not less than 80 percent of such funds for professional development of teachers, and, where appropriate, administrators, and, where appropriate, pupil services personnel, parents, and other staff of individual schools in a manner that—

"(A) is determined by such teachers and staff;

"(B) to the extent practicable, takes place at the individual school site; and

"(C) is consistent with the local educational agency's application under section 2208, any school plan under part A of title I, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

"(2) may use not more than 20 percent of such funds for school district-level professional development activities, including, where appropriate, the participation of administrators, policymakers, and parents, if such activities directly support instructional personnel.

"(b) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Each local educational agency and school that receives funds under this part shall use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards.

"(2) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities funded under this part shall—

"(A) be tied to challenging State content standards or challenging local content standards, and challenging State student performance standards or challenging local student performance standards;

"(B) take into account recent research on teaching and learning;

"(C) provide professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including girls and women, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals;

"(D) include strong academic content and pedagogical components; and

"(E) be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom.

"(3) ACTIVITIES.—Funds under this part may be used for professional development activities such as—

"(A) professional development for teams of teachers, and, where appropriate, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards;

"(B) support and time, which in the case of teachers may include release time with pay, for teachers, and, where appropriate, pupil services personnel and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, community-based organizations, and other providers, such as educational partnership organizations, science centers, and museums;

"(C) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

"(D) support for partnerships between schools, consortia of schools, or local educational agencies, and institutions of higher education, including schools of education, which partnerships shall encourage—

"(i) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

"(ii) students at institutions of higher education studying to become teachers to have direct, practical experience at schools;

"(E) the establishment and maintenance of local professional networks that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

"(F) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

"(G) professional development to enable teachers, and, where appropriate, pupil services personnel and other

school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve the challenging State content standards and challenging State student performance standards in the core academic subjects;

"(H) professional development and recruitment activities designed—

"(i) to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which such individuals are underrepresented; and

"(ii) to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, through such programs as career ladder programs that assist educational paraprofessionals to obtain teaching credentials in the core academic subjects;

"(I) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

"(J) support and time for teachers, and, where appropriate, pupil services personnel, and other school staff to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subject areas;

"(K) preparing teachers, and, where appropriate, pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

"(L) professional development activities and other support for new teachers as such teachers move into the classroom to provide such teachers with practical support and to increase the retention of such teachers;

"(M) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool transition programs to raise student performance in the core academic subjects;

"(N) professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive and interdisciplinary team teaching, and other alternative teaching strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

"(O) developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects;

"(P) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools; and

"(Q) release time with pay for teachers.

20 USC 6651. Contracts.

"SEC. 2211. HIGHER EDUCATION ACTIVITIES.

"(a) ACTIVITIES.—

"(1) IN GENERAL.—From amounts made available under section 2203(2), the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit organizations of demonstrated effectiveness, including museums and educational partnership organizations, which must work in conjunction with a local educational agency, consortium of local educational agencies, or schools, for—

"(A) professional development activities in the core academic subjects that contribute to the State plan for professional development;

"(B) developing and providing assistance to local educational agencies, and the teachers and staff of each such agency, for sustained, high-quality professional development activities; and

"(C) improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

"(2) COMPETITIVE BASIS.—Each grant, contract, or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

"(3) SPECIAL RULE.—No institution of higher education may receive assistance under (a)(1) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide sustained, high-quality professional development for the elementary and secondary school teachers in the schools of each such agency.

"(4) JOINT EFFORTS.—Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

"(b) ALLOWABLE ACTIVITIES.—A recipient of funds under this section shall use such funds for—

"(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, and, where appropriate, pupil services personnel and administrators from individual schools or school districts;

"(2) other sustained and intensive professional development activities related to achievement of the State plan for professional development; and

"(3) preservice training activities.

"(c) PARTNERSHIPS.—Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

"PART C—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

"SEC. 2301. FINDINGS AND PURPOSE. 20 USC 6671.

"(a) FINDINGS.—The Congress finds that—

"(1) underlying the standards-driven framework of the Goals 2000: Educate America Act and the high academic standards for eligible students under title I is a widespread need to prepare teachers to teach to higher standards;

"(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

"(3) while both the Goals 2000: Educate America Act and titles I and II of this Act have extensive references to professional development of teachers, there are no provisions to incorporate 'on-the-ground' planning and implementation to serve as models for local educational agencies across the Nation; and

"(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to address the need for professional development with a primary focus on teachers;

"(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

"(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

"SEC. 2302. DEMONSTRATION PROGRAM AUTHORIZED. Grants. 20 USC 6672.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this part to eligible partnerships to enable such partnerships to plan and implement profess onal development programs.

"(2) PROGRAM REQUIREMENTS.—The programs described in paragraph (1)—

"(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

"(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

"(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

"(b) ELIGIBLE PARTNERSHIPS.—For the purpose of this part, the term 'eligible partnership' means a partnership consisting of—

"(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which not less than 50 percent of the schools served by such agency, subunit, or consor-

tium are eligible to participate in schoolwide programs under section 1114; or

"(2) other partners that—

"(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

"(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

20 USC 6673.

"SEC. 2303. GRANTS.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this part.

"(2) DISTRIBUTION.—The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

"(3) NUMBER OF GRANTS.—In the first year that the Secretary awards grants under this part, the Secretary shall award at least twice as many planning grants as implementation grants in order to receive well-developed plans for long-term funding under this part.

"(b) GRANT REQUIREMENTS.—

"(1) DURATION.—The Secretary shall award—

"(A) planning grants under this part for a period of not less than six months and not more than nine months; and

"(B) implementation grants under this part for a period of four fiscal years.

"(2) AMOUNT.—The Secretary shall award grants under this part in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this part shall exceed $500,000 in any one fiscal year.

20 USC 6674.

"SEC. 2304. PLAN.

"Each eligible partnership desiring assistance under this part shall develop a plan for the program to be assisted under this part. Such plan shall—

"(1) identify clearly how such plan will support an overall systemic reform strategy giving special attention to the role of teacher preparation for new standards and assessment;

"(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

"(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional

development schools, teacher networks, and academic alliances, as well as the curriculum for teachers;

"(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education, or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

"(5) describe how the activities described under this part will lead to districtwide policy and budget changes.

"SEC. 2305. TECHNICAL ASSISTANCE. 20 USC 6675.

"The Secretary is authorized to enter into an arrangement with an intermediary organization to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this part.

"SEC. 2306. MATCHING FUNDS. 20 USC 6676.

"The Secretary shall give special priority to awarding grants under this part to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

"PART D—GENERAL PROVISIONS

"SEC. 2401. REPORTING AND ACCOUNTABILITY. 20 USC 6701.

"(a) STATES.—Each State that receives funds under this part shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's progress toward the performance indicators identified in such State's plan, as well as on the effectiveness of State and local activities assisted under this part.

"(b) LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives funds under this part shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this part.

"(c) FEDERAL EVALUATION.—The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this part in accordance with section 14701.

"(d) PROHIBITION ON FUNDS BEING USED FOR CONSTRUCTION OR RENOVATION.—Funds received under this part shall not be used for construction or renovation of buildings, rooms, or any other facilities.

"SEC. 2402. DEFINITIONS. 20 USC 6702.

"As used in this part—

"(1) the term 'core academic subjects' means those subjects listed in the State plan under title III of the Goals 2000: Educate America Act or under the third National Education Goal as set forth in section 102(3) of such Act;

"(2) the term 'performance indicators' means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

"(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

"(B) specific increases in the number of elementary and secondary teachers with strong content backgrounds in the core academic subjects;

"(C) incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

"(D) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations; and

"(E) specific increases in the number of teachers licensed in each core academic subject;

"(3) the term 'sustained and intensive high-quality professional development' means professional development activities that—

"(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

"(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

"(C) incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

"(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

"(E) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

"(4) the term 'local', when used with respect to standards, means challenging content and student performance standards in the core academic subjects (in addition to challenging State content and student performance standards approved by the State for title I).

Technology for Education Act of 1994.

"TITLE III—TECHNOLOGY FOR EDUCATION

20 USC 6801.

"SEC. 3101. SHORT TITLE.

"This title may be cited as the 'Technology for Education Act of 1994'.

"PART A—TECHNOLOGY FOR EDUCATION OF ALL STUDENTS

"SEC. 3111. FINDINGS. 20 USC 6811.

"The Congress finds that—

"(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

"(2) the use of technology as a tool in the teaching and learning process is essential to the development and maintenance of a technologically literate citizenry and an internationally competitive workforce;

"(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

"(A) the absence of Federal leadership;

"(B) the inability of many State and local educational agencies to invest in and support needed technologies;

"(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

"(D) the lack of appropriate electrical and telephone connections in the classroom; and

"(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development, and administrative support resources and services in the educational marketplace;

"(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serving students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;

"(5) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions;

"(6) technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;

"(7) planned and creative uses of technology, combined with teachers adequately trained in the use of technology, can reshape our Nation's traditional method of providing education and empower teachers to create an environment in which students are challenged through rigorous, rich classroom instruction provided at a pace suited to each student's learning

style, and in which students have increased opportunities to develop higher order thinking and technical skills;

"(8) schools need new ways of financing the acquisition and maintenance of educational technology;

"(9) the needs for educational technology differ from State to State;

"(10) technology can provide students, parents, teachers, other education professionals, communities, and industry with increased opportunities for partnerships and with increased access to information, instruction, and educational services in schools and other settings, including homes, libraries, preschool and child-care facilities, adult and family education programs, and postsecondary institutions;

"(11) the Department, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

"(12) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

"(13) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

"(14) the rapidly changing nature of technology requires coordination and flexibility in Federal leadership; and

"(15) technology has the potential to assist and support the improvement of teaching and learning in schools and other settings.

20 USC 6812.

"SEC. 3112. STATEMENT OF PURPOSE.

"The purpose of this part is to support a comprehensive system for the acquisition and use by elementary and secondary schools in the United States of technology and technology-enhanced curricula, instruction, and administrative support resources and services to improve the delivery of educational services. Such system shall include—

"(1) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

"(2) funding mechanisms which will support the development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure, including activities undertaken by State and local educational agencies to promote and provide equipment, training for teachers and school library and media personnel, and technical support;

"(3) support for technical assistance, professional development, information and resource dissemination, in order to help States, local educational agencies, teachers, school library and media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

"(4) support for the development of educational and instructional programming in core subject areas, which shall address the National Education Goals;

"(5) strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

"(6) development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

"(7) assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

"(8) ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

"(9) ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

"(10) establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution;

"(11) ensuring that, as technological advances are made, the educational uses of these advances are considered and their applications are developed; and

"(12) encouragement of collaborative relationships among the State agency for higher education, the State library administrative agency, the State telecommunications agency, and the State educational agency, in the area of technology support to strengthen the system of education.

"SEC. 3113. DEFINITIONS. 20 USC 6813.

"For purposes of this title—

"(1) the term 'adult education' has the same meaning given such term by section 312 of the Adult Education Act;

"(2) the term 'all students' means students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, students who have dropped out of school, and academically talented students;

"(3) the term 'information infrastructure' means a network of communication systems designed to exchange information among all citizens and residents of the United States;

"(4) the term 'instructional programming' means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and con-

trol, or passive methods for the purpose of education and instruction;

"(5) the terms 'interoperable' and 'interoperability' mean the ability to exchange easily data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users;

"(6) the term 'Office' means the Office of Educational Technology;

"(7) the term 'public telecommunications entity' has the same meaning given to such term by section 397(12) of the Communications Act of 1934;

"(8) the term 'regional educational laboratory' means a regional educational laboratory supported under section 941(h) of the Educational, Research, Development, Dissemination, and Improvement Act of 1994;

"(9) the term 'State educational agency' includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part;

"(10) the term 'State library administrative agency' has the same meaning given to such term in section 3 of the Library Services and Construction Act; and

"(11) the term 'technology' means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM discs, and video and audio tapes.

20 USC 6814.

"SEC. 3114. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SUBPARTS 1, 2, AND 3.—There are authorized to be appropriated $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out subparts 1, 2, and 3, of which—

"(A)(i) $3,000,000 shall be available to carry out subpart 1 (National Programs for Technology in Education) for any such year for which the amount appropriated under this subsection is less than $75,000,000; and

"(ii) $5,000,000 shall be available to carry out subpart 1 for any such year for which the amount appropriated under this subsection is equal to or greater than $75,000,000;

"(B) $10,000,000 shall be available to carry out subpart 3 (Regional Technical Support and Professional Development) for each such year; and

"(C) the remainder shall be available to carry out subpart 2 (State and Local Programs for School Technology Resources) for each such year.

"(2) SUBPART 4.—For the purpose of carrying out subpart 4, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) FUNDING RULE.—

"(1) APPROPRIATIONS OF LESS THAN $75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is less than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall

award grants for the National Challenge Grants in accordance with section 3136.

"(2) APPROPRIATIONS EQUAL TO OR GREATER THAN $75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is equal to or greater than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants to State educational agencies from allotments under section 3131, except that the Secretary may reserve, from such remainder, such funds as the Secretary determines necessary to meet outstanding obligations for such fiscal year to continue the National Challenge Grants for Technology awarded under section 3136.

"SEC. 3115. LIMITATION ON COSTS. 20 USC 6815.

"Not more than 5 percent of the funds under this part that are made available to a recipient of funds under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

"Subpart 1—National Programs for Technology in Education

"SEC. 3121. NATIONAL LONG-RANGE TECHNOLOGY PLAN. 20 USC 6831.

"(a) IN GENERAL.—The Secretary shall develop and publish not later than 12 months after the date of the enactment of the Improving America's Schools Act of 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

"(b) PLAN REQUIREMENTS.—The Secretary shall—

"(1) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act, and providers of technology services and products;

"(2) transmit such plan to the President and to the appropriate committees of the Congress; and

"(3) publish such plan in a form that is readily accessible to the public. Publication. Public information.

"(c) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this title, including—

"(1) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

"(2) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments

of Commerce, Energy, Health and Human Services, and Labor—

"(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

"(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

"(3) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

"(4) how the Secretary will promote—

"(A) higher achievement of all students through the integration of technology into the curriculum;

"(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

"(C) the use of technology to assist in the implementation of State systemic reform strategies;

"(D) the application of technological advances to use in education;

"(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

"(F) increased opportunities for the professional development of teachers in the use of new technologies;

"(5) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

"(6) how the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in education;

"(7) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 3123 to promote the purposes of this part; and

"(8) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

20 USC 6832.

"SEC. 3122. FEDERAL LEADERSHIP.

"(a) PROGRAM AUTHORIZED.—In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall provide assistance to the States to enable such States to plan effectively for

the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.

"(2) OTHER FEDERAL AGENCIES.—For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

"(c) USES OF FUNDS.—The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as—

"(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

"(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

"(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

"(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

"(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

"(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

"(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

"(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

"(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

"(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

"(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

"(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

"(13) conferences on, and dissemination of information regarding, the uses of technology in education;

"(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

"(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

"(16) such other activities as the Secretary determines will meet the purposes of this subpart.

"(d) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(2) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

"(3) MAXIMUM.—The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

20 USC 6833.

"SEC. 3133. STUDY, EVALUATION AND REPORT OF FUNDING ALTERNATIVES.

"The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services. Such report shall be submitted to the Congress not later than one year after the date of enactment of the Improving America's Schools Act of 1994.

"Subpart 2—State and Local Programs for School Technology Resources

20 USC 6841.

"SEC. 3131. ALLOTMENT AND REALLOTMENT.

"(a) ALLOTMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this subpart for a fiscal year in an amount which

bears the same relationship to the amount made available under section 3114(a)(1)(C) for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

"(2) MINIMUM.—No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than one-half of one percent of the amount made available under section 3115(a)(1)(C) for such year.

"(b) REALLOTMENT OF UNUSED FUNDS.—

"(1) IN GENERAL.—The amount of any State educational agency's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year to carry out this subpart shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (a) for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use for such year.

"(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agencies allotment under subsection (a) for such year.

"SEC. 3132. SCHOOL TECHNOLOGY RESOURCE GRANTS. 20 USC 6842.

"(a) GRANTS TO STATES.—

"(1) IN GENERAL.—From amounts made available under section 3131, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 3133.

"(2) USE OF GRANTS.—(A) Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 3134.

"(B) In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

"(b) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under paragraph (1) shall—

"(1) identify the local educational agencies served by the State educational agency that—

"(A) have the highest number or percentage of children in poverty; and

"(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under section 3133; and

"(2) offer such technical assistance to such local educational agencies.

20 USC 6843.

"SEC. 3133. STATE APPLICATION.

"To receive funds under this subpart, each State educational agency shall submit a statewide educational technology plan which may include plans submitted under the Goals 2000: Educate America Act or other statewide technology plans which meet the requirements of this section. Such application shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain a systemic statewide plan that—

"(1) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

"(2) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to carry out activities such as—

"(A) purchasing quality technology resources;

"(B) installing various linkages necessary to acquire connectivity;

"(C) integrating technology into the curriculum in order to improve student learning and achievement;

"(D) providing teachers and library media personnel with training or access to training;

"(E) providing administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

"(F) promoting in individual schools the sharing, distribution, and application of educational technologies with demonstrated effectiveness;

"(G) assisting schools in promoting parent involvement;

"(H) assisting the community in providing literacy-related services;

"(I) establishing partnerships with private or public educational providers or other entities to serve the needs of children in poverty; and

"(J) providing assurances that financial assistance provided under this part shall supplement, not supplant, State and local funds.

20 USC 6844.

"SEC. 3134. LOCAL USES OF FUNDS.

"Each local educational agency, to the extent possible, shall use the funds made available under section 3132(a)(2) for—

"(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;

"(2) funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;

"(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in

the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

"(4) providing ongoing professional development in the integration of quality educational technologies into school curriculum and long-term planning for implementing educational technologies;

"(5) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and

"(6) providing educational services for adults and families.

"SEC. 3135. LOCAL APPLICATIONS. 20 USC 6845.

"Each local educational agency desiring assistance from a State educational agency under section 3132(a)(2) shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall—

"(1) include a strategic, long-range (three- to five-year), plan that includes—

"(A) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

"(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies;

"(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

"(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

"(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

"(F) the projected timetable for implementing such plan in schools;

"(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

"(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

"(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

"(3) describe how the acquired instructionally based technologies will help the local educational agency—

"(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

"(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

"(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

"(A) will be integrated into the school curriculum; and

"(B) will affect student achievement and progress toward meeting the National Education Goals and any challenging State content standards and State student performance standards that may be developed.

"(d) FORMATION OF CONSORTIA.—A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

"(e) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, in conjunction with requirements under this Act or the Goals 2000: Educate America Act, the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e) if the State educational agency determines that such approval would further the purposes of this subpart.

20 USC 6846.

"SEC. 3136. NATIONAL CHALLENGE GRANTS FOR TECHNOLOGY IN EDUCATION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available under section 3115(b)(1) for any fiscal year the Secretary is authorized to award grants, on a competitive basis, to consortia having applications approved under subsection (d), which consortia shall include at least one local educational agency with a high percentage or number of children living below the poverty line and may include other local educational agencies, State educational agencies, institutions of higher education, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities.

"(2) DURATION.—Grants under this section shall be awarded for a period of 5 years.

"(b) USE OF GRANTS.—Grants awarded under subsection (a) shall be used for activities similar to the activities described in section 3134.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to consortia which demonstrate in the application submitted under subsection (d) that—

"(1) the project for which assistance is sought is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

"(2) the project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(3) the project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center;

"(4) the project will ensure successful, effective, and sustainable use of technologies acquired under this subsection; and

"(5) members of the consortia or other appropriate entities will contribute substantial financial and other resources to achieve the goals of the project.

"(d) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 3137. FEDERAL ADMINISTRATION. 20 USC 6847.

"(a) EVALUATION PROCEDURES.—The Secretary shall develop procedures for State and local evaluations of the programs under this subpart.

"(b) EVALUATION SUMMARY.—The Secretary shall submit to the Congress four years after the enactment of the Improving America's Schools Act of 1994 a summary of the State evaluations of programs under this subpart in accordance with the provisions of section 14701.

Subpart 3—Regional Technical Support and Professional Development

"SEC. 3141. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT. 20 USC 6861.

"(a) GRANTS AUTHORIZED.—

"(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under part C of title XIII, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each

geographic region of the United States shall be served by such a consortium.

"(2) REQUIREMENTS.—Each consortium receiving a grant under this section shall—

"(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

"(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

"(C) foster regional cooperation and resource and coursework sharing.

"(b) FUNCTIONS.—

"(1) TECHNICAL ASSISTANCE.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

"(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, schools and adult education programs, on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom and school library media centers in order to support the purposes of this part;

"(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet challenging State content standards or challenging State student performance standards that may be developed; and

"(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

"(2) PROFESSIONAL DEVELOPMENT.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) develop and implement, in collaboration with State educational agencies and institutions of higher education, technology-specific, ongoing professional development, such as—

"(i) intensive school year and summer workshops that use teachers, school librarians, and school library personnel to train other teachers, school librarians, and other school library media personnel; and

"(ii) distance professional development, including—

"(I) interactive training tele-courses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

"(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

"(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

"(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

"(V) mobile education technology and training resources;

"(B) develop training resources that—

"(i) are relevant to the needs of the region and schools within the region;

"(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

"(I) use instructional technology; and

"(II) develop instructional materials for adult learning; and

"(iii) are aligned with the needs of teachers and administrators in the region;

"(C) establish a repository of professional development and technical assistance resources;

"(D) identify and link technical assistance providers to State and local educational agencies, as needed;

"(E) ensure that training, professional development, and technical assistance meet the needs of educators, parents, and students served by the region;

"(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

"(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

"(3) INFORMATION AND RESOURCE DISSEMINATION.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

"(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

"(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

"(4) COORDINATION.—Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate regional and other entities assisted in whole or in part by the Department.

"Subpart 4—Product Development

20 USC 6871.

"SEC. 3151. EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT.

"(a) PURPOSE.—It is the purpose of this subpart to—

"(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

"(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

"(b) FEDERAL ASSISTANCE AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall provide assistance, on a competitive basis, to eligible consortia to enable such entities to develop, produce, and distribute state-of-the-art technology-enhanced instructional resources and programming for use in the classroom or to support professional development for teachers.

"(2) GRANTS AND LOANS AUTHORIZED.—In carrying out the purposes of this section, the Secretary is authorized to pay the Federal share of the cost of the development, production, and distribution of state-of-the-art technology enhanced instructional resources and programming—

"(A) by awarding grants to, or entering into contracts or cooperative agreements with, eligible consortia; or

"(B) by awarding loans to eligible consortia which—

"(i) shall be secured in such manner and be repaid within such period, not exceeding 20 years, as may be determined by the Secretary;

"(ii) shall bear interest at a rate determined by the Secretary which shall be not more than the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury; and

"(iii) may be forgiven by the Secretary, in an amount not to exceed 25 percent of the total loan, under such terms and conditions as the Secretary may consider appropriate.

Notice. Federal Register, publication.

"(3) MATCHING REQUIREMENT.—The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(4) ELIGIBLE CONSORTIUM.—For the purpose of this subsection, the term 'eligible consortium' means a consortium—

"(A) that shall include—

"(i) a State or local educational agency; and

"(ii) a business, industry, or telecommunications entity; and

"(B) that may include—

"(i) a public or private nonprofit organization; or

"(ii) a postsecondary institution.

"(5) PRIORITIES.—In awarding assistance under this section, the Secretary shall give priority to applications describing programs or systems that—

"(A) promote the acquisition of higher-order thinking skills and promise to raise the achievement levels of all students, particularly disadvantaged students who are not realizing their potential;

"(B) are aligned with challenging State content standards and State and local curriculum frameworks;

"(C) may be adapted and applied nationally at a reasonable cost over a broad technology platform;

"(D) convert technology resources developed with support from the Department of Defense and other Federal agencies for effective use in the classroom;

"(E) show promise of reducing the costs of providing high-quality instruction;

"(F) show promise of expanding access to high-quality instruction in content areas which would otherwise not be available to students in rural and urban communities or who are served by other educational agencies with limited financial resources;

"(G) are developed in consultation with classroom teachers;

"(H) are developed through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

"(I) are developed so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

"(6) REQUIREMENTS FOR FEDERAL ASSISTANCE.—Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

"(A) a description of how the product will improve the achievement levels of students;

"(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

"(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

"(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

"(E) plans for dissemination of products to a wide audience of learners;

"(F) a description of how the product can be adapted for use by students with disabilities including provisions for closed captioning or descriptive video, where appropriate;

"(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

"(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

"(c) CONSUMER REPORT.—The Secretary shall provide for the independent evaluation of products developed under this section and shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary determines to be appropriate, through print and electronic media that are accessible to the education community at large.

"(d) PROCEEDS.—The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

Star Schools Act.
Grants.

"PART B—STAR SCHOOLS PROGRAM

20 USC 6891.

"SEC. 3201. SHORT TITLE.

"This part may be cited as the 'Star Schools Act'.

20 USC 6892.

"SEC. 3202. FINDINGS.

"The Congress finds that—

"(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multi-State regions primarily by means of satellite and broadcast television;

"(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and foreign language instruction, that the local educational agency is not otherwise able to provide; and

"(3) distance learning programs may also be used to—

"(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

"(B) expand professional development opportunities for teachers;

"(C) contribute to achievement of the National Education Goals; and

"(D) expand learning opportunities for everyone.

"SEC. 3203. PURPOSE. 20 USC 6893.

"It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and individuals with disabilities, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

"(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

"(2) develop and acquire educational and instructional programming; and

"(3) obtain technical assistance for the use of such facilities and instructional programming.

"SEC. 3204. GRANTS AUTHORIZED. 20 USC 6894.

"(a) AUTHORITY.—The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible entities to pay the Federal share of the cost of—

"(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

"(2) the development and acquisition of live, interactive instructional programming;

"(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

"(4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers;

"(5) obtaining technical assistance; and

"(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

"(b) DURATION.—

"(1) IN GENERAL.—The Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

"(2) RENEWAL.—Grants awarded pursuant to subsection (a) may be renewed for one additional three-year period.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

"(d) LIMITATIONS.—

"(1) IN GENERAL.—A grant under this section shall not exceed—

"(A) five years in duration; and

"(B) $10,000,000 in any one fiscal year.

"(2) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

"(3) SPECIAL RULE.—Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of title I.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of projects funded under this section shall not exceed—

"(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this part;

"(B) 60 percent for the third and fourth such years; and

"(C) 50 percent for the fifth such year.

"(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive the requirement of the non-Federal share under paragraph (1) upon a showing of financial hardship.

"(f) AUTHORITY TO ACCEPT FUNDS FROM OTHER AGENCIES.—The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

"(g) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

"(h) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—Each entity receiving funds under this part is encouraged to provide—

"(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

"(2) descriptive video of the visual content of such program, as appropriate.

20 USC 6895.

"SEC. 3205. ELIGIBLE ENTITIES.

"(a) ELIGIBLE ENTITIES.—

"(1) REQUIRED PARTICIPATION.—The Secretary may make a grant under section 3204 to any eligible entity, if at least one local educational agency is participating in the proposed project.

"(2) ELIGIBLE ENTITY.—For the purpose of this part, the term 'eligible entity' may include—

"(A) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation

shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of title I; or

"(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

"(i) a local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of title I, or elementary and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 1121(b)(2);

"(ii) a State educational agency;

"(iii) adult and family education programs;

"(iv) an institution of higher education or a State higher education agency;

"(v) a teacher training center or academy that—

"(I) provides teacher pre-service and in-service training; and

"(II) receives Federal financial assistance or has been approved by a State agency;

"(vi) (I) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

"(II) a public broadcasting entity with such experience; or

"(vii) a public or private elementary or secondary school.

"(b) SPECIAL RULE.—An eligible entity receiving assistance under this part shall be organized on a statewide or multistate basis.

"SEC. 3206. APPLICATIONS. 20 USC 6896.

"(a) APPLICATIONS REQUIRED.—Each eligible entity which desires to receive a grant under section 3204 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) STAR SCHOOL AWARD APPLICATIONS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational reform efforts, and how such project will contribute to creating a high quality system of lifelong learning;

"(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

"(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

"(H) the development of educational and related programming for use on a telecommunications network;

"(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

"(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

"(5) describe the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

"(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

"(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I;

"(10) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

"(11) if any member of the consortia receives assistance under subpart 3 of part A, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;

"(12) describe the activities or services for which assistance is sought, such as—

"(A) providing facilities, equipment, training services, and technical assistance;

"(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

"(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

"(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

"(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

"(F) incorporating community resources such as libraries and museums into instructional programs;

"(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

"(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

"(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

"(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

"(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

"(14) provide an assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I;

"(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this part; and

"(16) include such additional assurances as the Secretary may reasonably require.

"(c) PRIORITIES.—The Secretary, in approving applications for grants authorized under section 3204, shall give priority to applications describing projects that—

"(1) propose high-quality plans to assist in achieving one or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise

provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

"(2) will provide services to programs serving adults, especially parents, with low levels of literacy;

"(3) will serve schools with significant numbers of children counted for the purposes of part A of title I;

"(4) ensure that the eligible entity will—

"(A) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

"(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

"(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

"(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

"(E) provide instruction for students, teachers, and parents;

"(F) serve a multistate area; and

"(G) give priority to the provision of equipment and linkages to isolated areas; and

"(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications for grants authorized under section 3204, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this part.

20 USC 6897.

"SEC. 3207. LEADERSHIP AND EVALUATION ACTIVITIES.

"(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 3204(c)(1) in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

"(b) METHOD OF FUNDING.—The Secretary may fund the activities described in subsection (a) directly or through grants, contracts, and cooperative agreements.

"(c) USES OF FUNDS.—

"(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) may be used for—

"(A) disseminating information, including lists and descriptions of services available from grant recipients under this part; and

"(B) other activities designed to enhance the quality of distance learning activities nationwide.

"(2) EVALUATION.—Funds reserved for evaluation activities under subsection (a) may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

"(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

"(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

"(3) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—

"(A) applications for grants under this part; and

"(B) activities assisted under this part.

"SEC. 3208. DEFINITIONS. 20 USC 6898.

"As used in this part—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, or a State educational agency;

"(2) the term 'instructional programming' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices; and

"(3) the term 'public broadcasting entity' has the same meaning given such term in section 397 of the Communications Act of 1934.

"SEC. 3209. ADMINISTRATIVE PROVISIONS. 20 USC 6899.

"(a) CONTINUING ELIGIBILITY.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under section 3204 for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 3206 that such partnership shall—

"(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

"(B) use all grant funds received under this part for the second 3-year grant period to provide expanded services by—

"(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

"(ii) providing new courses of instruction; and

"(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

"(2) SPECIAL RULE.—Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this part in the previous fiscal year.

"(b) FEDERAL ACTIVITIES.—The Secretary may assist grant recipients under section 3204 in acquiring satellite time, where appropriate, as economically as possible.

"SEC. 3210. OTHER ASSISTANCE. 20 USC 6900.

"(a) SPECIAL STATEWIDE NETWORK.—

"(1) IN GENERAL.—The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

"(A) provides 2-way full motion interactive video and audio communications;

"(B) links together public colleges and universities and secondary schools throughout the State; and

"(C) meets any other requirements determined appropriate by the Secretary.

"(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

"(b) SPECIAL LOCAL NETWORK.—

"(1) IN GENERAL.—The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

"(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

"(A) include 2-way full motion interactive video, audio and text communications;

"(B) link together elementary and secondary schools, colleges, and universities;

"(C) provide parent participation and family programs;

"(D) include a staff development program; and

"(E) have a significant contribution and participation from business and industry.

"(3) SPECIAL RULE.—Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

"(4) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

"(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

"(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable such partnerships to develop and operate one or more programs which provide on-line access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act.

"(2) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

"(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure

to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

"(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

"(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

"(D) assure that the applicant has the technological and substantive experience to carry out the program; and

"(E) contain such additional assurances as the Secretary may reasonably require.

"PART C—READY-TO-LEARN TELEVISION

"SEC. 3301. READY-TO-LEARN. 20 USC 6921.

"(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3302(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

"(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

"SEC. 3302. EDUCATIONAL PROGRAMMING. 20 USC 6922.

"(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to—

"(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(2) enable such entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

"(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

"(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

"(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

20 USC 6923.

"SEC. 3303. DUTIES OF SECRETARY.

"The Secretary is authorized—

"(1) to establish and administer a Special Projects of National Significance program to award grants, contracts, or cooperative agreements to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

"(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

"(3) to develop and disseminate training materials, including—

"(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

"(4) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990

regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

"SEC. 3304. APPLICATIONS. 20 USC 6924.

"Each eligible entity desiring a grant, contract, or cooperative agreement under section 3301 or 3303 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 3305. REPORTS AND EVALUATION. 20 USC 6925.

"(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 3301 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

"(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

"(1) a summary of the information made available under section 3302(a); and

"(2) a description of the training materials made available under section 3303(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

"SEC. 3306. ADMINISTRATIVE COSTS. 20 USC 6926.

"With respect to the implementation of section 3302, entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

"SEC. 3307. DEFINITION. 20 USC 6927.

"For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

20 USC 6928.

"SEC. 3308. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 3302.

"(b) SPECIAL PROJECTS.—Of the amount appropriated under subsection (b) for each fiscal year, at least 10 percent of such amount shall be used for each such fiscal year for activities under section 3303(1)(C).

"PART D—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

20 USC 6951.

"SEC. 3401. PROJECT AUTHORIZED.

"The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

20 USC 6952.

"SEC. 3402. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

"(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

"(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

"(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

"(4) contain such additional assurances as the Secretary may reasonably require.

"(b) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this part is conducted at elementary and secondary school sites in at least 15 States.

20 USC 6953.

"SEC. 3403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

"PART E—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

Elementary Mathematics and Science Equipment Act.

"SEC. 3501. SHORT TITLE. 20 USC 6971.

"This part may be cited as the 'Elementary Mathematics and Science Equipment Act'.

"SEC. 3502. STATEMENT OF PURPOSE. 20 USC 6972.

"It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

"SEC. 3503. PROGRAM AUTHORIZED. 20 USC 6973.

"The Secretary is authorized to make allotments to State educational agencies under section 3504 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

"SEC. 3504. ALLOTMENTS OF FUNDS. 20 USC 6974.

"(a) IN GENERAL.—From the amount appropriated under section 3509 for any fiscal year, the Secretary shall reserve—

"(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands according to their respective needs for assistance under this part; and

"(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

"(b) ALLOTMENT.—

"(1) IN GENERAL.—The remainder of the amount so appropriated (after meeting requirements in subsection (a)) shall be allotted among State educational agencies so that—

"(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of title I.

"(2) MINIMUM.—Except as provided in paragraph (3), no State educational agency shall receive an allotment under this subsection for any fiscal year in an amount that is—

"(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

"(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) RATABLE REDUCTIONS.—(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary

shall ratably reduce the allotment to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

"(c) REALLOTMENT OF UNUSED FUNDS.—The amount of any State educational agency's allotment under subsection (b) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a part of the State educational agency's allotment under subsection (b) for that year.

"(d) DEFINITION.—For the purposes of this part the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(e) DATA.—The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

20 USC 6975.

"SEC. 3505. STATE APPLICATION.

"(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) provide assurances that—

"(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

"(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

"(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

"(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities; and

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

"(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(3) describe procedures—

"(A) for submitting applications for programs described in section 3506 for distribution of assistance under this part within the State; and

"(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) STATE ADMINISTRATION.—Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

"SEC. 3506. LOCAL APPLICATION. 20 USC 6976.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

"(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

"(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional develop-

ment and inservice training of elementary school teachers in science and mathematics; and

"(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

"(c) PRIORITY.—In awarding grants under this part, the State educational agency shall give priority to applications that—

"(1) assign highest priority to providing assistance to schools which—

"(A) are most seriously underequipped; or

"(B) serve large numbers or percentages of economically disadvantaged students;

"(2) are attentive to the needs of underrepresented groups in science and mathematics;

"(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

"(4) assign priority to providing equipment and materials for students in grades 1 through 6.

20 USC 6977.

"SEC. 3507. PROGRAM REQUIREMENTS.

"(a) COORDINATION.—Each State educational agency receiving an allotment under this part shall—

"(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

"(2) evaluate applications of local educational agencies;

"(3) award grants to local educational agencies based on the priorities described in section 3506(c); and

"(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

"(2) CAPITAL IMPROVEMENTS.—Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

20 USC 6978.

"SEC. 3508. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

"(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 10701.

"SEC. 3509. AUTHORIZATION OF APPROPRIATIONS. 20 USC 6979.

"There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"PART F—ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCES PROGRAM

"SEC. 3601. PROGRAM AUTHORIZED. 20 USC 7001.

"The Secretary shall award grants or make allocations in accordance with section 3602 for the acquisition of school library media resources for the use of students, library media specialists, and teachers in elementary and secondary schools in accordance with this part.

"SEC. 3602. ALLOCATION TO STATES. 20 USC 7002.

"(a) From the amount appropriated pursuant to section 3605 in each fiscal year, the Secretary shall award funds to each State having an approved plan under section 3603 as follows:

"(1) AMOUNTS BELOW $50,000,000.—If the amount made available under subsection (a) for a fiscal year is less than $50,000,000, then the Secretary shall award grants to States, on a competitive basis, taking into account such factors as age and condition of existing school library media collections and the relative economic need of the students to be served.

"(2) AMOUNTS EQUAL TO OR EXCEEDING $50,000,000.—If the amount made available under subsection (a) for a fiscal year equals or exceeds $50,000,000, then the Secretary shall allocate to each State an amount which bears the same relationship to such amount as the amount such State received under title II for such year bears to the amount all States received under such title for such year.

"SEC. 3603. STATE PLANS. 20 USC 7003.

"(a) IN GENERAL.—In order for a State to receive a grant or an allocation of funds under this part for any fiscal year, such State shall have in effect for such fiscal year a State plan. Such plan shall—

"(1) designate the State educational agency as the State agency responsible for the administration of the program assisted under this part;

"(2) set forth a program under which funds paid to the State in accordance with section 3602 will be expended solely for—

"(A) acquisition of school library media resources, including books and foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

"(B) administration of the State plan, including development and revision of standards, relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed three percent of the amount available to such State under section 3602 for such fiscal year; and

"(3) set forth criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

"(b) PLAN SUBMISSION.—The State plan may be submitted as part of a consolidated application under section 14302.

20 USC 7004.

"SEC. 3604. DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"From the funds allocated to a State under section 3602(2) in each fiscal year, such State shall distribute not less than 97 percent of such funds in such year to local educational agencies within such State according to the relative enrollment of students in elementary and secondary schools within the school districts of such State, adjusted to provide higher per pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students—

"(1) living in areas with high concentrations of low-income families;

"(2) from low-income families; and

"(3) living in sparsely populated areas.

20 USC 7005.

"SEC. 3605. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

Safe and Drug-Free Schools and Communities Act of 1994.

"TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

20 USC 7101.

"SEC. 4001. SHORT TITLE.

"This title may be cited as the 'Safe and Drug-Free Schools and Communities Act of 1994'.

20 USC 7102.

"SEC. 4002. FINDINGS.

"The Congress finds as follows:

"(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

"(2) The widespread illegal use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

"(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

"(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

"(5) The tragic consequences of violence and the illegal use of alcohol and drugs by students are felt not only by students and such students' families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

"(6) While use of illegal drugs is a serious problem among a minority of teenagers, alcohol use is far more widespread. The proportion of high school students using alcohol, though lower than a decade ago, remains unacceptably high. By the 8th grade, 70 percent of youth report having tried alcohol and by the 12th grade, about 88 percent have used alcohol. Alcohol use by young people can and does have adverse consequences for users, their families, communities, schools, and colleges.

"(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

"(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of 21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

"(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

"(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

"SEC. 4003. PURPOSE. 20 USC 7103.

"The purpose of this title is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

"(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school

drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

"(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education;

"(3) States for development, training, technical assistance, and coordination activities;

"(4) public and private nonprofit organizations to conduct training, demonstrations, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth; and

"(5) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities.

Appropriation authorization.
20 USC 7104.

"SEC. 4004. FUNDING.

"There are authorized to be appropriated—

"(1) $630,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 1; and

"(2) $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for national programs under subpart 2.

"PART A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

"Subpart 1—State Grants for Drug and Violence Prevention Programs

20 USC 7111.

"SEC. 4011. RESERVATIONS AND ALLOTMENTS.

"(a) RESERVATIONS.—From the amount made available under section 4004(a) to carry out this subpart for each fiscal year, the Secretary—

Territories.

"(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

Indians.

"(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

"(3) may reserve not more than $1,000,000 for the national impact evaluation required by section 4117(a); and

"(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

"(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged

population of each State and the school-aged population of all the States; and

"(B) one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding year (or, for fiscal year 1995 only, sections 1005 and 1006 of this Act as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and the sum of such amounts received by all the States.

"(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

"(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

"(4) DEFINITIONS.—For the purpose of this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(B) the term 'local educational agency' includes educational service agencies and consortia of such agencies.

"SEC. 4112. STATE APPLICATIONS. 20 USC 7112.

"(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

"(1) describes how funds under this subpart will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

"(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

"(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed separately by such officer or agency, respectively, but in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

"(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a); and

"(5) includes any other information the Secretary may require.

"(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also contain a comprehensive plan for

the use of funds under section 4113(a) by the State educational agency that includes—

"(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

"(2) a plan for monitoring the implementation of, and providing technical assistance rega.ding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116;

"(3) a description of how the State educational agency will use funds under section 4113(b);

"(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies;

"(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 4113(d)(2)(A)(ii) and how the supplemental funds will be allocated among such local educational agencies; and

"(6) a description of the procedures the State educational agency will use to review applications from local educational agencies under section 4115.

"(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes—

"(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting such goals and objectives;

"(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

"(3) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

"(4) a description of how the chief executive officer will award funds under section 4114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

"(5) a description of the special outreach activities that will be carried out to maximize the participation of community-based organizations of demonstrated effectiveness which provide services in low-income communities; and

"(6) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

"(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

"(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

"SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS. 20 USC 7113.

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

"(2) EXCEPTION.—(A) If a State has, on or before January 1, 1994, established an independent State agency for the purpose of administering all of the funds described in section 5121 of this Act (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994), then—

"(i) an amount equal to 80 percent of the total amount allocated to such State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section; and

"(ii) an amount equal to 20 percent of such total amount shall be used by such independent State agency for drug and violence prevention activities in accordance with this section.

"(B) Not more than 5 percent of the amount reserved under subparagraph (A)(ii) may be used for administrative costs of the independent State agency incurred in carrying out the activities described in such subparagraph.

"(C) For purposes of this paragraph, the term 'independent State agency' means an independent agency with a board of directors or a cabinet level agency whose chief executive officer is appointed by the chief executive officer of the State and confirmed with the advice and consent of the senate of such State.

"(b) STATE LEVEL PROGRAMS.—

"(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

"(A) training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents,

students, community leaders, health service providers, local law enforcement officials, and judicial officials;

"(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

"(C) making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

"(D) demonstration projects in drug and violence prevention;

"(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

"(F) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

"(G) the evaluation of activities carried out within the State under this part.

"(2) SPECIAL RULE.—A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

"(c) STATE ADMINISTRATION.—A State educational agency may use not more than 4 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

"(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

"(1) IN GENERAL.—A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

"(2) DISTRIBUTION.—(A) Of the amount distributed under paragraph (1), a State educational agency shall distribute—

"(i) 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

"(B) Where appropriate and to the extent consistent with the needs assessment conducted by the State, not less than 25 percent of the amount distributed under subparagraph (A)(ii) for a fiscal year shall be distributed to local educational agencies located in rural and urban areas.

"(C)(i) A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

"(ii) In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider objective data such as—

"(I) high rates of alcohol or drug use among youth;

"(II) high rates of victimization of youth by violence and crime;

"(III) high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

"(IV) the extent of illegal gang activity;

"(V) high incidence of violence associated with prejudice and intolerance;

"(VI) high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

"(VII) high rates of referrals of youths to juvenile court;

"(VIII) high rates of expulsions and suspensions of students from schools; and

"(IX) high rates of reported cases of child abuse and domestic violence.

"(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(C)(ii) to have the greatest need for additional funds.

"(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—

"(1) RETURN.—Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

"(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

"(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

"(2) REALLOCATION.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

"(A) an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

"(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

"SEC. 4114. GOVERNOR'S PROGRAMS. 20 USC 7114.

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 4111(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

"(2) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—A chief executive officer shall use not less than 10 percent of the 20 percent of the total amount described in paragraph (1) for each fiscal year for law enforcement education partnerships in accordance with subsection (d).

"(3) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

Grants.

"(b) PROGRAMS AUTHORIZED.—

"(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) for—

"(A) children and youth who are not normally served by State or local educational agencies; or

"(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

"(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

"(c) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (b) shall be used for programs and activities such as—

"(1) disseminating information about drug and violence prevention;

"(2) training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

"(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

"(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

"(5) activities to protect students traveling to and from school;

"(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

"(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

"(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

"(9) developing and implementing strategies to prevent illegal gang activity;

"(10) coordinating and conducting community-wide violence and safety assessments and surveys;

"(11) service-learning projects that encourage drug- and violence-free lifestyles; and

"(12) evaluating programs and activities assisted under this section.

"(d) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—A chief executive officer shall use funds under subsection (a)(2) to award grants to State, county or local law enforcement agencies (including district attorneys) in consortium with local educational agencies or community-based agencies for the purposes of carrying out drug abuse and violence prevention activities, such as—

"(1) Project Drug Abuse Resistance Education and other programs which provide classroom instruction by uniformed law enforcement officials that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances or alcohol;

"(2) Project Legal Lives and other programs in which district attorneys provide classroom instruction in the law and legal system which emphasizes interactive learning techniques, such as mock trial competitions;

"(3) partnerships between law enforcement and child guidance professionals; and

"(4) before- and after-school activities.

"SEC. 4115. LOCAL APPLICATIONS. 20 USC 7115.

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

"(2) DEVELOPMENT.—(A) A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

"(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

"(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

"(ii) advise the local educational agency regarding—

"(I) how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities; and

"(II) the agencies that administer such programs, projects, and activities; and

"(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

"(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

"(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

"(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

"(A) how the plan will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

"(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

"(C) how the local educational agency will use its distribution under this subpart;

"(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

"(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

"(3) such other information and assurances as the State educational agency may reasonably require.

"(c) REVIEW OF APPLICATION.—

"(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

"(2) CONSIDERATIONS.—(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) and the extent to which such plan is coordinated with programs under this Act, the Goals 2000: Educate America Act, in accordance with the provisions of section 14306.

"(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

20 USC 7116.

"SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

"(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this subpart to adopt and carry out

a comprehensive drug and violence prevention program which shall—

"(1) be designed, for all students and employees, to—

"(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

"(B) prevent violence and promote school safety; and

"(C) create a disciplined environment conducive to learning; and

"(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart.

"(b) AUTHORIZED ACTIVITIES.—A comprehensive drug and violence prevention program carried out under this subpart may include—

"(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

"(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

"(A) the dissemination of information about drug prevention;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

"(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

"(i) family counseling;

"(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

"(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

"(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

"(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

"(A) the dissemination of information about school safety and discipline;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

"(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

"(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and

"(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

"(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

"(6) acquiring and installing metal detectors and hiring security personnel;

"(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

"(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

"(9) drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

"(10) the evaluation of any of the activities authorized under this subsection.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

"(2) SPECIAL RULE.—A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

"(d) ADMINISTRATIVE PROVISIONS.—Notwithstanding any other provisions of law, any funds expended prior to July 1, 1995, under part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to enactment of the Improving America's Schools

Act) for the support of a comprehensive school health program shall be deemed to have been authorized by part B of such Act.

"SEC. 4117. EVALUATION AND REPORTING. 20 USC 7117.

"(a) NATIONAL IMPACT EVALUATION.—

"(1) BIENNIAL EVALUATION.—The Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools and submit a report of the findings of such evaluation to the President and the Congress.

"(2) DATA COLLECTION.—(A) The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B).

"(B) Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

"(b) STATE REPORT.—

"(1) IN GENERAL.—By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

"(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness; and

"(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112.

"(2) SPECIAL RULE.—The report required by this subsection shall be—

"(A) in the form specified by the Secretary;

"(B) based on the State's ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

"(C) made readily available to the public.

"(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information, and at such intervals, that the State requires to complete the State report required by subsection (b), including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

"SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS. 20 USC 7118.

"(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or

portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

"(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"Subpart 2—National Programs

20 USC 7131.

"SEC. 4121. FEDERAL ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the postsecondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

"(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

"(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

"(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

"(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

"(5) program evaluations in accordance with section 14701 that address issues not addressed under section 4117(a);

"(6) direct services to schools and school systems afflicted with especially severe drug and violence problems;

"(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

"(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

"(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

"(10) the implementation of innovative activities, such as community service projects, designed to rebuild safe and

healthy neighborhoods and increase students' sense of individual responsibility;

"(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

"(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

"(13) other activities that meet unmet national needs related to the purposes of this title.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

"SEC. 4122. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION. 20 USC 7132.

"(a) IN GENERAL.—From funds made available to carry out this subpart under section 4004(2), the Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, or consortia of such institutions, for drug and violence prevention programs under this section. Awards under this section shall support the development, implementation, validation, and dissemination of—

"(1) model programs and strategies to promote the safety of students attending institutions of higher education by preventing violent behavior and the illegal use of alcohol and other drugs by such students; and

"(2) such model programs and strategies shall be coordinated with the report required under section 204(a)(4)(B) of the Student Right-to-Know and Campus Security Act on policies, procedures and practices which have proven effective in the reduction of campus crime.

"(b) APPLICATIONS.—An institution of higher education, or consortium of such institutions, that desires to receive an award under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The Secretary shall use a peer review process for reviewing applications for funds under this section.

"(c) EQUITABLE PARTICIPATION.—The Secretary shall make every reasonable effort to ensure the equitable participation in the activities assisted under this section of private and public institutions of higher education (including community and junior colleges), institutions of limited enrollment, and institutions in different geographic regions.

"SEC. 4123. HATE CRIME PREVENTION. 20 USC 7133.

"(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4004(1) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

"(b) USE OF FUNDS.—

"(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

"(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

"(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

"(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

"(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

"(2) IN GENERAL.—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

"(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

"(A) a request for funds for the purposes described in this section;

"(B) a description of the schools and communities to be served by the grants; and

"(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

"(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

"(B) a description of the program to be developed or augmented by such Federal and matching funds;

"(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

"(D) proper and efficient administration of such program; and

"(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

"(c) AWARD OF GRANTS.—

"(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

"(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

"(d) REPORTS.—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

"Subpart 3—General Provisions

"SEC. 4131. DEFINITIONS. 20 USC 7141.

"For the purposes of this part:

"(1) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(2) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

"(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

"(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

"(3) HATE CRIME.—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

"(4) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(5) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(6) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

"SEC. 4132. MATERIALS. 20 USC 7142.

"(a) 'WRONG AND HARMFUL' MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent

message that the illegal use of alcohol and other drugs is wrong and harmful.

"(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

20 USC 7143.

"SEC. 4133. PROHIBITED USES OF FUNDS.

"No funds under this part may be used for—

"(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

"(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.".

"TITLE V—PROMOTING EQUITY

Desegregation.

"PART A—MAGNET SCHOOLS ASSISTANCE

20 USC 7201.

"SEC. 5101. FINDINGS.

"The Congress finds that—

"(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

"(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

"(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

"(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

"(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

"(i) magnet school students from other students in the school; and

"(ii) students by racial characteristics;

"(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such agencies have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

"(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

"(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

"(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government

must assist school districts to improve their capacity to continue to operate magnet schools at a high level of performance; and

"(5) it is in the best interest of the Federal Government to—

"(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

"(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

"(C) maximize the ability of local educational agencies to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform.

"SEC. 5102. STATEMENT OF PURPOSE. 20 USC 7202.

"The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

"(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(3) the development and design of innovative educational methods and practices; and

"(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

"SEC. 5103. PROGRAM AUTHORIZED. 20 USC 7203.

"The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

"(1) part of an approved desegregation plan; and

"(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 5104. DEFINITION. 20 USC 7204.

"For the purpose of this part, the term 'magnet school' means a public elementary or secondary school or public elementary or secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

20 USC 7205.

"SEC. 5105. ELIGIBILITY.

"A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purposes of this part if such agency or consortium—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

20 USC 7206.

"SEC. 5106. APPLICATIONS AND REQUIREMENTS.

"(a) APPLICATIONS.—An eligible local educational agency or consortium of such agencies desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(b) INFORMATION AND ASSURANCES.—Each such application shall include—

"(1) a description of—

"(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

"(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

"(C) how an applicant will continue the magnet school project after assistance under this part is no longer available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

"(D) how funds under this part will be used to implement services and activities that are consistent with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306; and

"(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

"(2) assurances that the applicant will—

"(A) use funds under this part for the purposes specified in section 5102;

"(B) employ State certified or licensed teachers in the courses of instruction assisted under this part to teach or supervise others who are teaching the subject matter of the courses of instruction;

"(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

"(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

"(iii) designing or operating extracurricular activities for students;

"(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

"(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

"(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

"SEC. 5107. PRIORITY. 20 USC 7207.

"In approving applications under this part, the Secretary shall give priority to applicants that—

"(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

"(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

"(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

"(4) propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act; and

"(5) propose to draw on comprehensive community involvement plans.

"SEC. 5108. USE OF FUNDS. 20 USC 7208.

"(a) IN GENERAL.—Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

"(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

"(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools; and

"(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

"(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

"(B) further the purposes of this part.

"(b) SPECIAL RULE.—Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

20 USC 7209.

"SEC. 5109. PROHIBITIONS.

"(a) TRANSPORTATION.—Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

"(b) PLANNING.—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

20 USC 7210

"SEC. 5110. LIMITATIONS.

"(a) DURATION OF AWARDS.—A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

"(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

"(c) AMOUNT.—No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

"(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than June 1 of the applicable fiscal year.

20 USC 7211.

"SEC. 5111. INNOVATIVE PROGRAMS.

"(a) IN GENERAL.—From amounts reserved under subsection (d) for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 5105 to enable such agencies or consortia to conduct innovative programs that—

"(1) carry out the purpose of this part; and

"(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

"(A) organized around a special emphasis, theme or concept; and

"(B) involving extensive parent and community involvement.

"(b) APPLICABILITY.—Sections 5103, 5106, 5107, and 5108, shall not apply to grants awarded under subsection (a).

"(c) APPLICATIONS.—Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve not more than 5 percent of the funds appropriated under section 5113(a) for each fiscal year to award grants under this section.

"SEC. 5112. EVALUATIONS. 20 USC 7212.

"(a) RESERVATION.—The Secretary may reserve not more than two percent of the funds appropriated under section 5113(a) for any fiscal year to carry out evaluations of projects assisted under this part.

"(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

"(1) how and the extent to which magnet school programs lead to educational quality and improvement;

"(2) the extent to which magnet school programs enhance student access to quality education;

"(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

"(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

"SEC. 5113. AUTHORIZATION OF APPROPRIATIONS; RESERVATION. 20 USC 7213.

"(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated $120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

"PART B—WOMEN'S EDUCATIONAL EQUITY

Women's Educational Equity Act of 1994.

"SEC. 5201. SHORT TITLE; FINDINGS.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act of 1994'. 20 USC 7231.

"(b) FINDINGS.—The Congress finds that—

"(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

"(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

"(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

"(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

"(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

"(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

"(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

"(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

"(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

"(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

"(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

20 USC 7232.

"SEC. 5202. STATEMENT OF PURPOSES.

"It is the purpose of this part—

"(1) to promote gender equity in education in the United States;

"(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

"(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

20 USC 7233.

"SEC. 5203. PROGRAMS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to promote, coordinate, and evaluate gender equity policies, programs, activities and initiatives in all Federal education programs and offices;

"(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

"(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

"(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

"(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

"(6) to perform any other activities consistent with achieving the purposes of this part.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements

with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed four years, to—

"(A) provide grants to develop model equity programs; and

"(B) provide funds for the implementation of equity programs in schools throughout the Nation.

"(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this part, the Secretary is authorized to provide support and technical assistance—

"(A) to implement effective gender-equity policies and programs at all educational levels, including—

"(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

"(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

"(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

"(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

"(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

"(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

"(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

"(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

"(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

"(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

"(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children benefits;

"(xii) programs to improve representation of women in educational administration at all levels; and

"(xiii) planning, development and initial implementation of—

"(I) comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

"(II) comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education; including community colleges; and

"(III) innovative approaches to school-community partnerships for educational equity.

"(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

"(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

"(ii) the development of high quality and challenging assessment instruments that are nondiscriminatory;

"(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

"(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

"(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

"(vi) updating high quality educational materials previously developed through awards made under this part;

"(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

"(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children; and

"(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

"SEC. 5204. APPLICATIONS. 20 USC 7234.

"An application under this part shall—

"(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this part, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

"(2) where appropriate, demonstrate how funds received under this part will be used to promote the attainment of one or more of the National Education Goals;

"(3) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

"(4) where appropriate, describe how funds under this part will be used in a manner that is consistent with programs under the School-to-Work Opportunities Act of 1994;

"(5) for applications for assistance under section 5203(b)(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses or other recipients of Federal educational funding which may include State literacy resource centers;

"(6) for applications for assistance under section 5203(b)(1), demonstrate how parental involvement in the project will be encouraged; and

"(7) for applications for assistance under section 5203(b)(1), describe plans for continuation of the activities assisted under this part with local support following completion of the grant period and termination of Federal support under this part.

"SEC. 5205. CRITERIA AND PRIORITIES. 20 USC 7235.

"(a) CRITERIA AND PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 5203(b) to ensure that funds under this part are used for programs that most effectively will achieve the purposes of this part.

"(2) CRITERIA.—The criteria described in subsection (a) may include the extent to which the activities assisted under this part—

"(A) address the needs of women and girls of color and women and girls with disabilities;

"(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

"(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

"(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated.

"(b) PRIORITIES.—In approving applications under this part, the Secretary may give special consideration to applications—

"(1) submitted by applicants that have not received assistance under this part or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

"(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

"(3) for projects that will—

"(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

"(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

"(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated;

"(D) address issues of national significance that can be duplicated; and

"(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

"(c) SPECIAL RULE.—To the extent feasible, the Secretary shall ensure that grants awarded under this part for each fiscal year address—

"(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

"(2) all regions of the United States; and

Urban and rural areas.

"(3) urban, rural, and suburban educational institutions.

"(d) COORDINATION.—Research activities supported under this part—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

"(e) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this part.

20 USC 7236.

"SEC. 5206. REPORT.

"The Secretary, not later than January 1, 1999, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

20 USC 7237.

"SEC. 5207. ADMINISTRATION.

Reports.

"(a) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate in accordance with section 14701, and disseminate, materials and programs developed under this part and shall report to the Congress regarding such evaluation materials and programs not later than January 1, 1998.

"(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the activities assisted under this part are administered within

the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

"SEC. 5208. AUTHORIZATION OF APPROPRIATIONS. 20 USC 7238.

"For the purpose of carrying out this part, there are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 5203(b)(1).

"PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

School Dropout Assistance Act. 20 USC 7261.

"SEC. 5301. SHORT TITLE.

"This part may be cited as the 'School Dropout Assistance Act'.

"SEC. 5302. PURPOSE. 20 USC 7262.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

"(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or ethnicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 5303. GRANTS TO LOCAL EDUCATIONAL AGENCIES. 20 USC 7263.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 5308 for any fiscal year, the Secretary shall first reserve not more than $2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 14701. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to edu-

cational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply for assistance under this part in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this paragraph shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) to local educational agencies participating in an educational partnership.

"(2) EDUCATIONAL PARTNERSHIPS.—For the purpose of this part the term 'educational partnerships' means a partnership between—

"(A) a local educational agency; and

"(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—

"(1) IN GENERAL.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 5304 and whose applications propose a program of sufficient size, scope, and quality to be effective.

"(2) ADDITIONAL FUNDS.—Any local educational agency or educational partnership that has received a grant under this part shall be eligible for additional funds as provided under subsection (d).

"(3) TERMS AND CONDITIONS.—Grants under this part shall be made under such terms and conditions as the Secretary shall prescribe.

"(d) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—

"(1) IN GENERAL.—Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories described in paragraphs (1), (2), or (3) of subsection (a), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that

the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) PEER REVIEW.—In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) FEDERAL SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

"(B) 75 percent of such cost in each such succeeding fiscal year.

"(2) REMAINING COSTS.—The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) NON-FEDERAL SHARE.—The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 5404. APPLICATION. 20 USC 7264.

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) DURATION.—Each such application shall be for a three-year period.

"(b) CONTENTS.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools to be served by the applicant for the five academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

"(3) include a plan for coordinated activities involving not less than one secondary school and its feeder junior high or

middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) when applicable, describe how programs assisted under this part will be coordinated with, and not duplicate, programs assisted under title I;

"(5) include a description of how the program assisted under this part is consistent with the second National Education Goal, relating to school completion, and other Federal programs as appropriate; and

"(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which—

"(1) demonstrate the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency; and

"(2) reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 5303(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"(e) GRANTS FOR NEW GRANTEES.—In awarding grants under this part the Secretary shall use only the priorities and special considerations described in subsections (c) and (d).

"(f) CONTINUATION OF ASSISTANCE.—For the two fiscal years beginning after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall approve an application under this section for a local educational agency which received funding in fiscal year 1994 under the School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.) and which—

"(1) satisfies the requirements of this section;

"(2) qualifies for special consideration or priority under—

"(A) section 5303(b); and

"(B) subsections (c) and (d) of this section; and

"(3) provides evidence that the program for which such agency is seeking assistance is effective in—

"(A) providing early intervention services to at-risk students in elementary and secondary schools;

"(B) identifying potential student dropouts; and

"(C) preventing students from dropping out of school.

20 USC 7265.

"SEC. 5305. AUTHORIZED ACTIVITIES.

"Grants under this part shall be used to carry out activities and services described in applications approved under section 5304. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to

address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school, including youth returning to school from a correctional or other facility operated for delinquent youth;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school personnel on strategies and techniques designed to—

"(A) identify children at risk of dropping out of school;

"(B) intervene in the instructional program for such children with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and school dropouts and between youth gangs and school dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between disabling conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

"(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles, including activities and services designed to meet the needs of pregnant and parenting teenagers;

"(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

"(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(17) summer employment programs;

"(18) occupational training programs;

"(19) career opportunity and skills counseling;

"(20) job placement services;

"(21) the development of skill employment competency testing programs;

"(22) special school staff training projects; and

"(23) mentoring programs.

20 USC 7266.

"SEC. 5306. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 5303(a);

"(2) the amount of a grant to a local educational agency or an educational partnership for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than five percent of any grant made under this part may be used for administrative costs.

20 USC 7267.

"SEC. 5307. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 403(b) of the National Education Statistics Act of 1994, to implement a definition and data collection process for school dropouts in elementary and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by gender, race, and ethnic origin who drop out of school each year, including dropouts—

"(1) throughout the Nation by rural and urban location as defined by the Secretary; and

"(2) in each of the individual States and the District of Columbia.

"(b) RECOMMENDATIONS.—The report under subsection (a) shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure school dropout and retention rates on the national, State, and local levels.

20 USC 7268.

"SEC. 5308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"TITLE VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

"SEC. 6001. FINDINGS AND STATEMENT OF PURPOSE. 20 USC 7301.

"(a) FINDINGS.—The Congress finds that chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this title—

"(1) to support local education reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act;

"(2) to support State and local efforts to accomplish the National Education Goals;

"(3) to provide funding to enable State and local educational agencies to implement promising educational reform programs;

"(4) to provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and

"(5) to meet the special educational needs of at risk and high cost students.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this title is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this title will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

"SEC. 6002. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE. 20 USC 7302.

"(a) AUTHORIZATION.—To carry out the purposes of this title, there are authorized to be appropriated $370,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1994, and ending September 30, 1999, the Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for the purpose of this title.

"SEC. 6003. DEFINITION. 20 USC 7303.

"For the purposes of this title the term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally disadvantaged chil-

dren, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

"(B) Emphasis on the acquisition of basic and higher order skills.

"(C) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

"(D) A climate of expectation that virtually all children can learn under appropriate conditions.

"(E) Continuous assessment of students and programs to evaluate the effects of instruction.

"PART A—STATE AND LOCAL PROGRAMS

20 USC 7311.

"SEC. 6101. ALLOTMENT TO STATES.

"(a) RESERVATIONS.—From the sums appropriated to carry out this title in any fiscal year, the Secretary shall reserve not to exceed one percent for payments to outlying areas to be allotted in accordance with their respective needs.

"(b) ALLOTMENT.—From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of one percent of such remainder.

"(c) DEFINITIONS.—For purposes of this part:

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 7312.

"SEC. 6102. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—From the sums made available each year to carry out this title, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families;

"(2) children from low-income families; and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—

"(1) IN GENERAL.—The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools; and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate

in programs or projects assisted under this title, for the fiscal year preceding the fiscal year for which the determination is made.

"(2) CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

"(3) ADJUSTMENTS.—(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families;

"(ii) children from low-income families; or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) DISTRIBUTION.—From the funds paid to a State educational agency pursuant to section 6002 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 6202 the amount of such local educational agency allocation as determined under subsection (a).

"(2) ADDITIONAL FUNDS.—(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"PART B—STATE PROGRAMS

"SEC. 6201. STATE USES OF FUNDS. 20 USC 7331.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available for State use under this title only for—

"(1) State administration of programs under this title including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds; and

"(C) monitoring and evaluation of programs and activities under this title; and

"(2) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

"(b) LIMITATIONS AND REQUIREMENTS.—Not more than 25 percent of funds available for State programs under this title in any fiscal year may be used for State administration under subsection (a)(1).

20 USC 7332.

"SEC. 6202. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive assistance under this part shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this title;

"(2)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this title; and

"(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this title;

"(3) sets forth the allocation of such funds required to implement section 6402;

"(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

"(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this title, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditure made pursuant to an application under section 6303;

"(6) contains assurances that there is compliance with the specific requirements of this title; and

"(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Local educational agencies receiving less than an average of $5,000 each under this title shall not be audited more frequently than once every five years.

"PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

"SEC. 6301. TARGETED USE OF FUNDS. 20 USC 7351.

"(a) GENERAL RULE.—Funds made available to local educational agencies under section 6102 shall be used for innovative assistance described in subsection (b).

"(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) include—

"(1) technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

"(2) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

"(3) promising education reform projects, including effective schools and magnet schools;

"(4) programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

"(5) programs to combat illiteracy in the student and adult population, including parent illiteracy;

"(6) programs to provide for the educational needs of gifted and talented children;

"(7) school reform activities that are consistent with the Goals 2000: Educate America Act; and

"(8) school improvement programs or activities under sections 1116 and 1117.

"SEC. 6302. ADMINISTRATIVE AUTHORITY. 20 USC 7352.

"In order to conduct the activities authorized by this title, each State or local educational agency may use funds reserved for this title to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 6303. LOCAL APPLICATIONS. 20 USC 7353.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortium of such agencies may receive an allocation of funds under this title for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 6301 and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 6402;

"(2) describes how assistance under this title will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

"(3) provide assurances of compliance with the provisions of this title, including the participation of children enrolled in private, nonprofit schools in accordance with section 6402;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

"(5) provides in the allocation of funds for the assistance authorized by this title, and in the design, planning and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this title (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds to programs for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this title, a local educational agency shall have complete discretion in determining how funds under this part shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this title and are used to meet the educational needs within the schools of such local educational agency.

"PART D—GENERAL ADMINISTRATIVE PROVISIONS

20 USC 7371.

"SEC. 6401. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails

to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 6402. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS. 20 USC 7372.

"(a) PARTICIPATION ON EQUITABLE BASIS.—

"(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

"(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this title.

"(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this title by a State or local educational agency, whether directly or through grants

to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—

"(1) ADMINISTRATION OF FUNDS AND PROPERTY.—The control of funds provided under this title, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—The provision of services pursuant to this title shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—

"(1) FAILURE TO COMPLY.—If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on

the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

"(h) REVIEW.—

"(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) COURT ACTION.—If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) REMAND TO SECRETARY.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) COURT REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this title, apply to programs under this title.

"SEC. 6403. FEDERAL ADMINISTRATION. 20 USC 7373.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this title.

"(b) RULEMAKING.—The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this title.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this title shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"TITLE VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

"PART A—BILINGUAL EDUCATION

Bilingual Education Act. 20 USC 7401.

"SEC. 7101. SHORT TITLE.

"This part may be cited as the 'Bilingual Education Act'.

20 USC 7402.

"SEC. 7102. FINDINGS, POLICY, AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

"(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English-proficient peers;

"(3) the presence of language-minority Americans is related in part to Federal immigration policies;

"(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

"(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

"(A) segregated education programs;

"(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

"(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

"(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

"(6) Native Americans and Native American languages (as such terms are defined in section 103 of the Native American Languages Act), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this Act to serve the education needs of language minority students in the United States;

"(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

"(8) it is the purpose of this title to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

"(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

"(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

"(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

"(12) parent and community participation in bilingual education programs contributes to program effectiveness;

"(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

"(14) the use of a child or youth's native language and culture in classroom instruction can—

"(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

"(B) benefit English-proficient children and youth who also participate in such programs; and

"(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

"(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 and section 204(f) of the Equal Education Opportunities Act of 1974, has a special and continuing obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

"(16) the Federal Government also, as exemplified by the Federal Government's efforts under this title, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

"(b) POLICY.—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

"(c) PURPOSE.—The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and

challenging State student performance standards in academic areas by—

"(1) developing systemic improvement and reform of educational programs serving limited English proficient students through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

"(2) developing bilingual skills and multicultural understanding;

"(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

"(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

"(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

"(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

20 USC 7403.

"SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) DISTRIBUTION.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3.

20 USC 7404.

"SEC. 7104. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

"(1) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

"(ii) approved by the Secretary for the purpose of this section.

"(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

"SEC. 7105. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED NATIONS. 20 USC 7405.

"For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

"Subpart 1—Bilingual Education Capacity and Demonstration Grants

"SEC. 7111. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION. 20 USC 7421.

"The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7112, 7113, 7114, and 7115 to—

"(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

"(2) to help such children and youth—

"(A) develop proficiency in English, and to the extent possible, their native language; and

"(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 1111(b).

"SEC. 7112. PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS. 20 USC 7422.

"(a) PURPOSE.—The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

"(B) Each grant under this section shall be awarded for a period of three years.

"(2) AUTHORIZED ACTIVITIES.—(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

"(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

"(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited English proficient students.

"(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

"(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

"(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) ELIGIBLE ENTITY.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

"(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

"(d) DUE CONSIDERATION.—In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

20 USC 7423.

"SEC. 7113. PROGRAM ENHANCEMENT PROJECTS.

"(a) PURPOSE.—The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

"(B) Each grant under this section shall be awarded for a period of two years.

"(2) AUTHORIZED ACTIVITIES.—(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

"(B) Grants under this section may be used for—

"(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

"(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

"(v) providing intensified instruction; and

"(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) ELIGIBLE ENTITY.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

"(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

"SEC. 7114. COMPREHENSIVE SCHOOL GRANTS. 20 USC 7424.

"(a) PURPOSE.—The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under

section 7116 to enable such entities to carry out activities described in paragraph (3).

"(B) Each grant under this section shall be awarded for five years.

"(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

"(A) the program evaluation required by section 7123 indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(3) AUTHORIZED ACTIVITIES.—Grants under this section may be used to improve the education of limited English proficient students and their families by—

"(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

"(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

"(E) providing intensified instruction; and

"(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(4) SPECIAL RULE.—A grant recipient, before carrying out a program assisted under this section, shall plan, train personnel, develop curriculum, and acquire or develop materials.

"(c) ELIGIBLE ENTITIES.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

20 USC 7425.

"SEC. 7115. SYSTEMWIDE IMPROVEMENT GRANTS.

"(a) PURPOSE.—The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under

section 7116 to enable such entities to carry out activities described in paragraphs (3) and (4).

"(B) Each grant under this section shall be awarded for 5 years.

"(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

"(A) the program evaluation required by section 7123 indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(3) PREPARATION.—Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

"(4) USES.—Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

"(A) educational goals, curriculum guidelines and content, standards and assessments;

"(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

"(C) student grade-promotion and graduation requirements;

"(D) student assignment policies and practices;

"(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(H) such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) ELIGIBLE ENTITIES.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

"SEC. 7116. APPLICATIONS. 20 USC 7426.

"(a) IN GENERAL.—

"(1) SECRETARY.—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of its application under this section to the State educational agency.

"(b) STATE REVIEW AND COMMENTS.—

"(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

"(2) COMMENTS.—(A) Regarding any application submitted under this title, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) For purposes of this subpart, such comments shall address how the eligible entity—

"(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

"(ii) how the grant application is consistent with the State plan submitted under section 1111.

"(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) COMMENT CONSIDERATION.—In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

"(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement of subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

"(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

"(g) CONTENTS.—

"(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

"(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

"(B) A description of the program to be implemented and how such program's design—

"(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

"(ii) is coordinated with other programs under this Act, the Goals 2000: Educate America Act and other Acts, as appropriate, in accordance with section 14306;

"(iii) involves the parents of the children and youth of limited-English proficiency to be served;

"(iv) ensures accountability in achieving high academic standards; and

"(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

"(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

"(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

"(E) An assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

"(F) A budget for grant funds.

"(2) ADDITIONAL INFORMATION.—Each application for a grant under section 7114 or 7115 shall—

"(A) describe—

"(i) current services the applicant provides to children and youth of limited-English proficiency;

"(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

"(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

"(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

"(v) current family education programs if applicable; and

"(B) provide assurances that—

"(i) the program funded will be integrated with the overall educational program; and

"(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

"(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

"(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

"(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the

type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

"(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act;

"(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children;

"(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

"(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

"(i) PRIORITIES AND SPECIAL RULES.—

"(1) PRIORITY.—The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

"(2) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

"(3) SPECIAL RULE.—Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

"(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

"(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel

who are able to communicate in the students' native language.

"(4) CONSIDERATION.—In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

"(5) DUE CONSIDERATION.—The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

"SEC. 7117. INTENSIFIED INSTRUCTION. 20 USC 7427.

"In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

"(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

"(2) expanding the use of professional and volunteer aids;

"(3) applying technology to the course of instruction; and

"(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

"SEC. 7118. CAPACITY BUILDING. 20 USC 7428.

"Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

"SEC. 7119. SUBGRANTS. 20 USC 7429.

"A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

"SEC. 7120. PRIORITY ON FUNDING. 20 USC 7430.

"The Secretary shall give priority to applications under this subpart that describe a program that—

"(1) enrolls a large percentage or large number of limited English proficient students;

"(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

"(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

20 USC 7431.

"SEC. 7121. COORDINATION WITH OTHER PROGRAMS.

"In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with section 14306.

20 USC 7432.

"SEC. 7122. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

"Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

20 USC 7433.

"SEC. 7123. EVALUATIONS.

"(a) EVALUATION.—Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

"(b) USE OF EVALUATION.—Such evaluation shall be used by a grant recipient—

"(1) for program improvement;

"(2) to further define the program's goals and objectives; and

"(3) to determine program effectiveness.

"(c) EVALUATION COMPONENTS.—Evaluations shall include—

"(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

"(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

"(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

"(4) such other information as the Secretary may require.

20 USC 7434.

"SEC. 7124. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"Subpart 2—Research, Evaluation, and Dissemination

"SEC. 7131. AUTHORITY. 20 USC 7451.

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

"(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

"(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

"SEC. 7132. RESEARCH. 20 USC 7452.

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

"(b) REQUIREMENTS.—Such research activities—

"(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

"(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited English proficient child or youth in their classrooms;

"(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of 'limited English proficient student' for purposes of national data collection; and

"(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

"(c) FIELD-INITIATED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipients of grants under subpart 1 or 2 who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

"(2) APPLICATIONS.—Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted

under subpart 1 or 2. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

"(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

"(e) DATA COLLECTION.—The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

20 USC 7453.

"SEC. 7133. ACADEMIC EXCELLENCE AWARDS.

"(a) AWARDS.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may reasonably require.

"(2) PEER REVIEW.—The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

"(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

"(1) completing the development of such programs;

"(2) professional development of staff participating in bilingual education programs;

"(3) sharing strategies and materials; and

"(4) supporting professional networks.

"(d) COORDINATION.—Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of title XIII.

20 USC 7454.

"SEC. 7134. STATE GRANT PROGRAM.

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use funds awarded under this section for programs authorized by this section to—

"(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

"(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

"(2) EXCEPTION.—States which do not, as of the date of enactment of the Improving America's Schools Act of 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

"(3) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

"(4) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

"(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this title and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this title.

"(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

"(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"(g) REPORT TO THE SECRETARY.—State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

"SEC. 7135. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION. 20 USC 7455.

"(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

"(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

"(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

"(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

"(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of title XIII if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

20 USC 7456.

"SEC. 7136. INSTRUCTIONAL MATERIALS DEVELOPMENT.

"The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under subparts 1 and 2 and which are consistent with voluntary national content standards and challenging State content standards.

"Subpart 3—Professional Development

20 USC 7471.

"SEC. 7141. PURPOSE.

"The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

20 USC 7472.

"SEC. 7142. TRAINING FOR ALL TEACHERS PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

"(b) AUTHORIZATION.—

"(1) AUTHORITY.—The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

"(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"(c) PERMISSIBLE ACTIVITIES.—Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under titles I and II of this Act, and under the Head Start Act.

"SEC. 7143. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS. 20 USC 7473.

"(a) PURPOSE.—The purpose of this section is to provide for—

"(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

"(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

"(b) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

"(c) AUTHORIZATION.—

"(1) The Secretary is authorized to award grants for not more than five years to institutions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

"(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for inservice professional development programs.

"SEC. 7144. BILINGUAL EDUCATION CAREER LADDER PROGRAM. 20 USC 7474.

"(a) PURPOSE.—The purpose of this section is—

"(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies; and

"(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

"(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"(c) PERMISSIVE ACTIVITIES.—Grants awarded under this section may be used—

"(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

"(2) to provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

"(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

"(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications under this section which provide for—

"(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

"(2) development of teacher proficiency in English a second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

"(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965, the National Mini Corps under subpart 1 of part F of title V of such Act, the Teacher Corps program under subpart 3 of part C of title V of such Act, and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

"(4) the applicant's contribution of additional student financial aid to participating students.

20 USC 7475.

"SEC. 7145. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

"(2) NUMBER.—For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

"(3) INFORMATION.—The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7149.

"(b) FELLOWSHIP REQUIREMENTS.—

"(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

"(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

"(B) repay such assistance.

"(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the

Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

"(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

"SEC. 7146. APPLICATION. 20 USC 7476.

"(a) IN GENERAL.—

"(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

"(3) SPECIAL RULE.—(A) An application for a grant under subsection (a) from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

"(B) A recipient of a grant under subsection (a) may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

"(4) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.

"(b) STATE REVIEW AND COMMENTS.—

"(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

"(2) COMMENTS.—(A) Regarding any application submitted under this subpart, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) For purposes of this subpart, comments shall address how the eligible entity—

"(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

"(ii) how the grant application is consistent with the State plan submitted under section 1111.

"(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agen-

cy's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

"(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) COMMENT CONSIDERATION.—In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

"(e) SPECIAL RULE.—

"(1) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

"(2) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

20 USC 7477. **"SEC. 7147. PROGRAM REQUIREMENTS.**

"Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

20 USC 7478. **"SEC. 7148. STIPENDS.**

"The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

20 USC 7479. **"SEC. 7149. PROGRAM EVALUATIONS.**

"Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

"(1) post-program placement of persons trained in a program assisted under this subpart;

"(2) how the training relates to the employment of persons served by the program;

"(3) program completion; and

"(4) such other information as the Secretary may require.

20 USC 7480. **"SEC. 7150. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.**

"Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

"Subpart 4—Transition

20 USC 7491. **"SEC. 7161. SPECIAL RULE.**

"Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding the date of enactment of the Improving Ameri-

ca's Schools Act of 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding the date of enactment of such Act).

"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

Foreign Language Assistance Act of 1994.

"SEC. 7201. SHORT TITLE. 20 USC 7511.

"This part may be cited as the 'Foreign Language Assistance Act of 1994'.

"SEC. 7202. FINDINGS. 20 USC 7512.

"The Congress finds as follows:

"(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

"(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

"(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

"(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

"(5) Four out of five new jobs in the United States are created from foreign trade.

"(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

"(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

"(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

"SEC. 7203. PROGRAM AUTHORIZED. 20 USC 7513.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

"(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of three years.

"(b) REQUIREMENTS.—

"(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

"(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

"(A) show the promise of being continued beyond the grant period;

"(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

"(3) SPECIAL RULE.—Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

"(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

20 USC 7514.

"SEC. 7204. APPLICATIONS.

"(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

"(1) include intensive summer foreign language programs for professional development;

"(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

"(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

20 USC 7515.

"SEC. 7205. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

"(a) INCENTIVE PAYMENTS.—From amounts appropriated under section 7206 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

"(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of

such students at all such schools in the United States for such year.

"(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

"SEC. 7206. AUTHORIZATION OF APPROPRIATIONS. 20 USC 7516.

"There are authorized to be appropriated $35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 7205.

"PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

"SEC. 7301. FINDINGS AND PURPOSE. 20 USC 7541.

"(a) FINDINGS.—The Congress finds that—

"(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

"(2) local educational agencies have struggled to fund adequately education services;

"(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

"(4) immigration policy is solely a responsibility of the Federal Government.

"(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

"(1) provide high-quality instruction to immigrant children and youth; and

"(2) help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State performance standards expected of all children and youth.

"SEC. 7302. STATE ADMINISTRATIVE COSTS. 20 USC 7542.

"For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7304 to pay the costs of performing such agency's administrative functions under this part.

"SEC. 7303. WITHHOLDING. 20 USC 7543.

"Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further

payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

20 USC 7544.

"SEC. 7304. STATE ALLOCATIONS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7301(b).

"(b) ALLOCATIONS.—

"(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

"(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall

make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

"(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7307.

"(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

"SEC. 7305. STATE APPLICATIONS. 20 USC 7545.

"(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in sections 7301 and 7307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts as appropriate;

"(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

"(4) provide assurances that such payments, with the exception of payments reserved under section 7304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth

counted with respect to each such local educational agency under section 7304(b)(1);

"(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

"(7) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

"(8) provide that funds reserved under subsection (e) of section 7304 be awarded on a competitive basis based on merit and need in accordance with such subsection; and

"(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

"(b) APPLICATION REVIEW.—

"(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

"SEC. 7306. ADMINISTRATIVE PROVISIONS. 20 USC 7546.

"(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7305 of the amount of such agency's allocation under section 7304 for the succeeding year.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 7307. USES OF FUNDS. 20 USC 7547.

"(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

"(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

"(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

"(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

"(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant chil-

dren simultaneously with students with similar educational needs, in the same educational settings where appropriate.

20 USC 7548. **"SEC. 7308. REPORTS.**

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 14701.

20 USC 7549. **"SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART D—ADMINISTRATION

20 USC 7571. **"SEC. 7401. RELEASE TIME.**

"The Secretary shall allow professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

20 USC 7572. **"SEC. 7402. EDUCATION TECHNOLOGY.**

"Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

20 USC 7573. **"SEC. 7403. NOTIFICATION.**

"The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A is made to an eligible entity within the State.

20 USC 7574. **"SEC. 7404. CONTINUED ELIGIBILITY.**

"Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

20 USC 7575. **"SEC. 7405. COORDINATIONS AND REPORTING REQUIREMENTS.**

"(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs

serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under title I and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

"(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

"(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

"(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

"(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

"(2) a critical synthesis of data reported by the States pursuant to section 7134;

"(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

"(4) the major findings of research carried out under this title; and

"(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

"PART E—GENERAL PROVISIONS

"SEC. 7501. DEFINITIONS; REGULATIONS. 20 USC 7601.

"Except as otherwise provided, for purposes of this title—

"(1) BILINGUAL EDUCATION PROGRAM.—The term 'bilingual education program' means an educational program for limited English proficient students that—

"(A) makes instructional use of both English and a student's native language;

"(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

"(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

"(D) may include the participation of English-proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

"(2) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"(4) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 which provides not less than a two-year program which is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978.

"(5) DIRECTOR.—The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 210 of the Department of Education Organization Act.

"(6) FAMILY EDUCATION PROGRAM.—(A) The term 'family education program' means a bilingual education or special alternative instructional program that—

"(i) is designed—

"(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

"(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

"(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

"(iii) gives preference to participation by parents and immediate family members of children attending school.

"(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

"(7) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not been attending one or more schools in any one or more States for more than three full academic years.

"(8) LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.—The terms 'limited English proficiency' and 'limited English proficient', when used with reference to an individual, mean an individual—

"(A) who—

"(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

"(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

"(iii) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

"(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(9) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

"(10) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than five years successful experience in providing educational services in traditional Native American languages.

"(11) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

"(12) OFFICE.—The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(13) OTHER PROGRAMS FOR PERSONS OF LIMITED-ENGLISH PROFICIENCY.—The term 'other programs for persons of limited-English proficiency' means any programs administered by the Secretary that serve persons of limited-English proficiency.

"(14) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

"(15) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—The term 'special alternative instructional program' means an educational program for limited English proficient students that—

"(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

"(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

"(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

20 USC 7602.

"SEC. 7502. REGULATIONS AND NOTIFICATION.

"(a) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

"(b) PARENTAL NOTIFICATION.—

"(1) IN GENERAL.—Parents of children and youth participating in programs assisted under part A shall be informed of—

"(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

"(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

"(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

"(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

"(ii) the reasons for the selection of their child as being in need of bilingual education.

"(2) OPTION TO DECLINE.—(A) Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

"(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

"(3) RECEIPT OF INFORMATION.—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

"(A) timely information about projects funded under part A; and

"(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

"(4) SPECIAL RULE.—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.

"TITLE VIII—IMPACT AID

"SEC. 8001. PURPOSE. 20 USC 7701.

"In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children, because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

"(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

"(2) educate children who reside on Federal property and whose parents are employed on Federal property;

"(3) educate children of parents who are in the military services and children who live in low-rent housing;

"(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property;

"(5) experience sudden and substantial increases or decreases in enrollments because of military realignments; or

"(6) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands.

"SEC. 8002. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY. 20 USC 7702.

"(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

"(1) that the United States owns Federal property in the local educational agency, and that such property—

"(A) has been acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

"(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

"(ii) all real property in the local educational agency as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

"(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

"(II) State law requires an assessment be made of property so acquired; and

"(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property, then such agency shall be eligible to receive the amount described in subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—(A)(i) The amount that a local educational agency shall be paid under subsection (a) for a fiscal year shall be calculated in accordance with paragraph (2), except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property.

"(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

"(I) the operation of a domestic dependent elementary or secondary school; or

"(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

"(B) If funds appropriated under section 8014(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 8003(b), exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 8003(b)(1)(C).

"(2) APPLICATION OF CURRENT LEVIED REAL PROPERTY TAX RATE.—In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

"(3) DETERMINATION OF AGGREGATE ASSESSED VALUE.—Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

"(c) APPLICABILITY TO TENNESSEE VALLEY AUTHORITY ACT.—For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 shall not be regarded as Federal property.

"(d) OWNERSHIP BY UNITED STATES.—The United States shall be deemed to own Federal property for the purposes of this Act, where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

"(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

"(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

"(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

"(e) LOCAL EDUCATIONAL AGENCY CONTAINING FOREST SERVICE LAND AND SERVING CERTAIN COUNTIES.—Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) if such local educational agency meets the following requirements:

"(1) ACREAGE AND ACQUISITION BY THE FOREST SERVICE.—The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

"(2) COUNTY CHARTER.—The local educational agency serves a county chartered under State law in 1875 or 1890.

"(f) SPECIAL RULE.—Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary shall treat the local educational agency serving the Wheatland R–II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950

(Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) (20 U.S.C. 237(a)(1)(C)) or subsection (a)(1)(C).

20 USC 7703.

"SEC. 8003. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

"(a) COMPUTATION OF PAYMENT.—

"(1) IN GENERAL.—For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b), (d), or (f) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

"(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

"(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

"(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) resided on Indian lands;

"(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37, United States Code) but did not reside on Federal property; or

"(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

"(E) resided in low-rent housing;

"(F) resided on Federal property and is not described in subparagraph (A) or (B); or

"(G) resided with a parent employed on Federal property situated—

"(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

"(ii) if not in such county, in whole or in part in the same State as such agency.

"(2) DETERMINATION OF WEIGHTED STUDENT UNITS.—For the purpose of computing the basic support payment under subsection (b), the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

"(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

"(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

"(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

"(i) a number of such children described in such subparagraphs which exceeds 6,500; and

"(ii) an average daily attendance for all children which exceeds 100,000.

"(D) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .10.

"(E) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

"(3) SPECIAL RULE.—The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 2,000 and such number equals or exceeds 15 percent of the total number of students in average daily attendance in the schools of such agency.

"(b) BASIC SUPPORT PAYMENTS AND PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(1) BASIC SUPPORT PAYMENTS.—

"(A) IN GENERAL.—From the amount appropriated under section 8014(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a).

"(B) ELIGIBILITY.—A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) only if the number of children so determined with respect to such agency amounts to the lesser of—

"(i) at least 400 such children; or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

"(C) MAXIMUM AMOUNT.—The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by the greater of—

"(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

"(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

"(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

"(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

"(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 8014(b) are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments in accordance with this paragraph.

"(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this title referred to as the 'threshold payment') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

"(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

"(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this paragraph (not including amounts received under subsection (f)), and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

"(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

"(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

"(C) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

"(c) PRIOR YEAR DATA.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

"(2) EXCEPTION.—Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from

the fiscal year for which the agency is making application for payment.

"(d) CHILDREN WITH DISABILITIES.—

"(1) IN GENERAL.—From the amount appropriated under section 8014(c) for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

"(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

"(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) who are eligible to receive services under such Act by a factor of 0.5.

"(2) USE OF FUNDS.—A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(e) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (4)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b) shall not be less than 85 percent of the amount such agency received for the preceding fiscal year—

"(i) in the case of fiscal year 1995 only, under subsections (a) and (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); or

"(ii) in the case of fiscal years 1996, 1997, 1998, or 1999, under such subsection (b).

"(B) For fiscal year 1995 only, the Secretary shall pay, to each local educational agency that is not eligible for a payment under subsection (b) but that received a payment under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994, an amount which is not less than 85 percent of the payment such agency received under such section 3 for fiscal year 1994.

"(2) TWO-YEAR APPLICABILITY.—Paragraph (1)(A) shall apply to any one local educational agency for a maximum of two consecutive fiscal years.

"(3) PHASE-OUT PAYMENT.—A local educational agency which received a payment under section 3(e) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994 is eligible to receive a payment, under subsection (b) for fiscal year 1995, in an amount which is not less than 85 percent of the amount received by such agency in fiscal year 1994 under such section 3(e).

"(4) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraphs (1) and (2), the Secretary first shall ratably

reduce payments under subsection (b) to local educational agencies that do not receive a payment under this subsection.

"(ii) If additional funds become available for making payments under subsection (b) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraphs (1) and (2) after the application of subparagraph (A) for such year, the Secretary shall ratably reduce payments to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(f) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) RESERVATION.—From amounts appropriated under section 8014(b) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

"(2) ELIGIBILITY.—(A) A local educational agency is eligible to receive additional assistance under this subsection only if such agency—

"(i)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection, or not less than 40 percent if such agency does not receive a payment on behalf of such children; and

"(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

"(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

"(iii) is a local educational agency whose boundaries are the same as a Federal military installation.

"(B) If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subsection (b)(1)(C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency by such an amount

which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

"(C) Any local educational agency determined eligible under clause (iii) of subparagraph (A) shall be deemed to have met the tax effort requirements for eligibility under clause (i)(II) or (ii)(II) of such subparagraph.

"(3) MAXIMUM PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection in accordance with the following computations:

"(i) The Secretary shall first determine the greater of—

"(I) the average per-pupil expenditure of the State in which the local educational agency is located or the average per-pupil expenditure of all the States;

"(II) the average per-pupil expenditure of generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary; or

"(III) the average per-pupil expenditure of three generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary.

"(ii) The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.

"(iii) The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1).

"(iv) If the tax rate used by the local educational agency is greater than 95 percent, but less than 100 percent, of the tax rate of comparable local educational agencies, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

"(I) the average tax rate of its generally comparable local educational agencies; or

"(II) the average tax rate of all the local educational agencies in the State in which the local educational agency is located.

"(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

"(B) SPECIAL RULE.—With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State.

"(4) CURRENT YEAR DATA.—The Secretary shall, for purposes of providing assistance under this subsection, use—

"(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

"(B) the most recent data available which is adjusted to such fiscal year.

"(5) REDUCTION IN PAYMENTS.—If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(g) ADDITIONAL PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES WITH HIGH CONCENTRATIONS OF CHILDREN WITH SEVERE DISABILITIES.—

"(1) IN GENERAL.—If any local educational agency receives Federal funds from sources other than this title to carry out the purposes of this title for any fiscal year due to the enrollment of children described under subsection (a), then the Secretary shall consider such funds as a payment to such agency under this part for such fiscal year.

"(2) SPECIAL RULE.—Notwithstanding any other provision of law, if funds appropriated pursuant to section 8014(b) for payments under subsection (b) to such agency for a fiscal year which, when added to the funds described in paragraph (1) received by such agency for such fiscal year, exceed the maximum amount described under subsection (b)(1)(C), then the Secretary shall make available from the funds appropriated under section 8014(b) for such fiscal year such excess amounts to any local educational agency serving two or more children described under subparagraph (B) or (D) of subsection (a)(1) who have a severe disability and a parent serving in the uniformed services (as defined by section 101 of title 37, United States Code) who is assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are provided an educational program provided outside the schools of such agency.

"(3) REMAINING FUNDS.—If funds remain after payments are made under paragraph (2) for any fiscal year, then such remaining funds shall be made available for expenditures under subsection (d) in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

"(4) RATABLE REDUCTIONS.—If amounts available to carry out paragraph (2) for any fiscal year are insufficient to pay in full the total payment that all eligible local educational agencies are eligible to receive under such paragraph for such year, then the Secretary shall ratably reduce such payments to such agencies for such year.

"(h) OTHER FUNDS.—Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or such section's successor authority.

"(i) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under sections 8002 and 8003(b) for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"SEC. 8004. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS. 20 USC 7704.

"(a) IN GENERAL.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall establish policies and procedures to ensure that—

"(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

"(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

"(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

"(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

"(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

"(b) RECORDS.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a).

"(c) WAIVER.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

"(d) TECHNICAL ASSISTANCE AND ENFORCEMENT.—The Secretary shall—

"(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

"(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines

to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

"(e) COMPLAINTS.—

"(1) IN GENERAL.—(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

"(B) Within ten working days from receipt of a complaint, the Secretary shall—

"(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

"(ii) designate a hearing examiner to conduct the hearing; and

"(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

"(2) HEARING.—The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

"(3) EVIDENCE; RECOMMENDATIONS; COST.—The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

"(4) FINDINGS AND RECOMMENDATIONS.—Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

"(5) WRITTEN DETERMINATION.—Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

"(6) COPIES PROVIDED.—Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

"(7) CONSOLIDATION.—In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(8) WITHHOLDING.—If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 8003 until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

"(9) REJECTION OF DETERMINATION.—If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 8003. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

"(f) CONSTRUCTION.—This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

"SEC. 8005. APPLICATION FOR PAYMENTS UNDER SECTIONS 8002 AND 8003. 20 USC 7705.

"(a) IN GENERAL.—A local educational agency desiring to receive a payment under section 8002 or 8003 shall—

"(1) submit an application for such payment to the Secretary; and

"(2) provide a copy of such application to the State educational agency.

"(b) CONTENTS.—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

"(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

"(2) where applicable, an assurance that such agency is in compliance with section 8004 (relating to children residing on Indian lands).

"(c) DEADLINE FOR SUBMISSION.—The Secretary shall establish deadlines for the submission of applications under this section.

"(d) APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve an application submitted under this section that—

"(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c); and

"(B) otherwise meets the requirements of this title.

"(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) that otherwise meets the requirements of this title, except that, notwithstanding section 8003(e), the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

"(3) LATE APPLICATIONS.—The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c).

"(4) STATE APPLICATION AUTHORITY.—Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

20 USC 7706.

"SEC. 8006. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

"(a) ELIGIBILITY.—A local educational agency is eligible for a payment under this section if—

"(1) the number of children in average daily attendance during the school year for which the determination is made is at least 10 percent or 100 more than the number of children in average daily attendance in the school year preceding the school year for which the determination is made; and

"(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between May 15 and September 30, inclusive, of the fiscal year for which the determination is made, as certified by an appropriate local official of the Department of Defense, is at least 10 percent or 100 more than the number of children in average daily attendance in the preceding school year.

"(b) APPLICATION.—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the school year for which payment is requested, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that such agency is eligible for such a payment.

"(c) CHILDREN TO BE COUNTED.—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

"(1) the increase in the number of children in average daily attendance from the school year preceding the fiscal year for which the determination is made; and

"(2) the number of children described in subsection (a)(2).

"(d) PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), from the amount appropriated for a fiscal year under section 8014(d), the Secretary shall pay each local educational agency with an approved application an amount equal to one-half of the national average per-pupil expenditure multiplied by the number of such children determined under subsection (c) for that local educational agency.

"(2) RATABLE REDUCTION.—(A) If the amount appropriated to carry out this section for any fiscal year is insufficient to pay the full payment that all eligible local educational agencies are eligible to receive under this section for such year, then the Secretary shall ratably reduce the payments to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

"(e) NOTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Secretary shall establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

"(2) INFORMATION.—Such process shall provide timely information regarding such closures and such adjustments—

"(A) by the Secretary of Defense to the Secretary; and

"(B) by the Secretary to the affected local educational agencies.

"SEC. 8007. CONSTRUCTION. 20 USC 7707.

"(a) PAYMENTS AUTHORIZED.—From the amount appropriated for each fiscal year under section 8014(e), the Secretary shall make payments to each local educational agency—

"(1) that receives a basic payment under section 8003(b); and

"(2)(A) in which the number of children determined under section 8003(a)(1)(C) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the preceding school year;

"(B) in which the number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made and in which the agency at any 2 times during the four fiscal years preceding the date of enactment of the Improving America's Schools Act of 1994 was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation;

"(C) that receives assistance under section 8003(f); or

"(D) that receives assistance under section 8006.

"(b) AMOUNT OF PAYMENTS.—The amount of a payment to each such agency for a fiscal year shall be equal to—

"(1) the amount appropriated under section 8014(e) for such year; divided by

"(2) the number of children determined under section 8003(a)(2) for all local educational agencies described in subsection (a), but not including any children attending a school assisted or provided by the Secretary under section 8008 or section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); multiplied by

"(3) the number of such children determined for such agency.

"(c) USE OF FUNDS.—Any local educational agency that receives funds under this section shall use such funds for construction, as defined in section 8013(3).

20 USC 7708.

"SEC. 8008. FACILITIES.

"(a) CURRENT FACILITIES.—From the amount appropriated for any fiscal year under section 8014(f), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(b) TRANSFER OF FACILITIES.—

"(1) IN GENERAL.—The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

"(2) OTHER REQUIREMENTS.—Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this title.

20 USC 7709.

"SEC. 8009. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

"(a) GENERAL PROHIBITION.—Except as provided in subsection (b), a State may not—

"(1) consider payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in determining for any fiscal year—

"(A) the eligibility of a local educational agency for State aid for free public education; or

"(B) the amount of such aid; or

"(2) make such aid available to local educational agencies in a manner that results in less State aid to any local edu-

cational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

"(b) STATE EQUALIZATION PLANS.—

"(1) IN GENERAL.—A State may reduce State aid to a local educational agency that receives a payment under section 8002 or 8003(b) (except the amount calculated in excess of 1.0 under subparagraph (B) of section 8003(a)(2)) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.

"(2) COMPUTATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than—

"(i) 25 percent for fiscal year 1995, 1996, or 1997; and

"(ii) 20 percent for fiscal year 1998 or 1999.

"(B) OTHER FACTORS.—In making a determination under this subsection, the Secretary shall—

"(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

"(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

"(3) EXCEPTION.—Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

"(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

"(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each

affected local educational agency the amount by which the State reduced State aid to the local educational agency.

"(c) PROCEDURES FOR REVIEW OF STATE EQUALIZATION PLANS.—

"(1) WRITTEN NOTICE.—

"(A) IN GENERAL.—Any State that wishes to consider payments described in subsection (b)(1) in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

"(B) CONTENTS.—Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

"(2) OPPORTUNITY TO PRESENT VIEWS.—Before making a determination under subsection (b), the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

"(3) QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—

"(A) certify the program and so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to any local educational agency adversely affected by such certification.

"(4) NON-QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid does not qualify under subsection (b), the Secretary shall—

"(A) so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to the State, and to any local educational agency adversely affected by such determination.

"(d) TREATMENT OF STATE AID.—

"(1) IN GENERAL.—If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for any fiscal year may be taken into consideration by such State in determining the relative—

"(A) financial resources available to local educational agencies in that State; and

"(B) financial need of such agencies for the provision of free public education for children served by such agency, except that a State may consider as local resources funds received under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

"(2) PROHIBITION.—A State may not take into consideration payments under this title or under the Act of September 30,

1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) before such State's program of State aid has been certified by the Secretary under subsection (c)(3).

"(e) REMEDIES FOR STATE VIOLATIONS.—

"(1) IN GENERAL.—The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) or for failure to carry out an assurance under subsection (b)(3)(B), and if an administrative proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

"(2) IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

"(3) RELIEF.—The court shall grant such relief as the court determines is appropriate.

"SEC. 8010. FEDERAL ADMINISTRATION. 20 USC 7710.

"(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS.—The Secretary shall round any payments under this title to the nearest whole dollar amount.

"(b) OTHER AGENCIES.—Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this title, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this title.

"(c) SPECIAL RULES.—

"(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81–874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

"(2) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 8003(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section 8003(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

"(B) The Secretary shall treat as eligible under subparagraph (G) of section 8003(a)(1) any child who would be eligible under such subparagraph except that such child does not meet

the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—A child meets the requirements of this paragraph if—

"(A) such child resides—

"(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

"(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

"(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

"(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

"(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or section 8009(b) of this title; and

"(E) such agency received a payment for fiscal year 1994 under section 8003(b) (or such section's predecessor authority) on behalf of children described in paragraph (2).

20 USC 7711.

"SEC. 8011. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

"(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code.

"(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—

"(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(2) FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case

to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) REVIEW.—The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 8012. FORGIVENESS OF OVERPAYMENTS. 20 USC 7712.

"Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this title, or under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), if the Secretary determines that the overpayment was made as a result of an error made by—

"(1) the Secretary; or

"(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

"SEC. 8013. DEFINITIONS. 20 USC 7713.

"For purposes of this title:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means—

"(A) the aggregate current expenditures of all local educational agencies in the State; divided by

"(B) the total number of children in average daily attendance for whom such agencies provided free public education.

"(3) CONSTRUCTION.—The term 'construction' means—

"(A) the preparation of drawings and specifications for school facilities;

"(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

"(C) inspecting and supervising the construction of school facilities; and

"(D) debt service for such activities.

"(4) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of title I and title VI. The determination of whether an expenditure for the replacement of

equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

"(5) FEDERAL PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (F), the term 'Federal property' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

"(i) owned by the United States or leased by the United States from another entity;

"(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

"(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

"(III) conveyed at any time under the Alaska Native Claims Settlement Act to a Native individual, Native group, or village or regional corporation;

"(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

"(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

"(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937; or

"(II) used to provide housing for homeless children at closed military installations pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act; or

"(iv) owned by a foreign government or by an international organization.

"(B) SCHOOLS PROVIDING FLIGHT TRAINING TO MEMBERS OF AIR FORCE.—The term 'Federal property' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

"(C) NON-FEDERAL EASEMENTS, LEASES, LICENSES, PERMITS, IMPROVEMENTS, AND CERTAIN OTHER REAL PROPERTY.—The term 'Federal property' includes, whether or not subject to taxation by a State or a political subdivision of a State—

"(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

"(ii) any improvement on Federal property as otherwise described in this paragraph; and

"(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal prop-

erty described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

"(D) CERTAIN POSTAL SERVICE PROPERTY AND PIPELINES AND UTILITY LINES.—Notwithstanding any other provision of this paragraph, the term 'Federal property' does not include—

"(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

"(ii) pipelines and utility lines.

"(E) PROPERTY WITH RESPECT TO WHICH STATE OR LOCAL TAX REVENUES MAY NOT BE EXPENDED, ALLOCATED, OR AVAILABLE FOR FREE PUBLIC EDUCATION.—Notwithstanding any other provision of this paragraph, 'Federal property' does not include any property on which children reside that is otherwise described in this paragraph if—

"(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

"(ii) no tax revenues of the State are allocated or available for the free public education of such children.

"(F) PROPERTY LOCATED IN THE STATE OF OKLAHOMA OWNED BY INDIAN HOUSING AUTHORITY FOR LOW-INCOME HOUSING.—The term 'Federal property' includes any real property located in the State of Oklahoma that—

"(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937); and

"(ii) at any time—

"(I) was designated by treaty as tribal land; or

"(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"(6) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

"(i) includes preschool education; and

"(ii) does not include any education provided beyond grade 12.

"(7) INDIAN LANDS.—The term 'Indian lands' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

"(8) LOCAL CONTRIBUTION PERCENTAGE.—

"(A) IN GENERAL.—The term 'local contribution percentage' means the percentage of current expenditures in the

State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

"(B) HAWAII AND DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for all States.

"(9) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.— Except as provided in subparagraph (B), the term 'local educational agency'—

"(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

"(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

"(B) EXCEPTION.—The term 'local educational agency' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this title or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or increasing the amount of such assistance; or

"(ii) is not constituted or reconstituted for legitimate educational purposes.

"(10) LOW-RENT HOUSING.—The term 'low-rent housing' means housing located on property that is described in paragraph (5)(A)(iii).

"(11) REVENUE DERIVED FROM LOCAL SOURCES.—The term 'revenue derived from local sources' means—

"(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

"(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

"(12) SCHOOL FACILITIES.—The term 'school facilities' includes—

"(A) classrooms and related facilities; and

"(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

20 USC 7714.

"SEC. 8014. AUTHORIZATION OF APPROPRIATIONS.

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 8002, there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under subsections (b) and (f) of section 8003, there are authorized

to be appropriated $775,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 8003(f).

"(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section 8003(d), there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) PAYMENTS FOR INCREASES IN MILITARY CHILDREN.—For the purpose of making payments under section 8006, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) CONSTRUCTION.—For the purpose of carrying out section 8007, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) FACILITIES MAINTENANCE.—For the purpose of carrying out section 8008, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"TITLE IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

"PART A—INDIAN EDUCATION

"SEC. 9101. FINDINGS. 20 USC 7801.

"The Congress finds that—

"(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

"(A) are based on high-quality, internationally competitive content standards and student performance standards and build on Indian culture and the Indian community;

"(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

"(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

"(2) since the date of enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

"(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

"(4) the dropout rate for Indian students is unacceptably high, for example, 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

"(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

"(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

20 USC 7802.

"SEC. 9102. PURPOSE.

"(a) PURPOSE.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

"(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

"(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

"(2) the education of Indian children and adults;

"(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

"(4) research, evaluation, data collection, and technical assistance.

"Subpart 1—Formula Grants to Local Educational Agencies

20 USC 7811.

"SEC. 9111. PURPOSE.

"It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State content standards and State student performance standards that are used for all students; and

"(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

20 USC 7812.

"SEC. 9112. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) IN GENERAL.—

"(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 9116 and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

"(A) was at least 10; and

"(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

"(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

"(b) INDIAN TRIBES.—

"(1) IN GENERAL.—If a local educational agency that is eligible for a grant under this subpart does not establish a parent committee under section 9114(c)(4) for such grant, an Indian tribe that represents no less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

"(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart.

"SEC. 9113. AMOUNT OF GRANTS. 20 USC 7813.

"(a) AMOUNT OF GRANT AWARDS.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this subpart an amount equal to the product of—

"(A) the number of Indian children who are eligible under section 9116 and served by such agency; and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which such agency is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

"(b) MINIMUM GRANT.—

"(1) IN GENERAL.—Notwithstanding subsection (e) of this section, a local educational agency or an Indian tribe (as authorized under section 9112(b)) that is eligible for a grant under section 9112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

"(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this Act.

"(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure quality programs.

"(c) DEFINITION.—For the purpose of this section, the term 'average per-pupil expenditure of a State' means an amount equal to—

"(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such

agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

"(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(1) the total number of Indian children enrolled in schools that are operated by—

"(A) the Bureau of Indian Affairs; or

"(B) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988); and

"(2) the greater of—

"(A) the average per-pupil expenditure of the State in which the school is located; or

"(B) 80 percent of the average per-pupil expenditure in the United States.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 9162(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

20 USC 7814.

"SEC. 9114. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

"(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

"(2)(A) is consistent with, and promotes the goals in, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if such plans are not approved or being developed, with the State and local plans under sections 1111 and 1112 of this Act; and

"(B) includes academic content and student performance goals for such children, and benchmarks for attaining such

goals, that are based on the challenging State standards adopted under title I for all children;

"(3) explains how Federal, State, and local programs, especially under title I, will meet the needs of such students;

"(4) demonstrates how funds made available under this subpart will be used for activities described in section 9115;

"(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

"(6) describes how the local educational agency—

"(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

"(B) will provide the results of each assessment referred to in subparagraph (A) to—

"(i) the committee of parents described in subsection (c)(4); and

"(ii) the community served by the local educational agency; and

"(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

"(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

"(1) the local educational agency will use funds received under this subpart only to supplement the level of funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

"(A) carry out the functions of the Secretary under this subpart; and

"(B) determine the extent to which funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

"(3) the program for which assistance is sought—

"(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

"(B) will use the best available talents and resources, including individuals from the Indian community; and

"(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individ-

uals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

"(4) the local educational agency developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by—

"(i) parents of Indian children in the local educational agency's schools and teachers; and

"(ii) if appropriate, Indian students attending secondary schools;

"(B) the membership of which is at least more than one-half parents of Indian children;

"(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

"(D) with respect to an application describing a schoolwide program in accordance with section 9115(c), has—

"(i) reviewed in a timely fashion the program; and

"(ii) determined that the program will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

"(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

20 USC 7815.

"SEC. 9115. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 9111, for services and activities that—

"(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 9114(b);

"(2) are designed with special regard for the language and cultural needs of the Indian students; and

"(3) supplement and enrich the regular school program of such agency.

"(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

"(1) culturally related activities that support the program described in the application submitted by the local educational agency;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

"(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

"(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 and the Carl D. Perkins Vocational and Applied Technology Education Act, including programs for tech-prep, mentoring, and apprenticeship;

"(6) activities to educate individuals concerning substance abuse and to prevent substance abuse; and

"(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 9111.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

"(1) the committee composed of parents established pursuant to section 9114(c)(4) approves the use of the funds for the schoolwide program; and

"(2) the schoolwide program is consistent with the purpose described in section 9111.

"SEC. 9116. STUDENT ELIGIBILITY FORMS.

20 USC 7816.

Records.

"(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart and that otherwise meets the requirements of subsection (b).

"(b) FORMS.—

"(1) IN GENERAL.—The form described in subsection (a) shall include—

"(A) either—

"(i)(I) the name of the tribe or band of Indians (as defined in section 9161(4)) with respect to which the child claims membership;

"(II) the enrollment number establishing the membership of the child (if readily available); and

"(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

"(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any parent or grandparent of the child from whom the child claims eligibility;

"(B) a statement of whether the tribe or band of Indians with respect to which the child, parent or grandparent of the child claims membership is federally recognized;

"(C) the name and address of the parent or legal guardian of the child;

"(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

"(E) any other information that the Secretary considers necessary to provide an accurate program profile.

"(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 9113, an eligibility form prepared pursuant to this section for a child shall include—

"(A) the name of the child;

"(B) the name of the tribe or band of Indians (as defined in section 9161(4)) with respect to which the child claims eligibility; and

"(C) the dated signature of the parent or guardian of the child.

"(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 9113.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 9161.

"(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

"(1) to establish such eligibility; and

"(2) to meet the requirements of subsection (a).

"(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 9113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

"(f) MONITORING AND EVALUATION REVIEW.—

"(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account size of the local educational agency and the geographic location of such agency.

"(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

"(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

"(A) be ineligible to apply for any other grant under this subpart; and

"(B) be liable to the United States for any funds that have not been expended.

"(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (d) shall not be counted for the purpose of computing the amount of a grant under section 9113.

"(g) DISTRIBUTION.—For the purposes of the distribution of funds under this subpart to schools that receive funding from the Bureau of Indian Affairs pursuant to—

"(1) section 1130 of the Education Amendments of 1978; and

"(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147), the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

"SEC. 9117. PAYMENTS. 20 USC 7817.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 9113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

"(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

"(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 9113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) FAILURE.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

"(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) WAIVER.—(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

"(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

"(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

"(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

"(2) otherwise become available for reallocation under this subpart.

20 USC 7818.

"SEC. 9118. STATE EDUCATIONAL AGENCY REVIEW.

"(a) APPLICATION.—Each entity desiring assistance under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require except that this subsection shall not apply to Bureau-funded schools.

"(b) SPECIAL RULE.—Before submitting an application under subsection (a) to the Secretary, the entity shall submit its application to the State educational agency. The State educational agency may comment on such application, however if such agency comments on such application such agency shall comment on all applications submitted by entities within the State and shall provide such comments to the appropriate local educational agency, which local educational agency shall be given an opportunity to respond to such comments.

"Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

20 USC 7831.

"SEC. 9121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) PURPOSE.—

"(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

"(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

"(A) other programs funded under this Act; and

"(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institution of higher education, or a consortium of such institutions.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose specified in subsection (a)(1), including—

"(A) innovative programs related to the educational needs of educationally deprived children;

"(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

"(C) bilingual and bicultural programs and projects;

"(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

"(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

"(F) comprehensive guidance, counseling, and testing services;

"(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

"(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

"(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

"(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; or

"(K) other services that meet the purpose described in subsection (a)(1).

"(2) PRESERVICE OR INSERVICE TRAINING.—Preservice or inservice training of professional and paraprofessional personnel may be a part of any program assisted under this section.

"(d) GRANT REQUIREMENTS AND APPLICATIONS.—

"(1) GRANT REQUIREMENTS.—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

"(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

"(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

"(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

"(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has a demonstrated—

"(I) educational merit; and

"(II) the ability to be replicated.

"(2) APPLICATION.—(A) Any eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(B) Each application submitted to the Secretary under subparagraph (A) shall contain—

"(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

"(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section; and

"(iii) such other assurances and information as the Secretary may reasonably require.

20 USC 7832.

"SEC. 9122. PROFESSIONAL DEVELOPMENT.

"(a) PURPOSES.—The purposes of this section are—

"(1) to increase the number of qualified Indian individuals in professions that serve Indian people;

"(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

"(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means—

"(1) an institution of higher education, including an Indian institution of higher education;

"(2) a State or local educational agency, in consortium with an institution of higher education; and

"(3) an Indian tribe or organization, in consortium with an institution of higher education.

"(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

"(2) SPECIAL RULES.—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

"(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

"(e) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

"(2) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applications describing programs that train Indian individuals.

"(f) SPECIAL RULE.—In making grants under this section, the Secretary—

"(1) shall consider the prior performance of the eligible entity; and

"(2) may not limit eligibility to receive a grant under this section on the basis of—

"(A) the number of previous grants the Secretary has awarded such entity; or

"(B) the length of any period during which such entity received such grants.

"(g) GRANT PERIOD.—Each grant under this section shall be awarded for a program of not more than 5 years.

"(h) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

"(A) perform work—

"(i) related to the training received under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated part of the assistance received.

"(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

20 USC 7833.

"SEC. 9123. FELLOWSHIPS FOR INDIAN STUDENTS.

"(a) FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

"(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

"(A) of not more than 4 academic years; and

"(B) that leads—

"(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

"(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

"(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

"(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which a fellowship recipient is pursuing a course of study, in lieu of tuition charged such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided such recipient.

"(d) SPECIAL RULES.—

"(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

"(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

"(A) the amount of the fellowship; and

"(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

"(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a speciality in the area of alcohol and substance abuse counseling and education.

"(e) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

"(A) perform work—

"(i) related to the training for which the individual receives assistance under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated portion of such assistance.

"(2) REPORTING PROCEDURE.—The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the compliance of such recipient with the work requirement under paragraph (1). Regulations.

"(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

"SEC. 9124. GIFTED AND TALENTED. 20 USC 7834.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

"(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

"(2) support demonstration projects described in subsection (c).

"(b) ELIGIBLE ENTITIES.—The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a), with—

"(1) two tribally controlled community colleges that—

"(A) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978; and

"(B) are fully accredited; or

"(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—The grants made, or contracts entered into, by the Secretary under subsection (a) shall be used for—

"(A) the establishment of centers described in subsection (a); and

"(B) carrying out demonstration projects designed to—

"(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

"(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

"(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

"(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (a) may include—

"(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

"(i) the emotional and psychosocial needs of such students; and

"(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

"(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including but not limited to—

"(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

"(ii) mentoring and apprenticeship programs;

"(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

"(D) the use of public television in meeting the special educational needs of such gifted and talented children;

"(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

"(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

"(4) APPLICATION.—Each entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(d) ADDITIONAL GRANTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as 'Bureau schools') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

"(A) gifted and talented students;

"(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

"(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

"(D) mathematics and science education.

"(2) APPLICATIONS.—Each Bureau school desiring a grant to conduct one or more of the activities described in paragraph (1) shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

"(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

"(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United

States are able to participate in a program assisted under this subsection.

"(5) GRANT PERIOD.—Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

"(6) DISSEMINATION.—(A) The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

"(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (3)(B).

"(7) EVALUATION COSTS.—(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under such subsection.

"(B) If no funds are provided under subsection (b) for—

"(i) the evaluation of activities assisted under paragraph (1);

"(ii) technical assistance and coordination with respect to such activities; or

"(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

"(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

"SEC. 9125. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT. 20 USC 7835.

"(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

"(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

"(2) develop education codes for schools within the territorial jurisdiction of the tribe;

"(3) provide support services and technical assistance to schools serving children of the tribe; and

"(4) perform child-find screening services for the preschool-aged children of the tribe to—

"(A) ensure placement in appropriate educational facilities; and

"(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

"(b) PERIOD OF GRANT.—Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial

period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

"(c) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

"(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

"(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

"(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

"(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

"(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Indian Education Amendments of 1978.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

"Subpart 3—Special Programs Relating to Adult Education for Indians

20 USC 7851.

"SEC. 9131. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

"(a) IN GENERAL.—The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

"(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs that are designed to stimulate—

"(A) basic literacy opportunities for all nonliterate Indian adults; and

"(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

"(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

"(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

"(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant are achieved.

"(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

"(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

"(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

"(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

"Subpart 4—National Research Activities

20 USC 7861.

"SEC. 9141. NATIONAL ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 9162(b) for each fiscal year to—

"(1) conduct research related to effective approaches for the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities that are consistent with the purpose of this part.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

"Subpart 5—Federal Administration

20 USC 7871.

"SEC. 9151. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

"(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the 'Council'), which shall—

President.

"(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

"(2) represent different geographic areas of the United States.

"(b) DUTIES.—The Council shall—

"(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

"(A) with respect to which the Secretary has jurisdiction; and

"(B)(i) that includes Indian children or adults as participants; or

"(ii) that may benefit Indian children or adults;

"(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

"(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including— Reports.

"(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

"(B) recommendations concerning the funding of any program described in subparagraph (A).

"SEC. 9152. PEER REVIEW. 20 USC 7872.

"The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4.

"SEC. 9153. PREFERENCE FOR INDIAN APPLICANTS. 20 USC 7873.

"In making grants under subpart 2, 3, or 4, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

"SEC. 9154. MINIMUM GRANT CRITERIA. 20 USC 7874.

"The Secretary may not approve an application for a grant under subpart 2 or 3 unless the application is for a grant that is—

"(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

"(2) based on relevant research findings.

"Subpart 6—Definitions; Authorizations of Appropriations

"SEC. 9161. DEFINITIONS. 20 USC 7881.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who—

"(A) has attained the age of 16 years; or

"(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

"(2) ADULT EDUCATION.—The term 'adult education' has the meaning given such term in section 312(2) of the Adult Education Act.

"(3) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(4) INDIAN.—The term 'Indian' means an individual who is—

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) any tribe or band terminated since 1940; and

"(ii) any tribe or band recognized by the State in which the tribe or band resides;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose;

"(D) an Eskimo, Aleut, or other Alaska Native; or

"(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding the date of enactment of the Act entitled the 'Improving America's Schools Act of 1994'.

20 USC 7882.

"SEC. 9162. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) SUBPART 1.—For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated to the Department of Education $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) SUBPARTS 2 THROUGH 4.—For the purpose of carrying out subparts 2, 3, and 4 of this part, there are authorized to be appropriated to the Department of Education $26,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(c) SUBPART 5.—For the purpose of carrying out subpart 5 of this part, there are authorized to be appropriated to the Department of Education $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

Native Hawaiian Education Act. 20 USC 7901.

"PART B—NATIVE HAWAIIANS

"SEC. 9201. SHORT TITLE.

"This part may be cited as the 'Native Hawaiian Education Act'.

20 USC 7902.

"SEC. 9202. FINDINGS.

"The Congress finds and declares as follows:

"(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

"(2) At the time of the arrival of the first non-indigenous people in Hawai'i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

"(3) A unified monarchial government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i.

"(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai'i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai'i, and entered into treaties and conventions with the Kingdom of Hawai'i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

"(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai'i, the Kingdom of Hawai'i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their

efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai'i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

"(6) In 1898, the joint resolution entitled 'A Joint Resolution to provide for annexing the Hawaiian Islands to the United States', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai'i, including the government and crown lands of the former Kingdom of Hawai'i, to the United States, but mandated that revenue generated from these lands be used 'solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes'.

"(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

"(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: 'One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.'.

"(9) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area 'only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.'.

"(10) Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union' approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

"(11) In 1959, under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai'i title to the public lands formerly held by the United States, but mandated that such lands be held by the State 'in public trust' and reaffirmed the special relationship which existed between the United States and the Hawaiian

people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai'i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

"(12) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai'i into the Union in 1959, and has retained certain of those responsibilities.

"(13) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

"(14) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

"(15) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the 'Native Hawaiian Educational Assessment Project', was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and had educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

"(16) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

"(17) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

"(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

"(i) late or no prenatal care;

"(ii) half of Native Hawaiian women who give birth are unmarried; and

"(iii) high rates of births to teenage parents;

"(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

"(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

"(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

"(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

"(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

"(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

"(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

"(ii) Native Hawaiian students are the highest users of drugs and alcohol in the State of Hawai'i; and

"(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

"(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai'i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

"(18) The findings described in paragraphs (1) through (17) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

"(19) After the overthrow of the Kingdom of Hawai'i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: 'I ka 'ōlelo no ke ola; I ka 'ōlelo no ka make. In the language rests life; In the language rests death.'.

"(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

"(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

"(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

20 USC 7903.

"SEC. 9203. PURPOSE.

"It is the purpose of this part to—

"(1) authorize and develop supplemental educational programs to assist Native Hawaiians in reaching the National Education Goals;

"(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils;

"(3) supplement and expand existing programs and authorities in the area of education to further the purposes of the title; and

"(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs.

20 USC 7904.

"SEC. 9204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

"(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the 'Education Council').

"(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 25 members, including a representative of—

"(1) each recipient of funds from the Secretary under this part;

"(2) the State of Hawai'i Department of Education;

"(3) the State of Hawai'i Office of Hawaiian Affairs;

"(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili'uokalani Trust and Children's Center; and

"(5) each Native Hawaiian education island council established under subsection (f).

"(c) CONDITIONS AND TERMS.—At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

"(d) ADMINISTRATIVE GRANT FOR THE EDUCATION COUNCIL.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

"(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

"(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

"(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

"(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any information that the Education Council provides to the Secretary pursuant to subsection (i). Reports.

"(2) ANNUAL REPORT.—The Education Council shall present to the Secretary an annual report on the Education Council's activities.

"(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary deems appropriate.

"(f) ESTABLISHMENT OF ISLAND COUNCILS.—

"(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as 'island councils') for the following islands:

"(A) Hawai'i.

"(B) Maui and Lana'i.

"(C) Moloka'i.

"(D) Kaua'i and Ni'ihau.

"(E) O'ahu.

"(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians

"(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

"(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for services on the Education Council and each island council, respectively.

"(i) REPORT.—Not later than four years after the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

20 USC 7905.

"SEC. 9205. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

"(1) parent-infant programs for prenatal through three-year-olds;

"(2) preschool programs for four- and five-year-olds;

"(3) continued research and development; and

"(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated $6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

20 USC 7906.

"SEC. 9206. NATIVE HAWAIIAN HIGHER EDUCATION PROGRAM.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

"(2) ACTIVITIES.—Such program may include—

"(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting

institutions of higher education with awards to be based on academic potential and financial need; and

"(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need;

"(C) counseling and support services for students receiving fellowship assistance under paragraph (1);

"(D) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A);

"(E) appropriate research and evaluation of the activities authorized by this section; and

"(F) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

"(b) SPECIAL CONDITIONS REQUIRED.—For the purpose of fellowships awarded under subsection (a), fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

"(c) SPECIAL RULE.—No policy shall be made in implementing this section to prevent a Native Hawaiian student enrolled at an accredited two- or four- year degree granting institution of higher education outside of the State of Hawai'i from receiving a fellowship pursuant to subsections (a) and (b) of this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9207. NATIVE HAWAIIAN GIFTED AND TALENTED PROGRAM. 20 USC 7907.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for a gifted and talented program designed to—

"(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

"(A) the emotional and psychosocial needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

"(3) leadership programs designed to—

"(A) replicate programs throughout the State of Hawai'i for gifted and talented students who are not served under this section; and

"(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

"(4) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

"(c) INFORMATION PROVISION.—The Secretary is authorized to facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

"(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

20 USC 7908.

"SEC. 9208. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

"(1) the identification of Native Hawaiian students with disabilities or who are otherwise in need of special educational services;

"(2) the identification of the special education needs of such students, particularly with respect to—

"(A) the emotional and psychosocial needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

"(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

"(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such students;

"(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

"(C) the outcomes and benefits of activities assisted under this section upon such students.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9209. NATIVE HAWAIIAN CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM. 20 USC 7909.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

"(1) CURRICULA.—The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian language, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

"(2) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai'i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(3) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in

schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(4) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) enhancing teacher recruitment within communities with a high concentrat.on of Native Hawaiian students; and

"(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

"(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) that—

"(1) focus on the needs of at-risk youth; or

"(2) employ a program of instruction conducted in the Native Hawaiian language, except that entities receiving grants awarded pursuant to subsection (a)(2) shall coordinate in the development of new curricula.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

20 USC 7910.

"SEC. 9210. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

"(b) PURPOSE.—The learning centers described in subsection (a) shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

"(1) preschool programs;

"(2) after-school programs; and

"(3) vocational and adult education programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

20 USC 7911.

"SEC. 9211. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

"(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

"SEC. 9212. DEFINITIONS. 20 USC 7912.

"For the purposes of this part—

"(1) The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

"(i) genealogical records;

"(ii) Kūpuna (elders) or Kama'āina (long-term community residents) verification; or

"(iii) certified birth records.

"(2) The term 'Native Hawaiian educational organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policy-making positions within the organization;

"(C) has a demonstrated expertise in the education of Native Hawaiian youth; and

"(D) has demonstrated expertise in research and program development.

"(3) The term 'Native Hawaiian Organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policy-making positions within the organizations; and

"(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

"(4) The term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

"(5) The term 'Office of Hawaiian Affairs' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

"(6) The term 'Native Hawaiian community-based organization' means any organization which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

"PART C—ALASKA NATIVE EDUCATION

Alaska Native Educational Equity, Support and Assistance Act. 20 USC 7931.

"SEC. 9301. SHORT TITLE.

"This part may be cited as the 'Alaska Native Educational Equity, Support and Assistance Act'.

"SEC. 9302. FINDINGS. 20 USC 7932.

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

20 USC 7933.

"SEC. 9303. PURPOSE.

"It is the purpose of this part to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

Grants.
20 USC 7934.

"SEC. 9304. ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

"(1) EDUCATIONAL PLANNING.—The consolidation of existing educational plans, recommendations and research into

implementation methods and strategies to improve schooling for Alaska Natives.

"(2) IMPLEMENTATION OF EDUCATIONAL PLANS.—The adoption and implementation of specific educational plans developed under subsection (1) above.

"(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

"(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

"(B) curricula and teaching materials for instructions in Native languages.

"(4) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

"(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) increasing the numbers of teachers who are Alaska Natives;

"(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

"(C) improving the teacher selection processes in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

"(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9305. ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.

Grants.
20 USC 7935.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to imple-

ment home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

"(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include—

"(1) parent-infant programs for prenatal through three-year olds;

"(2) preschool programs for four- and five-year olds;

"(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

"(4) continued research and development; and

"(5) a long-term followup and assessment program.

"(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

Grants.
20 USC 7936.

"SEC. 9306. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

"(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the students eligible to participate in the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

"(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

"(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9307. ADMINISTRATIVE PROVISIONS. 20 USC 7937.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) APPLICATIONS BY LOCAL SCHOOL DISTRICTS OR STATE EDUCATIONAL ENTITIES.—Local school districts or State educational entities shall apply for funding under this part in partnership with Alaska Native organizations.

"(c) CONSULTATION REQUIRED.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) LOCAL EDUCATIONAL AGENCY COORDINATION.—Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, except that approval by or concurrence from such local educational agency shall not be required.

"(e) IMPLEMENTATION OF AUTHORITIES.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

"SEC. 9308. DEFINITIONS. 20 USC 7938.

"For purposes of this part—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act; and

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that—

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization.

"TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

"PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

"SEC. 10101. FUND FOR THE IMPROVEMENT OF EDUCATION. 20 USC 8001.

"(a) FUND AUTHORIZED.—From funds appropriated under subsection (d), the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational

agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"(b) USES OF FUNDS.—

"(1) IN GENERAL.—Funds under this section may be used for—

"(A) activities that will promote systemic education reform at the State and local levels, such as—

"(i) research and development related to challenging State content and challenging State student performance standards and opportunity-to-learn standards or strategies for student learning;

"(ii) the development and evaluation of model strategies for—

"(I) assessment of student learning;

"(II) professional development for teachers and administrators;

"(III) parent and community involvement; and

"(IV) other aspects of systemic reform;

"(iii) developing and evaluating strategies for eliminating ability-grouping practices, and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and pupil services personnel and academic enrichment programs that supplement regular courses for students;

"(iv) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

"(v) developing and evaluating strategies for integrating instruction and assessment such that teachers and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students; and

"(vi) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for pupil services personnel, guidance counselors, and administrators, including inservice training that improves the skills of pupil services personnel, counselors and administrators for working with students from diverse populations;

"(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school-based decisionmaking;

"(C) joint activities with other agencies to assist the effort to achieve the National Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

"(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

"(E) activities to promote and evaluate coordinated pupil services programs;

"(F) activities to promote comprehensive health education;

"(G) activities to promote environmental education;

"(H) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

"(I) activities to promote programs to assist students to demonstrate competence in foreign languages;

"(J) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

"(K) activities to promote metric education;

"(L) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

"(M) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;

"(N) programs designed to reduce excessive student mobility, retain students who move within a school district at the same school, educate parents about the effect of mobility on a child's education and encourage parents to participate in school activities;

"(O) experiential-based learning, such as service-learning;

"(P) the development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes through such programs as the Buddy System Computer Project;

"(Q) other programs and projects that meet the purposes of this section;

"(R) activities to promote child abuse education and prevention programs;

"(S) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

"(T) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

"(U) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools;

"(V) demonstrations that are designed to test whether prenatal and counseling provided to pregnant students may have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care, the value of sound diet and nutrition habits,

and the harmful effects of smoking, alcohol, and substance abuse on fetal development;

"(W) programs under section 10102;

"(X) programs under section 10103;

"(Y) programs under section 10104; and

"(Z) programs under section 10105;

"(2) ADDITIONAL USES.—The Secretary may also use funds under this section to complete the project periods for direct grants or contracts awarded under the provisions of this Act, the Fund for the Improvement and Reform of Schools and Teaching Act, or title III of the Education for Economic Security Act, as such Acts were in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994.

Effective date. Termination date

"(3) SPECIAL RULE.—The Secretary shall not make available more than $1,000,000 to carry out paragraph (1)(R), nor more than $1,000,000 to carry out paragraph (1)(V) during the period beginning on October 1, 1994, through September 30, 1999.

"(c) AWARDS.—

"(1) IN GENERAL.—The Secretary may—

"(A) make awards under this section on the basis of competitions announced by the Secretary; and

"(B) support meritorious unsolicited proposals.

"(2) SPECIAL RULE.—The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

"(3) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under subsection (d) for the cost of such peer review.

"(d) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

20 USC 8002.

"SEC. 10102. ELEMENTARY SCHOOL COUNSELING DEMONSTRATION.

"(a) COUNSELING DEMONSTRATION.—

"(1) In General.—The Secretary may award grants under this section to establish or expand elementary school counseling programs.

"(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

"(A) demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

"(B) propose the most promising and innovative approaches for initiating or expanding elementary school counseling; and

"(C) show the greatest potential for replication and dissemination.

Urban and rural areas.

"(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

"(4) DURATION.—A grant under this section shall be awarded for a period not to exceed three years.

"(5) MAXIMUM GRANT.—A grant under this section shall not exceed $400,000 for any fiscal year.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application for a grant under this section shall—

"(A) describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

"(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

"(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

"(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

"(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

"(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

"(G) describe how any diverse cultural populations, if applicable, would be served through the program;

"(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

"(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grant funds under this section shall be used to initiate or expand elementary school counseling programs that comply with the requirements in paragraph (2).

"(2) PROGRAM REQUIREMENTS.—Each program assisted under this section shall—

"(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

"(B) use a developmental, preventive approach to counseling;

"(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

"(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

"(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, academic and career planning, or to improve social functioning;

"(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

"(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

"(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

"(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration; and

"(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

"(3) REPORT.—The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 14701, but in no case later than January 30, 1998.

"(4) DISSEMINATION.—The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

"(5) LIMIT ON ADMINISTRATION.—Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

"(A) possesses State licensure or certification granted by an independent professional regulatory authority;

"(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

"(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for

Accreditation of Counseling and Related Educational Programs or the equivalent;

"(2) the term 'school psychologist' means an individual who—

"(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

"(B) possesses State licensure or certification in the State in which the individual works; or

"(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board;

"(3) the term 'school social worker' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

"(4) the term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

"SEC. 10103. PARTNERSHIPS IN CHARACTER EDUCATION PILOT PROJECT. 20 USC 8003.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make up to a total of ten grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in subsection (d), as well as other character elements identified by applicants.

"(2) MAXIMUM AMOUNT OF GRANT.—No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

"(3) DURATION.—Each grant under this section shall be awarded for a period not to exceed five years, of which the State educational agency shall not use more than one year for planning and program design.

"(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

"(1) REQUIREMENT.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) PARTNERSHIPS.—Each State educational agency desiring a grant under this section shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall pursue State and local initiatives to meet the objectives of this section.

"(3) APPLICATION.—Each application under this section shall include—

"(A) a list of the local educational agencies entering into the partnership with the State educational agency;

"(B) a description of the goals of the partnership;

"(C) a description of activities that will be pursued by the participating local educational agencies, including—

"(i) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

"(ii) curriculum and instructional practices;

"(iii) methods of teacher training and parent education that will be used or developed; and

"(iv) examples of activities that will be carried out under this part;

"(D) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

"(E) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

"(F) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

"(G) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

"(H) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

"(I) any other information that the Secretary may require.

"(4) NON-PARTNER LOCAL EDUCATIONAL AGENCIES.—Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

"(c) EVALUATION AND PROGRAM DEVELOPMENT.—

"(1) REQUIREMENT.—Each State educational agency receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

"(A) by the mid-term of the program; and

"(B) not later than one year after completion of such program.

"(2) CONTRACTS FOR EVALUATION.—Each State educational agency receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in subsection (b).

"(3) FACTORS.—Factors which may be considered in evaluating the success of the program may include—

"(A) discipline problems;

"(B) students' grades;

"(C) participation in extracurricular activities;
"(D) parental and community involvement;
"(E) faculty and administration involvement; and
"(F) student and staff morale.

"(4) MATERIALS AND PROGRAM DEVELOPMENT.—Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

"(d) ELEMENTS OF CHARACTER.—

"(1) IN GENERAL.—Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

"(A) Caring.
"(B) Civic virtue and citizenship.
"(C) Justice and fairness.
"(D) Respect.
"(E) Responsibility.
"(F) Trustworthiness.
"(G) Any other elements deemed appropriate by the members of the partnership.

"(2) ADDITIONAL ELEMENTS OF CHARACTER.—A local educational agency participating under this section may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

"(e) USE OF FUNDS.—Of the total funds received by a State educational agency in any fiscal year under this section—

"(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

"(A) not more than 10 percent of such funds may be used for administrative purposes; and
"(B) the remainder of such funds may be used for—
"(i) collaborative initiatives with local educational agencies;
"(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and
"(iii) other appropriate activities; and

"(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

"(A) not more than 10 percent of such funds may be retained for administrative purposes; and
"(B) the remainder of such funds may be used to—
"(i) award subgrants to schools within the local educational agency; and
"(ii) pursue collaborative efforts with the State educational agency.

"(f) SELECTION OF GRANTEES.—

"(1) CRITERIA.—The Secretary shall select, through peer review, partnerships to receive grants under this section on the basis of the quality of the applications submitted under subsection (b), taking into consideration such factors as—

"(A) the quality of the activities proposed by local educational agencies;

"(B) the extent to which the program fosters in students the elements of character;

"(C) the extent of parental, student, and community involvement;

"(D) the number of local educational agencies involved in the effort;

"(E) the quality of the plan for measuring and assessing success; and

"(F) the likelihood that the goals of the program will be realistically achieved.

"(2) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

"(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

"(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

20 USC 8004.

"SEC. 10104. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

"(a) IN GENERAL.—The Secretary is authorized to award a grant to a nonprofit organization to reimburse such organizations for the costs of conducting scholar-athlete games to be held in 1995.

Nonprofit organizations.

"(b) PRIORITY.—In awarding the grant under subsection (a), the Secretary shall give priority to a nonprofit organization that—

"(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

"(2) has the capability and experience in administering federally funded scholar-athlete games;

"(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

"(4) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

"(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

"(6) has plans for conducting scholar-athlete games after 1995 without Federal assistance.

20 USC 8005.

"SEC. 10105. SMALLER LEARNING COMMUNITIES.

"(a) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) strategies and methods the applicant will use to create the smaller learning community or communities;

"(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

"(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

"(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

"(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

"(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

"(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

"(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

"(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

"(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this Act or other Federal laws;

"(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

"(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

"(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used—

"(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

"(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

"(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

"(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education,

community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

20 USC 8006.

"SEC. 10106. NATIONAL STUDENT AND PARENT MOCK ELECTION.

"(a) IN GENERAL.—The Secretary is authorized to award grants to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

"(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

"(2) consist of—

"(A) school forums and local cable call-in shows on the national issues to be voted upon in an 'issue forum';

"(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

"(C) quiz team competitions, mock press conferences and speechwriting competitions;

"(D) weekly meetings to follow the course of the campaign; or

"(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

"(b) REQUIREMENT.—Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

20 USC 8007.

"SEC. 10107. MODEL PROJECTS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

"(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

Jacob K. Javits Gifted and Talented Students Education Act of 1994.

"PART B—GIFTED AND TALENTED CHILDREN

20 USC 8031.

"SEC. 10201. SHORT TITLE.

"This part may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1994'.

20 USC 8032.

"SEC. 10202. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

"(2) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenging State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

"(4) unless the special abilities of gifted and talented students are recognized and developed during such students' elementary and secondary school years, much of such students' special potential for contributing to the national interest is likely to be lost;

"(5) gifted and talented students from economically disadvantaged families and areas, and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students and for the provision of educational services and programs appropriate to their special needs;

"(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

"(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

"(A) develop a rich and challenging curriculum for all students; and

"(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this part—

"(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

"(2) to encourage the development of rich and challenging curricula for all students through the appropriate application and adaptation of materials and instructional methods developed under this part; and

"(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

20 USC 8033.

"SEC. 10203. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

20 USC 8034.

"SEC. 10204. AUTHORIZED PROGRAMS.

Grants.
Contracts.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—From the sums appropriated under section 10207 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) APPLICATION.—Each entity desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

"(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

"(B) the proposed programs can be evaluated.

"(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

"(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

"(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

"(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

"(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of

programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

"(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, may be adapted for use by all students; and

"(7) carrying out—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—

"(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institutions of higher education or State educational agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b). Grants. Contracts.

"(2) DIRECTOR.—Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsection (b)(7) or (c).

"(e) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by such Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with such Office.

"SEC. 10205. PROGRAM PRIORITIES. 20 USC 8035.

"(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations

(including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

"(b) SERVICE PRIORITY.—In approving applications for assistance under section 10204(a)(2), the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1).

20 USC 8036.

"SEC. 10206. GENERAL PROVISIONS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

"(b) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

"(1) use a peer review process in reviewing applications under this part;

"(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

"(3) evaluate the effectiveness of programs under this part in accordance with section 14701, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

"(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

"(1) administer the programs authorized by this part;

"(2) coordinate all programs for gifted and talented students administered by the Department;

"(3) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

"(4) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

20 USC 8037.

"SEC. 10207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

"PART C—PUBLIC CHARTER SCHOOLS

20 USC 8061.

"SEC. 10301. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

"(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

"(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

"(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

"(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

"(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

"(7) there is a strong documented need for cash-flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

"(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

"(1) providing financial assistance for the design and initial implementation of charter schools; and

"(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents.

"SEC. 10302. PROGRAM AUTHORIZED. 20 USC 8062.

"(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

"(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

"(c) PROGRAM PERIODS.—

"(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

"(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by

State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

"(A) not more than 18 months for planning and program design; and

"(B) not more than 2 years for the initial implementation of a charter school.

"(d) LIMITATION.—The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

20 USC 8063.

"SEC. 10303. APPLICATIONS.

"(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

"(2) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

"(A) a description of the educational program to be implemented by the proposed charter school, including—

"(i) how the program will enable all students to meet challenging State student performance standards;

"(ii) the grade levels or ages of children to be served; and

"(iii) the curriculum and instructional practices to be used;

"(B) a description of how the charter school will be managed;

"(C) a description of—

"(i) the objectives of the charter school; and

"(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

"(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

"(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

"(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

"(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

"(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

"(I) a description of how students in the community will be—

"(i) informed about the charter school; and

"(ii) given an equal opportunity to attend the charter school;

"(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

"(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

"(L) such other information and assurances as the Secretary and the State educational agency may require.

"(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 10302(e)(1) or 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

"(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

"(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (I), (J), and (K) of such subsection shall be applied by striking 'and the State educational agency' each place such term appears; and

"(2) assurances that the State educational agency—

"(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

"(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e).

"SEC. 10304. ADMINISTRATION.

Grants.
20 USC 8064.

"(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—

"(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

"(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

"(3) the ambitiousness of the objectives for the State charter school grant program;

"(4) the quality of the strategy for assessing achievement of those objectives; and

"(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

"(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

"(3) the extent of community support for the application;

"(4) the ambitiousness of the objectives for the charter school;

"(5) the quality of the strategy for assessing achievement of those objectives; and

"(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

"(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

"(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

"(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

"(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

"(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10306(1), if—

"(1) the waiver is requested in an approved application under this part; and

"(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

"(f) USE OF FUNDS.—

"(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

"(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school in accordance with this part.

"(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

"(A) post-award planning and design of the educational program, which may include—

"(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(ii) professional development of teachers and other staff who will work in the charter school; and

"(B) initial implementation of the charter school, which may include—

"(i) informing the community about the school;

"(ii) acquiring necessary equipment and educational materials and supplies;

"(iii) acquiring or developing curriculum materials; and

"(iv) other initial operational costs that cannot be met from State or local sources.

"(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

"(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

"SEC. 10305. NATIONAL ACTIVITIES. 20 USC 8065.

"The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—

"(1) peer review of applications under section 10304(c);

"(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

"(3) other activities designed to enhance the success of the activities assisted under this part, such as—

"(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and

"(B) collection and dissemination of information on successful charter schools.

"SEC. 10306. DEFINITIONS. 20 USC 8066.

"As used in this part:

"(1) The term 'charter school' means a public school that—

"(A) in accordance with an enabling State statute, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools,

but not from any rules relating to the other requirements of this paragraph;

"(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

"(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

"(D) provides a program of elementary or secondary education, or both;

"(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

"(F) does not charge tuition;

"(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

"(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

"(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

"(J) meets all applicable Federal, State, and local health and safety requirements; and

"(K) operates in accordance with State law.

"(2) The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

"(3) The term 'eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

"(4) The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

20 USC 8067.

"SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART D—ARTS IN EDUCATION

"Subpart 1—Arts Education

20 USC 8091.

"SEC. 10401. SUPPORT FOR ARTS EDUCATION.

"(a) FINDINGS.—The Congress finds that—

"(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

"(2) the arts are important to excellent education and to effective school reform;

"(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

"(4) such transformation is best realized in the context of comprehensive, systemic education reform;

"(5) demonstrated competency in the arts for American students is among the National Education Goals;

"(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

"(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

"(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

"(9) arts education should be an integral part of the elementary and secondary school curriculum.

"(b) PURPOSES.—The purposes of this subpart are to—

"(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

"(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

"(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

"(c) ELIGIBLE RECIPIENTS.—In order to carry out the purposes of this subpart, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

"(1) State educational agencies;

"(2) local educational agencies;

"(3) institutions of higher education;

"(4) museums and other cultural institutions; and

"(5) other public and private agencies, institutions, and organizations.

"(d) AUTHORIZED ACTIVITIES.—Funds under this subpart may be used for—

"(1) research on arts education;

"(2) the development of, and dissemination of information about, model arts education programs;

"(3) the development of model arts education assessments based on high standards;

"(4) the development and implementation of curriculum frameworks for arts education;

"(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

"(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

"(7) supporting model projects and programs in the performing arts for children and youth through arrangements

made with the John F. Kennedy Center for the Performing Arts;

"(8) supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

"(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

"(10) other activities that further the purposes of this subpart.

"(e) COORDINATION.—

"(1) IN GENERAL.—A recipient of funds under this subpart shall, to the extent possible, coordinate projects assisted under this subpart with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

"(2) SPECIAL RULE.—In carrying out this subpart, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

Appropriation authorization.

"(f) AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) SPECIAL RULE.—If the amount appropriated under paragraph (1) for any fiscal year is $9,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

Grants.

"Subpart 2—Cultural Partnerships for At-Risk Children and Youth

20 USC 8101.

"SEC. 10411. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds:

"(1) With local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level.

"(2) The arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts.

"(3) Children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction.

"(4) Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people.

"(5) School-university and school-cultural institution partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children.

"(6) Museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

"(7) The Goals 2000: Educate America Act, other legislation and local, State and national resources support the integration of the arts and humanities into the regular curriculum and school day for all children.

"(8) While all children benefit from instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school.

"(b) PURPOSE.—The purpose of this subpart is to make demonstration grants to eligible entities to improve the educational performance and future potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services.

"SEC. 10412. PROGRAM AUTHORIZED. 20 USC 8102.

"(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 10413.

"(b) SPECIAL REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall award grants under this subpart only to programs designed to—

"(A) promote and enhance educational and cultural activities;

"(B) provide multi-year services to at-risk children and youth and to integrate community cultural resources into in-school and after-school educational programs;

"(C) provide integration of community cultural resources into the regular curriculum and school day;

"(D) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

"(E) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act;

"(F) facilitate school-to-work transition from secondary schools and alternative schools to job training, higher education and employment through educational programs and activities that utilize school resources;

"(G) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

"(H)(i) develop programs and strategies that provide high-quality coordinated educational and cultural services; and

"(ii) provide a model to replicate such services in other schools and communities.

"(2) PARTNERSHIP.—An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this section. The Secretary

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shall publish such criteria and procedures in the Federal Register.

"(3) COORDINATION.—Grants may only be awarded under this subpart to eligible entities that agree to coordinate activities carried out under other Federal, State, and local grants, received by the members of the partnership for purposes and target populations described in this subpart, into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth.

"(4) ELIGIBLE ENTITIES.—For purposes of this subpart, the term 'eligible entity' means a partnership between—

"(A) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 1114; and

"(B) at least one institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

"(i) nonprofit institutions of higher education, museums, libraries, performing, presenting and exhibiting arts organizations, literary arts organizations, State and local arts organizations, cultural institutions, and zoological and botanical organizations; or

"(ii) private for-profit entities with a history of training children and youth in the arts.

"(5) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subpart the Secretary, to the extent feasible, shall ensure an equitable geographic distribution of such grants.

"(6) DURATION.—Grants made under this subpart may be renewable for a maximum of five years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application.

"(7) MODELS.—The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their designees, shall submit successful models under this title to the National Diffusion Network for review.

"(c) TARGET POPULATION.—To be eligible for a grant under this subpart, an eligible entity shall serve—

"(1) students enrolled in schools participating in a schoolwide program under section 1114 and the families of such students to the extent practicable;

"(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

"(3) any combination of in-school and out-of-school at-risk children and youth.

"SEC. 10413. AUTHORIZED ACTIVITIES. 20 USC 8103.

"(a) IN GENERAL.—Grants awarded under this subpart may be used—

"(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

"(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

"(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

"(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

"(5) to provide transportation necessary for participation in the program;

"(6) to work with existing school personnel to develop curriculum materials and programs in the arts;

"(7) to work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum;

"(8) for stipends that allow local artists to work with at-risk children and youth in schools;

"(9) for training individuals who are not trained to work with children and youth;

"(10) for cultural programs that encourage the active participation of parents in the education of their children;

"(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

"(12) for equipment or supplies that the Secretary determines appropriate; and

"(13) for evaluation, administration, and supervision.

"(b) PLANNING GRANTS.—

"(1) APPLICATION.—An eligible entity may submit an application to the Secretary for a planning grant for an amount not to exceed $50,000. Such grants shall be for periods of not more than one year.

"(2) LIMIT ON PLANNING GRANTS.—Not more than 10 percent of the amounts appropriated in each fiscal year under this subpart shall be used for grants under this subsection, and an eligible entity may receive not more than one such planning grant.

"(c) GENERAL PROVISIONS.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the cultural entity or entities that will participate in the partnership;

"(B) describe the target population to be served;

"(C) describe the services to be provided;

"(D) describe a plan for evaluating the success of the program;

"(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this subpart will be perpetuated beyond the duration of the grant;

"(F) describe the manner in which the eligible entity will improve the educational achievement or future potential of at-risk youth through more effective coordination of cultural services in the community;

"(G) describe the overall and operational goals of the program;

"(H) describe the nature and location of all planned sites where services will be delivered and a description of services which will be provided at each site; and

"(I) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

20 USC 8104.

"SEC. 10414. PAYMENTS; AMOUNTS OF AWARD; COST SHARE; LIMITATIONS.

"(a) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall pay to each eligible recipient having an application approved under section 10413(c) the Federal share of the cost of the activities described in the application.

"(2) SPECIAL RULE.—(A) Grants awarded under this subpart shall be of sufficient size, scope, and quality to be effective.

"(B) The Secretary shall award grants under this subpart so as to ensure nonduplication of services provided by grant recipients and services provided by—

"(i) the National Endowment for the Humanities;

"(ii) the National Endowment for the Arts; and

"(iii) the Institute of Museum Services.

"(b) COST SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a grant under this subpart shall be 80 percent of the cost of carrying out the activities described in the application.

"(2) NON-FEDERAL SHARE.—The non-Federal share of a grant under this subpart shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

"(c) LIMITATIONS.—

"(1) NONINSTRUCTIONAL SERVICES.—Not more than 25 percent of the grant funds provided in any fiscal year under this subpart may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 10413(a).

"(2) SUPPLEMENT AND NOT SUPPLANT.—Grant funds awarded under this part shall be used to supplement not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this subpart, in amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded.

"(3) ADMINISTRATIVE COSTS.—(A) The Secretary may reserve not more than five percent of the grant funds received under this subpart in each fiscal year for the costs of administration.

"(B) Each eligible recipient may reserve not more than 5 percent of any grant funds received under this subpart in each fiscal year for the costs of administration.

"SEC. 10415. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, $45,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

"PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

Contracts. Nonprofit organizations.

"SEC. 10501. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

20 USC 8131.

"(a) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as 'the contractor') to support and promote programs, which include the distribution of inexpensive books to students, that motivate children to read.

"(b) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (a) shall—

"(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age, including those in family literacy programs;

"(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

"(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

"(A) low-income children, particularly in high-poverty areas;

"(B) children at risk of school failure;

"(C) children with disabilities;

"(D) foster children;

"(E) homeless children;

"(F) migrant children;

"(G) children without access to libraries;

"(H) institutionalized or incarcerated children; and

"(I) children whose parents are institutionalized or incarcerated;

"(4) provide that the contractor will provide such technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

"(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

Reports.

"(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITION OF 'FEDERAL SHARE'.—For the purpose of this section, the term 'Federal share' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART F—CIVIC EDUCATION

20 USC 8141.

"SEC. 10601. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM ESTABLISHED.—(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

"(B) Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall—

"(A) continue and expand the educational activities of the 'We the People . . . The Citizen and the Constitution' program administered by the Center for Civic Education; and

"(B) enhance student attainment of challenging content standards in civics and government.

"(3) CONTRACT OR GRANT AUTHORIZED.—The Secretary is authorized to award a grant or enter into a contract with the Center for Civic Education to carry out the program described in paragraph (1).

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our Nation's constitutional democracy and the history of the Constitution and the Bill of Rights;

"(2) at the request of a participating school, school and community simulated congressional hearings following the course of study; and

"(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

"(c) AVAILABILITY OF PROGRAM.—The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—After the provisions of subsection (b) have been implemented, funds provided under this section may be used for—

"(1) advanced training of teachers about the United States Constitution and the political system the United States created; or

"(2) a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution, which course shall provide for—

"(A) optional school and community simulated State legislative hearings;

"(B) an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

"(C) participation by public and private middle schools in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"SEC. 10602. INSTRUCTION IN CIVICS, GOVERNMENT, AND THE LAW. 20 USC 8142.

"(a) PROGRAM ESTABLISHED.—The Secretary is authorized to carry out a program of awarding grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enhance—

"(1) attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

"(2) attainment by the Nation of the third and the sixth National Education Goals.

"(b) AUTHORIZED ACTIVITIES.—Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

"(1) the development and implementation of curricular programs that enhance student understanding of—

"(A) the values and principles which underlie, and the institutions and processes which comprise, our Nation's system of government;

"(B) the role of law in our constitutional democracy, including activities to promote—

"(i) legal literacy;

"(ii) a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

"(iii) respect for cultural diversity and acceptance of cultural differences; and

"(C) the rights and responsibilities of citizenship;

"(2) professional development for teachers, including preservice and inservice training;

"(3) outside-the-classroom learning experiences for students, including community service activities;

"(4) the active participation of community leaders, from the public and private sectors, in the schools; and

"(5) the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

"(c) APPLICATIONS, PEER REVIEW AND PRIORITY.—

"(1) SUBMISSION OF APPLICATIONS.—A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) PEER REVIEW.—(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

"(B) Such individuals shall have experience with education programs in civics, government, and the law.

"(3) PRIORITY.—In awarding grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

"(d) DURATION OF GRANTS AND EXCEPTION.—

"(1) DURATION.—Except as provided in paragraph (2), the Secretary shall award grants and contracts under this section for periods of two or three years.

"(2) EXCEPTION.—The Secretary may award a grant or a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

20 USC 8143.

"SEC. 10603. REPORT; AUTHORIZATION OF APPROPRIATIONS.

"(a) REPORT.—The Secretary shall report, on a biennial basis to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GENERAL.—There are authorized to be appropriated to carry out this part $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) ALLOCATION.—Except as provided in paragraph (3), from the amount appropriated under subsection (a), the Secretary shall allocate—

"(A) 40 percent of such amount to carry out section 10601; and

"(B) 60 percent of such amount to carry out section 10602.

"(3) SPECIAL RULE.—From funds appropriated under paragraph (1), the Secretary shall make available for fiscal year

1995 and each succeeding fiscal year thereafter for the programs under sections 16101 and 16102 not less than the amount made available for fiscal year 1994 to carry out such programs under sections 4609 and 1562, respectively, of this Act (as such sections were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

"SEC. 10701. FINDINGS. 20 USC 8161.

"The Congress finds as follows:

"(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

"(2) It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

"(3) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

"Subpart 1—Program for Middle and Secondary School Students

"SEC. 10711. ESTABLISHMENT. 20 USC 8171.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among middle and secondary school students.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

"SEC. 10712. APPLICATIONS. 20 USC 8172.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

"(2) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including student with disabilities, ethnic minority students, and gifted and talented students; and

"(3) the proper disbursement of the funds received under this subpart.

"Subpart 2—Program for Middle and Secondary School Teachers

20 USC 8181.

"SEC. 10721. ESTABLISHMENT.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of teaching skills enhancement for middle and secondary school teachers.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to teachers who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

20 USC 8182.

"SEC. 10722. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in section 10711(a);

"(2) that not more than one teacher in each school participating in the programs provided for in section 10711(a) may receive a fellowship in any fiscal year; and

"(3) the proper disbursement of the funds received under this subpart.

"Subpart 3—Programs for Recent Immigrants, Students of Migrant Parents and Older Americans

20 USC 8191.

"SEC. 10731. ESTABLISHMENT.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting

the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans, recent immigrants and students of migrant parents.

"(2) DEFINITION.—For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) USE OF FUNDS.—Grants under this subpart shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 10732. APPLICATIONS. 20 USC 8192.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Except such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents;

"(2) that every effort will be made to ensure the participation of older Americans, recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

"(3) that activities permitted by subsection (a) are fully described; and

"(4) the proper disbursement of the funds received under this subpart.

"Subpart 4—General Provisions

"SEC. 10741. ADMINISTRATIVE PROVISIONS. 20 USC 8201.

"(a) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

"SEC. 10742. AUTHORIZATION OF APPROPRIATIONS. 20 USC 8202.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $4,400,000 for fiscal year 1995 and such sums as may be necessary of each of the four succeeding fiscal years.

"(b) SPECIAL RULE.—Of the funds appropriated pursuant to subsection (a), not more than 30 percent may be used for teachers associated with students participating in the programs described in section 10711(a).

"PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

20 USC 8221.

"SEC. 10801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the attainment of a high quality education is important to a society and to each individual;

"(2) it is the policy of the United States that all citizens have a fair opportunity to receive a high quality education;

"(3) such opportunity should extend to United States citizens and nationals residing in the outlying areas;

"(4) reports show that the outlying areas have repeatedly placed last in national education tests which measure knowledge in core subject areas;

"(5) all students must realize their potential if the United States is to prosper; and

"(6) students in the outlying areas require additional assistance if such students are to obtain the high standards established for all students in the United States.

"(b) PURPOSES.—The purpose of this part is to authorize an education improvement program for the outlying areas which will assist in developing programs which will enhance student learning, increase the standard of education, and improve the performance levels of all students.

20 USC 8222.

"SEC. 10802. GRANT AUTHORIZATION.

"The Secretary is authorized to make grants to the outlying areas to fund innovative education improvement programs which will increase student learning.

20 USC 8223.

"SEC. 10803. CONSTRUCTION.

"No funds from a grant under section 10802 may be used for construction.

20 USC 8224.

"SEC. 10804. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $3,000,000 for each of the fiscal years 1994 through 1999.

21st Century Community Learning Centers Act.

"PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

20 USC 8241.

"SEC. 10901. SHORT TITLE.

"This part may be cited as the '21st Century Community Learning Centers Act'.

20 USC 8242.

"SEC. 10902. FINDINGS.

"The Congress finds that—

"(1) a local public school often serves as a center for the delivery of education and human resources for all members of a community;

"(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding

the opportunities available to, the residents of the communities served by such schools;

"(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

"(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

"(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities.

"SEC. 10903. PROGRAM AUTHORIZATION. 20 USC 8243.

"(a) GRANTS BY THE SECRETARY.—The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia of such schools, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

"(b) EQUITABLE DISTRIBUTION.—In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State. Urban and rural areas.

"(c) GRANT PERIOD.—The Secretary shall award grants under this part for a period not to exceed 3 years.

"(d) AMOUNT.—The Secretary shall not award a grant under this part in any fiscal year in an amount less than $35,000.

"SEC. 10904. APPLICATION REQUIRED. 20 USC 8244.

"(a) APPLICATION.—To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably prescribe. Each such application shall include—

"(1) a comprehensive local plan that enables the school or consortium to serve as a center for the delivery of education and human resources for members of a community;

"(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

"(3) a description of the proposed project, including—

"(A) a description of the mechanism that will be used to disseminate information in a manner that is understandable and accessible to the community;

"(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

"(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

"(D) a description of how the school or consortium will serve as a delivery center for existing and new services, especially for interactive telecommunication used for education and professional training; and

"(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

"(i) the rules and regulations applicable to building and equipment use; and

"(ii) supervision guidelines.

"(b) PRIORITY.—The Secretary shall give priority to applications describing projects that offer a broad selection of services which address the needs of the community.

20 USC 8245.

"SEC. 10905. USES OF FUNDS.

"Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than four of the following activities:

"(1) Literacy education programs.

"(2) Senior citizen programs.

"(3) Children's day care services.

"(4) Integrated education, health, social service, recreational, or cultural programs.

"(5) Summer and weekend school programs in conjunction with recreation programs.

"(6) Nutrition and health programs.

"(7) Expanded library service hours to serve community needs.

"(8) Telecommunications and technology education programs for individuals of all ages.

"(9) Parenting skills education programs.

"(10) Support and training for child day care providers.

"(11) Employment counseling, training, and placement.

"(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

"(13) Services for individuals with disabilities.

20 USC 8246.

"SEC. 10906. DEFINITION.

"For the purpose of this part, the term 'community learning center' means an entity within a public elementary or secondary school building that—

"(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

"(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, institutions of higher education, community colleges, and cultural, recreational, and other community and human service entities.

20 USC 8247.

"SEC. 10907. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"PART J—URBAN AND RURAL EDUCATION ASSISTANCE

"SEC. 10951. AUTHORIZATION OF APPROPRIATIONS. 20 USC 8271.

"(a) DEMONSTRATION GRANTS.—

"(1) IN GENERAL.—There are authorized to be appropriated $125,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out subparts 1 and 2 (other than section 10975).

"(2) RESERVATION FOR SUBPART 1.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 1.

"(3) RESERVATION FOR SUBPART 2.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 2 (other than section 10975).

"(b) HIGHER EDUCATION GRANTS.—There are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 10975.

"(c) FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.—An eligible local educational agency may use funds received under this part only to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this part, and in no such case may such funds be used to supplant funds from non-Federal sources.

"SEC. 10952. DEFINITIONS. 20 USC 8272.

"Except as otherwise provided, for the purposes of this part:

"(1) CENTRAL CITY.—The term 'central city' has the same meaning used by the Bureau of the Census.

"(2) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' has the same meaning used by the Bureau of the Census.

"(3) POVERTY LEVEL.—The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(4) RURAL ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'rural eligible local educational agency' means a local educational agency—

"(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under part A of title I; and

"(ii) which is not in a metropolitan statistical area; or

"(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

"(5) URBAN ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'urban eligible local educational agency' means a local educational agency that—

"(A) serves the largest central city in a State;

"(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

"(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

"Subpart 1—Urban Education Demonstration Grants

20 USC 8281.

"SEC. 10961. FINDINGS.

"The Congress finds that—

"(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

"(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

"(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the 'haves and the have-nots' in society;

"(4) the cost to America's businesses to provide remedial education to high school graduates is approximately $21,000,000,000 per year;

"(5) approximately one-third of the Nation's workforce will be members of minority groups by the year 2000;

"(6) urban schools enroll a disproportionately large share of the Nation's poor and 'at-risk' youth;

"(7) urban schools enroll approximately one-third of the Nation's poor, 40 percent of the Nation's African American children, and 30 percent of the Nation's Hispanic youth;

"(8) nearly 20 percent of the Nation's limited-English-proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

"(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

"(10) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

"(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

"(12) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

"(13) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

"(14) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

"(15) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

"(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(17) Federal and State funding of urban public schools has not adequately reflected need; and

"(18) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

"SEC. 10962. PURPOSE. 20 USC 8282.

"It is the purpose of this subpart to provide financial assistance to—

"(1) assist urban public schools in meeting the National Education Goals;

"(2) improve the educational and social well-being of urban public school children;

"(3) close the achievement gap between urban and non-urban public school children, while improving the achievement level of all children nationally;

"(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

"(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

"(6) encourage community, parental, and business collaboration in the improvement of urban schools.

"SEC. 10963. URBAN SCHOOL GRANTS. 20 USC 8283.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible local educational agencies serving an urban area or State educational agencies in the case where the State educational agency is the local educational agency for activities designed to assist in local school improvement efforts and school reform, and to assist the schools of such agencies in meeting the National Education Goals.

"(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used to—

"(1) increase the academic achievement of urban public school children to at least the national average, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

"(D) supplementary academic instruction;

"(E) efforts to improve problem-solving and higher-order thinking skills;

"(F) programs to increase student motivation for learning; and

"(G) efforts to lengthen the school day or school year, or to reduce class sizes;

"(2) ensure the readiness of all urban public school children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes and parent involvement activities;

"(C) activities designed to coordinate prekindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) upgrading the qualifications of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English-proficient preschool children;

"(3) increase the graduation rates of urban public school students to at least the national average, such as—

"(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

"(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support, such as mentoring programs;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

"(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

"(D) efforts to increase voter registration among eligible public secondary school students;

"(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

"(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

"(5) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to test efforts to increase the professionalization of teachers or to bring teachers up to national voluntary standards;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers, particularly minority teachers, specializing in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

"(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

"(F) activities specifically designed to increase the number of minority teachers in urban schools;

"(G) incentives for teachers to work in inner-city public schools; and

"(H) collaborative activities with urban universities to revise and upgrade teacher training programs;

"(6) provide for ongoing staff development to increase the professional capacities of the teaching staff and the skills of teacher aides and paraprofessionals;

"(7) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of urban public school students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

"(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs; or

"(8) plan, develop, operate, or expand programs and activities that are designed to assist urban public schools in meeting the National Education Goals, including—

"(A) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

"(B) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

"(C) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

"(D) pupil services and other support services that contribute to progress in achieving National Education Goals;

"(E) efforts to acquire and improve access to educational technology;

"(F) assist the schools most in need of services by replicating successful efforts of other urban local educational agencies and expanding successful programs within the eligible agency; or

"(G) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—An eligible local educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, consistent with this section.

"(2) DURATION.—An application submitted pursuant to paragraph (1) may be for a period of not more than five years.

"(d) PAYMENTS.—The Secretary shall make an award only to urban eligible local educational agencies that—

"(1) comply with the provisions of section 10966; and

"(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 10961 shows progress toward meeting National Education Goals.

"(e) ADMINISTRATIVE COSTS.—Not more than five percent of any award made under this subpart may be used for administrative costs.

20 USC 8284.

"SEC. 10964. SPECIAL RULES.

"(a) SPECIAL CONSIDERATION.—In making awards under this subpart, the Secretary shall give special consideration to urban eligible local educational agencies in which there is—

"(1) low achievement;

"(2) high poverty; and

"(3) racial isolation.

"(b) FLEXIBILITY.—Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegregation, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

"Subpart 2—Rural Education Demonstration Grants

20 USC 8291.

"SEC. 10971. FINDINGS.

"The Congress finds that—

"(1) the ability of America's rural public school systems to meet the National Education Goals will contribute to the economic competitiveness and academic standing of the Nation in the world community;

"(2) approximately 60 percent of the Nation's public school districts are rural with a population of less than 2,500;

"(3) about 1 out of every 4 of America's rural school children are living below the poverty line;

"(4) the quality of public education in the rural areas of the Nation has a direct effect on the economic development of the rural communities of the Nation;

"(5) the success of rural public schools in boosting the achievement of minority youth attending such schools will determine the ability of the Nation to close the gap between the haves and the have-nots in society;

"(6) the academic performance of students in the average rural school system is below that of students in most other suburban school systems;

"(7) the average age of rural public school buildings is more than 45 years old and such buildings are often in serious disrepair, creating poor and demoralizing working and learning conditions;

"(8) shortages of teachers for rural public school systems is greater than in other kinds of school systems;

"(9) solving the challenges facing the Nation's rural public schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(10) additional Federal funding would contribute significantly to addressing the comprehensive needs of rural schools;

"(11) rural public schools enroll a disproportionately large share of the Nation's poor and at-risk youth;

"(12) a declining number of rural public secondary school graduates are pursuing postsecondary education opportunities;

"(13) rural preschoolers have less access to early childhood development programs than other children; and

"(14) Federal and State funding of rural public schools has not adequately reflected need.

"SEC. 10972. PURPOSE. 20 USC 8292.

"It is the purpose of this subpart to provide financial assistance to rural public schools most in need, to encourage the comprehensive restructuring of America's rural schools, the appropriate use of telecommunications technologies for learning, and to support innovative programs which improve performance through programs and projects designed to—

"(1) assist rural public schools in meeting National Education Goals;

"(2) encourage rural public schools to engage in school reform;

"(3) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(4) improve the educational and social well-being of rural public school children;

"(5) close the achievement gap between children attending rural public schools and other children, while improving the achievement level of all children nationally;

"(6) conduct coordinated research on rural education problems, solutions, promising practices, and distance learning technologies;

"(7) improve the Nation's global economic and educational competitiveness by improving the Nation's rural public schools;

"(8) encourage community, parental, and business collaboration in the improvement of rural public schools;

"(9) encourage rural school consortia for the purpose of increasing efficiency and course offerings;

"(10) encourage a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(11) encourage community-as-school concepts, which include the role public schools can play to assist with rural community economic revitalization; and

"(12) provide for the recruitment and meaningful inservice opportunities for rural public school teachers.

20 USC 8293.

"SEC. 10973. RURAL SCHOOL GRANTS.

"(a) AUTHORITY.—The Secretary is authorized to make grants to rural eligible local educational agencies, or State educational agencies in the case where the State educational agency is the local educational agency, for activities designed to assist in local school improvement efforts.

"(b) AWARD RULES.—

"(1) LESS THAN $50,000,000.—If the amount made available to carry out this subpart for any fiscal year is less than $50,000,000, the Secretary shall award grants under this section on a competitive basis.

"(2) EQUAL TO OR GREATER THAN $50,000,000.—If the amount made available to carry out this subpart for any fiscal year is equal to or greater than $50,000,000, the Secretary shall award grants under this section so that a rural eligible local educational agency in each State receives such a grant.

"(c) ADMINISTRATIVE COSTS.—Not more than five percent of a grant awarded under section 10573 shall be used for administrative costs.

"(d) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

20 USC 8294.

"SEC. 10974. USES OF FUNDS.

"(a) IN GENERAL.—Grant funds made available under section 10973 may be used by rural eligible local educational agencies to meet the National Education Goals through programs designed to—

"(1) increase the academic achievement of rural public school children to at least the national average of such achievement, including education reform initiatives, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) supplementary academic instruction;

"(D) efforts to improve problem-solving and higher-order critical thinking skills; and

"(E) efforts to lengthen the school day, school year, or reduce class sizes;

"(2) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(3) encourage the formation of rural school consortia for the purpose of increasing efficiency and course offerings;

"(4) provide meaningful inservice training opportunities for rural public school teachers;

"(5) assist rural schools in acquiring and improving access to educational technology, including distance learning technologies;

"(6) ensure the readiness of all rural children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes, including parenting classes for teenage parents, and parent involvement activities;

"(C) activities designed to coordinate prekindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) improving the skills of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for student parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient children, children with disabilities, and migrant preschool children;

"(7) increase the graduation rates of rural public school students to at least the national average of such rate, when funds are used to serve secondary schools, such as—

"(A) dropout prevention activities and support services for students at-risk of dropping out of school;

"(B) reentry, outreach and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual, special education, and migrant students, who have dropped out of school or are at risk of dropping out of school;

"(8) prepare rural public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, enrolling in postsecondary educational institutions after graduation from secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist rural public school graduates in completing higher education;

"(D) activities designed in conjunction with community colleges to provide a kindergarten through grade 14 experience for rural public school secondary school students;

"(E) efforts to increase voter registration among eligible public secondary school students attending schools served by rural eligible local educational agencies;

"(F) activities designed to promote community service and volunteerism among students, parents, teachers, and the community;

"(G) civic education, law-related education, and other programs designed to enhance responsible citizenship and understanding of the political process; and

"(H) encouraging a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(9) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to increase the status of the teaching profession;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, foreign language teachers, and special education and bilingual teachers;

"(E) upgrading the skills of existing classroom teachers through the use of year-round, systematic, comprehensive inservice training programs;

"(F) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;

"(G) efforts specifically designed to increase the number of minority teachers in rural public schools;

"(H) programs designed to encourage parents and students to enter the teaching profession;

"(I) incentives for teachers to work in rural public schools;

"(J) collaborative activities with colleges and universities to revise and upgrade teacher training programs to meet the needs of rural public school students; and

"(K) training activities for the purpose of incorporating distance learning technologies; or

"(10) decrease the use of drugs and alcohol among rural public school students, and to enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of rural students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence and vandalism;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students;

"(E) collaborative activities with other agencies, businesses, and community groups;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual, migrant, and special education programs for students with special needs.

"(b) APPLICATIONS.—Each eligible entity desiring a grant under section 10973 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each grant awarded under section 10973 shall be of sufficient size and scope to achieve significant rural school improvement.

"SEC. 10975. HIGHER EDUCATION GRANTS. 20 USC 8295.

"(a) GRANTS.—The Secretary is authorized to make grants to institutions of higher education, consortia of such institutions, or partnerships between institutions of higher education and local educational agencies to assist rural schools and rural eligible local educational agencies in undertaking local school improvement activities.

"(b) AUTHORIZED ACTIVITIES.—Grant funds under this section may be used to—

"(1) assist rural schools in meeting National Education Goals;

"(2) assist in the recruitment and training of teachers in rural schools;

"(3) assist rural schools in the development of appropriate innovative school improvement initiatives;

"(4) provide inservice training opportunities for teachers in rural schools; and

"(5) provide technical assistance in the use and installation of innovative telecommunications technology.

"(c) APPLICATIONS.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"Subpart 3—White House Conferences

President.

"SEC. 10981. WHITE HOUSE CONFERENCE ON URBAN EDUCATION. 20 USC 8311.

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the 'Conference') which shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(2) PURPOSE.—The purpose of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of urban education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

"(C) conduct the initial planning for a permanent national advisory commission on urban education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of 12 individuals, including—

"(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

"(B) representatives of the Congress, the Department of Education, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies; and

"(D) individuals with special knowledge of and expertise in urban education.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

Public information.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

Libraries.

20 USC 8312.

"SEC. 10982. WHITE HOUSE CONFERENCE ON RURAL EDUCATION.

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Rural Education (hereafter in this section referred to as the 'Conference').

"(2) DATE.—The Conference shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(3) PURPOSE.—The purposes of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of rural public education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

"(C) conduct the initial planning for a permanent national commission on rural public education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of—

"(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

"(B) representatives of the Congress, the Department, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies;

"(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

"(E) individuals with special knowledge of, and expertise in, rural business.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the majority leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

Public information.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.

Libraries.

"PART K—NATIONAL WRITING PROJECT

"SEC. 10991. FINDINGS.

20 USC 8331.

"The Congress finds that—

"(1) the United States faces a crisis in writing in schools and in the workplace;

"(2) the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency;

"(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

"(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

"(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

"(6) writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing;

"(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

"(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

"(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(10) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, literature, performing arts, and foreign languages;

"(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

"(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

"(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

"(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

"(15) each year over 100,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year in-service programs through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve United States teachers in United States dependent and independent schools;

"(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

"(17) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support;

"(18) independent evaluation studies have found the National Writing Project to be highly cost effective compared to other professional development programs for teachers; and

"(19) during 1991, the first year of Federal support for the National Writing Project, the National Writing Project matched the $1,951,975 in Federal support with $9,485,504 in matching funds from State, local, and other sources.

"SEC. 10992. NATIONAL WRITING PROJECT.

Grants.
20 USC 8332.

"(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the 'grantee'), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

"(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

"(2) to support classroom research on effective teaching practice and to document student performance;

"(3) to coordinate activities assisted under this section with activities assisted under title II; and

"(4) to pay the Federal share of the cost of such programs.

"(b) REQUIREMENTS OF GRANT.—The grant shall provide that— Contracts.

"(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as 'contractors') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

"(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

"(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

"(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

"(4) encourage teachers from all disciplines to participate in such teacher training programs.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term 'Federal share' means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

"(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

"(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

"(e) CLASSROOM TEACHER GRANTS.—

"(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to pay the Federal share of the cost of enabling such teachers to—

"(A) conduct classroom research;

"(B) publish models of student writing;

"(C) conduct research regarding effective practices to improve the teaching of writing; and

"(D) conduct other activities to improve the teaching and uses of writing.

"(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

"(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

"(4) FEDERAL SHARE.—For the purpose of this subsection the term 'Federal share' means, with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher.

"(f) NATIONAL ADVISORY BOARD.—

"(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

"(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

"(A) national educational leaders;

"(B) leaders in the field of writing; and

"(C) such other individuals as the National Writing Project deems necessary.

"(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

"(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

"(B) review the activities and programs of the National Writing Project; and

"(C) support the continued development of the National Writing Project.

"(g) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section 14701. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress. Grants. Contracts.

"(2) FUNDING LIMITATION.—The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (i) for fiscal year 1994 and the four succeeding fiscal years to conduct the evaluation described in paragraph (1).

"(h) APPLICATION REVIEW.—

"(1) REVIEW BOARD.—The National Writing Project shall establish and operate a National Review Board that shall consist of—

"(A) leaders in the field of research in writing; and

"(B) such other individuals as the National Writing Project deems necessary.

"(2) DUTIES.—The National Review Board shall—

"(A) review all applications for assistance under this subsection; and

"(B) recommend applications for assistance under this subsection for funding by the National Writing Project.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the grant to the National Writing Project, $4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out the provisions of this section.

"PART L—THE EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR

"SEC. 10993. THE EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR. 20 USC 8351.

"(a) FINDINGS.—The Congress finds that—

"(1) the Commission on Time and Learning has found that—

"(A) realizing the third National Education Goal, that states all students will leave grades four, eight and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, will require considerably more common core learning time than most students now receive;

"(B) ensuring that all students learn to high standards will require flexibility and innovation in the use of common core learning time, as well as the rest of the time students spend both during and beyond the school day;

"(C) teachers need regular, sustained time for lesson development, collegial collaboration and other professional development;

"(D) schools, businesses, community-based organizations, tribal leaders, and other community agencies and members should work together to foster effective learning and enrichment programs and activities for students, including programs that operate outside of the regular school day or year;

"(E) for most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year; and

"(F) in the final four years of schooling, students in schools in the United States are required to spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so required in Germany, the 3,280 hours so required in France, and the 3,170 hours so required in Japan;

"(2) increasing the amount and duration of intensive, engaging and challenging learning activities geared to high standards can increase student motivation and achievement;

"(3) the benefits of extending learning time, including common core instructional time, can be maximized by concurrent changes in curriculum and instruction, such as accelerated learning, and engaging, interactive instruction based on challenging content;

"(4) maximizing the benefit of increased common core and other learning time will require the collaboration and cooperation of teachers and administrators, students, parents, community members and organizations, businesses and others to develop strategies to meet the needs of students during and beyond the school day and year;

"(5) a competitive world economy requires that students in the United States receive education and training that is at least as rigorous and high-quality as the education and training received by students in competitor countries;

"(6) despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy;

"(7) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television;

"(8) more than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem;

"(9) over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year;

"(10) funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts; and

"(11) experiments with extended and multi-track school years have been associated with both increased learning and more efficient use of school facilities.

"(b) PURPOSES.—It is the purpose of this part to—

"(1) provide seed money to schools and local educational agencies to enable such agencies to devise and implement strategies and methods for upgrading the quality of, and extending, challenging, engaging learning time geared to high standards for all students; and

"(2) allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"(c) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies having applications approved under subsection (d) to enable such agencies to carry out the authorized activities described in subsection (e) in public elementary and secondary schools. Grants.

"(2) AMOUNT.—The Secretary shall, to the extent practicable, provide an equitable distribution of grants under this section.

"(3) DURATION.—Each grant under subsection (a) shall be awarded for a period of not more than three years.

"(4) PRIORITY.—The Secretary shall give priority to awarding grants under this part to local educational agencies that serve schools with high percentages of students in poverty.

"(d) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) the activities for which assistance is sought;

"(2) any study or other information-gathering project for which funds will be used;

"(3) strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize the percentage of common core learning time in the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

"(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

"(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

"(6) with respect to any application seeking assistance for activities described under subsection (e)(4), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

"(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this part;

"(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assisted under this part;

"(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

"(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(11) the goals and objectives of the activities assisted under this part, including a description of how such activities will assist all students to reach State standards;

"(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

"(13) how the applicant will use funds provided under this part in coordination with other funds provided under this Act or other Federal laws.

"(e) AUTHORIZED ACTIVITIES.—Funds under this section may be used—

"(1) to study the feasibility of, and effective methods for, extending learning time within or beyond the school day or year, including consultation with other schools or local educational agencies that have designed or implemented extended learning time programs;

"(2) to conduct outreach to and consult with community members, including parents, students, and other stakeholders, such as tribal leaders, to develop a plan to extend learning time within or beyond the school day or year;

"(3) to develop and implement an outreach strategy that will encourage collaboration with public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to coordinate challenging, high-quality educational activities outside of the school day or year;

"(4) to support public school improvement efforts that include expansion of time devoted to core academic subjects and the extension of the school year to 210 days;

"(5) to research, develop and implement strategies, including changes in curriculum and instruction, for maximizing the quality and percentage of common core learning time in the school day and extending learning time during or beyond the school day or year;

"(6) to provide professional development for school staff in innovative teaching methods that challenge and engage students, and also increase the productivity of extended learning time; and

"(7) to develop strategies to include parents, business representatives, and other community members in the extended time activities, especially as facilitators of activities that enable teachers to have more time for planning, individual student assistance, and professional development activities.

"(f) DEFINITIONS.—For the purpose of this section the term 'common core learning time' means high-quality, engaging instruction in challenging content in each of the following core academic subjects described in the third National Education Goal:

"(1) English.
"(2) Mathematics.
"(3) Science.
"(4) Foreign languages.
"(5) Civics and government.
"(6) Economics.
"(7) Arts.
"(8) History.
"(9) Geography.

"(g) ADMINISTRATION.—

"(1) PEER REVIEW.—The Secretary shall award grants under this section pursuant to a peer review process. Grants.

"(2) DIVERSITY.—In awarding grants under this section the Secretary shall ensure that such grants are awarded to a diversity of local educational agencies, including such agencies that serve rural and urban areas.

"(h) APPROPRIATIONS AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this section there are authorized to be appropriated $90,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) LIMITATION.—Not less than 80 percent of any amount appropriated under paragraph (1) shall be made available to applicants seeking to extend their school year to not fewer than 210 days.

"PART M—TERRITORIAL ASSISTANCE

"SEC. 10995. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS. 20 USC 8371.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995 and for each of the 4 succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

"TITLE XI—COORDINATED SERVICES

"SEC. 11001. FINDINGS AND PURPOSE. 20 USC 8401.

"(a) FINDINGS.—The Congress finds the following:

"(1) Growing numbers of children are negatively affected by influences outside of the classroom which increase such children's risk of academic failure.

"(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care, and substance abuse, adversely affect family relationships and the ability of a child to learn.

"(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on such parents' and caregivers' time and affect such parents' and caregivers' ability to adequately provide for the needs of the families of such parents and caregivers.

"(4) Access to health and social service programs can address the basic physical and emotional needs of children so that children can fully participate in the learning experiences offered children in school.

"(5) Services for at-risk students need to be more convenient, and less fragmented, regulated and duplicative, in order to meet the needs of children and their families.

"(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make services accessible.

"(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often trained in separate disciplines that provide little support for the coordination of services.

"(8) Coordination of services is more cost effective because such coordination substitutes prevention for expensive crisis intervention.

"(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

"(b) PURPOSE OF COORDINATING SERVICES.—The purpose of this title is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that such students receive the best possible education.

20 USC 8402.

"SEC. 11002. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'coordinated services project' means a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a community-wide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school; and

"(2) the term 'eligible entity' means a local educational agency, school, or a consortium of schools.

20 USC 8403.

"SEC. 11003. AUTHORITY.

"In order to use funds made available under section 14206(b) for the development, or the implementation or expansion, of a coordinated service project an eligible entity shall have an application approved under subsection (b) or (c), respectively, of section 11004.

20 USC 8404.

"SEC. 11004. PROJECT DEVELOPMENT AND IMPLEMENTATION.

"(a) APPLICATIONS.—Each eligible entity desiring to use funds made available under section 14206(b) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) PROJECT DEVELOPMENT PLAN.—The application for the development of the coordinated services project under this title shall cover a period of not more than 1 year and shall include a plan that—

"(1) demonstrates that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, Federal, and privately funded services available to meet such needs;

"(2) identifies the measures that will be taken to establish a communitywide partnership that links public and private agencies providing services to children and families; and

"(3) identifies any other measures that will be taken to develop a comprehensive plan for the implementation or expansion of a coordinated services project.

"(c) PROJECT IMPLEMENTATION OR EXPANSION PLAN.—The application for the implementation or expansion of a coordinated services project under this title shall contain a plan that includes—

"(1) the results of a children and families needs assessment, which shall include an assessment of the needs of foster children;

"(2) a description of the entities operating the coordinated services project;

"(3) a description of the proposed coordinated services project, the objectives of such project, where such project will be located, and the staff that will be used to carry out such project;

"(4) a description of how the success of the coordinated services project will be evaluated;

"(5) a description of the training to be provided to teachers and appropriate personnel;

"(6) information regarding whether a sliding scale fee for services will be employed, and if not, an explanation of why such scale is not feasible; and

"(7) when applicable, strategies to ensure that the health and welfare needs of migratory families are addressed.

"SEC. 11005. USES OF FUNDS. 20 USC 8405.

"(a) USES.—

"(1) IN GENERAL.—Funds made available under section 14206(b) may be used for planning for, or the implementation or expansion of, activities which include—

"(A) hiring a services coordinator;

"(B) making minor renovations to existing buildings;

"(C) purchasing basic operating equipment;

"(D) improving communications and information-sharing among entities participating in the coordinated services project;

"(E) providing training to teachers and appropriate personnel concerning such teacher's and personnel's role in a coordinated services project; or

"(F) conducting the needs assessment required in section 11004(b)(1).

"(2) PROHIBITION.—Funds made available under section 14206(b) shall not be used for the direct provision of any health or health-related services.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—An eligible entity shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from

non-Federal sources for coordinated services, and not to supplant such funds.

20 USC 8406.

"SEC. 11006. CONTINUING AUTHORITY.

"The Secretary shall prohibit an eligible entity from using funds made available under section 14206(b) if the Secretary determines that the coordinated services project assisted under this title is not achieving effective coordination after two years of implementation of such project.

20 USC 8407.

"SEC. 11007. FEDERAL AGENCY COORDINATION.

"(a) AGENCY COORDINATION.—The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

"(b) REPORT TO CONGRESS.—Such Secretaries and the Attorney General shall submit jointly a report to the Congress not later than two years after the date of the enactment of the Improving America's Schools Act of 1994, based on the review required under subsection (a) recommending legislative and regulatory action to address such barriers, and during the time preceding the submission of such report, shall use waiver authorities authorized under this and other Acts to address such barriers.

Education Infrastructure Act of 1994.

"TITLE XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT ACT

20 USC 8501.

"SEC. 12001. SHORT TITLE.

"This title may be cited as the 'Education Infrastructure Act of 1994'.

20 USC 8502.

"SEC. 12002. FINDINGS.

"The Congress finds the following:

"(1) According to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

"(2) Almost one-third of such buildings were built prior to World War II.

"(3) It is estimated that one of every four public school buildings in the United States is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

"(4) Large numbers of local educational agencies have difficulties securing financing for school facility improvement, including school libraries, media centers, and facilities.

"(5) Improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.

"(6) The challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

"SEC. 12003. PURPOSE. 20 USC 8503.

"The purpose of this title is to help the Nation meet the National Education Goals through the provision of Federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction.

"SEC. 12004. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED. Grants. 20 USC 8504.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—From amounts appropriated under section 12013 for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 12005 to carry out the authorized activities described in section 12007.

"(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under section 12013 to provide assistance to Indian schools in accordance with this title.

"(b) AWARD CATEGORIES.—

"(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

"(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

"(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

"(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

"(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

"(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

"(F) Such agencies in which such number is 50,000 or greater.

"(c) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (b)(1).

"SEC. 12005. AWARD OF GRANTS. 20 USC 8505.

"(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

"(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under subpart 2 of part A of title I;

"(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance;

"(3) the threat of the condition of the physical plant poses to the safety and well-being of students;

"(4) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

"(5) the age of the facility to be renovated or replaced; and

"(6) such other criteria as the Secretary may prescribe by regulation.

"(b) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among each of the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, including—

"(1) the relative numbers or percentages of students counted under subpart 2 of part A of title I; and

"(2) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

"(c) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

"(d) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, such as the issuance of bonds, or savings generated from performance contracting, to carry out the activities for which assistance is sought.

20 USC 8506.

"SEC. 12006. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

"(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

"(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

"(4) a description of the improvement to be supported with funds provided under this title;

"(5) a cost estimate of the proposed improvement;

"(6) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

"(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

"(8) such other information and assurances as the Secretary may reasonably require.

20 USC 8507.

"SEC. 12007. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction.

"(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds to meet the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

"SEC. 12008. GENERAL PROVISIONS. 20 USC 8508.

"(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this title shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this title, and all funds available for carrying out the functions of the Secretary under this title (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this title;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision of such State civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held; and

"(7) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this title will be achieved.

"(d) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subtitle if the amount of such contract does not exceed $1,000.

"(e) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this title.

20 USC 8509.

"SEC. 12009. FAIR WAGES.

"All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

20 USC 8510.

"SEC. 12010. REQUIREMENTS.

"(a) SPECIAL RULES.—

"(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

"(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

"(b) GENERAL LIMITATIONS.—

"(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

"(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

"(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions

or other events for which admission is charged to the general public.

"SEC. 12011. FEDERAL ASSESSMENT. 20 USC 8511.

"The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15013—

"(1) to collect such data as the Secretary determines necessary at the school, local, and State levels;

"(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of projects supported with funds provided under this title; and

"(B) evaluate the state of United States public elementary and secondary school libraries, media centers, and facilities; and

"(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2). Reports.

"SEC. 12012. DEFINITIONS. 20 USC 8512.

"For the purpose of this title—

"(1) the term 'construction' means the alteration or renovation of a building, structure, or facility, including—

"(A) the concurrent installation of equipment; and

"(B) the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility;

"(2) the term 'school' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, the primary purpose of which is the instruction of public elementary and secondary school students; and

"(3) the term 'eligible local educational agency' means a local educational agency in which—

"(A) not less than 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under subpart 2 of part A of title I of this Act; or

"(B) the United States owns Federal property described in section 8015(5), that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

"(C) demonstrates in the application submitted under section 12006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary schools used for academic or vocational instruction.

"SEC. 12013. AUTHORIZATION. 20 USC 8513.

"There are authorized to be appropriated to carry out this title $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"TITLE XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

20 USC 8601.

"SEC. 13001. FINDINGS.

"The Congress finds that—

"(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs under this Act;

"(2) comprehensive technical assistance and effective program dissemination are essential ingredients of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

"(3) States, local educational agencies, tribes, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this Act to provide such students with opportunities to learn to challenging State content standards and challenging State student performance standards;

"(4) current technical assistance and dissemination efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States, local educational agencies and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under this Act with State and local programs and other education reform efforts;

"(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

"(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this Act;

"(7) comprehensive technical assistance will provide coordinated assistance to help States, local educational agencies, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems;

"(8) technical assistance in support of programs under this Act should be coordinated with the Department's regional offices, the regional educational laboratories, State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department; and

"(9) technical assistance providers should prioritize assistance for local educational agencies and schools.

20 USC 8602.

"SEC. 13002. PURPOSE.

"The purpose of this title is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under this Act technical assistance in—

"(1) administering and implementing programs under this Act;

"(2) implementing school reform programs in a manner that improves teaching and learning for all students;

"(3) coordinating such programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

"(4) adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

"PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

"SEC. 13101. PROGRAM AUTHORIZED. 20 USC 8621.

"(a) COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, public or private nonprofit entities or consortia of such entities in order to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance, related to administration and implementation of programs under this Act, to States, local educational agencies, schools, tribes, community-based organizations, and other recipients of funds under this Act. Grants. Contracts.

"(2) CONSIDERATION.—In establishing comprehensive regional assistance centers and allocating resources among the centers, the Secretary shall consider—

"(A) the geographic distribution of students assisted under title I;

"(B) the geographic and linguistic distribution of students of limited-English proficiency;

"(C) the geographic distribution of Indian students;

"(D) the special needs of students living in urban and rural areas; and

"(E) the special needs of States and outlying areas in geographic isolation.

"(3) SPECIAL RULE.—The Secretary shall establish 1 comprehensive regional assistance center under this section in Hawaii. Hawaii.

"(b) SERVICE TO INDIANS AND ALASKA NATIVES.—The Secretary shall ensure that each comprehensive regional assistance center that serves a region with a significant population of Indian or Alaska Native students shall—

"(1) be awarded to a consortium which includes a tribally controlled community college or other Indian organization; and

"(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students.

"(c) ACCOUNTABILITY.—To ensure the quality and effectiveness of the networked system of comprehensive regional assistance centers supported under this part, the Secretary shall—

"(1) develop, in consultation with the Assistant Secretary for Elementary and Secondary Education, the Director of Bilingual Education and Minority Languages Affairs, and the Assist-

ant Secretary for Educational Research and Improvement, a set of performance indicators that assesses whether the work of the centers assists in improving teaching and learning under this Act for all children, particularly children at risk of educational failure;

"(2) conduct surveys every two years of populations to be served under this Act to determine if such populations are satisfied with the access to and quality of such services;

"(3) collect, as part of the Department's reviews of programs under this Act, information about the availability and quality of services provided by the centers, and share that information with the centers; and

"(4) take whatever steps are reasonable and necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include—

"(A) termination of an award under this part (if the Secretary concludes that performance has been unsatisfactory) and the selection of a new center; and

"(B) whatever interim arrangements the Secretary determines are necessary to ensure the satisfactory delivery of services under this part to an affected region.

"(d) DURATION.—Grants, contracts or cooperative agreements under this section shall be awarded for a period of 5 years.

20 USC 8622.

"SEC. 13102. REQUIREMENTS OF COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

"(a) IN GENERAL.—Each comprehensive regional assistance center established under section 13101(a) shall—

"(1) maintain appropriate staff expertise and provide support, training, and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools, and other grant recipients under this Act, in—

"(A) improving the quality of instruction, curricula, assessments, and other aspects of school reform, supported with funds under title I;

"(B) implementing effective schoolwide programs under section 1114;

"(C) meeting the needs of children served under this Act, including children in high-poverty areas, migratory children, immigrant children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native children and Native Hawaiian children;

"(D) implementing high-quality professional development activities for teachers, and where appropriate, administrators, pupil services personnel and other staff;

"(E) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

"(F) creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and school;

"(G) implementing educational applications of technology;

"(H) coordinating services and programs to meet the needs of students so that students can fully participate in the educational program of the school;

"(I) expanding the involvement and participation of parents in the education of their children;

"(J) reforming schools, school systems, and the governance and management of schools;

"(K) evaluating programs; and

"(L) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas;

"(2) ensure that technical assistance staff have sufficient training, knowledge, and expertise in how to integrate and coordinate programs under this Act with each other, as well as with other Federal, State, and local programs and reforms;

"(3) provide technical assistance using the highest quality and most cost-effective strategies possible;

"(4) coordinate services, work cooperatively, and regularly share information with, the regional educational laboratories, the Eisenhower regional consortia under part C, research and development centers, State literacy centers authorized under the National Literacy Act of 1991, and other entities engaged in research, development, dissemination, and technical assistance activities which are supported by the Department as part of a Federal technical assistance system, to provide a broad range of support services to schools in the region while minimizing the duplication of such services;

"(5) work collaboratively with the Department's regional offices;

"(6) consult with representatives of State educational agencies, local educational agencies, and populations served under this Act;

"(7) provide services to States, local educational agencies, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section 13201, in order to better implement the purposes of this part and provide the support and assistance diffusion agents need to carry out such agents' mission effectively; and

"(8) provide professional development services to State educational agencies, local educational agencies, and the National Diffusion Network State Facilitators to increase the capacity of such entities to provide high-quality technical assistance in support of programs under this Act.

"(b) PRIORITY.—Each comprehensive regional assistance center assisted under this part shall give priority to servicing—

"(1) schoolwide programs under section 1114; and

"(2) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

"SEC. 13103. MAINTENANCE OF SERVICE AND APPLICATION REQUIREMENTS. 20 USC 8623.

"(a) MAINTENANCE OF SERVICE.—The Secretary shall ensure that the comprehensive regional assistance centers funded under this part provide technical assistance services that address the needs of educationally disadvantaged students, including students in urban and rural areas, and bilingual, migrant, immigrant, and Indian students, that are at least comparable to the level of such

technical assistance services provided under programs administered by the Secretary on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"(b) APPLICATION REQUIREMENTS.—Each entity or consortium desiring assistance under this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may require. Each such application shall—

"(1) demonstrate how the comprehensive regional assistance center will provide expertise and services in the areas described in section 13102;

"(2) demonstrate how such centers will work with the National Diffusion Network under section 13201 to conduct outreach to local educational agencies receiving priority under section 13401;

"(3) demonstrate support from States, local educational agencies and tribes in the area to be served;

"(4) demonstrate how such centers will ensure a fair distribution of services to urban and rural areas; and

"(5) provide such other information as the Secretary may require.

20 USC 8624. **"SEC. 13104. TRANSITION.**

"(a) IN GENERAL.—The Secretary shall use funds appropriated to carry out this part for fiscal years 1995 and 1996 in order to ensure an orderly transition and phase in of the comprehensive regional assistance centers assisted under this part.

"(b) EXTENSION OF PREVIOUS CENTERS.—

"(1) IN GENERAL.—The Secretary shall, notwithstanding any other provision of law, use funds appropriated under section 13105 to extend or continue contracts and grants for existing categorical technical assistance centers assisted under this Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) through fiscal year 1996, and take other necessary steps to ensure a smooth transition of services provided under this part and that such services will not be interrupted, curtailed, or substantially diminished.

"(2) STAFF EXPERTISE.—In planning for the competition for the new comprehensive regional assistance centers under this part, the Secretary may draw on the expertise of staff from existing categorical assistance centers assisted under this Act prior to the date of enactment of the Improving America's Schools Act of 1994.

20 USC 8625. **"SEC. 13105. AUTHORIZATION OF APPROPRIATIONS.**

"For the purpose of carrying out this part, there are authorized to be appropriated $70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART B—NATIONAL DIFFUSION NETWORK

20 USC 8651. **"SEC. 13201. PROGRAM AUTHORIZED.**

"(a) AUTHORITY.—

"(1) IN GENERAL.—In order to implement the purposes of this title, the Secretary is authorized to establish the National Diffusion Network (hereafter referred to in this Act as 'NDN')

to carry out a State-based outreach, consultation, training, and dissemination program.

"(2) PROGRAM REQUIREMENTS.—In carrying out the program under this part, the Secretary shall award grants and contracts to National Diffusion Network State Facilitators in each State and outlying area, and to the Bureau of Indian Affairs, in order to assist State and local educational agencies, schools, and other appropriate educational entities— Grants. Contracts.

"(A) to identify and secure appropriate, high-quality technical assistance from the comprehensive regional assistance centers under part A and other sources; and

"(B) to identify and implement exemplary or promising educational programs and practices.

"(b) ELIGIBLE ENTITIES.—The Secretary shall award grants and contracts under this section to public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination. Grants. Contracts. Nonprofit organizations.

"(c) ADMINISTRATION.—The program under this part shall be administered through the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(d) COORDINATION.—The National Diffusion Network State Facilitators shall work in close cooperation, and coordinate their activities, with the comprehensive regional assistance centers established under part A.

"(e) STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, family and adult literacy programs, and other entities assisted under this Act, in—

"(1) defining such entities' technical assistance needs and aligning such needs with school reform under title I, professional development, and technology plans;

"(2) securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower regional consortia, State Literacy Resource Centers authorized under the National Literacy Act of 1991 and other technical assistance providers, including local providers of professional development services;

"(3) identifying educational technology needs and securing the necessary technical assistance to address such needs in coordination with the Eisenhower regional consortia under part C and the regional technical assistance and professional development consortia under subpart 3 of title III; and

"(4) utilizing technology, including regional and national electronic networks, to increase such entities' access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

"(f) ADDITIONAL DUTIES.—In addition, National Diffusion Network State Facilitators shall—

"(1) disseminate information about school reform and effective and promising practices, and help local educational agencies and schools adapt such reform and practices to such agencies' needs;

"(2) identify educational programs and practices for possible dissemination throughout the State and Nation;

"(3) promote and facilitate teacher networks throughout the State;

"(4) develop and implement an aggressive outreach plan for reaching the local educational agencies and schools receiving priority under section 13401; and

"(5) provide such other outreach, coordination, and dissemination services as may be necessary to achieve the purposes of this title.

"(g) NATIONAL DIFFUSION NETWORK EFFECTIVE PROGRAMS AND PROMISING PRACTICES SYSTEM.—

"(1) IN GENERAL.—The Secretary shall develop a system of validating effective programs and promising practices for dissemination through the National Diffusion Network. Such system may include exemplary programs funded through any office of the Department, the National Science Foundation, or other Federal agencies and shall be coordinated, aligned with, and administered by, the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

"(2) PRIORITY.—The Secretary shall give priority to identifying, validating, and disseminating effective schoolwide projects, programs addressing the needs of high poverty schools, and programs with the capacity to offer high-quality, sustained technical assistance. The Office of Educational Research and Improvement Office of Reform Assistance and Dissemination shall also administer a grant program for the purpose of dissemination and the provision of technical assistance regarding such system.

"(3) PRIORITY OF SERVICES.—The National Diffusion Network State Facilitators shall give priority in providing the services described in this section to—

"(A) schoolwide program under section 1114; and

"(B) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

20 USC 8652.

"SEC. 13202. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

20 USC 8671.

"SEC. 13301. PROGRAM ESTABLISHED.

Contracts.

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts to eligible entities to enable such entities to establish and operate regional mathematics and science education consortia for the purpose of—

"(A) disseminating exemplary mathematics and science education instructional materials; and

"(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

"(2) NUMBER.—The Secretary, in accordance with the provisions of this section, shall award at least one grant or contract to an eligible entity in each region.

"(3) SPECIAL RULE.—In any fiscal year, if the amount made available pursuant to section 13308 is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope, and quality to carry out this section.

"(4) DESIGNATION.—Each regional consortium assisted under this section shall be known as an 'Eisenhower regional consortium'.

"(b) GRANT TERM AND REVIEW.—Grants or contracts under this part shall be awarded for a period of not more than five years and shall be reviewed before the end of the 30-month period beginning on the date the grant or contract is awarded. Grants or contracts under this part shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out this part.

"(c) AMOUNT.—In awarding grants or contracts under this part, the Secretary shall ensure that there is a relatively equal distribution of the funds made available among the regions, except that the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

"SEC. 13302. USE OF FUNDS. 20 USC 8672.

"Funds provided under this part may be used by a regional consortium, under the direction of a regional board established under section 13304, to—

"(1) work cooperatively with the other regional consortia, the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 2102(b) and federally funded technical assistance providers to more effectively accomplish the activities described in this section;

"(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in section 13301(a)(1);

"(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in section 13301(a)(1) in the classroom;

"(4) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

"(5) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(6) assist State and local educational agencies in identifying science equipment needs and help such agencies or consortia thereof assess the need for and desirability of regional mathematics and science academies;

"(7) develop and disseminate early childhood education mathematics and science instructional materials;

"(8) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(9) collect data on activities assisted under this part in order to evaluate the effectiveness of the activities of the regional consortia;

"(10) identify exemplary teaching practices and materials from within the region and communicate such practices and materials to the Eisenhower National Clearinghouse for Mathematics and Science Education;

"(11) communicate, on a regular basis, with entities within the region who are delivering services to students and teachers of mathematics and science;

"(12) assist in the development and evaluation of State and regional plans and activities that hold promise of bringing about systemic reform in student performance in mathematics and science; and

"(13) increase the use of informal education entities (such as science technology centers, museums, libraries, Saturday academies, and 4H programs) for educational purposes to expand student knowledge and understanding.

20 USC 8673. **"SEC. 13303. APPLICATION AND REVIEW.**

"(a) IN GENERAL.—Each eligible entity desiring a grant or contract under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

"(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

"(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(4) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(5) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

"(6) demonstrate that the eligible entity will consider the resources of telecommunications partnerships assisted under the Star Schools Program Assistance Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in carrying out the provisions of this part, where appropriate; and

"(7) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States under title 17, United States Code.

"(b) APPROVAL OF APPLICATION.—

"(1) IN GENERAL.—The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) PROCEDURES AND CRITERIA.—The Secretary shall develop procedures and criteria designed to ensure that grants or contracts are competitively awarded on the basis of merit determined under a peer review process.

"(3) NATIONAL PANEL.—(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants or contracts under this part. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed under subparagraph (A) shall include participation, to the extent feasible, from each region.

"SEC. 13304. REGIONAL BOARDS. 20 USC 8674.

"(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this part shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

"(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board required by subsection (a), except that at the discretion of a regional board, Federal funds may be used to provide assistance such as travel and accommodations for board members who could not otherwise afford to participate as members of the board.

"SEC. 13305. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE. 20 USC 8675.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 13303 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—For the purpose of subsection (a), the Federal share shall be 80 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted under section 13303 may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government, or State or local government.

"SEC. 13306. EVALUATION. 20 USC 8676.

"(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement and in accordance with section 14701, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

"(b) ASSESSMENT.—The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

"(c) REPORT.—At the end of each grant or contract period, the Secretary shall submit to the Congress a report on the effectiveness of the programs conducted at each regional consortium.

20 USC 8677. **"SEC. 13307. DEFINITIONS.**

"For purposes of this part:

"(1) The term 'eligible entity' means—

"(A) a private nonprofit organization of demonstrated effectiveness;

"(B) an institution of higher education;

"(C) an elementary or secondary school;

"(D) a State or local educational agency;

"(E) a regional educational laboratory in consortium with the research and development center established under section 931(c)(1)(B)(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994; or

"(F) any combination of the entities described in subparagraphs (A) through (E),

with demonstrated expertise in mathematics and science education.

"(2) The terms 'mathematics' and 'science' include the technology education associated with mathematics and science, respectively.

"(3) The term 'region' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act (as such section was in existence on the day preceding the date of enactment of the Goals 2000: Educate America Act).

"(4) The term 'regional consortium' means each regional mathematics and science education consortium established pursuant to section 13301.

"(5) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of carrying out this part by the Governor or by State law.

20 USC 8678. **"SEC. 13308. AUTHORIZATION OF APPROPRIATIONS.**

"There are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

20 USC 8701. **"SEC. 13401. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.**

"The Secretary is authorized to provide a technology-based technical assistance service that will—

"(1) support the administration and implementation of programs under this Act by providing information, including legal and regulatory information, and technical guidance and information, about best practices; and

"(2) be accessible to all States, local educational agencies, schools, community-based organizations and others who are recipients of funds under this Act.

"TITLE XIV—GENERAL PROVISIONS

"PART A—DEFINITIONS

"SEC. 14101. DEFINITIONS. 20 USC 8801.

"Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

"(1) AVERAGE DAILY ATTENDANCE.—(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during such school year.

"(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

"(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

"(i) consider the child to be in attendance at a school of the agency making such payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

"(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for the operation of such agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

"(4) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(5) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 14302.

"(6) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 14302.

"(7) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 14302.

"(8) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 14302.

"(9) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(10) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;

"(B) part C of title I;

"(C) title II (other than section 2103 and part C);

"(D) subpart 2 of part A of title III;

"(E) part A of title IV (other than section 4114); and

"(F) title VI.

"(11) The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and title VI.

"(12) DEPARTMENT.—The term 'Department' means the Department of Education.

"(13) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(14) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

"(15) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary school education as determined under applicable State law, except that such

term does not include any education provided beyond grade 12.

"(16) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(17) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(18) LOCAL EDUCATIONAL AGENCY.—(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

"(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(19) MENTORING.—The term 'mentoring' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

"(20) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(21) OUTLYING AREA.—The term 'outlying area' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121 and any other discretionary grant program under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(22) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(23) PUBLIC TELECOMMUNICATION ENTITY.—The term 'public telecommunication entity' has the same meaning given to such term in section 397(12) of the Communications Act of 1934.

"(24) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—(A) The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602(a)(17) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) The term 'pupil services' means the services provided by pupil services personnel.

"(25) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

"(26) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(27) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(28) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

"(29) TECHNOLOGY.—The term 'technology' means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper fiber optic transmission, computer hardware and software, video and audio laser and CD–ROM disks, video and audio tapes, including interactive forms of such products and services, or other technologies.

20 USC 8802.

"SEC. 14102. APPLICABILITY OF THIS TITLE.

"Parts B, C, D, E, and F of this title do not apply to title VIII of this Act.

20 USC 8803.

"SEC. 14103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

"For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

20 USC 8821.

"SEC. 14201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

"(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs

specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

"(2) APPLICABILITY.—This section applies to programs under title I, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 14101(10), and administrative funds under section 308(c) of the Goals 2000: Educate America Act.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a), such as—

"(A) the coordination of such programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices; and

"(E) technical assistance under programs specified in subsection (a)(2).

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act and title III of the Goals 2000: Educate America Act.

"SEC. 14202. SINGLE LOCAL EDUCATIONAL AGENCY STATES. 20 USC 8822.

"A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

20 USC 8823.

"SEC. 14203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

"(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 14201(b)(2).

"(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

20 USC 8824.

"SEC. 14204. ADMINISTRATIVE FUNDS STUDIES.

"(a) FEDERAL FUNDS STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

Effective date.
Reports.

"(2) STATE DATA.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under title I shall submit to the Secretary a report on the use of title I funds for the State administration of activities assisted under title I. Such report shall include the proportion of State administrative funds provided under section 1603 that are expended for—

"(A) basic program operation and compliance monitoring;

"(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

"(C) technical assistance and other direct support to local educational agencies and schools.

"(3) FEDERAL FUNDS REPORT.—The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

"(4) RESULTS.—Based on the results of the study described in subsection (a)(1), which may include collection and analysis of the data under paragraph (2) and section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall—

"(A) develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies; and

"(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law. Regulations.

"(b) GENERAL ADMINISTRATIVE FUNDS STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

"(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

"(2) the potential usefulness of such data system to reduce such administrative expenses;

"(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

"(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

"SEC. 14205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS. 20 USC 8825.

"(a) GENERAL AUTHORITY.—

"(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title IX of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

"(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and

performance measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

20 USC 8826.

"SEC. 14206. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

"(a) UNNEEDED PROGRAM FUNDS.—With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of title I) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

"(b) COORDINATION OF SERVICES.—A local educational agency, individual school, or consortium of schools may use a total of not more than five percent of the funds such agency, school, or consortium, respectively, receives under this Act for the establishment and implementation of a coordinated services project in accordance with the requirements of title XI of this Act.

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

20 USC 8851.

"SEC. 14301. PURPOSE.

"It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

20 USC 8852.

"SEC. 14302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

"(a) GENERAL AUTHORITY.—

"(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

"(A) each of the covered programs in which the State participates; and

"(B) the additional programs described in paragraph (2).

"(2) ADDITIONAL PROGRAMS.—A State educational agency may also include in its consolidated State plan or consolidated State application—

"(A) the Even Start program under part B of title I;

"(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of title I;

"(C) programs under part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act;

"(D) programs under the Goals 2000: Educate America Act;

"(E) programs under the School-to-Work Opportunities Act of 1994; and

"(F) such other programs as the Secretary may designate.

"(3) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

"(b) COLLABORATION.—

"(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

"(2) CONTENTS.—Through the collaborative process described in subsection (b)(1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

"(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

"SEC. 14303. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES. 20 USC 8853.

"(a) ASSURANCES.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 14302, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

Reports. "(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

Records. "(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

"(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

20 USC 8854. **"SEC. 14304. ADDITIONAL COORDINATION.**

"(a) ADDITIONAL COORDINATION.—In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this Act with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

"(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date of enactment of the Improving America's Schools Act of 1994.

20 USC 8855. **"SEC. 14305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.**

"(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

"(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 14302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

"(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing

procedures for the submission of the consolidated State plans or consolidated State applications under this section.

"(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

"SEC. 14306. OTHER GENERAL ASSURANCES. 20 USC 8856.

"(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 14304, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

"(6) the applicant will—

"(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and Reports.

"(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and Records.

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

20 USC 8857. **"SEC. 14307. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.**

"(a) STATE PLANS.—

"(1) IN GENERAL.—Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, and the Carl D. Perkins Vocational and Applied Technology Education Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Part C of title I (education of migratory children).

"(C) Part D of title I (education of neglected, delinquent, and at-risk youth).

"(D) Title II (professional development).

"(E) Title IV (safe and drug-free schools).

"(F) Title VI (innovative education program strategies).

"(G) Subpart 4 of part A of title IX (Indian education).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State improvement plan for such State under title III of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

"(3) AMENDMENT.—Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III of the Goals 2000: Educate America Act.

"(b) LOCAL PLANS.—

"(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Title II (professional development).

"(C) Title IV (safe and drug-free schools).

"(D) Subpart 4 of part A of title IX (Indian education).

"(E) Subpart 1 of part A of title VII (bilingual education).

"(F) Title VI (innovative education program strategies).

"(G) Part C of title VII (emergency immigrant education).

"(2) PLAN OF OPERATION.—Each plan of operation included in an application submitted by an eligible entity under part B of title I (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 1111 and 1112.

"(3) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III of

the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

"(4) SUBMISSION.—Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III of the Goals 2000: Educate America Act.

"PART D—WAIVERS

"SEC. 14401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS. 20 USC 8881.

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this Act; and

"(2) requests a waiver under subsection (b).

"(b) REQUEST FOR WAIVER.—

"(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

"(A) identifies the Federal programs affected by such requested waiver;

"(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

"(i) increase the quality of instruction for students; or

"(ii) improve the academic performance of students;

"(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

"(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

"(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

"(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

"(2) ADDITIONAL INFORMATION.—Such requests—

"(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) shall be developed and submitted—

"(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

"(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

"(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

"(3) GENERAL REQUIREMENTS.—(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

"(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

Public information.

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

"(B) In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

"(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

Public information.

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

"(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

"(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) use of Federal funds to supplement, not supplant, non-Federal funds;

"(5) equitable participation of private school students and teachers;

"(6) parental participation and involvement;

"(7) applicable civil rights requirements;

"(8) the requirement for a charter school under part C of title X; or

"(9) the prohibitions regarding—

"(A) State aid in section 14502; or

"(B) use of funds for religious worship or instruction in section 14507.

"(d) DURATION AND EXTENSION OF WAIVER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed three years.

"(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

"(B) such extension is in the public interest.

"(e) REPORTS.—

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

"(A) describes the uses of such waiver by such agency or by schools;

"(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

"(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

"(2) STATE WAIVER.—A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

"(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

"(A) describes the uses of such waiver by schools operated by such tribe; and

"(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

"(4) REPORT TO CONGRESS.—Beginning in fiscal year 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report—

"(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) describing whether such waivers—

"(i) increased the quality of instruction to students; or

"(ii) improved the academic performance of students.

"(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

"(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public. Federal Register, publication.

"PART E—UNIFORM PROVISIONS

"SEC. 14501. MAINTENANCE OF EFFORT. 20 USC 8891.

"(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(b) REDUCTION IN CASE OF FAILURE TO MEET.—

"(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

"(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

"(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

"(1) exceptional or uncontrollable circumstances such as a natural disaster; or

"(2) a precipitous decline in the financial resources of the local educational agency.

20 USC 8892.

"SEC. 14502. PROHIBITION REGARDING STATE AID.

"A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

20 USC 8893.

"SEC. 14503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

"(a) PRIVATE SCHOOL PARTICIPATION.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

"(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

"(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

"(5) PROVISION OF SERVICES.—Such agency or consortium described in subsection (a)(1) may provide such services directly

or through contracts with public and private agencies, organizations, and institutions.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to programs under—

"(A) part C of title I (migrant education);

"(B) title II (other than section 2103 and part C of such title);

"(C) title VII;

"(D) title III (other than part B of such title) (Star Schools); and

"(E) part A of title IV (other than section 4114).

"(2) DEFINITION.—For the purposes of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

"(c) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided; and

"(D) how the services will be assessed.

"(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

"(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

"(d) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization. Contracts.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

"SEC. 14504. STANDARDS FOR BY-PASS. 20 USC 8894.

"If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or

consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 14503, the Secretary shall—

"(1) waive the requirements of that section for such agency or consortium; and

"(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 14503, 14505, and 14506.

20 USC 8895.

"SEC. 14505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

"(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 14503 by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

"(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

20 USC 8896.

"SEC. 14506. BY-PASS DETERMINATION PROCESS.

"(a) REVIEW.—

"(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 14504 until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(2) PETITION FOR REVIEW.—(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.

"(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

"(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code. Records.

"(3) FINDINGS OF FACT.—(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Records.

"(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) JURISDICTION.—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.

"(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14503 or any other provision of this Act.

"(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.

"(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.

"SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION. 20 USC 8897.

"Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.

"SEC. 14508. APPLICABILITY TO HOME SCHOOLS. 20 USC 8898.

"Nothing in this Act shall be construed to affect home schools.

"SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS. 20 USC 8899.

"Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

20 USC 8900.

"SEC. 14510. SCHOOL PRAYER.

"Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.

20 USC 8901

"SEC. 14511. GENERAL PROHIBITIONS.

"(a) PROHIBITION.—None of the funds authorized under this Act shall be used—

"(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;

"(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

"(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or

"(4) to operate a program of condom distribution in schools.

"(b) LOCAL CONTROL.—Nothing in this section shall be construed to—

"(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;

"(2) limit the application of the General Education Provisions Act;

"(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

"(4) create any legally enforceable right.

20 USC 8902.

"SEC. 14512. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

20 USC 8903.

"SEC. 14513. REPORT.

"The Secretary shall report to the Congress not later than 180 days after the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.

"SEC. 14514. REQUIRED PARTICIPATION PROHIBITED. 20 USC 8904.

"Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.

"PART F—GUN POSSESSION

"SEC. 14601. GUN-FREE REQUIREMENTS. Gun-Free Schools Act of 1994. 20 USC 8921.

"(a) SHORT TITLE.—This section may be cited as the 'Gun-Free Schools Act of 1994'.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

"(2) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

"(3) SPECIAL RULE.—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.

"(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.

"(4) DEFINITION.—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.

"(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

"(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—

"(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

"(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—

"(A) the name of the school concerned;

"(B) the number of students expelled from such school; and

"(C) the type of weapons concerned.

"(e) REPORTING.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.

"(f) REPORT TO CONGRESS.—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.

20 USC 8922.

"SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

"(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

"(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.

20 USC 8923.

"SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

"The Secretary shall—

"(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;

Records.

"(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

Reports.

"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

"PART G—EVALUATIONS

20 USC 8941.

"SEC. 14701. EVALUATIONS.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) SPECIAL RULE.—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title

I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

"(b) NATIONAL EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

"(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

"(ii) the short- and long-term effects of program participation on program participants, as appropriate;

"(iii) the cost and efficiency of such programs;

"(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

"(v) specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

"(vi) promising means of identifying and disseminating effective management and educational practices;

"(vii) the effect of such programs on school and local educational agencies' administrative responsibilities and structure, including the use of local and State resources, with particular attention to schools and agencies serving a high concentration of disadvantaged students; and

"(viii) the effect of Federal categorical programs at the elementary and secondary levels on the proliferation of State categorical education aid programs and regulations, including an evaluation of the State regulations that are developed in response to Federal education laws;

"(B) in collaboration with the national assessment conducted pursuant to section 1601, a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

"(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preschool, elementary, or secondary education;

"(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act of 1994, and be coordinated with evaluations of such Acts;

"(iii) include a comprehensive review of the programs developed under the Acts described in clauses (i) and (ii) to determine such programs' overall effect on—

"(I) the readiness of children for schooling;

"(II) the improvement in educational attainment of students in elementary and secondary education; and

"(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

"(iv) include a comprehensive review of the programs under the Acts described in clauses (i) and (ii) to determine such programs' overall effect—

"(I) on school reform efforts undertaken by States;

"(II) on efforts by States to adopt educational standards to improve schooling for all children, to align their curricula, teacher training, and assessments with such standards, and to bring flexibility to the rules governing how education is to be provided; and

"(III) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

"(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and the National Education Statistics and Improvement Council (and any other Federal board established to analyze, address, or approve education standards and assessments) coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

"(vi) include a review of the programs under the Acts described in clauses (i) and (ii) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies; and

"(C) a study of the waivers granted under section 14401, which study shall include—

"(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

"(ii) an analysis of the effect of waivers on categorical program requirements and other flexibility provisions in this Act, the School-to-Work Opportunities

Act of 1994, and the Goals 2000: Educate America Act, on improvement in educational achievement of participating students and on school and local educational agency administrative responsibilities, structure, and resources based on an appropriate sample of State educational agencies, local educational agencies, schools, and tribes receiving waivers.

"(D) a study of the waivers provided under section 1114 to support schoolwide programs which shall include—

"(i) the extent to which schoolwide programs are meeting the intent and purposes of any program for which provisions were waived; and

"(ii) the extent to which the needs of all students are being served by such programs particularly students who would be eligible for assistance under any provisions waived.

"(2) INDEPENDENT PANEL.—The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

"(3) REPORT.—The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

"(c) RECIPIENT EVALUATION AND QUALITY ASSURANCE IMPROVEMENT.—The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this Act to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

"PART H—SENSE OF THE CONGRESS

"SEC. 14801. SENSE OF CONGRESS TO INCREASE THE TOTAL SHARE OF FEDERAL SPENDING ON EDUCATION. 20 USC 8961.

"(a) FINDINGS.—The Congress finds that—

"(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

"(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

"(3) States and local communities are finding it increasingly difficult to meet ever higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

"(4) the Federal Government has established many educational programs but failed to provide adequate funding for such programs, for example one such program provides edu-

cation to our Nation's disabled students and was established with a promise of 40 percent Federal funding but currently receives only eight percent Federal funding;

"(5) the annual shortfall in Federal education programs is approximately half of the promised funding;

"(6) many needed educational improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings, will require substantial Federal assistance; and

"(7) the Federal contribution to education is less than two percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal educational funding should be increased by one percent each year over the next eight years to reach 10 percent of the total Federal budget.

"(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the total share of the Federal spending on education should increase by at least one percent each year until such share reaches 10 percent of the total Federal budget.

20 USC 8962.

"SEC. 14802. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

"(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.".

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

PART A—APPLICABILITY OF THE GENERAL EDUCATION PROVISIONS ACT

SEC. 211. TITLE; APPLICABILITY; DEFINITIONS.

Section 400 of the General Education Provisions Act (20 U.S.C. 1221 et seq.) (hereafter in this title (other than part F) referred to as the "Act") is amended to read as follows:

General Education Provisions Act. 20 USC 1221.

"SHORT TITLE; APPLICABILITY; DEFINITIONS

"SEC. 400. (a) This title may be cited as the 'General Education Provisions Act'.

"(b)(1) Except as otherwise provided, this title applies to each applicable program of the Department of Education.

"(2) Except as otherwise provided, this title does not apply to any contract made by the Department of Education.

"(c) As used in this title, the following terms have the following meanings:

"(1) The term 'applicable program' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act or under Federal law effective after the effective date of that Act.

"(2) The term 'applicable statute' means—

"(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

"(B) this title; and

"(C) any other statute that by its terms expressly controls the administration of an applicable program.

"(3) The term 'Department' means the Department of Education.

"(4) The term 'Secretary' means the Secretary of Education.

"(d) Nothing in this title shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program.".

SEC. 212. REPEAL AND REDESIGNATION.

(a) REPEALS.—

(1) SECTIONS.—Sections 400A, 401, 402, 403, 406, 406A, 406B, 406C, 407, 413, 416, 419, 421, 423, 424, 426A, and 429 of the Act are repealed. 20 USC 1221–3, 1221a–1221c, 1221e–1–1221e–1c, 1221e–2, 1226, 1226b, 1227, 1230, 1231b, 1231b–1, 1231c–1, 1231f.

(2) PART.—Part D of the Act is repealed. 20 USC 1233–1233h.

(b) REDESIGNATIONS.—

(1) SECTIONS.—Sections 408, 409, 411, 412, 414, 415, 417, 420, 421A, 422, 425, 426, 427, 428, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, and 440 of the Act are redesignated as sections 410, 411, 420, 421, 422, 423, 425, 426, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, and 446 of the Act, respectively. 20 USC 1221e–3, 1221e–4, 1223, 1225, 1226a, 1226a–1, 1226c, 1228, 1231a, 1231b–2, 1231c, 1231d, 1231e, 1231g, 1232, 1232a–1232i.

(2) PART.—Part E of the Act is redesignated as part D of the Act. 20 USC prec. 1234.

(3) CROSS REFERENCES.—(A) Paragraph (6) of section 441(b) (as redesignated by paragraph (1)) (20 U.S.C. 1232d(b)(6)) is amended by striking "437" and inserting "443".

(B) Paragraph (4) of section 442(b) of the Act (as redesignated by paragraph (1)) (20 U.S.C. 1232e(b)(4)) is amended by striking "437" and inserting "443".

(C) Subsection (a) of section 446 of the Act (as redesignated by paragraph (1)) (20 U.S.C. 1232i(a)) is amended by striking "438(b)(1)(D)" and inserting "444(b)(1)(D)".

(D) Subsection (a) of section 458 of the Act (20 U.S.C. 1234g(a)) is amended by striking "435(a)" and inserting "441(a)".

PART B—THE DEPARTMENT OF EDUCATION

SEC. 221. NEW HEADING FOR PART A.

The heading for part A of the Act is amended to read as follows: 20 USC prec. 1221a.

"PART A—FUNCTIONS OF THE DEPARTMENT OF EDUCATION".

SEC. 222. GENERAL AUTHORITY OF THE SECRETARY.

Section 410 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1221e–3) is amended to read as follows:

"GENERAL AUTHORITY OF THE SECRETARY

"SEC. 410. The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.".

PART C—APPROPRIATIONS AND EVALUATIONS

SEC. 231. FORWARD FUNDING.

Section 420 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1223) is amended to read as follows:

"FORWARD FUNDING

"SEC. 420. (a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

"(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.".

SEC. 232. AVAILABILITY OF APPROPRIATIONS.

(a) AMENDMENT TO HEADING.—The heading for section 421 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1225) is amended to read as follows:

"AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL-YEAR BASIS; ADDITIONAL PERIOD FOR OBLIGATION OF FUNDS".

(b) AMENDMENT TO TEXT.—Section 421 of the Act (20 U.S.C. 1225) is further amended—

(1) in subsection (a)—

(A) by striking "to educational agencies or institutions";

(B) by striking "expenditure" and inserting "obligation"; and

(C) by striking "agency or institution concerned" and inserting "recipient";

(2) in subsection (b), by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding"; and

(3) in subsection (c), by striking "section 3679(d)(2) of the Revised Statutes" and inserting "section 1341(a) of title 31, United States Code".

SEC. 233. CONTINGENT EXTENSION OF PROGRAMS.

Section 422 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226a) is amended to read as follows:

"CONTINGENT EXTENSION OF PROGRAMS

"SEC. 422. (a) The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

"(b) The amount authorized to be appropriated for the period of automatic extension under subsection (a) of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

"(c) If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a).

"(d) This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain.".

SEC. 234. STATE REPORTS.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is amended by inserting before section 425 (as redesignated by section 212(b)(1)) the following new section:

"RESPONSIBILITY OF STATES TO FURNISH INFORMATION

"SEC. 424. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include— 20 USC 1226b.

"(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

"(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

"(b) Each report submitted under subsection (a) shall—

"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

"(2) analyze the information included in the report by local educational agency and by program;

"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

"(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

"(c) If the Secretary does not receive a report by the date required under subsection (a), or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

"(d) When the Secretary receives a report required under subsection (a), the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

"(e) The Secretary shall consult with the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

"(f) On or before August 15 of each year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

"(1) an analysis of the content and data quality of such reports;

"(2) a compilation of statistical data derived from such reports; and

"(3) information obtained by the Secretary with respect to—

"(A) direct grants made to local educational agencies by the Federal Government; and

"(B) contracts entered into between such agencies and the Federal Government.".

SEC. 235. BIENNIAL EVALUATION REPORT.

Section 425 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226c) is amended to read as follows:

"BIENNIAL EVALUATION REPORT

"SEC. 425. Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

"(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

"(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance

measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

"(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

"(4) list the principal analyses and studies supporting the major conclusions in such report;

"(5) be prepared in concise summary form with necessary detailed data and appendixes, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

"(6) include the results of the program evaluations conducted in accordance with section 14701 of the Elementary and Secondary Education Act of 1965.".

SEC. 236. EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is further amended by inserting after section 426 (as redesignated by section 212(b)(1)) the following new section:

"EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES

"SEC. 427. (a) The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by— 20 USC 1228a.

"(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

"(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

"(b) The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

"(c) The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

"(d) Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 400(d) of this Act.".

SEC. 237. COORDINATION.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is further amended by adding at the end the following new section:

"COORDINATION

"SEC. 428. The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, the National Education Standards and Improvement 20 USC 1228b.

Council, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems.".

SEC. 238. DISCLOSURE REQUIREMENTS.

Subpart 2 of part B of the Act (20 U.S.C. 1226b) is further amended by inserting after section 428 (as added by section 237) the following new section:

"DISCLOSURE REQUIREMENTS

20 USC 1228c.

"SEC. 429. (a) IN GENERAL.—Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

"(1) METHOD OF SOLICITATION AND SELECTION.—The method of solicitation and selection of participants in the educational program, including—

"(A) the origin of any mailing list used for such solicitation and selection;

"(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

"(C) any open enrollment activity, including the method of outreach; and

"(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

"(2) COST AND FEES.—Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

"(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

"(i) food;

"(ii) lodging;

"(iii) transportation;

"(iv) program staffing;

"(v) textbooks, syllabi, or other scholastic educational program materials;

"(vi) speaker fees; and

"(vii) administrative expenses, including expenses related to—

"(I) the preparation of nonscholastic educational program materials;

"(II) the provision of financial assistance;

"(III) mailing list rental or other recruitment activity; and

"(IV) administrative salaries and consulting fees;

"(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

"(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

"(b) NONDISCRIMINATORY ENROLLMENT AND SERVICE POLICY.—

"(1) IN GENERAL.—Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

"(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

"(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to entitle a student to—

"(A) participation in an educational program or any benefit associated with such program; or

"(B) a waiver of any fee charged for such participation or benefit.

"(c) ENFORCEMENT.—The Secretary shall—

"(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

"(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

"(2) take whatever other steps the Secretary determines are appropriate to enforce this section, including—

"(A) promulgating regulations;

"(B) establishing a complaint process;

"(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

"(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

"(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this section.

"(d) DEFINITIONS.—As used in this section:

"(1) DISABILITY.—The term 'disability' has the same meaning given to such term by section 3(2) of the Americans with Disabilities Act of 1990.

"(2) EDUCATIONAL ORGANIZATION.—(A) Except as provided in subparagraphs (B) and (C), the term 'educational organization' means any organization or entity that—

"(i) provides an educational program for a fee; and

"(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or

former participants in an educational program offered by such organization or entity.

"(B) The definition in subparagraph (A) shall not include—

"(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965;

"(ii) an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965; or

"(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

"(C) For the purpose of subsection (a) only, such term does not include an organization or entity that provides an educational program if such organization or entity—

"(i) recruits, for participation in such program, solely through a local school official; and

"(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

"(3) EDUCATIONAL PROGRAM.—(A) Except as provided in subparagraph (B), the term 'educational program' means a special honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

"(i) that is generally directed toward minors or secondary school students;

"(ii) for which a tuition or enrollment fee is charged;

"(iii) that is offered away from a student's regular place of school attendance;

"(iv) that includes not less than one supervised night away from home; and

"(v) that is intended to enhance a student's regular course of study.

"(B) Such term does not include a recreational program, or a social or religious activity.

"(4) LOCAL SCHOOL OFFICIAL.—The term 'local school official' means the highest administrative official serving a school district, or such individual's designee.

"(5) MINOR.—The term 'minor' means an individual who has not attained the age of 18 years.

"(6) MEMBERSHIP ORGANIZATION.—The term 'membership organization' includes any organization that maintains a membership list or collects dues or membership fees from its members.

"(7) RECREATIONAL ORGANIZATION.—The term 'recreational organization' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

"(8) RECREATIONAL PROGRAM.—The term 'recreational program' includes any activity or service that is intended as an entertainment pastime.".

PART D—ADMINISTRATION OF EDUCATION PROGRAMS

SEC. 241. JOINT FUNDING OF PROGRAMS. Contracts.

Section 430 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231) is amended to read as follows:

"JOINT FUNDING OF PROGRAMS

"SEC. 430. (a)(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

"(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes. Contracts. Grants.

"(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

"(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

"(b) The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

"(c) The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

"(d)(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements. Notice.

"(2) Such notice shall include—

"(A) a description of the purpose and objectives of the joint funding arrangement;

"(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

"(C) the criteria developed to govern the award of contracts and grants.".

SEC. 242. COLLECTION AND DISSEMINATION OF INFORMATION.

Section 431 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231a) is amended to read as follows:

"COLLECTION AND DISSEMINATION OF INFORMATION

"SEC. 422. The Secretary shall—

"(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

"(2) inform the public regarding federally supported education programs; and

"(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.".

SEC. 243. REVIEW OF APPLICATIONS.

Section 432 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231b–2) is amended—

(1) in subsection (a)—

(A) by striking "Commissioner" and inserting "Secretary";

(B) by striking "and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965,";

(C) in the third sentence by inserting a comma after "the hearing"; and

(D) in the fourth sentence—

(i) by striking the comma after "guidelines"; and

(ii) by inserting a comma after "program";

(2) in subsection (b), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(3) in subsection (d)—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(B) by inserting before the period "or issue such other orders as the Secretary may deem appropriate to achieve such compliance".

SEC. 244. PARENTAL INVOLVEMENT AND DISSEMINATION.

The matter preceding paragraph (1) of section 434 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231d) is amended—

(1) in the first sentence—

(A) by striking "Commissioner" and inserting "Secretary"; and

(B) by striking "he" and inserting "the Secretary"; and

(2) in the second sentence by inserting "is made" after "such determination".

SEC. 245. USE OF FUNDS WITHHELD.

Section 435 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231e) is amended to read as follows:

"USE OF FUNDS WITHHELD

"SEC. 435. (a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which such allotment or reallotment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

"(b) The Secretary may use any funds withheld under subsection (a)—

"(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a), or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

"(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964, or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.".

SEC. 246. APPLICATIONS.

Section 436 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231g) is amended—

(1) in subsection (a), by striking "for three fiscal years" and inserting "for more than one fiscal year"; and

(2) by striking "Commissioner" each place such term appears and inserting "Secretary".

SEC. 247. REGULATIONS.

Section 437 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232) is amended to read as follows:

"REGULATIONS

"SEC. 437. (a) For the purpose of this section, the term 'regulation' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

"(1) is prescribed by the Secretary or the Department; and

"(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

"(b) Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

"(c) All regulations shall be uniformly applied and enforced throughout the 50 States.

"(d) The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5, United States Code, shall apply only to regulations—

"(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

"(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

"(e) Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

"(f) Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 248. RECORDS; REDUCTION IN RETENTION REQUIREMENTS.

Section 443 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232f) is amended—

(1) in subsection (a)—

(A) by striking "grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)" and inserting "grant, subgrant, cooperative agreement, loan, or other arrangement";

(B) by inserting "financial or programmatic" before "audit."; and

(C) in the last sentence, by striking "five" and inserting "three"; and

(2) in subsection (b), by striking "to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements" and inserting "to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements".

SEC. 249. PRIVACY RIGHTS.

Section 444 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232g) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effec-

tively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.";

(iii) in clause (iii) of subparagraph (C) (as redesignated by clause (i)), by striking "(C)" and inserting "(D)"; and

(iv) in subparagraph (D) (as redesignated by clause (i)), by striking "(B)" and inserting "(C)"; and

(B) in paragraph (2), by striking "or other rights" and inserting "rights";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ", including the educational interests of the child for whom consent would otherwise be required" before the semicolon;

(ii) by amending subparagraph (E) to read as follows:

"(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

"(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

"(ii) after November 19, 1974, if—

"(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

"(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.";

(iii) in subparagraph (H), by striking "and" after the semicolon;

(iv) in subparagraph (I), by striking the period and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

"(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served,

to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking the period and inserting ", unless—"; and

(ii) in subparagraph (B), by inserting "except as provided in paragraph (1)(J)," before "such information"; and

(C) in subparagraph (B) of paragraph (4), by adding at the end the following new sentence: "If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.";

Regulations.

(3) in subsection (c), by striking "The Secretary shall adopt appropriate regulations to" and inserting "Not later than 240 days after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which";

(4) in subsection (e), by inserting "effectively" before "informs"; and

(5) by adding at the end the following new subsection:

"(h) Nothing in this section shall prohibit an educational agency or institution from—

"(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

"(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.".

SEC. 250. ENFORCEMENT.

(a) RECOVERY OF FUNDS.—Section 452 of the Act (20 U.S.C. 1234a) is amended—

(1) in the first sentence of paragraph (2) of subsection (a), by striking "stating" and all that follows through the end of such sentence and inserting "establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest.";

(2) in the first sentence of paragraph (1) of subsection (b), by striking "30" and inserting "60"; and

(3) in subsection (d), by—

(A) striking "(d) Upon" and inserting "(d)(1) Upon"; and

(B) adding at the end the following new paragraph:

"(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient.".

(b) USE OF RECOVERED FUNDS.—Section 459 of the Act (20 U.S.C. 1234h) is amended—

(1) in paragraph (1) of subsection (a), by inserting ", provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance" before the semicolon; and

(2) by amending subsection (c) to read as follows:

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

"(1) the fiscal year in which final agency action under section 452(e) is taken; or

"(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 458 is taken.".

PART E—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 261. TECHNICAL AND CONFORMING AMENDMENTS.

(a) PAYMENTS.—Section 423 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226a–1) is amended by striking "Commissioner" and inserting "Secretary".

(b) PROGRAM PLANNING AND EVALUATION.—Section 426 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1228) is amended—

(1) by striking "title I of" and all that follows through "Congress)" and inserting "title VIII of the Elementary and Secondary Education Act of 1965"; and

(2) by striking "subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act" and inserting "subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act".

(c) HEADING FOR PART C.—The heading for part C of the Act (20 U.S.C. 1230 et seq.) is amended by striking "COMMISSIONER OF EDUCATION" and inserting "SECRETARY".

(d) SECTION 439.—Section 439 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232b) is amended by striking "Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers" and inserting "All laborers".

(e) SECTION 440.—

(1) AMENDMENT TO HEADING.—The heading for section 440 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232c) is amended by striking "EDUCATIONAL".

(2) AMENDMENT TO TEXT.—Section 440 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232c) is amended—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary";

(B) by redesignating the matter following paragraph (3) of subsection (b) as subsection (c); and

(C) in subsection (c) (as redesignated by subparagraph (B)), by striking "paragraph (3)" and inserting "subsection (b)(3)".

(f) SECTION 441.—Section 441 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232d) is amended—

(1) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(2) in the first sentence of subsection (a)—

(A) by striking the comma after "submits a plan";

(B) by striking ", in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965,"; and

(C) by striking "title V of such Act" and inserting "part C of title V of the Elementary and Secondary Education Act of 1965".

(g) SECTION 442.—Section 442 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232e) is amended—

(1) in subsection (a), by striking "that local education agency" and inserting "that local educational agency"; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting a comma after "program";

(B) in paragraph (4), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(C) in subparagraph (B) of paragraph (7), by striking "handicapped individuals" and inserting "individuals with disabilities".

(h) SECTION 444.—Section 444 of the Act (as redesignated by section 212(b)(1) and amended by section 249) (20 U.S.C. 1232g) is further amended—

(1) in clause (ii) of subsection (a)(4)(B), by striking the period and inserting a semicolon;

(2) in subsection (b)—

(A) in subparagraph (C) of paragraph (1), by striking "(iii) an administrative head of an education agency (as defined in section 408(c)), or (iv)" and inserting "or (iii)";

(B) in subparagraph (H) of paragraph (1), by striking "1954" and inserting "1986"; and

(C) in paragraph (3)—

(i) by striking "(C) an administrative head of an education agency or (D)" and inserting "or (C)"; and

(ii) by striking "education program" and inserting "education programs";

(3) in subsection (d), by inserting a comma after "education";

(4) in subsection (f)—

(A) by striking ", or an administrative head of an education agency,";

(B) by striking "enforce provisions of this section" and inserting "enforce this section";

(C) by striking "according to the provisions of" and inserting "in accordance with"; and

(D) by striking "comply with the provisions of this section" and inserting "comply with this section"; and

(5) in subsection (g)—

(A) by striking "of Health, Education, and Welfare"; and

(B) by striking "the provisions of".

(i) CONFORMING AMENDMENT AND CROSS REFERENCES.—

(1) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—Subsection (b) of section 504 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2466a(b)) is amended—

(A) by striking "240-day" and inserting "360-day"; and

(B) by striking "431(g)" and inserting "437(e)".

(2) HIGHER EDUCATION ACT OF 1965.—Subsection (c) of section 556 of the Higher Education Act of 1965 (20 U.S.C. 1108d(c)) is amended by striking "435 and 436" and inserting "441 and 442".

(3) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—Paragraph (1) of section 6144 of the Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(h))".

PART F—RELATED AMENDMENTS TO OTHER ACTS

SEC. 271. DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—Section 427 of the Department of Education Organization Act (20 U.S.C. 3487) (hereafter in this part referred to as the "Act") is repealed.

(2) REDESIGNATION.—Sections 209, 210, 211, 212, 214, 303, 304, 305, 306, 307, and 428 of the Act are redesignated as sections 208, 209, 210, 211, 212, 302, 303, 304, 305, 306, and 427 of the Act, respectively.

(3) CROSS REFERENCES.—(A) Paragraph (2) of section 401(b) of the Act (20 U.S.C. 3461(b)(2)) is amended by striking "209" and inserting "208". 20 USC 3419-3423a, 3443-3488.

(B) Paragraph (9) of section 912(l) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6011(l)(9)) is amended by striking "209" and inserting "208".

(b) GENDER EQUITY.—Subsection (b) of section 202 of the Act (20 U.S.C. 3412) is amended by inserting after paragraph (2) the following new paragraph:

"(3) There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity.".

(c) OFFICE OF NON-PUBLIC EDUCATION.—Title II of the Act (20 U.S.C. 3411 et seq.) is amended by adding immediately before section 215 the following new section:

"OFFICE OF NON-PUBLIC EDUCATION

"SEC. 214. There shall be in the Department an Office of Non-Public Education to ensure the maximum potential participa- 20 USC 3423b.

tion of non-public school students in all Federal educational programs for which such students are eligible.".

(d) RULES; ACQUISITION AND MAINTENANCE OF PROPERTY.—Part B of title IV of the Act (20 U.S.C. 3471 et seq.) is amended—

20 USC 3474. (1) in section 414 (20 U.S.C. 1226a)—

(A) by striking "(a)"; and

(B) by striking subsection (b); and

20 USC 3481. (2) in section 421 (20 U.S.C. 1230), by inserting "and to accept donations of services," after "personal,".

(e) TABLE OF CONTENTS.—The table of contents contained in section 1 of the Act (20 U.S.C. 3401 note) is amended to read as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Findings.
"Sec. 102. Purposes.
"Sec. 103. Federal-State Relationships.
"Sec. 104. Definitions.

"TITLE II—ESTABLISHMENT OF THE DEPARTMENT

"Sec. 201. Establishment.
"Sec. 202. Principal officers.
"Sec. 203. Office for Civil Rights.
"Sec. 204. Office of Elementary and Secondary Education.
"Sec. 205. Office of Postsecondary Education.
"Sec. 206. Office of Vocational and Adult Education.
"Sec. 207. Office of Special Education and Rehabilitative Services.
"Sec. 208. Office of Educational Research and Improvement.
"Sec. 209. Office of Bilingual Education and Minority Languages Affairs.
"Sec. 210. Office of General Counsel.
"Sec. 211. Office of Inspector General.
"Sec. 212. Office of Non-Public Education.
"Sec. 213. Office of Indian Education.
"Sec. 214. Office of Non-Public Education.
"Sec. 215. Office of Indian Education.
"Sec. 216. Office of Bilingual Education and Minority Languages Affairs.
"Sec. 217. Federal Interagency Committee on Education.

"TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

"Sec. 301. Transfers from the Department of Health, Education, and Welfare.
"Sec. 302. Transfers from the Department of Labor.
"Sec. 303. Transfers of programs from the National Science Foundation.
"Sec. 304. Transfers from the Department of Justice.
"Sec. 305. Transfers from the Department of Housing and Urban Development.
"Sec. 306. Effect of transfers.

"TITLE IV—ADMINISTRATIVE PROVISIONS

"PART A—PERSONNEL PROVISIONS

"Sec. 401. Officers and employees.
"Sec. 402. Experts and consultants.
"Sec. 403. Personnel reduction and annual limitations.

"PART B—GENERAL ADMINISTRATIVE PROVISIONS

"Sec. 411. General authority.
"Sec. 412. Delegation.
"Sec. 413. Reorganization.
"Sec. 414. Rules.
"Sec. 415. Contracts.
"Sec. 416. Regional and field offices.
"Sec. 417. Acquisition and maintenance of property.
"Sec. 418. Facilities at remote locations.
"Sec. 419. Use of facilities.
"Sec. 420. Copyrights and patents.
"Sec. 421. Gifts and bequests.

"Sec. 422. Technical advice.
"Sec. 423. Working capital fund.
"Sec. 424. Funds transfer.
"Sec. 425. Seal of department.
"Sec. 426. Annual report.
"Sec. 427. Authorization of appropriations.

"TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

"Sec. 501. Transfer and allocation of appropriations and personnel.
"Sec. 502. Effect on personnel.
"Sec. 503. Agency terminations.
"Sec. 504. Incidental transfers.
"Sec. 505. Savings provisions.
"Sec. 506. Separability.
"Sec. 507. Reference.
"Sec. 508. Amendments.
"Sec. 509. Redesignation.
"Sec. 510. Coordination of programs affecting handicapped individuals.
"Sec. 511. Transition.

"TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

"Sec. 601. Effective date.
"Sec. 602. Interim appointments.".

SEC. 272. THE REHABILITATION ACT OF 1973.

Section 9 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is repealed. 29 USC 708.

TITLE III—AMENDMENTS TO OTHER ACTS

PART A—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 311. ALLOCATIONS UNDER SECTION 611.

(a) MAXIMUM AMOUNT.—Subsection (a) of section 611 of the Individuals with Disabilities Education Act (hereafter in this part referred to as the "Act") (20 U.S.C. 1411(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (5), the maximum amount of the grant for which a State is entitled under this section for any fiscal year is—

"(A) the sum of—

"(i) the number of children with disabilities in the State, aged 6 through 21, who are receiving special education and related services, as determined under paragraph (3); and

"(ii) if the State is eligible for a grant under section 619, the number of such children in the State, aged 3 through 5; multiplied by

"(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.";

(2) by amending paragraph (2) to read as follows:

"(2) For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico."; and

(3) in subparagraph (A) of paragraph (5)—

(A) in clause (i)—

(i) by striking "and the State" and inserting ", or the combined percentage of such children counted

by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and

(ii) by inserting "and" after the comma at the end;

(B) in clause (ii)—

(i) by striking "and the State" and inserting ", or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking clause (iii).

(b) STATE USES.—Subsection (b) of section 611 of the Act (20 U.S.C. 1411(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsections (a) and (g), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(A) this section; and

"(B) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities aged 3 through 21.

"(2) If, for fiscal year 1998 or 1999, the number of children determined under subsection (a)(3) for any State is less than the total number of children with disabilities, aged 3 through 21, counted for that State's fiscal year 1994 grants under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), then the amount determined under paragraph (1) for that State shall be reduced by the same percentage by which the number of those children so declined.

"(3)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.".

(c) DISTRIBUTION.—Subsection (c) of section 611 of the Act (20 U.S.C. 1411(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Of the funds received under subsection (a) by any State for any fiscal year—

"(A) a State may use not more than 25 percent of such funds in accordance with paragraph (2); and

"(B) except as provided in paragraph (4), the State shall distribute at least 75 percent of such funds to local educational agencies and intermediate educational units, in accordance with subsection (d), for use in accordance with priorities established under section 612(3)."; and

(2) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) From the funds that any State may use under paragraph (1)(A) for any fiscal year, the State—

"(i) may use 5 percent of the funds received under this section or $450,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613; and

"(ii) shall use the remainder—

"(I) to provide support services and direct services, subject to subparagraph (B), in accordance with priorities established under section 612(3); and

"(II) for the administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.".

(d) FORMULA.—Subsection (d) of section 611 of the Act (20 U.S.C. 1411(d)) is amended to read as follows:

"(d)(1) From the total amount of funds available for any fiscal year under subsection (c)(1)(B), the State shall provide to each local educational agency or intermediate educational unit an amount that bears the same ratio to such total amount as the number of children, aged 3 through 21, determined under subsection (a)(3) for such agency or unit bears to the total number of such children determined for all such agencies and units that apply for such funds.

"(2)(A) To the extent necessary, the State—

"(i) shall use funds available under subsection (c)(2)(A)(ii) to ensure that each State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) receives, from the sum of such funds and funds provided under paragraph (1), an amount equal to—

"(I) the number of children, aged 6 through 21, determined under subsection (a)(3) for such agency; multiplied by

"(II) the per-child amount provided under such subpart for fiscal year 1994; and

"(ii) may use such funds to ensure that each local educational agency that received for fiscal year 1994 under such subpart for children who had transferred from a State-owned, State-operated, or State-supported school or program assisted under such subpart receives, from the sum of such funds and funds provided under paragraph (1), an amount for each such child, aged 3 through 21, determined under subsection (a)(3)

for such agency, equal to the per-child amount the agency received under such subpart for fiscal year 1994.

"(B) For the purpose of subparagraph (A), the number of children determined under subsection (a)(3) for any State agency or local educational agency shall not exceed the number of children aged 3 through 21 for whom such agency received funds under such subpart for such fiscal year.".

(e) JURISDICTIONS.—Paragraph (1) of section 611(e) of the Act (20 U.S.C. 1411(e)(1)) is amended to read as follows:

Territories.

"(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with the Government of Palau takes effect).".

(f) INSUFFICIENT APPROPRIATIONS.—Subsection (g) of section 611 of the Act (20 U.S.C. 1411(g)) is amended to read as follows:

"(g)(1)(A) If the sums appropriated under subsection (h) for any fiscal year are not sufficient to pay in full the total of the amounts that all States are eligible to receive under subsection (a), each such amount shall be ratably reduced.

"(B) If additional funds become available for making such payments for any fiscal year, such reduced amounts shall be increased on the same basis as such payments were reduced.

"(C) Any State that receives any such additional funds shall distribute such funds in accordance with this section, except that any State that has used funds available under subsection (c)(2)(A)(ii) for the purposes described in subsection (d)(2) may—

"(i) deduct, from the amount that the State would otherwise be required to make available to local educational agencies and intermediate educational units, the same amount of such additional funds as the State so used; and

"(ii) use such funds in accordance with subsection (c)(2)(A)(ii).

Reports.

"(2)(A) In any fiscal year for which payments have been reduced and additional funds have not been made available under paragraph (1) to pay in full the amounts for which all States are eligible under this section, each State educational agency shall fix dates by which each local educational agency or intermediate educational unit shall report to the State agency the amount of funds available to such agency under this section that such agency estimates such agency will expend.

"(B) The State educational agency shall, in accordance with this section, reallocate any funds that the State educational agency determines will not be used during the period of availability by local educational agencies and intermediate educational units, and by any such agency or unit to which such funds would be available if such agency or unit applied for such funds under this part, to those local educational agencies and intermediate educational units that the State educational agency determines will need, and be able to use, additional funds to carry out approved programs.".

SEC. 312. TREATMENT OF CHAPTER 1 STATE AGENCIES.

Part B of the Act (20 U.S.C. 1411 et seq.) is further amended by inserting after section 614 the following new section:

"TREATMENT OF CHAPTER 1 STATE AGENCIES

"SEC. 614A. (a) For the purpose of making payments under sections 611 and 619 of this Act, any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be treated as if the State agency were a local educational agency. 20 USC 1414a.

"(b) Any State agency which desires to receive payments under section 611(d) and section 619(c)(3) for any fiscal year shall submit an application to the State educational agency. Such application shall—

"(1) include an assurance that all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that such children and their parents are provided all the rights and procedural safeguards described in this part; and

"(2) meet those requirements of section 614 that the Secretary finds appropriate.

"(c) Section 611(c)(4) shall not apply with respect to a State agency that is eligible for a payment under this part by application of this section.".

SEC. 313. INFANTS AND TODDLERS WITH DISABILITIES.

(a) AMENDMENT.—Subsection (c) of section 684 of the Act (20 U.S.C. 1484) is amended—

(1) by redesignating paragraph (2) as paragraph (6);

(2) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraphs (3), (4), and (5) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States."; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) For fiscal year 1995 only, the Secretary shall allot $34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

"(A) are counted on December 1, 1994; and

"(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(3) Except as provided in paragraphs (4) and (5), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

"(A) one-half of one percent of the remaining amount described in paragraph (1), excluding any amounts allotted under paragraph (2); or

"(B) $500,000.

"(4)(A) Except as provided in paragraph (5), no State shall receive an amount under this section for any of the fiscal

years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(i) this part; and

"(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities from birth through age 2.

"(B) If, for fiscal year 1998 or 1999, the number of infants and toddlers in any State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for that State shall be reduced by the same percentage by which the number of those infants and toddlers so declined.

"(5)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.".

20 USC 1484 note.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on October 1, 1994.

SEC. 314. LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during"; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting, in accordance with State law, for not more than 45 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.

"(iv) For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.".

20 USC 1415 note.

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period

beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) LIMITATION.—Nothing in the Individuals with Disabilities Education Act shall supersede the provisions of section 14601 of the Elementary and Secondary Education Act if a child's behavior is unrelated to such child's disability, except that this section shall be interpreted in a manner that is consistent with the Department's final guidance concerning State and local responsibilities under the Gun-Free Schools Act of 1994.

20 USC 8921 note.

SEC. 315. FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

"PART I—FAMILY SUPPORT

Families of Children With Disabilities Support Act of 1994.

"SEC. 701. SHORT TITLE.

20 USC 1491.

"This part may be cited as the 'Families of Children With Disabilities Support Act of 1994'.

"SEC. 702. FINDINGS, PURPOSES, AND POLICY.

20 USC 1491a.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

"(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

"(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

"(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

"(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

"(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

"(7) There are financial disincentives for families to care for their children with disabilities at home.

"(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

"(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

"(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

"(A) To support the family.

"(B) To enable families of children with disabilities to nurture and enjoy their children at home.

"(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

"(b) PURPOSES.—The purposes of this part are as follows:

"(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

"(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

"(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

"(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

"(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

"(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 708; and

"(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

"(2) To enhance the ability of the Federal Government to—

"(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c);

"(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

"(C) conduct an evaluation of the program of grants to States; and

"(D) provide funding for model demonstration and innovation projects.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this part shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

"(1) Family support for families of children with disabilities must focus on the needs of the entire family.

"(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

"(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

"(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

"(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

"(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

"(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

"(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

"(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

"(d) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

"SEC. 703. DEFINITIONS. 20 USC 1491b.

"For the purposes of this part, only the following definitions shall apply:

"(1) CHILD WITH A DISABILITY.—The term 'child with a disability' means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

"(2) COUNCIL.—The term 'Council' means an existing Council, or a new Council, which is considered as a State Policy Council for Families of Children with Disabilities under section 707.

"(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports, or other assistance that is conducted or provided in a manner that—

"(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

"(B) has the greatest likelihood of ensuring maximum participation of such individuals.

"(4) DISABILITY.—The term 'disability' means—

"(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such

policy is established without regard to type of disability; and

"(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

"(5) EXISTING COUNCIL.—The term 'existing Council' means an entity or a committee of an entity that—

"(A) is established by a State prior to the date on which the State submits an application for funding under this part;

"(B) has authority to advise the State with respect to family support for families of children with disabilities; and

"(C) may have the authority to carry out other responsibilities and duties.

"(6) FAMILY.—The term 'family' means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

"(A) A mother, father, brother, sister or any combination.

"(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

"(C) An adoptive parent.

"(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

"(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

"(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

"(7) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term 'family-centered and family-directed' means, with respect to a service or program, that the service or program—

"(A) facilitates the full participation, choice, and control by families of children with disabilities in—

"(i) decisions relating to the supports that will meet the priorities of the family; and

"(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

"(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

"(C) is easily accessible to and usable by families of children with disabilities.

"(8) FAMILY SATISFACTION.—The term 'family satisfaction' means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

"(9) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term 'family support for families of children with disabilities'—

"(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

"(i) support families in the efforts of such families to raise their children with disabilities in the family home;

"(ii) strengthen the role of the family as primary caregiver;

"(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

"(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

"(B) includes—

"(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

"(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

"(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

"(10) INTEGRATION AND INCLUSION.—The term 'integration and inclusion' with respect to children with disabilities and their families means—

"(A) the use of the same community resources that are used by and available to other individuals and families;

"(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

"(C) having friendships and relationships with individuals and families of their own choosing.

"(11) LEAD ENTITY.—The term 'lead entity' means an office or entity described in section 706.

"(12) NEW COUNCIL.—The term 'new Council' means a council that is established by a State, and considered as the State

Policy Council for Families of Children with Disabilities, under section 707(a).

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(14) SERVICE COORDINATION.—The term 'service coordination'—

"(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

"(B) includes—

"(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

"(ii) the coordination and monitoring of services provided to children with disabilities and their families;

"(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

"(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

"(15) STATEWIDE SYSTEM OF FAMILY SUPPORT.—The term 'statewide system of family support for families of children with disabilities' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this part that—

"(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

"(16) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means efforts that result in laws, regulations, policies, practices, or organizational structures—

"(A) that are family-centered and family-directed;

"(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

"(C) that otherwise accomplish the purposes of this part.

"(17) UNSERVED AND UNDERSERVED POPULATIONS.—The term 'unserved and underserved populations' includes populations such as individuals from racial and ethnic minority backgrounds, economically disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to

physical impairment, mental impairment, or a combination of physical and mental impairments.

"SEC. 704. GRANTS TO STATES. 20 USC 1491c.

"(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this part, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 702.

"(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

"(c) AMOUNT OF GRANTS.—

"(1) GRANTS TO STATES.—

"(A) FEDERAL MATCHING SHARE.—From amounts appropriated under section 716(a), the Secretary shall pay to each State that has an application approved under section 705, for each year of the grant period, an amount that is—

"(i) equal to 75 percent of the cost of the systems change activities to be carried out by the State; and

"(ii) not less than $200,000 and not more than $500,000.

"(B) NON-FEDERAL SHARE.—The non-Federal share of payments under this paragraph may be in cash or in kind fairly evaluated, including planned equipment or services.

"(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 716(a) for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 705 not more than $100,000.

"(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

"(A) The amounts available for making grants under this section.

"(B) The child population of the State or territory concerned.

"(4) DEFINITIONS.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(B) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

"(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

"(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

"(2) is making significant progress in accordance with section 710.

"(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

"(1) is geographically equitable; and

"(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

20 USC 1491d

"SEC. 705. APPLICATION.

"A State that desires to receive a grant under this part shall submit an application to the Secretary that contains the following information and assurances:

"(1) FAMILY-CENTERED AND FAMILY-DIRECTED APPROACH.—An assurance that the State will use funds made available under this part to accomplish the purposes described in section 702 and the goals, objectives, and family-centered outcomes described in section 709(b) by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

"(2) DESIGNATION OF THE LEAD ENTITY.—Information identifying the lead entity, and evidence documenting the abilities of such entity.

"(3) STATE POLICY COUNCIL FOR FAMILIES OF CHILDREN WITH DISABILITIES.—An assurance of the following:

"(A) The State has designated or established Council that meets the criteria set forth in section 707.

"(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 709, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

Reports.

"(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

Reports.

"(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this part.

"(4) FAMILY INVOLVEMENT.—A description of the following:

"(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

"(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

"(C) Strategies and special outreach activities that will be undertaken to ensure the active involvement of families of children with disabilities who are members of unserved and underserved populations.

"(D) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

"(5) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

"(6) STATE RESOURCES.—A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

"(7) UNMET NEEDS.—A description of unmet needs for family support for families of children with disabilities within the State.

"(8) PRELIMINARY PLAN.—A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this part.

"(9) ACTIVITIES.—An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this part for grants and contracts to conduct the activities described in section 708.

"(10) LIMIT ON ADMINISTRATIVE COSTS.—An assurance that the lead entity that receives funding under this part in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

"(11) STRATEGIC PLAN.—A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 709.

"(12) EVALUATION.—An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 710.

"(13) COORDINATION WITH STATE AND LOCAL COUNCILS.—An assurance that the lead entity will coordinate the activities funded through a grant made under this part with the activities carried out by other relevant councils within the State.

"(14) SUPPLEMENT OTHER FUNDS.—An assurance, with respect to amounts received under a grant, of the following:

"(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

"(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

"(15) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

20 USC 1491e.

"SEC. 706. DESIGNATION OF THE LEAD ENTITY.

"(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 704, shall designate the office or entity (referred to in this part as the "lead entity") responsible for—

"(1) submitting the application under section 705 on behalf of the State;

"(2) administering and supervising the use of the amounts made available under the grant;

"(3) coordinating efforts related to and supervising the preparation of the application;

"(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this part.

"(b) QUALIFICATIONS.—In designating the lead entity, the Chief Executive Officer may designate—

"(1) an office of the Chief Executive Officer;

"(2) a commission appointed by the Chief Executive Officer;

"(3) a public agency;

"(4) a council established under Federal or State law; or

"(5) another appropriate office, agency, or entity.

"(c) CAPABILITIES OF THE LEAD ENTITY.—The State shall provide, in accordance with the requirements of section 705, evidence that the lead entity has the capacity—

"(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

"(2) to promote and implement systems change activities;

"(3) to maximize access to public and private funds for family support services for families of children with disabilities;

"(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

"(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

"(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

"(7) to promote and develop interagency coordination and collaboration.

20 USC 1491f.

"SEC. 707. STATE POLICY COUNCIL FOR FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

"(a) DESIGNATION OR ESTABLISHMENT.—A State that desires to receive financial assistance under this part shall, prior to the receipt of funds under this part, designate an existing Council,

or establish a new Council, to be considered as a State Policy Council for Families of Children with Disabilities.

"(b) USE OF EXISTING COUNCIL.—

"(1) IN GENERAL.—To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

"(2) REQUIREMENTS.—An existing Council shall—

"(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

"(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (d)(1), adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

"(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (e) through (h).

"(3) DOCUMENTATION OF COMPLIANCE.—Any State that has an existing Council shall include in a grant application submitted under section 705 and in subsequent annual progress reports submitted to the Secretary under section 710, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

"(c) APPOINTMENTS TO NEW COUNCIL.—

"(1) MEMBERS.—To the extent that a State establishes a new Council, members of the new Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (d). The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this part. The appointing authority shall ensure that the membership of the new Council reasonably represents the population of the State and shall establish guidelines for the terms of the members of the new Council.

"(2) CHAIRPERSON.—The new Council shall elect a member of the new Council to serve as the Chairperson of the new Council. The Chairperson shall be a family member, as described in subsection (d)(1).

"(d) COMPOSITION.—The new Council shall be composed of—

"(1) a majority of members who are—

"(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State, including those families from unserved and underserved populations; and

"(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

"(2) members—

"(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities,

and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

"(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

"(3) such additional members as the appointing authority considers appropriate.

"(e) FUNCTIONS.—The new Council shall—

"(1) establish formal policies regarding the operation of the new Council;

"(2) advise and assist the lead entity in the performance of responsibilities described in section 706(a), particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

"(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

"(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 709, including—

"(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

"(B) the statement of family-centered outcomes;

"(C) the goals, objectives, and activities;

"(D) the quality improvement or quality enhancement system;

"(E) the appeals process;

"(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this part;

"(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

"(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

"(5) advise and assist the lead entity in the implementation of systems change activities;

"(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

"(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

"(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

Reports.

"(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

"(f) HEARINGS AND FORUMS.—The new Council is authorized to hold such hearings and forums as the new Council may determine to be necessary to carry out the duties of the new Council.

"(g) CONFLICT OF INTEREST.—No member of the new Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

"(h) COMPENSATION AND EXPENSES.—The new Council may, consistent with State law, use such resources to reimburse members of the new Council for reasonable and necessary expenses of attending the new Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the new Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"SEC. 708. AUTHORIZED ACTIVITIES. 20 USC 1491g.

"(a) IN GENERAL.—A State that receives a grant under section 704 may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 702, such as the following activities:

"(1) TRAINING AND TECHNICAL ASSISTANCE.—The State may support training and technical assistance activities for family members, service providers, community members, professionals, members of the Council, students and others that will do the following:

"(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

"(B) Promote partnerships with families of children with disabilities at all levels of the service system.

"(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

"(D) Assist families of children with disabilities in accessing natural and community supports and in obtaining benefits and services.

"(2) INTERAGENCY COORDINATION.—The State may support activities that conduct the following:

"(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

"(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

"(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

"(3) LOCAL OR REGIONAL COUNCILS.—The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

"(4) OUTREACH.—The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

"(5) POLICY STUDIES.—The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

"(6) HEARINGS AND FORUMS.—The State may conduct hearings and forums to solicit input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

"(7) PUBLIC AWARENESS AND EDUCATION.—The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

"(8) NEEDS ASSESSMENT.—The State may conduct a needs assessment, which may, in part, be based on existing State data.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

"(10) PILOT DEMONSTRATION PROJECTS.—The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

"(11) OTHER ACTIVITIES.—The State may support other systems change activities that accomplish the purposes described in section 702.

"(b) SPECIAL RULE.—In carrying out activities authorized under this part, a State shall ensure that such programs and activities address the needs of families who are economically disadvantaged.

"SEC. 709. STRATEGIC PLAN. 20 USC 1491h.

"(a) IN GENERAL.—Not later than 6 months after the date on which assistance is received by a State under this part, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this part.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

"(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

"(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

"(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

"(5) a description of the specific programs, projects, and activities funded under this part and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

"(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

"(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

"(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this part that includes all eligible families;

"(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

"(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 710.

"(c) PERIOD AND UPDATES.—The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

"(d) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through

an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

"(e) COMMENT.—The State shall develop a procedure for ensuring ongoing comment from the Council.

"(f) DISSEMINATION.—The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

20 USC 1491i.

"SEC. 710. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 704 is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this part.

"(b) PROGRESS REPORTS.—A State that receives a grant under section 704 shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this part. Such report shall include—

"(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

"(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

"(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

"(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

20 USC 1491j.

"SEC. 711. ADMINISTRATIVE PROVISIONS.

"(a) EVALUATION OF GRANT APPLICATIONS.—

"(1) PANELS.—The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this part.

"(2) COMPOSITION OF PANELS.—Panels shall be composed of a majority of family members of children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

"(3) EXPENSES AND FEES OF THE PANEL.—A member of the Panel who is not a Federal employee shall receive travel,

per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 716 to pay expenses and fees of a member of a Panel who is not a Federal employee.

"(b) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

"(c) APPEALS.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this part as the result of failure to supply information required under section 705 or 710. The Secretary shall take into consideration the comments of the Council.

"(d) EFFECT ON OTHER ASSISTANCE.—This part may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

"(e) UNOBLIGATED FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

"SEC. 712. TECHNICAL ASSISTANCE.

Grants.
Contracts.
20 USC 1491k.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

"(b) PURPOSE.—With respect to States receiving assistance under this part, the technical assistance and information described under subsection (a) shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance under this part. Such technical assistance and information shall—

"(1) facilitate effective systems change activities;

"(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

"(3) promote partnerships with families at all levels of the service system;

"(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

"(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

"(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

"(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 709(b)(2), and the assessment of family satisfaction; and

"(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

"(c) REQUEST FOR TECHNICAL ASSISTANCE.—A request for technical assistance by a lead entity in a State receiving assistance under this part shall be made in conjunction with the Council.

"(d) REPORTS TO THE SECRETARY.—An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 702 in other Federal legislation.

Grants.
Contracts.
20 USC 1491*l*.

"SEC. 713. EVALUATION.

"(a) IN GENERAL.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this part.

"(b) PURPOSE.—The purpose of an evaluation under subsection (a) shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this part, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this part that are necessary to assist States to fully accomplish the purposes of this part. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this part on—

"(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

"(2) access to and funding for family support for families of children with disabilities; and

"(3) the involvement of families at all levels of the service system.

"(c) REPORT TO CONGRESS.—Not later than 2½ years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

"(d) CONFLICT OF INTEREST.—The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or

personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 712.

"SEC. 714. PROJECTS OF NATIONAL SIGNIFICANCE. 20 USC 1491m.

"(a) STUDY BY THE SECRETARY.—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 702.

"(b) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities. Grants. Contracts.

"SEC. 715. CONSTRUCTION. 20 USC 1491n.

"Notwithstanding any other provision of this title, nothing in parts A through H of this title shall be construed to apply to this part.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1491o.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(b) RESERVATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or $600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) to carry out—

"(A) section 712, with respect to the provision of technical assistance and information to States;

"(B) section 713, with respect to the conduct of the evaluations;

"(C) section 711(a), with respect to the evaluation of grant applications; and

"(D) section 714, with respect to the conduct of projects of national significance.

"(2) SPECIAL RULE.—The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry out section 714 for such year if the amount of funds reserved under such paragraph for such fiscal year is $700,000 or greater.".

PART B—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

SEC. 321. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking subtitles A and B of title VII and inserting the following:

"Subtitle A—Adult Education for the Homeless

"Sec. 701. State literacy initiatives.

"Subtitle B—Education for Homeless Children and Youth

"Sec. 721. Statement of policy.
"Sec. 722. Grants for State and local activities for the education of homeless children and youth.
"Sec. 723. Local educational agency grants for the education of homeless children and youth.
"Sec. 724. Secretarial responsibilities.
"Sec. 725. Definitions.
"Sec. 726. Authorization of appropriations.".

SEC. 322. ADULT EDUCATION FOR THE HOMELESS.

Subtitle A of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.) is amended to read as follows:

"Subtitle A—Adult Education for the Homeless

42 USC 11421.

"SEC. 701. STATE LITERACY INITIATIVES.

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary of Education is authorized to make grants to State educational agencies to enable each such agency to implement, either directly or through contracts and grants, a program of literacy training and academic remediation for adult homeless individuals within the State, which program shall—

"(A) include outreach activities; and

"(B) be coordinated with other agencies or organizations, such as community-based organizations, nonprofit literacy-action organizations, and recipients of funds under the Adult Education Act, title II of the Job Training Partnership Act, the Youth Fair Chance program under part H of title IV of the Job Training Partnership Act, the Volunteers in Service to America program under part A of title I of the Domestic Volunteer Service Act of 1973, part C of this title, or the Job Opportunity and Basic Skills program under part F of title IV of the Social Security Act.

Grants.

"(2) ESTIMATES AND AMOUNTS.—The Secretary of Education, in awarding grants under this section, shall give special consideration to the estimates submitted in the application submitted under subsection (b) and make such awards in whatever amounts such Secretary determines will best serve the purposes of this section.

"(b) APPLICATION.—Each State educational agency desiring to receive a grant under this section shall submit to the Secretary of Education an application at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall include an estimate of the number of homeless individuals in the State and the number of such individuals expected to be served.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the adult literacy training and academic remediation programs authorized by this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States, the District of Columbia, the Common-

wealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau).".

SEC. 323. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended to read as follows:

"Subtitle B—Education for Homeless Children and Youth

"SEC. 721. STATEMENT OF POLICY. 42 USC 11431.

"It is the policy of the Congress that—

"(1) each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth;

"(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth;

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment; and

"(4) homeless children and youth should have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student performance standards to which all students are held.

"SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH. 42 USC 11432.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

"(b) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) ALLOCATION AND RESERVATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2) and section 724(c), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary

Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 to all States for that year, except that no State shall receive less than $100,000.

Territories.

"(2) RESERVATION.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), according to their respective need for assistance under this subtitle, as determined by the Secretary.

Indians.

"(B)(i) The Secretary is authorized to transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act, that are consistent with the purposes of this Act.

Contracts.

"(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

"(3) DEFINITION.—As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

Grants.

"(d) ACTIVITIES.—Grants under this section shall be used—

"(1) to carry out the policies set forth in section 721 in the State;

"(2) to provide activities for, and services to, homeless children, including preschool-aged children, and homeless youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

"(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

"(4) to prepare and carry out the State plan described in subsection (g); and

"(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

"(e) STATE AND LOCAL GRANTS.—

"(1) IN GENERAL.—(A) Subject to subparagraph (B), if the amount allotted to the State educational agency for any fiscal year under this subtitle exceeds the amount such agency received for fiscal year 1990 under this subtitle, such agency shall provide grants to local educational agencies for purposes of section 723.

"(B) The State educational agency may reserve not more than the greater of 5 percent of the amount such agency receives under this subtitle for any fiscal year, or the amount

such agency received under this subtitle for fiscal year 1990, to conduct activities under subsection (f) directly or through grants or contracts.

"(2) SPECIAL RULE.—If the amount allotted to a State educational agency for any fiscal year under this subtitle is less than the amount such agency received for fiscal year 1990 under this subtitle, such agency, at such agency's discretion, may provide grants to local educational agencies in accordance with section 723 or may conduct activities under subsection (f) directly or through grants or contracts.

"(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

"(1) estimate the number of homeless children and youth in the State and the number of such children and youth served with assistance provided under the grants or contracts under this subtitle;

"(2) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

"(3) develop and carry out the State plan described in subsection (g);

"(4) prepare and submit to the Secretary not later than October 1, 1997, and on October 1 of every third year thereafter, a report on the information gathered pursuant to paragraphs (1) and (2) and such additional information as the Secretary may require to carry out the Secretary's responsibilities under this subtitle; Reports.

"(5) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth; and

"(6) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youth (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth), to improve the provision of comprehensive services to homeless children and youth and their families.

"(g) STATE PLAN.—

"(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall describe how such children and youth are or will be given the opportunity to meet the same challenging State student performance standards all students are expected to meet, shall describe the procedures the State educational agency will use to identify such

children and youth in the State and to assess their special needs, and shall—

"(A) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

"(B) describe programs for school personnel (including principals, attendance officers, teachers and enrollment personnel), to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

"(C) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

"(D) describe procedures that ensure that—

"(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children; and

"(ii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

"(E) address problems set forth in the report provided to the Secretary under subsection (f)(4);

"(F) address other problems with respect to the education of homeless children and youth, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays that are caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(G) demonstrate that the State educational agency and local educational agencies in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

"(H) contain an assurance that the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

"(2) COMPLIANCE.—Each plan adopted under this subsection shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (9).

"(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—(A) The local educational agency of each homeless child and youth to be assisted under this subtitle shall, according to the child's or youth's best interest, either—

"(i) continue the child's or youth's education in the school of origin—

"(I) for the remainder of the academic year; or

"(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

"(B) In determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection.

"(C) For purposes of this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

"(D) The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.

"(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including—

"(A) transportation services;

"(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited-English proficiency;

"(C) programs in vocational education;

"(D) programs for gifted and talented students; and

"(E) school meals programs.

"(5) RECORDS.—Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

"(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

"(B) in a manner consistent with section 444 of the General Education Provisions Act.

"(6) COORDINATION.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social services agencies and other agencies or programs providing services to such children or youth and their families, including services and programs funded under the Runaway and Homeless Youth Act.

"(7) LIAISON.—(A) Each local educational agency that receives assistance under this subtitle shall designate a homelessness liaison to ensure that—

"(i) homeless children and youth enroll and succeed in the schools of that agency; and

"(ii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local

educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services.

"(B) State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

"(8) REVIEW AND REVISIONS.—Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records, and other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

"(9) COORDINATION.—Where applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children who become homeless.

42 USC 11433.

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

"(2) SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other facilities. Where such services are provided through programs to homeless students on school grounds, schools may provide services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, in the same setting or classroom. To the maximum extent practicable, such services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

"(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

"(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems to be addressed through the provision of such services and programs;

"(2) an assurance that the local educational agency's combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

"(3) an assurance that the applicant complies with, or will use requested funds to come into compliance with, paragraphs (3) through (9) of section 722(g); and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

"(c) AWARDS.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(g) and from amounts made available to such agency under section 726, award grants under this section to local educational agencies submitting an application under subsection (b) on the basis of the need of such agencies.

"(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State plan required by section 722(g);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

"(D) such other criteria as the agency determines appropriate.

"(3) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed three years.

"(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

"(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State content standards and challenging State student performance standards the State establishes for other children or youth;

"(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational

programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational education, and school meals programs);

"(3) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

"(4) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

"(5) the provision of assistance to defray the excess cost of transportation for students pursuant to section 722(g)(4), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3);

"(6) the provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged children;

"(7) the provision of before- and after-school, mentoring, and summer programs for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(8) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(9) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

"(10) the development of coordination between schools and agencies providing services to homeless children and youth, including programs funded under the Runaway and Homeless Youth Act;

"(11) the provision of pupil services (including violence prevention counseling) and referrals for such services;

"(12) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

"(13) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(14) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

"(15) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

42 USC 11434.

"SEC. 724. SECRETARIAL RESPONSIBILITIES.

"(a) REVIEW OF PLANS.—In reviewing the State plans submitted by the State educational agencies under section 722(g), the Secretary shall use a peer review process and shall evaluate whether

State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle.

"(c) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

"(d) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date. Grants.

"(e) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (d), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

"(f) REPORTS.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter.

"SEC. 725. DEFINITIONS. 42 USC 11434a.

"For the purpose of this subtitle, unless otherwise stated—

"(1) the term 'Secretary' means the Secretary of Education; and

"(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 726. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11435.

"For the purpose of carrying out this subtitle, there are authorized to be appropriated $30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.".

PART C—REPEAL OF IMPACT AID STATUTES

SEC. 331. REPEAL OF IMPACT AID STATUTES.

(a) PUBLIC LAW 81–815.—The Act entitled "An Act relating to the construction of school facilities in areas affected by Federal activities, and for other purposes", approved September 23, 1950 (64 Stat. 967; 20 U.S.C. 631 et seq.) is repealed.

(b) PUBLIC LAW 81–874.—The Act entitled "An Act to provide assistance for local educational agencies in areas affected by Federal activities, and for other purposes", approved September 30, 1950 (64 Stat. 1100; 20 U.S.C. 236 et seq.) is repealed.

PART D—AMENDMENTS TO THE ADULT EDUCATION ACT

SEC. 335. AMENDMENTS TO ADULT EDUCATION ACT.

(a) STATE PLAN.—Paragraph (11) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)(11)) is amended by inserting "Even Start," after "1963,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (n) of section 384 of the Adult Education Act (20 U.S.C. 1213c(n)) is amended by striking "and 1995" and inserting "1995, and 1996".

PART E—HIGHER EDUCATION

SEC. 351. HIGHER EDUCATION AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

20 USC 2341a

(1) in paragraph (2) of section 232(d)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the semicolon; and

20 USC 2404.

(2) in subparagraph (B) of section 404(a)(4)(B)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the period.

20 USC 2341a note.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on the date of enactment of this Act, except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965, may continue to distribute such funds to such institutions until July 1, 1995.

SEC. 352. TECHNICAL AMENDMENT TO THE SECOND MORRILL ACT.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) (commonly known as the "Second Morrill Act") is amended by striking "and the Trust Territory of the Pacific Islands or its successor governments" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau".

SEC. 353. DEFINITIONS FOR PART A OF TITLE III.

Paragraph (1) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(1)) is amended—

(1) by amending subparagraph (C) to read as follows:

"(C) which is—

"(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

"(ii) a junior or community college; or

"(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;".

(2) in subparagraph (D), by striking "and" after the semicolon; and

(3) by adding after subparagraph (E) the following new subparagraph:

"(F) located in a State; and".

SEC. 353A. PART D HEADING.

The heading for part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended to read as follows:

"PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM".

SEC. 354. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G of the Higher Education Act of 1965 (20 U.S.C. 1070a–27) is amended by striking the second sentence thereof.

SEC. 355. LENDER-OF-LAST-RESORT PROGRAMS.

(a) AMENDMENT.—Paragraph (1) of section 428(c) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on August 10, 1993. 20 USC 1078 note.

SEC. 356. FEDERAL CONSOLIDATION LOANS.

Paragraph (4) of section 428C(a) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(a)(4)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) made under subpart II of part B of title VIII of the Public Health Service Act.".

SEC. 357. DEFINITION OF ECONOMIC HARDSHIP.

Paragraph (1) of section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "or" after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross

income minus such burden is less than 220 percent of the greater of—

"(i) the annual earnings of an individual earning the minimum wage under section 6 of the Fair Labor Standards Act of 1938; or

"(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of two; or"; and

(4) in paragraph (2), by striking "(1)(B)" and inserting "(1)(C)".

SEC. 358. FACILITIES AUTHORITY OF THE STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) is amended—

(1) in subparagraph (C) of subsection (d)(1)—

(A) in the matter preceding clause (i), by inserting "(including related equipment, instrumentation, and furnishings)" after "materials";

(B) in clause (ii), by striking the semicolon and inserting ", dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and";

(C) in clause (iii), by striking "and" after the semicolon;

(D) in the matter following clause (iv)—

(i) by striking "15 percent" and inserting "30 percent"; and

(ii) by striking "type" and inserting "types"; and

(E) by striking clause (iv); and

(2) in subsection (n), by striking "a report of its operations and activities during each year" and inserting "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year".

SEC. 358A. PROGRAM AUTHORITY.

20 USC 1087a.

Section 451 of the Higher Education Act of 1965 (20 U.S.C. 2087a) is amended—

(1) by inserting "(a) IN GENERAL.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DESIGNATION.—

"(1) PROGRAM.—The program established under this part shall be referred to as the 'William D. Ford Federal Direct Loan Program'.

"(2) DIRECT LOANS.—Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 428, shall be known as 'Federal Direct Stafford/Ford Loans'.".

SEC. 359. DEFERMENT ELIGIBILITY.

Subsection (f) of section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended by adding at the end the following new paragraphs:

"(3) DEFINITION OF BORROWER.—For the purpose of this subsection, the term "borrower" means an individual who is

a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

"(4) DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992.".

SEC. 360. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 481 the following new section:

"SEC. 481A. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS. 20 USC 1088a.

"Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on July 1, 1994. 20 USC 1088a note.

SEC. 360A. ELIGIBILITY FOR STUDENTS FROM PALAU.

Subsection (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(j)) is amended to read as follows:

"(j) ASSISTANCE UNDER SUBPARTS 1, 3, AND 6, AND CHAPTER 1 OF SUBPART 2, OF PART A, AND PART C.—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and chapter 1 of subpart 2, of part A, and part C, of this title, if the student is otherwise qualified and—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.".

SEC. 360B. DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA. Equity in Athletics Disclosure Act 20 USC 1001 note. 20 USC 1092 note.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I–A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) DISCLOSURE OF ATHLETIC PROGRAM.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DATA REQUIRED.—

Reports.

"(1) IN GENERAL.—Each coeducational institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

"(A) The number of male and female full-time undergraduates that attended the institution.

"(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

"(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

"(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

"(iii) Whether the head coach is male or female and whether the head coach is assigned to that team

on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

"(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

"(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

"(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

"(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

"(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

"(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

"(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

"(2) SPECIAL RULE.—For the purposes of subparagraph (G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

"(3) DISCLOSURE OF INFORMATION TO STUDENTS AND PUBLIC.—An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

"(4) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

"(5) REGULATIONS AND EFFECTIVE DATE.—The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following the enactment of this subsection. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996.". Reports.

SEC. 360C. FEDERAL INSURANCE FOR BONDS.

Subsection (b) of section 723 of the Higher Education Act of 1965 (20 U.S.C. 1132c–2(b)) is amended—

(1) in paragraph (8)—

(A) in subparagraph (A), by inserting ", with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part" before the semicolon; and

(B) by amending clause (ii) of subparagraph (B) to read as follows:

"(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;"; and

(2) in paragraph (11), by striking "regulations" and inserting "conditions".

SEC. 360D. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

Title X of the Higher Education Act of 1965 (20 U.S.C. 1135 et seq.) is amended by adding at the end the following new part:

"PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

20 USC 1135g.

"SEC. 1091. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

"(a) FINDINGS.—The Congress finds the following:

"(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

"(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

"(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

"(4) The average incarcerated youth has attended school only through grade 10.

"(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

"(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

"(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

"(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

"(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

"(10) There is a need for alternative educational opportunities during incarceration and after release.

"(b) DEFINITION.—For purposes of this part, the term 'youth offender' means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

"(c) GRANT PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants to the State correctional education agencies to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

"(d) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

"(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

"(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

"(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

"(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that such methods and measures include measures of—

"(A) program completion;

"(B) student academic and vocational skill attainment;

"(C) success in job placement and retention; and

"(D) recidivism;

"(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

"(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

"(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

"(e) PROGRAM REQUIREMENTS.—Each State correctional education agency receiving a grant under this section shall—

"(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

"(A) work experience or apprenticeship programs;

"(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

"(C) placement services in occupations that the students are preparing to enter;

"(D) employment-based learning programs; and

"(E) programs that address State and local labor shortages;

Reports.

"(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

"(3) provide to each State for each student eligible under subsection (f) not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

"(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

"(1) is eligible to be released within five years (including a youth offender who is eligible for parole within such time); and

"(2) is 25 years of age or younger.

"(g) LENGTH OF PARTICIPATION.—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

"(h) EDUCATION DELIVERY SYSTEMS.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

"(i) ALLOCATION OF FUNDS.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) in such State bears to the total number of such students in all States.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal year 1996 and each of the four succeeding fiscal years.".

PART F—OTHER ACTS

SEC. 361. GOALS 2000: EDUCATE AMERICA ACT.

(a) REPEALS.—Sections 231, 232, 234, and 235 of the Goals 2000: Educate America Act (20 U.S.C. 5861, 5862, 5863, and 5864) are repealed.

(b) GIFT AUTHORITY.—

(1) NATIONAL EDUCATION GOALS PANEL.—Section 204 of the Goals 2000: Educate America Act (20 U.S.C. 5824) is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Goals Panel may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.".

(2) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—Section 215 of the Goals 2000: Educate America Act (20 U.S.C. 5845) is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Council may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.".

(c) LOCAL AGENCY PLAN APPROVAL.—Paragraph 4 of section 309(a) of the Goals 2000: Educate America Act (20 U.S.C. 5889) is amended by inserting "made by the local educational agency" after "modifications".

(d) STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM.—Subsection (b) of section 317 of the Goals 2000: Educate America Act (20 U.S.C. 5897(b)) is amended by adding at the end the following new paragraph:

"(3) OUTLYING AREAS.—(A) From the amount appropriated pursuant to the authority of subsection (f) for fiscal year 1995, the Secretary shall reserve a total of 1 percent to provide assistance under this section—

"(i) to the outlying areas; and

"(ii) for the Secretary of the Interior to conduct directly or through a contract, systemic technology planning for Bureau-funded schools.

"(B) The funds reserved under subparagraph (A) shall be distributed among the outlying areas and the Secretary of the Interior by the Secretary according to the relative need of such areas and schools for assistance under this section.".

SEC. 362. EDUCATION COUNCIL ACT OF 1991.

Title II of the Education Council Act of 1991 (20 U.S.C. 1221–1 note) is repealed.

SEC. 363. AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988.

Title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.) is repealed.

SEC. 364. STAR SCHOOLS PROGRAM ASSISTANCE ACT.

The Star Schools Program Assistance Act (20 U.S.C. 4081 et seq.) is repealed.

SEC. 365. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING ACT.

The Fund for the Improvement and Reform of Schools and Teaching Act (20 U.S.C. 4801) is repealed. 20 USC 4801 *et seq.*

SEC. 366. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

(a) IN GENERAL.—Part E of title II of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2231 et seq.) is repealed. 29 USC 2271.

29 USC 2271 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994.

SEC. 367. INDIAN EDUCATION ACT OF 1988.

The Indian Education Act of 1988 (25 U.S.C. 2601 note) is repealed.

29 USC 731 note.

SEC. 368. REHABILITATION ACT.

(a) IN GENERAL.—Notwithstanding any provision of the Rehabilitation Act of 1973, the amount otherwise payable to a State under section 111 of such Act shall be reduced for fiscal years 1987, 1988, and 1989, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for such year are less than the total of such expenditures for fiscal year 1972.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Rehabilitation Act Amendments of 1992.

SEC. 369. AMENDMENT TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT REGARDING THE TERRITORIES.

Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a) is amended to read as follows:

Grants.

"SEC. 101A. THE TERRITORIES.

"(a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall—

"(1) make a grant in the amount of $500,000 to Guam; and

"(2) make a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational education and training in Guam, American Samoa, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received pursuant to subsection (b) for administrative costs.".

SEC. 370. FAMILY SUPPORT CENTER PROGRAM.

(a) ADMINISTRATIVE PROVISIONS.—Subsection (f) of section 772 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11482(f)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such programs and to provide technical assistance to entities for the development and submission of applications for grants under this section.";

(2) in paragraph (3), by striking "2 years" and inserting "3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(4) MINIMUM AMOUNT.—No grant made under subsection (a) may be awarded in an amount that is less than $200,000 per year.".

(b) REPORT.—The matter preceding paragraph (1) of section 777 of such Act (42 U.S.C. 11487) is amended by striking "1992" and inserting "1995".

(c) AUTHORIZATION FOR APPROPRIATIONS.—Section 779 of such Act (42 U.S.C. 11489) is amended by striking "for fiscal year 1993" and inserting "for each of the fiscal years 1993 through 1998".

(d) TECHNICAL AMENDMENT.—Subsection (a) of section 774 of such Act (42 U.S.C. 11484(a)) is amended by striking "subsection (e)" and inserting "subsection (d)".

SEC. 371. THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.

Subsection (c) of section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000"; and

(2) in the second sentence of paragraph (2)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000".

SEC. 372. OFFICE OF INDIAN EDUCATION; OFFICE OF BILINGUAL EDUCATION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is further amended—

(1) by redesignating section 215 as section 217; and 20 USC 3424.

(2) by adding after section 214 (as added by section 271(c)) the following new section:

"SEC. 215. OFFICE OF INDIAN EDUCATION. Establishment. 20 USC 3423c.

"(a) OFFICE OF INDIAN EDUCATION.—There shall be an Office of Indian Education (referred to in this section as 'the Office') in the Department of Education.

"(b) DIRECTOR.—

"(1) APPOINTMENT AND REPORTING.—The Office shall be under the direction of the Director, who shall be appointed by the Secretary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

"(2) DUTIES.—The Director shall—

"(A) be responsible for administering this title;

"(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

"(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

"(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

"(c) INDIAN PREFERENCE IN EMPLOYMENT.—

"(1) IN GENERAL.—The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

"(2) IMPLEMENTATION.—Such preference shall be implemented in the same fashion as the preference given to any veteran under section 45 of title 25, United States Code.

20 USC 3423d.

"SEC. 216. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

"(a) ESTABLISHMENT.—There shall be, in the Department, an Office of Bilingual Education and Minority Languages Affairs through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority and limited-English language proficient students.

"(2) ORGANIZATION.—The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

"(3) INCLUSION.—The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable, and fair under all standards and assessment development conducted or funded by the Department.".

PART G—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 375. LIBRARY SERVICES AND CONSTRUCTION ACT AUTHORIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 4 of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended—

(1) by striking "for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years" each place the phrase appears and inserting "for fiscal year 1995"; and

(2) in the matter following paragraph (7), by striking "each of the fiscal years 1990, 1991, 1992, 1993, and 1994" and inserting "fiscal year 1995".

(b) FAMILY LEARNING CENTERS.—Section 806 (20 U.S.C. 385e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part.".

(c) LIBRARY LITERACY CENTERS.—Section 818 (20 U.S.C. 386g) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 818. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part.".

PART H—AMENDMENTS TO STATUTES PERTAINING TO INDIAN EDUCATION

SEC. 381. BUREAU OF INDIAN AFFAIRS.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"SEC. 1121. STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS. 25 USC 2001.

"(a)(1) The purpose of the standards developed under this section shall be to afford Indian students being served by a Bureau funded school with the same opportunities as all other students to achieve the National Education Goals embodied in the Goals 2000: Educate America Act. Consistent with the provisions of this section and section 1131, the Secretary shall take such actions as are necessary to coordinate standards developed and implemented under this section with those in the State improvement plans developed and implemented pursuant to the Goals 2000: Educate America Act for the States in which each Bureau funded school operates. In developing and reviewing such standards and coordination, the Secretary shall utilize the findings and recommendations of the panel established in section 315(b)(4) of such Act.

"(2) The Secretary shall take immediate steps to encourage school boards of Bureau funded schools to engage their communities in adopting declarations of purposes of education in their communities, analyzing the implications of such purposes for their schools, and determining how such purposes may be made to motivate students and faculties and otherwise animate their schools by May 1, 1995. Such declarations shall represent the aspirations of a community for the kinds of persons such community wants its children to increasingly become, and shall include such purposes as assuring that all learners are becoming accomplished in ways important to themselves and respected by their parents and communities, shaping worthwhile and satisfying lives for themselves, exemplifying the best values of the community and humankind,

and becoming increasingly effective in shaping the character and quality of the world all learners share.

"(b) Within 18 months of the publication of the voluntary national content standards described in section 213(a) of the Goals 2000: Educate America Act, the Secretary, in consultation with the Secretary of Education and Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

Academic standards. Federal Register, publication.

"(c)(1) The Secretary shall revise the minimum academic standards published in the Federal Register of September 9, 1985 (50 Fed. Reg. 174) for the basic education of Indian children in accordance with the purpose described in subsection (a) and the findings of the studies and surveys described in subsection (b), and shall publish such revised standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 21 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such final standards in the Federal Register. The Secretary shall revise such final standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(2) The standards described in paragraph (1) shall apply to Bureau schools, and subject to subsection (f), to contract or grant schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

"(d) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

"(e) A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsection (c) and (d), where such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

"(f)(1) The Secretary, through contracting and grant-making procedures, shall assist school boards of contract or grant schools in the implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented. At the request of a contract or grant school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (c) and (d) to take into account the needs of the Indian children and the contract or grant school. Contracts. Grants.

"(2) Within 1 year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, the Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract or grant schools. Such standards shall yield data results comparable to those used by Bureau schools. Reports.

"(g) Subject to subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Not later than January 1, 1995, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

"(h)(1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

"(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtailment of Bureau schools in accordance with the requirements of this subsection. Regulations.

"(3) Whenever closure, transfer to any other authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to any other authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any Federal Register, publication.

such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

Reports.

"(4) The Secretary shall make a report to Congress, the affected tribe, and the designated local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, transfer to any other authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987,

"(B) any program of such a school that is operated on or after April 1, 1987, or

"(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988,

only if the tribal governing body approves such action.

Appropriation authorization.

"(i) There are authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section.

"(j)(1) All Bureau funded schools shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau school (subject to the approval of the school board of such school);

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

"(C) any school board of a school operating under a grant under the Tribally Controlled Schools Act of 1988.

"(2) In schools operated directly by the Bureau, the Secretary shall provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.

"(k) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

"(l)(1)(A)(i) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

"(II) applications from any tribe or school board of any Bureau funded school for—

"(aa) a school which is not a Bureau funded school; or

"(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

"(ii) The Secretary shall give consideration to all of the factors under clause (i), but none of the applications under clause (i) may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) The adequacy of facilities or the potential to obtain or provide adequate facilities.

"(ii) Geographic and demographic factors in the affected areas.

"(iii) Adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by a tribe or by Bureau personnel.

"(iv) Geographic proximity of comparable public education.

"(v) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) Geographic and demographic factors in the affected areas.

"(ii) Adequacy and comparability of programs already available.

"(iii) Consistency of available programs with tribal educational codes or tribal legislation on education.

"(iv) The history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by not later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date

described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by not later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

Effective date.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

25 USC 2002.

"SEC. 1122. NATIONAL CRITERIA FOR DORMITORY SITUATIONS.

"(a) The Secretary, in consultation with the Secretary of the Department of Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau schools, and contract or grant schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

Federal Register, publication.

"(b) Not later than January 1, 1996, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 18 months of the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final criteria, distribute such final criteria to all

the tribes, and publish such final criteria in the Federal Register. The Secretary shall revise such final criteria periodically as necessary. Any revisions to the criteria established under this section shall be developed subject to requirements established under section 1131.

"(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of the establishment of such criteria. Not later than January 1, 1997, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau contract boarding schools up to the criteria established under this section. Such plan shall include predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(c) may be waived under section 1121(e).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By not later than May 1, 1996, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section. Reports.

"(e) There are authorized to be appropriated such sums as may be necessary in order to bring each school up to the level required by the criteria established under this section. Appropriation authorization.

"SEC. 1123. REGULATIONS. 25 USC 2003.

"(a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern. Incorporation.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the executive branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

Federal Register, publication.

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of not less than 90 days has been afforded the public to comment on the published proposed regulation, and

Federal Register, publication.

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the executive branch.

25 USC 2004.

"SEC. 1124. SCHOOL BOUNDARIES.

"(a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

"(b)(1) Except as provided in paragraph (2), on or after July 1, 1985, no attendance area shall be changed or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs.

"(2) In any case where there is more than 1 Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

"(c) In any case where there is only 1 Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

"(d) The Bureau shall include in the regulations the requirement that each appropriate education line officer coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.

25 USC 2005.

"SEC. 1125. FACILITIES CONSTRUCTION.

"(a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract or grant with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State

standards), with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and with the Americans with Disabilities Act of 1990, except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of the Improving America's Schools Act of 1994.

"(b) By January 1, 1996, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

"(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

Federal Register, publication.

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

Health care. Safety.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

"(B)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

Federal Register, publication. Regulations.

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by

reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

Reports.

the Secretary shall submit to the Congress, by not later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.

Appropriation authorization.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

25 USC 2006.

"SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

"(a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education.

"(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education. Except as required by section 1129, nothing in this Act shall be construed to require the provision of separate support services for Indian education.

"(c) Education personnel who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b) shall—

"(1) monitor and evaluate Bureau education programs,

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

"(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

"(A) for school facilities to be constructed under the system required by section 1125(c);

"(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

"(C) including a 5-year plan for capital improvements.

"(2)(A) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation

and maintenance of education facilities. Such program shall include—

"(i) a method of computing the amount necessary for each education facility;

"(ii) similar treatment of all Bureau funded schools;

"(iii) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate education line officers; and

"(iv) a system for the conduct of routine preventive maintenance.

"(B) The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this part may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

"(3) The requirements of this subsection shall be implemented not later than July 1, 1995. Effective date.

"(e) Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use of, and benefit of, particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use, and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the use to which such gift or bequest is put, and any positive results achieved by such action. Reports

"(f) For the purpose of this section the term 'functions' includes powers and duties.

"SEC. 1127. ALLOTMENT FORMULA. 25 USC 2007.

"(a)(1) The Secretary shall establish, by regulation adopted in accordance with section 1139, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider— Regulations.

"(A) the number of eligible Indian students served and size of the school;

"(B) special cost factors, such as—

"(i) the isolation of the school;

"(ii) the need for special staffing, transportation, or educational programs;

"(iii) food and housing costs;

"(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

"(v) special transportation and other costs of isolated and small schools;

"(vi) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

"(vii) costs associated with greater lengths of service by educational personnel; and

"(viii) special programs for gifted and talented students;

"(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

"(D) such other relevant factors as the Secretary determines are appropriate.

"(2) Upon the establishment of the standards required by sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 1996, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1121 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.

"(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

"(c)(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

"(2)(A) The Secretary shall reserve for national school board training 0.2 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1992, except that the contracts for distribution of such funds shall require that such funds be distributed by the recipient organizations in a manner that assures the same pro rata share is made available for training for each school board in the system. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall

be established by the school boards through their regional or national organizations.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $5,000, or

"(ii) the lesser of—

"(I) $15,000, or

"(II) 1 percent of such allotted funds,

for school board activities for such school, including and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

"(3) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(A) is gifted and talented, and

"(B) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

"(B) The adjustment required under subparagraph (A) shall be used for such school after—

"(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year following the school year for which the certification is made; and

"(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

"(d) The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may

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not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

"(e) Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

"(f) For the purpose of this section, the term 'eligible Indian student' means a student who—

"(1) is a member of or is at least a ¼ degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents,

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government, employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, is in addition to the school's allocation under this section.

"(3) The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students is in addition to funding under this section.

"(h) Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision immediately.

Utah.

"(i) Beginning with academic year 1994–1995, tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 at a rate not to exceed the amount per weighted student unit for that year for the instruction of such students. No additional administrative cost funds shall be added to the grant.

"SEC. 1128. ADMINISTRATIVE COST GRANTS. 25 USC 2008.

"(a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c)(1) For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

"(A) the sum of—

"(i) the amount equal to—

"(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(II) the minimum base rate, plus

"(ii) the amount equal to—

"(I) the standard direct cost base, multiplied by

"(II) the maximum base rate, by

"(B) the sum of—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(ii) the standard direct cost base.

"(2) The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

"(d)(1)(A) Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(4) In applying this section and section 105 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(A) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988, and

"(B) operates 1 or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract or grant school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

"(e) For purposes of this section:

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include—

"(i) contract or grant (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3)(A) Except as otherwise provided in this subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(4) The term 'maximum base rate' means 50 percent.

"(5) The term 'minimum base rate' means 11 percent.

"(6) The term 'standard direct cost base' means $600,000.

"(7) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

"(f)(1) Upon the date of enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) conduct a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1131) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost func-

tions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

"(3) In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

"(4) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(5) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c). Reports.

"(6) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(7) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section. Appropriation authorization.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) ⅓ of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to ⅓ of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) ½ of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to ½ of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).

"(i) The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

25 USC 2009.

"SEC. 1129. DIVISION OF BUDGET ANALYSIS.

Establishment.

"(a) Within 24 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish within the Office a Division of Budget Analysis (hereinafter referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

"(b) The Division shall have the capacity to conduct such studies, surveys, or other activities as are necessary to gather demographic information on Bureau-funded schools (current and future) and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

Reports.

"(c) The Division shall prepare projections on such amounts, along with such other information as the Director of the Office shall require, for each fiscal year beginning after October 1, 1996. The Director of the Office and the Assistant Secretary for Indian

Affairs shall use such reports when preparing their annual budget submissions.

"SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT. 25 USC 2010.

"(a)(1) Within six months after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish, by regulation adopted in accordance with section 1139, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds, in accordance with section 1127. All amounts appropriated for distribution under this section may be made available under paragraph (2). Regulations.

"(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1127, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph— Publication.

"(i) publish, on July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

"(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

"(3)(A) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of not more than $35,000 of the amount allotted the school under section 1127 to acquire supplies and equipment for the school without competitive bidding if—

"(i) the cost for any single item purchased does not exceed $10,000;

"(ii) the school board approves the procurement;

"(iii) the supervisor certifies that the cost is fair and reasonable;

"(iv) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

"(B) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

"(4) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

"(A) the Secretary, notwithstanding any other law, may use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1127, and

"(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

"(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board. The supervisor of the school may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate line education officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(c) Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and the development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

"(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program

may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

"(f)(1) From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(k)), implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

"(g) Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

"(h) Notwithstanding any other provision of law, funds received by a Bureau funded school under this title shall not be considered Federal funds for purposes of meeting a matching funds requirement in any Federal program.

"SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION. 25 USC 2011.

"(a) It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school

officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented by the interested parties during 1 or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

Labor and employment.
25 USC 2012.

"SEC. 1132. EDUCATION PERSONNEL.

"(a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, promotion, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

Effective date.

"(2) Paragraph (1) shall take effect 1 year after the date of enactment of this Act.

Regulations.

"(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

"(1) the establishment of education positions,

"(2) the establishment of qualifications for educators,

"(3) the fixing of basic compensation for educators and education positions,

"(4) the appointment of educators,

"(5) the discharge of educators,

"(6) the entitlement of educators to compensation,

"(7) the payment of compensation to educators,

"(8) the conditions of employment of educators,

"(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),

"(10) the leave system for educators, and

"(11) such other matters as may be appropriate.

"(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

"(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

"(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education

position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to paragraph (1)(A)(ii) or that such individual has applied at the national level for an education position.

"(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii);

"(ii) each school supervisor shall be hired by the education line officer of the agency office of the Bureau in which the school is located; and

"(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

"(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted, and that subject to paragraph (2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

"(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to paragraph (3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

"(2)(A) The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board. The education line officer shall transmit the determination of such appeal in the form of a written opinion

to such board and to such supervisor identifying the reasons for overturning such determination.

"(B) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(3) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this paragraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

"(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

"(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under

procedures that comport with the requirements of due process; and

"(C) educators employed in Bureau schools shall be notified 60 days prior to the end of the school year whether their employment contract will be renewed for the following year. Contracts.

"(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B)) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the education line officer of the appropriate agency office of the Bureau. Upon such an appeal, the agency education line officer may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) Each local school board for a Bureau school shall have the right—

"(A) to recommend to the supervisor of such school that an educator employed in the school be discharged; and

"(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, if such a waiver is in writing deemed to be a necessity by the tribal organization, except that this paragraph shall in no way relieve the Bureau of the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

"(2) For purposes of this subsection, the term 'tribal organization' means—

"(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

"(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1146, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

"(3) The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

"(g) Subject to the authority of the Office of Personnel Management to determine finally the applicability of chapter 51 of title

5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

Wages.

"(h)(1)(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality.

"(B) By not later than October 28, 1988, the Secretary shall establish, for contracts for the 1991–1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By not later than October 28, 1988, the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989–1990 academic year, at rates which reflect ⅓ of the changes in the rates applicable to such positions on April 28, 1988, that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991–1992 academic year, and

"(ii) for contracts for the 1990–1991 academic year, at rates which reflect ⅔ of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make the election under paragraph (2) of subsection (o).

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual

of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made, except that the individual must use leave accrued during a contract period by the end of that contract period.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies— President.

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.

"(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 percent of the rate of basic compensation to which such educator is entitled. Alaska.

"(3)(A) The Secretary may pay a postdifferential not to exceed 25 percent of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive. Wages.

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

"(ii) The request under clause (i) shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

"(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that such differential be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority. Reports.

"(i) Any individual—

"(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

"(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purpose of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment.

"(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

Regulations.

"(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to such person's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

"(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

"(1) is employed at the close of a school year,

"(2) agrees in writing to serve in such a position for the next school year, and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

"(n) For the purpose of this section—

"(1) The term 'education position' means a position in the Bureau the duties and responsibilities of which—

"(A) are performed on a school-year basis principally in a Bureau school and involve—

"(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree

in education from an accredited institution of higher education;

"(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(iv) support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

"(2) The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(o)(1) Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2)) and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such individual's right to receive the compensation attached to such position.

"(2) Any individual employed in an education position on October 31, 1979, may, not later than November 1, 1983, make an irrevocable election to be covered under the provisions of subsections (a) through (n) of this section.

"(p)(1) An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1130(b) of this Act, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

"(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

"(ii) such educators are selected based upon such educator's qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

Establishment.
25 USC 2013.

"SEC. 1133. MANAGEMENT INFORMATION SYSTEM.

"The Secretary shall establish within the Office, within 1 year after the date of the enactment of the Indian Education Amendments of 1984, a computerized management information system, which shall provide information to the Office. Such information shall include—

"(1) student enrollment;
"(2) curriculum;
"(3) staff;
"(4) facilities;
"(5) community demographics;
"(6) student assessment information; and
"(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.

25 USC 2014.

"SEC. 1134. BUREAU EDUCATION POLICIES.

Federal Register, publication.

"Within 180 days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within 1 year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

25 USC 2015.
Reports.

"SEC. 1135. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

25 USC 2016.

"SEC. 1136. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

"SEC. 1137. ANNUAL REPORT. 25 USC 2017.

"(a) The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include—

"(1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d) and recommendations with respect to the future use of such funds;

"(2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and

"(3) the plans required by sections 1121(g), 1122(c), and 1125(b), of this Act.

"(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.

"SEC. 1138. RIGHTS OF INDIAN STUDENTS. 25 USC 2018.

"Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions. Regulations.

"SEC. 1139. REGULATIONS. 25 USC 2019.

"Regulations required to be adopted under sections 1126 through 1138 and any revisions of the standards developed under section 1121 or 1122 shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 437 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section. Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"SEC. 1140. VOLUNTARY SERVICES. 25 USC 2020.

"Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An

individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

25 USC 2021.

"SEC. 1141. PRORATION OF PAY.

"(a) Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period. Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

"(b) During the course of such year the employee may change election once.

"(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

"(d) For the purposes of this section the terms 'educator' and 'education position' have the meaning contained in paragraphs (1) and (2) of section 1132(n). This section applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

Wages.
25 USC 2022.

"SEC. 1142. EXTRACURRICULAR ACTIVITIES.

"(a) Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(b) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

"(c) This section applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

Grants.
25 USC 2023.

"SEC. 1143. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization,

or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only 1 tribe that has less than 500 members, or

"(ii) by 1 or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

Appropriation authorization.

"SEC. 1144. TRIBAL DEPARTMENTS OF EDUCATION.

Grants. 25 USC 2024.

"(a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the

purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

Oklahoma.

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999. Appropriation authorization.

"SEC. 1145. PAYMENTS. 25 USC 2025.

"(a)(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments—

"(A) one payment to be made not later than July 15 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year, and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) For any school for which no payment was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.

"SEC. 1146. DEFINITIONS. 25 USC 2026.

"For the purpose of this part, unless otherwise specified—

"(1) the term 'agency school board' means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

"(2) the term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior;

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract or grant school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504);

"(6) the term 'education line officer' means education personnel under the supervision of the Director, whether located in central, area, or agency offices;

"(7) the term 'financial plan' means a plan of services to be provided by each Bureau school;

"(8) the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

"(9) the term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

"(10) the term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

"(11) the term 'Office' means the Office of Indian Education Programs within the Bureau;

"(12) the term 'Secretary' means the Secretary of the Interior;

"(13) the term 'supervisor' means the individual in the position of ultimate authority at a Bureau school; and

"(14) the term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1801 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

SEC. 382. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.

(a) NEW CONSTRUCTION.—The second sentence of paragraph (4) of section 5205(b) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)(4)) is amended by striking "were received." and inserting "were received, except that a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal government or other organization provides funding for the new construction equal to at least one-fourth of the total cost of such new construction.".

(b) COMPOSITION OF GRANTS.—Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)) is further amended by adding at the end the following new paragraph:

"(5) If the Secretary fails to make a determination within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant the funds described in subsection (a)(2), the Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial of or failure to act on such tribe or organization's request, pursuant to the disputes authority described in section 5209(e).".

(c) PAYMENTS.—Subsection (a) of section 5208 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended to read as follows:

"(a) PAYMENTS.—

"(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments, of which—

"(A) the first payment shall be made not later than July 15 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year; and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3).

"(5) Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.".

(d) APPLICABILITY.—Subsection (a) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(a)) is amended to read as follows:

"(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of sections 5, 6, 7, 104, 105(f), 106(f), 109, and 111 of the Indian Self-Determination and Education Assistance Act, except those provisions relating to indirect costs and length of contract, shall apply to grants provided under this part.

(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Subsection (e) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(e)) is amended—

(1) by striking "the amount of a grant under section 5205 (and the amount of any funds referred to in that section), and payments to be made under section 5208 of this Act," and inserting "a grant authorized to be made pursuant to this part or any amendment to such grant,";

(2) by striking "the amount of, or payment of, the administrative grant" and inserting "an administrative cost grant"; and

(3) by adding at the end the following new sentence: "The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.".

SEC. 383. ENDOWMENT FUNDS.

Section 302 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1832) is amended—

(1) in subsection (a), by striking "section 333" and inserting in lieu thereof "section 331"; and

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 331(c) of the Higher Education Act of 1965, except that for purposes of this paragraph, the term 'trust fund' means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;"; and

(B) in paragraph (3) by striking "same" the first time such term appears.

SEC. 384. GOALS 2000: EDUCATE AMERICA ACT.

(a) Section 315 of the Goals 2000: Educate America Act (20 U.S.C. 5895) is amended—

(1) by amending subsection (c) to read as follows:

"(c) BUREAU OF INDIAN AFFAIRS COST ANALYSIS AND STUDIES.—

"(1) IN GENERAL.—The Secretary of the Interior shall reserve from the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds an amount not to exceed $500,000 for each such year to provide, through a contract executed, after open solicitation, with an organization or institution having extensive experience in school finance, for an analysis of—

"(A) the costs associated with meeting the academic, home-living, and residential standards of the Bureau for

each Bureau funded school and annual projections of such costs; and

"(B) the feasibility and desirability of changing the method of financing for Bureau funded schools from the weighted student unit formula method in effect on the date of enactment of this Act to a school-based budget system or other alternative system of financial support.

"(2) COST ANALYSIS PURPOSE.—The purpose of the cost analysis provided for in paragraph (1)(A) shall be to provide the Bureau and the panel described in subsection (b)(4) with baseline data regarding the current state of operations funded by the Bureau and to provide a framework for the implementation of opportunity-to-learn standards or strategies. Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

"(A) the standards either published in the Federal Register and effective for schools funded by the Bureau on the date of enactment of the Improving America's Schools Act of 1994, or the State or regional standards in effect on such date for a Bureau funded school;

"(B) the best projections of student counts and demographics as provided by the Bureau and as independently reviewed by the organization or institution selected by the Secretary to perform the analysis described in this section; and

"(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on the date of enactment of the Improving America's Schools Act of 1994.

"(3) FEASIBILITY STUDY PURPOSE.—(A) The purpose of the feasibility analysis provided for in paragraph (1)(B) shall be to determine whether it is feasible and desirable for the Bureau to replace or modify the weighted student unit formula system in effect on the date of enactment of this Act.

"(B) For the purposes of the feasibility analysis described in paragraph (1)(B), the term 'school-based budget system' means a system based upon an initial determination, at each school site, of the number of students who shall be served at the site, the needs of those students, the standards which will best meet those needs (including any standards or conditions reflecting local community input and such community's program), the personnel profile necessary to establish such program and the cost (determined on an actual basis) of funding such a program. Such a system shall include procedures to aggregate the determinations for each school site to determine the amount needed to fund all Bureau funded schools, to prepare a budget submission based upon such aggregate, and to provide for a mechanism for distributing such sums as may be appropriated based upon the determination at each school site.

"(4) RESULTS REPORT.—The contractor selected shall be required to report the results of analyses provided for in this section, in aggregate and school-specific form to the chairpersons and ranking minority members of the Committee on Education and Labor and the Committee on Appropriations

of the House of Representatives and the Committee on Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, not later than six months after the date of enactment of the Improving America's Schools Act of 1994. The contractor shall also be required to provide an estimate of the costs of meeting the academic and residential standards of the Bureau for each Bureau funded school for each of the three succeeding forward-funded fiscal years following the date of submission of such report. The contractor shall provide an estimate of such costs to such persons and members not later than January 1 of each succeeding fiscal year."; and

(2) by adding at the end the following new subsections:

"(e) GRANTS.—The Secretary of the Interior may use not more than one percent of the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds for the purpose of providing grants, if requested by Bureau funded school boards, to enable such school boards to carry out activities of reform planning as such activities are described for States in section 308(b)(2)(J), including the feasibility of becoming a contract school pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or a grant school pursuant to section 5204 of the Tribally Controlled Schools Act of 1988.

"(f) STUDY.—In cooperation with the panel established in subsection (b)(4), the Secretary of the Interior shall conduct a study to evaluate the feasibility of contracting with a private management firm for the operation of one or more Bureau operated schools to facilitate the achievement of the National Education Goals and the efficient use of funds in the education of Indian children, and to report to the persons identified in subsection (c)(4) and to the panel described in subsection (b)(4) not later than 12 months after the date of enactment of the Improving America's Schools Act of 1994.".

SEC. 386. AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) STAFF OF THE INSTITUTE.—Subsection (f) of section 1509 of the Higher Education Amendments of 1986 (20 U.S.C. 4416(f)) is amended to read as follows:

"(f) APPLICABILITY.—

"(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g), the enactment of this title shall not affect—

"(A) the continued employment of any individual employed before October 17, 1986; or

"(B) such individual's right to receive the compensation attached to such position.

"(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

"(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.".

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year."; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

"(1) Funds in the trust funds described in subsections (a) and (b) shall be invested under the same conditions and limitations as funds are invested under section 331(c)(2) of the Higher Education Act of 1965 and the regulations implementing such section (as such regulations were in effect at the time the funds are invested).". Securities.

PART I—CROSS REFERENCES AND CONFORMING AMENDMENTS

SEC. 391. CROSS REFERENCES.

(a) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—(1) Paragraph (1) of section 101 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "section 198(a)" and inserting "section 14101".

(2) Paragraph (2) of section 201(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(3) Paragraph (3) of section 301(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking ", except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965".

(4) Paragraph (2) of section 401(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(b) TITLE 10.—(1) Subparagraph (A) of section 1151(b)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(2) Subparagraph (A) of section 1151(b)(3) of title 10, United States Code, is amended by striking "chapter 1 of".

(3) Subparagraph (A) of section 1598(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(4) Section 2194 of title 10, United States Code, is amended—

(A) in subsection (a), by striking "education agencies" and inserting "educational agency"; and

(B) in subsection (e)—

(i) by striking "education agency" and inserting "educational agency";

(ii) by striking "section 1471(12)" and inserting "section 14101"; and

(iii) by striking "(20 U.S.C. 1058(b)".

(5) Subparagraph (A) of section 2410j(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(c) TOXIC SUBSTANCES CONTROL ACT.—(1) Subparagraph (A) of section 202(7) of the Toxic Substances Control Act (15 U.S.C. 2642(7)(A)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 3381)".

(2) Paragraph (9) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(9)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(3) Paragraph (12) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(12)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(4) Section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(A)) is amended—

(A) in subparagraph (A)—

(i) by striking "section 198" and inserting "section 14101"; and

(ii) by striking "(20 U.S.C. 3381)"; and

(B) in subparagraph (C), by inserting "or successor authority" after "1107)".

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (1) of section 386(h) of the National Defense Authorization Act for Fiscal Year 1993 (20 U.S.C. 238 note) is amended—

(1) by striking "section 1471(12)" and inserting "section 14101"; and

(2) by striking "(20 U.S.C. 2891(12))".

(e) HIGHER EDUCATION ACT OF 1965.—(1) Clause (ii) of section 418A(b)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070d–2(b)(1)(B)(ii)) is amended by striking "subpart 1 of part D of chapter 1" and inserting "part C".

(2) Subparagraph (A) of section 418A(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070d–2(c)(1)(A)) is amended—

(A) by striking "subpart 1 of part D of chapter 1" and inserting "part C"; and

(B) by inserting "(or such part's predecessor authority)" after "1965".

(3) Subparagraph (A) of section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)(A)) is amended by striking "chapter 1 of the Education Consolidation and Improvement Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965".

(4) Subsection (a) of section 469 of the Higher Education Act of 1965 (20 U.S.C. 1087ii(a)) is amended by striking "chapter 1 of".

(5) Subsection (b) of section 572 of the Higher Education Act of 1965 (20 U.S.C. 1111a(b)) is amended by striking "of chapter 1".

(6) Paragraph (1) of section 581(b) of the Higher Education Act of 1965 (20 U.S.C. 1113(b)(1)) is amended by striking "part

A or subpart 1 of part D of chapter 1" and inserting "part A or C".

(7) Paragraph (3) of section 581(c) of the Higher Education Act of 1965 (20 U.S.C. 1113(c)(3)) is amended by striking "chapter 1 of".

(8) Subparagraph (C) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(C)) is amended by striking "chapter 1 of".

(9) Subparagraph (D) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(D)) is amended by striking "chapter 1 of".

(10) Subclause (I) of section 1144(b)(1)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1138c(b)(1)(B)(iv)(I)) is amended by striking "chapter 1 of".

(f) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—(1) Clause (ii) of section 602(a)(21)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(21)(A)(ii)) is amended by striking "chapter 1 of".

(2) Paragraph (2) of section 613(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)) is amended by striking ", including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965,".

(3) Subparagraph (B) of section 622(c)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1422(c)(2)) is amended by striking "and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(g) EDUCATION AMENDMENTS OF 1972.—Subparagraph (B) of section 908(2) of the Education Amendments of 1972 (20 U.S.C. 1687(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 14101".

(h) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 204 of the Department of Education Organization Act (20 U.S.C. 3414) is amended by striking "subpart 1 of part B" and inserting "part C".

(i) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—The Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5001 et seq.) is repealed.

(j) EDUCATIONAL PARTNERSHIPS ACT OF 1988.—The Educational Partnerships Act of 1988 (20 U.S.C. 5031 et seq.) is repealed.

(k) SECONDARY SCHOOLS BASIC SKILLS DEMONSTRATION ASSISTANCE ACT OF 1988.—The Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 5061 et seq.) is repealed.

(l) EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.—The Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5311 et seq.) is repealed. 20 USC 5301 *et seq.*

(m) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Paragraph (5) of section 3 of the National Environmental Education Act (20 U.S.C. 5502(5)) is amended—

(1) by striking "local education" and inserting "local educational"; and

(2) by striking "section 198" and inserting "section 14101".

(n) JOB TRAINING PARTNERSHIP ACT.—(1) Paragraph (23) of section 4 of the Job Training Partnership Act (29 U.S.C. 1503(23)) is amended by striking "section 1471(23)" and inserting "section 14101".

(2) Subparagraph (B) of section 263(a)(2) of the Job Training Partnership Act (29 U.S.C. 1643(a)(2)(B)) is amended by striking "chapter 1 of".

(3) Subparagraph (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(B)) is amended by striking "chapter 1 of".

(4) Paragraph (2) of section 265(b) of the Job Training Partnership Act (29 U.S.C. 1645(b)(2)) is amended by striking "parts A through D of chapter 1" and inserting "parts A through C".

(o) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (3) of section 1091(l) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended by inserting "(as such section was in effect on the day preceding the date of enactment of this Act)" after "1965".

(p) SAFE DRINKING WATER ACT.—Section 1461 of the Safe Drinking Water Act (42 U.S.C. 300j–21(6)) is amended—

(1) in subparagraph (A) of paragraph (3)—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 3381)"; and

(2) in paragraph (6)—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(q) CIVIL RIGHTS ACT OF 1964.—Subparagraph (B) of section 606(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 14101".

(r) OLDER AMERICANS ACT OF 1965.—(1) Section 338A of the Older Americans Act of 1965 (42 U.S.C. 3030g–12(a)(1)) is amended—

(A) in paragraph (1) of subsection (a)—

(i) by striking "section 1471" and inserting "section 14101"; and

(ii) by striking "(20 U.S.C. 2891)"; and

(B) in paragraph (3) of subsection (b)—

(i) by striking "projects under section 1015" and inserting "programs under section 1114"; and

(ii) by striking (20 U.S.C. 2025)".

(2) Subparagraph (B) of section 363(5) of the Older Americans Act of 1965 (42 U.S.C. 3030o(5)(B)) is amended—

(A) by striking "section 1471" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2891)".

(s) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Subsection (d) of section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(d)) is amended by striking "chapter 1 of".

(2) Paragraph (14) of section 113(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14)) is amended by striking "chapter 1 of".

(3) Subsection (a) of section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2325(a)) is amended—

(A) by striking "chapter 1 of"; and

(B) by inserting "of 1965" after "Secondary Education Act".

(4) Paragraph (1) of section 231(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(a)(1)) is amended by striking "section 1005" and inserting "section 1124 or such section's predecessor authority".

(5) Clause (iv) of section 231(d)(3)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(d)(3)(A)(iv)) is amended by striking "chapter 1 of".

(6) Paragraph (3) of section 420(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2420(a)(3)) is amended by striking "section 1562" and inserting "part B of title XIII".

(7) Paragraph (20) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(20)) is amended by striking "section 1471(5)" and inserting "section 14101".

(8) Paragraph (21) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(21)) is amended by striking "section 703(a)(1)" and inserting "section 7004(a)".

(t) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Paragraph (2) of section 288E(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–5(a)(2)) is amended by striking "chapter 1 of".

(u) AGE DISCRIMINATION ACT OF 1975.—Clause (ii) of section 309(4)(B) of the Age Discrimination Act of 1975 (42 U.S.C. 6107(4)(B)(ii)) is amended by striking "section 198(a)(10)," and inserting "section 14101".

(v) HEAD START TRANSITIONAL PROJECT ACT.—(1) Paragraph (4) of section 132 of the Head Start Transition Project Act (42 U.S.C. 9855(4)) is amended by striking "section 1471(12)" and inserting "section 14101".

(2) Subsection (a) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(a)) is amended by striking "of chapter 1".

(3) Subsection (b) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(b)) is amended by striking "of chapter 1".

(4) Subsection (d) of section 135 of the Head Start Transition Project Act (42 U.S.C. 9855c(d)) is amended by striking "schoolwide project under section 1015(a)" and inserting "schoolwide program under section 1114".

(5) Subparagraph (C) of section 136(a)(4) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(4)(C)) is amended—

(A) by striking "the Follow Through Act, chapter 1 of"; and

(B) by striking ", part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start)".

(6) Paragraph (8) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(8)) is amended by striking "part B of chapter 1" and inserting "part B".

(7) Paragraph (10) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(10)) is amended by striking "part B of chapter 1" and inserting "part B".

(w) FOLLOW THROUGH ACT.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(x) COMPREHENSIVE CHILD DEVELOPMENT ACT.—Paragraph (5) of section 670S of the Comprehensive Child Development Act (42

U.S.C. 9886(5)) is amended by striking "section 1471(12)" and inserting "section 14101".

(y) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subparagraph (B) of section 112(b)(2) of the National and Community Service Act of 1990 (42 U.S.C. 12524(b)(2)(B)) is amended by striking "chapter 1 of".

(z) TRAINING TECHNOLOGY TRANSFER ACT OF 1988.—Paragraph (1) of section 6144 of the Training Technology Transfer Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994".

SEC. 392. ADDITIONAL REPEALS AND TECHNICAL AND CONFORMING AMENDMENTS REGARDING IMPACT AID.

(a) ADDITIONAL REPEALS.—

(1) OMNIBUS BUDGET RECONCILIATION ACT OF 1981.—Subsection (c) of section 505 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

20 USC 241 note.

(2) EDUCATION AMENDMENTS OF 1984.—Section 302 of the Education Amendments of 1984 is repealed.

20 USC 240 note

(3) DEPARTMENT OF EDUCATION APPROPRIATIONS ACT, 1991.—Section 306 of the Department of Education Appropriations Act, 1991, is repealed.

104 Stat. 2216.

(4) NATIONAL ASSESSMENT OF CHAPTER 1 ACT.—Paragraph (2) of section 3(a) of the 1992 National Assessment of Chapter 1 Act is repealed.

20 USC 238 note

(5) PUBLIC LAW 92-277.—Section 2 of Public Law 92-277 (86 Stat. 124) is repealed.

20 USC 244 note.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966.—Section 182 of the Elementary and Secondary Education Amendments of 1966 is amended by striking "by the Act of September 23, 1950 (Public Law 815, 81st Congress),".

42 USC 2000d-5.

(2) TOXIC SUBSTANCES CONTROL ACT.—Subparagraph (C) of section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(C)) is amended by inserting "as in effect before enactment of the Improving America's Schools Act of 1994" after "section 6 of the Act of September 30, 1950 (64 Stat. 1107),".

SEC. 393. INDIAN EDUCATION.

(a) ADULT EDUCATION ACT.—Paragraph (4) of section 322(a) of the Adult Education Act (20 U.S.C. 1203a(a)) is amended by striking "the Indian Education Act" and inserting "title IX of the Elementary and Secondary Education Act of 1965".

(b) EDUCATION AMENDMENTS OF 1978.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(3)) is amended—

(1) in clause (i) of subparagraph (A), by striking "(as determined pursuant to section 5324 of the Indian Education Act of 1988)"; and

(2) in subparagraph (B)—

(A) by striking "the later of the following" and all that follows through "(ii)"; and

(B) by inserting ", and for each fiscal year thereafter" before the period at the end thereof.

(c) INDIAN EDUCATION ASSISTANCE ACT.—Section 209 of the Indian Education Assistance Act (25 U.S.C. 458e) is amended by striking "title IV of the Act of June 23, 1972 (86 Stat. 235)" and inserting "title IX of the Elementary and Secondary Education Act of 1965".

(d) JOHNSON-O'MALLEY ACT.—Subsection (a) of section 5 of the Act of April 16, 1934, commonly known as the "Johnson-O'Malley Act" (25 U.S.C. 456(a)) is amended by striking "section 305(b)(2)(B)(ii) of the Act of June 23, 1972 (86 Stat. 235)" and inserting "section 9104(c)(4) of the Elementary and Secondary Education Act of 1965".

SEC. 394. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADULT EDUCATION ACT.—Paragraph (7) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)) is amended by striking "section 7004(a) of title VII" and inserting "section 7004(a)".

(b) ANTI-DRUG ABUSE ACT OF 1988.—Subparagraph (A) of section 3521(d)(8) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(d)(8)(A)) is amended by striking "the Drug-Free Schools and Communities Act of 1986" and inserting "title IV of the Elementary and Secondary Education Act of 1965".

(c) ASBESTOS SCHOOL HAZARD ABATEMENT ACT.—Section 511 of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4020) is amended—

(1) in subparagraph (A) of paragraph (4), by striking "section 198(a)(10)" and inserting "section 14101"; and

(2) in subparagraph (A) of paragraph (5), by striking "section 198(a)(7)" and inserting "section 14101".

(d) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Paragraph (10) of section 457 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899f(10)) is amended by striking "section 7003 of the Bilingual Education Act" and inserting "section 7004(a) of the Elementary and Secondary Education Act of 1965".

(e) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Subparagraph (A) of section 108(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2618(a)(1)(A)) is amended by striking "section 1471(12)" and inserting "section 14101".

(f) GOALS 2000: EDUCATE AMERICA ACT.—The Goals 2000: Educate America Act is amended—

(1) in section 3— *Ante*, p. 129.

(A) in subsection (a)—

(i) in paragraph (6), by striking "section 1471" and inserting "section 14101"; and

(ii) in paragraph (10), by striking "section 602" and inserting "section 602(a)(17)"; and

(B) in paragraph (1) of subsection (b), by striking "section 1471" and inserting "section 14101";

(2) in paragraph (7) of section 231, by striking "chapter 1 of"; *Ante*, p. 151.

(3) in subsection (b) of section 232— *Ante*, p. 152.

(A) in subparagraph (A) of paragraph (2), by striking "Star Schools Program Assistance Act" and inserting "Star Schools program authorized by part B of title III of the Elementary and Secondary Education Act of 1965"; and

(B) in subparagraph (F) of paragraph (3), by striking "the evaluation undertaken pursuant to section 908 of the

Star Schools Program Assistance Act" and inserting "any evaluation of the Star School program undertaken by the Secretary";

Ante, p. 174. (4) in subsection (b) of section 310, by striking "section 1017" and inserting "sections 1020 and 14503"; and

Ante, p. 174 (5) in subsection (b) of section 311, by amending paragraphs (1) through (6) to read as follows:

"(1) Title I of the Elernentary and Secondary Education Act of 1965.

"(2) Part A of title II of the Elementary and Secondary Education Act of 1965.

"(3) Part A of title V of the Elementary and Secondary Education Act of 1965.

"(4) Title VIII of the Elementary and Secondary Education Act of 1965.

"(5) Part B of title IX of the Elementary and Secondary Education Act of 1965.

"(6) The Carl D. Perkins Vocational and Applied Technology Education Act.".

(g) IMMIGRATION AND NATIONALITY ACT.—Subparagraph (D) of section 245A(h)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(D)) is amended to read as follows:

"(D) Title I of the Elementary and Secondary Education Act of 1965.".

(h) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—The National and Community Service Act of 1990 is amended—

42 USC 12511. (1) in section 101—

(A) in paragraph (8), by striking "section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

(B) in paragraph (14), by striking "section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965;

(C) in paragraph (22), by striking "section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(D) in paragraph (28), by striking "section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

42 USC 12524. (2) in subparagraph (B) of section 112(b)(2), by inserting "or its successor authority" after "(20 U.S.C. 2711 et seq.)"; and

42 USC 12528 (3) in subsection (b) of section 115A, by inserting ", as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994" after "(20 U.S.C. 2727(b))".

(i) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 is amended—

29 USC 761a. (1) in section 202(b)(4)(A)(i), by striking "paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(2) in subparagraph (B) of section 504(b)(2), by striking "section 1471(12)" and inserting "section 14101". 29 USC 794.

(j) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—The School-to-Work Opportunities Act of 1994 is amended—

(1) in paragraph (15) of section 4, by striking "section 602(17)" and inserting "section 602(a)(17)"; and *Ante*, p. 572.

(2) in subsection (b) of section 502, by amending paragraphs (1) through (6) to read as follows: *Ante*, p. 598.

"(1) title I of the Elementary and Secondary Education Act of 1965;

"(2) part A of title II of the Elementary and Secondary Education Act of 1965;

"(3) part A of title V of the Elementary and Secondary Education Act of 1965;

"(4) part B of title IX of the Elementary and Secondary Education Act of 1965;

"(5) title XIII of the Elementary and Secondary Education Act of 1965; and

"(6) the Carl D. Perkins Vocational and Applied Technology Education Act.".

(k) SOCIAL SECURITY ACT.—Paragraph (7) of section 402(g) of the Social Security Act (42 U.S.C. 602(g)(7)) is amended by striking "chapter 1 of the Education Consolidation and Improvement Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965".

(l) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877) is amended—

(1) in paragraph (6), by striking "section 198(a)(10)" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(2) in paragraph (11), by striking "section 198(a)(17)" and inserting "section 14101".

(m) TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The Tribally Controlled Schools Act of 1988 is amended—

(1) in subparagraph (C) of section 5204(a)(3), by striking "chapter 1 of"; and 25 USC 2503.

(2) in section 5205— 25 USC 2504.

(A) in subparagraph (A) of subsection (a)(3), by striking "chapter 1 of"; and

(B) in subsection (b)—

(i) in subparagraph (A) of paragraph (2), by striking "chapter 1 of"; and

(ii) in clause (i) of paragraph (3)(A), by striking "chapter 1 of".

TITLE IV—NATIONAL EDUCATION STATISTICS

National Education Statistics Act of 1994.

SEC. 401. SHORT TITLE. 20 USC 9001 note.

This title may be cited as the "National Education Statistics Act of 1994".

SEC. 402. FINDINGS; PURPOSE; DEFINITIONS. 20 USC 9001.

(a) FINDINGS.—The Congress finds that—

(1) a Department of Education was established in 1867 "for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and territories, and of diffusing such information respecting the organization and management of schools and school systems and methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the United States";

(2) today, while the role of the current Department of Education is much broader, the National Center for Education Statistics within the Office of Educational Research and Improvement continues to perform those crucial original purposes; and

(3) looking to the 21st century, the National Center for Education Statistics must be able to design and undertake, effectively and efficiently, statistical activities that will aid in the reform of the Nation's educational systems.

(b) PURPOSE.—It is the purpose of this title to ensure the continuation of an effective mechanism for collecting and reporting statistics and information showing the condition and progress of education in the United States and other nations in order to promote and accelerate the improvement of American education.

(c) DEFINITIONS.—For the purpose of this title and unless otherwise specified—

(1) the term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established under section 202(b)(1)(E) of the Department of Education Organization Act;

(2) the term "Department" means the Department of Education;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of Education;

(6) the term "State educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965; and

(7) the terms "State" and "United States"—

(A) other than for the purpose of section 411, mean each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) for the purpose of section 411, have the same meaning given such terms in subparagraph (A), except that such terms include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

20 USC 9002.

SEC. 403. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ESTABLISHMENT.—There is established, within the Office of Educational Research and Improvement established under section 208 of the Department of Education Organization Act, a National

Center for Education Statistics (hereafter in this title referred to as the "Center").

(b) COMMISSIONER AND ASSOCIATE COMMISSIONERS.—

(1) COMMISSIONER.—The Center shall be headed by a Commissioner of Education Statistics (hereafter in this title referred to as the "Commissioner") who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(A) have substantial knowledge of programs assisted by the Center;

(B) be paid in accordance with section 5315 of title 5, United States Code; and

(C) serve for a term of four years, with the terms to expire every fourth June 21, beginning in 1995.

(2) ASSOCIATE COMMISSIONERS.—The Commissioner may appoint such Associate Commissioners as the Commissioner determines are necessary and appropriate.

SEC. 404. DUTIES OF THE CENTER. 20 USC 9003.

(a) DUTIES.—The duties of the Center are to collect, analyze, and disseminate statistics and other information related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State by State basis), and disseminating full and complete statistics on the condition and progress of education, at the preschool, elementary, secondary, and postsecondary levels in the United States, including data on—

(A) State and local education reform activities;

(B) student achievement at all levels of education;

(C) secondary school completions, dropouts, and adult literacy;

(D) educational access to and opportunity for postsecondary education, including data on financial aid to postsecondary students;

(E) teaching, including data on course-taking, instruction, the conditions of the education workplace, and the supply of, and demand for, teachers, which may include data on the proportions of women and men, cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented;

(F) the learning and teaching environment, including data on libraries;

(G) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety;

(H) the financing and management of education, including data on revenues and expenditures; and

(I) the social and economic status of children;

(2) conducting and publishing reports and analyses of the meaning and significance of such statistics;

(3) conducting longitudinal studies, as well as regular and special surveys and data collections, necessary to report on the condition and progress of education;

(4) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and

other population characteristics when such disaggregated information would facilitate educational and policy decisionmaking;

(5) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities; and

(6) acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations.

(b) TRAINING PROGRAM.—The Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to appoint such employees as temporary fellows at the Center in order to assist the Center in carrying out its duties.

20 USC 9004.

SEC. 405. PERFORMANCE OF DUTIES.

(a) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—In carrying out the Commissioner's duties under this title, the Commissioner may award grants, and enter into contracts and cooperative agreements.

(2) DURATION.—Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than five years, and may be renewed at the discretion of the Commissioner for an additional period of not more than five years.

(b) GATHERING INFORMATION.—

(1) SAMPLING.—The Commissioner may use the statistical method known as sampling to carry out the purpose of this title.

(2) SOURCE OF INFORMATION.—The Commissioner may, as the Commissioner considers appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, libraries, administrators, teachers, students, the general public, and such other individuals, organizations, agencies, and institutions as the Commissioner may consider appropriate; and

(B) by other offices within the Department and by other Federal departments, agencies, and instrumentalities.

(3) COLLECTION.—The Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(4) TECHNICAL ASSISTANCE AND COORDINATION.—In order to maximize the effectiveness of Federal efforts to serve the educational needs of children and youth, the Commissioner shall—

(A) provide technical assistance to Department offices that gather data for statistical purposes; and

(B) coordinate closely with other Department offices in the collection of data.

SEC. 406. REPORTS. 20 USC 9005.

(a) REPORT ON THE CONDITION AND PROGRESS OF EDUCATION.—The Commissioner shall, not later than June 1, 1995, and each succeeding June 1 thereafter, submit to the President and the Congress a statistical report on the condition and progress of education in the United States.

(b) STATISTICAL REPORTS.—The Commissioner shall issue regular statistical reports to the President and Congress on such education topics as the Commissioner determines to be appropriate.

(c) SPECIAL REPORTS.—The Commissioner may, whenever the Commissioner considers it appropriate, issue special reports on particular education topics.

SEC. 407. ADVISORY COUNCIL ON EDUCATION STATISTICS. 20 USC 9006.

(a) ESTABLISHMENT.—There is established, within the Center, the Advisory Council on Education Statistics (hereafter in this title referred to as the "Council").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Council shall be composed of—

(A) 18 voting members who are users of education data and who are appointed by the Secretary on the basis of their experience and eminence within the field of education, of whom at least—

(i) three shall be practicing educators;

(ii) three shall be education policymakers;

(iii) three shall be professional statisticians;

(iv) three shall be education researchers; and

(v) three shall be experts in educational measurement;

(B) three individuals representing the general public, appointed by the Secretary;

(C) the Director of the Census and the Commissioner of Labor Statistics, as voting, ex officio members; and

(D) the Assistant Secretary and the Commissioner, as nonvoting, ex officio members.

(2) PRESIDING OFFICER.—The Commissioner shall appoint the presiding officer of the Council from among the voting members of the Council.

(3) TERMS.—Members of the Council appointed under paragraph (1)(A) shall be appointed for three-year terms except that, in the case of initial appointments, the Secretary shall make appointments for shorter terms to the extent necessary to avoid the expiration of the terms of more than six members in the same calendar year.

(4) MEETINGS.—(A) The Council shall meet in public session at the call of the presiding officer, except that the Council shall meet—

(i) at least two times during each calendar year; and

(ii) in addition, whenever ten voting members request in writing that the presiding officer call a meeting.

(B) Eleven voting members of the Council shall constitute a quorum.

(5) SPECIAL RULE.—The Council shall—

(A) review general policies for the operation of the Center and shall advise the Commissioner on standards

to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence; and

(B) advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.

(6) STAFF.—The Council shall appoint a staff of not more than six individuals with technical expertise to enable the Council to carry out its duties.

20 USC 9007.

SEC. 408. CONFIDENTIALITY.

(a) CONFIDENTIALITY STANDARDS.—

(1) IN GENERAL.—(A) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this title.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) PROHIBITION.—No person may—

(A) use any individually identifiable information furnished under this title for any purpose other than a statistical purpose;

(B) make any publication whereby the data furnished by any particular person under this title can be identified; or

(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

(b) ADMINISTRATION.—

(1) IN GENERAL.—No department, bureau, agency, officer, or employee of the Federal Government, except the Commissioner in carrying out the purposes of this title, shall require, for any reason, copies of reports that have been filed under this title with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of the Center's employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (5)(A)).

(2) EMPLOYEE OR STAFF VIOLATIONS.—Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2), knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this title, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(3) TEMPORARY STAFF.—The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing the Center's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) INFORMATION REQUIREMENTS.—No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code, except such collection of information or data acquisition activity may be subject to review or coordination if the Commissioner determines that such review or coordination is beneficial.

(5) DEFINITIONS.—For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) VIOLATIONS.—Any person who uses any data provided by the Center, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2), shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(7) ACCESS TO REPORTS OR RECORDS.—Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

SEC. 409. DISSEMINATION. 20 USC 9008.

(a) GENERAL REQUESTS.—

(1) IN GENERAL.—The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) COMPILATIONS.—The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) CONGRESSIONAL REQUESTS.—The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) JOINT STATISTICAL PROJECTS.—The Secretary may engage in joint statistical projects related to the purposes of this title, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) FEES.—

(1) IN GENERAL.—Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) FUNDS RECEIVED.—All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) ACCESS.—

(1) OTHER AGENCIES.—The Center shall, consistent with section 408, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) INTERESTED PARTIES.—The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

20 USC 9009.

SEC. 410. COOPERATIVE EDUCATION STATISTICS SYSTEMS.

(a) IN GENERAL.—The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, postsecondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

(b) MODEL DATA SYSTEM.—The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local education agency levels.

20 USC 9010.

SEC. 411. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) ESTABLISHMENT.—The Commissioner shall, with the advice of the National Assessment Governing Board established under section 412, and with the technical assistance of the Advisory Council established under section 407, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this title referred to as the "National Assessment").

(b) PURPOSE; STATE ASSESSMENTS.—

(1) PURPOSE.—The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship. The Commissioner, in carrying

out the National Assessment, shall use sampling techniques that produce data that are representative on a national and regional basis, and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall— Reports.

(A) collect and report data on a periodic basis, but at least once every two years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12 in public and private schools;

(B) report achievement data on a basis that ensures valid and reliable trend reporting;

(C) include information on special groups, including, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socio-economic status; and

(D) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

(2) STATE ASSESSMENTS.—(A)(i) The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2).

(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

(C) A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(3) PROHIBITED DATA.—In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(4) TECHNICAL ASSISTANCE.—In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

(c) ACCESS.—

(1) PUBLIC ACCESS.—Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

(2) PERSONALLY IDENTIFIABLE INFORMATION.—(A) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code. Privacy.

(B) Notwithstanding any other provision of law, the Commissioner may decline to make available to the public for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

(d) PARTICIPATION.—

(1) NATIONAL AND REGIONAL.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

Contracts.

(2) STATE.—Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

(A) participate in the assessment; and

(B) pay from non-Federal sources the non-Federal share of such participation.

(3) NON-FEDERAL SHARE.—(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

(ii) the cost of coordination within the State; and

(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample will be met.

(e) STUDENT PERFORMANCE LEVELS.—

(1) PERFORMANCE LEVELS.—The National Assessment Governing Board, established under section 412, shall develop appropriate student performance levels for each age and grade in each subject area to be tested under the National Assessment.

(2) DEVELOPMENT OF LEVELS.—(A) Such levels shall be—

(i) devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(ii) used on a developmental basis until the Commissioner determines, as the result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public; and

(iii) updated as appropriate.

(B) In using such levels on a developmental basis, the Commissioner and the Board shall ensure that reports that use such levels do so in a manner that makes clear the developmental status of such levels.

(3) REPORTING.—After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(f) REVIEW OF NATIONAL AND STATE ASSESSMENTS.—

(1) IN GENERAL.—(A) The Secretary shall provide for continuing review of the National Assessment, State assessments, and student performance levels, by one or more nationally recognized evaluation organizations, such as the National Academy of Education and the National Academy of Sciences.

(B) Such continuing review shall address—

(i) whether each developmental State assessment is properly administered, produces high quality data that are valid and reliable, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

(ii) whether developmental student performance levels are reasonable, valid, and informative to the public.

(2) REPORT.—The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews.

(3) USE OF FINDINGS AND RECOMMENDATIONS.—The Commissioner shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) COVERAGE AGREEMENTS.—

(1) DEPARTMENT OF DEFENSE SCHOOLS.—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD. 20 USC 9011.

(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (hereafter in this title referred to as the "Board"), which shall formulate policy guidelines for the National Assessment.

(b) MEMBERSHIP.—

(1) APPOINTMENT AND COMPOSITION.—The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

(D) one superintendent of a local educational agency;

(E) one member of a State board of education;

(F) one member of a local board of education;

(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) one representative of business or industry;

(I) two curriculum specialists;

(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) one nonpublic school administrator or policymaker;

(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and

(M) four additional members who are representatives of the general public, including parents.

(2) ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) SPECIAL RULE.—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) TERMS.—

(1) IN GENERAL.—Terms of service of members of the Board shall be staggered and may not exceed a period of 3 years, as determined by the Secretary.

(2) SERVICE LIMITATION.—Members of the Board may serve not more than two terms.

(3) CHANGE OF STATUS.—A member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) VACANCIES.—

(1) IN GENERAL.—(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b).

(2) ADDITIONAL NOMINATIONS.—The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) DUTIES.—

(1) IN GENERAL.—In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 411(b)(1));

(B) develop appropriate student performance levels as provided in section 411(e);

(C) develop assessment objectives and test specifications through a national consensus approach which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(D) design the methodology of the assessment, in consultation with appropriate technical experts, including the Advisory Council established under section 407;

(E) develop guidelines for reporting and disseminating results;

(F) develop standards and procedures for interstate, regional, and national comparisons; and

(G) take appropriate actions needed to improve the form and use of the National Assessment.

(2) DELEGATION.—The Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) COGNITIVE ITEMS.—The Board shall have final authority on the appropriateness of cognitive items.

(4) PROHIBITION AGAINST BIAS.—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) TECHNICAL.—In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) REPORT.—Not later than 90 days after an evaluation of the student performance levels under section 411(e), the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) PERSONNEL.—

(1) IN GENERAL.—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) STAFF.—(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) COORDINATION.—The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board. Reports.

(h) ADMINISTRATION.—Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS. 20 USC 9012.

(a) IN GENERAL.—There are authorized to be appropriated $65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this title (other than sections 411 and 412).

(b) NATIONAL ASSESSMENT.—There are authorized to be appropriated $35,000,000 for fiscal year 1995 and such sums as may

be necessary for each of the fiscal years 1996 and 1997 to carry out section 411.

(c) GOVERNING BOARD.—There are authorized to be appropriated $3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 412.

TITLE V—MISCELLANEOUS PROVISIONS

PART A—ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT

Albert Einstein Distinguished Educator Fellowship Act of 1994.
42 USC 7382 note.

SEC. 511. SHORT TITLE.

This part may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

42 USC 7382.

SEC. 512. FINDINGS.

The Congress finds that—

(1) the Department of Energy has unique and extensive mathematics and science capabilities that contribute to mathematics and science education programs throughout the Nation;

(2) a need exists to increase understanding, communication, and cooperation between the Congress, the Department of Energy, other Federal agencies, and the mathematics and science education community;

(3) elementary and secondary school mathematics and science teachers can provide practical insight to the legislative and executive branches in establishing and operating education programs; and

(4) a pilot program that placed elementary and secondary school mathematics and science teachers in professional staff positions in the Senate and the House of Representatives has proven successful and demonstrated the value of expanding the program.

42 USC 7382a.

SEC. 513. PURPOSE; DESIGNATION.

(a) PURPOSE.—The purpose of this part is to establish within the Department of Energy a national fellowship program for elementary and secondary school mathematics and science teachers.

(b) DESIGNATION.—A recipient of a fellowship under this part shall be known as an "Albert Einstein Fellow".

42 USC 7382b.

SEC. 514. DEFINITIONS.

As used in this part—

(1) the term "elementary school" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965;

(3) the term "secondary school" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Energy.

42 USC 7382c.

SEC. 515. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish the Albert Einstein Distinguished Educator Fellowship Program (hereafter in this part referred to as the "Program") to provide 12 elementary or secondary school mathematics or science teachers with fellowships in each fiscal year in accordance with this part.

(2) ORDER OF PRIORITY.—The Secretary may reduce the number of fellowships awarded under this part for any fiscal year in which the amount appropriated for the Program is insufficient to support 12 fellowships. If the number of fellowships awarded under this part is reduced for any fiscal year, then the Secretary shall award fellowships based on the following order of priority:

(A) Three fellowships in the Department of Energy.
(B) Two fellowships in the Senate.
(C) Two fellowships in the House of Representatives.
(D) One fellowship in each of the following entities:
(i) The Department of Education.
(ii) The National Institutes of Health.
(iii) The National Science Foundation.
(iv) The National Aeronautics and Space Administration.
(v) The Office of Science and Technology Policy.

(3) TERMS OF FELLOWSHIPS.—Each fellowship awarded under this part shall be awarded for a period of ten months that, to the extent practicable, coincide with the academic year.

(4) ELIGIBILITY.—To be eligible for a fellowship under this part, an elementary or secondary school mathematics or science teacher must demonstrate—

(A) that such teacher would bring unique and valuable contributions to the Program;

(B) that such teacher is recognized for excellence in mathematics or science education; and

(C)(i) a sabbatical leave from teaching will be granted in order to participate in the Program; or

(ii) the teacher will return to a teaching position comparable to the position held prior to participating in the Program.

(b) ADMINISTRATION.—The Secretary shall—

(1) provide for the development and administration of an application and selection process for fellowships under the Program, including a process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(2) provide for the publication of information on the Program in appropriate professional publications, including an invitation for applications from teachers listed in the directories of national and State recognition programs;

(3) select from the pool of applicants 12 elementary and secondary school mathematics teachers and 12 elementary and secondary school science teachers;

(4) develop a program of orientation for fellowship recipients under this part; and

(5) not later than August 31 of each year in which fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall arrange for the 24 semifinalists to travel to Washington, D.C., to participate in interviews in accordance with the selection process described in paragraph (2).

(2) FINAL SELECTION.—(A) Not later than May 1 of each year preceding each year in which fellowships are to be awarded, the Secretary shall select and announce the names of the fellowship recipients.

(B) The Secretary shall provide for the development and administration of a process to select fellowship recipients from the pool of semifinalists as follows:

(i) The Secretary shall select three fellowship recipients who shall be assigned to the Department of Energy.

(ii) The Majority Leader of the Senate and the Minority Leader of the Senate, or their designees, shall each select a fellowship recipient who shall be assigned to the Senate.

(iii) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees, shall each select a fellowship recipient who shall be assigned to the House of Representatives.

(iv) Each of the following individuals, or their designees, shall select one fellowship recipient who shall be assigned within the department, office, agency, or institute such individual administers:

(I) The Secretary of Education.

(II) The Director of the National Institutes of Health.

(III) The Director of the National Science Foundation.

(IV) The Administrator of the National Aeronautics and Space Administration.

(V) The Director of the Office of Science and Technology Policy.

42 USC 7382d.

SEC. 516. FELLOWSHIP AWARDS.

(a) FELLOWSHIP RECIPIENT COMPENSATION.—Each recipient of a fellowship under this part shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS–13 of the General Schedule.

(b) LOCAL EDUCATIONAL AGENCY.—The Secretary shall seek to ensure that no local educational agency penalizes a teacher who elects to participate in the Program.

42 USC 7382e.

SEC. 517. WASTE MANAGEMENT EDUCATION RESEARCH CONSORTIUM (WERC).

(a) IN GENERAL.—The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally-related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

42 USC 7382f.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated for the Program $700,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(b) WERC PROGRAM.—There are authorized to be appropriated for the WERC program under section 517 such sums as may be necessary for fiscal year 1995 and each of the four succeeding fiscal years.

PART B—COMMUNITY SCHOOL PARTNERSHIPS

Community School Partnership Act. 20 USC 1070 note.

SEC. 521. SHORT TITLE.

This part may be cited as the "Community School Partnership Act".

SEC. 522. FINDINGS.

The Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

SEC. 523. DEFINITIONS.

As used in this part:

(1) AREA PROGRAM CENTER.—The term "area program center" means an organization that—

(A) is part of, responsible to, and overseen by, the national organization; and

(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

(2) LOCAL AFFILIATED CHAPTER.—The term "local affiliated chapter" means an organization that—

(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

(C) solicits broad-based community support in its academic support and fund-raising activities;

(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or disability; and

(F) gives priority in awarding scholarships to students from low-income families in the local community.

(3) NATIONAL ORGANIZATION.—The term "national organization" means an organization that—

(A) has the capacity to create, develop and sustain local affiliated chapters;

(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code;

(E) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D); and

(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

(4) HIGH-POVERTY AREA.—The term "high-poverty area" means a community with a higher percentage of children in poverty than the national average of such percentage.

(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term "students from low-income families" means students determined, pursuant to part F of title IV of the Higher Education Act of 1965, to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act.

SEC. 524. PURPOSE; ENDOWMENT GRANT AUTHORITY.

(a) PURPOSE.—It is the purpose of this part to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing scholarship assistance for the pursuit of postsecondary education.

(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 527, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attend-

ance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

SEC. 525. GRANT AGREEMENT AND REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award the endowment grant described in section 524(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains— Reports.

(A) a description of the programs and activities supported by the interest on the endowment fund;

(B) the audited financial statement of the national organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the five succeeding fiscal years;

(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 526; and

(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that

is available to the national organization on the date of such determination.

(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965.

SEC. 526. CONTINUING ELIGIBILITY.

The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this part in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year.

SEC. 527. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1996 to carry out this part.

PART C—1994 INSTITUTIONS

Equity in Educational Land-Grant Status Act of 1994.
7 USC 301 note.

SEC. 531. SHORT TITLE.

This part may be cited as the "Equity in Educational Land-Grant Status Act of 1994".

SEC. 532. DEFINITION.

As used in this part, the term "1994 Institutions" means any one of the following colleges:

(1) Bay Mills Community College.
(2) Blackfeet Community College.
(3) Cheyenne River Community College.
(4) D–Q University.
(5) Dullknife Memorial College.
(6) Fond Du Lac Community College.
(7) Fort Belknap Community College.
(8) Fort Berthold Community College.
(9) Fort Peck Community College.
(10) LacCourte Orielles Ojibwa Community College.
(11) Little Big Horn Community College.
(12) Little Hoop Community College.
(13) Nebraska Indian Community College.
(14) Northwest Indian College.
(15) Oglala Lakota College.
(16) Salish Kootenai College.
(17) Sinte Gleska University.
(18) Sisseton Wahpeton Community College.
(19) Standing Rock College.
(20) Stonechild Community College.
(21) Turtle Mountain Community College.
(22) Navajo Community College.
(23) United Tribes Technical College.
(24) Southwest Indian Polytechnic Institute.
(25) Institute of American Indian and Alaska Native Culture and Arts Development.
(26) Crownpoint Institute of Technology.
(27) Haskell Indian Junior College.

(28) Leech Lake Tribal College.
(29) College of the Menominee Nation.

SEC. 533. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

(a) IN GENERAL.—

(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act).

(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act (as added by section 534(b)(1) of this part); or

(iii) the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act).

(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act), relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,600,000 for each of fiscal years 1996 through 2000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

(c) ENDOWMENT.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (hereafter in this subsection referred to as the "endowment fund"). The Secretary may enter into such agreements as are necessary to carry out this subsection.

(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

(A) amounts made available by appropriations pursuant to subsection (b) (hereafter in this subsection referred to as the "endowment fund corpus"); and

(B) interest earned on the endowment fund corpus.

(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3)) for each 1994 Institution for the fiscal year.

(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

SEC. 534. APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

(A) $50,000; multiplied by

(B) the number of 1994 Institutions.

(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

(B) the number of 1994 Institutions.

(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

(b) FUNDING.—Section 3 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994), $5,000,000 for the purposes set forth in section 2. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act) (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.";

Regulations.

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3).".

SEC. 535. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) DEFINITIONS.—As used in this section:

(1) FEDERAL SHARE.—The term "Federal share" means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

(2) NON-FEDERAL SHARE.—The term "non-Federal share" means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) IN GENERAL.—

(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct instructional activities more effectively in agriculture and sciences.

(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount specified by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, $1,700,000 for each of fiscal years 1996 through 2000.

PART D—WORKERS TECHNOLOGY SKILL DEVELOPMENT

Workers Technology Skill Development Act.
Business and industry.
29 USC 2701 note.

SEC. 541. SHORT TITLE.

This part may be cited as the "Workers Technology Skill Development Act".

29 USC 2701.

SEC. 542. FINDINGS.

The Congress finds and declares the following:

(1) In an increasingly competitive world economy, the companies and nations that lead in the rapid development, commercialization, and application of new and advanced tech-

nologies, and in the high-quality, competitively priced production of goods and services, will lead in economic growth, employment, and high living standards.

(2) While the United States remains the world leader in science and invention, it has not done well in rapidly making the transition from achievement in its research laboratories to high-quality, competitively priced production of goods and services. This lag and the unprecedented competitive challenge that the United States has faced from abroad have contributed to a drop in real wages and living standards.

(3) Companies that are successfully competitive in the rapid development, commercialization, application, and implementation of advanced technologies, and in the successful delivery of goods and services, recognize that worker participation and labor-management cooperation in the deployment, application, and implementation of advanced workplace technologies make an important contribution to high-quality, competitively priced production of goods and services and in maintaining and improving real wages for workers.

(4) The Federal Government has an important role in encouraging and augmenting private sector efforts relating to the development, application, manufacture, and deployment of new and advanced technologies. The role should be to—

(A) work with private companies, States, worker organizations, nonprofit organizations, and institutions of higher education to ensure the development, application, production, and implementation of new and advanced technologies to promote the improvement of workers' skills, wages, job security, and working conditions, and a healthy environment;

(B) encourage worker and worker organization participation in the development, commercialization, evaluation, selection, application, and implementation of new and advanced technologies in the workplace; and

(C) promote the use and integration of new and advanced technologies in the workplace that enhance workers' skills.

(5) In working with the private sector to promote the technological leadership and economic growth of the United States, the Federal Government has a responsibility to ensure that Federal technology programs help the United States to remain competitive and to maintain and improve living standards and to create and retain secure jobs in economically stable communities.

29 USC 2702.

SEC. 543. PURPOSES.

The purposes of this part are to—

(1) improve the ability of workers and worker organizations to recognize, develop, assess, and improve strategies for successfully integrating workers and worker organizations into the process of evaluating, selecting, and implementing advanced workplace technologies, and advanced workplace practices in a manner that creates and maintains stable well-paying jobs for workers; and

(2) assist workers and worker organizations in developing the expertise necessary for effective participation with employers in the development of strategies and programs for the

successful evaluation, selection, and implementation of advanced workplace technologies and advanced workplace practices through the provision of a range of education, training, and related services.

SEC. 544. DEFINITIONS. 29 USC 2703.

As used in this part:

(1) ADVANCED WORKPLACE PRACTICES.—The term "advanced workplace practices" means innovations in work organization and performance, including high-performance workplace systems, flexible production techniques, quality programs, continuous improvement, concurrent engineering, close relationships between suppliers and customers, widely diffused decisionmaking and work teams, and effective integration of production technology, worker skills and training, and workplace organization, and such other characteristics as determined appropriate by the Secretary of Labor, in consultation with the Secretary of Commerce.

(2) ADVANCED WORKPLACE TECHNOLOGIES.—The term "advanced workplace technologies" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving the manufacturing and industrial production of goods and commercial services, which advance the state-of-the-art; or

(B) novel industrial and commercial techniques and processes not previously generally available that improve quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, inventory management, upgraded worker skills, communications with customers and suppliers, and promotion of sustainable economic growth.

(3) DEPARTMENT.—The term "Department" means the Department of Labor.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a tax-exempt organization, as described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(6) WORKER ORGANIZATION.—The term "worker organization" means a labor organization within the meaning of section 501(c)(5) of the Internal Revenue Code of 1986.

SEC. 545. GRANTS. 29 USC 2704.

(a) IN GENERAL.—The Secretary of Labor, after consultation with the Secretary of Commerce, shall, to the extent appropriations are available, award grants to eligible entities to carry out the purposes described in section 543.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a nonprofit organization, or a partnership consortium of such organizations;

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the

activities that the entity will carry out using amounts received under the grant; and

(3) agree to make available (directly or through donations from public or private entities) non-Federal contributions toward the costs of the activities to be conducted with grant funds, in an amount equal to the amount required under subsection (d).

(c) USE OF AMOUNTS.—An entity shall use amounts received under a grant awarded under this section to carry out the purposes described in section 543 through activities such as—

(1) the provision of technical assistance to workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers to identify advanced workplace practices and strategies that enhance the effective evaluation, selection, and implementation of advanced workplace technologies;

(2) the researching and identification of new and advanced workplace technologies, and advanced workplace practices that promote the improvement of workers' skills, wages, working conditions, and job security, that research the link between advanced workplace practices and long-term corporate performance, and which are consistent with the needs of local communities and the need for a healthy environment; and

(3) the development and dissemination of training programs and materials to be used for and by workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers relating to the activities and services provided pursuant to paragraphs (1) and (2), and regarding successful practices including practices which address labor-management cooperation and the involvement of workers in the design, development, and implementation of workplace practices and technologies.

(d) TERMS OF GRANTS AND NON-FEDERAL SHARES.—

(1) TERMS.—Grants awarded under this section shall be for a term not to exceed six years.

(2) NON-FEDERAL SHARE.—Amounts required to be contributed by an entity under subsection (b)(3) shall equal—

(A) an amount equal to 15 percent of the amount provided under the grant in the first year for which the grant is awarded;

(B) an amount equal to 20 percent of the amount provided under the grant in the second year for which the grant is awarded;

(C) an amount equal to 33 percent of the amount provided under the grant in the third year for which the grant is awarded;

(D) an amount equal to 40 percent of the amount provided under the grant in the fourth year for which the grant is awarded; and

(E) an amount equal to 50 percent of the amount provided under the grant in the fifth and sixth years for which the grant is awarded.

Reports.

(e) EVALUATION.—The Department shall develop mechanisms for evaluating the effectiveness of the use of a grant awarded under this section in carrying out the purposes under section 543

and, not later than two years after the date of enactment of this Act, and every two years thereafter, prepare and submit a report to Congress concerning such evaluation.

SEC. 546. IDENTIFICATION AND DISSEMINATION OF BEST PRACTICES. 29 USC 2705.

(a) IN GENERAL.—

(1) INFORMATION.—The Secretary, in cooperation and after consultation with the Secretary of Commerce, shall assist workers, worker organizations, and employers in successfully adopting advanced workplace technologies, and advanced workplace practices by identifying, collecting, and disseminating information on best workplace practices and workplace assessment tools, including—

(A) methods, techniques, and successful models of labor-management cooperation and of worker and worker organization participation in the development, evaluation, selection, and implementation of new and advanced workplace technologies, and advanced workplace practices;

(B) methods, techniques, and successful models for the design and implementation of new and advanced workplace practices;

(C) methods, techniques, and successful models for the design and implementation of advanced forms of work organization; and

(D) methods, techniques, and successful models for the assessment of worker skills and training needs relating to the effective development, evaluation, selection, and implementation of advanced workplace technologies, and advanced workplace practices.

(2) CONTENTS.—Such information on best workplace practices shall include—

(A) summaries and analyses of best practice cases;

(B) criteria for assessment of current workplace practices; and

(C) information on the best available education and training materials and services relating to the development, implementation, and operation of systems utilizing new and advanced workplace technologies, and advanced workplace practices.

(b) DISTRIBUTION.—The information and materials developed under this section shall be distributed through an appropriate entity designated by the Secretary of Commerce to the Regional Centers for the Transfer of Manufacturing Technology, to the Manufacturing Outreach Center, to other technology training entities, and directly to others as determined appropriate by the Secretary of Labor and the Secretary of Commerce.

SEC. 547. AUTHORIZATION OF APPROPRIATIONS. 29 USC 2706.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1995 through 1997.

(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available until expended.

PART E—MULTIETHNIC PLACEMENT

Subpart 1—Multiethnic Placement

Howard M. Metzenbaum Multiethnic Placement Act of 1994. Adoption. Foster care. 42 USC 5115a note.

SEC. 551. SHORT TITLE.

This subpart may be cited as the "Howard M. Metzenbaum Multiethnic Placement Act of 1994".

SEC. 552. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nearly 500,000 children are in foster care in the United States;

(2) tens of thousands of children in foster care are waiting for adoption;

(3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit foster and adoptive parents of every race, ethnicity, and culture in order to facilitate the placement of children in foster and adoptive homes which will best meet each child's needs.

(b) PURPOSE.—It is the purpose of this subpart to promote the best interests of children by—

(1) decreasing the length of time that children wait to be adopted;

(2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and

(3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

42 USC 5115a.

SEC. 553. MULTIETHNIC PLACEMENTS.

(a) ACTIVITIES.—

(1) PROHIBITION.—An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) PERMISSIBLE CONSIDERATION.—An agency or entity to which paragraph (1) applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child.

(3) DEFINITION.—As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved

to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) EQUITABLE RELIEF.—Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(c) FEDERAL GUIDANCE.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish guidance to concerned public and private agencies and entities with respect to compliance with this subpart. Publication.

(d) DEADLINE FOR COMPLIANCE.—

(1) IN GENERAL.—Except as provided in paragraph (2), an agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply with this subpart not later than six months after publication of the guidance referred to in subsection (c), or one year after the date of enactment of this Act, whichever occurs first.

(2) AUTHORITY TO EXTEND DEADLINE.—If a State demonstrates to the satisfaction of the Secretary that it is necessary to amend State statutory law in order to change a particular practice that is inconsistent with this subpart, the Secretary may extend the compliance date for the State a reasonable number of days after the close of the first State legislative session beginning after the date the guidance referred to in subsection (c) is published.

(e) NONCOMPLIANCE DEEMED A CIVIL RIGHTS VIOLATION.—Noncompliance with this subpart is deemed a violation of title VI of the Civil Rights Act of 1964.

(f) NO EFFECT ON INDIAN CHILD WELFARE ACT OF 1978.—Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 554. REQUIRED RECRUITMENT EFFORTS FOR CHILD WELFARE SERVICES PROGRAMS.

Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.".

Subpart 2—Other Provision

SEC. 555. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

"SEC. 1123. EFFECT OF FAILURE TO CARRY OUT STATE PLAN. 42 USC 1320a-2.

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan

or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.

42 USC 1320a-2 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

PART F—MISCELLANEOUS

20 USC 6301 note.

SEC. 561. BUDGET COMPLIANCE.

Any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriations Acts.

Individuals with disabilities.

SEC. 562. DOCUMENTS TRANSMITTED TO CONGRESS.

In documents transmitted to Congress explaining the President's budget request for the Special Education account, the Department of Education shall display amounts included in the request to reflect the incorporation of the program for children with disabilities under part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such part was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

SEC. 563. VOCATIONAL EDUCATION REGULATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, beginning on the date of enactment of this Act, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) the Department of Education's interpretation of the Carl D. Perkins Vocational and Applied Technology Act relating to—

(1) the access or participation of members of special populations in vocational education, including the provision of supplementary services and the cost of such services; and

(2) the conduct of local evaluations,

that are contained in the final regulations published in the Federal Register on August 14, 1992, shall remain in effect.

(b) SPECIAL RULE.—The Secretary of Education may not issue additional regulations concerning the final regulations described in subsection (a).

SEC. 564. RATE OF PAY FOR THE DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Notwithstanding section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)), the Secretary of Education is authorized to compensate any individual appointed during calendar year 1994 to be the Deputy Director of the National Institute on Disability and Rehabilitation Research at the rate of basic pay for a position at ES–5 of the Senior Executive Service Schedule.

SEC. 565. STUDY.

Indians. Colleges and universities.

The Secretary of the Interior shall conduct a study, in consultation with the board of regents of the Haskell Indian Junior College to evaluate the possible need for alternative institutional and administrative systems at Haskell Indian Junior College to support the transition of such college to a four year university. If the study's conclusions require legislation to be implemented, the study shall be accompanied by appropriate draft legislation. Such study shall be transmitted to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives by June 1, 1995.

SEC. 566. THERAPEUTIC MODEL DEMONSTRATION SCHOOLS.

Indians. 25 USC 2001 note.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools, based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

(2) PURPOSE.—The purpose of the therapeutic model demonstration schools is—

(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

(b) LOCATION.—The Secretary shall initiate the therapeutic model at two schools during school years 1994 through 1996, and shall give priority to—

(1) one school that is the recipient of a grant under section 5204 of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 during the 1994–1995 school year; and

(2) one school operated by the Bureau of Indian Affairs during the 1995–1996 school year.

(c) SERVICES.—The demonstration schools shall provide an integrated residential environment that may include—

(1) mental health services;

(2) education;

(3) recreation therapy;

(4) social service programs;

(5) substance abuse education and prevention; and

(6) other support services for aftercare.

(d) STAFFING.—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include—

(1) clinical psychologists;
(2) child psychologists;
(3) substance abuse counselors;
(4) social workers; and
(5) health educators.

(e) ENROLLMENT.—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

(f) ASSISTANCE.—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

(g) REPORT.—Nct later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.

Missouri.

SEC. 567. IMPACT AID WAIVER.

In carrying out section 14(c) of the Act of September 23, 1950 (Public Law 815, 81st Congress) (20 U.S.C. 644(c)) the Secretary shall waive any amount of local effort in excess of $200,000 that would otherwise be required under paragraphs (3) and (4) of such section and any regulations issued thereunder, in awarding funds to the Winona R–III School District, Missouri, with respect to its application #MO–86–C–3601A36.

15 USC 1 note.

SEC. 568. APPLICATION OF THE ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID.

(a) TEMPORARY EXEMPTION.—It shall not be unlawful under the antitrust laws for 2 or more institutions of higher education at which all students admitted are admitted on a need-blind basis, to agree or attempt to agree—

(1) to award such students financial aid only on the basis of demonstrated financial need for such aid;

(2) to use common principles of analysis for determining the need of such students for financial aid if the agreement to use such principles does not restrict financial aid officers at such institutions in their exercising independent professional judgment with respect to individual applicants for such financial aid;

(3) to use a common aid application form for need-based financial aid for such students if the agreement to use such form does not restrict such institutions in their requesting from such students, or in their using, data in addition to the data requested on such form; or

(4) to exchange through an independent third party, before awarding need-based financial aid to any of such students who is commonly admitted to the institutions of higher education involved, data with respect to the student so admitted and the student's family relating to assets, income, expenses, the number of family members, and the number of the student's siblings in college, if each of such institutions is permitted to retrieve such data only once with respect to the student.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to—

(1) any financial aid or assistance authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); or

(2) any contract, combination, or conspiracy with respect to the amount or terms of any prospective financial aid award to a specific individual.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "alien" has the meaning given such term in section 101(3) of the Immigration and Nationality Act (8 U.S.C. 1101(3));

(2) the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "lawfully admitted for permanent residence" has the meaning given such term in section 101(20) of the Immigration and Nationality Act (8 U.S.C. 1101(20));

(5) the term "national of the United States" has the meaning given such term in section 101(22) of the Immigration and Nationality Act (8 U.S.C. 1101(22));

(6) the term "on a need-blind basis" means without regard to the financial circumstances of the student involved or the student's family; and

(7) the term "student" means, with respect to an institution of higher education, a national of the United States or an alien admitted for permanent residence who is admitted to attend an undergraduate program at such institution on a full-time basis.

(d) EXPIRATION.—Subsection (a) shall expire on September 30, 1997.

(e) RELATED AMENDMENTS.—The Higher Education Amendments of 1992 (Public Law 102–325) is amended—

(1) in the table of contents by striking the matter relating to section 1544, and part F of title XV, of such Act; and

(2) by striking part F of title XV of such Act.

20 USC 1001 note.

20 USC 1088 note.

SEC. 569. DETERMINATION FOR FISCAL YEAR 1994.

Notwithstanding the proviso referring to section 3(d)(2)(B) of Public Law 81–874 under the following heading "IMPACT AID" under title III of the Departments of Labor, Health and Human Services and Education, and Related Agencies Appropriations Act of 1994, or any provision of paragraph (2) of section 3(d) of such Public Law which is consistent with this proviso, determinations regarding the eligibility for an amount of payments under section 3(d)(2)(B) of such Public Law for fiscal year 1994 shall be made on the basis of 1994 data, and related Department regulations

in effect during fiscal year 1992 shall be used in the tabulation of payments.

Approved October 20, 1994.

LEGISLATIVE HISTORY—H.R. 6 (S. 1513):

HOUSE REPORTS: Nos. 103-425 (Comm. on Education and Labor) and 103-761 (Comm. of Conference).
SENATE REPORTS: No. 103-292 accompanying S. 1513 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Feb. 24, May 2, 3, 9, 21, 22, 24, considered and passed House.
July 27, 28, Aug. 1, 2, considered and passed Senate, amended, in lieu of S. 1513.
Sept. 30, Oct. 3-5, Senate considered and agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 20, Presidential remarks.

Public Law 103-383
103d Congress

An Act

To provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

Oct. 20, 1994
[S. 922]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Full Faith and Credit for Child Support Orders Act.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Faith and Credit for Child Support Orders Act".

28 USC 1738B note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(2) the laws by which the courts of different jurisdictions determine their authority to establish child support orders are not uniform;

(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels that are based solely on the noncustodial parent's choice of residence;

(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

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(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

(4) among the results of the conditions described in this subsection are—

(A) the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States;

(B) the deprivation of rights of liberty and property without due process of law;

(C) burdens on commerce among the States; and

(D) harm to the welfare of children and their parents and other custodians.

(b) STATEMENT OF POLICY.—In view of the findings made in subsection (a), it is necessary to establish national standards under which the courts of the various States shall determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

(c) PURPOSES.—The purposes of this Act are—

(1) to facilitate the enforcement of child support orders among the States;

(2) to discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

(3) to avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

SEC. 3. FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

"§ 1738B. Full faith and credit for child support orders

"(a) GENERAL RULE.—The appropriate authorities of each State—

"(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

"(2) shall not seek or make a modification of such an order except in accordance with subsection (e).

"(b) DEFINITIONS.—In this section:

"'child' means—

"(A) a person under 18 years of age; and

"(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

"'child's State' means the State in which a child resides.

"'child support' means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

"'child support order'—

"(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

"(B) includes—

"(i) a permanent or temporary order; and

"(ii) an initial order or a modification of an order.

"'contestant' means—

"(A) a person (including a parent) who—

"(i) claims a right to receive child support;

"(ii) is a party to a proceeding that may result in the issuance of a child support order; or

"(iii) is under a child support order; and

"(B) a State or political subdivision of a State to which the right to obtain child support has been assigned.

"'court' means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

"'modification' means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

"'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made is made consistently with this section if—

"(1) a court that makes the order, pursuant to the laws of the State in which the court is located—

"(A) has subject matter jurisdiction to hear the matter and enter such an order; and

"(B) has personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard is given to the contestants.

"(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child's State or the residence of any contestant unless the court of another State, acting in accordance with subsection (e), has made a modification of the order.

"(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may make a modification of a child support order with respect to a child that is made by a court of another State if—

"(1) the court has jurisdiction to make such a child support order; and

"(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child's State or the residence of any contestant; or

"(B) each contestant has filed written consent to that court's making the modification and assuming continuing, exclusive jurisdiction over the order.

"(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obliga-

tions and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsection (e).

"(g) CHOICE OF LAW.—

"(1) IN GENERAL.—In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

"(2) LAW OF STATE OF ISSUANCE OF ORDER.—In interpreting a child support order, a court shall apply the law of the State of the court that issued the order.

"(3) PERIOD OF LIMITATION.—In an action to enforce a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following new item:

"1738B. Full faith and credit for child support orders.".

Approved October 20, 1994.

LEGISLATIVE HISTORY—S. 922:

SENATE REPORTS: No. 103-361 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 27, considered and passed Senate.
Oct. 4, 5, considered and passed House.

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Public Law 103-384
103d Congress

An Act

To provide for a National Native American Veterans' Memorial.

Oct. 22, 1994
[H.R. 2135]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Native American Veterans' Memorial Establishment Act of 1994.
20 USC 80q-5 note.

This Act may be cited as the "Native American Veterans' Memorial Establishment Act of 1994".

SEC. 2. FINDINGS.

20 USC 80q-5 note.

The Congress finds the following:

(1) Native Americans across the Nation—Indians, Native Alaskans, and Native Hawaiians—have a long, proud and distinguished tradition of service in the Armed Forces of the United States.

(2) Native Americans have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native American veterans count among themselves a number of Medal of Honor recipients. Their numbers are also conspicuous in the ranks of those who have received other decorations for valor and distinguished service.

(4) Native Americans have lost their lives in the service of their Nation and in the cause of peace.

(5) The National Museum of the American Indian was established as a living memorial to Native Americans. Its mission is to advance knowledge and understanding of Native American cultures, including art, history, language, and the contributions Native Americans have made to our society.

(6) The National Museum of the American Indian is an extraordinary site and an ideal location to establish a National Native American Veterans' Memorial.

(7) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the Armed Forces of the United States.

SEC. 3. AUTHORITY TO ESTABLISH MEMORIAL.

20 USC 80q-5 note.

(a) IN GENERAL.—The National Museum of the American Indian (established by the National Museum of the American Indian Act (20 U.S.C. 80q et seq.)), in close consultation with the National Congress of American Indians and other Native American groups, is authorized to construct and maintain a National Native American

Veterans' Memorial (hereafter in this Act referred to as the "memorial").

(b) LOCATION.—The memorial shall be located at a site determined to be suitable by the Museum within the interior structure of the facility provided for by section 7(a) of such Act (20 U.S.C. 80q–5(a)) (relating to housing the portion of the Museum to be located in the District of Columbia).

(c) DESIGN AND PLANS.—(1) The National Congress of American Indians, in consultation with the Museum, is authorized to hold a competition to select the design of the Memorial. Any design so selected shall be compatible with both the purpose of the Museum, as set forth in section 3(b) of the National Museum of the American Indian Act (20 U.S.C. 80q–1), and with any existing design plans for the Museum's structure and its surroundings.

(2) Any design so selected shall be subject to the approval of the Board of Regents of the Smithsonian Institution.

20 USC 80q–5 note.

SEC. 4. PAYMENT OF EXPENSES AND USE OF NAME.

(a) RESPONSIBILITY OF NATIONAL CONGRESS OF AMERICAN INDIANS.—The National Congress of American Indians shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(b) USE OF NAME.—Use of the name of the Smithsonian Institution or the National Museum of the American Indian in any material regarding the memorial produced by the National Congress of American Indians, other than in a manner simply describing the location of the memorial, shall be subject to consultation with, and the approval of, the Board of Regents of the Smithsonian Institution.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 2135:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, 5, considered and passed House.
Oct. 8, considered and passed Senate.

○

Public Law 103-385
103d Congress

An Act

To redesignate the Post Office building located at 1000 Lamar Street in Wichita Falls, Texas, as the "Graham B. Purcell, Jr. Post Office Building".

Oct. 22, 1994
[H.R. 2294]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Post Office building located at 1000 Lamar Street in Wichita Falls, Texas, and known as the Main Post Office, shall be known and designated as the "Graham B. Purcell, Jr. Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Post Office building referred to in section 1 shall be deemed to be a reference to the Graham B. Purcell, Jr. Post Office Building.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 2294:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 21, considered and passed House.
Vol. 140 (1994): Oct. 7, considered and passed Senate.

○

Public Law 103-386
103d Congress

An Act

Oct. 22, 1994
[H.R. 4192]

To designate the United States Post Office building located at 3000 Veterans Drive in Saint Thomas, Virgin Islands, as the "Arturo R. Watlington, Sr. Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 3000 Veterans Drive in Saint Thomas, Virgin Islands, shall be known and designated as the "Arturo R. Watlington, Sr. Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Arturo R. Watlington, Sr. Post Office.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4192:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate.

○

Public Law 103-387
103d Congress

An Act

To make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

Oct. 22, 1994
[H.R. 4278]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Social Security Domestic Employment Reform Act of 1994.
26 USC 1 note.

This Act may be cited as the "Social Security Domestic Employment Reform Act of 1994".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

26 USC 3121.

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;".

(B) APPLICABLE DOLLAR THRESHOLD.—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE DOLLAR THRESHOLD.—For purposes of subsection (a)(7)(B), the term 'applicable dollar threshold' means $1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such $1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.".

(C) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 3121(b) of such Code (defining employment) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) domestic service in a private home of the employer which—

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee.".

(D) CONFORMING AMENDMENTS.—The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "$50" and inserting "the applicable dollar threshold (as defined in section 3121(x)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) GENERAL RULE.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;".

(B) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) Domestic service in a private home of the employer which—

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee.".

26 USC 3102 note.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

26 USC 3102 note.

(4) NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994; CONTINUATION OF W-2 FILING REQUIREMENT.—Notwithstanding the amendments made by this subsection, if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than $1,000—

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any

such wages required to be included on any such return or statement.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

"(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

"(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

"(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.".

26 USC 3510 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

26 USC 3510 note.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "Decem-

ber 31, 1999, and so reported," and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,".

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999," and inserting "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date. 42 USC 401 note.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Commissioner of Social Security shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting "and Certain Other Inmates of Publicly Funded Institutions" after "Prisoners";

(2) by striking "(x)(1) Notwithstanding" and all that follows through the end of paragraph (1) and inserting the following:

"(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual—

"(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

"(ii) is confined by court order in an institution at public expense in connection with—

"(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

"(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

"(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

"(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

"(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

"(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

"(I) he or she is released from the care and supervision of such institution, and

"(II) such institution ceases to meet the individual's basic living needs.";

and

(3) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.".

42 USC 402 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

"(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

"(2) For purposes of paragraph (1), the term 'delinquent amount' means an amount—

"(A) in excess of the correct amount of payment under this title;

"(B) paid to a person after such person has attained 18 years of age; and

"(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.".

(b) CONFORMING AMENDMENT.—Section 3701(d) of title 31, United States Code, is amended by inserting ", except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f))," after "the Social Security Act (42 U.S.C. 301 et seq.)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999. 31 USC 3701 note.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995. 42 USC 1383 note.

42 USC 402 note.

SEC. 7. RULE OF CONSTRUCTION.

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4278 (S. 1231):

HOUSE REPORTS: Nos. 103-491 (Comm. on Ways and Means) and 103-842 (Comm. of Conference).
SENATE REPORTS: No. 103-252 accompanying S. 1231 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 10, 12, considered and passed House.
May 25, considered and passed Senate, amended, in lieu of S. 1231.
Oct. 6, House and Senate agreed to conference report.

○

Public Law 103-388
103d Congress

An Act

To amend chapter 63 of title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member, and for other purposes.

Oct. 22, 1994
[H.R. 4361]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Employees Family Friendly Leave Act.
5 USC 6301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Family Friendly Leave Act".

SEC. 2. USE OF SICK LEAVE FOR PURPOSES RELATING TO A FAMILY MEMBER.

Section 6307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) For the purpose of this subsection, the term 'family member' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall include any individual who meets the definition given that term, for purposes of the leave transfer program under subchapter III, under regulations prescribed by the Office (as in effect on January 1, 1993).

"(2) Subject to paragraph (3) and in addition to any other allowable purpose, sick leave may be used by an employee—

"(A) to give care or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such condition, would justify the use of sick leave by such an employee; or

"(B) for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member.

"(3)(A) Sick leave may be used by an employee for the purposes provided under paragraph (2) only to the extent the amount used for such purposes does not exceed—

"(i) 40 hours in any year, plus

"(ii) up to an additional 64 hours in any year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

"(B) In the case of a part-time employee or an employee on an uncommon tour of duty, the Office of Personnel Management shall establish limitations that are proportional to those prescribed under subparagraph (A).

Effective date.

"(4)(A) This subsection shall be effective during the 3-year period that begins upon the expiration of the 2-month period that begins on the date of the enactment of this subsection.

Reports.

"(B) Not later than 6 months before the date on which this subsection is scheduled to cease to be effective, the Office shall submit a report to Congress in which it shall evaluate the operation of this subsection and make recommendations as to whether or not this subsection should be continued beyond such date.".

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4361:

HOUSE REPORTS: No. 103-722 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate, amended; House concurred in Senate amendments.

○

Public Law 103-389
103d Congress

An Act

To amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes.

Oct. 22, 1994
[H.R. 4535]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Unlisted Trading Privileges Act of 1994. 15 USC 78a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unlisted Trading Privileges Act of 1994".

SEC. 2. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) UNLISTED TRADING PRIVILEGES.—Section 12(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(f)) is amended by striking paragraphs (1) and (2) and inserting the following: 15 USC 78*l*.

"(f)(1)(A) Notwithstanding the preceding subsections of this section, any national securities exchange, in accordance with the requirements of this subsection and the rules hereunder, may extend unlisted trading privileges to—

"(i) any security that is listed and registered on a national securities exchange, subject to subparagraph (B); and

"(ii) any security that is otherwise registered pursuant to this section, or that would be required to be so registered except for the exemption from registration provided in subparagraph (B) or (G) of subsection (g)(2), subject to subparagraph (E) of this paragraph.

"(B) A national securities exchange may not extend unlisted trading privileges to a security described in subparagraph (A)(i) during such interval, if any, after the commencement of an initial public offering of such security, as is or may be required pursuant to subparagraph (C).

"(C) Not later than 180 days after the date of enactment of the Unlisted Trading Privileges Act of 1994, the Commission shall prescribe, by rule or regulation, the duration of the interval referred to in subparagraph (B), if any, as the Commission determines to be necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title. Until the earlier of the effective date of such rule or regulation or 240 days after such date of enactment, such interval shall begin at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered and end at the conclusion of the next day of trading. Regulations.

"(D) The Commission may prescribe, by rule or regulation such additional procedures or requirements for extending unlisted trading privileges to any security as the Commission deems necessary

or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title.

"(E) No extension of unlisted trading privileges to securities described in subparagraph (A)(ii) may occur except pursuant to a rule, regulation, or order of the Commission approving such extension or extensions. In promulgating such rule or regulation or in issuing such order, the Commission—

"(i) shall find that such extension or extensions of unlisted trading privileges is consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of this title;

"(ii) shall take account of the public trading activity in such securities, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system; and

"(iii) shall not permit a national securities exchange to extend unlisted trading privileges to such securities if any rule of such national securities exchange would unreasonably impair the ability of a dealer to solicit or effect transactions in such securities for its own account, or would unreasonably restrict competition among dealers in such securities or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

"(F) An exchange may continue to extend unlisted trading privileges in accordance with this paragraph only if the exchange and the subject security continue to satisfy the requirements for eligibility under this paragraph, including any rules and regulations issued by the Commission pursuant to this paragraph, except that unlisted trading privileges may continue with regard to securities which had been admitted on such exchange prior to July 1, 1964, notwithstanding the failure to satisfy such requirements. If unlisted trading privileges in a security are discontinued pursuant to this subparagraph, the exchange shall cease trading in that security, unless the exchange and the subject security thereafter satisfy the requirements of this paragraph and the rules issued hereunder.

"(G) For purposes of this paragraph—

"(i) a security is the subject of an initial public offering if—

"(I) the offering of the subject security is registered under the Securities Act of 1933; and

"(II) the issuer of the security, immediately prior to filing the registration statement with respect to the offering, was not subject to the reporting requirements of section 13 or 15(d) of this title; and

"(ii) an initial public offering of such security commences at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered.

"(2)(A) At any time within 60 days of commencement of trading on an exchange of a security pursuant to unlisted trading privileges, the Commission may summarily suspend such unlisted trading privileges on the exchange. Such suspension shall not be reviewable under section 25 of this title and shall not be deemed to be a

final agency action for purposes of section 704 of title 5, United States Code. Upon such suspension—

"(i) the exchange shall cease trading in the security by the close of business on the date of such suspension, or at such time as the Commission may prescribe by rule or order for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title; and

"(ii) if the exchange seeks to extend unlisted trading privileges to the security, the exchange shall file an application to reinstate its ability to do so with the Commission pursuant to such procedures as the Commission may prescribe by rule or order for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of this title.

"(B) A suspension under subparagraph (A) shall remain in effect until the Commission, by order, grants approval of an application to reinstate, as described in subparagraph (A)(ii).

"(C) A suspension under subparagraph (A) shall not affect the validity or force of an extension of unlisted trading privileges in effect prior to such suspension.

"(D) The Commission shall not approve an application by a national securities exchange to reinstate its ability to extend unlisted trading privileges to a security unless the Commission finds, after notice and opportunity for hearing, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of this title. If the application is made to reinstate unlisted trading privileges to a security described in paragraph (1)(A)(ii), the Commission—

"(i) shall take account of the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such a security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system; and

"(ii) shall not grant any such application if any rule of the national securities exchange making application under this subsection would unreasonably impair the ability of a dealer to solicit or effect transactions in such security for its own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of marketmakers who are specialists and such dealers who are not specialists.".

(b) CONFORMING AMENDMENT.—Section 12(f)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(f)(3)) is amended by striking 15 USC 78*l*.

"The Commission" and inserting "Notwithstanding paragraph (2), the Commission".

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4535:

HOUSE REPORTS: No. 103-626 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 1, considered and passed House.
Oct. 6, considered and passed Senate.

○

Public Law 103-390
103d Congress

An Act

To grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact.

Oct. 22, 1994
[H.R. 4896]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT TO COMPACT.

The Congress consents to the Kansas and Missouri Metropolitan Culture District Compact entered into between the State of Kansas and the State of Missouri. The compact reads substantially as follows:

"KANSAS AND MISSOURI METROPOLITAN CULTURE DISTRICT COMPACT

"ARTICLE I. AGREEMENT AND PLEDGE

"The states of Kansas and Missouri agree to and pledge, each to the other, faithful cooperation in the future planning and development of the metropolitan culture district, holding in high trust for the benefit of this people and of the nation, the special blessings and natural advantages thereof.

"ARTICLE II. POLICY AND PURPOSE

"The party states, desiring by common action to fully utilize and improve their cultural facilities, coordinate the services of their cultural organizations, enhance the cultural activities of their citizens, and achieve solid financial support for such cultural facilities, organizations and activities, declare that it is the policy of each state to realize such desires on a basis of cooperation with one another, thereby serving the best interests of their citizenry and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the creation of a metropolitan culture district as the means to implementation of the policy herein declared with the most beneficial and economical use of human and material resources.

"ARTICLE III. DEFINITIONS

"As used in this compact, unless the context clearly requires otherwise:

"(a) 'Metropolitan culture district' means a political subdivision of the states of Kansas and Missouri which is created under and pursuant to the provisions of this compact and which is composed of the counties in the states of Kansas and Missouri which act

to create or to become a part of the district in accordance with the provisions of Article IV.

"(b) 'Commission' means the governing body of the metropolitan culture district.

"(c) 'Cultural activities' means activities which contribute to or enhance the aesthetic, artistic, historical, intellectual or social development or appreciation of members of the general public.

"(d) 'Cultural organizations' means nonprofit and tax exempt social, civic or community organizations and associations which are dedicated to the development, provision, operation, supervision, promotion or support of cultural activities in which members of the general public may engage or participate.

"(e) 'Cultural facilities' means facilities operated or used for participation or engagement in cultural activities by members of the general public.

"ARTICLE IV. THE DISTRICT

"(a) The counties in Kansas and Missouri eligible to create and initially compose the metropolitan culture district shall be those counties which meet one or more of the following criteria:

"(1) The county has a population in excess of 300,000, and is adjacent to the state line;

"(2) The county contains a part of a city with a population according to the most recent federal census of at least 400,000; or

"(3) The county is contiguous to any county described in provisions (1) or (2) of this subpart (a). The counties of Johnson in Kansas and Jackson in Missouri shall be sine qua non to the creation and initial composition of the district. Additional counties in Kansas and Missouri shall be eligible to become a part of the metropolitan culture district if such counties are contiguous to any one or more of the counties which compose the district and within 60 miles of the counties that are required by this article to establish the district;

"(b)(1) Whenever the governing body of any county which is eligible to create or become a part of the metropolitan culture district shall determine that creation of or participation in the district is in the best interests of the citizens of the county and that the levy of a tax to provide on a cooperative basis with another county or other counties for financial support of the district would be economically practical and cost beneficial to the citizens of the county, the governing body may adopt by majority vote a resolution authorizing the same.

"(2) Wherever a petition, signed by not less than the number of qualified electors of an eligible county equal to 5% of the number of ballots cast and counted at the last preceding gubernatorial election held in the county and requesting adoption of a resolution authorizing creation of or participation in the metropolitan culture district and the levy of a tax for the purpose of contributing to the financial support of the district, is filed with the governing body of the county, the governing body shall adopt such a resolution.

"(3) Implementation of a resolution adopted under this subpart (b) shall be conditioned upon approval of the resolution by a majority of the qualified electors of the county voting at an election conducted for such purpose.

"(c)(1) Upon adoption of a resolution pursuant to subpart (b)(1) or subpart (b)(2), the governing body of the county shall request, within 36 months after adoption of the resolution, the county election officer to submit to the qualified electors of the county the question of whether the governing body shall be authorized to implement the resolution. The resolution shall be printed on the ballot and in the notice of election. The question shall be submitted to the electors of the county at the primary or general election next following the date of the request filed with the county election officer. If a majority of the qualified electors are opposed to implementation of the resolution authorizing creation of, or participation in, the district and the levy of a tax for financial support thereof, the same shall not be implemented. The governing body of the county may review procedures for authorization to create or become a part of the district and to levy a tax for financial support thereof at any time following rejection of the question.

"(2) The ballot for the proposition in any county shall be in substantially the following form:

"Shall a retail sales tax of _____ (insert amount, not to exceed ¼ cent) be levied and collected in Kansas and Missouri metropolitan culture district consisting of the county(ies) of _____ (insert name of counties) for the support of cultural facilities and organizations within the district?

YES NO

The governing body of the county may place additional language on the ballot to describe the use or allocation of the funds.

"(d)(1) the metropolitan culture district shall be created when implementation of a resolution authorizing the creation of the district and the levy of a tax for contribution to the financial support thereof is approved by respective majorities of the qualified electors of at least Johnson County, Kansas, and Jackson County, Missouri.

"(2) When implementation of a resolution authorizing participation in the metropolitan culture district and the levy of a tax for contribution to the financial support thereof is approved by a majority of the qualified electors of any county eligible to become a part of the district, the governing body of the county shall proceed with the performance of all things necessary and incidental to participation in the district.

"(e) Any of the counties composing the metropolitan culture district may withdraw from the district by adoption of a resolution and approval of the resolution by a majority of the qualified electors of the county, all in the same manner provided in this Article IV for creating or becoming a part of the metropolitan culture district. The governing body of a withdrawing county shall provide for the sending of formal written notice of withdrawal from the district to the governing body of the other county or each of the other counties comprising the district. Actual withdrawal shall not take effect until 90 days after notice has been sent. A withdrawing county shall not be relieved from any obligation which such county may have assumed or incurred by reason of being a part of the district, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district.

"ARTICLE V. THE COMMISSION

"(a) The metropolitan culture district shall be governed by the metropolitan culture commission which shall be a body corporate and politic and which shall be composed of resident electors of the states of Kansas and Missouri, respectively, as follows:

"(1) A member of the governing body of each county which is a part of the district, who shall be appointed by majority vote of such governing body;

"(2) A member of the governing body of each city, with a population according to the most recent federal census of at least 50,000, located in whole or in part within each county which is a part of the district, who shall be appointed by majority vote of such governing body;

"(3) A member of the arts commission of Kansas or the Kansas commission for the humanities, who shall be appointed by the governor of Kansas; and

"(4) A member of the arts commission of Missouri or the Missouri humanities council, who shall be appointed by the governor of Missouri.

To the extent possible, the gubernatorial appointees to the commission shall be residents of the district. The term of each commissioner initially appointed by a county governing body shall expire concurrently with such commissioner's tenure as a county officer or three years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a county governing body shall expire concurrently with such successor commissioner's tenure as a county officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner initially appointed by a city governing body shall expire concurrently with such commissioner's tenure as a city officer or two years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a city governing body shall expire concurrently with such successor commissioner's tenure as a city officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner appointed by the governor of Kansas or the governor of Missouri shall expire concurrently with the term of the appointing governor, the commissioner's tenure as a state officer, or four years after the date of appointment as a commissioner of the district, whichever occurs sooner. Any vacancy occurring in a commissioner position for reasons other than expiration of terms of office shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any commissioner may be removed for cause by the appointing authority of the commissioner.

"(b) The commission shall select annually, from its membership, a chairperson, a vice chairperson, and a treasurer. The treasurer shall be bonded in such amounts as the commission may require.

"(c) The commission may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

"(d) The commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the district

and shall be open to the public. Public notice shall be given of all meetings. Notification.

"(e) A majority of the commissioners from each state shall constitute, in the aggregate, a quorum for the transaction of business. No action of the commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the commissioners from each state, present at such meeting, shall vote in favor thereof. No action of the commission taken at a meeting thereof shall be binding unless the subject of such action is included in a written agenda for such meeting, the agenda and notice of meeting having been mailed to each commissioner by postage paid first-class mail at least 14 calendar days prior to the meeting.

"(f) The commissioners from each state shall be subject to the provisions of the laws of the states of Kansas and Missouri, respectively, which relate to conflicts of interest of public officers and employees. If any commissioner has a direct or indirect financial interest in any cultural facility, organization or activity supported by the district or commission or in any other business transaction of the district or commission, the commissioner shall disclose such interest in writing to the other commissioners and shall abstain from voting on any matter relating to such facility, organization or activity or to such business transaction.

"(g) If any action at law or equity, or other legal proceeding, shall be brought against any commissioner for any act or omission arising out of the performance of duties as a commissioner, the commissioner shall be indemnified in whole and held harmless by the commission for any judgment or decree entered against the commissioner and, further, shall be defended at the cost and expense of the commission in any such proceeding.

"ARTICLE VI. POWERS AND DUTIES OF THE COMMISSION

"(a) The commission shall adopt a seal and suitable bylaws governing its management and procedure.

"(b) The commission has the power to contract and to be contracted with, and to sue and to be sued.

"(c) The commission may receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm or corporation, and may utilize and dispose of the same.

"(d) Upon receipt of recommendations from the advisory committee provided in subsection (g), the commission may provide donations, contributions and grants or other support, financial or otherwise, or in aid of cultural organizations, facilities or activities in counties which are part of the district. In determining whether to provide any such support the commission shall consider the following factors:

"(1) economic impact upon the district;

"(2) cultural benefit to citizens of the district and to the general public;

"(3) contribution to the quality of life and popular image of the district;

"(4) contribution to the geographical balance of cultural facilities and activities within and outside the district;

"(5) the breadth of popular appeal within and outside the district;

"(6) the needs of the community as identified in an objective cultural needs assessment study of the metropolitan area; and

"(7) any other factor deemed appropriate by the commission.

"(e) The commission may own and acquire by gift, purchase, lease or devise cultural facilities within the territory of the district. The commission may plan, construct, operate and maintain and contract for the operation and maintenance of cultural facilities within the territory of the district. The commission may sell, lease, or otherwise dispose of cultural facilities within the territory of the district.

"(f) At any time following five years from and after the creation of the metropolitan cultural district as provided in paragraph (1) of subsection (d) of article IV, the commission may borrow moneys for the planning, construction, equipping, operation, maintenance, repair, extension, expansion, or improvement of any cultural facility and, in that regard, the commission at such time may:

"(1) issue notes, bonds or other instruments in writing of the commission in evidence of the sum or sums to be borrowed. No notes, bonds or other instruments in writing shall be issued pursuant to this subsection until the issuance of such notes, bonds or instruments has been submitted to and approved by a majority of the qualified electors of the district voting at an election called and held thereon. Such election shall be called and held in the manner provided by law;

"(2) issue refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its outstanding indebtedness from time to time whether evidenced by notes, bonds or other instruments in writing. Such refunding notes, bonds or other instruments in writing shall not exceed in amount the principal of the outstanding indebtedness to be refunded and the accrued interest thereon to the date of such refunding;

"(3) provide that all notes, bonds and other instruments in writing issued hereunder shall or may be payable, both as to principal and interest, from sales tax revenues authorized under this compact and disbursed to the district by counties comprising the district, admissions and other revenues collected from the use of any cultural facility or facilities constructed hereunder, or from any other resources of the commission, and further may be secured by a mortgage or deed of trust upon any property interest of the commission; and

"(4) prescribe the details of all notes, bonds or other instruments in writing, and of the issuance and sale thereof. The commission shall have the power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers granted herein, without further legislative authority.

"(g) The commission shall appoint an advisory committee composed of members of the general public consisting of an equal number of persons from both the states of Kansas and Missouri who have demonstrated interest, expertise, knowledge or experience in cultural organizations or activities. The advisory committee shall

make recommendations annually to the commission regarding donations, contributions and grants or other support, financial or otherwise, for or in aid of cultural organizations, facilities and activities in counties which are part of the district.

"(h) The commission may provide for actual and necessary expenses of commissioners and advisory committee members incurred in the performance of their official duties.

"(i) The commission shall cause to be prepared annually a report on the operations and transactions conducted by the commission during the preceding year. The report shall be submitted to the legislatures and governors of the compacting states, to the governing bodies of the counties comprising the district, and to the governing body of each city that appoints a commissioner. The commission shall publish the annual report in the official county newspaper of each of the counties comprising the district. Reports. Publication.

"(j) The commission has the power to apply to the congress of the United States for its consent and approval of the compact. In the absence of the consent of congress and until consent is secured, the compact is binding upon the states of Kansas and Missouri in all respects permitted by law for the two states, without the consent of Congress, for the purposes enumerated and in the manner provided in the compact.

"(k) The commission has the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers not inconsistent with the constitution or laws of the United States or of either of the states of Kansas or Missouri to effectuate the same.

"ARTICLE VII. FINANCE

"(a) The moneys necessary to finance the operation of the metropolitan culture district and the execution of the powers, duties and responsibilities of the commission shall be appropriated to the commission by the counties comprising the district. The moneys to be appropriated to the commission shall be raised by the governing bodies of the respective counties by the levy of taxes as authorized by the legislatures of the respective party states.

"(b) The commission shall not incur any indebtedness or obligation of any kind; nor shall the commission pledge the credit of either or any of the counties comprising the district or either of the states party to this compact, except as authorized in article VI. The budget of the district shall be prepared, adopted and published as provided by law for other political subdivisions of the party states. No budget shall be adopted by the commission until it has been submitted to and reviewed by the governing bodies of the counties comprising the district and the governing body of each city represented on the commission.

"(c) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the commission. Records.

"(d) The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states, the counties comprising the district, the cities that appoint a commissioner, and other persons authorized by the commission.

"ARTICLE VIII. ENTRY INTO FORCE

"(a) This compact shall enter into force and become effective and binding upon the states of Kansas and Missouri when it has been entered into law by the legislatures of the respective states.

"(b) Amendments to the compact shall become effective upon enactment by the legislatures of the respective states.

"ARTICLE IX. TERMINATION

"This compact shall continue in force and remain binding upon a party state until its legislature shall have enacted a statute repealing the same and providing for the sending of formal written notice of enactment of such statute to the legislature of the other party state. Upon enactment of such a statute by the legislature of either party state, the sending of notice thereof to the other party state, and payment of any obligations which the metropolitan culture district commission may have incurred prior to the effective date of such statute, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district, the agreement of the party states embodied in the compact shall be deemed fully executed, the compact shall be null and void and of no further force or effect, the metropolitan culture district shall be dissolved, and the metropolitan culture district commission shall be abolished.

"ARTICLE X. CONSTRUCTION AND SEVERABILITY

"The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of either of the party states or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of either of the states party thereto, the compact shall thereby be nullified and voided and of no further force or effect.

"(a) The board of county commissioners of any county which has been authorized by a majority of the electors of the county to create or to become a part of the metropolitan culture district and to levy and collect a tax for the purpose of contributing to the financial support of the district shall adopt a resolution imposing a countywide retailers' sales tax and pledging the revenues received therefrom for such purpose. The rate of such tax shall be fixed in an amount of not more than .25%. Any county levying a retailers' sales tax under authority of this section is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. The sales tax shall be administered, enforced and collected in the same manner and by the same procedure as other countywide retailers' sales taxes are levied and collected and shall be in addition to any other sales tax authorized by law. Upon receipt of a certified copy of a resolution authorizing the levy of a countywide retailers' sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected within and outside the boundaries of such county at the same time and in the same manner provided for the collection of the

state retailers' sales tax. All moneys collected by the director of taxation under the provisions of this section shall be credited to the metropolitan culture district retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any countywide retailers' sales tax collected pursuant to this section shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from retailers' sales tax revenue collected pursuant to this section. All countywide retailers' sales tax revenue collected within any county pursuant to this section shall be remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county.

"(b) All revenue received by any county treasurer from a countywide retailers' sales tax imposed pursuant to this section shall be appropriated by the county to the metropolitan culture district commission within 60 days of receipt of the funds by the county for expenditure by the commission pursuant to and in accordance with the provisions of the Kansas and Missouri metropolitan culture district compact. If any such revenue remains upon nullification and voidance of the Kansas and Missouri metropolitan culture district compact, the county treasurer shall deposit such revenue to the credit of the general fund of the county.

"(c) Any countywide retailers' sales tax imposed pursuant to this section shall expire upon the date of actual withdrawal of the county from the metropolitan culture district or at any time the Kansas and Missouri metropolitan culture district compact becomes null and void and of no further force or effect. If any moneys remain in the metropolitan culture district retailers' sales tax fund upon nullification and voidance of the Kansas and Missouri metropolitan culture district compact, the state treasurer shall transfer such moneys to the county and city retailers' sales tax fund to be apportioned and remitted at the same time and in the same manner as other countywide retailers' sales tax revenues are apportioned and remitted.".

SEC. 2. RESERVATION OF RIGHTS.

The Congress expressly deserves the right to alter, amend, or repeal this Act.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4896:

HOUSE REPORTS: No. 103-774 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-391
103d Congress

An Act

Oct. 22, 1994
[H.R. 4924]

To assist in the conservation of rhinoceros and tigers by supporting and providing financial resources for the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and of the CITES Secretariat.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rhinoceros and Tiger Conservation Act of 1994.
16 USC 5301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rhinoceros and Tiger Conservation Act of 1994".

16 USC 5301.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The world's rhinoceros population is declining at an alarming rate, a 90 percent decline since 1970.

(2) All 5 subspecies of tiger are currently threatened with extinction in the wild, with approximately 5,000 to 6,000 tigers remaining worldwide.

(3) All rhinoceros species have been listed on Appendix I of CITES since 1977.

(4) All tiger subspecies have been listed on Appendix I of CITES since 1987.

(5) The tiger and all rhinoceros species, except the southern subspecies of white rhinoceros, are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) In 1987, the parties to CITES adopted a resolution that urged all parties to establish a moratorium on the sale and trade in rhinoceros products (other than legally taken trophies), to destroy government stockpiles of rhinoceros horn, and to exert pressure on countries continuing to allow trade in rhinoceros products.

(7) On September 7, 1993, under section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) the Secretary certified that the People's Republic of China and Taiwan were engaged in trade of rhinoceros parts and tiger parts that diminished the effectiveness of an international conservation program for that endangered species.

(8) On September 9, 1993, the Standing Committee of CITES, in debating the continuing problem of trade in rhinoceros horn and tiger parts, adopted a resolution urging parties to CITES to implement stricter domestic measures, up to and including an immediate prohibition in trade in wildlife species.

(9) On November 8, 1993, under section 8 of the Fisherman's Protection Act of 1967 (22 U.S.C. 1978), the President announced that the United States would impose trade sanctions against China and Taiwan unless substantial progress was made by March 1994 towards ending trade in rhinoceros and tiger products.

(10) On April 11, 1994, under section 8 of the Fisherman's Protective Act of 1967 (22 U.S.C. 1978), the President—

(A) directed that imports of wildlife specimens and products from Taiwan be prohibited, in response to Taiwan's failure to undertake sufficient actions to stop illegal rhinoceros and tiger trade; and

(B) indicated that the certification of China would remain in effect and directed that additional monitoring of China's progress be undertaken.

SEC. 3. PURPOSES. 16 USC 5302.

The purposes of this Act are the following:

(1) To assist in the conservation of rhinoceros and tigers by supporting the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and the CITES Secretariat.

(2) To provide financial resources for those programs.

SEC. 4. DEFINITIONS. 16 USC 5303.

In this Act—

(1) "CITES" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices;

(2) "conservation" means the use of all methods and procedures necessary to bring rhinoceros and tigers to the point at which there are sufficient populations to ensure that those species do not become extinct, including all activities associated with scientific resource management, such as research, census, law enforcement, habitat protection, acquisition, and management, propagation, live trapping, and transportation;

(3) "Fund" means the Rhinoceros and Tiger Conservation Fund established under section 6(a);

(4) "Secretary" means the Secretary of the Interior; and

(5) "Administrator" means the Administrator of the Agency for International Development.

SEC. 5. RHINOCEROS AND TIGER CONSERVATION ASSISTANCE. 16 USC 5304.

(a) IN GENERAL.—The Secretary, subject to the availability of appropriations and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of rhinoceros and tigers.

(b) PROJECT PROPOSAL.—A country whose activities directly or indirectly affect rhinoceros or tiger populations, the CITES Secretariat, or any other person may submit to the Secretary a project proposal under this section. Each proposal shall—

(1) name the individual responsible for conducting the project;

(2) state the purposes of the project succinctly;

(3) describe the qualifications of the individuals who will conduct the project;

(4) estimate the funds and time required to complete the project;

(5) provide evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project; and

(6) provide any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—Within 30 days of receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d). Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal, to the Administrator, and to each country within which the project is to be conducted.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project under this section if the project will enhance programs for conservation of rhinoceros or tigers by assisting efforts to—

(1) implement conservation programs;

(2) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of rhinoceros or tigers or the use of rhinoceros or tiger habitat; or

(3) develop sound scientific information on that species' habitat condition and carrying capacity, total numbers and population trends, or annual reproduction and mortality.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practical, the Secretary should give consideration to projects which will enhance sustainable development programs to ensure effective, long-term conservation of rhinoceros and tigers.

(f) PROJECT REPORTING.—Each person that receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information requested by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.

16 USC 5305.

SEC. 6. RHINOCEROS AND TIGER CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "Rhinoceros and Tiger Conservation Fund", which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Fund.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Fund without further appropriation to provide assistance under section 5.

(2) ADMINISTRATION.—Of amounts in the Fund available for each fiscal year, the Secretary may use not more than 3 percent to administer the Fund.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to provide assistance under section 5. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS. 16 USC 5306.

There are authorized to be appropriated to the Fund $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out this Act, to remain available until expended.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4924:

HOUSE REPORTS: No. 103-748 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 27, considered and passed House.
Oct. 7, considered and passed Senate.

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Public Law 103-392
103d Congress

An Act

Oct. 22, 1994
[H.R. 4950]

To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Jobs Through Trade Expansion Act of 1994.
22 USC 2151 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jobs Through Trade Expansion Act of 1994".

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. RAISING CEILING ON INSURANCE.

Section 235(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(1)) is amended by striking "$9,000,000,000" and inserting "$13,500,000,000".

SEC. 102. RAISING CEILING ON FINANCING.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)) is amended to read as follows:

"(2) FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to financing issued under subsections (b) and (c) of section 234 shall not exceed in the aggregate $9,500,000,000.

"(B) Subject to spending authority provided in appropriations Acts pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for the subsidy cost of the investment guaranties and direct loan programs under subsections (b) and (c) of section 234.".

SEC. 103. EXTENDING ISSUING AUTHORITY.

Section 235(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(3)) is amended by striking "1994" and inserting "1996".

SEC. 104. ADMINISTRATIVE EXPENSES.

Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended by striking subsection (g).

SEC. 105. EXEMPTIONS FOR CERTAIN COUNTRIES.

Paragraph (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended by inserting after "Recovery Act (19 U.S.C. 2702)" the following: ", Ireland, and Northern Ireland".

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(f)(1)) is amended—

(1) by striking "There are authorized" and inserting "(A) There are authorized";

(2) by striking "$55,000,000" and all that follows and inserting "$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996."; and

(3) by adding at the end the following new subparagraph:

"(B) Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.".

TITLE III—EXPORT PROMOTION PROGRAMS WITHIN THE INTERNATIONAL TRADE ADMINISTRATION

SEC. 301. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs such sums as are necessary for fiscal years 1995 and 1996.".

TITLE IV—PROMOTION OF UNITED STATES ENVIRONMENTAL EXPORTS

Environmental Export Promotion Act of 1994.

SEC. 401. SHORT TITLE.

15 USC 4701 note.

This title may be cited as the "Environmental Export Promotion Act of 1994".

SEC. 402. PROMOTION OF ENVIRONMENTAL EXPORTS.

(a) ENVIRONMENTAL TECHNOLOGIES TRADE ADVISORY COMMITTEE.—Section 2313 of the Export Enhancement Act of 1988 (15 U.S.C. 4728) is amended—

(1) by striking subsection (d);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following:

"(c) ENVIRONMENTAL TECHNOLOGIES TRADE ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT AND PURPOSE.—The Secretary, in carrying out the duties of the chairperson of the TPCC, shall establish the Environmental Technologies Trade Advisory Committee (hereafter in this section referred to as the 'Committee'). The purpose of the Committee shall be to provide advice and guidance to the Working Group in the development and administration of programs to expand United States exports of environmental technologies, goods, and services and products that comply with United States environmental, safety, and related requirements.

"(2) MEMBERSHIP.—The members of the Committee shall be drawn from representatives of—

"(A) environmental businesses, including small businesses;

"(B) trade associations in the environmental sector;

"(C) private sector organizations involved in the promotion of environmental exports, including products that comply with United States environmental, safety, and related requirements;

"(D) States (as defined in section 2301(i)(5)) and associations representing the States; and

"(E) other appropriate interested members of the public, including labor representatives.

The Secretary shall appoint as members of the Committee at least 1 individual under each of subparagraphs (A) through (E).

"(d) EXPORT PLANS FOR PRIORITY COUNTRIES.—

"(1) PRIORITY COUNTRY IDENTIFICATION.—The Working Group, in consultation with the Committee, shall annually assess which foreign countries have markets with the greatest potential for the export of United States environmental technologies, goods, and services. Of these countries the Working Group shall select as priority countries 5 with the greatest potential for the application of United States Government export promotion resources related to environmental exports.

"(2) EXPORT PLANS.—The Working Group, in consultation with the Committee, shall annually create a plan for each priority country selected under paragraph (1), setting forth in detail ways to increase United States environmental exports to such country. Each such plan shall—

"(A) identify the primary public and private sector opportunities for United States exporters of environmental technologies, goods, and services in the priority country;

"(B) analyze the financing and other requirements for major projects in the priority country which will use environmental technologies, goods, and services, and analyze whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions; and

"(C) list specific actions to be taken by the member agencies of the Working Group to increase United States exports to the priority country.".

(b) ADDITIONAL MECHANISMS TO PROMOTE ENVIRONMENTAL EXPORTS.—Section 2313 of the Export Enhancement Act of 1988 is further amended by adding at the end the following:

15 USC 4728.

"(f) ENVIRONMENTAL TECHNOLOGIES SPECIALISTS IN THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE.—

"(1) ASSIGNMENT OF ENVIRONMENTAL TECHNOLOGIES SPECIALISTS.—The Secretary shall assign a specialist in environmental technologies to the office of the United States and Foreign Commercial Service in each of the 5 priority countries selected under subsection (d)(1), and the Secretary is authorized to assign such a specialist to the office of the United States and Foreign Commercial Service in any country that is a promising market for United States exports of environmental technologies, goods, and services. Such specialist may be an employee of the Department, an employee of any relevant United States Government department or agency assigned on a temporary or limited term basis to the Commerce Department, or a representative of the private sector assigned to the Department of Commerce.

"(2) DUTIES OF ENVIRONMENTAL TECHNOLOGIES SPECIALISTS.—Each specialist assigned under paragraph (1) shall provide export promotion assistance to United States environmental businesses, including, but not limited to—

"(A) identifying factors in the country to which the specialist is assigned that affect the United States share of the domestic market for environmental technologies, goods, and services, including market barriers, standards-setting activities, and financing issues;

"(B) providing assessments of assistance by foreign governments that is provided to producers of environmental technologies, goods, and services in such countries in order to enhance exports to the country to which the specialist is assigned, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(C) training Foreign Commercial Service Officers in the country to which the specialist is assigned, other countries in the region, and United States and Foreign Commercial Service offices in the United States, in environmental technologies and the international environmental market;

"(D) providing assistance in identifying potential customers and market opportunities in the country to which the specialist is assigned;

"(E) providing assistance in obtaining necessary business services in the country to which the specialist is assigned;

"(F) providing information on environmental standards and regulations in the country to which the specialist is assigned;

"(G) providing information on all United States Government programs that could assist the promotion, financing, and sale of United States environmental technologies, goods, and services in the country to which the specialist is assigned; and

"(H) promoting the equal treatment of United States environmental, safety, and related requirements, with those of other exporting countries, in order to promote exports of United States-made products.

"(g) ENVIRONMENTAL TRAINING IN ONE-STOP SHOPS.—In addition to the training provided under subsection (f)(2)(C), the Secretary shall establish a mechanism to train—

"(1) Commercial Service Officers assigned to the one-stop shops provided for in section 2301(b)(8), and

"(2) Commercial Service Officers assigned to district offices in districts having large numbers of environmental businesses, in environmental technologies and in the international environmental marketplace, and ensure that such officers receive appropriate training under such mechanism. Such training may be provided by officers or employees of the Department of Commerce, and other United States Government departments and agencies, with appropriate expertise in environmental technologies and the international environmental workplace, and by appropriate representatives of the private sector.

"(h) INTERNATIONAL REGIONAL ENVIRONMENTAL INITIATIVES.—

"(1) ESTABLISHMENT OF INITIATIVES.—The TPCC may establish one or more international regional environmental initiatives the purpose of which shall be to coordinate the activities of Federal departments and agencies in order to build environmental partnerships between the United States and the geographic region outside the United States for which such initiative is established. Such partnerships shall enhance environmental protection and promote sustainable development by using in the region technical expertise and financial resources of United States departments and agencies that provide foreign assistance and by expanding United States exports of environmental technologies, goods, and services to that region.

"(2) ACTIVITIES.—In carrying out each international regional environmental initiative, the TPCC shall—

"(A) support, through the provision of foreign assistance, the development of sound environmental policies and practices in countries in the geographic region for which the initiative is established, including the development of environmentally sound regulatory regimes and enforcement mechanisms;

"(B) identify and disseminate to United States environmental businesses information regarding specific environmental business opportunities in that geographic region;

"(C) coordinate existing Federal efforts to promote environmental exports to that geographic region, and ensure that such efforts are fully coordinated with environmental export promotion efforts undertaken by the States and the private sector;

"(D) increase assistance provided by the Federal Government to promote exports from the United States of environmental technologies, goods, and services to that geographic region, such as trade missions, reverse trade missions, trade fairs, and programs in the United States to train foreign nationals in United States environmental technologies; and

"(E) increase high-level advocacy by United States Government officials (including the United 3tates ambassadors to the countries in that geographic region) for United States environmental businesses seeking market opportunities in that geographic region.

"(i) ENVIRONMENTAL TECHNOLOGIES PROJECT ADVOCACY CALENDAR AND INFORMATION DISSEMINATION PROGRAM.—The Working Group shall—

"(1) maintain a calendar, updated at the end of each calendar quarter, of significant opportunities for United States environmental businesses in foreign markets and trade promotion events, which shall—

"(A) be made available to the public;

"(B) identify the 50 to 100 environmental infrastructure and procurement projects in foreign markets that have the greatest potential in the calendar quarter for United States exports of environmental technologies, goods, and services; and

"(C) include trade promotion events, such as trade missions and trade fairs, in the environmental sector; and

"(2) provide, through the National Trade Data Bank and other information dissemination channels, information on opportunities for environmental businesses in foreign markets and information on Federal export promotion programs.

"(j) ENVIRONMENTAL TECHNOLOGY EXPORT ALLIANCES.—Subject to the availability of appropriations for such purpose, the Secretary is authorized to use the Market Development Cooperator Program to support the creation on a regional basis of alliances of private sector entities, nonprofit organizations, and universities, that support the export of environmental technologies, goods, and services and promote the export of products complying with United States environmental, safety, and related requirements.

"(k) DEFINITION.—For purposes of this section, the term 'environmental business' means a business that produces environmental technologies, goods, or services.".

TITLE V—INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

SEC. 501. ESTABLISHMENT OF PROGRAM. 22 USC 2151t-1.

(a) IN GENERAL.—In carrying out part I of the Foreign Assistance Act of 1961 and other relevant foreign assistance laws, the President, acting through the Administrator of the United States Agency for International Development, shall establish a program of training and other technical assistance to assist foreign countries in—

(1) developing and strengthening laws and regulations to protect intellectual property; and

(2) developing the infrastructure necessary to implement and enforce such laws and regulations.

(b) PARTICIPATION OF OTHER AGENCIES.—The Administrator of the United States Agency for International Development—

(1) shall utilize the expertise of the Patent and Trademark Office and other agencies of the United States Government in designing and implementing the program of assistance provided for in this section;

(2) shall coordinate assistance under this section with efforts of other agencies of the United States Government to increase international protection of intellectual property, including implementation of international agreements containing high levels of protection of intellectual property; and

(3) shall consult with the heads of such other agencies in determining which foreign countries will receive assistance under this section.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 4950 (H.R. 3813) (S. 2438):

HOUSE REPORTS: Nos. 103-726 and 103-478 accompanying H.R. 3813 (both from Comm. on Foreign Affairs), and 103-834 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 18, 19, H.R. 3813 considered and passed House.
Sept. 19, H.R. 4950 considered and passed House.
Sept. 30, considered and passed Senate, amended, in lieu of S. 2438.
Oct. 6, Senate agreed to conference report.
Oct. 7, House agreed to conference report.

Public Law 103-393
103d Congress

An Act

To authorize the Secretary of Agriculture to extend for one year Water Bank Act agreements that are due to expire on December 31, 1994.

Oct. 22, 1994
[H.R. 5053]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Water Bank Extension Act of 1994.
16 USC 1305 note.

This Act may be cited as the "Water Bank Extension Act of 1994".

SEC. 2. SPECIAL AUTHORITY TO EXTEND WATER BANK ACT AGREEMENTS.

16 USC 1305 note.

(a) Subject to subsection (b), any agreement entered into under the Water Bank Act (16 U.S.C. 1301 et seq.) and due to expire on December 31, 1994, may be extended for 1 year under section 6 of the Water Bank Act (16 U.S.C. 1305).

(b) The authority to extend Water Bank Act agreements under this Act may only be exercised to the extent that the amount available for obligation under the Wetlands Reserve Program (16 U.S.C. 1637 et seq.), and the amount used for the extension of Water Bank Act agreements under subsection (a), does not exceed $93,200,000 as provided for the Wetlands Reserve Program under the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 5053:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 103-394
103d Congress

An Act

Oct. 22, 1994
[H.R. 5116]

To amend title 11 of the United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bankruptcy Reform Act of 1994. 11 USC 101 note.

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.
Sec. 102. Jurisdiction to review interlocutory orders increasing or reducing certain time periods for filing plan.
Sec. 103. Expedited procedure for reaffirmation of debts.
Sec. 104. Powers of bankruptcy courts.
Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.
Sec. 107. Increased incentive compensation for trustees.
Sec. 108. Dollar adjustments.
Sec. 109. Premerger notification.
Sec. 110. Allowance of creditor committee expenses.
Sec. 111. Supplemental injunctions.
Sec. 112. Authority of bankruptcy judges to conduct jury trials in civil proceedings.
Sec. 113. Sovereign immunity.
Sec. 114. Service of process in bankruptcy proceedings on an insured depository institution.
Sec. 115. Meetings of creditors and equity security holders.
Sec. 116. Tax assessment.
Sec. 117. Additional trustee compensation.

TITLE II—COMMERCIAL BANKRUPTCY ISSUES

Sec. 201. Aircraft equipment and vessels; rolling stock equipment.
Sec. 202. Limitation on liability of non-insider transferee for avoided transfer.
Sec. 203. Perfection of purchase-money security interest.
Sec. 204. Continued perfection.
Sec. 205. Rejection of unexpired leases of real property or timeshare interests.
Sec. 206. Contents of plan.
Sec. 207. Priority for independent sales representatives.
Sec. 208. Exclusion from the estate of interests in liquid and gaseous hydrocarbons transferred by the debtor pursuant to production payment agreements.
Sec. 209. Seller's right to reclaim goods.
Sec. 210. Investment of money of the estate.
Sec. 211. Election of trustee under chapter 11.
Sec. 212. Rights of partnership trustee against general partners.
Sec. 213. Impairment of claims and interests.
Sec. 214. Protection of security interest in post-petition rents and lodging payments.
Sec. 215. Amendment to definition of swap agreement.
Sec. 216. Limitation on avoiding powers.
Sec. 217. Small businesses.

Sec. 218. Single asset real estate.
Sec. 219. Leases of personal property.
Sec. 220. Exemption for small business investment companies.
Sec. 221. Payment of taxes with borrowed funds.
Sec. 222. Return of goods.
Sec. 223. Proceeds of money order agreements.
Sec. 224. Trustee duties; professional fees.
Sec. 225. Notices to creditors.

TITLE III—CONSUMER BANKRUPTCY ISSUES

Sec. 301. Period for curing default relating to principal residence.
Sec. 302. Nondischargeability of fine under chapter 13.
Sec. 303. Impairment of exemptions.
Sec. 304. Protection of child support and alimony.
Sec. 305. Interest on interest.
Sec. 306. Exception to discharge.
Sec. 307. Payments under chapter 13.
Sec. 308. Bankruptcy petition preparers.
Sec. 309. Fairness to condominium and cooperative owners.
Sec. 310. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.
Sec. 311. Conversion of case under chapter 13.
Sec. 312. Bankruptcy fraud.
Sec. 313. Protection against discriminatory treatment of applications for student loans.

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

Sec. 401. Exception from automatic stay for post-petition property taxes.
Sec. 402. Municipal bankruptcy.

TITLE V—TECHNICAL CORRECTIONS

Sec. 501. Amendments to bankruptcy definitions, necessitated by enactment of Public Law 101-647.
Sec. 502. Title 28 of the United States Code.

TITLE VI—BANKRUPTCY REVIEW COMMISSION

Sec. 601. Short title.
Sec. 602. Establishment.
Sec. 603. Duties of the Commission.
Sec. 604. Membership.
Sec. 605. Compensation of the Commission.
Sec. 606. Staff of Commission; experts and consultants.
Sec. 607. Powers of the Commission.
Sec. 608. Report.
Sec. 609. Termination.
Sec. 610. Authorization of appropriations.

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

Sec. 701. Severability.
Sec. 702. Effective date; application of amendments.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking "commenced" and inserting "concluded", and

(2) by inserting before the period at the end the following: ", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances".

SEC. 102. JURISDICTION TO REVIEW INTERLOCUTORY ORDERS INCREASING OR REDUCING CERTAIN TIME PERIODS FOR FILING PLAN.

Section 158(a) of title 28, United States Code, is amended by striking "from" the first place it appears and all that follows through "decrees,", and inserting the following:

"(1) from final judgments, orders, and decrees;

"(2) from interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of such title; and

"(3) with leave of the court, from other interlocutory orders and decrees;".

SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) REAFFIRMATION.—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)",

(B) by adding "and" at the end, and

(C) by inserting after subparagraph (A), as so designated, the following:

"(B) such agreement contains a clear and conspicuous statement which advises the debtor that such agreement is not required under this title, under nonbankruptcy law, or under any agreement not in accordance with the provisions of this subsection;", and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears,

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B)—

(i) by inserting "such agreement" after "(B)", and

(ii) by adding "and" at the end, and

(3) by adding at the end the following:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind specified in this subsection; and

"(ii) any default under such an agreement;".

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was not represented by an attorney during the course of negotiating such agreement" after "this section".

SEC. 104. POWERS OF BANKRUPTCY COURTS.

(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following:

"(d) The court, on its own motion or on the request of a party in interest, may—

"(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

"(2) unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,

issue an order at any such conference prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including an order that—

"(A) sets the date by which the trustee must assume or reject an executory contract or unexpired lease; or

"(B) in a case under chapter 11 of this title—

"(i) sets a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

"(ii) sets a date by which the debtor, or trustee if one has been appointed, shall solicit acceptances of a plan;

"(iii) sets the date by which a party in interest other than a debtor may file a plan;

"(iv) sets a date by which a proponent of a plan, other than the debtor, shall solicit acceptances of such plan;

"(v) fixes the scope and format of the notice to be provided regarding the hearing on approval of the disclosure statement; or

"(vi) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan.".

(b) ABSTENTION.—Section 1334 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) in the second sentence of subsection (c)(2)—

(A) by inserting "(other than a decision not to abstain in a proceeding described in subsection (c)(2))" after "subsection", and

(B) by striking "Any" and inserting the following:

"(d) Any".

(c) ESTABLISHMENT, OPERATION, AND TERMINATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (3) and (4),

(2) by redesignating paragraph (2) as paragraph (4),

(3) by striking paragraph (1) and inserting the following:

"(1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) unless the judicial council finds that—

"(A) there are insufficient judicial resources available in the circuit; or

"(B) establishment of such service would result in undue delay or increased cost to parties in cases under title 11.

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference of the United States a report containing the factual basis of such finding. Reports.

"(2)(A) A judicial council may reconsider, at any time, the finding described in paragraph (1).

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the

1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate panel service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

"(D) If the judicial council finds that either of such circumstances exists, the judicial council may provide for the completion of the appeals then pending before such service and the orderly termination of such service.

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed and may be reappointed under such paragraph.", and

(4) by inserting after paragraph (4), as so redesignated, the following:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

"(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized such service to hear and determine appeals originating in such district.".

(d) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c)" and inserting "(2)", and

(2) by inserting after subsection (b) the following:

"(c)(1) Subject to subsection (b), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

"(A) the appellant elects at the time of filing the appeal; or

"(B) any other party elects, not later than 30 days after service of notice of the appeal;

to have such appeal heard by the district court.".

(e) RULES OF PROCEDURE AND EVIDENCE; METHOD OF PRESCRIBING.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075", and

(2) in subsections (d) and (e) by inserting "or 2075" after "2072" each place it appears.

(f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The third undesignated paragraph of section 2075 of title 28, United States Code, is amended to read as follows:

"The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.".

SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

11 USC 341 note.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99–554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101–650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.

Section 101(41) of title 11, United States Code, is amended to read as follows:

"(41) 'person' includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;

shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit;".

SEC. 107. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended by striking "fifteen" and all that follows through "$3,000" the last place it appears, and inserting the following:

"25 percent on the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, 5 percent on any amount in excess of $50,000 but not in excess of $1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of $1,000,000".

SEC. 108. DOLLAR ADJUSTMENTS.

(a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—Section 109(e) of title 11, United States Code, is amended—

(1) by striking "$100,000" each place it appears and inserting "$250,000", and

(2) by striking "$350,000" each place it appears and inserting "$750,000".

(b) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000", and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(c) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000",

(2) in paragraph (5) by striking "$2,000" and inserting "$4,000", and

(3) in paragraph (6) by striking "$900" and inserting "$1,800".

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000",

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400",

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400", and

(B) by striking "$4,000" and inserting "$8,000",

(4) in paragraph (4) by striking "$500" and inserting "$1,000",

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800", and

(B) by striking "$3,750" and inserting "$7,500",

(6) in paragraph (6) by striking "$750" and inserting "$1,500",

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000", and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(e) FUTURE ADJUSTMENTS.—Section 104 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The", and

(2) by adding at the end the following:

"(b)(1) On April 1, 1998, and at each 3-year interval ending on April 1 thereafter, each dollar amount in effect under sections 109(e), 303(b), 507(a), 522(d), and 523(a)(2)(C) immediately before such April 1 shall be adjusted—

"(A) to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the most recent 3-year period ending immediately before January 1 preceding such April 1, and

"(B) to round to the nearest $25 the dollar amount that represents such change.

Federal Register, publication.

"(2) Not later than March 1, 1998, and at each 3-year interval ending on March 1 thereafter, the Judicial Conference of the United States shall publish in the Federal Register the dollar amounts that will become effective on such April 1 under sections 109(e), 303(b), 507(a), 522(d), and 523(a)(2)(C) of this title.

"(3) Adjustments made in accordance with paragraph (1) shall not apply with respect to cases commenced before the date of such adjustments.".

SEC. 109. PREMERGER NOTIFICATION.

Subparagraphs (A) and (B) of section 363(b)(2) of title 11, United States Code, are amended to read as follows:

"(A) notwithstanding subsection (a) of such section, the notification required by such subsection to be given by the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the 15th day after the date of the receipt, by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, of the notification required under such subsection (a), unless such waiting period is extended—

"(i) pursuant to subsection (e)(2) of such section, in the same manner as such subsection (e)(2) applies to a cash tender offer;

"(ii) pursuant to subsection (g)(2) of such section; or

"(iii) by the court after notice and a hearing.".

SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D) by striking "or" at the end,

(2) in subparagraph (E) by inserting "or" at the end, and

(3) by adding at the end the following:

"(F) a member of a committee appointed under section 1102 of this title, if such expenses are incurred in the performance of the duties of such committee;".

SEC. 111. SUPPLEMENTAL INJUNCTIONS.

(a) SUPPLEMENTAL INJUNCTIONS.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue, in connection with such order, an injunction in accordance with this subsection to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin entities from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) Subject to subsection (h), if the requirements of subparagraph (B) are met at the time an injunction described in paragraph (1) is entered, then after entry of such injunction, any proceeding that involves the validity, application, construction, or modification of such injunction, or of this subsection with respect to such injunction, may be commenced only in the district court in which such injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in such plan and by the obligation of such debtor or debtors to make future payments, including dividends;

"(III) is to own, or by the exercise of rights granted under such plan would be entitled to own if specified contingencies occur, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) subject to subsection (h), the court determines that—

"(I) the debtor is likely to be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by such plan is likely to threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking confirmation of such plan—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), are set out in such plan and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) subject to subsection (h), pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands, or other comparable mechanisms, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order confirming the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorga-

nization case, then after the time for appeal of the order that issues or affirms the plan—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to such plan or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against such entity by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to such plan or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against such entity, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, necessarily be liable to any entity by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization, or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction described in paragraph (1) shall be valid and enforceable against all entities that it addresses.

"(ii) Notwithstanding the provisions of section 524(e), such an injunction may bar any action directed against a third party who is identifiable from the terms of such injunction (by name or as part of an identifiable group) and is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor to the extent such alleged liability of such third party arises by reason of—

"(I) the third party's ownership of a financial interest in the debtor, a past or present affiliate of the debtor, or a predecessor in interest of the debtor;

"(II) the third party's involvement in the management of the debtor or a predecessor in interest of the debtor, or service as an officer, director or employee of the debtor or a related party;

"(III) the third party's provision of insurance to the debtor or a related party; or

"(IV) the third party's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the debtor or a related party, including but not limited to—

"(aa) involvement in providing financing (debt or equity), or advice to an entity involved in such a transaction; or

"(bb) acquiring or selling a financial interest in an entity as part of such a transaction.

"(iii) As used in this subparagraph, the term 'related party' means—

"(I) a past or present affiliate of the debtor;

"(II) a predecessor in interest of the debtor; or

"(III) any entity that owned a financial interest in—

"(aa) the debtor;

"(bb) a past or present affiliate of the debtor; or

"(cc) a predecessor in interest of the debtor.

"(B) Subject to subsection (h), if, under a plan of reorganization, a kind of demand described in such plan is to be paid in whole or in part by a trust described in paragraph (2)(B)(i) in connection with which an injunction described in paragraph (1) is to be implemented, then such injunction shall be valid and enforceable with respect to a demand of such kind made, after such plan is confirmed, against the debtor or debtors involved, or against a third party described in subparagraph (A)(ii), if—

"(i) as part of the proceedings leading to issuance of such injunction, the court appoints a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands of such kind, and

"(ii) the court determines, before entering the order confirming such plan, that identifying such debtor or debtors, or such third party (by name or as part of an identifiable group), in such injunction with respect to such demands for purposes of this subparagraph is fair and equitable with respect to the persons that might subsequently assert such demands, in light of the benefits provided, or to be provided, to such trust on behalf of such debtor or debtors or such third party.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of the enactment of this subsection.

"(h) APPLICATION TO EXISTING INJUNCTIONS.—For purposes of subsection (g)—

"(1) subject to paragraph (2), if an injunction of the kind described in subsection (g)(1)(B) was issued before the date of the enactment of this Act, as part of a plan of reorganization confirmed by an order entered before such date, then the injunction shall be considered to meet the requirements of subsection (g)(2)(B) for purposes of subsection (g)(2)(A), and to satisfy subsection (g)(4)(A)(ii), if—

"(A) the court determined at the time the plan was confirmed that the plan was fair and equitable in accordance with the requirements of section 1129(b);

"(B) as part of the proceedings leading to issuance of such injunction and confirmation of such plan, the court had appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands described in subsection (g)(4)(B) with respect to such plan; and

"(C) such legal representative did not object to confirmation of such plan or issuance of such injunction; and

"(2) for purposes of paragraph (1), if a trust described in subsection (g)(2)(B)(i) is subject to a court order on the date of the enactment of this Act staying such trust from settling or paying further claims—

"(A) the requirements of subsection (g)(2)(B)(ii)(V) shall not apply with respect to such trust until such stay is lifted or dissolved; and

"(B) if such trust meets such requirements on the date such stay is lifted or dissolved, such trust shall be considered to have met such requirements continuously from the date of the enactment of this Act.".

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a), or in the amendments made by subsection (a), shall be construed to modify, impair, or supersede any other authority the court has to issue injunctions in connection with an order confirming a plan of reorganization. 11 USC 524 note.

SEC. 112. AUTHORITY OF BANKRUPTCY JUDGES TO CONDUCT JURY TRIALS IN CIVIL PROCEEDINGS.

Section 157 of title 28, United States Code, is amended by adding at the end the following:

"(e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all the parties.".

SEC. 113. SOVEREIGN IMMUNITY.

Section 106 of title 11, United States Code, is amended to read as follows:

"§ 106. Waiver of sovereign immunity

"(a) Notwithstanding an assertion of sovereign immunity, sovereign immunity is abrogated as to a governmental unit to the extent set forth in this section with respect to the following:

"(1) Sections 105, 106, 107, 108, 303, 346, 362, 363, 364, 365, 366, 502, 503, 505, 506, 510, 522, 523, 524, 525, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 722, 724, 726, 728, 744, 749, 764, 901, 922, 926, 928, 929, 944, 1107, 1141, 1142, 1143, 1146, 1201, 1203, 1205, 1206, 1227, 1231, 1301, 1303, 1305, and 1327 of this title.

"(2) The court may hear and determine any issue arising with respect to the application of such sections to governmental units.

"(3) The court may issue against a governmental unit an order, process, or judgment under such sections or the Federal Rules of Bankruptcy Procedure, including an order or judgment

awarding a money recovery, but not including an award of punitive damages. Such order or judgment for costs or fees under this title or the Federal Rules of Bankruptcy Procedure against any governmental unit shall be consistent with the provisions and limitations of section 2412(d)(2)(A) of title 28.

"(4) The enforcement of any such order, process, or judgment against any governmental unit shall be consistent with appropriate nonbankruptcy law applicable to such governmental unit and, in the case of a money judgment against the United States, shall be paid as if it is a judgment rendered by a district court of the United States.

"(5) Nothing in this section shall create any substantive claim for relief or cause of action not otherwise existing under this title, the Federal Rules of Bankruptcy Procedure, or nonbankruptcy law.

"(b) A governmental unit that has filed a proof of claim in the case is deemed to have waived sovereign immunity with respect to a claim against such governmental unit that is property of the estate and that arose out of the same transaction or occurrence out of which the claim of such governmental unit arose.

"(c) Notwithstanding any assertion of sovereign immunity by a governmental unit, there shall be offset against a claim or interest of a governmental unit any claim against such governmental unit that is property of the estate.".

SEC. 114. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

11 USC app.

Rule 7004 of the Federal Rules of Bankruptcy Procedure is amended—

(1) in subdivision (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition", and

(2) by adding at the end the following:

Mail.

"(h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION.—Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless—

"(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

"(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or

"(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.".

SEC. 115. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the trustee shall orally examine the debtor to ensure that the debtor in a case under chapter 7 of this title is aware of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title; and

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d) of this title.".

SEC. 116. TAX ASSESSMENT.

Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of—

"(A) an audit by a governmental unit to determine tax liability;

"(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

"(C) a demand for tax returns; or

"(D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).".

SEC. 117. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end thereof the following:

"(2) The Judicial Conference of the United States—

"(A) shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28; and

"(B) may prescribe notice of appearance fees and fees charged against distributions in cases under this title;

to pay $15 to trustees serving in cases after such trustees' services are rendered. Beginning 1 year after the date of the enactment of the Bankruptcy Reform Act of 1994, such $15 shall be paid in addition to the amount paid under paragraph (1).".

TITLE II—COMMERCIAL BANKRUPTCY ISSUES

SEC. 201. AIRCRAFT EQUIPMENT AND VESSELS; ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order

under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a citizen of the United States (as defined in section 40102 of title 49) holding an air carrier operating certificate issued by the Secretary of Transportation pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(B) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§ 1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of

the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(d) With respect to equipment first placed in service after the date of enactment of this subsection, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

SEC. 202. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(2) by inserting after subsection (b) the following:

"(c) If a transfer made between 90 days and one year before the filing of the petition—

"(1) is avoided under section 547(b) of this title; and

"(2) was made for the benefit of a creditor that at the time of such transfer was an insider;

the trustee may not recover under subsection (a) from a transferee that is not an insider.".

SEC. 203. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (c)(3)(B) by striking "10" and inserting "20", and

(2) in subsection (e)(2)(A) by inserting ", except as provided in subsection (c)(3)(B)" before the semicolon at the end.

SEC. 204. CONTINUED PERFECTION.

(a) AUTOMATIC STAY.—Section 362(b)(3) of title 11, United States Code, is amended by inserting ", or to maintain or continue the perfection of," after "to perfect".

(b) LIMITATIONS ON AVOIDING POWERS.—Section 546(b) of title 11, United States Code, is amended to read as follows:

"(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

"(A) permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection; or

"(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in such property before the date on which action is taken to effect such maintenance or continuation.

"(2) If—

"(A) a law described in paragraph (1) requires seizure of such property or commencement of an action to accomplish such perfection, or maintenance or continuation of perfection of an interest in property; and

"(B) such property has not been seized or such an action has not been commenced before the date of the filing of the petition;

such interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by giving notice within the time fixed by such law for such seizure or such commencement.".

SEC. 205. REJECTION OF UNEXPIRED LEASES OF REAL PROPERTY OR TIMESHARE INTERESTS.

(a) AMENDMENT TO SECTION 365.—Section 365(h) of title 11, United States Code, is amended to read as follows:

"(h)(1)(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor and—

"(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat such lease as terminated by virtue of its terms, applicable nonbankruptcy law, or any agreement made by the lessee, then the lessee under such lease may treat such lease as terminated by the rejection; or

"(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

"(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such

lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease, but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

"(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

"(D) In this paragraph, 'lessee' includes any successor, assign, or mortgagee permitted under the terms of such lease.

"(2)(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

"(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

"(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

"(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.".

(b) TECHNICAL AMENDMENT.—Section 553(b)(1) of title 11, United States Code, is amended by striking "365(h)(2)" and inserting "365(h)".

SEC. 206. CONTENTS OF PLAN.

Section 1123(b) of title 11, United States Code, is amended—

(1) in paragraph (4) by striking "and" at the end,

(2) by redesignating paragraph (5) as paragraph (6), and

(3) by inserting after paragraph (4) the following:

"(5) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims; and".

SEC. 207. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

"(3) Third, allowed unsecured claims, but only to the extent of $4,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

"(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

"(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;".

SEC. 208. EXCLUSION FROM THE ESTATE OF INTERESTS IN LIQUID AND GASEOUS HYDROCARBONS TRANSFERRED BY THE DEBTOR PURSUANT TO PRODUCTION PAYMENT AGREEMENTS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (42) the following:

"(42A) 'production payment' means a term overriding royalty satisfiable in cash or in kind—

"(A) contingent on the production of a liquid or gaseous hydrocarbon from particular real property; and

"(B) from a specified volume, or a specified value, from the liquid or gaseous hydrocarbon produced from such property, and determined without regard to production costs;", and

(2) by inserting after the first paragraph (56) the following:

"(56A) 'term overriding royalty' means an interest in liquid or gaseous hydrocarbons in place or to be produced from particular real property that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized;".

(b) PROPERTY OF THE ESTATE.—Section 541(b)(4) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking "(A)" and inserting "(A)(i)",

(2) in subparagraph (B)—

(A) by striking "(B)" and inserting "(ii)",

(B) by striking "such interest" and inserting "the interest referred to in clause (i)", and

(C) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(B)(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

"(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 542 of this title;".

SEC. 209. SELLER'S RIGHT TO RECLAIM GOODS.

Section 546(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) such a seller may not reclaim any such goods unless such seller demands in writing reclamation of such goods—

"(A) before 10 days after receipt of such goods by the debtor; or

"(B) if such 10-day period expires after the commencement of the case, before 20 days after receipt of such goods by the debtor; and".

SEC. 210. INVESTMENT OF MONEY OF THE ESTATE.

Section 345(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking the period at the end and inserting a semicolon, and

(2) by adding at the end the following:

"unless the court for cause orders otherwise.".

SEC. 211. ELECTION OF TRUSTEE UNDER CHAPTER 11.

(a) ELECTION AUTHORIZED.—Section 1104 of title 11 of the United States Code is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b) Except as provided in section 1163 of this title, on the request of a party in interest made not later than 30 days after the court orders the appointment of a trustee under subsection (a), the United States trustee shall convene a meeting of creditors for the purpose of electing one disinterested person to serve as trustee in the case. The election of a trustee shall be conducted in the manner provided in subsections (a), (b), and (c) of section 702 of this title.".

(b) CONFORMING AMENDMENT.—Section 1106(b) of title 11, United States Code, is amended by striking "1104(c)" and inserting "1104(d)".

SEC. 212. RIGHTS OF PARTNERSHIP TRUSTEE AGAINST GENERAL PARTNERS.

Section 723(a) of title 11, United States Code, is amended by striking "for the full amount of the deficiency" and inserting "to the extent that under applicable nonbankruptcy law such general partner is personally liable for such deficiency".

SEC. 213. IMPAIRMENT OF CLAIMS AND INTERESTS.

(a) OBJECTION TO CLAIMS FILED UNTIMELY.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (7) by striking "or" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(9) proof of such claim is not timely filed, except to the extent tardily filed as permitted under paragraph (1), (2), or (3) of section 726(a) of this title or under the Federal Rules of Bankruptcy Procedure, except that a claim of a governmental

unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide.".

(b) TARDILY FILED PRIORITY CLAIMS.—Section 726(a)(1) of title 11, United States Code, is amended by adding before the semicolon the following: ", proof of which is timely filed under section 501 of this title or tardily filed before the date on which the trustee commences distribution under this section".

(c) FILING OF REQUEST FOR ADMINISTRATIVE EXPENSES.—Section 503(a) of title 11, United States Code, is amended—

(1) by inserting "timely" after "may", and

(2) by inserting ", or may tardily file such request if permitted by the court for cause" before the period at the end.

(d) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124 of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "or" at the end,

(2) in paragraph (2) by striking "; or" at the end and inserting a period, and

(3) by striking paragraph (3).

SEC. 214. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS AND LODGING PAYMENTS.

(a) POSTPETITION EFFECT OF SECURITY INTEREST.—Section 552(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)",

(2) by striking "rents," each place it appears, and

(3) by adding at the end the following:

"(2) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548 of this title, and notwithstanding section 546(b) of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to amounts paid as rents of such property or the fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties, then such security interest extends to such rents and such fees, charges, accounts, or other payments acquired by the estate after the commencement of the case to the extent provided in such security agreement, except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.".

(b) USE SALE, OR LEASE OF PROPERTY.—Section 363(a) of title 11, United States Code, is amended by inserting: "and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties" after "property".

SEC. 215. AMENDMENT TO DEFINITION OF SWAP AGREEMENT.

Subparagraph (A) of the first paragraph (55) of section 101 of title 11, United States Code, is amended by inserting "spot foreign exchange agreement," after "forward foreign exchange agreement,".

SEC. 216. LIMITATION ON AVOIDING POWERS.

Section 546(a)(1) of title 11, United States Code, is amended to read as follows:

"(1) the later of—

"(A) 2 years after the entry of the order for relief; or

"(B) 1 year after the appointment or election of the first trustee under section 702, 1104, 1163, 1202, or 1302 of this title if such appointment or such election occurs before the expiration of the period specified in subparagraph (A); or".

SEC. 217. SMALL BUSINESSES.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (51) the following:

"(51C) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition do not exceed $2,000,000;".

(b) CREDITORS' COMMITTEES.—Section 1102(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "As" and inserting "Except as provided in paragraph (3), as"; and

(2) by adding at the end the following:

"(3) On request of a party in interest in a case in which the debtor is a small business and for cause, the court may order that a committee of creditors not be appointed.".

(c) CONVERSION OR DISMISSAL.—Section 1112(b) of title 11, United States Code, is amended by inserting "or bankruptcy administrator" after "United States trustee".

(d) WHO MAY FILE A PLAN.—Section 1121 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case in which the debtor is a small business and elects to be considered a small business—

"(1) only the debtor may file a plan until after 100 days after the date of the order for relief under this chapter;

"(2) all plans shall be filed within 160 days after the date of the order for relief; and

"(3) on request of a party in interest made within the respective periods specified in paragraphs (1) and (2) and after notice and a hearing, the court may—

"(A) reduce the 100-day period or the 160-day period specified in paragraph (1) or (2) for cause; and

"(B) increase the 100-day period specified in paragraph (1) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.".

(e) POSTPETITION DISCLOSURE.—Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding subsection (b), in a case in which the debtor has elected under section 1121(e) to be considered a small business—

"(1) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(2) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement as long as the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed at least 10 days

prior to the date of the hearing on confirmation of the plan; and

"(3) a hearing on the disclosure statement may be combined with a hearing on confirmation of a plan.".

SEC. 218. SINGLE ASSET REAL ESTATE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (51) the following:

"(51B) 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto having aggregate noncontingent, liquidated secured debts in an amount no more than $4,000,000;".

(b) AUTOMATIC STAY.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate.".

SEC. 219. LEASES OF PERSONAL PROPERTY.

(a) ASSUMPTION.—Section 365(b)(2) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking "or" at the end,

(2) in subparagraph (C) by striking the period and inserting "; or",

(3) by adding at the end the following:

"(D) the satisfaction of any penalty rate or provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.".

(b) PERFORMANCE.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following:

"(10) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household pur-

poses), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.".

(c) LIMITATION.—Section 363(e) of title 11, United States Code is amended by adding at the end the following:
"This subsection also applies to property that is subject to any unexpired lease of personal property (to the exclusion of such property being subject to an order to grant relief from the stay under section 362).".

SEC. 220. EXEMPTION FOR SMALL BUSINESS INVESTMENT COMPANIES.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association," the following: "a small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958,".

SEC. 221. PAYMENT OF TAXES WITH BORROWED FUNDS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (13) by striking the period at the end and inserting a semicolon, and

(2) by adding at the end the following:

"(14) incurred to pay a tax to the United States that would be nondischargeable pursuant to paragraph (1);".

SEC. 222. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines on a motion by the trustee made not later than 120 days after the date of the order for relief in a case under chapter 11 of this title and after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.".

(b) SETOFF.—Section 553(b)(1) is amended by inserting "546(h)," after "365(h),". 11 USC 553.

SEC. 223. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (3) by striking "or" at the end and inserting a semicolon,

(2) in paragraph (4) by striking the period at the end and inserting "; or", and

(3) by inserting after paragraph (4) the following:

"(5) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

"(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

"(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.".

SEC. 224. TRUSTEE DUTIES; PROFESSIONAL FEES.

(a) TRUSTEE'S DUTIES.—Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

"(A)(i) reviewing, in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

"(ii) filing with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.".

(b) PROFESSIONAL FEES.—Section 330(a) of title 11, United States Code, is amended to read as follows:

"(a)(1) After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103—

"(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

"(B) reimbursement for actual, necessary expenses.

"(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

Courts.

"(3)(A) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

"(A) the time spent on such services;

"(B) the rates charged for such services;

"(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

"(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

"(E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

"(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for—

"(i) unnecessary duplication of services; or

"(ii) services that were not—

"(I) reasonably likely to benefit the debtor's estate; or

"(II) necessary to the administration of the case.

"(B) In a chapter 12 or chapter 13 case in which the debtor is an individual, the court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in this section.

"(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate. Courts.

"(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.".

SEC. 225. NOTICES TO CREDITORS.

Section 342 of title 11, United States Code, is amended by adding at the end the following:

"(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name, address, and taxpayer identification number of the debtor, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice.".

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following:

"(c) Notwithstanding subsection (b)(2) and applicable nonbankruptcy law—

"(1) a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under paragraph (3) or (5) of subsection (b) until such residence is sold at a foreclosure sale that is conducted in accordance with applicable nonbankruptcy law; and

"(2) in a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title.".

SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

Section 1328(a)(3) of title 11, United States Code, is amended by inserting ", or a criminal fine," after "restitution".

SEC. 303. IMPAIRMENT OF EXEMPTIONS.

Section 522(f) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and

(B) by striking "(2)" and inserting "(B)",

(2) by redesignating paragraph (1) as subparagraph (A),

(3) by inserting "(1)" before "Notwithstanding", and

(4) by adding at the end the following:

"(2)(A) For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

"(i) the lien;

"(ii) all other liens on the property; and

"(iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

"(B) In the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.

"(C) This paragraph shall not apply with respect to a judgment arising out of a mortgage foreclosure.".

SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (12) the following:

"(12A) 'debt for child support' means a debt of a kind specified in section 523(a)(5) of this title for maintenance or support of a child of the debtor;".

(b) RELIEF FROM AUTOMATIC STAY.—Section 362(b)(2) of title 11, United States Code, is amended to read as follows:

"(2) under subsection (a) of this section—

"(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or

"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(c) PRIORITY OF CLAIMS.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth",

(2) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth", and

(3) by inserting after paragraph (6) the following:

"(7) Seventh, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State

or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(d) PROTECTION OF LIENS.—Section 522(f)(1)(A) of title 11, United States Code, as amended by section 303, is amended by inserting after "lien" the following:

", other than a judicial lien that secures a debt—

"(i) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement; and

"(ii) to the extent that such debt—

"(I) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(II) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(e) EXCEPTION TO DISCHARGE.—Section 523 of title 11, United States Code, as amended by section 221, is amended by adding at the end the following:

"(15) not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, a determination made in accordance with State or territorial law by a governmental unit unless—

"(A) the debtor does not have the ability to pay such debt from income or property of the debtor not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor and, if the debtor is engaged in a business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business; or

"(B) discharging such debt would result in a benefit to the debtor that outweighs the detrimental consequences to a spouse, former spouse, or child of the debtor;", and

(2) in subsection (c)(1) by striking "or (6)" each place it appears and inserting "(6), or (15)".

(f) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) in paragraph (6) by striking "or" at the end,

(2) by redesignating paragraph (7) as paragraph (8), and

(3) by inserting after paragraph (6) the following:

"(7) to the extent such transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

11 USC 501 note.

(g) APPEARANCE BEFORE COURT.—Child support creditors or their representatives shall be permitted to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy case or proceeding in any bankruptcy court or district court of the United States if such creditors or representatives file a form in such court that contains information detailing the child support debt, its status, and other characteristics.

(h) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(2) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(3) in section 523(a)(1)(A) by striking "507(a)(7)" and inserting "507(a)(8)",

(4) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)",

(5) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)",

(6) in section 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)",

(7) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)", and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

SEC. 305. INTEREST ON INTEREST.

(a) CHAPTER 11.—Section 1123 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, if it is proposed in a plan to cure a default the amount necessary to cure the default shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(b) CHAPTER 12.—Section 1222 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(c) CHAPTER 13.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

SEC. 306. EXCEPTION TO DISCHARGE.

Section 523(a)(2)(C) of title 11, United States Code, is amended—

(1) by striking "$500" and inserting "$1,000",
(2) by striking "forty" and inserting "60", and
(3) by striking "twenty" and inserting "60".

SEC. 307. PAYMENTS UNDER CHAPTER 13.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 308. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§ 110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions

"(a) In this section—

"(1) 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b)(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c)(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d)(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e)(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f)(1) A bankruptcy petition preparer shall not use the word 'legal' or any similar term in any advertisements, or advertise

under any category that includes the word 'legal' or any similar term.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(g)(1) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(h)(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

Courts. "(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of services rendered for the documents prepared. An individual debtor may exempt any funds so recovered under section 522(b).

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

"(4) A bankruptcy petition preparer shall be fined not more than $500 for each failure to comply with a court order to turn over funds within 30 days of service of such order.

"(i)(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy papers, including papers specified in section 521(1) of this title, the negligence or intentional disregard of this title or the Federal Rules of Bankruptcy Procedure by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(A) the debtor's actual damages;

"(B) the greater of—

"(i) $2,000; or

"(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(2) If the trustee or creditor moves for damages on behalf of the debtor under this subsection, the bankruptcy petition preparer shall be ordered to pay the movant the additional amount of $1,000 plus reasonable attorneys' fees and costs incurred.

"(j)(1) A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2)(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in subclause (I), (II), or (III) of clause (i) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

"(k) Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(b) The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

SEC. 309. FAIRNESS TO CONDOMINIUM AND COOPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by sections 221 and 304, is amended by adding at the end the following:

"(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, but only if such fee or assessment is payable for a period during which—

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case.".

SEC. 310. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS AND IMPLEMENTS OF TRADE, ANIMALS, AND CROPS.

Section 522(f) of title 11, United States Code, as amended by sections 303 and 304, is amended—

(1) in paragraph (1) by inserting "but subject to paragraph (3)" after "waiver of exemptions", and

(2) by adding at the end the following:

"(3) In a case in which State law that is applicable to the debtor—

"(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

"(B) either permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property or prohibits avoidance of a consensual lien on property otherwise eligible to be claimed as exempt property;

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor to the extent the value of such implements, professional books, tools of the trade, animals, and crops exceeds $5,000.".

SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.

Section 348 of title 11, United States Code, is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), when a case under chapter 13 of this title is converted to a case under another chapter under this title—

"(A) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion; and

"(B) valuations of property and of allowed secured claims in the chapter 13 case shall apply in the converted case, with allowed secured claims reduced to the extent that they have been paid in accordance with the chapter 13 plan.

"(2) If the debtor converts a case under chapter 13 of this title to a case under another chapter under this title in bad faith, the property in the converted case shall consist of the property of the estate as of the date of conversion.".

SEC. 312. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§ 152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such

claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§ 153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§ 154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the docu-

ments and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following:

"§ 156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Federal Rules of Bankruptcy Procedure, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§ 157. Bankruptcy fraud

"A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new items:

"Sec. 156. Knowing disregard of bankruptcy law or rule.
"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

SEC. 313. PROTECTION AGAINST DISCRIMINATORY TREATMENT OF APPLICATIONS FOR STUDENT LOANS.

Section 525 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title

or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

"(2) In this section, 'student loan program' means the program operated under part B, D, or E of title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.".

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

SEC. 401. EXCEPTION FROM AUTOMATIC STAY FOR POST-PETITION PROPERTY TAXES.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (16) the following:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax imposed by the District of Columbia, or a political subdivision of a State, if such tax comes due after the filing of the petition.".

SEC. 402. MUNICIPAL BANKRUPTCY.

Section 109(c)(2) of title 11, United States Code, is amended by striking "generally authorized" and inserting "specifically authorized, in its capacity as a municipality or by name,".

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. AMENDMENTS TO BANKRUPTCY DEFINITIONS, NECESSITATED BY ENACTMENT OF PUBLIC LAW 101-647.

(a) ALPHABETIZING AND REDESIGNATING DEFINITIONS.—Section 101 of title 11 of the United States Code, as amended by sections 208, 217, 218, and 304, is amended—

(1) by redesignating paragraph (3) as paragraph (21B) and transferring such paragraph so as to insert it after paragraph (21A),

(2) by redesignating paragraph (39) as paragraph (51A) and transferring such paragraph so as to insert it after paragraph (51),

(3) by redesignating paragraphs (54) through (57), as so redesignated by section 2522(e) of Public Law 101–647, as paragraphs (53A) through (53D), respectively,

(4) by redesignating paragraph (56) as in effect immediately before the enactment of Public Law 101–647, as paragraph (35A) and transferring such paragraph so as to insert it after paragraph (35), and

(5) by redesignating paragraph (57), as in effect immediately before the enactment of Public Law 101–647, as paragraph (39) and transferring such paragraph so as to insert it after paragraph (38).

(b) CONFORMING AND RELATED AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE, BASED ON REDESIGNATED DEFINITIONS.—(1) Section 101 of title 11 of the United States Code, as amended by subsection (a), is amended—

(A) in paragraph (6) by striking "section 761(9)" and inserting "section 761",

(B) in paragraph (22) by striking "section 741(7)" and inserting "section 741",

(C) in paragraph (35)(B) by striking "paragraphs (3)" and inserting "paragraphs (21B)",

(D) in paragraph (49)(B)(ii) by striking "section 761(13)" and inserting "section 761", and

(E) in paragraph (53A)(A), as so redesignated, by striking "section 741(2)" and inserting "section 741".

(2) Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6)—

(i) by striking "section 761(4)" and inserting "section 761",

(ii) by striking "section 741(7)" and inserting "section 741",

(iii) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(iv) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in paragraph (7)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(3) Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking "section 557(b)(1)" and inserting "section 557(b)", and

(B) by striking "section 557(b)(2)" and inserting "section 557(b)".

(4) Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subsection (f)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(5) Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking "section 101(34), 741(5) or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subparagraph (C)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(6) Section 555 of title 11, United States Code, is amended by striking "section 741(7)" and inserting "section 741 of this title".

(7) Section 556 of title 11, United States Code, is amended by striking "section 761(4)" and inserting "section 761 of this title".

(c) CONFORMING AMENDMENTS TO OTHER LAWS BASED ON REDESIGNATED DEFINITIONS.—(1) Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 101(24)" and inserting "section 101",

(C) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101", and

(D) in clause (v) by striking "section 101(50)" and inserting "section 101".

(2) Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 761(4)" and inserting "section 761",

(C) in clause (iv) by striking "section 101(24)" and inserting "section 101",

(D) in clause (v)(I) by striking "section 101(41)" and inserting "section 101", and

(E) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(d) OTHER TECHNICAL AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in section 101—

(A) in paragraph (33)—

(i) in subparagraph (A) by striking "(12 U.S.C. 1813(u))", and

(ii) in subparagraph (B) by striking "(12 U.S.C. 1786(r))",

(B) in paragraph (34) by striking "(12 U.S.C. 1752(7))",

(C) in paragraph (35)(A) by striking "(12 U.S.C. 1813(c)(2))",

(D) in paragraph (48)—

(i) by striking "(15 U.S.C. 78q-1)", and

(ii) by striking "(15 U.S.C. 78c(12))",

(E) in paragraph (49)—

(i) in subparagraph (A)(xii)—

(I) by striking "(15 U.S.C. 77a et seq.)", and

(II) by striking "(15 U.S.C. 77c(b))", and

(ii) in subparagraph (B)(vi) by striking "(15 U.S.C. 77c(b))", and

(F) in paragraph (53D), as so redesignated by subsection (a), by striking the period at the end and inserting a semicolon,

(2) in section 109(b)(2) by striking "(12 U.S.C. 1813(h))",

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302",

(4) in section 346—

(A) in subsection (a) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986", and

(B) in subsection (g)(1)(C) by striking "Internal Revenue Code of 1954 (26 U.S.C. 371)" and inserting "Internal Revenue Code of 1986",

(5) in section 348—

(A) in subsection (b) by striking "1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "1201(a), 1221, 1228(a), 1301(a), and 1305(a)", and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(6) in section 349(a) by striking "109(f)" and inserting "109(g)",

(7) in section 362—

(A) in subsection (a) by striking "(15 U.S.C. 78eee(a)(3))", and

(B) in subsection (b)—

(i) by striking "(15 U.S.C. 78eee(a)(3))",

(ii) in paragraph (10) by striking "or" at the end,

(iii) in paragraph (12)—

(I) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46", and

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)",

(iv) in paragraph (13)—

(I) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46",

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)", and

(III) by striking "or" at the end,

(v) in paragraph (15), as added by Public Law 101–508, by striking "or" at the end,

(vi) in paragraph (16), as added by Public Law 101–508—

(I) by striking "(20 U.S.C. 1001 et seq.)", and

(II) by striking the period at the end and inserting a semicolon, and

(vii) in paragraph (14), as added by Public Law 101–311—

(I) by striking the period at the end and inserting "; or",

(II) by redesignating such paragraph as paragraph (17), and

(III) by transferring such paragraph so as to insert such paragraph after paragraph (16),

(8) in section 363—

(A) in subsection (b)(2) by striking "(15 U.S.C. 18a)", and

(B) in subsection (c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304",

(9) in section 364—

(A) in subsection (a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304", and

(B) in subsection (f)—

(i) by striking "(15 U.S.C. 77e)", and

(ii) by striking "(15 U.S.C. 77aaa et seq.)",

(10) in section 365—

(A) in subsection (d)(6)(C) by striking "the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and inserting "section 40102 of title 49",

(B) in subparagraphs (A) and (B) of subsection (g)(2) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(C) in subsection (n)(1)(B) by striking "to to" and inserting "to",

(D) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(E) by striking subsection (p),

(11) in section 507, as amended by section 304—

(A) in subsection (a)(9) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(B) in subsection (d) by striking "or (a)(6)" and inserting "(a)(6), (a)(7), (a)(8), or (a)(9)",

(12) in section 522—

(A) in subsection (b) by striking "Bankruptcy Rules" and inserting "Federal Rules of Bankruptcy Procedure", and

(B) in subsection (d)(10)(E)(iii)—

(i) by striking "408, or 409" the first place it appears and inserting "or 408", and

(ii) by striking "Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "Internal Revenue Code of 1986",

(13) in section 523—

(A) in subsection (a)—

(i) by striking "1141,," and inserting "1141,", and

(ii) in paragraph (2)(C) by striking "(15 U.S.C. 1601 et seq.)",

(B) in subsection (b)—

(i) by striking "(20 U.S.C. 1087–3)", and

(ii) by striking "(42 U.S.C. 294f)", and

(C) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution",

(14) in section 524—

(A) in subsection (a)(3) by striking "1328(c)(1)" and inserting "1328(a)(1)",

(B) in subsection (c)(4) by striking "recission" and inserting "rescission", and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end,

(15) in section 525(a)—

(A) by striking "(7 U.S.C. 499a–499s)",

(B) by striking "(7 U.S.C. 181–229)", and

(C) by striking "(57 Stat. 422; 7 U.S.C. 204)",

(16) in section 542(e) by striking "to to" and inserting "to",

(17) in section 543(d)(1) by striking "section," and inserting "section",

(18) in section 549(b) inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,",

(19) in section 553—

(A) in subsection (a)(1) by striking "other than under section 502(b)(3) of this title", and

(B) in subsection (b)(1) by striking "362(b)(14),," and inserting "362(b)(14),",

(20) in section 555 by striking "(15 U.S.C. 78aaa et seq.)",

(21) in section 559 by striking "(15 U.S.C. 78aaa et seq.)",

(22) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307",

(23) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986",

(24) in section 726(b)—

(A) inserting a comma after "section 1112", and

(B) by inserting "1009," after "chapter under section",

(25) in section 741(4)(A)(iii) by striking "(15 U.S.C. 78a et seq.)",

(26) in section 742 by striking "(15 U.S.C. 78aaa et seq.)",

(27) in section 743 by striking "342(a)" and inserting "342",

(28) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986",

(29) in section 761—

(A) in paragraph (1) by striking "(7 U.S.C. 1 et seq.)",

(B) in paragraph (5) by striking "(7 U.S.C. 6c(b))", and

(C) in paragraph (13) by striking "(7 U.S.C. 23)",

(30) in section 1104(d), as redesignated by section 211, inserting a comma after "interest",

(31) in section 1123(a)(1) inserting a comma after "title" the last place it appears,

(32) in section 1129—

(A) in subsection (a)—

(i) in paragraph (4) by striking the semicolon at the end and inserting a period, and

(ii) in paragraph (12) inserting "of title 28" after "section 1930", and

(B) in subsection (d) by striking "(15 U.S.C. 77e)",

(33) in section 1145—

(A) in subsection (a)—

(i) by striking "does" and inserting "do",

(ii) by striking "(15 U.S.C. 77e)", and

(iii) in paragraph (3)(B)(i) by striking "(15 U.S.C. 78m or 78o(d))",

(B) in subsection (b)(1) by striking "(15 U.S.C. 77b(11))", and

(C) in subsection (d) by striking "(15 U.S.C. 77aaa et seq.)",

(34) in section 1166(2) by striking "(45 U.S.C. 791(b))",

(35) in section 1167—

(A) by striking "(45 U.S.C. 151 et seq.)", and

(B) by striking "(45 U.S.C. 156)",

(36) in section 1226(b)(2)—

(A) by striking "1202(d)" and inserting "1202(c)", and

(B) by striking "1202(e)" and inserting "1202(d)",

(37) in section 1302(b)(3) by striking "and" at the end,

(38) in section 1328(a)—

(A) in paragraph (2) by striking "(5) or (8)" and inserting "(5), (8), or (9)", and

(B) by striking the last paragraph (3), and

(39) in the table of chapters by striking the item relating to chapter 15.

SEC. 502. TITLE 28 OF THE UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

TITLE VI—BANKRUPTCY REVIEW COMMISSION

National Bankruptcy Review Commission Act. 11 USC prec. 101 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 602. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 603. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 608; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 604. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President. President.

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

(4) One member shall be appointed by the Speaker of the House of Representatives.

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

Members of Congress, and officers and employees of the executive branch, shall be ineligible for appointment to the Commission.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 210 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

President. (h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 605. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 606. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other person-

nel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 607. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 608. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 609. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 608.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

11 USC 101 note.

SEC. 701. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

11 USC 101 note.

SEC. 702. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

(2)(A) Paragraph (1) shall not apply with respect to the amendment made by section 111.

(B) The amendments made by sections 113 and 117 shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after the date of the enactment of this Act.

(C) Section 1110 of title 11, United States Code, as amended by section 201 of this Act, shall apply with respect to any lease, as defined in such section 1110(c) as so amended, entered into in connection with a settlement of any proceeding in any case pending under title 11 of the United States Code on the date of the enactment of this Act.

(D) The amendments made by section 305 shall apply only to agreements entered into after the date of enactment of this Act.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.R. 5116:

HOUSE REPORTS: No. 103-835 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, considered and passed House.
Oct. 6, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 22, Presidential statement.

Public Law 103-395
103d Congress

Joint Resolution

Oct. 22, 1994
[H.J. Res. 425]

Providing for the convening of the First Session of the One Hundred Fourth Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Fourth Congress shall begin at noon on Wednesday, January 4, 1995.

Approved October 22, 1994.

LEGISLATIVE HISTORY—H.J. Res. 425:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-396
103d Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

Oct. 22, 1994
[S. 340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Animal Medicinal Drug Use Clarification Act of 1994.
21 USC 301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Medicinal Drug Use Clarification Act of 1994".

SEC. 2. UNAPPROVED USES.

(a) GENERAL RULE.—Section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a)) is amended by adding the following new paragraphs at the end:

"(4)(A) Except as provided in subparagraph (B), if an approval of an application filed under subsection (b) is in effect with respect to a particular use or intended use of a new animal drug, the drug shall not be deemed unsafe for the purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a different use or intended use of the drug, other than a use in or on animal feed, if such use or intended use—

"(i) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(ii) is in compliance with regulations promulgated by the Secretary that establish the conditions for such different use or intended use.

The regulations promulgated by the Secretary under clause (ii) may prohibit particular uses of an animal drug and shall not permit such different use of an animal drug if the labeling of another animal drug that contains the same active ingredient and which is in the same dosage form and concentration provides for such different use.

"(B) If the Secretary finds that there is a reasonable probability that a use of an animal drug authorized under subparagraph (A) may present a risk to the public health, the Secretary may—

"(i) establish a safe level for a residue of an animal drug when it is used for such different use authorized by subparagraph (A); and

"(ii) require the development of a practical, analytical method for the detection of residues of such drug above the safe level established under clause (i).

The use of an animal drug that results in residues exceeding a safe level established under clause (i) shall be considered an unsafe use of such drug under paragraph (1). Safe levels may be established under clause (i) either by regulation or order.

"(C) The Secretary may by general regulation provide access to the records of veterinarians to ascertain any use or intended use authorized under subparagraph (A) that the Secretary has determined may present a risk to the public health.

"(D) If the Secretary finds, after affording an opportunity for public comment, that a use of an animal drug authorized under subparagraph (A) presents a risk to the public health or that an analytical method required under subparagraph (B) has not been developed and submitted to the Secretary, the Secretary may, by order, prohibit any such use.

"(5) If the approval of an application filed under section 505 is in effect, the drug under such application shall not be deemed unsafe for purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a use or intended use of the drug in animals if such use or intended use—

"(A) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(B) is in compliance with regulations promulgated by the Secretary that establish the conditions for the use or intended use of the drug in animals.".

(b) OTHER AMENDMENTS.—

(1) SECTION 301.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) in paragraph (e), by striking "507(d) or (g)," and inserting "507(d) or (g), 512(a)(4)(C),"; and

(B) by adding at the end the following:

"(u) The failure to comply with any requirements of the provisions of, or any regulations or orders of the Secretary, under section 512(a)(4)(A), 512(a)(4)(D), or 512(a)(5).".

(2) SECTION 512(e).—Section 512(e)(1)(A) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360b(e)(1)(A)) is amended by inserting before the semicolon the following: "or the condition of use authorized under subsection (a)(4)(A)".

(3) SECTION 512(l).—Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)(1)) is amended by striking "relating to experience" and inserting "relating to experience, including experience with uses authorized under subsection (a)(4)(A),".

21 USC 360b note.

(c) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement paragraphs (4)(A) and (5) of section 512(a) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a)).

21 USC 360b note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the adoption of the final regulations under subsection (c).

SEC. 3. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of

identity of a State or political subdivision of a State for maple syrup that is of the type required by sections 401 and 403(g),";

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(c) and that is applicable to maple syrup,"; and

(3) in paragraph (3) by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(h)(1) and that is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 340:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, considered and passed Senate.
Oct. 6, considered and passed House.

Public Law 103-397
103d Congress

An Act

Oct. 22, 1994
[S. 455]

To amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Payments In Lieu of Taxes Act.
31 USC 6901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Payments In Lieu of Taxes Act".

SEC. 2. INCREASE IN PAYMENTS FOR ENTITLEMENT LANDS.

(a) INCREASE BASED ON CONSUMER PRICE INDEX.—Section 6903(b)(1) of title 31, United States Code, is amended—

(1) in subparagraph (A), by striking "75 cents for each acre of entitlement land" and inserting "93 cents during fiscal year 1995, $1.11 during fiscal year 1996, $1.29 during fiscal year 1997, $1.47 during fiscal year 1998, and $1.65 during fiscal year 1999 and thereafter, for each acre of entitlement land"; and

(2) in subparagraph (B), by striking "10 cents for each acre of entitlement land" and inserting "12 cents during fiscal year 1995, 15 cents during fiscal year 1996, 17 cents during fiscal year 1997, 20 cents during fiscal year 1998, and 22 cents during fiscal year 1999 and thereafter, for each acre of entitlement land".

(b) INCREASE IN POPULATION CAP.—Section 6903(c) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking "$50 times the population" and inserting "the highest dollar amount specified in paragraph (2)"; and

(2) in paragraph (2), by amending the table at the end to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$110.00
6,000	103.00
7,000	97.00
8,000	90.00
9,000	84.00
10,000	77.00
11,000	75.00
12,000	73.00
13,000	70.00
14,000	68.00
15,000	66.00

16,000	65.00
17,000	64.00
18,000	63.00
19,000	62.00
20,000	61.00
21,000	60.00
22,000	59.00
23,000	59.00
24,000	58.00
25,000	57.00
26,000	56.00
27,000	56.00
28,000	56.00
29,000	55.00
30,000	55.00
31,000	54.00
32,000	54.00
33,000	53.00
34,000	53.00
35,000	52.00
36,000	52.00
37,000	51.00
38,000	51.00
39,000	50.00
40,000	50.00
41,000	49.00
42,000	48.00
43,000	48.00
44,000	47.00
45,000	47.00
46,000	46.00
47,000	46.00
48,000	45.00
49,000	45.00
50,000	44.00.".

SEC. 3. INDEXING OF PILT PAYMENTS FOR INFLATION; INSTALLMENT PAYMENTS.

Section 6903 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) On October 1 of each year after the date of enactment of the Payment in Lieu of Taxes Act, the Secretary of the Interior shall adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30.".

SEC. 4. LAND EXCHANGES.

Section 6902 of title 31, United States Code, is amended to read as follows:

"§ 6902. Authority and Eligibility

"(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

"(b) A unit of general local government may not receive a payment for land for which payment under this Act otherwise may be received if the land was owned or administered by a State or unit of general local government and was exempt from real estate taxes when the land was conveyed to the United States except that a unit of general local government may receive a payment for—

Public Law 103-398
103d Congress

An Act

Oct. 22, 1994
[S. 528]

To provide for the transfer of certain United States Forest Service lands located in Lincoln County, Montana, to Lincoln County in the State of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Lincoln County, Montana, Lands Transfer Act of 1994.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lincoln County, Montana, Lands Transfer Act of 1994".

SEC. 2. CONVEYANCE OF PROPERTY.

(a) As soon as practicable, but in no event not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture (hereinafter the "Secretary") shall convey, without consideration, all right, title, and interest of the United States to the following lands located within the boundaries of the Kootenai National Forest, Montana, to Lincoln County, Montana—

(1) approximately 30 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Libby Junior High School" dated August 1994;

(2) approximately 2 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Boyd Cemetery" dated August 1994;

(3) approximately 27.68 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Yaak Ambulance Barn" dated August 1994;

(4) approximately 170 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Libby Landfill" dated August 1994;

(5) approximately 11 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Eureka Administration Site" dated August 1994; and

(6) approximately 99.5 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Old Libby Airport" dated August 1994.

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall convey, without consideration, the timber and mineral rights to approximately 182.04 acres at the new Libby Airport, as generally depicted on the map entitled "Kootenai National Forest Lands—Timber and Mineral Rights Transfer at Libby Airport" dated August 1994, to Lincoln County, Montana.

(c) If the lands referred to in subsection (a) cease to be used for public purposes, such lands shall revert to the United States: *Provided,* That the lands shall not revert if the Secretary determines

that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following)).

SEC. 3. RELEASE.

Upon the transfer of any lands or interests therein identified in section 2 of this Act to Lincoln County, Lincoln County shall release the United States from any liability for claims relating to such lands or interests therein.

SEC. 4. MAPS.

The maps referred to in this Act shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C. Public availablity.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 528:

SENATE REPORTS: No. 103-355 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 25, considered and passed Senate.
Oct. 7, considered and passed House.

Public Law 103-399
103d Congress

An Act

Oct. 22, 1994
[S. 720]

To clean up open dumps on Indian lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Lands Open Dump Cleanup Act of 1994.
25 USC 3901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Lands Open Dump Cleanup Act of 1994".

25 USC 3901.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are at least 600 open dumps on Indian and Alaska Native lands;

(2) these dumps threaten the health and safety of residents of Indian and Alaska Native lands and contiguous areas;

(3) many of these dumps were established or are used by Federal agencies such as the Bureau of Indian Affairs and the Indian Health Service;

(4) these dumps threaten the environment;

(5) the United States holds most Indian lands in trust for the benefit of Indian tribes and Indian individuals; and

(6) most Indian tribal governments and Alaska Native entities lack the financial and technical resources necessary to close and maintain these dumps in compliance with applicable Federal laws.

(b) PURPOSES.—The purposes of this Act are to—

(1) identify the location of open dumps on Indian lands and Alaska Native lands;

(2) assess the relative health and environmental hazards posed by such dumps; and

(3) provide financial and technical assistance to Indian tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

25 USC 3902

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CLOSURE OR CLOSE.—The term "closure or close" means the termination of operations at open dumps on Indian land or Alaska Native land and bringing such dumps into compliance

with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards and regulations.

(2) DIRECTOR.—The term "Director" means the Director of the Indian Health Service.

(3) INDIAN LAND.—The term "Indian land" means—

(A) land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(B) dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(C) Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(4) ALASKA NATIVE LAND.—The term "Alaska Native land" means (A) land conveyed or to be conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.), including any land reconveyed under section 14(c)(3) of that Act (43 U.S.C. 1613(c)(3)), and (B) land conveyed pursuant to the Act of November 2, 1966 (16 U.S.C. 1151 et seq.; commonly known as the "Fur Seal Act of 1966").

(5) INDIAN TRIBAL GOVERNMENT.—The term "Indian tribal government" means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) ALASKA NATIVE ENTITY.—The term "Alaska Native entity" includes native corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.) and any Alaska Native village or municipal entity which owns Alaska Native land.

(7) OPEN DUMP.—The term "open dump" means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) and which is not a facility for disposal of hazardous waste.

(8) POSTCLOSURE MAINTENANCE.—The term "postclosure maintenance" means any activity undertaken at a closed solid waste management facility on Indian land or on Alaska Native land to maintain the integrity of containment features, monitor compliance with applicable performance standards, or remedy any situation or occurrence that violates regulations promulgated pursuant to subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

(9) SERVICE.—The term "Service" means the Indian Health Service.

(10) SOLID WASTE.—The term "solid waste" has the meaning provided that term by section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903) and any regulations promulgated thereunder.

25 USC 3903.

SEC. 4. INVENTORY OF OPEN DUMPS.

(a) STUDY AND INVENTORY.—Not later than 12 months after the date of enactment of this Act, the Director shall conduct a study and inventory of open dumps on Indian lands and Alaska Native lands. The inventory shall list the geographic location of all open dumps, an evaluation of the contents of each dump, and an assessment of the relative severity of the threat to public health and the environment posed by each dump. Such assessment shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made by any such assessment.

(b) ANNUAL REPORTS.—Upon completion of the study and inventory under subsection (a), the Director shall report to the Congress, and update such report annually—

(1) the current priority of Indian and Alaska Native solid waste deficiencies,

(2) the methodology of determining the priority listing,

(3) the level of funding needed to effectively close or bring into compliance all open dumps on Indian lands or Alaska Native lands, and

(4) the progress made in addressing Indian and Alaska Native solid waste deficiencies.

(c) 10-YEAR PLAN.—The Director shall develop and begin implementation of a 10-year plan to address solid waste disposal needs on Indian lands and Alaska Native lands. This 10-year plan shall identify—

(1) the level of funding needed to effectively close or bring into compliance with applicable Federal standards any open dumps located on Indian lands and Alaska Native lands; and

(2) the level of funding needed to develop comprehensive solid waste management plans for every Indian tribal government and Alaska Native entity.

25 USC 3904.

SEC. 5. AUTHORITY OF THE DIRECTOR OF THE INDIAN HEALTH SERVICE.

(a) RESERVATION INVENTORY.—(1) Upon request by an Indian tribal government or Alaska Native entity, the Director shall—

(A) conduct an inventory and evaluation of the contents of open dumps on the Indian lands or Alaska Native lands which are subject to the authority of the Indian tribal government or Alaska Native entity;

(B) determine the relative severity of the threat to public health and the environment posed by each dump based on information available to the Director and the Indian tribal government or Alaska Native entity unless the Director, in consultation with the Indian tribal government or Alaska Native entity, determines that additional actions such as soil testing or water monitoring would be appropriate in the circumstances; and

(C) develop cost estimates for the closure and postclosure maintenance of such dumps.

(2) The inventory and evaluation authorized under paragraph (1)(A) shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made under paragraph (1)(B).

(b) ASSISTANCE.—Upon completion of the activities required to be performed pursuant to subsection (a), the Director shall, subject to subsection (c), provide financial and technical assistance to the Indian tribal government or Alaska Native entity to carry out the activities necessary to—

(1) close such dumps; and

(2) provide for postclosure maintenance of such dumps.

(c) CONDITIONS.—All assistance provided pursuant to subsection (b) shall be made available on a site-specific basis in accordance with priorities developed by the Director. Priorities on specific Indian lands or Alaska Native lands shall be developed in consultation with the Indian tribal government or Alaska Native entity. The priorities shall take into account the relative severity of the threat to public health and the environment posed by each open dump and the availability of funds necessary for closure and postclosure maintenance.

SEC. 6. CONTRACT AUTHORITY. 25 USC 3905

(a) AUTHORITY OF DIRECTOR.—To the maximum extent feasible, the Director shall carry out duties under this Act through contracts, compacts, or memoranda of agreement with Indian tribal governments or Alaska Native entities pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), or section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632).

(b) COOPERATIVE AGREEMENTS.—The Director is authorized, for purposes of carrying out the duties of the Director under this Act, to contract with or enter into such cooperative agreements with such other Federal agencies as is considered necessary to provide cost-sharing for closure and postclosure activities, to obtain necessary technical and financial assistance and expertise, and for such other purposes as the Director considers necessary.

SEC. 7. TRIBAL DEMONSTRATION PROJECT. 25 USC 3906.

(a) IN GENERAL.—The Director may establish and carry out a program providing for demonstration projects involving open dumps on Indian land or Alaska Native land. It shall be the purpose of such projects to determine if there are unique cost factors involved in the cleanup and maintenance of open dumps on such land, and the extent to which advanced closure planning is necessary. Under the program, the Director is authorized to select no less than three Indian tribal governments or Alaska Native entities to participate in such demonstration projects.

(b) CRITERIA.—Criteria established by the Director for the selection and participation of an Indian tribal government or Alaska Native entity in the demonstration project shall provide that in order to be eligible to participate, an Indian tribal government or Alaska Native entity must—

(1) have one or more existing open dumps on Indian lands or Alaska Native lands which are under its authority;

(2) have developed a comprehensive solid waste management plan for such lands; and

(3) have developed a closure and postclosure maintenance plan for each dump located on such lands.

(c) DURATION OF FUNDING FOR A PROJECT.—No demonstration project shall be funded for more than three fiscal years.

25 USC 3907

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) COORDINATION.—The activities required to be performed by the Director under this Act shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

25 USC 3908.

SEC. 9. DISCLAIMERS.

(a) AUTHORITY OF DIRECTOR.—Nothing in this Act shall be construed to alter, diminish, repeal, or supersede any authority conferred on the Director pursuant to section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632), and section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

(b) EXEMPTED LANDS AND FACILITIES.—This Act shall not apply to open dump sites on Indian lands or Alaska Native lands—

(1) that comprise an area of one-half acre or less and that are used by individual families on lands to which they hold legal or beneficial title;

(2) of any size that have been or are being operated for a profit; or

(3) where solid waste from an industrial process is being or has been routinely disposed of at a privately owned facility in compliance with applicable Federal laws.

(c) RULES OF CONSTRUCTION.—(1) Nothing in this Act shall be construed to amend or modify the authority or responsibility of the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Nothing in this Act is intended to amend, repeal, or supersede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 720:

HOUSE REPORTS: No. 103-783 (Comm. on Natural Resources).
SENATE REPORTS No 103-253 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol 140 (1994):
May 12, considered and passed Senate.
Oct. 4, 5, considered and passed House, amended.
Oct. 8, Senate concurred in House amendment.

Public Law 103-400
103d Congress

An Act

To authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

Oct. 22, 1994
[S. 1225]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States-Mexico Border Health Commission Act. State listing. 22 USC 290n note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

22 USC 290n.

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

22 USC 290n-1.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis,

health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

22 USC 290n-3.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

President.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

22 USC 290n-4.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commis-

sion should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS. 22 USC 290n-5.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS. 22 USC 290n-6.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 1225 (H.R. 2305):

HOUSE REPORTS: No. 103-710, Pt. 1 accompanying H.R. 2305 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Sept. 30, considered and passed Senate.

Oct. 3, 4, considered and rejected in House.

Oct. 5, considered and passed House.

Public Law 103-401
103d Congress

An Act

Oct. 22, 1994
[S. 1312]

To amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pension Annuitants Protection Act of 1994.
29 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Annuitants Protection Act of 1994".

SEC. 2. CIVIL ENFORCEMENT OF ERISA.

Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended—

(1) by striking the "or" after the semicolon at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(9) in the event that the purchase of an insurance contract or insurance annuity in connection with termination of an individual's status as a participant covered under a pension plan with respect to all or any portion of the participant's pension benefit under such plan constitutes a violation of part 4 of this title or the terms of the plan, by the Secretary, by any individual who was a participant or beneficiary at the time of the alleged violation, or by a fiduciary, to obtain appropriate relief, including the posting of security if necessary, to assure receipt by the participant or beneficiary of the amounts provided or to be provided by such insurance contract or annuity, plus reasonable prejudgment interest on such amounts.".

SEC. 3. WAIVER OR REDUCTION OF CIVIL PENALTY.

Section 502(l)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(3)(B)) is amended by inserting "(or to provide the relief ordered pursuant to subsection (a)(9))" after "to restore all losses to the plan".

29 USC 1132 note.

SEC. 4. EFFECT ON OTHER PROVISIONS.

Nothing in this Act shall be construed to limit the legal standing of individuals to bring a civil action as participants or beneficiaries under section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)), and nothing in this Act shall affect the responsibilities, obligations, or duties imposed upon fidu-

ciaries by title I of the Employee Retirement Income Security Act of 1974.

SEC. 5. EFFECTIVE DATE.

29 USC 1132 note.

The amendments made by this Act shall apply to any legal proceeding pending, or brought, on or after May 31, 1993.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 1312:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Oct. 28, considered and passed Senate.
Vol. 140 (1994): Oct. 3, considered and passed House.

Public Law 103-402
103d Congress

An Act

Oct. 22, 1994
[S. 1457]

To amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATIONS.

(a) IN GENERAL.—Section 205(d)(4) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–4(d)(4)) is amended by striking "$1,400,000" and inserting "$4,700,000".

50 USC app. 1989c–4 note.

(b) FUND.—If the Fund referred to in section 205(a) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–4(a)) has been terminated pursuant to section 203(d) of such Act (50 U.S.C. App. 1989c–2(d)), upon the appropriation of additional funds pursuant to this Act, the Fund shall be reestablished.

50 USC app. 1989c–4 note.

(c) USE OF FUNDS.—The funds appropriated pursuant to this Act shall be used solely for the renovation, replacement, and restoration of church property lost, damaged, or destroyed during World War II.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 1457:

HOUSE REPORTS: No. 103-833 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 20, considered and passed Senate.
Vol. 140 (1994): Oct. 4, 5, considered and passed House, amended.
Oct. 8, Senate concurred in House amendment.

Public Law 103-403
103d Congress

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

Oct. 22, 1994
[S. 2060]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Administration Reauthorization and Amendments Act of 1994.
15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendments Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American Tribal Governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan technical assistance grants for intermediaries serving economically distressed areas.
Sec. 209. Loans to exporters.
Sec. 210. Working capital international trade loans.
Sec. 211. Guarantees on international trade loans.
Sec. 212. Accredited lenders program.
Sec. 213. Interest rate on certified development company loans.
Sec. 214. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 215. Participating securities for smaller SBICs.
Sec. 216. Report on SBIC program.
Sec. 217. Premier Certified Lenders Program.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Sec. 301. Establishment of size standards.
Sec. 302. Pilot preferred surety bond guarantee program extension.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.
Sec. 304. Pilot program for very small business concerns.
Sec. 305. Handicapped workshop participation in small business set aside contracts.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.

Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Central European small business development.
Sec. 406. Mobile resource center pilot program.
Sec. 407. Information concerning franchising.

Subtitle B—Development of Woman-Owned Businesses

Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. Development of women's business enterprise.
Sec. 414. Transition reimbursement.
Sec. 415. Gift authority.
Sec. 416. Conforming amendment.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Sec. 501. Short title.
Sec. 502. Intention of Congress.
Sec. 503. Prepayment of development company debentures.

TITLE VI—MISCELLANEOUS AMENDMENTS

Sec. 601. SBA interest payments to Treasury.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Study and data base: guaranteed business loan program and development company program.
Sec. 607. SBIR vendors.
Sec. 608. Program extension.
Sec. 609. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 610. Office of Advocacy employees.
Sec. 611. Prohibition on the provision of assistance.
Sec. 612. Certification of compliance with child support obligations.
Sec. 613. Advocacy study of paperwork and tax impact.

Grants.
Contracts.
Loans.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(l) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make—

"(A) $45,000,000 in technical assistance grants as provided in section 7(m); and

"(B) $130,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

"(i) not more than $10,000,000 in loans, as provided in section 7(a)(10); and

"(ii) not more than $120,000,000 in loans, as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,420,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,150,000,000 in general business loans as provided in section 7(a);

"(B) $2,250,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $23,000,000 in purchases of preferred securities;

"(B) $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $400,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $600,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $5,000,000, to remain available until expended.

"(m)(1) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration. Appropriations authorization.

"(2) Notwithstanding paragraph (1), for fiscal year 1995—

"(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (l)(2)(A) is fully funded; and

"(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make—

"(A) $65,000,000 in technical assistance grants as provided in section 7(m); and

"(B) $191,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

"(i) $11,000,000 in loans, as provided in section 7(a)(10); and

"(ii) $180,000,000 in loans, as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,680,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,500,000,000 in general business loans as provided in section 7(a);

"(B) $2,650,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $30,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $24,000,000 in purchases of preferred securities;

"(B) $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $650,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,900,000,000, of which not more than $625,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,700,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,200,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $10,000,000, to remain available until expended.

Appropriations authorization.

"(o)(1) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(2) Notwithstanding paragraph (1), for fiscal year 1996—

"(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (n)(2)(A) is fully funded; and

"(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make—

"(A) $98,000,000 in technical assistance grants as provided in section 7(m); and

"(B) $262,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

"(i) $12,000,000 in loans, as provided in section 7(a)(10); and

"(ii) $250,000,000 in loans, as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,390,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $13,100,000,000 in general business loans as provided in section 7(a);

"(B) $3,250,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $40,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $25,000,000 in purchases of preferred securities;

"(B) $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $900,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,900,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,400,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

"(q)(1) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(2) Notwithstanding paragraph (1), for fiscal year 1997—

"(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (p)(2)(A) is fully funded; and

"(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;
(2) in clause (iv), by striking the comma at the end and inserting "; or"; and
(3) by adding at the end the following new clause:
"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102–140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1997". 15 USC 636 note.

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended to read as follows:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—During the demonstration program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 200 microloan programs.

"(B) STATE LIMITATIONS.—During any fiscal year, a State shall not receive new loan funds from the Administration that exceed 125 percent of the State's pro rata share of the microloan program authorization during such fiscal year, such share to be based on the population of the State, as compared to the total population of the United States.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) EQUITABLE DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will ensure appropriate availability of loans for small businesses in all industries located throughout each State, particularly those located in urban and in rural areas.". Urban areas. Rural areas.

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2, 500,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 15 percent of the grant funds received under paragraph (1)(B)(ii) to provide information and technical assistance to small business concerns that are prospective borrowers under this subsection.".

SEC. 208. MICROLOAN TECHNICAL ASSISTANCE GRANTS FOR INTERMEDIARIES SERVING ECONOMICALLY DISTRESSED AREAS.

(a) GRANT ELIGIBILITY.—Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

(b) DEFINITION.—Section 7(m)(11) of the Small Business Act (15 U.S.C. 636(m)(11)) is amended—

(1) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following new subparagraph:

"(D) the term 'economically distressed area', as used in paragraph (4), means a county or equivalent division of local government of a State in which the small business concern is located, in which, according to the most recent data available from the Bureau of the Census, Department of Commerce, not less than 40 percent of residents have an annual income that is at or below the poverty level.".

15 USC 636 note.

(c) TERMINATION.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on October 1, 1997.

SEC. 209. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 210. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 211. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 212. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM. 15 USC 697d.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a loss rate on the company's debentures that is reasonable and acceptable to the Administration;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

15 USC 697d note.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

15 USC 697d note.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), and biennially thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 213. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

15 USC 697.

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

15 USC 697d note.

(2) by striking paragraph (2).

SEC. 214. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 215. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of not more than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of not more than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of more than $20,000,000.".

SEC. 216. REPORT ON SBIC PROGRAM.

Not later than May 15, 1995, the Small Business Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a comprehensive report on—

(1) the status and disposition of all small business investment companies participating in the Small Business Investment Company Program under subsections (c) and (d) of section 301 of the Small Business Investment Act of 1958, whether active or in liquidation;

(2) a complete accounting of the assets in and the basis of the portfolios of such companies;

(3) the projected and actual loss rates for all portfolios in liquidation or active; and

(4) a detailed accounting of valuation of the Small Business Investment Company Program's investments.

SEC. 217. PREMIER CERTIFIED LENDERS PROGRAM.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 508. PREMIER CERTIFIED LENDERS PROGRAM. 15 USC 697e.

"(a) ESTABLISHMENT.—On a pilot program basis, the Administration may establish a Premier Certified Lenders Program for not more than 15 certified development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) APPLICATION.—To be eligible to participate in the Premier Certified Lenders Program established under subsection (a), a certified development company shall prepare and submit to the Administration an application at such time, in such manner, and containing such information as the Administration may require.

"(2) DESIGNATION.—The Administration may designate a certified development company as a premier certified lender if such company—

"(A) has been an active participant in the accredited lenders program during the 12-month period preceding the date on which the company submits an application under paragraph (1), except that, prior to January 1, 1996, the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

"(B) has a history of submitting to the Administration adequately analyzed debenture guarantee application packages; and

"(C) agrees to assume and to reimburse the Administration for 10 percent of any loss sustained by the Administration as a result of default by the company in the payment of principal or interest on a debenture issued by

such company and guaranteed by the Administration under this section.

"(c) LOSS RESERVE.—

"(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financings approved pursuant to this section.

"(2) AMOUNT.—The amount of the loss reserve shall be based upon the greater of—

"(A) the historic loss rate on debentures issued by such company; or

"(B) 10 percent of the amount of the company's exposure as determined under subsection (b)(2)(C).

"(3) ASSETS.—The loss reserve shall be comprised of segregated assets of the company which shall be securitized in favor of the Administration.

"(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve in the following amounts and at the following intervals:

"(A) 50 percent when a debenture is closed.

"(B) 25 percent not later than 1 year after a debenture is closed.

"(C) 25 percent not later than 2 years after a debenture is closed.

"(d) LOAN APPROVAL AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding section 503(b)(6), and subject to such terms and conditions as the Administration may establish, the Administration may permit a company designated as a premier certified lender under this section to approve loans that are funded with the proceeds of a debenture issued by such company and may authorize the guarantee of such debenture.

"(2) SCOPE OF REVIEW.—The approval of a loan by a premier certified lender shall be subject to final approval as to eligibility of any guarantee by the Administration pursuant to section 503(a), but such final approval shall not include review of decisions by the lender involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

"(e) REVIEW.—After the issuance and sale of debentures under this section, the Administration, at intervals not greater than 12 months, shall review the financings made by each premier certified lender. The review shall include the lender's credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized under this section. The Administration shall consider the findings of the review in carrying out its responsibilities under subsection (f), but such review shall not affect any outstanding debenture guarantee.

"(f) SUSPENSION OR REVOCATION.—The designation of a State or local development company as a premier certified lender may be suspended or revoked if the Administration determines that the company—

"(1) has not continued to meet the criteria for eligibility under subsection (b);

"(2) has not established or maintained the loss reserve required under subsection (c);

"(3) is failing to adhere to the Administration's rules and regulations; or

"(4) is violating any other applicable provision of law.

"(g) EFFECT OF SUSPENSION OR DESIGNATION.—A suspension or revocation under subsection (f) shall not affect any outstanding debenture guarantee.

"(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Administration shall promulgate regulations to carry out this section.

"(i) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Each report shall include—

"(1) the number of certified development companies designated as premier certified lenders;

"(2) the debenture guarantee volume of such companies;

"(3) a comparison of the loss rate for premier certified lenders to the loss rate for accredited and other lenders; and

"(4) such other information as the Administration deems appropriate.".

(b) REPEAL.—Effective on October 1, 1997, section 508 of the Small Business Investment Act of 1958, as added by subsection (a), is repealed. Effective date. 15 USC 697e.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. ESTABLISHMENT OF SIZE STANDARDS.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) ESTABLISHMENT OF SIZE STANDARDS.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years;

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; or

"(IV) other appropriate factors; and

"(iii) is approved by the Administrator.".

SEC. 302. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

15 USC 644 note.

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Small Business Administration, such sums as may be necessary to carry out this section.

15 USC 644 note.

SEC. 304. PILOT PROGRAM FOR VERY SMALL BUSINESS CONCERNS.

(a) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program in accordance with the requirements of this section to provide improved access to Federal contract opportunities for very small business concerns.

(b) PROCUREMENT CONTRACTS.—

(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall identify procurement contracts of Federal agencies for award under the program.

(2) CONTRACT AWARDS.—Under the program established pursuant to this section, the award of a procurement contract of a Federal agency identified by the Administration pursuant to paragraph (1) shall be made by the agency to an eligible

program participant selected, and determined to be responsible, by the agency.

(3) COMPETITION.—All contract opportunities offered for award under the program shall be awarded on the basis of competition among eligible very small business concerns.

(c) ELIGIBILITY.—Only a very small business concern shall be eligible to compete for a contract to be awarded under the program. A contracting officer may rely in good faith on a written certification that a small business concern is a very small business concern.

(d) DELEGATION OF AUTHORITY.—The authority of the Administrator under subsections (b)(1) and (c) shall be delegated to not less than 5 and not more than 10 districts of the Administration to promote the award of contracts that can be performed by very small business concerns.

(e) FINANCIAL ASSISTANCE.—In order to assist very small business concerns receiving contract awards under the program, the Administrator shall establish a preauthorization program for such concerns for the purpose of receiving financial assistance under section 7(a) of the Small Business Act.

(f) ATTAINMENT OF CONTRACT GOALS.—All contract awards made under the program shall be counted toward the attainment of the goals specified in section 15(g) of the Small Business Act.

(g) REGULATIONS.—The Administrator shall—

(1) issue proposed regulations to carry out this section not later than 180 days after the date of enactment of this Act; and

(2) issue final regulations to carry out this section not later than 270 days after the date of enactment of this Act.

(h) REPORT TO CONGRESS.—Not later than April 30, 1997, the Administrator shall transmit to the Congress a report on the results of the program, together with such recommendations as the Administrator deems appropriate.

(i) PROGRAM TERM.—Implementation of the program shall begin not later than August 30, 1995. The program authorized by this section shall expire on September 30, 1998.

(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration.

(3) PROGRAM.—The term "program" means a program established pursuant to subsection (a).

(4) VERY SMALL BUSINESS CONCERN.—The term "very small business concern" means a small business concern that—

(A) has not more than 15 employees; and

(B) has average annual receipts that total not more than $1,000,000.

SEC. 305. HANDICAPPED WORKSHOP PARTICIPATION IN SMALL BUSINESS SET ASIDE CONTRACTS.

Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(2)(A) During fiscal year 1995, public or private organizations for the handicapped shall be eligible to participate in programs

authorized under this section in an aggregate amount not to exceed $40,000,000."; and

(2) by adding at the end the following new paragraph:

"(7) Agencies awarding one or more contracts to such an organization pursuant to the provisions of this subsection may use multiyear contracts, if appropriate.".

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

15 USC 637 note.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—Except as provided in clause (ii), no State receiving funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the sum of such State's pro rata share of a national program based upon the population of the State as compared to the total population in the United States, and $125,000; or

"(II) in each succeeding fiscal year, the sum of such State's pro rata share of a national program based upon the population of the State as compared to the total population in the United States, and $200,000.

"(ii) EXCEPTION.—Grants provided to a small business development center by the Administration or another agency to carry out the provisions of subsection (c)(3)(G)

shall not be included in the calculation of maximum funding of a small business development center.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1996;

"(II) $77,500,000 from October 1, 1996 through September 30, 1997; and

"(III) $85,000,000 beginning October 1, 1997.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—Subject to the conditions set forth in subparagraph (B), a small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns.

"(B) CONTRACT PREREQUISITES.—Before bidding on a contract described in subparagraph (A), a small business development center shall receive approval from the Associate Administrator of the small business development center program of the subject and general scope of the contract. Each approval under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph shall not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biennial programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association

authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. CENTRAL EUROPEAN SMALL BUSINESS DEVELOPMENT.

Section 25(i) of the Small Business Act (15 U.S.C. 652(i)) is amended by striking "and $2,000,000 for each of fiscal years 1993 and 1994" and inserting ", $2,000,000 for each of fiscal years 1993 and 1994, and $1,000,000 for fiscal year 1995".

15 USC 637 note.

SEC. 406. MOBILE RESOURCE CENTER PILOT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Small Business Administration may establish and carry out in each of fiscal years 1995, 1996, and 1997 a mobile resource pilot program (hereafter in this section referred to as the "program") in accordance with the requirements of this section.

(b) MOBILE RESOURCE CENTER VEHICLES.—Under the program, the Administration may use mobile resource center vehicles to provide technical assistance, information, and other services available from the Small Business Administration to traditionally underserved populations. Two of such vehicles should be utilized in rural areas and 2 of such vehicles should be utilized in urban areas.

(c) REPORT TO CONGRESS.—If the Administrator conducts the program authorized in this section, the Administrator shall, not later than December 31, 1996, transmit to the Congress a report containing the results of such program, together with recommendations for appropriate legislative and administrative action.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $900,000 for each of fiscal years 1995, 1996, and 1997, such sums to remain available until expended. Of such sums—

(1) $800,000 may be made available for the purchase or lease of mobile resource center vehicles and operating expenses; and

(2) $100,000 may be made available for studies, startup expenses, and other administrative expenses.

SEC. 407. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

15 USC 656.

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997". 15 USC 656.

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411 of this Act, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE.

Title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

"SEC. 401. ESTABLISHMENT OF THE INTERAGENCY COMMITTEE.

"There is established an interagency committee to be known as the Interagency Committee on Women's Business Enterprise.

"SEC. 402. DUTIES OF THE INTERAGENCY COMMITTEE.

"(a) IN GENERAL.—The Interagency Committee shall—

"(1) monitor, coordinate, and promote the plans, programs, and operations of the departments and agencies of the Federal Government that may contribute to the establishment and growth of women's business enterprise;

"(2) develop and promote new public sector initiatives, policies, programs, and plans designed to foster women's business enterprise;

"(3) review, monitor, and coordinate plans and programs, developed in the public sector, which affect the ability of women-owned businesses to obtain capital and credit;

"(4) promote and assist, as appropriate, in the development of surveys of women-owned business; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate growth and development of women's business enterprise, which plan shall, not later than 1 year after the effective date of the Small Business Administration Reauthorization and Amendments Act of 1994, be submitted to the President for review.

"(b) MEETINGS.—The Interagency Committee shall meet not less than biannually at such times as the Interagency Committee determines to be necessary to perform the duties under subsection (a). A majority of the members of the Committee shall constitute a quorum for the approval of recommendations or reports issued pursuant to this section.

"(c) INTERACTION WITH COUNCIL.—In performing its duties under subsection (a), the Interagency Committee shall consult with

the Council. The Interagency Committee may meet jointly with the Council at the discretion of the chairperson of the Interagency Committee and the chairperson of the Council, but not less frequently than twice annually. The chairperson of the Interagency Committee shall serve as chairperson of any joint meetings of the Interagency Committee and the Council.

"SEC. 403. MEMBERSHIP OF THE INTERAGENCY COMMITTEE.

"(a) IN GENERAL.—

"(1) PARTICIPANTS.—The Interagency Committee shall be composed of 1 representative from each of the following:

"(A) The Department of Commerce.
"(B) The Department of Defense.
"(C) The Department of Health and Human Services.
"(D) The Department of Labor.
"(E) The Small Business Administration.
"(F) The Department of Transportation.
"(G) The Department of the Treasury.
"(H) The General Services Administration.
"(I) The Board of Governors of the Federal Reserve.
"(J) The Executive staff of the President engaged in policymaking activities.

"(2) APPOINTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the head of each department and agency listed in paragraph (1) shall, not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, designate a representative who shall be a policymaking official within the department or agency.

"(B) SMALL BUSINESS ADMINISTRATION.—With respect to the Small Business Administration, the representative shall be the Assistant Administrator of the Office of Women's Business Ownership, who also shall serve as the vice chairperson of the Interagency Committee.

"(3) OTHER PARTICIPATION.—Other representatives of the Federal Government not listed in paragraph (1) may participate in the meetings and functions of the Interagency Committee on a temporary basis as needed to carry out specific Interagency Committee goals.

"(b) APPOINTMENT OF CHAIRPERSON.—Not later than 45 days after enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the President, in consultation with the Administrator of the Small Business Administration, shall appoint 1 of the members of the Interagency Committee to serve as chairperson.

"(c) NONCOMPENSATION.—The members of the Interagency Committee shall serve without additional pay for such membership.

"(d) DETAIL OF FEDERAL EMPLOYEES.—Upon request by the chairperson of the Interagency Committee, the head of any Federal department or agency may detail any of the personnel of such agency to assist the Interagency Committee in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.

"SEC. 404. REPORTS FROM THE INTERAGENCY COMMITTEE.

"Not later than September 30, 1995, and annually thereafter, the Interagency Committee shall transmit to the President and

to the Committees on Small Business of the Senate and the House of Representatives, a report containing—

"(1) any recommendations of the Council and any comments of the Interagency Committee thereon;

"(2) a detailed description of the activities of the Interagency Committee;

"(3) the findings and conclusions of the Interagency Committee; and

"(4) the Interagency Committee's recommendations for such legislation and administrative actions as the Interagency Committee considers appropriate to promote the development of small business concerns owned and controlled by women.

"SEC. 405. ESTABLISHMENT OF THE NATIONAL WOMEN'S BUSINESS COUNCIL.

"There is established a council to be known as the National Women's Business Council, which shall serve as an independent source of advice and policy recommendations to the Interagency Committee, to the Administrator through the Assistant Administrator of the Office of Women's Business Ownership, to the Congress, and to the President.

"SEC. 406. DUTIES OF THE COUNCIL.

"(a) IN GENERAL.—The Council shall advise and consult with the Interagency Committee on matters relating to the activities, functions, and policies of the Interagency Committee, as provided in this title. The Council shall meet jointly with the Interagency Committee at the discretion of the chairperson of the Council and the chairperson of the Interagency Committee, but not less than biannually.

"(b) MEETINGS.—The Council shall meet separately at such times as the Council deems necessary. A majority of the members of the Council shall constitute a quorum for the approval of recommendations or reports issued pursuant to this section.

"(c) RECOMMENDATIONS.—The Council shall make annual recommendations for consideration by the Interagency Committee. The Council shall also provide reports and make such other recommendations as it deems appropriate to the Interagency Committee, to the President, to the Administrator, and to the Committees on Small Business of the Senate and the House of Representatives.

"(d) OTHER DUTIES.—The Council shall—

"(1) review, coordinate, and monitor plans and programs developed in the public and private sectors, which affect the ability of women-owned business enterprises to obtain capital and credit;

"(2) promote and assist in the development of a women's business census and other surveys of women-owned businesses;

"(3) monitor and promote the plans, programs, and operations of the departments and agencies of the Federal Government which may contribute to the establishment and growth of women's business enterprise;

"(4) develop and promote new initiatives, policies, programs, and plans designed to foster women's business enterprise; and

"(5) advise and consult with the Interagency Committee in the design of a comprehensive plan for a joint public-private sector effort to facilitate growth and development of women's business enterprise.

"SEC. 407. MEMBERSHIP OF THE COUNCIL.

President.

"(a) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the President shall appoint an individual to serve as chairperson of the Council, in consultation with the Administrator. The chairperson of the Council shall be a prominent business woman who is qualified to head the Council by virtue of her education, training, and experience.

"(b) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the Administrator shall appoint, in consultation with the Assistant Administrator of the Office of Women's Business Ownership and the chairperson of the Council appointed under subsection (a), 9 members of the Council, of whom—

"(1) 2 shall be—

"(A) owners of small businesses, as such term is defined in section 3 of the Small Business Act; and

"(B) members of the same political party as the President;

"(2) 2 shall—

"(A) be owners of small businesses, as such term is defined in section 3 of the Small Business Act; and

"(B) not be members of the same political party as the President; and

"(3) 5 shall be representatives of national women's business organizations.

"(c) DIVERSITY.—In appointing members of the Council, the Administrator shall, to the extent possible, ensure that the members appointed reflect geographic, racial, economic, and sectoral diversity.

"(d) SERVICE TERM.—The term of service of the members of the Council shall be 3 years.

"(e) OTHER FEDERAL SERVICE.—If any member of the Council subsequently becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the 30-day period beginning on the date on which such individual becomes such an officer or employee.

"(f) VACANCIES.—A vacancy on the Council shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(g) REIMBURSEMENTS.—Members of the Council shall serve without pay for such membership, except that members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(h) EXECUTIVE DIRECTOR.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization Act of 1994, the Administrator, in consultation with the chairperson of the Council, shall appoint an executive director of the Council. Upon the recommendation by the executive director, the chairperson of the Council may appoint and fix the pay of 4 additional employees of the Council, at a rate of pay not to exceed the maximum rate of pay payable for a position at GS–

15 of the General Schedule. All such appointments shall be subject to the appropriation of funds.

"(i) RATES OF PAY.—The executive director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (e), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the annual rate of basic pay payable for a position at ES–3 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"SEC. 408. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Administration' means the Small Business Administration;

"(2) the term 'Administrator' means the Administrator of the Small Business Administration;

"(3) the term 'control' means exercising the power to make policy decisions concerning a business;

"(4) the term 'Council' means the National Women's Business Council, established under section 405;

"(5) the term 'Interagency Committee' means the Interagency Committee on Women's Business Enterprise, established under section 401;

"(6) the term 'operate' means being actively involved in the day-to-day management of a business;

"(7) the term 'women's business enterprise' means—

"(A) a business or businesses owned by a woman or a group of women; or

"(B) the establishment, maintenance, or development of a business or businesses by a woman or a group of women; and

"(8) the term 'women-owned business' means a small business which a woman or a group of women—

"(A) control and operate; and

"(B) own not less than 51 percent of the business.

"SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each of fiscal years 1995 through 1997, to carry out this title, $350,000.".

SEC. 414. TRANSITION REIMBURSEMENT. 15 USC 631 note.

(a) IN GENERAL.—Subject to the limitation contained in subsection (b), in order to provide continuity in the development of women-owned business, the Administration may approve reasonable amounts made available to carry out title IV of the Women's Business Ownership Act of 1988 to be used to pay the salaries, if any, and expenses of the members and staff of the National Women's Business Council that are appointed on or before the date of enactment of this Act.

(b) TIME PERIOD.—No payments shall be made under subsection (a) after the expiration of the 90-day period beginning on the date of enactment of this Act.

SEC. 415. GIFT AUTHORITY.

Section 8(b)(1)(G) of the Small Business Act (15 U.S.C. 637(b)(1)(G)) is amended by striking "section 8(b)(1) of this Act" and by inserting "this Act and to carry out the activities authorized by title IV of the Women's Business Ownership Act of 1988".

SEC. 416. CONFORMING AMENDMENT.

The table of contents for the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking the items relating to title IV and inserting the following:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

"Sec. 401. Establishment of the Interagency Committee.
"Sec. 402. Duties of the Interagency Committee.
"Sec. 403. Membership of the Interagency Committee.
"Sec. 404. Reports from the Interagency Committee.
"Sec. 405. Establishment of the National Women's Business Council.
"Sec. 406. Duties of the Council.
"Sec. 407. Membership of the Council.
"Sec. 408. Definitions.
"Sec. 409. Authorization of Appropriations.".

Small Business Prepayment Penalty Relief Act of 1994.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

15 USC 661 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

15 USC 697f note.

SEC. 502. INTENTION OF CONGRESS.

(a) IN GENERAL.—The Small Business Administration shall fully utilize the $30,000,000 appropriated in Public Law 103-317 to reduce, in accordance with this title and the amendments made by this title, prepayment penalties imposed in connection with debentures issued under—

(1) section 303 or 503 of the Small Business Investment Act of 1958, which have been purchased by the Federal Financing Bank; and

(2) title III to companies operating under section 301(d) of such Act, which have been purchased by the Small Business Administration.

(b) EQUAL OPPORTUNITY.—In order to provide an equal opportunity to participate in the program authorized under this title, the Small Business Administration shall afford each borrower or issuer of a debenture subject to this title, not less than 45 days to elect to participate and to provide an earnest money deposit. The Administration shall subsequently allow a period of not less than 4 months, during which those borrowers or issuers that elect to participate shall be allowed to complete the prepayment process.

(c) RESTRICTIONS ON PARTICIPATION.—In no event shall the Small Business Administration—

(1) allow any borrower or issuer to participate in the program if the borrower or issuer fails to—

(A) make a timely election and provide the deposit on a timely basis; or

(B) complete the prepayment process within the required time; or

(2) allow any borrower or issuer to participate in the program at a percentage rate other than the rate finally determined to be applicable to all other borrowers or issuers with similar terms of years.

SEC. 503. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), as amended by section 217, is amended by adding at the end the following new section:

"SEC. 509. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES. 15 USC 697f.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under this Act may, at the election of the borrower (in the case of a loan under section 503) or the issuer (in the case of a small business investment company) and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section. A small business investment company operating under the authority of section 301(d) that has issued a debenture that was purchased by and is held by the Administration, may, under the same terms and conditions, prepay such debenture, and the penalty as provided in this section, and shall thereafter be immediately eligible to apply for additional assistance from the Administration.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower (in the case of a loan under section 503) or the issuer (in the case of a small business investment company) shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance with clauses (ii) and (iii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 8.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(iii) ADJUSTMENTS TO APPLICABLE PERCENTAGE RATE.—The percentage rates described in clause (ii) shall be increased or decreased by the Administration by a factor not to exceed one-third, if the same factor is applied in each case and if the Administration determines that an adjustment is necessary, based on the number of borrowers having given notice of their intent to participate, in order to make the program (including the amounts appropriated for this purpose under Public Law 103–317) result in no substantial net gain or loss of revenue to the Federal Financing Bank or to the Administration. Amounts collected in excess of the amount necessary to ensure revenue neutrality shall be refunded to the borrowers.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture, if any, nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by this title, are used to prepay or roll over the debenture; and

"(3) with respect to a debenture issued under section 503, the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2)—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) except as provided in paragraphs (2) and (3), shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection

(b)(2) may impose a one-time loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(4) NEW DEBENTURES.—Issuers of debentures under title III may issue new debentures in accordance with such title in order to prepay existing debentures as authorized in this section.

"(5) PRELIMINARY NOTICE.—

"(A) IN GENERAL.—The Administration shall use certified mail and other reasonable means to notify each eligible borrower of the prepayment program provided in this title. Each preliminary notice shall specify the range and dollar amount of repurchase premiums which could be required of that borrower in order to participate in the program. In carrying out this program, the Administration shall provide a period of not less than 45 days following the receipt of such notice by the borrower during which the borrower must notify the Administration of the borrower's intent to participate in the program. The Administration shall require that a borrower who gives notice of its intent to participate to make an earnest money deposit of $1,000 which shall not be refundable but which shall be credited toward the final repurchase premium.

"(B) DEFINITION.—For purposes of this paragraph, the term 'borrower', in the case of a small business investment company or a specialized small business investment company, means 'issuer'.

"(6) FINAL NOTICE.—Based upon the response to the preliminary notice under paragraph (5), the Administration shall make a final computation of the necessary prepayment premiums and shall notify each qualified respondent of the results of such computation. Each qualified respondent shall be afforded not less than 4 months to complete the prepayment.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means—

"(A) the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(B) a small business investment company licensed pursuant to subsection (c) or (d) of section 301; or

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.

"(f) REGULATIONS.—Not later than 30 days after the date of enactment of this section, the Administration shall promulgate such regulations as may be necessary to carry out this section.

"(g) AUTHORIZATION.—There are authorized to be appropriated $30,000,000 to carry out the provisions of The Small Business Prepayment Penalty Relief Act of 1994.".

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. SBA INTEREST PAYMENTS TO TREASURY.

Section 4(c)(5)(B)(ii) of the Small Business Act (15 U.S.C. 633(c)(5)(B)(ii)) is amended to read as follows:

"(ii) Following the close of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest that the Administration collects during that fiscal year on all financings made under this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $100 for each loan servicing action (other than a loan assumption) requested after disbursement of the loan, including any substitution of collateral, release or substitution of a guarantor, reamortization, or similar action;

"(B) not to exceed $300 for loan assumptions;

"(C) not to exceed 1 percent of the amount of requested financings under title III of the Small Business Investment Act of 1958 for which the applicant requests a commitment from the Administration for funding during the following year; and

"(D) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of this Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph and paragraph (12) shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94–305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—For purposes of the study conducted under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a), using data from the most recent 4-year period. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 607. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 608. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1997".

SEC. 609. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 610. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94–305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1), by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 611. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that has been determined to be obscene by a court of competent jurisdiction.".

SEC. 612. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 611, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—For financial assistance approved after the promulgation of final regulations to implement this section, each recipient of financial assistance under this Act, including a recipient of a direct loan or a loan guarantee, shall certify that the recipient is not more than 60 days delinquent under the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the recipient and the custodial parent or State agency providing child support enforcement services,

that requires the recipient to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall promulgate such regulations as may be necessary to enforce compliance with the requirements of this subsection.". Regulations.

SEC. 613. ADVOCACY STUDY OF PAPERWORK AND TAX IMPACT. 15 USC 634 note.

The Chief Counsel for Advocacy of the Small Business Administration shall conduct a study of the impact of all Federal regulatory, paperwork, and tax requirements upon small business, and report its findings to the Congress not later than 1 year after the date of enactment of this Act. Reports.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 2060 (H.R. 4801):

HOUSE REPORTS: Nos. 103-616 accompanying H.R. 4801 (Comm. on Small Business) and 103-824 (Comm. of Conference).
SENATE REPORTS: No. 103-332 (Comm. on Small Business)
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 18, considered and passed Senate.
Sept. 21, H.R. 4801 considered and passed House; S. 2060, amended, passed in lieu.
Oct. 4, House agreed to conference report.
Oct. 5, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 22, Presidential statement.

Public Law 103-404
103d Congress

An Act

Oct. 22, 1994
[S. 2073]

To designate the Warren B. Rudman United States Courthouse, the Jamie L. Whitten Federal Building, and the William H. Natcher Federal Building and United States Courthouse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WARREN B. RUDMAN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

SEC. 2. JAMIE L. WHITTEN FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, shall be known and designated as the "Jamie L. Whitten Federal Building".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Jamie L. Whitten Federal Building".

SEC. 3. WILLIAM H. NATCHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, shall be known and designated as the "William H. Natcher Federal Building and United States Courthouse".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "William H. Natcher Federal Building and United States Courthouse".

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 2073:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 17, considered and passed Senate.
Oct. 7, considered and passed House, amended. Senate concurred in House amendment.

Public Law 103-405
103d Congress

An Act

Oct. 22, 1994
[S. 2395]

To designate the United States Courthouse in Detroit, Michigan, as the "Theodore Levin Courthouse", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE.

(a) REDESIGNATION.—The courthouse facility located at 231 West Lafayette, in Detroit, Michigan, shall be known and designated as the "Theodore Levin Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse facility referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin Courthouse".

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 2395 (H.R. 4967):

HOUSE REPORTS: No. 103-762 accompanying H.R. 4967 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed Senate.
Oct. 3, 4, H.R. 4967 considered and passed House.
Oct. 7, S. 2395 considered and passed House.

Public Law 103-406
103d Congress

An Act

To amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes.

Oct. 22, 1994
[S. 2466]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act of 1994".

Energy Policy and Conservation Act Amendments Act of 1994. 42 USC 6201 note.

TITLE I—ENERGY POLICY AND CONSERVATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

Energy Policy and Conservation Act Amendments of 1994. 42 USC 6201 note.

SEC. 102. TITLE I AMENDMENTS.

Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

SEC. 103. TITLE II AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 2466:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed Senate.
Oct. 7, considered and passed House.

Public Law 103-407
103d Congress

An Act

Oct. 22, 1994
[S. 2500]

To enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sheep Promotion, Research, and Information Act of 1994.
7 USC 7101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sheep Promotion, Research, and Information Act of 1994".

7 USC 7101.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) sheep and sheep products are important goods;

(2) the production of sheep and sheep products play a significant role in the economy of the United States in that sheep and sheep products are produced throughout the United States and used by millions of people throughout the United States and foreign countries;

(3) sheep and sheep products must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of sheep products;

(4) the maintenance and expansion of existing markets and development of new markets for sheep and sheep products are vital to the welfare of sheep producers and persons concerned with marketing, using, and producing sheep and sheep products, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of sheep and sheep products;

(5) there exist established State organizations conducting sheep and sheep product promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of sheep and sheep products;

(6) the cooperative development, financing, and implementation of a coordinated national program of sheep and sheep product promotion, research, consumer information, education, and industry information are necessary to maintain and expand existing markets and develop new markets for sheep and sheep products; and

(7) sheep and sheep products move in interstate and foreign commerce, and sheep and sheep products that do not move in such channels of commerce directly burden or affect interstate commerce in sheep and sheep products.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing (through adequate assessments on sheep and sheep products produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, consumer information, education, and industry information designed to—

(1) strengthen the position of the sheep and sheep product industry in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for sheep and sheep products; and

(3) develop new markets and uses for sheep and sheep products.

(c) CONSTRUCTION.—Nothing in this Act provides for the control of production, or otherwise limits, the right of any person to produce sheep or sheep products.

SEC. 3. DEFINITIONS. 7 USC 7102.

As used in this Act (unless the context clearly requires otherwise):

(1) BOARD.—The term "Board" means the National Sheep Promotion, Research, and Information Board established under section 5(b).

(2) CARBONIZED WOOL.—The term "carbonized wool" means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibres.

(3) CONSUMER INFORMATION.—The term "consumer information" means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, or use of sheep products.

(4) CUSTOMS SERVICE.—The term "Customs Service" means United States Customs Service of the Department of the Treasury.

(5) DEGREASED WOOL.—The term "degreased wool" means wool from which the bulk of impurities has been removed by processing.

(6) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(7) EDUCATION.—The term "education" means activities providing information relating to the sheep industry or sheep products to producers, feeders, importers, consumers, and other persons.

(8) EXECUTIVE COMMITTEE.—The term "Executive Committee" means the Executive Committee established under section 5(g).

(9) EXPORTER.—The term "exporter" means any person who exports domestic live sheep or greasy wool from the United States.

(10) FEEDER.—The term "feeder" means a person who feeds lambs until the lambs reach slaughter weight.

(11) GREASY WOOL.—The term "greasy wool" means wool that has not been washed or otherwise cleaned.

(12) HANDLER.—The term "handler" means any person who purchases and markets greasy wool.

(13) IMPORTER.—The term "importer" means any person who imports sheep or sheep products into the United States.

(14) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to increased efficiency in processing and the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of sheep or sheep products on a national or international basis.

(15) ORDER.—The term "order" means a sheep and wool promotion, research, education, and information order issued under section 4.

(16) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(17) PROCESSOR.—The term "processor" means any person who slaughters sheep or processes greasy wool into degreased wool.

(18) PRODUCER.—The term "producer" means any person, other than a feeder, who owns or acquires ownership of sheep.

(19) PRODUCER INFORMATION.—The term "producer information" means activities designed to provide producers, feeders, and importers with information relating to production or marketing efficiencies or developments, program activities, or other information that would facilitate an increase in the consumption of sheep or sheep products.

(20) PROMOTION.—The term "promotion" means any action (including paid advertising) to advance the image and desirability of sheep or sheep products to improve the competitive position, and stimulate sales, of sheep products in the domestic and international marketplace.

(21) PULLED WOOL.—The term "pulled wool" means wool that is pulled from the skin of a slaughtered sheep.

(22) QUALIFIED STATE SHEEP BOARD.—The term "qualified State sheep board" means a sheep and wool promotion entity that—

(A) is authorized by State statute or is otherwise organized and operating within a State;

(B) receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both; and

(C) is recognized by the Board as the sheep and wool promotion entity within the State;

except that not more than 1 qualified State sheep board shall exist in any State at any 1 time.

(23) RAW WOOL.—The term "raw wool" means greasy wool, pulled wool, degreased wool, or carbonized wool.

(24) RESEARCH.—The term "research" means development projects and studies relating to the production (including the feeding of sheep), processing, distribution, or use of sheep or sheep products to encourage, expand, improve, or make more efficient the marketing of sheep or sheep products.

(25) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(26) SHEEP.—The term "sheep" means ovine animals of any age, including lambs.

(27) SHEEP PRODUCTS.—The term "sheep products" means products produced, in whole or in part, from sheep, including wool and products containing wool fiber.

(28) STATE.—The term "State" means each of the 50 States.

(29) UNIT.—The term "unit" means each State, group of States, or class designation that is represented on the Board.

(30) UNITED STATES.—The term "United States" means the 50 States and the District of Columbia.

(31) WOOL.—The term "wool" means the fiber from the fleece of a sheep.

(32) WOOL PRODUCTS.—The term "wool products" means products produced, in whole or in part, from wool and products containing wool fiber.

SEC. 4. ISSUANCE AND AMENDMENT OF ORDERS. 7 USC 7103.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall issue orders under this Act applicable to producers, feeders, importers, handlers, and purchasers of sheep and sheep products. Any order shall be national in scope. Not more than 1 order shall be in effect under this Act at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order under this Act, or an association of producers may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.— Publication.
Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDERS.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received, that includes provisions necessary to ensure that the order is in conformity with this Act. The order shall be issued not later than 180 days following publication of the proposed order.

(4) REFERENDUM.—The order shall go into effect only if the order is approved by producers, feeders, and importers in a referendum conducted under section 6.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this Act.

SEC. 5. REQUIRED TERMS IN ORDERS. 7 USC 7104.

(a) IN GENERAL.—An order issued under this Act shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a National Sheep Promotion, Research, and Information Board to administer the order. Members of the Board shall be appointed by the Secretary from nominations provided in accordance with this subsection. The cumulative number of seats on the Board shall be 120 and shall be apportioned as follows:

(A) PRODUCERS.—Producers shall be appointed to the Board to represent States, with each State represented by the following number of members:

Alabama	1
Alaska	1
Arizona	1
Arkansas	1
California	5
Colorado	4
Connecticut	1
Delaware	1
Florida	1
Georgia	1
Hawaii	1
Idaho	2
Illinois	1
Indiana	1
Iowa	2
Kansas	1
Kentucky	1
Louisiana	1
Maine	1
Maryland	1
Massachusetts	1
Michigan	1
Minnesota	2
Mississippi	1
Missouri	1
Montana	5
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	1
New Mexico	2
New York	1
North Carolina	1
North Dakota	2
Ohio	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Rhode Island	1
South Carolina	1
South Dakota	4
Tennessee	1
Texas	10
Utah	3
Vermont	1
Virginia	1
Washington	1
West Virginia	1
Wisconsin	1
Wyoming	5

(B) FEEDERS.—The feeder sheep industry shall be represented on the Board by 10 members.

(C) IMPORTERS.—Importers shall be represented on the Board by 25 members.

(D) ALTERNATES.—The order shall provide that a unit represented by only 1 member may have an alternate member appointed to ensure representation at meetings of the Board.

(2) NOMINATIONS.—

(A) PRODUCERS.—The Secretary shall appoint producers to represent units established under paragraph (1)(A) from nominations submitted by eligible organizations certified under subsection (c)(3). An eligible organization may

submit only nominations from the membership of the organization for the unit in which the organization is located. To be represented on the Board, each eligible organization shall submit to the Secretary at least 1.5 nominations for each appointment to the Board for which the unit is entitled to representation, as determined under paragraph (1)(A). If a unit is entitled to 1 appointment on the Board, the unit shall submit at least 2 nominations for the appointment.

(B) FEEDERS.—The Secretary shall appoint representatives of the feeder sheep industry to seats established under paragraph (1)(B) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board for which the feeder sheep industry is entitled to representation, as determined under paragraph (1)(B).

(C) IMPORTERS.—The Secretary shall appoint importers to seats established under paragraph (1)(C) from nominations submitted by qualified organizations that represent importers, as determined by the Secretary. To be represented on the Board, importers shall provide at least 1.5 nominations for each appointment to the Board for which importers are entitled to representation, as determined under paragraph (1)(C).

(c) METHOD FOR OBTAINING NOMINATIONS.—

(1) INITIALLY ESTABLISHED BOARD.—

(A) PRODUCER NOMINATIONS.—The Secretary shall solicit nominations for each seat on the initially established Board to which a unit is entitled to representation from eligible organizations certified under paragraph (3). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(B) FEEDER AND IMPORTER NOMINATIONS.—The Secretary shall solicit nominations for each seat for which feeders or importers are entitled to representation from organizations that represent feeders and importers, respectively. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether—

(i) the active membership of the organization includes a significant number of feeders or importers in relation to the total membership of the organization;

(ii) there is evidence of stability and permanency of the organization; and

(iii) the organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(2) SUBSEQUENT APPOINTMENT.—

(A) PRODUCER NOMINATIONS.—The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under paragraph (3) shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(B) FEEDER AND IMPORTER NOMINATIONS.—The solicitation of feeder and importer nominations for seats on the

Board shall be made by the Secretary in accordance with paragraph (1)(B).

(3) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—The eligibility of any organization to represent producers, and to participate in the making of nominations to represent producers under this section, shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this paragraph. An eligibility determination of the Secretary under this paragraph shall be final.

(B) BASIS FOR CERTIFICATION.—Certification under this paragraph shall be based, in addition to other available information, on a factual report submitted by the organization, that shall contain information considered relevant and specified by the Secretary, including—

(i) the geographic territory covered by the active membership of the organization;

(ii) the nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(iii) evidence of stability and permanency of the organization;

(iv) sources from which the operating funds of the organization are derived;

(v) the functions of the organization; and

(vi) the ability and willingness of the organization to further the aims and objectives of this Act.

(C) PRIMARY CONSIDERATIONS.—A primary consideration in determining the eligibility of an organization under this paragraph shall be whether—

(i) the membership of the organization consists primarily of producers who own a substantial quantity of sheep; and

(ii) an interest of the organization is in the production of sheep.

(d) ADMINISTRATION.—

(1) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than 2 consecutive 3-year terms, except that an elected officer of the Board shall not be subject to this sentence while the officer holds office.

(2) COMPENSATION.—A Board member shall serve without compensation, but shall be reimbursed for the reasonable expenses of the member incurred in performing the duties of the Board.

(3) MEETINGS.—The order shall provide for at least an annual meeting of the Board and such additional meetings of the Board as may be required.

(e) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to elect officers of the Board, including a Chairperson, Vice Chairperson, and Secretary;

(2) to administer the order in accordance with the terms and provisions of the order;

(3) to recommend regulations to effectuate the terms and provisions of the order;

(4) to elect members of the Board to serve on the Executive Committee;

(5) to approve or reject budgets submitted by the Executive Committee;

(6) on approval, to submit the budgets to the Secretary for the approval or disapproval of the Secretary;

(7) to contract with entities, if necessary, to carry out plans or projects in accordance with this Act; Contracts.

(8) to conduct programs of promotion, research, consumer information, education, industry information, and producer information;

(9) to receive, investigate, and report to the Secretary complaints of violations of the order; Reports.

(10) to recommend to the Secretary amendments to the order;

(11) to provide the Secretary with prior notice of meetings of the Board to permit the Secretary, or a designated representative, to attend the meetings;

(12) to provide, not less than annually, a report to producers, feeders, and importers accounting for funds expended by the Board and describing programs carried out under this Act, and to make the report available to the public on request; Reports.

(13) to establish 7 regions that, to the extent practicable, contain geographically contiguous States and approximately equal numbers of producers and sheep production;

(14) to employ or retain necessary staff; and

(15) to invest funds in accordance with subsection (k).

(f) BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall review budgets submitted by the Executive Committee, on a fiscal year basis, of anticipated expenses and disbursements by the Board, including probable costs of administration and promotion, research, consumer information, education, industry information, and producer information projects. On approval by the Board, the Board shall submit the budget to the Secretary for the approval of the Secretary.

(2) LIMITATION.—No expenditure of funds may be made by the Board unless the expenditure is authorized under a budget or budget amendment approved by the Secretary.

(g) EXECUTIVE COMMITTEE.—

(1) ESTABLISHMENT.—The order shall establish an Executive Committee to administer the terms and provisions of the order, as provided in this subsection, under the direction of the Board and consistent with the policies determined by the Board.

(2) MEMBERSHIP.—The Executive Committee shall be composed of 14 members, of which—

(A) 11 members shall be elected by the Board on an annual basis, of which—

(i) 7 members shall represent producers, with 1 member representing each of the regions established in the order;

(ii) 1 member shall represent feeders; and

(iii) 3 members shall represent importers; and

(B) 3 members shall be the Chairperson, Vice Chairperson, and Secretary of the Board.

(3) POWERS AND DUTIES.—

(A) PLANS OR PROJECTS.—The Executive Committee shall develop plans or projects of promotion, research, consumer information, education, industry information, and producer information, which shall be paid for with assessments collected by the Board. The plans or projects shall not become effective until the plans or projects are approved by the Secretary.

(B) BUDGETS.—The Executive Committee shall be responsible for developing and submitting to the Board, for the approval of the Board, budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Board, including probable costs of promotion, research, consumer information, education, industry information, and producer information projects. The Board shall approve or disapprove a budget submitted by the Executive Committee, and, if approved, shall submit the budget to the Secretary for the approval of the Secretary.

(4) TERMS.—A term of appointment to the Executive Committee shall be for 1 year.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Executive Committee.

(6) QUORUM.—A quorum of the Executive Committee shall consist of 8 members.

(h) EXPENSES, CONTRACTS, AND AGREEMENTS.—

(1) EXPENSES.—The order shall provide that the Board shall be responsible for all expenses of the Board and the Executive Committee.

(2) CONTRACTS AND AGREEMENTS.—A contract or agreement entered into by the Board under subsection (e)(7) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget or budgets that provides estimated costs to be incurred for the plan or project;

(B) the plan or project, and the contract or agreement, shall not become effective until the plan or project has been approved by the Secretary; and

(C) the contracting party shall—

Records. (i) keep accurate records of all of the transactions of the party;

(ii) account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities;

Reports. (iii) make periodic reports to the Board of activities conducted; and

(iv) make such other reports as the Board or the Secretary may require.

(i) ASSESSMENTS.—

(1) SHEEP PURCHASES.—

(A) IN GENERAL.—The order shall provide that each person making payment to a producer or feeder for sheep purchased from the producer or feeder shall, in the manner prescribed by the order, collect an assessment from the

producer or feeder on each sheep sold by the producer or feeder.

(B) PROCESSING.—Any person purchasing sheep for processing shall collect the assessment from the seller and remit the assessment to the Board in the manner prescribed by the order.

(C) RATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the rate of assessment under this paragraph shall be 1 cent per pound of live sheep sold.

(ii) EXCEPTION.—The rate of assessment under this paragraph may be raised or lowered not more than 15/100 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 2.5 cents per pound of live sheep sold.

(2) WOOL PURCHASES.—

(A) IN GENERAL.—The order shall provide that each person making payment to a producer, feeder, or handler of wool for wool purchased from the producer, feeder, or handler shall, in the manner prescribed by the order, collect an assessment on each pound of greasy wool sold.

(B) PROCESSING.—Any person purchasing greasy wool for processing shall collect the assessment and remit the assessment to the Board in the manner prescribed by the order.

(C) RATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the rate of assessment under this paragraph shall be 2 cents per pound of greasy wool.

(ii) EXCEPTION.—The rate of assessment under this paragraph may be raised or lowered not more than 2/10 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 4 cents per pound of greasy wool.

(3) DIRECT PROCESSING.—The order shall provide that any person processing or causing to be processed sheep or sheep products of that person's own production and marketing shall—

(A) pay an assessment on the sheep or sheep products at the time of sale at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(4) EXPORTS.—The order shall provide that any person exporting live sheep or greasy wool shall—

(A) pay the assessment on the sheep or greasy wool at the time of export at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(5) IMPORTS.—

(A) IN GENERAL.—The order shall provide that any person importing sheep or sheep product, and any person importing wool or products containing wool, into the United

States shall pay an assessment to the Board in the manner prescribed by the order, except that this paragraph shall not apply to raw wool that is imported into the United States.

(B) COLLECTION.—The Customs Service shall collect the assessment required under this paragraph and remit the assessment to the Secretary for disbursement to the Board.

(C) RATE FOR SHEEP AND SHEEP PRODUCTS.—

(i) IN GENERAL.—Except as provided in subparagraph (B), the rate of assessment under this paragraph for sheep and sheep products shall be—

(I) in the case of a live sheep, 1 cent per pound; and

(II) in the case of a sheep product, the equivalent of 1 cent per pound of live sheep, as determined by the Secretary in consultation with the domestic sheep industry.

(ii) EXCEPTION.—The rate of assessment under this subparagraph may be raised or lowered not more than 15/100 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 2.5 cents per pound.

(D) RATE FOR WOOL AND WOOL PRODUCTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the rate of assessment under this paragraph for wool and products containing wool, shall be 2 cents per pound of degreased wool or the equivalent of degreased wool.

(ii) EXCEPTION.—The rate of assessment under this subparagraph may be raised or lowered not more than 2/10 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 4 cents per pound of degreased wool or the equivalent of degreased wool.

(6) QUALIFIED STATE SHEEP BOARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the order shall provide that 20 percent of the total assessments collected by the Board on the marketing of domestic sheep and domestic sheep products in any 1 year from a State shall be returned to the qualified State sheep board of the State.

(B) EXCEPTION.—No qualified State sheep board shall receive less than $2,500 under subparagraph (A) in any year.

(7) DE MINIMIS IMPORTS.—The Secretary may issue regulations that—

(A) exclude certain imported materials or products that contain de minimis content levels of sheep or sheep products; and

(B) waive the assessment due on the materials or products.

(8) USE OF ASSESSMENTS.—

(A) IN GENERAL.—The order shall provide that assessments received by the Board shall be used by the Board for the payment of expenses incurred in administering the order, with authorization for a reasonable reserve.

(B) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed for costs incurred in implementing and administering the order.

(j) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records as the Secretary may prescribe, which shall be available to the Secretary for inspection and audit;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDIT.—The Board shall cause books and records of the Board related to the order to be audited by an independent auditor at the end of each fiscal year. The Board shall submit a report of the audit to the Secretary. Reports.

(k) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board may invest, pending disbursement, funds the Board receives under the order, only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) USE OF INCOME.—Income from any investment under paragraph (1) may be used for any purpose for which the invested funds may be used.

(l) PROHIBITION ON USE OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation to the Secretary of amendments to the order; or

(B) the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities under the order.

(3) FALSE OR MISLEADING CLAIMS.—A plan or project conducted under this Act shall not make false or misleading claims on behalf of sheep or sheep products or against a competing product.

(m) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each person making payment to a producer, feeder, or handler for sheep

or sheep products, each importer and exporter of sheep or sheep products, and each person marketing sheep products of the person's own production to maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information from the records or reports shall be made available to the Secretary for the administration or enforcement of this Act, or any order or regulation issued under this Act.

(B) OTHER INFORMATION.—The Secretary shall authorize the use under this Act of information regarding persons paying producers, feeders, importers, handlers, or processors that is accumulated under a law or regulation other than this Act or a regulation issued under this Act.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this Act, all information obtained under paragraph (1) or (2) shall be kept confidential by all officers and employees of the Department and of the Board.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this Act.

(C) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) ADMINISTRATION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or any investigatory or enforcement action necessary for the implementation of this Act.

(E) PENALTY.—Any person who willfully violates this paragraph, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if the person is an officer or employee of the Board or the Department, shall be removed from office.

(n) OTHER TERMS AND CONDITIONS.—The order shall provide such terms and conditions, not inconsistent with this section, as are necessary to carry out the order, including provisions for the

assessment of a penalty for the late payment of an assessment due under the order.

SEC. 6. REFERENDA. 7 USC 7105.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Following the issuance of an order under section 4, the Secretary shall conduct a referendum among producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, or importation of sheep or sheep products for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective only if the Secretary determines that the order has been approved by not less than a majority of the producers, feeders, and importers voting in the referendum or at least ⅔ of the production represented by persons voting in the referendum.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—After the initial referendum, on the request of a representative group comprising 10 percent or more of the producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, importation, or processing of sheep or sheep products, the Secretary shall conduct a referendum of producers, feeders, and importers to determine whether the producers, feeders, and importers favor the termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If the Secretary determines that suspension or termination of the order is favored by a majority of the producers, feeders, and importers voting in the referendum or at least ⅔ of the production represented by the persons voting in the referendum, the Secretary shall suspend or terminate—

(A) collection of assessments under the order not later than 180 days after the determination; and

(B) the order in an orderly manner as soon as practicable after the determination.

(c) PROCEDURES.—

(1) REIMBURSEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Board shall reimburse the Secretary for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(B) FEDERAL EMPLOYEE SALARIES.—The Board shall not be required to reimburse the Secretary for the salaries of Federal employees under subparagraph (A) if the Secretary determines that the reimbursement would be overly burdensome and costly.

(2) DATE.—Each referendum under this section shall be conducted on a date established by the Secretary, under a procedure by which producers, feeders, and importers intending to vote in the referendum shall certify that the producers, feeders, and importers were engaged in the production, feeding, or importation of sheep or sheep products during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(4) ALLOCATION OF PRODUCTION.—The Secretary shall determine a method of allocating, by a pro rata percentage of annual projected or actual assessments from importers, the volume of production represented by importers in referenda conducted pursuant to this section.

7 USC 7106.

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this Act may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final if the ruling is in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary, under such rules or regulations as are considered necessary by the Secretary to facilitate the service of process.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

7 USC 7107.

SEC. 8. ENFORCEMENT.

(a) JURISDICTION.—Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable

written notice or warning to the person who committed the violation or by an administrative action under section 7.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary—

(A) a civil penalty of not more than $1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of the assessment.

(2) SEPARATE OFFENSE.—Each violation shall be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, the civil penalty, the Secretary may issue an order requiring the person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d), not later than 30 days after the person receives notice of the order.

(d) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the date of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly in the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay a valid civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United

States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

7 USC 7108.

SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this Act; or

(2) to determine whether any person subject to this Act has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this Act, or of any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records. The court may issue an order requiring the person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

7 USC 7109.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) CONSTRUCTION.—Nothing in this Act preempts or supersedes any other program relating to sheep promotion, research, or information organized and operated under the laws of the United States or any State.

(b) AMENDMENTS TO ORDERS.—The provisions of this Act applicable to an order shall be applicable to amendments to the order, except that the Secretary is not required to conduct a referendum on a proposed amendment to an order.

7 USC 7110.

SEC. 11. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

7 USC 7111.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses

or expenditures of the Board in administering any provision of any order issued under this Act.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 2500:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 103-408
103d Congress

Joint Resolution

Oct. 22, 1994
[S.J. Res. 90]

To recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

Whereas Congress has expressed its determination in section 1 of the Communications Act of 1934 (47 U.S.C. 151) to promote safety of life and property through the use of radio communication;

Whereas Congress, in section 7 of the Communications Act of 1934 (47 U.S.C. 157), established a policy to encourage the provision of new technologies and services;

Whereas Congress, in section 3 of the Communications Act of 1934, defined radio stations to include amateur stations operated by persons interested in radio technique without pecuniary interest;

Whereas the Federal Communications Commission has created an effective regulatory framework through which the amateur radio service has been able to achieve the goals of the service;

Whereas these regulations, set forth in part 97 of title 47 of the Code of Federal Regulations clarify and extend the purposes of the amateur radio service as a—

(1) voluntary noncommercial communication service, particularly with respect to providing emergency communications;

(2) contributing service to the advancement of the telecommunications infrastructure;

(3) service which encourages improvement of an individual's technical and operating skills;

(4) service providing a national reservoir of trained operators, technicians and electronics experts; and

(5) service enhancing international good will;

Whereas Congress finds that members of the amateur radio service community has provided invaluable emergency communications services following such disasters as Hurricanes Hugo, Andrew, and Iniki, the Mt. St. Helens eruption, the Loma Prieta earthquake, tornadoes, floods, wild fires, and industrial accidents in great number and variety across the Nation; and

Whereas Congress finds that the amateur radio service has made a contribution to our Nation's communications by its crafting, in 1961, of the first Earth satellite licensed by the Federal Communications Commission, by its proof-of-concept for search and rescue satellites, by its continued exploration of the low Earth orbit in particular pointing the way to commercial use thereof in the 1990s, by its pioneering of communications using reflections from meteor trails, a technique now used for certain government and commercial communications, and by its leading role in development of low-cost, practical data transmission by

radio which increasingly is being put to extensive use in, for instance, the land mobile service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS OF CONGRESS.

Congress finds and declares that—

(1) radio amateurs are hereby commended for their contributions to technical progress in electronics, and for their emergency radio communications in times of disaster;

(2) the Federal Communications Commission is urged to continue and enhance the development of the amateur radio service as a public benefit by adopting rules and regulations which encourage the use of new technologies within the amateur radio service; and

(3) reasonable accommodation should be made for the effective operation of amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S.J. Res. 90:

SENATE REPORTS: No. 103-368 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Oct. 6, considered and passed Senate and House.

Public Law 103-409
103d Congress

An Act

To amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill; to provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and for other purposes.

Oct. 25, 1994
[H.R. 512]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FEGLI Living Benefits Act.
5 USC 8701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "FEGLI Living Benefits Act".

SEC. 2. OPTION TO RECEIVE "LIVING BENEFITS".

(a) IN GENERAL.—Chapter 87 of title 5, United States Code, is amended by inserting after section 8714c the following:

"§ 8714d. Option to receive 'living benefits'

"(a) For the purpose of this section, an individual shall be considered to be 'terminally ill' if such individual has a medical prognosis that such individual's life expectancy is 9 months or less.

Regulations.

"(b) The Office of Personnel Management shall prescribe regulations under which any individual covered by group life insurance under section 8704(a) may, if such individual is terminally ill, elect to receive a lump-sum payment equal to—

"(1) the full amount of insurance under section 8704(a) (or portion thereof designated for this purpose under subsection (d)(4)) which would otherwise be payable under this chapter (on the establishment of a valid claim)—

"(A) computed based on a date determined under regulations of the Office (but not later than 30 days after the date on which the individual's application for benefits under this section is approved or deemed approved under subsection (d)(3)); and

"(B) assuming continued coverage under this chapter at that time;

reduced by

"(2) an amount necessary to assure that there is no increase in the actuarial value of the benefit paid (as determined under regulations of the Office).

"(c)(1) If a lump-sum payment is taken under this section—

"(A) no insurance under the provisions of section 8704 (a) or (b) shall be payable based on the death or any loss of the individual involved, unless the lump-sum payment rep-

resents only a portion of the total benefits which could have been taken, in which case benefits under those provisions shall remain in effect, except that the basic insurance amount on which they are based—

"(i) shall be reduced by the percentage which the designated portion comprised relative to the total benefits which could have been taken (rounding the result to the nearest multiple of $1,000 or, if midway between multiples of $1,000, to the next higher multiple of $1,000); and

"(ii) shall not be subject to further adjustment; and

"(B) deductions and withholdings under section 8707, and contributions under section 8708, shall be terminated with respect to such individual (or reduced in a manner consistent with the percentage reduction in the individual's basic insurance amount, if applicable), effective with respect to any amounts which would otherwise become due on or after the date of payment under this section.

"(2) An individual who takes a lump-sum payment under this section (whether full or partial) remains eligible for optional benefits under sections 8714a–8714c (subject to payment of the full cost of those benefits in accordance with applicable provisions of the section or sections involved, to the same extent as if no election under this section had been made).

"(d)(1) The Office's regulations shall include provisions regarding the form and manner in which an application under this section shall be made and the procedures in accordance with which any such application shall be considered.

"(2) An application shall not be considered to be complete unless it includes such information and supporting evidence as the regulations require, including certification by an appropriate medical authority as to the nature of the individual's illness and that the individual is not expected to live more than 9 months because of that illness.

"(3)(A) In order to ascertain the reliability of any medical opinion or finding submitted as part of an application under this section, the covered individual may be required to submit to a medical examination under the direction of the agency or entity considering the application. The individual shall not be liable for the costs associated with any examination required under this subparagraph.

"(B) Any decision by the reviewing agency or entity with respect to an application for benefits under this section (including one relating to an individual's medical prognosis) shall not be subject to administrative review.

"(4)(A) An individual making an election under this section may designate that only a limited portion (expressed as a multiple of $1,000) of the total amount otherwise allowable under this section be paid pursuant to such election.

"(B) A designation under this paragraph may not be made by an individual described in paragraph (1) or (2) of section 8706(b).

"(5) An election to receive benefits under this section shall be irrevocable, and not more than one such election may be made by any individual.

"(6) The regulations shall include provisions to address the question of how to apply section 8706(b)(3)(B) in the case of an electing individual who has attained 65 years of age.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 87 of title 5, United States Code, is amended by inserting after the item relating to section 8714c the following:

"8714d. Option to receive 'living benefits'.".

SEC. 3. EFFECTIVE DATE; OPEN SEASON AND NOTICE.

5 USC 8704 note.

(a) EFFECTIVE DATE.—The amendments made by section 2 shall take effect 9 months after the date of the enactment of this Act.

Regulations. 5 USC 8701 note.

(b) OPEN SEASON; NOTICE.—(1) The Office of Personnel Management shall prescribe regulations under which, beginning not later than 9 months after the date of the enactment of this Act, and over a period of not less than 8 weeks—

(A) an employee (as defined by section 8701(a) of title 5, United States Code) who declined or voluntarily terminated coverage under chapter 87 of such title—

(i) may elect to begin, or to resume, group life insurance and group accidental death and dismemberment insurance; and

(ii) may make such other elections under such chapter as the Office may allow; and

(B) such other elections as the Office allows may be made.

(2) The Office shall take such action as may be necessary to ensure that employees and any other individuals who would be eligible to make an election under this subsection are afforded advance notification to that effect.

5 USC 8714 note.

SEC. 4. FUNDING.

Notwithstanding section 8714(a)(1) of title 5, United States Code, the Office of Personnel Management shall retain in the Employees' Life Insurance Fund such portion of premium payments otherwise due as will, no later than September 30, 1995, permanently reduce the contingency reserve established under the third sentence of section 8712 of such title 5 by an amount equal to the amount by which payments from the Employees' Life Insurance Fund during the fiscal year ending September 30, 1995, exceed the payments that would have been paid had the amendments made by this Act not been enacted.

5 USC 8901 note.

SEC. 5. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY OR THE OFFICE OF THRIFT SUPERVISION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89 of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision before the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after January 8, 1995.

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of such title.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 512:

HOUSE REPORTS: No. 103-608 (Comm. on Post Office and Civil Service).
SENATE REPORTS: 103-395 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 19, considered and passed House.
Oct. 7, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 103-410
103d Congress

An Act

To redesignate the Post Office building located at 600 Princess Anne Street in Fredericksburg, Virginia, as the "Samuel E. Perry Post Office Building".

Oct. 25, 1994
[H.R. 2056]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Post Office building located at 600 Princess Anne Street in Fredericksburg, Virginia, and known as the Main Post Office, shall be known and designated as the "Samuel E. Perry Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Post Office building referred to in section 1 shall be deemed to be a reference to the Samuel E. Perry Post Office Building.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 2056:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 21, considered and passed House.
Vol. 140 (1994): Oct. 7, considered and passed Senate.

Public Law 103-411
103d Congress

An Act

Oct. 25, 1994
[H.R. 2440]

To amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Independent Safety Board Act Amendments of 1994.
49 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1994".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 1118(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this chapter $37,580,000 for fiscal year 1994, $44,000,000 for fiscal year 1995, and $45,100,000 for fiscal year 1996. Such sums shall remain available until expended.".

SEC. 3. APPLICABILITY OF CERTAIN REGULATIONS AND REQUIREMENTS TO THE OPERATION OF PUBLIC AIRCRAFT.

(a) DEFINITION OF PUBLIC AIRCRAFT.—Section 40102(a)(37) of title 49, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) does not include a government-owned aircraft—

"(i) transporting property for commercial purposes; or

"(ii) transporting passengers other than—

"(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

"(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of govern-

ment, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.".

(b) AUTHORITY TO GRANT EXEMPTIONS.— 49 USC 40109 note.

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section.

(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

(c) INVESTIGATIVE AUTHORITY OF BOARD.—

(1) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—Section 1131(a)(1)(A) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: "or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States".

(2) DUTIES AND POWERS.—Section 1131 of title 49, United States Code, is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following:

"(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on the 180th day following the date of the enactment of this Act. 49 USC 1131 note.

SEC. 4. RELEASE OF RESERVATIONS AND RESTRICTIONS ON CERTAIN PROPERTY LOCATED IN RAPIDES PARISH, LOUISIANA.

(a) RELEASE.—Notwithstanding any other provision of law, and except as provided in subsections (b) and (d), the United States releases without consideration all reservations, restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain real property (together with any improvements thereon and easements appurtenant thereto) consisting of approximately 1,991.53 acres of land and located in Rapides Parish, Louisiana, the location of Esler Field, as identified in the deed of conveyance from the United States to the Parish of Rapides, Louisiana, dated

January 23, 1958, to the extent such reservations, restrictions, conditions, and limitations are enforceable by the United States.

(b) EXCEPTIONS.—The United States reserves the right of reentry upon or use of the property described in subsection (a) for national defense purposes in time of war or other national emergency without charge. The release provided by subsection (a) does not apply to any conditions or assurances associated with (1) the continued nonexclusive use without charge of the airport and use of space at the airport, without charge, by the Louisiana National Guard, (2) the nonexclusive use of the airport by transient military aircraft without charge, or (3) the nonexclusive use of the airport by transient military aircraft without charge during periods of maneuvers.

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the disposition or ownership of oil, gas, or other mineral resources either in or under the surface of the real property described in subsection (a).

(d) FEDERAL AVIATION ADMINISTRATION.—

(1) NONAPPLICABILITY OF RELEASE TO GRANT AGREEMENTS.—The release described in subsection (a) does not apply to any conditions and assurances associated with existing airport grant agreements between the Rapides Parish Airport Authority/Esler Field and the Federal Aviation Administration.

(2) AGREEMENT.—Notwithstanding any other provisions of law, the Administrator of the Federal Aviation Administration shall enter into an agreement with the Airport Authority of Rapides Parish, Louisiana, to provide for the terms and conditions under which the real property described in subsection (a) may be used, leased, sold, or otherwise disposed. The agreement shall be concluded not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect on the 180th day following the date of the enactment of this Act.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 2440 (S. 1588):

HOUSE REPORTS: Nos. 103-239, Pt 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 103-185 accompanying S. 1588 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 139 (1993): Nov. 8, considered and passed House.

Vol. 140 (1994): May 12, considered and passed Senate, amended, in lieu of S. 1588.

Oct. 4, House concurred in Senate amendment with an amendment.

Oct. 6, Senate concurred in House amendment.

Public Law 103-412
103d Congress

An Act

To reform the management of Indian Trust Funds, and for other purposes.

Oct. 25, 1994
[H.R. 4833]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

American Indian Trust Fund Management Reform Act of 1994.
25 USC 4001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Indian Trust Fund Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

Sec. 101. Affirmative action required.
Sec. 102. Responsibility of Secretary to account for the daily and annual balances of Indian trust funds.
Sec. 103. Payment of interest on individual Indian money accounts.
Sec. 104. Authority for payment of claims for interest owed.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

Sec. 201. Purpose.
Sec. 202. Voluntary withdrawal from trust funds program.
Sec. 203. Judgment funds.
Sec. 204. Technical assistance.
Sec. 205. Grant program.
Sec. 206. Return of withdrawn funds.
Sec. 207. Savings provision.
Sec. 208. Report to Congress.
Sec. 209. Regulations.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

Sec. 301. Purposes.
Sec. 302. Office of Special Trustee for American Indians.
Sec. 303. Authorities and functions of the Special Trustee.
Sec. 304. Reconciliation report.
Sec. 305. Staff and consultants.
Sec. 306. Advisory board.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

SEC. 2. DEFINITIONS.

25 USC 4001.

For the purposes of this Act:

(1) The term "Special Trustee" means the Special Trustee for American Indians appointed under section 302.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims

Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "Office" means the Office of Special Trustee for American Indians established by section 302.

(5) The term "Bureau" means the Bureau of Indian Affairs within the Department of the Interior.

(6) The term "Department" means the Department of the Interior.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

SEC. 101. AFFIRMATIVE ACTION REQUIRED.

The first section of the Act of June 24, 1938 (25 U.S.C. 162a), is amended by adding at the end the following new subsection:

"(d) The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

"(1) Providing adequate systems for accounting for and reporting trust fund balances.

"(2) Providing adequate controls over receipts and disbursements.

"(3) Providing periodic, timely reconciliations to assure the accuracy of accounts.

"(4) Determining accurate cash balances.

"(5) Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis.

"(6) Establishing consistent, written policies and procedures for trust fund management and accounting.

"(7) Providing adequate staffing, supervision, and training for trust fund management and accounting.

"(8) Appropriately managing the natural resources located within the boundaries of Indian reservations and trust lands.".

25 USC 4011.

SEC. 102. RESPONSIBILITY OF SECRETARY TO ACCOUNT FOR THE DAILY AND ANNUAL BALANCES OF INDIAN TRUST FUNDS.

(a) REQUIREMENT TO ACCOUNT.—The Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(b) PERIODIC STATEMENT OF PERFORMANCE.—Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a). The statement, for the period concerned, shall identify—

(1) the source, type, and status of the funds;

(2) the beginning balance;

(3) the gains and losses;

(4) receipts and disbursements; and

(5) the ending balance.

(c) ANNUAL AUDIT.—The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a), and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) after the completion of the audit.

SEC. 103. PAYMENT OF INTEREST ON INDIVIDUAL INDIAN MONEY ACCOUNTS.

(a) PAYMENT OF INTEREST.—The first section of the Act of February 12, 1929 (25 U.S.C. 161a), is amended—

(1) by striking out "That all" and inserting in lieu thereof "That (a) all"; and

(2) by adding after subsection (a) (as designated by paragraph (1) of this subsection) the following:

"(b) All funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of individual Indians shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable securities.".

(b) WITHDRAWAL AUTHORITY.—The second sentence of subsection (a) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), is amended by inserting "to withdraw from the United States Treasury and" after "prescribe,".

(c) TECHNICAL CORRECTION.—The second subsection (b) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), as added by section 302 of Public Law 101–644 (104 Stat. 4667), is hereby redesignated as subsection (c).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest earned on amounts deposited or invested on or after the date of the enactment of this Act. 25 USC 161a note.

SEC. 104. AUTHORITY FOR PAYMENT OF CLAIMS FOR INTEREST OWED. 25 USC 4012.

The Secretary shall make payments to an individual Indian in full satisfaction of any claim of such individual for interest on amounts deposited or invested on behalf of such individual before the date of enactment of this Act retroactive to the date that the Secretary began investing individual Indian monies on a regular basis, to the extent that the claim is identified—

(1) by a reconciliation process of individual Indian money accounts, or

(2) by the individual and presented to the Secretary with supporting documentation, and is verified by the Secretary pursuant to the Department's policy for addressing accountholder losses.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

25 USC 4021.

SEC. 201. PURPOSE.

The purpose of this title is to allow tribes an opportunity to manage tribal funds currently held in trust by the United States and managed by the Secretary through the Bureau, that, consistent with the trust responsibility of the United States and the principles of self-determination, will—

(1) give Indian tribal governments greater control over the management of such trust funds; or

(2) otherwise demonstrate how the principles of self-determination can work with respect to the management of such trust funds, in a manner consistent with the trust responsibility of the United States.

25 USC 4022.

SEC. 202. VOLUNTARY WITHDRAWAL FROM TRUST FUNDS PROGRAM.

(a) IN GENERAL.—An Indian tribe may, in accordance with this section, submit a plan to withdraw some or all funds held in trust for such tribe by the United States and managed by the Secretary through the Bureau.

(b) APPROVAL OF PLAN.—The Secretary shall approve such plan within 90 days of receipt and when approving the plan, the Secretary shall obtain the advice of the Special Trustee or prior to the appointment of such Special Trustee, the Director of the Office of Trust Fund Management within the Bureau. Such plan shall meet the following conditions:

(1) Such plan has been approved by the appropriate Indian tribe and is accompanied by a resolution from the tribal governing body approving the plan.

(2) The Secretary determines such plan to be reasonable after considering all appropriate factors, including (but not limited to) the following:

(A) The capability and experience of the individuals or institutions that will be managing the trust funds.

(B) The protection against substantial loss of principal.

(c) DISSOLUTION OF TRUST RESPONSIBILITY.—Beginning on the date funds are withdrawn pursuant to this section, any trust responsibility or liability of the United States with respect to such funds shall cease except as provided for in section 207 of this title.

25 USC 4023.

SEC. 203. JUDGMENT FUNDS.

(a) IN GENERAL.—The Secretary is authorized to approve plans under section 202 of this title for the withdrawal of judgment funds held by the Secretary.

(b) LIMITATION.—Only such funds held by the Secretary under the terms of the Indian Judgment Funds Use or Distribution Act (25 U.S.C. 1401) or an Act of Congress which provides for the secretarial management of such judgment funds shall be included in such plans.

(c) SECRETARIAL DUTIES.—In approving such plans, the Secretary shall ensure—

(1) that the purpose and use of the judgment funds identified in the previously approved judgment fund plan will continue to be followed by the Indian tribe in the management of the judgment funds; and

(2) that only funds held for Indian tribes may be withdrawn and that any funds held for individual tribal members are not to be included in the plan.

SEC. 204. TECHNICAL ASSISTANCE. 25 USC 4024.

The Secretary shall—

(1) directly or by contract, provide Indian tribes with technical assistance in developing, implementing, and managing Indian trust fund investment plans; and

(2) among other things, ensure that legal, financial, and other expertise of the Department of the Interior has been made fully available in an advisory capacity to the Indian tribes to assist in the development, implementation, and management of investment plans.

SEC. 205. GRANT PROGRAM. 25 USC 4025.

(a) GENERAL AUTHORITY.—The Secretary is authorized to award grants to Indian tribes for the purpose of developing and implementing plans for the investment of Indian tribal trust funds.

(b) USE OF FUNDS.—The purposes for which funds provided under this section may be used include (but are not limited to)—

(1) the training and education of employees responsible for monitoring the investment of trust funds;

(2) the building of tribal capacity for the investment and management of trust funds;

(3) the development of a comprehensive tribal investment plan;

(4) the implementation and management of tribal trust fund investment plans; and

(5) such other purposes related to this title that the Secretary deems appropriate.

SEC. 206. RETURN OF WITHDRAWN FUNDS. 25 USC 4026.

Subject to such conditions as the Secretary may prescribe, any Indian tribe which has withdrawn trust funds may choose to return any or all of the trust funds such tribe has withdrawn by notifying the Secretary in writing of its intention to return the funds to the control and management of the Secretary.

SEC. 207. SAVINGS PROVISION. 25 USC 4027.

By submitting or approving a plan under this title, neither the tribe nor the Secretary shall be deemed to have accepted the account balance as accurate or to have waived any rights regarding such balance and to seek compensation.

SEC. 208. REPORT TO CONGRESS. 25 USC 4028.

The Secretary shall, beginning one year after the date of the enactment of this Act, submit an annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate on the implementation of programs under this title. Such report shall include recommendations (if any) for changes necessary to better implement the purpose of this title.

SEC. 209. REGULATIONS. 25 USC 4029.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this title, the Secretary shall promulgate final regulations for the implementation of this title. All regulations promulgated pursuant to this title shall be developed by the Sec-

retary with the full and active participation of the Indian tribes with trust funds held by the Secretary and other affected Indian tribes.

(b) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

25 USC 4041.

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to provide for more effective management of, and accountability for the proper discharge of, the Secretary's trust responsibilities to Indian tribes and individual Indians by establishing in the Department of the Interior an Office of Special Trustee for American Indians to oversee and coordinate reforms within the Department of practices relating to the management and discharge of such responsibilities;

(2) to ensure that reform of such practices in the Department is carried out in a unified manner and that reforms of the policies, practices, procedures and systems of the Bureau, Minerals Management Service, and Bureau of Land Management, which carry out such trust responsibilities, are effective, consistent, and integrated; and

(3) to ensure the implementation of all reforms necessary for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians.

25 USC 4042.

SEC. 302. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the Office of Special Trustee for American Indians. The Office shall be headed by the Special Trustee who shall report directly to the Secretary.

(b) SPECIAL TRUSTEE.—

President.

(1) APPOINTMENT.—The Special Trustee shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who possess demonstrated ability in general management of large governmental or business entities and particular knowledge of trust fund management, management of financial institutions, and the investment of large sums of money.

(2) COMPENSATION.—The Special Trustee shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay payable at Level II of the Executive Schedule under section 5313 of title 5, United States Code.

(c) TERMINATION OF OFFICE.—

(1) CONDITIONED UPON IMPLEMENTATION OF REFORMS.—The Special Trustee, in proposing a termination date under section 303(a)(2)(C), shall ensure continuation of the Office until all reforms identified in the strategic plan have been implemented to the satisfaction of the Special Trustee.

(2) 30-DAY NOTICE.—Thirty days prior to the termination date proposed in the plan submitted under this section, the Special Trustee shall notify the Secretary and the Congress in writing of the progress in implementing the reforms identi-

fied in the plan. The Special Trustee, at that time, may recommend the continuation, or the permanent establishment, of the Office if the Special Trustee concludes that continuation or permanent establishment is necessary for the efficient discharge of the Secretary's trust responsibilities.

(3) TERMINATION DATE.—The Office shall terminate 180 legislative days after the date on which the notice to the Congress under paragraph (2) is provided, unless the Congress extends the authorities of the Special Trustee. For the purposes of this section, a legislative day is a day on which either House of the Congress is in session.

SEC. 303. AUTHORITIES AND FUNCTIONS OF THE SPECIAL TRUSTEE. 25 USC 4043.

(a) COMPREHENSIVE STRATEGIC PLAN.—

(1) IN GENERAL.—The Special Trustee shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, within one year after the initial appointment is made under section 302(b), a comprehensive strategic plan for all phases of the trust management business cycle that will ensure proper and efficient discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians in compliance with this Act.

(2) PLAN REQUIREMENTS.—The plan prepared under paragraph (1) shall include the following:

(A) Identification of all reforms to the policies, procedures, practices and systems of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service necessary to ensure the proper and efficient discharge of the Secretary's trust responsibilities in compliance with this Act.

(B) Provisions for opportunities for Indian tribes to assist in the management of their trust accounts and to identify for the Secretary options for the investment of their trust accounts, in a manner consistent with the trust responsibilities of the Secretary, in ways that will help promote economic development in their communities.

(C) A timetable for implementing the reforms identified in the plan, including a date for the proposed termination of the Office.

(b) DUTIES.—

(1) GENERAL OVERSIGHT OF REFORM EFFORTS.—The Special Trustee shall oversee all reform efforts within the Bureau, the Bureau of Land Management, and the Minerals Management Service relating to the trust responsibilities of the Secretary to ensure the establishment of policies, procedures, systems and practices to allow the Secretary to discharge his trust responsibilities in compliance with this Act.

(2) BUREAU OF INDIAN AFFAIRS.—

(A) MONITOR RECONCILIATION OF TRUST ACCOUNTS.—The Special Trustee shall monitor the reconciliation of tribal and Individual Indian Money trust accounts to ensure that the Bureau provides the account holders, with a fair and accurate accounting of all trust accounts.

(B) INVESTMENTS.—The Special Trustee shall ensure that the Bureau establishes appropriate policies and proce-

dures, and develops necessary systems, that will allow it—

(i) properly to account for and invest, as well as maximize, in a manner consistent with the statutory restrictions imposed on the Secretary's investment options, the return on the investment of all trust fund monies, and

(ii) to prepare accurate and timely reports to account holders (and others, as required) on a periodic basis regarding all collections, disbursements, investments, and return on investments related to their accounts.

(C) OWNERSHIP AND LEASE DATA.—The Special Trustee shall ensure that the Bureau establishes policies and practices to maintain complete, accurate, and timely data regarding the ownership and lease of Indian lands.

(3) BUREAU OF LAND MANAGEMENT.—The Special Trustee shall ensure that the Bureau of Land Management establishes policies and practices adequate to enforce compliance with Federal requirements for drilling, production, accountability, environmental protection, and safety with respect to the lease of Indian lands.

(4) MINERALS MANAGEMENT SERVICE.—The Special Trustee shall ensure that the Minerals Management Service establishes policies and practices to enforce compliance by lessees of Indian lands with all requirements for timely and accurate reporting of production and payment of lease royalties and other revenues, including the audit of leases to ensure that lessees are accurately reporting production levels and calculating royalty payments.

(c) COORDINATION OF POLICIES.—

(1) IN GENERAL.—The Special Trustee shall ensure that—

(A) the policies, procedures, practices, and systems of the Bureau, the Bureau of Land Management, and the Minerals Management Service related to the discharge of the Secretary's trust responsibilities are coordinated, consistent, and integrated, and

(B) the Department prepares comprehensive and coordinated written policies and p cedures for each phase of the trust management business ycle.

(2) STANDARDIZED PROCEDURES.—The Special Trustee shall ensure that the Bureau imposes standardized trust fund accounting procedures throughout the Bureau.

(3) INTEGRATION OF LEDGER WITH INVESTMENT SYSTEM.—The Special Trustee shall ensure that the trust fund investment, general ledger, and subsidiary accounting systems of the Bureau are integrated and that they are adequate to support the trust fund investment needs of the Bureau.

(4) INTEGRATION OF LAND RECORDS, TRUST FUNDS ACCOUNTING, AND ASSET MANAGEMENT SYSTEMS AMONG AGENCIES.—The Special Trustee shall ensure that—

(A) the land records system of the Bureau interfaces with the trust fund accounting system, and

(B) the asset management systems of the Minerals Management Service and the Bureau of Land Management interface with the appropriate asset management and

accounting systems of the Bureau, including ensuring that—

(i) the Minerals Management Service establishes policies and procedures that will allow it to properly collect, account for, and disburse to the Bureau all royalties and other revenues generated by production from leases on Indian lands; and

(ii) the Bureau of Land Management and the Bureau provide Indian landholders with accurate and timely reports on a periodic basis that cover all transactions related to leases of Indian resources.

(5) TRUST MANAGEMENT PROGRAM BUDGET.—

(A) DEVELOPMENT AND SUBMISSION.—The Special Trustee shall develop for each fiscal year, with the advice of program managers of each office within the Bureau of Indian Affairs, Bureau of Land Management and Minerals Management Service that participates in trust management, including the management of trust funds or natural resources, or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section, a consolidated Trust Management program budget proposal that would enable the Secretary to efficiently and effectively discharge his trust responsibilities and to implement the comprehensive strategic plan, and shall submit such budget proposal to the Secretary, the Director of the Office of Management and Budget, and to the Congress.

(B) DUTY OF CERTAIN PROGRAM MANAGERS.—Each program manager participating in trust management or charged with responsibilities under the comprehensive strategic plans shall transmit his office's budget request to the Special Trustee at the same time as such request is submitted to his superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code.

(C) CERTIFICATION OF ADEQUACY OF BUDGET REQUEST.—The Special Trustee shall—

(i) review each budget request submitted under subparagraph (B);

(ii) certify in writing as to the adequacy of such request to discharge, effectively and efficiently, the Secretary's trust responsibilities and to implement the comprehensive strategic plan; and

(iii) notify the program manager of the Special Trustee's certification under clause (ii).

(D) MAINTENANCE OF RECORDS.—The Special Trustee shall maintain records of certifications made under paragraph (3)(B).

(E) LIMITATION ON REPROGRAMMING OR TRANSFER.—No program manager shall submit, and no official of the Department of the Interior may approve or otherwise authorize, a reprogramming or transfer request with respect to any funds appropriated for trust management which is included in the Trust Management Program Budget unless such request has been approved by the Special Trustee.

(d) PROBLEM RESOLUTION.—The Special Trustee shall provide such guidance as necessary to assist Department personnel in identifying problems and options for resolving problems, and in implementing reforms to Department, Bureau, Bureau of Land Management, and Minerals Management Service policies, procedures, systems and practices.

(e) SPECIAL TRUSTEE ACCESS.—The Special Trustee, and his staff, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, files and other material, as well as to any officer and employee, of the Department and any office or bureau thereof, as the Special Trustee deems necessary for the accomplishment of his duties under this Act.

(f) ANNUAL REPORT.—The Special Trustee shall report to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate each year on the progress of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service in implementing the reforms identified in the comprehensive strategic plan under subsection (a)(1) and in meeting the timetable established in the strategic plan under subsection (a)(2)(C).

25 USC 4044.

SEC. 304. RECONCILIATION REPORT.

The Secretary shall transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, by May 31, 1996, a report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995. In carrying out this section, the Secretary shall consult with the Special Trustee. The report shall include—

(1) a description of the Secretary's methodology in reconciling trust fund accounts;

(2) attestations by each account holder that—

(A) the Secretary has provided the account holder with as full and complete accounting as possible of the account holder's funds to the earliest possible date, and that the account holder accepts the balance as reconciled by the Secretary; or

(B) the account holder disputes the balance of the account holder's account as reconciled by the Secretary and statement explaining why the account holder disputes the Secretary's reconciled balance; and

(3) a statement by the Secretary with regard to each account balance disputed by the account holder outlining efforts the Secretary will undertake to resolve the dispute.

25 USC 4045.

SEC. 305. STAFF AND CONSULTANTS.

(a) STAFF.—The Special Trustee may employ such staff as the Special Trustee deems necessary. The Special Trustee may request staff assistance from within the Department and any office or Bureau thereof as the Special Trustee deems necessary.

(b) CONTRACTS.—To the extent and in such amounts as may be provided in advance by appropriations Acts, the Special Trustee may enter into contracts and other arrangements with public agencies and with private persons and organizations for consulting services and make such payments as necessary to carry out the provisions of this title.

SEC. 306. ADVISORY BOARD. 25 USC 4046.

(a) ESTABLISHMENT AND MEMBERSHIP.—Notwithstanding any other provision of law, the Special Trustee shall establish an advisory board to provide advice on all matters within the jurisdiction of the Special Trustee. The advisory board shall consist of nine members, appointed by the Special Trustee after consultation with Indian tribes and appropriate Indian organizations, of which—

(1) five members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;

(2) two members shall have practical experience in trust fund and financial management;

(3) one member shall have practical experience in fiduciary investment management; and

(4) one member, from academia, shall have knowledge of general management of large organizations.

(b) TERM.—Each member shall serve a term of two years.

(c) FACA.—The advisory board shall not be subject to the Federal Advisory Committee Act.

(d) TERMINATION.—The Advisory Board shall terminate upon termination of the Office of Special Trustee.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS. 25 USC 4061.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 4833:

HOUSE REPORTS: No. 103-778 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-413
103d Congress

An Act

Oct. 25, 1994
[H.R. 4842]

To specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act and to provide for tribal Self-Governance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Self-Determination Act Amendments of 1994.
25 USC 450 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Act Amendments of 1994".

TITLE I—INDIAN SELF-DETERMINATION ACT CONTRACTS

Indian Self-Determination Contract Reform Act of 1994.
25 USC 450 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 102. GENERAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended—

25 USC 450b.

(1) in section 4—

(A) in subsection (g), by striking "indirect costs rate" and inserting "indirect cost rate";

(B) by striking "and" at the end of subsection (k);

(C) by striking the period at the end of subsection (l) and inserting "; and"; and

(D) by adding at the end the following new subsection:

"(m) 'construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

"(1) that is limited to providing planning services and construction management services (or a combination of such services);

"(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

"(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.";

25 USC 450c.

(2) by striking subsection (f) of section 5 and inserting the following new subsection:

"(f)(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract

entered into, or grant made, under this Act, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

"(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 102.";

(3) in section 7(a), by striking "of subcontractors" and inserting in lieu thereof "or subcontractors (excluding tribes and tribal organizations)"; 25 USC 450e.

(4) at the end of section 7, add the following new subsection:

"(c) Notwithstanding subsections (a) and (b), with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.";

(5) at the end of section 102(a)(1), add the following new flush sentence: 25 USC 450f.

"The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the Department that carries out such functions.";

(6) in section 102(a)—

(A) in paragraph (2)—

(i) in the first sentence, by inserting ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review";

(ii) in the second sentence—

(I) by striking "The" and inserting "Subject to the provisions of paragraph (4), the";

(II) by inserting "and award the contract" after "approve the proposal";

(III) by striking ", within sixty days of receipt of the proposal,"; and

(IV) by striking "a specific finding is made that" and inserting "the Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that";

(iii) in subparagraph (B), by striking "or" after the semicolon;

(iv) in subparagraph (C), by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following new subparagraphs:

"(D) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a); or

"(E) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor."; and

(vi) by adding at the end of the paragraph the following new flush material:

"Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period specified in the second sentence of this subsection, if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period. The contractor shall include in the proposal of the contractor the standards under which the tribal organization will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects, applicable health and safety standards, adherence to applicable Federal, State, local, or tribal building codes and engineering standards. The standards referred to in the preceding sentence shall ensure structural integrity, accountability of funds, adequate competition for subcontracting under tribal or other applicable law, the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of proper materials and workmanship, necessary inspection and testing, and changes, modifications, stop work, and termination of the work when warranted."; and

(B) by adding at the end the following new paragraph:

"(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

"(A) proposes in part to plan, conduct, or administer a program, function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

"(B) proposes a level of funding that is in excess of the applicable level determined under section 106(a),

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 106(a). If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.";

25 USC 450f.

(7) in section 102(b)(3)—

(A) by inserting after "record" the following: "with the right to engage in full discovery relevant to any issue raised in the matter"; and

(B) by inserting before the period the following: ", except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 110(a)";

(8) in section 102(d), by striking "as provided in section 2671 of title 28)" and inserting "as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)"; 25 USC 450f.

(9) by adding at the end of section 102 the following new subsection:

"(e)(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3), the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for declining the contract proposal (or portion thereof).

"(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the 'Department') that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) shall be made either—

"(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or

"(B) by an administrative judge.";

(10) by striking subsection (a) of section 105 and inserting the following new subsection: 25 USC 450j.

"(a)(1) Notwithstanding any other provision of law, subject to paragraph (3), the contracts and cooperative agreements entered into with tribal organizations pursuant to section 102 shall not be subject to Federal contracting or cooperative agreement laws (including any regulations), except to the extent that such laws expressly apply to Indian tribes.

"(2) Program standards applicable to a nonconstruction self-determination contract shall be set forth in the contract proposal and the final contract of the tribe or tribal organization.

"(3)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

"(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

"(ii) directly related to the construction activity; and

"(iii) not inconsistent with this Act.

"(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

"(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law

(including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this Act, unless expressly provided in such law.

"(ii) The laws listed in this paragraph are as follows:

"(I) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(II) Section 3709 of the Revised Statutes.

"(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

"(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288).

"(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479).

"(VI) Chapters 21, 25, 27, 29, and 31 of title 44, United States Code.

"(VII) Section 2 of the Act of June 13, 1934 (48 Stat 948, chapter 483).

"(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881).

"(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

"(X) The Small Business Act (15 U.S.C. 631 et seq.).

"(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.";

25 USC 450j. (11) by striking subsection (e) and inserting the following new subsection:

"(e) If an Indian tribe, or a tribal organization authorized by a tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this Act, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

"(1) the earlier of—

"(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

"(B) the date on which the contract expires; or

"(2) such date as may be mutually agreed by the Secretary and the Indian tribe.";

25 USC 450j. (12) by striking paragraph (2) of section 105(f) and inserting the following new paragraph:

"(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

"(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

"(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department

of the Interior or the Department of Health and Human Services, as appropriate; and

"(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and";

(13) by adding at the end of section 105 the following new subsections: 25 USC 450j.

"(i)(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract, including program redesign in consultation with the tribal organization and all affected tribes.

"(2) Nothing in this title shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 110.

"(j) Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 102.

"(k) For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

"(l)(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this Act.

"(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other

reasonable expenses that the Secretary determines, by regulation, to be allowable.

"(m)(1) Each construction contract requested, approved, or awarded under this Act shall be subject to—

"(A) except as otherwise provided in this Act, the provisions of this Act, other than sections 102(a)(2), 106(l), 108 and 109; and

"(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

"(3) Prior to finalizing a construction contract proposal pursuant to section 102(a), and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

"(A) The provision of technical assistance pursuant to section 103 and paragraph (2).

"(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

"(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

"(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

"(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5, United States Code.

"(F) The submission to the Secretary by the tribe or tribal organization of a final contract proposal pursuant to section 102(a).

"(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall provide for the following:

"(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

"(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

"(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

"(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

"(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this Act and any other applicable law.

"(ii) The costs of preparing the contract proposal and supporting cost data.

"(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with the management of the construction contract.

"(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

"(v) If the Secretary and the tribe or tribal organization are unable to develop a mutually agreeable construction contract proposal pursuant to the procedures set forth in this subsection, the tribe or tribal organization may submit a final contract proposal to the Secretary. Not later than 30 days after receiving such final contract proposal, the Secretary shall approve the contract proposal and award the contract, unless, during such period the Secretary declines the proposal pursuant to sections 102(a)(2) and 102(b) of section 102 (including providing opportunity for an appeal pursuant to section 102(b)).

"(n) Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

"(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5, United States Code) to such employee, and

"(2) the circumstances under which such quarters and facilities are provided to such employee,

as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.";

(14) in section 106(a)— 25 USC 450j-1.

(A) in paragraph (1), by inserting before the period at the end the following: ", without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated";

(B) in paragraph (2), by inserting after "consist of" the following: "an amount for"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

"(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

"(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under section 106(a)(1).

"(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

"(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

"(A) be used to provide additional services or benefits under the contract; or

"(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

"(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

"(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

"(B) to ensure compliance with the terms of the contract and prudent management.

"(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.";

25 USC 450j-1.

(15) in section 106(c)—

(A) by striking "March 15" and inserting "May 15";

(B) in paragraphs (1) and (2), by striking "indirect costs" each place it appears and inserting "contract support costs";

(C) in paragraph (4), by striking "and" at the end;

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(6) an accounting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle to a different accounting cycle, as authorized by section 105(d).";

(16) in section 106(f), by inserting immediately after the second sentence the following new sentence: "For the purpose

of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.";

(17) by striking subsection (g) of section 106 and inserting the following new subsection: 25 USC 450j-1.

"(g) Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.";

(18) by striking subsection (i) of section 106 and inserting the following new subsection:

"(i) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code)."; and

(19) by adding at the end of section 106 the following new subsections:

"(j) Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

"(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

"(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

"(2) Publication and printing costs.

"(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

"(4) Automated data processing and similar equipment or services.

"(5) Costs for capital assets and repairs.

"(6) Management studies.

"(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

"(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

"(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

"(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

"(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

"(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

"(l)(1) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

"(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for suspending, withholding, or delaying payment of funds.

"(m) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

"(1) shall be used by the tribal organization to further the general purposes of the contract; and

"(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(n) To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

"(o) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract.".

SEC. 103. CONTRACT SPECIFICATIONS.

The Indian Self-Determination Education Assistance Act (25 U.S.C. 450 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 108. CONTRACT OR GRANT SPECIFICATIONS. 25 USC 450*l*.

"(a) Each self-determination contract entered into under this Act shall—

"(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) (with modifications where indicated and the blanks appropriately filled in), and

"(2) contain such other provisions as are agreed to by the parties.

"(b) Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(c) The model agreement referred to in subsection (a)(1) reads as follows:

"'SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE ___ TRIBAL GOVERNMENT.

"'(a) AUTHORITY AND PURPOSE.—

"'(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the ____ tribal government or tribal organization (referred to in this agreement as the "Contractor"). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"'(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

"'(b) TERMS, PROVISIONS, AND CONDITIONS.—

"'(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be ____ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

"'(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

"'(3) PROGRAM STANDARD.—The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

"'(4) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1).

"'(5) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

"'(6) PAYMENT.—

"'(A) IN GENERAL.—Payments to the Contractor under this Contract shall—

"'(i) be made as expeditiously as practicable; and

"'(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

"'(B) QUARTERLY, SEMIANNUAL, LUMP-SUM, AND OTHER METHODS OF PAYMENT.—

"'(i) IN GENERAL.—Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

"'(ii) METHOD OF QUARTERLY PAYMENT.—If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the Contract year coincides with the Federal fiscal year, payment for the first quarter shall be made

not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

"'(iii) APPLICABILITY.—Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

"'(7) RECORDS AND MONITORING.—

"'(A) IN GENERAL.—Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"'(B) RECORDKEEPING SYSTEM.—The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

"'(C) RESPONSIBILITIES OF CONTRACTOR.—The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the Contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless—

"'(i) the Contractor agrees to one or more additional visits; or

"'(ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of Contract payments, or other serious Contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

"'(8) PROPERTY.—

"'(A) IN GENERAL.—As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodi-

cally revised by the Secretary, with the concurrence of the Contractor.

"'(B) RECORDS.—The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement.

"'(C) JOINT USE AGREEMENTS.—Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

"'(D) ACQUISITION OF PROPERTY.—The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.

"'(E) CONFISCATED OR EXCESS PROPERTY.—The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

"'(F) SCREENER IDENTIFICATION CARD.—A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

"'(G) CAPITAL EQUIPMENT.—The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

"'(9) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, any funds provided under this Contract—

"'(A) shall remain available until expended; and

"'(B) with respect to such funds, no further—

"'(i) approval by the Secretary, or

"'(ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

"'(10) TRANSPORTATION.—Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

"'(11) FEDERAL PROGRAM GUIDELINES, MANUALS, OR POLICY DIRECTIVES.—Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

"'(12) DISPUTES.—

"'(A) THIRD-PARTY MEDIATION DEFINED.—For the purposes of this Contract, the term "third-party mediation" means a form of mediation whereby the Secretary and

the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

"'(B) ALTERNATIVE PROCEDURES.—In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m–1), the parties to this Contract may jointly—

"'(i) submit disputes under this Contract to third-party mediation;

"'(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

"'(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

"'(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

"'(C) EFFECT OF DECISIONS.—The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

"'(13) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

"'(14) SUCCESSOR ANNUAL FUNDING AGREEMENT.—

"'(A) IN GENERAL.—Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j–1(b)).

"'(B) INFORMATION.—The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

"'(15) CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY.—

"'(A) IN GENERAL.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C.

476), shall not apply to any contract entered into in connection with this Contract.

"'(B) REQUIREMENTS.—Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall—

"'(i) be in writing;

"'(ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;

"'(iii) state the work to be performed under the Contract; and

"'(iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

"'(c) OBLIGATION OF THE CONTRACTOR.—

"'(1) CONTRACT PERFORMANCE.—Except as provided in subsection (d)(2), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection (f)(2) of this Contract.

"'(2) AMOUNT OF FUNDS.—The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

"'(3) CONTRACTED PROGRAMS.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreement under subsection (f)(2).

"'(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—

"'(A) IN GENERAL.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

"'(B) TRUST SERVICES TO INDIVIDUAL INDIANS.—For the purposes of this paragraph only, the term "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

"'(5) FAIR AND UNIFORM SERVICES.—The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

"'(d) OBLIGATION OF THE UNITED STATES.—

"'(1) TRUST RESPONSIBILITY.—

"'(A) IN GENERAL.—The United States reaffirms the trust responsibility of the United States to the ____ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

"'(B) CONSTRUCTION OF CONTRACT.—Nothing in this Contract may be construed to terminate, waive, modify,

or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

"'(2) GOOD FAITH.—To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"'(3) PROGRAMS RETAINED.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection (f)(2).

"'(e) OTHER PROVISIONS.—

"'(1) DESIGNATED OFFICIALS.—Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

"'(2) CONTRACT MODIFICATIONS OR AMENDMENT.—

"'(A) IN GENERAL.—Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

"'(B) EXCEPTION.—The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

"'(3) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

"'(4) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

"'(f) ATTACHMENTS.—

"'(1) APPROVAL OF CONTRACT.—Unless previously furnished to the Secretary, the resolution of the ____ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

"'(2) ANNUAL FUNDING AGREEMENT.—

"'(A) IN GENERAL.—The annual funding agreement under this Contract shall only contain—

"'(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and

"'(ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

"'(B) INCORPORATION BY REFERENCE.—The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2.'".

SEC. 104. ADDITIONAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 102 and 103, is further amended—

25 USC 450m.

(1) in section 109—

(A) by inserting after "pursuant to such contract or grant agreement," the following "or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement,";

(B) by striking "action as prescribed by him" and all that follows through "in such cases, he" and inserting the following: "action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary";

(C) by inserting after "rescind such contract or grant agreement" the following: ", in whole or in part,";

(D) by striking the second period after "the tribal organization may approve"; and

(E) by inserting before the last sentence, the following new sentence: "In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrating the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing.";

25 USC 450m-1.

(2) in section 110(a), by inserting immediately before the period at the end the following: "(including immediate injunctive relief to reverse a declination finding under section 102(a)(2) or to compel the Secretary to award and fund an approved self-determination contract)"; and

(3) in section 110(d), by inserting immediately before the period at the end the following: ", except that all administrative appeals relating to such contracts shall be heard by the Interior

Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)".

SEC. 105. REGULATIONS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 through 4, is further amended—

(1) by striking subsections (a) and (b) of section 107 and inserting the following new subsections: 25 USC 450k.

"(a)(1) Except as may be specifically authorized in this subsection, or in any other provision of this Act, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this Act relating to chapter 171 of title 28, United States Code, commonly known as the 'Federal Tort Claims Act', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures for grants awarded under section 103, property donation procedures arising under section 105(f), internal agency procedures relating to the implementation of this Act, retrocession and tribal organization relinquishment procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards.

"(2)(A) The regulations promulgated under this Act, including the regulations referred to in this subsection, shall be promulgated—

"(i) in conformance with sections 552 and 553 of title 5, United States Code and subsections (c), (d), and (e) of this section; and

"(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

"(B) The authority to promulgate regulations set forth in this Act shall expire if final regulations are not promulgated within 18 months after the date of enactment of the Indian Self-Determination Contract Reform Act of 1994.

"(b) The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act."; and

(2) by adding at the end of section 107, the following new subsections:

"(d)(1) In drafting and promulgating regulations as provided in subsection (a) (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members.

"(2)(A) In carrying out rulemaking processes under this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

"(i) subchapter III of chapter 5 of title 5, United States Code, commonly known as the 'Negotiated Rulemaking Act of 1990'; and

"(ii) the recommendations of the Administrative Conference of the United States numbered 82–4 and 85–5 entitled 'Procedures for Negotiating Proposed Regulations' under sections 305.82–4 and 305.85–5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

"(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

Federal Register, publication.

"(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after the date of enactment of such Act.

"(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this Act.

"(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

"(e) The Secretary may, with respect to a contract entered into under this Act, make exceptions in the regulations promulgated to carry out this Act, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this Act, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 102.".

SEC. 106. CONFORMING AMENDMENTS.

Section 105(h) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107 of this Act".

TITLE II—SELF-GOVERNANCE

Tribal Self-Governance Act of 1994.
25 USC 450 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Tribal Self-Governance Act of 1994".

25 USC 458aa note.

SEC. 202. FINDINGS.

Congress finds that—

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 203. DECLARATION OF POLICY.

25 USC 458aa note.

It is the policy of this title to permanently establish and implement tribal self-governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

(3) to coexist with the provisions of the Indian Self-Determination Act relating to the provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 204. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

25 USC 458aa.

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this title referred to as 'Self-Governance') in accordance with this title.

25 USC 458bb.

"SEC. 402. SELECTION OF PARTICIPATING INDIAN TRIBES.

"(a) CONTINUING PARTICIPATION.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) ADDITIONAL PARTICIPANTS.—(1) In addition to those Indian tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) to participate in Self-Governance.

"(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

"(c) APPLICANT POOL.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

"(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

25 USC 458cc.

"SEC. 403. FUNDING AGREEMENTS.

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs, without regard to the

agency or office of the Bureau of Indian Affairs within which the program, service, function, and activity, or portion thereof, is performed, including funding for agency, area, and central office functions in accordance with subsection (g)(3), and including any program, service, function, and activity, or portion thereof, administered under the authority of—

"(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

"(B) the Act of November 2, 1921 (25 U.S.C. 13); and

"(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

"(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section 405(c), except that nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law;

"(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and reallocate funds for such programs, services, functions, and activities, or portions thereof, except that, with respect to the reallocation, consolidation, and redesign of programs described in paragraph (2), a joint agreement between the Secretary and the tribe shall be required;

"(4) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(5) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(6) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(7) allow for retrocession of programs or portions of programs pursuant to section 105(e);

"(8) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(9) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) ADDITIONAL ACTIVITIES.—Each funding agreement negotiated pursuant to subsections (a) and (b) may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

"(d) PROVISIONS RELATING TO THE SECRETARY.—Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

"(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

"(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resources, or public health and safety.

"(e) CONSTRUCTION PROJECTS.—(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act and Federal acquisition regulations in any funding agreement entered into under this Act. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

"(2) In all construction projects performed pursuant to this title, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

"(f) SUBMISSION FOR REVIEW.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

"(g) PAYMENT.—(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) The funding agreements authorized by this title and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

"(3) Subject to paragraph (4) of this subsection and paragraphs (1) through (3) of subsection (b), the Secretary shall provide funds to the tribe under an agreement under this title for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including

amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

"(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(h) CIVIL ACTIONS.—(1) Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(i) FACILITATION.—(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. The Secretary's decision shall be final for the Department.

"(j) FUNDS.—All funds provided under funding agreements entered into pursuant to this Act, and all funds provided under contracts or grants made pursuant to this Act, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

"(k) DISCLAIMER.—Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under sections 403(b)(2) and 405(c)(1) with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe: *Provided,* however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under section 403(b)(2).

"SEC. 404. BUDGET REQUEST. 25 USC 458dd.

"The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31,

United States Code, any funds proposed to be included in agreements authorized under this title.

25 USC 458ee.

"SEC. 405. REPORTS.

"(a) REQUIREMENT.—The Secretary shall submit to Congress a written report on January 1 of each year following the date of enactment of this title regarding the administration of this title.

"(b) CONTENTS.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

"(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

"(4) include the separate views of the tribes; and

"(5) include the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d).

"(c) REPORT ON NON-BIA PROGRAMS.—(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this title, the Secretary shall—

"(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

"(B) not later than 90 days after the date of enactment of this title, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this title, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

"(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this title, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 403.

Federal Register, publication.

"(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this title. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

Federal Register, publication.

"(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this title, a revised listing and programmatic targets.

"(d) REPORT ON CENTRAL OFFICE FUNDS.—Within 90 days after the date of the enactment of this title, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central

Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b), together with the views of the affected Indian tribes.

"SEC. 406. DISCLAIMERS. 25 USC 458ff.

"(a) OTHER SERVICES, CONTRACTS, AND FUNDS.—Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"(b) FEDERAL TRUST RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

"(c) APPLICATION OF OTHER SECTIONS OF ACT.—All provisions of sections 6, 102(c), 104, 105(f), 110, and 111 of this Act shall apply to agreements provided under this title.

"SEC. 407. REGULATIONS. 25 USC 458gg.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

25 USC 458hh.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title.".

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 4842:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 6, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-414
103d Congress

An Act

To amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

Oct. 25, 1994
[H.R. 4922]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERCEPTION OF DIGITAL AND OTHER COMMUNICATIONS

Communications Assistance for Law Enforcement Act.

SEC. 101. SHORT TITLE.

47 USC 1001 note.

This title may be cited as the "Communications Assistance for Law Enforcement Act".

SEC. 102. DEFINITIONS.

47 USC 1001.

For purposes of this title—

(1) The terms defined in section 2510 of title 18, United States Code, have, respectively, the meanings stated in that section.

(2) The term "call-identifying information" means dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "electronic messaging services" means software-based services that enable the sharing of data, images, sound, writing, or other information among computing devices controlled by the senders or recipients of the messages.

(5) The term "government" means the government of the United States and any agency or instrumentality thereof, the District of Columbia, any commonwealth, territory, or possession of the United States, and any State or political subdivision thereof authorized by law to conduct electronic surveillance.

(6) The term "information services"—

(A) means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications; and

(B) includes—

(i) a service that permits a customer to retrieve stored information from, or file information for storage in, information storage facilities;

(ii) electronic publishing; and

(iii) electronic messaging services; but

(C) does not include any capability for a telecommunications carrier's internal management, control, or operation of its telecommunications network.

(7) The term "telecommunications support services" means a product, software, or service used by a telecommunications carrier for the internal signaling or switching functions of its telecommunications network.

(8) The term "telecommunications carrier"—

(A) means a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire; and

(B) includes—

(i) a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

(ii) a person or entity engaged in providing wire or electronic communication switching or transmission service to the extent that the Commission finds that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of this title; but

(C) does not include—

(i) persons or entities insofar as they are engaged in providing information services; and

(ii) any class or category of telecommunications carriers that the Commission exempts by rule after consultation with the Attorney General.

47 USC 1002.

SEC. 103. ASSISTANCE CAPABILITY REQUIREMENTS.

(a) CAPABILITY REQUIREMENTS.—Except as provided in subsections (b), (c), and (d) of this section and sections 108(a) and 109(b) and (d), a telecommunications carrier shall ensure that its equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

(1) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's equipment, facility, or service, or at such later time as may be acceptable to the government;

(2) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to access call-identifying information that is reasonably available to the carrier—

(A) before, during, or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the government); and

(B) in a manner that allows it to be associated with the communication to which it pertains,

except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127 of title 18, United States Code), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

(3) delivering intercepted communications and call-identifying information to the government, pursuant to a court order or other lawful authorization, in a format such that they may be transmitted by means of equipment, facilities, or services procured by the government to a location other than the premises of the carrier; and

(4) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

(B) information regarding the government's interception of communications and access to call-identifying information.

(b) LIMITATIONS.—

(1) DESIGN OF FEATURES AND SYSTEMS CONFIGURATIONS.—This title does not authorize any law enforcement agency or officer—

(A) to require any specific design of equipment, facilities, services, features, or system configurations to be adopted by any provider of a wire or electronic communication service, any manufacturer of telecommunications equipment, or any provider of telecommunications support services; or

(B) to prohibit the adoption of any equipment, facility, service, or feature by any provider of a wire or electronic communication service, any manufacturer of telecommunications equipment, or any provider of telecommunications support services.

(2) INFORMATION SERVICES; PRIVATE NETWORKS AND INTERCONNECTION SERVICES AND FACILITIES.—The requirements of subsection (a) do not apply to—

(A) information services; or

(B) equipment, facilities, or services that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

(3) ENCRYPTION.—A telecommunications carrier shall not be responsible for decrypting, or ensuring the government's ability to decrypt, any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information necessary to decrypt the communication.

(c) EMERGENCY OR EXIGENT CIRCUMSTANCES.—In emergency or exigent circumstances (including those described in sections 2518 (7) or (11)(b) and 3125 of title 18, United States Code, and section 1805(e) of title 50 of such Code), a carrier at its discretion may comply with subsection (a)(3) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

(d) MOBILE SERVICE ASSISTANCE REQUIREMENTS.—A telecommunications carrier that is a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934) offering a feature or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of a wire or electronic communication service that has acquired access to the communications.

47 USC 1003.

SEC. 104. NOTICES OF CAPACITY REQUIREMENTS.

(a) NOTICES OF MAXIMUM AND ACTUAL CAPACITY REQUIREMENTS.—

Federal Register, publication.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title, after consulting with State and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment, and after notice and comment, the Attorney General shall publish in the Federal Register and provide to appropriate telecommunications industry associations and standard-setting organizations—

(A) notice of the actual number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity set forth under subparagraph (B), that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by the date that is 4 years after the date of enactment of this title; and

(B) notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of this title.

(2) BASIS OF NOTICES.—The notices issued under paragraph (1)—

(A) may be based upon the type of equipment, type of service, number of subscribers, type or size or carrier, nature of service area, or any other measure; and

(B) shall identify, to the maximum extent practicable, the capacity required at specific geographic locations.

(b) COMPLIANCE WITH CAPACITY NOTICES.—

(1) INITIAL CAPACITY.—Within 3 years after the publication by the Attorney General of a notice of capacity requirements or within 4 years after the date of enactment of this title, whichever is longer, a telecommunications carrier shall, subject to subsection (e), ensure that its systems are capable of—

(A) accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under subsection (a)(1)(A); and

(B) expanding to the maximum capacity set forth in the notice under subsection (a)(1)(B).

(2) EXPANSION TO MAXIMUM CAPACITY.—After the date described in paragraph (1), a telecommunications carrier shall, subject to subsection (e), ensure that it can accommodate expeditiously any increase in the actual number of communication interceptions, pen registers, and trap and trace devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (a)(1)(B).

(c) NOTICES OF INCREASED MAXIMUM CAPACITY REQUIREMENTS.—

(1) NOTICE.—The Attorney General shall periodically publish in the Federal Register, after notice and comment, notice of any necessary increases in the maximum capacity requirement set forth in the notice under subsection (a)(1)(B). Federal Register, publication.

(2) COMPLIANCE.—Within 3 years after notice of increased maximum capacity requirements is published under paragraph (1), or within such longer time period as the Attorney General may specify, a telecommunications carrier shall, subject to subsection (e), ensure that its systems are capable of expanding to the increased maximum capacity set forth in the notice.

(d) CARRIER STATEMENT.—Within 180 days after the publication by the Attorney General of a notice of capacity requirements pursuant to subsection (a) or (c), a telecommunications carrier shall submit to the Attorney General a statement identifying any of its systems or services that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under such subsection.

(e) REIMBURSEMENT REQUIRED FOR COMPLIANCE.—The Attorney General shall review the statements submitted under subsection (d) and may, subject to the availability of appropriations, agree to reimburse a telecommunications carrier for costs directly associated with modifications to attain such capacity requirement that are determined to be reasonable in accordance with section 109(e). Until the Attorney General agrees to reimburse such carrier for such modification, such carrier shall be considered to be in compliance with the capacity notices under subsection (a) or (c).

SEC. 105. SYSTEMS SECURITY AND INTEGRITY. 47 USC 1004.

A telecommunications carrier shall ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of

the carrier acting in accordance with regulations prescribed by the Commission.

47 USC 1005.

SEC. 106. COOPERATION OF EQUIPMENT MANUFACTURERS AND PROVIDERS OF TELECOMMUNICATIONS SUPPORT SERVICES.

(a) CONSULTATION.—A telecommunications carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of ensuring that current and planned equipment, facilities, and services comply with the capability requirements of section 103 and the capacity requirements identified by the Attorney General under section 104.

(b) COOPERATION.—Subject to sections 104(e), 108(a), and 109 (b) and (d), a manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support services shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment, facilities, or services such features or modifications as are necessary to permit such carriers to comply with the capability requirements of section 103 and the capacity requirements identified by the Attorney General under section 104.

47 USC 1006.

SEC. 107. TECHNICAL REQUIREMENTS AND STANDARDS; EXTENSION OF COMPLIANCE DATE.

(a) SAFE HARBOR.—

(1) CONSULTATION.—To ensure the efficient and industry-wide implementation of the assistance capability requirements under section 103, the Attorney General, in coordination with other Federal, State, and local law enforcement agencies, shall consult with appropriate associations and standard-setting organizations of the telecommunications industry, with representatives of users of telecommunications equipment, facilities, and services, and with State utility commissions.

(2) COMPLIANCE UNDER ACCEPTED STANDARDS.—A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 103, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 106, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 103.

(3) ABSENCE OF STANDARDS.—The absence of technical requirements or standards for implementing the assistance capability requirements of section 103 shall not—

(A) preclude a telecommunications carrier, manufacturer, or telecommunications support services provider from deploying a technology or service; or

(B) relieve a carrier, manufacturer, or telecommunications support services provider of the obligations imposed by section 103 or 106, as applicable.

(b) COMMISSION AUTHORITY.—If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a Government agency or any other person believes

that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by rule, technical requirements or standards that—

(1) meet the assistance capability requirements of section 103 by cost-effective methods;

(2) protect the privacy and security of communications not authorized to be intercepted;

(3) minimize the cost of such compliance on residential ratepayers;

(4) serve the policy of the United States to encourage the provision of new technologies and services to the public; and

(5) provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 103 during any transition period.

(c) EXTENSION OF COMPLIANCE DATE FOR EQUIPMENT, FACILITIES, AND SERVICES.—

(1) PETITION.—A telecommunications carrier proposing to install or deploy, or having installed or deployed, any equipment, facility, or service prior to the effective date of section 103 may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 103.

(2) GROUNDS FOR EXTENSION.—The Commission may, after consultation with the Attorney General, grant an extension under this subsection, if the Commission determines that compliance with the assistance capability requirements under section 103 is not reasonably achievable through application of technology available within the compliance period.

(3) LENGTH OF EXTENSION.—An extension under this subsection shall extend for no longer than the earlier of—

(A) the date determined by the Commission as necessary for the carrier to comply with the assistance capability requirements under section 103; or

(B) the date that is 2 years after the date on which the extension is granted.

(4) APPLICABILITY OF EXTENSION.—An extension under this subsection shall apply to only that part of the carrier's business on which the new equipment, facility, or service is used.

SEC. 108. ENFORCEMENT ORDERS. 47 USC 1007.

(a) GROUNDS FOR ISSUANCE.—A court shall issue an order enforcing this title under section 2522 of title 18, United States Code, only if the court finds that—

(1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and

(2) compliance with the requirements of this title is reasonably achievable through the application of available technology to the equipment, facility, or service at issue or would have been reasonably achievable if timely action had been taken.

(b) TIME FOR COMPLIANCE.—Upon issuing an order enforcing this title, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufac-

turer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

(c) LIMITATIONS.—An order enforcing this title may not—

(1) require a telecommunications carrier to meet the Government's demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which the Attorney General has agreed to reimburse such carrier;

(2) require any telecommunications carrier to comply with assistance capability requirement of section 103 if the Commission has determined (pursuant to section 109(b)(1)) that compliance is not reasonably achievable, unless the Attorney General has agreed (pursuant to section 109(b)(2)) to pay the costs described in section 109(b)(2)(A); or

(3) require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 103, any equipment, facility, or service deployed on or before January 1, 1995, unless—

(A) the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, facility, or service into compliance with those requirements; or

(B) the equipment, facility, or service has been replaced or significantly upgraded or otherwise undergoes major modification.

47 USC 1008.

SEC. 109. PAYMENT OF COSTS OF TELECOMMUNICATIONS CARRIERS TO COMPLY WITH CAPABILITY REQUIREMENTS.

(a) EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED ON OR BEFORE JANUARY 1, 1995.—The Attorney General may, subject to the availability of appropriations, agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103.

(b) EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED AFTER JANUARY 1, 1995.—

(1) DETERMINATIONS OF REASONABLY ACHIEVABLE.—The Commission, on petition from a telecommunications carrier or any other interested person, and after notice to the Attorney General, shall determine whether compliance with the assistance capability requirements of section 103 is reasonably achievable with respect to any equipment, facility, or service installed or deployed after January 1, 1995. The Commission shall make such determination within 1 year after the date such petition is filed. In making such determination, the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's systems and shall consider the following factors:

(A) The effect on public safety and national security.

(B) The effect on rates for basic residential telephone service.

(C) The need to protect the privacy and security of communications not authorized to be intercepted.

(D) The need to achieve the capability assistance requirements of section 103 by cost-effective methods.

(E) The effect on the nature and cost of the equipment, facility, or service at issue.

(F) The effect on the operation of the equipment, facility, or service at issue.

(G) The policy of the United States to encourage the provision of new technologies and services to the public.

(H) The financial resources of the telecommunications carrier.

(I) The effect on competition in the provision of telecommunications services.

(J) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.

(K) Such other factors as the Commission determines are appropriate.

(2) COMPENSATION.—If compliance with the assistance capability requirements of section 103 is not reasonably achievable with respect to equipment, facilities, or services deployed after January 1, 1995—

(A) the Attorney General, on application of a telecommunications carrier, may agree, subject to the availability of appropriations, to pay the telecommunications carrier for the additional reasonable costs of making compliance with such assistance capability requirements reasonably achievable; and

(B) if the Attorney General does not agree to pay such costs, the telecommunications carrier shall be deemed to be in compliance with such capability requirements.

(c) ALLOCATION OF FUNDS FOR PAYMENT.—The Attorney General shall allocate funds appropriated to carry out this title in accordance with law enforcement priorities determined by the Attorney General.

(d) FAILURE TO MAKE PAYMENT WITH RESPECT TO EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED ON OR BEFORE JANUARY 1, 1995.—If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 103, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 103 until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modification.

(e) COST CONTROL REGULATIONS.—

(1) IN GENERAL.—The Attorney General shall, after notice and comment, establish regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers under this title, under chapters 119 and 121 of title 18, United States Code, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(2) CONTENTS OF REGULATIONS.—The Attorney General, after consultation with the Commission, shall prescribe regulations for purposes of determining reasonable costs under this

title. Such regulations shall seek to minimize the cost to the Federal Government and shall—

(A) permit recovery from the Federal Government of—

(i) the direct costs of developing the modifications described in subsection (a), of providing the capabilities requested under subsection (b)(2), or of providing the capacities requested under section 104(e), but only to the extent that such costs have not been recovered from any other governmental or nongovernmental entity;

(ii) the costs of training personnel in the use of such capabilities or capacities; and

(iii) the direct costs of deploying or installing such capabilities or capacities;

(B) in the case of any modification that may be used for any purpose other than lawfully authorized electronic surveillance by a law enforcement agency of a government, permit recovery of only the incremental cost of making the modification suitable for such law enforcement purposes; and

(C) maintain the confidentiality of trade secrets.

(3) SUBMISSION OF CLAIMS.—Such regulations shall require any telecommunications carrier that the Attorney General has agreed to pay for modifications pursuant to this section and that has installed or deployed such modification to submit to the Attorney General a claim for payment that contains or is accompanied by such information as the Attorney General may require.

47 USC 1009.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title a total of $500,000,000 for fiscal years 1995, 1996, 1997, and 1998. Such sums are authorized to remain available until expended.

47 USC 1001 note.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of enactment of this Act.

(b) ASSISTANCE CAPABILITY AND SYSTEMS SECURITY AND INTEGRITY REQUIREMENTS.—Sections 103 and 105 of this title shall take effect on the date that is 4 years after the date of enactment of this Act.

47 USC 1010.

SEC. 112. REPORTS.

(a) REPORTS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—On or before November 30, 1995, and on or before November 30 of each year thereafter, the Attorney General shall submit to Congress and make available to the public a report on the amounts paid during the preceding fiscal year to telecommunications carriers under sections 104(e) and 109.

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a detailed accounting of the amounts paid to each carrier and the equipment, facility, or service for which the amounts were paid; and

(B) projections of the amounts expected to be paid in the current fiscal year, the carriers to which payment

is expected to be made, and the equipment, facilities, or services for which payment is expected to be made.

(b) REPORTS BY THE COMPTROLLER GENERAL.—

(1) PAYMENTS FOR MODIFICATIONS.—On or before April 1, 1996, and every 2 years thereafter, the Comptroller General of the United States, after consultation with the Attorney General and the telecommunications industry, shall submit to the Congress a report—

(A) describing the type of equipment, facilities, and services that have been brought into compliance under this title; and

(B) reflecting its analysis of the reasonableness and cost-effectiveness of the payments made by the Attorney General to telecommunications carriers for modifications necessary to ensure compliance with this title.

(2) COMPLIANCE COST ESTIMATES.—A report under paragraph (1) shall include the findings and conclusions of the Comptroller General on the costs to be incurred by telecommunications carriers to comply with the assistance capability requirements of section 103 after the effective date of such section 103, including projections of the amounts expected to be incurred and a description of the equipment, facilities, or services for which they are expected to be incurred.

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 201. COURT ENFORCEMENT OF COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT.

(a) COURT ORDERS UNDER CHAPTER 119.—Chapter 119 of title 18, United States Code, is amended by inserting after section 2521 the following new section:

"§ 2522. Enforcement of the Communications Assistance for Law Enforcement Act

"(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under this chapter, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements of the Communications Assistance for Law Enforcement Act, the court may, in accordance with section 108 of such Act, direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

"(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may, in a civil action in the appropriate United States district court, obtain an order, in accordance with section 108 of the Communications Assistance for Law Enforcement Act, directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with such Act.

"(c) CIVIL PENALTY.—

"(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

"(2) CONSIDERATIONS.—In determining whether to impose a civil penalty and in determining its amount, the court shall take into account—

"(A) the nature, circumstances, and extent of the violation;

"(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

"(C) such other matters as justice may require.

"(d) DEFINITIONS.—As used in this section, the terms defined in section 102 of the Communications Assistance for Law Enforcement Act have the meanings provided, respectively, in such section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2518(4) of title 18, United States Code, is amended by adding at the end the following new sentence: "Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.".

18 USC 3124.

(2) Section 3124 of such title is amended by adding at the end the following new subsection:

"(f) COMMUNICATIONS ASSISTANCE ENFORCEMENT ORDERS.—Pursuant to section 2522, an order may be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.".

(3) The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by inserting after the item pertaining to section 2521 the following new item:

"2522. Enforcement of the Communications Assistance for Law Enforcement Act.".

SEC. 202. CORDLESS TELEPHONES.

(a) DEFINITIONS.—Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ", but such term does not include" and all that follows through "base unit"; and

(2) in paragraph (12), by striking subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(b) PENALTY.—Section 2511 of title 18, United States Code, is amended—

(1) in subsection (4)(b)(i) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,"; and

(2) in subsection (4)(b)(ii) by inserting "a cordless telephone communication that is transmitted between the cordless tele-

phone handset and the base unit," after "cellular telephone communication,".

SEC. 203. RADIO-BASED DATA COMMUNICATIONS.

Section 2510(16) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by inserting "or" at the end of subparagraph (E); and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an electronic communication;".

SEC. 204. PENALTIES FOR MONITORING RADIO COMMUNICATIONS THAT ARE TRANSMITTED USING MODULATION TECHNIQUES WITH NONPUBLIC PARAMETERS.

Section 2511(4)(b) of title 18, United States Code, is amended by striking "or encrypted, then" and inserting ", encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then".

SEC. 205. TECHNICAL CORRECTION.

Section 2511(2)(a)(i) of title 18, United States Code, is amended by striking "used in the transmission of a wire communication" and inserting "used in the transmission of a wire or electronic communication".

SEC. 206. FRAUDULENT ALTERATION OF COMMERCIAL MOBILE RADIO INSTRUMENTS.

(a) OFFENSE.—Section 1029(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3); and

(2) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services; or

"(6) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

"(A) a scanning receiver; or

"(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services,".

(b) PENALTY.—Section 1029(c)(2) of title 18, United States Code, is amended by striking "(a)(1) or (a)(4)" and inserting "(a) (1), (4), (5), or (6)".

(c) DEFINITIONS.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier," after "account number,";

(2) by striking "and" at the end of paragraph (5);

(3) by striking the period at the end of paragraph (6) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) the term 'scanning receiver' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119.".

SEC. 207. TRANSACTIONAL DATA.

(a) DISCLOSURE OF RECORDS.—Section 2703 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(B) by adding at the end the following new subparagraph:

"(C) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the name, address, telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under subparagraph (B).";

(2) by amending the first sentence of subsection (d) to read as follows: "A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction described in section 3126(2)(A) and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.".

(b) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 3121 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) LIMITATION.—A government agency authorized to install and use a pen register under this chapter or under State law shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.".

SEC. 208. AUTHORIZATION FOR ACTING DEPUTY ATTORNEYS GENERAL IN THE CRIMINAL DIVISION TO APPROVE CERTAIN COURT APPLICATIONS.

Section 2516(1) of title 18, United States Code, is amended by inserting "or acting Deputy Assistant Attorney General" after "Deputy Assistant Attorney General".

TITLE III—AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934

SEC. 301. COMPLIANCE COST RECOVERY.

Title II of the Communications Act of 1934 is amended by inserting after section 228 (47 U.S.C. 228) the following new section:

"SEC. 229. COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT COMPLIANCE.

"(a) IN GENERAL.—The Commission shall prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act. Regulations.

"(b) SYSTEMS SECURITY AND INTEGRITY.—The rules prescribed pursuant to subsection (a) shall include rules to implement section 105 of the Communications Assistance for Law Enforcement Act that require common carriers—

"(1) to establish appropriate policies and procedures for the supervision and control of its officers and employees—

"(A) to require appropriate authorization to activate interception of communications or access to call-identifying information; and

"(B) to prevent any such interception or access without such authorization;

"(2) to maintain secure and accurate records of any interception or access with or without such authorization; and

"(3) to submit to the Commission the policies and procedures adopted to comply with the requirements established under paragraphs (1) and (2).

"(c) COMMISSION REVIEW OF COMPLIANCE.—The Commission shall review the policies and procedures submitted under subsection (b)(3) and shall order a common carrier to modify any such policy or procedure that the Commission determines does not comply with Commission regulations. The Commission shall conduct such investigations as may be necessary to insure compliance by common carriers with the requirements of the regulations prescribed under this section.

"(d) PENALTIES.—For purposes of this Act, a violation by an officer or employee of any policy or procedure adopted by a common carrier pursuant to subsection (b), or of a rule prescribed by the Commission pursuant to subsection (a), shall be considered to be a violation by the carrier of a rule prescribed by the Commission pursuant to this Act.

"(e) COST RECOVERY FOR COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT COMPLIANCE.—

"(1) PETITIONS AUTHORIZED.—A common carrier may petition the Commission to adjust charges, practices, classifications, and regulations to recover costs expended for making modifications to equipment, facilities, or services pursuant to the requirements of section 103 of the Communications Assistance for Law Enforcement Act.

"(2) COMMISSION AUTHORITY.—The Commission may grant, with or without modification, a petition under paragraph (1) if the Commission determines that such costs are reasonable and that permitting recovery is consistent with the public interest. The Commission may, consistent with maintaining just and reasonable charges, practices, classifications, and regulations in connection with the provision of interstate or foreign communication by wire or radio by a common carrier, allow carriers to adjust such charges, practices, classifications, and regulations in order to carry out the purposes of this Act.

"(3) JOINT BOARD.—The Commission shall convene a Federal-State joint board to recommend appropriate changes to part 36 of the Commission's rules with respect to recovery

of costs pursuant to charges, practices, classifications, and regulations under the jurisdiction of the Commission.".

SEC. 302. RECOVERY OF COST OF COMMISSION PROCEEDINGS.

The schedule of application fees in section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by inserting under item 1 of the matter pertaining to common carrier services the following additional subitem:

"d. Proceeding under section 109(b) of the Communications Assistance for Law Enforcement Act ..... 5,000".

SEC. 303. CLERICAL AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

47 USC 154. (1) in section 4(f)(3), by striking "overtime exceeds beyond" and inserting "overtime extends beyond";

47 USC 155. (2) in section 5, by redesignating subsection (f) as subsection (e);

47 USC 158. (3) in section 8(d)(2), by striking "payment of a" and inserting "payment of an";

(4) in the schedule contained in section 8(g), in item 7.f. under the heading "EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO" by striking "Additional Charge" and inserting "Additional Application Fee";

47 USC 159. (5) in section 9(f)(1), by inserting before the second sentence the following:

"(2) INSTALLMENT PAYMENTS.—";

(6) in the schedule contained in section 9(g), in the item pertaining to interactive video data services under the private radio bureau, insert "95" after "47 C.F.R. Part";

47 USC 220. (7) in section 220(a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

Regulations. "(2) The Commission shall, by rule, prescribe a uniform system of accounts for use by telephone companies. Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier.";

(8) in section 220(b), by striking "clasess" and inserting "classes";

47 USC 223. (9) in section 223(b)(3), by striking "defendant restrict access" and inserting "defendant restricted access";

47 USC 226. (10) in section 226(d), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

47 USC 227. (11) in section 227(b)(2)(C), by striking "paragraphs" and inserting "paragraph";

(12) in section 227(e)(2), by striking "national datebase" and inserting "national database";

47 USC 228. (13) in section 228(c), by redesignating the second paragraph (2) and paragraphs (3) through (6) as paragraphs (3) through (7), respectively;

(14) in section 228(c)(6)(D), by striking "conservation" and inserting "conversation";

(15) in section 308(c), by striking "May 24, 1921" and inserting "May 27, 1921"; 47 USC 308.

(16) in section 309(c)(2)(F), by striking "section 325(b)" and inserting "section 325(c)"; 47 USC 309.

(17) in section 309(i)(4)(A), by striking "Communications Technical Amendments Act of 1982" and inserting "Communications Amendments Act of 1982";

(18) in section 331, by amending the heading of such section to read as follows: 47 USC 331.

"VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS";

(19) in section 358, by striking "(a)"; 47 USC 356.

(20) in part III of title III—

(A) by inserting before section 381 the following heading: 47 USC 381.

"VESSELS TRANSPORTING MORE THAN SIX PASSENGERS FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO TELEPHONE";

(B) by inserting before section 382 the following heading: 47 USC 382.

"VESSELS EXCEPTED FROM RADIO TELEPHONE REQUIREMENT";

(C) by inserting before section 383 the following heading: 47 USC 383.

"EXEMPTIONS BY COMMISSION";

(D) by inserting before section 384 the following heading: 47 USC 384.

"AUTHORITY OF COMMISSION; OPERATIONS, INSTALLATIONS, AND ADDITIONAL EQUIPMENT";

(E) by inserting before section 385 the following heading: 47 USC 385.

"INSPECTIONS"; and

(F) by inserting before section 386 the following heading: 47 USC 386.

"FORFEITURES";

(21) in section 410(c), by striking ", as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act,"; 47 USC 410.

(22) in section 613(b)(2), by inserting a comma after "pole" and after "line"; 47 USC 533.

(23) in section 624(d)(2)(A), by inserting "of" after "viewing"; 47 USC 544.

(24) in section 634(h)(1), by striking "section 602(6)(A)" and inserting "section 602(7)(A)"; 47 USC 554.

(25) in section 705(d)(6), by striking "subsection (d)" and inserting "subsection (e)"; 47 USC 605.

(26) in section 705(e)(3)(A), by striking "paragraph (4) of subsection (d)" and inserting "paragraph (4) of this subsection";

(27) in section 705, by redesignating subsections (f) and (g) (as added by Public Law 100–667) as subsections (g) and (h); and

47 USC 605.

(28) in section 705(h) (as so redesignated), by striking "subsection (f)" and inserting "subsection (g)".

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

47 USC 733.

(1) in section 303(a)—

(A) by striking "section 27(d)" and inserting "section 327(d)";

(B) by striking "sec. 29-911(d)" and inserting "sec. 29-327(d)";

(C) by striking "section 36" and inserting "section 336"; and

(D) by striking "sec. 29-916d" and inserting "section 29-336(d)";

47 USC 734.

(2) in section 304(d), by striking "paragraphs (1), (2), (3), (4), and (5) of section 310(a)" and inserting "subsection (a) and paragraphs (1) through (4) of subsection (b) of section 310"; and

(3) in section 304(e)—

(A) by striking "section 45(b)" and inserting "section 345(b)"; and

(B) by striking "sec. 29-920(b)" and inserting "sec. 29-345(b)"; and

47 USC 751, 752.

(4) in sections 502(b) and 503(a)(1), by striking "the Communications Satellite Corporation" and inserting "the communications satellite corporation established pursuant to title III of this Act".

(c) AMENDMENT TO THE CHILDREN'S TELEVISION ACT OF 1990.—Section 103(a) of the Children's Television Act of 1990 (47 U.S.C. 303b(a)) is amended by striking "noncommerical" and inserting "noncommercial".

(d) AMENDMENTS TO THE TELECOMMUNICATIONS AUTHORIZATION ACT OF 1992.—Section 205(1) of the Telecommunications Authorization Act of 1992 is amended—

47 USC 318.

(1) by inserting an open parenthesis before "other than"; and

(2) by inserting a comma after "stations)".

(e) CONFORMING AMENDMENT.—Section 1253 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

47 USC 701 note.

(f) STYLISTIC CONSISTENCY.—The Communications Act of 1934 and the Communications Satellite Act of 1962 are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section.

SEC. 304. ELIMINATION OF EXPIRED AND OUTDATED PROVISIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

47 USC 157.

(1) in section 7(b), by striking "or twelve months after the date of the enactment of this section, if later" both places it appears;

47 USC 212.

(2) in section 212, by striking "After sixty days from the enactment of this Act it shall" and inserting "It shall";

47 USC 213.

(3) in section 213, by striking subsection (g) and redesignating subsection (h) as subsection (g);

47 USC 214.

(4) in section 214, by striking "section 221 or 222" and inserting "section 221";

47 USC 220.

(5) in section 220(b), by striking ", as soon as practicable,";

(6) by striking section 222; 47 USC 222.

(7) in section 224(b)(2), by striking "Within 180 days from the date of enactment of this section the Commission" and inserting "The Commission"; 47 USC 224.

(8) in 226(e), by striking "within 9 months after the date of enactment of this section,"; 47 USC 226.

(9) in section 309(i)(4)(A), by striking "The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall," and inserting "The Commission shall,"; 47 USC 309.

(10) by striking section 328; 47 USC 328.

(11) in section 413, by striking ", within sixty days after the taking effect of this Act,"; 47 USC 413.

(12) in section 624(d)(2)(B)— 47 USC 544.

(A) by striking out "(A)";

(B) by inserting "of" after "restrict the viewing"; and

(C) by striking subparagraph (B);

(13) by striking sections 702 and 703; 47 USC 602, 703.

(14) in section 704— 47 USC 604.

(A) by striking subsections (b) and (d); and

(B) by redesignating subsection (c) as subsection (b);

(15) in section 705(g) (as redesignated by section 304(25)), by striking "within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission" and inserting "The Commission"; 47 USC 605.

(16) in section 710(f)— 47 USC 610.

(A) by striking the first and second sentences; and

(B) in the third sentence, by striking "Thereafter, the Commission" and inserting "The Commission";

(17) in section 712(a), by striking ", within 120 days after the effective date of the Satellite Home Viewer Act of 1988,"; and 47 USC 612.

(18) by striking section 713. 47 USC 613.

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 201(a)(1), by striking "as expeditiously as possible,"; 47 USC 721.

(2) by striking sections 301 and 302 and inserting the following:

"SEC. 301. CREATION OF CORPORATION. 47 USC 731.

"There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

"SEC. 302. APPLICABLE LAWS. 47 USC 732.

"The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.";

(3) in section 304(a), by striking "at a price not in excess of $100 for each share and"; 47 USC 734.

(4) in section 404— 47 USC 744.

(A) by striking subsections (a) and (c); and

(B) by redesignating subsection (b) as section 404;

(5) in section 503— 47 USC 752.

(A) by striking paragraph (2) of subsection (a); and

(B) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;
(C) by striking subsection (b);
(D) in subsection (g)—
(i) by striking "subsection (c)(3)" and inserting "subsection (b)(3)"; and
(ii) by striking the last sentence; and
(E) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively;

47 USC 754-756.

(5) by striking sections 505, 506, and 507; and

47 USC 757.

(6) by redesignating section 508 as section 505.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 4922:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, 5, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 103-415
103d Congress

An Act

To make certain technical amendments relating to the State Department Basic Authorities Act of 1956, the United States Information and Educational Exchange Act of 1948, and other provisions of law.

Oct. 25, 1994
[H.R. 5034]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 121 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (d)(1)— *Ante*, p. 392.

(1) by striking "and the Director of the United States Information Agency" and inserting ", the Director of the United States Information Agency, or the Administrator of the Agency for International Development"; and

(2) by striking "or the United States Information Agency" and inserting ", the United States Information Agency, or the Agency for International Development".

(b) The Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (44 Stat. 887, 22 U.S.C. 211a) as amended by section 127(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 is amended—

(1) by striking "other employees" and inserting "such other employees"; and

(2) by striking "United States," and inserting "United States".

(c) Section 139 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in paragraph (20) by striking "2349aa" and inserting "4858(b)". *Ante*, p. 398.

(d) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (c)(2) by striking "serious loss of life or property" and inserting "serious injury, loss of life, or significant destruction of property". *Ante*, p. 399.

(e) Section 142(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended— *Ante*, p. 401.

(1) in paragraph (2) by striking "not," and inserting "not"; and

(2) in paragraph (3) by striking "because" and inserting "because,".

(f)(1) Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2662) as amended by section 161(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 22 USC 2651a.

(Public Law 103–236) is amended in subsection (a)(2) by inserting "and the Deputy Secretary of State" after "Secretary".

(2) Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (b) by striking "133" and inserting "162".

Ante, p. 404.

(3) Section 161 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (f)(2)—

(A) by striking "the principal duty of negotiations for";

(B) in subparagraph (A) by striking "Increased"; and inserting "The principal duty of negotiating increased"; and

(C) in subparagraph (B) by striking "Recoupment" and inserting "In consultation with the Department of Defense, assist in negotiations with the host governments for the recoupment".

(4)(A) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4801 et seq.) as amended by section 162(g) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 102–236) is amended—

22 USC 4802.

(i) in section 103(a)(2)(B)(i) by striking "operations" and inserting "operation"; and

(ii) in the table of contents—

(I) by striking the item relating to section 104;

(II) by striking the item relating to section 105;

(III) by striking the item relating to title II and inserting the following:

"TITLE II—PERSONNEL";

(IV) by striking the item relating to section 201 and inserting the following:

"Sec. 201. Diplomatic Security Service.";

and

(V) by striking the item relating to section 203 and inserting the following:

"Sec. 203. Special agents.".

(B) Section 162 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (q) by striking "2655" and inserting "2655a".

Ante, p. 410.

(g) Section 179 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (b) by striking "individual holding a career or career candidate appointment" and inserting "individuals holding career or career candidate appointments".

Ante, p. 415.

(h) The Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) as amended by section 180(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended—

22 USC 3951.

(1) in section 311—

(A) by striking the section heading and inserting in lieu thereof:

"SEC. 311. UNITED STATES CITIZENS HIRED ABROAD.—"; and

(B) in subsection (d) by inserting "by reason of such employment" after "eligible";

22 USC 4010.

(2) in section 610(a)(2) by inserting "(other than a United States citizen employed under section 311 who is not a family member)" after "A member of the Service"; and

(3) in the table of contents by striking the item relating to section 311 and inserting the following:

"Sec. 311. United States citizens hired abroad.".

(i) Section 181(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended— *Ante*, p. 418.

(1) by striking "system)," and inserting "system,"; and

(2) by striking "that agency" and inserting "that agency)".

(j) Section 182 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (a) by striking "has" and inserting "have". *Ante*, p. 418.

(k) Part I of title 18, United States Code (as amended by section 506 of Public Law 103–236) is amended in paragraph (1) of section 2340 by striking "with" and inserting "within his".

(l) Section 564 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (a) by striking "primary or secondary" and inserting "secondary or tertiary". *Ante*, p. 483.

(m) Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended in subsection (f) by striking "1994" and inserting "1995".

(n) The Secretary of State is authorized to obligate and expend from the Department of State's "Diplomatic and Consular Programs" appropriation not more than $2,500,000 of the amount appropriated in title XI, chapter 2 of Public Law 102–368 for the purchase of real property for use by the Department of State for its Miami Regional Center.

(o) Section 102(g) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended— *Ante*, p. 389.

(1) by inserting "the United Nations and its affiliated agencies in" after "appropriated for";

(2) by striking "each of the fiscal years 1994 and" and inserting "fiscal year";

(3) by striking "unless" and inserting "until";

(4) by striking "States" and inserting "Nations"; and

(5) by striking "promotes, condones," and inserting "promotes and condones".

(p) Section 303 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by adding at the end the following new subsection: 22 USC 6202.

"(c) VOICE OF AMERICA BROADCASTS.—The long-range interests of the United States are served by communicating directly with the peoples of the world by radio. To be effective, the Voice of America must win the attention and respect of listeners. These principles will therefore govern Voice of America (VOA) broadcasts:

"(1) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

"(2) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

"(3) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussions and opinion on these policies.".

(q) Section 701(f)(4) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476(f)(4)) is amended by striking "1993" and inserting "1995".

(r) Section 132 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by inserting "or issuance of a passport" after "nationality".

Ante, p. 395.

(s)(1) Section 305(a)(14) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking "to" and inserting "of".

Ante, p. 435.

(2) Section 309(d)(1)(B) of such Act is amended by inserting "of all members" after "confirmation".

Ante, p. 439.

(t) Section 101(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subparagraph (D) by striking "$400,000 is authorized to be appropriated for each of the" and inserting "$800,000 is authorized to be appropriated for".

Ante, p. 388.

(u) Section 191(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by inserting before the semicolon ", the Agency for International Development, and the United States Information Agency".

Ante, p. 418.

(v) Section 8 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454) is amended by adding at the end the following: "Notwithstanding section 555 of Public Law 100–461 and title III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988 (pursuant to the enactment under section 555 of Public Law 100–461), the Director of the United States Information Agency is authorized to administer such au pair programs through fiscal year 1995 in a manner consistent with the requirements of the Mutual Educational and Cultural Exchange Act of 1961 and shall promulgate regulations regarding such au pair programs.".

Regulations.

(w) The table of contents of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking the item relating to section 534 and inserting the following:

"Sec. 534. Study of democracy effectiveness.".

(x) Section 101(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in paragraph (2)(D) by striking "title 5" and inserting "part D of title V".

(y) Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended by striking the section caption and inserting "INSTITUTION FOR TRAINING".

(z) Section 134 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by inserting ", 1926" after "Act".

Ante, p. 396.

(aa) Section 139 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in paragraph (21), by striking "1990 and 1991 (22 U.S.C. 287(e)" and inserting "1992 and 1993 (22 U.S.C. 287e note).

Ante, p. 399.

(bb) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (a)(2), by striking "subsection (a)" and inserting "paragraph (1)".

Ante, p. 399.

(cc) Section 162 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended in subsection (o)(3)(B), by striking "paragraph (d)" and inserting "subsection (d)".

Ante, p. 410.

(dd) Section 529 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended

Ante, p. 477.

by striking "Nuclear Nonproliferation Treaty" each of the three places it appears and inserting "Treaty on the Nonproliferation of Nuclear Weapons".

(ee) The table of contents of the Immigration and Nationality Act is amended by striking the item relating to section 104 and inserting:

"Sec. 104. Powers and duties of the Secretary of State.".

(ff) Section 164(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by inserting "of 1962" after "Migration and Refugee Assistance Act". *Ante*, p. 411.

(gg) Section 173(c) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by inserting "United States" before "Arms Control and Disarmament Agency" both places it appears. *Ante*, p. 412.

(hh) Section 309(b) of the Foreign Service Act of 1980 (22 U.S.C. 3901(b)) is amended by striking "; and (5) as a foreign national employee." and inserting "; and 22 USC 3949.

"(5) as a foreign national employee.".

(ii) Section 611 of the Foreign Service Act of 1980 (as amended by section 181(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236)) is amended by striking "SEC. 611" and all that follows through "(a)" and inserting the following: 22 USC 4010a.

"SEC. 611. REDUCTIONS IN FORCE.—(a)".

(jj) Section 181 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended— *Ante*, p. 417.

(1) in subsection (a)(5) by inserting "of 1980" after "Foreign Service Act"; and

(2) in subsection (b), by striking "Section 1005" and inserting "Section 1005(a)".

(kk) The PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) as amended by section 524 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended— 104 Stat. 78.

(1) in section 804(b) by striking "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and inserting "section 583(b)(1) of the Middle East Peace Facilitation Act of 1994"; and

(2) in section 804(b)(1), by striking "section (4)(a) of the Middle East Peace Facilitation Act of 1994" and inserting "section 584(a) of the Middle East Peace Facilitation Act of 1994".

(ll) Section 315 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by adding after subsection (c) the following new subsection:

"(d) RELOCATION COSTS.—Notwithstanding any other provision of law, funds derived from the sale of real property assets of RFE/RL in Munich, Germany, may be retained, obligated, and expended to meet one-time costs associated with the consolidation of United States Government broadcasting activities in accordance with this title, including the costs of relocating RFE/RL offices and operations.". 22 USC 6214.

(mm)(1) The Act entitled "An Act to provide for the reorganization of the consular service of the United States" approved April 5, 1906 (34 Stat. 100, 22 U.S.C. 4215) as amended by section 127 of the Foreign Relations Authorization Act, Fiscal Years 1994

and 1995 (Public Law 103–236) is amended by striking the last sentence of section 7.

(2) The Act of August 18, 1856 (11 Stat. 61, 22 U.S.C. 4221) is amended in section 24 by adding at the end the following new sentence: "Pursuant to such regulations as the Secretary of State may prescribe, the Secretary may designate any other employee of the Department of State who is a citizen of the United States to perform any notarial function authorized to be performed by a consular officer of the United States under this Act.".

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 5034:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-416
103d Congress

An Act

To amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

Oct. 25, 1994
[H.R. 783]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration and Nationality Technical Corrections Act of 1994".

Immigration and Nationality Technical Corrections Act of 1994.
8 USC 1101 note.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NATIONALITY AND NATURALIZATION

Sec. 101. Equal treatment of women in conferring citizenship to children born abroad.
Sec. 102. Naturalization of children on application of citizen parent.
Sec. 103. Former citizens of United States regaining United States citizenship.
Sec. 104. Intent to reside permanently in the United States after naturalization.
Sec. 105. Terminology relating to expatriation.
Sec. 106. Administrative and judicial determinations relating to loss of citizenship.
Sec. 107. Cancellation of United States passports and consular reports of birth.
Sec. 108. Expanding waiver of the Government knowledge, United States history, and English language requirements for naturalization.
Sec. 109. Report on citizenship of certain legalized aliens.

TITLE II—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

Sec. 201. American Institute in Taiwan.
Sec. 202. G–4 special immigrants.
Sec. 203. Clarification of certain grounds for exclusion and deportation.
Sec. 204. United States citizens entering and departing on United States passports.
Sec. 205. Applications for visas.
Sec. 206. Family unity.
Sec. 207. Technical amendment regarding one-house veto.
Sec. 208. Authorization of appropriations for refugee assistance for fiscal years 1995, 1996, and 1997.
Sec. 209. Fines for unlawful bringing of aliens into the United States.
Sec. 210. Extension of visa waiver pilot program.
Sec. 211. Creation of probationary status for participant countries in the visa waiver pilot program.
Sec. 212. Technical changes to numerical limitations concerning certain special immigrants.
Sec. 213. Extension of telephone employment verification system.
Sec. 214. Extension of expanded definition of special immigrant for religious workers.
Sec. 215. Extension of off-campus work authorization for students.
Sec. 216. Eliminating obligation of carriers to detain stowaways.
Sec. 217. Completing use of visas provided under diversity transition program.
Sec. 218. Effect on preference date of application for labor certification.
Sec. 219. Other miscellaneous and technical corrections to immigration-related provisions.
Sec. 220. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 221. Visas for officials of Taiwan.
Sec. 222. Expansion of definition of aggravated felony.
Sec. 223. Summary deportation.
Sec. 224. Judicial deportation.
Sec. 225. Construction of expedited deportation requirements.

TITLE I—NATIONALITY AND NATURALIZATION

SEC. 101. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD.

(a) IN GENERAL.—Section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended—

(1) by striking the period at the end of paragraph (g) and inserting "; and", and

(2) by adding at the end the following new paragraph:

"(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.".

8 USC 1401 note. (b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

8 USC 1401 note. (c) RETROACTIVE APPLICATION.—(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though the amendment made by subsection (a), and subsection (b), had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

8 USC 1401 note. (d) APPLICATION TO TRANSMISSION OF CITIZENSHIP.—This section, the amendments made by this section, and any retroactive application of such amendments shall not effect any residency or other retention requirements for citizenship as in effect before October 10, 1978, with respect to the transmission of citizenship.

SEC. 102. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.

(a) IN GENERAL.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follows:

"CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

"SEC. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

"(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

"(2) The child is physically present in the United States pursuant to a lawful admission.

"(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

"(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the citizen parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

"(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years—

"(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

"(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

"(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

"(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 341 of such Act (8 U.S.C. 1452) is repealed.

(c) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 322 is amended to read as follows:

"Sec. 322. Child born outside the United States; application for certificate of citizenship requirements.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act. 8 USC 1433 note.

SEC. 103. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end the following new subsection:

"(d)(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

"(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).".

8 USC 1435 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 104. INTENT TO RESIDE PERMANENTLY IN THE UNITED STATES AFTER NATURALIZATION.

(a) IN GENERAL.—Section 338 of the Immigration and Nationality Act (8 U.S.C. 1449) is amended by striking "intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title,".

(b) CONFORMING REPEAL.—Section 340(d) of such Act (8 U.S.C. 1451(d)) is repealed.

(c) CONFORMING REDESIGNATION.—Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively; and

(2) in subsection (d) (as redesignated), by striking "subsections (c) or (d)" and inserting "subsection (c)".

8 USC 1440 note.

(d) CONFORMING AMENDMENT.—Section 405 of the Immigration Act of 1990 is amended by striking subsection (b).

8 USC 1449 note.

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons admitted to citizenship on or after the date of enactment of this Act.

SEC. 105. TERMINOLOGY RELATING TO EXPATRIATION.

(a) IN GENERAL.—Section 351 of the Immigration and Nationality Act (8 U.S.C. 1483) is amended—

(1) in the heading, by striking "EXPATRIATION" and inserting "LOSS OF NATIONALITY";

(2) in subsection (a)—

(A) by striking "expatriate himself, or be expatriated" and inserting "lose United States nationality", and

(B) by striking "expatriation" and inserting "loss of nationality"; and

(3) in subsection (b), by striking "expatriated himself" and inserting "lost United States nationality".

(b) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 351 is amended to read as follows:

"Sec. 351. Restrictions on loss of nationality.".

SEC. 106. ADMINISTRATIVE AND JUDICIAL DETERMINATIONS RELATING TO LOSS OF CITIZENSHIP.

Section 358 of the Immigration and Nationality Act (8 U.S.C. 1501) is amended by adding at the end the following new sentence: "Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this Act, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 360.".

SEC. 107. CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH.

(a) IN GENERAL.—Title III of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH

"SEC. 361. (a) The Secretary of State is authorized to cancel any United States passport or Consular Report of Birth, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through illegality or fraud practiced upon, the Secretary. The person for or to whom such document has been issued or made shall be given, at such person's last known address, written notice of the cancellation of such document, together with the procedures for seeking a prompt post-cancellation hearing. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. 8 USC 1504.

"(b) For purposes of this section, the term 'Consular Report of Birth' refers to the report, designated as a 'Report of Birth Abroad of a Citizen of the United States', issued by a consular officer to document a citizen born abroad.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 360 the following new item:

"Sec. 361. Cancellation of United States passports and Consular Reports of Birth.".

SEC. 108. EXPANDING WAIVER OF THE GOVERNMENT KNOWLEDGE, UNITED STATES HISTORY, AND ENGLISH LANGUAGE REQUIREMENTS FOR NATURALIZATION.

(a) IN GENERAL.—Section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended—

(1) by inserting "(a)" after "312.",

(2) by striking "this requirement" and all that follows through "That",

(3) by striking "this section" and inserting "this paragraph", and

(4) by adding at the end the following new subsection:

"(b)(1) The requirements of subsection (a) shall not apply to any person who is unable because of physical or developmental disability or mental impairment to comply therewith.

"(2) The requirement of subsection (a)(1) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, either—

"(A) is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence, or

"(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsequent to a lawful admission for permanent residence.

"(3) The Attorney General, pursuant to regulations, shall provide for special consideration, as determined by the Attorney General, concerning the requirement of subsection (a)(2) with respect to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.".

8 USC 1255a.

(b) CONFORMING AMENDMENTS.—Section 245A(b)(1)(D) of such Act (8 U.S.C. 1254a(b)(1)(D)) is amended by striking "312" each place it appears and inserting "312(a)".

8 USC 1423 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.

8 USC 1423 note.

(d) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to carry out section 312(b)(3) of the Immigration and Nationality Act (as amended by subsection (a)).

8 USC 1255a note.

SEC. 109. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

(1) The number of applications for citizenship filed.
(2) The number of applications approved.
(3) The number of applications denied.
(4) The number of applications pending.

TITLE II—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

SEC. 201. AMERICAN INSTITUTE IN TAIWAN.

Section 101(a)(27)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(D)) is amended—

(1) by inserting "or of the American Institute in Taiwan," after "of the United States Government abroad,"; and

(2) by inserting "(or, in the case of the American Institute in Taiwan, the Director thereof)" after "Foreign Service establishment".

SEC. 202. G-4 SPECIAL IMMIGRANTS.

Section 101(a)(27)(I)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(I)(iii)) is amended by striking "(II)" and all that follows through "; or" and inserting the following: "(II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994, whichever is later; or".

SEC. 203. CLARIFICATION OF CERTAIN GROUNDS FOR EXCLUSION AND DEPORTATION.

(a) EXCLUSION GROUNDS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)(A)(i)(I), by inserting "or an attempt or conspiracy to commit such a crime" after "offense)",

(2) in subsection (a)(2)(A)(i)(II), by inserting "or attempt" after "conspiracy", and

(3) in the last sentence of subsection (h), by inserting ", or an attempt or conspiracy to commit murder or a criminal act involving torture" after "torture".

(b) DEPORTATION GROUNDS.—Section 241(a) of such Act (8 U.S.C. 1251(a)) is amended—

(1) in paragraph (2)(C)—

(A) by striking "in violation of any law," and inserting ", or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry,", and

(B) by inserting "in violation of any law" after "Code)"; and

(2) in paragraph (3)(B), by inserting "an attempt or" before "a conspiracy" each place it appears in clauses (ii) and (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act. 8 USC 1182 note.

SEC. 204. UNITED STATES CITIZENS ENTERING AND DEPARTING ON UNITED STATES PASSPORTS.

(a) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended by inserting "United States" after "valid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures and entries (and attempts thereof) occurring on or after the date of enactment of this Act. 8 USC 1185 note.

SEC. 205. APPLICATIONS FOR VISAS.

(a) IN GENERAL.—The second sentence of section 222(a) of the Immigration and Nationality Act (8 U.S.C. 1202(a)) is amended—

(1) by striking "the immigrant" and inserting "the alien", and

(2) by striking "present address" and all that follows through "exempt from exclusion under the immigration laws;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications made on or after the date of the enactment of this Act. 8 USC 1202 note.

SEC. 206. FAMILY UNITY.

(a) IN GENERAL.—Section 301(a) of the Immigration Act of 1990 is amended by inserting after "May 5, 1988" the following: "(in the case of a relationship to a legalized alien described in 8 USC 1255a note.

subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A))".

8 USC 1255a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

SEC. 207. TECHNICAL AMENDMENT REGARDING ONE-HOUSE VETO.

Section 13(c) of the Act of September 11, 1957 (8 U.S.C. 1255b(c)) is amended—

(1) by striking the third sentence; and

(2) in the fourth sentence, by striking "If neither the Senate nor the House of Representatives passes such a resolution within the time above specified the" and inserting "The".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE ASSISTANCE FOR FISCAL YEARS 1995, 1996, AND 1997.

Section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking "fiscal year 1993 and fiscal year 1994" and inserting "fiscal year 1995, fiscal year 1996, and fiscal year 1997".

SEC. 209. FINES FOR UNLAWFUL BRINGING OF ALIENS INTO THE UNITED STATES.

(a) IN GENERAL.—Section 273 of the Immigration and Nationality Act (8 U.S.C. 1323) is amended—

(1) in subsections (b) and (d) by striking "the sum of $3000" and inserting "a fine of $3,000" each place it appears;

(2) in the first sentence of subsection (b) by striking "a sum equal" and inserting "an amount equal";

(3) in the second sentence of subsection (d) by striking "a sum sufficient to cover such fine" and inserting "an amount sufficient to cover such fine";

(4) by striking "sum" and "sums" each place either appears and inserting "fine";

(5) in subsection (c) by striking "Such" and inserting "Except as provided in subsection (e), such"; and

(6) by adding at the end the following new subsection:

Regulations.

"(e) A fine under this section may be reduced, refunded, or waived under such regulations as the Attorney General shall prescribe in cases in which—

"(1) the carrier demonstrates that it had screened all passengers on the vessel or aircraft in accordance with procedures prescribed by the Attorney General, or

"(2) circumstances exist that the Attorney General determines would justify such reduction, refund, or waiver.".

8 USC 1323 note.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to aliens brought to the United States more than 60 days after the date of enactment of this Act.

SEC. 210. EXTENSION OF VISA WAIVER PILOT PROGRAM.

Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended by striking "ending" and all that follows through the period and inserting "ending on September 30, 1996".

SEC. 211. CREATION OF PROBATIONARY STATUS FOR PARTICIPANT COUNTRIES IN THE VISA WAIVER PROGRAM.

Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2)(B) by inserting before the period "or is designated as a pilot program country with probationary status under subsection (g)";

(2) by adding at the end the following new subsection:

"(g) PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.—

"(1) IN GENERAL.—The Attorney General and the Secretary of State acting jointly may designate any country as a pilot program country with probationary status if it meets the requirements of paragraph (2).

"(2) QUALIFICATIONS.—A country may not be designated as a pilot program country with probationary status unless the following requirements are met:

"(A) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of the country during the two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS YEAR.—The number of refusals of nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) LOW EXCLUSIONS AND VIOLATIONS RATE FOR PREVIOUS YEAR.—The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 1.5 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(D) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS FOR PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS.—The designation of a country as a pilot program country with probationary status shall terminate if either of the following occurs:

"(A) The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as visitors during the preceding fiscal year and who violated the terms of such admission,

is more than 2.0 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(B) The country is not designated as a pilot program country under subsection (c) within 3 fiscal years of its designation as a pilot program country with probationary status under this subsection.".

"(4) DESIGNATION OF PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS AS PILOT PROGRAM COUNTRIES.—In the case of a country which was a pilot program country with probationary status in the preceding fiscal year, a country may be designated by the Attorney General and the Secretary of State, acting jointly, as a pilot program country under subsection (c) if—

"(A) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(B) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such preceding fiscal year."; and

(3) in subsection (c)(2) by striking "A country" and inserting "Except as provided in subsection (g)(4), a country".

SEC. 212. TECHNICAL CHANGES TO NUMERICAL LIMITATIONS CONCERNING CERTAIN SPECIAL IMMIGRANTS.

8 USC 1101 note.

(a) PANAMA CANAL SPECIAL IMMIGRANTS.—Section 3201 of the Panama Canal Act of 1979 (Public Law 96–70) is amended by striking subsection (c).

(b) ARMED FORCES SPECIAL IMMIGRANTS.—Section 203(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(6)) is amended by striking subparagraph (C).

SEC. 213. EXTENSION OF TELEPHONE EMPLOYMENT VERIFICATION SYSTEM.

Section 274A(d)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)(4)(A)) is amended in the second sentence by striking "three" and inserting "five".

SEC. 214. EXTENSION OF EXPANDED DEFINITION OF SPECIAL IMMIGRANT FOR RELIGIOUS WORKERS.

Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) is amended—

(1) in subclause (II) by striking "1994," and inserting "1997,"; and

(2) in subclause (III) by striking "1994," and inserting "1997,".

SEC. 215. EXTENSION OF OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS.

(a) IN GENERAL.—Section 221 of the Immigration Act of 1990 (Public Law 101–649; 104 Stat. 4978) as amended by section 303(b)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232; 105 Stat. 1747) is amended— 8 USC 1184 note.

(1) in the heading for subsection (a) by striking "3-YEAR" and inserting "5-YEAR";

(2) in subsection (a) by striking "3-year" and inserting "5-year"; and

(3) in subsection (b) by striking "1994," and inserting "1996,".

SEC. 216. ELIMINATING OBLIGATION OF CARRIERS TO DETAIN STOWAWAYS.

The first sentence of section 273(d) of the Immigration and Nationality Act (8 U.S.C. 1323(d)) is amended to read as follows: "The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States who fails to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer, shall pay to the Commissioner the sum of $3,000 for each alien stowaway, in respect of whom any such failure occurs.".

SEC. 217. COMPLETING USE OF VISAS PROVIDED UNDER DIVERSITY TRANSITION PROGRAM.

(a) EXTENSION OF DIVERSITY TRANSITION PROGRAM.—Section 132 of the Immigration Act of 1990 (Public Law 101–649) is amended— 8 USC 1153 note.

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: "and in fiscal year 1995 a number of immigrant visas equal to the number of such visas provided (but not made available) under this section in previous fiscal years"; and

(2) in the next to last sentence of subsection (c), by striking "or 1993" and inserting ", 1993, or 1994".

(b) ADMINISTRATION OF 1995 DIVERSITY TRANSITION PROGRAM.— 8 USC 1153 note.

(1) ELIGIBILITY.—For the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), applications for natives of diversity transition countries submitted for fiscal year 1995 for diversity immigrants under section 203(c) of the Immigration and Nationality Act shall be considered applications for visas made available for fiscal year 1995 for the diversity transition program under section 132 of the Immigration Act of 1990. No application period for the fiscal year 1995 diversity transition program shall be established and no new applications may be accepted for visas made available under such program for fiscal year 1995. Applications for visas in excess of the minimum available to natives of the country specified in section 132(c) of the Immigration Act of 1990 shall be selected for qualified applicants within the several regions defined in section

203(c)(1)(F) of the Immigration and Nationality Act in proportion to the region's share of visas issued in the diversity transition program during fiscal years 1992 and 1993.

(2) NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, notification of the extension of the diversity transition program for fiscal year 1995 and the provision of visa numbers shall be made to each eligible applicant under paragraph (1).

(3) REQUIREMENTS.—Notwithstanding any other provision of law, for the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), the requirement of section 132(b)(2) of the Immigration Act of 1990 shall not apply to applicants under such extension and the requirement of section 203(c)(2) of the Immigration and Nationality Act shall apply to such applicants.

SEC. 218. EFFECT ON PREFERENCE DATE OF APPLICATION FOR LABOR CERTIFICATION.

8 USC 1101 note.

Section 161(c)(1) of the Immigration Act of 1990 (Public Law 101–649) is amended—

(1) by striking "or an application for labor certification before such date under section 212(a)(14)"; and

(2) in subparagraph (A)—

(A) by striking "or application"; and

(B) by striking ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993".

SEC. 219. OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS TO IMMIGRATION-RELATED PROVISIONS.

(a) Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by striking "and has" and inserting "or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has".

(b)(1) The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting "(and each child of the alien)" after "the alien".

(2) The second sentence of section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)) is amended—

(A) by inserting "spouse" after "alien", and

(B) by inserting "of the alien (and the alien's children)" after "for classification".

(c) Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by striking "TARGETTED", "TARGETTED", and "targetted" each place each appears and inserting "TARGETED", "TARGETED", and "targeted", respectively.

(d) Section 210(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(d)(3)) is amended by inserting "the" before "Service" the first place it appears.

(e) Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by striking "voluntary" and inserting "voluntarily".

(f) Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended in subsection (d)(3)(B) by striking "subparagraph (A)" and inserting "subparagraph (A)(iii)".

(g) Section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(c)) is amended by striking "or (3)(A) of subsection 241(a)" and inserting "and (3)(A) of subsection (a)".

(h) Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended by striking "Parole,," and inserting "Parole,".

(i) Section 242B(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1252b(c)(1)) is amended by striking the comma after "that".

(j) Section 244A(c)(2)(A)(iii)(III) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(A)(iii)(III)) is amended—

(1) by striking "Paragraphs" and inserting "paragraphs", and

(2) by striking "or (3)(E)" and inserting "and (3)(E)".

(k) Section 245(h)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(B)) is amended by striking "or (3)(E)" and inserting "and (3)(E)".

(l)(1) Subparagraph (C) of section 245A(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)), as added by Public Law 102–140, is amended—

(A) by indenting it 2 additional ems to the right; and

(B) by striking "subsection (B)" and inserting "subparagraph (B)".

(2) Section 610(b) of Public Law 102–140 is amended by striking "404(b)(2)(ii)" and "404(b)(2)(iii)" and inserting "404(b)(2)(A)(ii)" and "404(b)(2)(A)(iii)", respectively. 8 USC 1101 note.

(m) Effective as of the date of the enactment of this Act, section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended by striking the first 3 sentences. Effective date.

(n) Section 262(c) of the Immigration and Nationality Act (8 U.S.C. 1302(c)) is amended by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)".

(o) Section 272(a) of the Immigration and Nationality Act (8 U.S.C. 1322(a)) is amended by striking the comma after "so afflicted".

(p) The first sentence of section 273(b) of the Immigration and Nationality Act (8 U.S.C. 1323(b)) is amended by striking "collector of customs" and inserting "Commissioner".

(q) Section 274B(g)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(C)) is amended by striking "an administrative law judge" and inserting "the Special Counsel".

(r) Section 274C(b) of the Immigration and Nationality Act (8 U.S.C. 1324c(b)) is amended by striking "title V" and all that follows through "3481)" and inserting "chapter 224 of title 18, United States Code".

(s) Section 280(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1330(b)(1)(C)) is amended by striking "maintainance" and inserting "maintenance".

(t) Effective as if included in the enactment of Public Law 102–395, subsection (r) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 112 of such Public Law, is amended—

(1) in the subsection heading, by striking "Breached Bond/Detention Account" and inserting "BREACHED BOND/DETENTION FUND";

(2) in paragraph (1), by striking "(hereafter referred to as the Fund)" and inserting "(in this subsection referred to as the 'Fund')";

(3) in paragraph (2), by striking "the Immigration and Nationality Act of 1952, as amended," and inserting "this Act";

(4) in paragraphs (4) and (6), by striking "the Breached Bond/Detention" each place it appears;

(5) in paragraph (4), by striking "of this Act" and inserting "of Public Law 102–395"; and

(6) in paragraph (5), by striking "account" and inserting "Fund".

(u) Section 310(b)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1421(b)(5)(A)) is amended by striking "District Court" and inserting "district court".

Effective date.

(v) Effective December 12, 1991, section 313(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1424(a)(2)) is amended by striking "and" before "(F)" and inserting "or".

(w) Section 333(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1444(b)(1)) is amended by striking "249(a)" and inserting "249".

(x) Section 412(e)(7)(D) of the Immigration and Nationality Act (8 U.S.C. 1522(e)(7)(D)) is amended by striking "paragraph (1) or (2) of".

8 USC 1254a note.

(y) Section 302(c) of the Immigration Act of 1990 is amended by striking "effect" and inserting "affect".

(z) Effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991—

8 USC 1182.

(1) section 303(a)(7)(B)(i) of such Act is amended by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)";

8 USC 1254a.

(2) section 304(b)(2) of such Act is amended by striking "paragraph (1)(B)" and inserting "subsection (c)(1)(B)";

8 USC 1449, 1449 note.

(3) paragraph (1) of section 305(j) of such Act is repealed (and section 407(d)(16)(C) of the Immigration Act of 1990 shall read as if such paragraph had not been enacted);

8 USC 1324a.

(4) paragraph (2) of section 306(b) of such Act is amended to read as follows:

"(2) Section 538(a) of the Immigration Act of 1990 is amended by striking the comma after 'Service'.";

8 USC 1182.

(5) section 307(a)(6) of such Act is amended by striking "immigrants" the first place it appears and inserting "immigrant aliens";

8 USC 1356 note.

(6) section 309(a)(3) of such Act is amended by striking "paragraph (1) and (2)" and inserting "paragraphs (1)(A) and (1)(B)";

8 USC 1160.

(7) section 309(b)(6)(F) of such Act is amended by striking "210(a)(1)(B)(1)(B)" and inserting "210(a)(B)(1)(B)";

8 USC 1188.

(8) section 309(b)(8) of such Act is amended by striking "274A(g)" and inserting "274A(h)"; and

8 USC 1101 note.

(9) section 310 of such Act is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and by striking "309(c)" and inserting "309(b)".

(aa) Effective as if included in section 4 of Public Law 102-110, section 161(c)(3) of the Immigration Act of 1990 is amended— Effective date. 8 USC 1101 note.

(1) by striking "alien described in section 203(a)(3) or 203(a)(6) of such Act" and inserting "alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date)"; and

(2) by striking "this section" and inserting "this title".

(bb) Section 599E(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "and subparagraphs" and inserting "or subparagraph". 8 USC 1255 note.

(cc) Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "year 1993 the first place it appears" and inserting "years 1993". 8 USC 1255a note.

(dd) Except as otherwise specifically provided in this section, the amendments made by this section shall be effective as if included in the enactment of the Immigration Act of 1990. 8 USC 1101 note.

(ee)(1) Section 210A of the Immigration and Nationality Act (8 U.S.C. 1161) is repealed.

(2) The table of contents of the Immigration and Nationality Act is amended by striking the item relating to section 210A.

(ff) Section 122 of the Immigration Act of 1990 is amended by striking subsection (a). 8 USC 1182 note.

(gg) The Copyright Royalty Tribunal Reform Act of 1993 (Public Law 103-198; 107 Stat. 2304) is amended by striking section 8. 8 USC 1288, 1288 note.

SEC. 220. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) WAIVER.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent)" after "interested United States Government agency"; and

(2) by inserting after "public interest" the following: "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent the waiver shall be subject to the requirements of section 214(k)".

(b) RESTRICTIONS ON WAIVER.—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(k)(1) In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General

determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

"(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

"(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of a contract with a health facility shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(H), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).".

8 USC 1182 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 1996.

8 USC 1101 note.

SEC. 221. VISAS FOR OFFICIALS OF TAIWAN.

Whenever the President of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States Federal or State government officials concerning—

(1) trade or business with Taiwan that will reduce the United States-Taiwan trade deficit;

(2) prevention of nuclear proliferation;

(3) threats to the national security of the United States;

(4) the protection of the global environment;

(5) the protection of endangered species; or

(6) regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.

SEC. 222. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(M) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(N) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(O) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section for which the term of imprisonment imposed (regardless of any suspicion of such imprisonment) is at least 5 years;

"(P) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(Q) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

8 USC 1101 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 223. SUMMARY DEPORTATION.

(a) EXPEDITED PROCEDURES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (b)(4)(D), by striking "the determination of deportability is supported by clear, convincing, and unequivocal evidence and"; and

(2) in subsection (b)(4)(E), by striking "entered" and inserting "adjudicated".

(b) TECHNICAL CORRECTION.—Section 106(d)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by striking "242A(b)(5)" and inserting "242A(b)(4)".

SEC. 224. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A), if such an order has been requested by the United States Attorney with the concurrence of the Commissioner and if the court chooses to exercise such jurisdiction.

"(2) PROCEDURE.—

Notification.

"(A) The United States Attorney shall file with the United States district court, and serve upon the defendant

and the Service, prior to commencement of the trial or entry of a guilty plea a notice of intent to request judicial deportation.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 30 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and identifying the crime or crimes which make the defendant deportable under section 241(a)(2)(A).

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under this Act, the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial without a decision on the merits of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground

of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

8 USC 1252 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

8 USC 1101 note. **SEC. 225. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.**

No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

Approved October 25, 1994.

LEGISLATIVE HISTORY—H.R. 783 (S. 1197):

HOUSE REPORTS: No. 103-387 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 139 (1993): July 1, S. 1197 considered and passed Senate.
Nov. 20, H.R. 783 considered and passed House; considered and passed Senate, amended.
Vol. 140 (1994): Sept. 20, House concurred in Senate amendment with an amendment.
Oct. 6, Senate concurred in House amendment with amendments.
Oct. 7, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 25, Presidential statement.

Public Law 103-417
103d Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

Oct. 25, 1994
[S. 784]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dietary Supplement Health and Education Act of 1994.
21 USC 301 note.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Safety of dietary supplements and burden of proof on FDA.
Sec. 5. Dietary supplement claims.
Sec. 6. Statements of nutritional support.
Sec. 7. Dietary supplement ingredient labeling and nutrition information labeling.
Sec. 8. New dietary ingredients.
Sec. 9. Good manufacturing practices.
Sec. 10. Conforming amendments.
Sec. 11. Withdrawal of the regulations and notice.
Sec. 12. Commission on dietary supplement labels.
Sec. 13. Office of dietary supplements.

SEC. 2. FINDINGS.

21 USC 321 note.

Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose unreasonable regulatory barriers limiting or slowing the flow of safe products and accurate information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement'—

"(1) means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) a dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), or (E);

"(2) means a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii);

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement; and

"(3) does—

"(A) include an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262) and was, prior to such approval, certification, or license, marketed as a dietary supplement or as a food unless the Secretary has issued a regulation, after notice and comment, finding that the article, when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) not include—

"(i) an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262), or

"(ii) an article authorized for investigation as a new drug, antibiotic, or biological for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public,

which was not before such approval, certification, licensing, or authorization marketed as a dietary supplement or as a food unless the Secretary, in the Secretary's discretion, has issued a regulation, after notice and comment, finding that the article would be lawful under this Act.

Except for purposes of section 201(g), a dietary supplement shall be deemed to be a food within the meaning of this Act.".

(b) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(c) FORM OF INGESTION.—Section 411(c)(1)(B) (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 (21 U.S.C. 342) is amended by adding at the end the following:

"(f)(1) If it is a dietary supplement or contains a dietary ingredient that—

"(A) presents a significant or unreasonable risk of illness or injury under—

"(i) conditions of use recommended or suggested in labeling, or

"(ii) if no conditions of use are suggested or recommended in the labeling, under ordinary conditions of use;

"(B) is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury;

"(C) the Secretary declares to pose an imminent hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly after such a declaration initiate a proceeding in accordance with sections 554 and 556 of title 5, United States Code, to affirm or withdraw the declaration; or

"(D) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this subparagraph, the United States shall bear the burden of proof on each element to show that a dietary supplement is adulterated. The court shall decide any issue under this paragraph on a de novo basis.

Notification.

"(2) Before the Secretary may report to a United States attorney a violation of paragraph (1)(A) for a civil proceeding, the person against whom such proceeding would be initiated shall be given appropriate notice and the opportunity to present views, orally and in writing, at least 10 days before such notice, with regard to such proceeding.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

21 USC 343-2.

"SEC. 403B. (a) IN GENERAL.—A publication, including an article, a chapter in a book, or an official abstract of a peer-reviewed scientific publication that appears in an article and was prepared

by the author or the editors of the publication, which is reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of a dietary supplement to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular manufacturer or brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement;

"(4) if displayed in an establishment, is physically separate from the dietary supplements; and

"(5) does not have appended to it any information by sticker or any other method.

"(b) APPLICATION.—Subsection (a) shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler.

"(c) BURDEN OF PROOF.—In any proceeding brought under subsection (a), the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r) (21 U.S.C. 343(r)) is amended by adding at the end the following:

"(6) For purposes of paragraph (r)(1)(B), a statement for a dietary supplement may be made if—

"(A) the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient,

"(B) the manufacturer of the dietary supplement has substantiation that such statement is truthful and not misleading, and

"(C) the statement contains, prominently displayed and in boldface type, the following: 'This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.'.

A statement under this subparagraph may not claim to diagnose, mitigate, treat, cure, or prevent a specific disease or class of diseases. If the manufacturer of a dietary supplement proposes to make a statement described in the first sentence of this subparagraph in the labeling of the dietary supplement, the manufacturer shall notify the Secretary no later than 30 days after the first marketing of the dietary supplement with such statement that such a statement is being made.".

SEC. 7. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff)(1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(5)(F) (21 U.S.C. 343(q)(5)(F)) is amended to read as follows:

"(F) A dietary supplement product (including a food to which section 411 applies) shall comply with the requirements of subparagraphs (1) and (2) in a manner which is appropriate for the product and which is specified in regulations of the Secretary which shall provide that—

"(i) nutrition information shall first list those dietary ingredients that are present in the product in a significant amount and for which a recommendation for daily consumption has been established by the Secretary, except that a dietary ingredient shall not be required to be listed if it is not present in a significant amount, and shall list any other dietary ingredient present and identified as having no such recommendation;

"(ii) the listing of dietary ingredients shall include the quantity of each such ingredient (or of a proprietary blend of such ingredients) per serving;

"(iii) the listing of dietary ingredients may include the source of a dietary ingredient; and

"(iv) the nutrition information shall immediately precede the ingredient information required under subclause (i), except that no ingredient identified pursuant to subclause (i) shall be required to be identified a second time.".

(c) PERCENTAGE LEVEL CLAIMS.—Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding after clause (E) the following:

"(F) Subclause (i) clause (A) does not apply to a statement in the labeling of a dietary supplement that characterizes the percentage level of a dietary ingredient for which the Secretary has not established a reference daily intake, daily recommended value, or other recommendation for daily consumption.".

(d) VITAMINS AND MINERALS.—Section 411(b)(2) (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins or minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

(e) EFFECTIVE DATE.—Dietary supplements— 21 USC 343 note.

(1) may be labeled after the date of the enactment of this Act in accordance with the amendments made by this section, and

(2) shall be labeled after December 31, 1996, in accordance with such amendments.

SEC. 8. NEW DIETARY INGREDIENTS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"NEW DIETARY INGREDIENTS

"SEC. 413. (a) IN GENERAL.—A dietary supplement which contains a new dietary ingredient shall be deemed adulterated under section 402(f) unless it meets one of the following requirements: 21 USC 350b.

"(1) The dietary supplement contains only dietary ingredients which have been present in the food supply as an article used for food in a form in which the food has not been chemically altered.

"(2) There is a history of use or other evidence of safety establishing that the dietary ingredient when used under the conditions recommended or suggested in the labeling of the dietary supplement will reasonably be expected to be safe and, at least 75 days before being introduced or delivered for introduction into interstate commerce, the manufacturer or distributor of the dietary ingredient or dietary supplement provides the Secretary with information, including any citation to published articles, which is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such dietary ingredient will reasonably be expected to be safe.

The Secretary shall keep confidential any information provided under paragraph (2) for 90 days following its receipt. After the expiration of such 90 days, the Secretary shall place such information on public display, except matters in the information which are trade secrets or otherwise confidential, commercial information. Classified information.

"(b) PETITION.—Any person may file with the Secretary a petition proposing the issuance of an order prescribing the conditions under which a new dietary ingredient under its intended conditions of use will reasonably be expected to be safe. The Secretary shall make a decision on such petition within 180 days of the date the petition is filed with the Secretary. For purposes of chapter 7 of title 5, United States Code, the decision of the Secretary shall be considered final agency action.

"(c) DEFINITION.—For purposes of this section, the term 'new dietary ingredient' means a dietary ingredient that was not mar-

keted in the United States before October 15, 1994 and does not include any dietary ingredient which was marketed in the United States before October 15, 1994.".

SEC. 9. GOOD MANUFACTURING PRACTICES.

Section 402 (21 U.S.C. 342), as amended by section 4, is amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations, including regulations requiring, when necessary, expiration date labeling, issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with chapter 5 of title 5, United States Code.".

SEC. 10. CONFORMING AMENDMENTS.

(a) SECTION 201.—The last sentence of section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and not misleading statement is made in accordance with section 403(r)(6) is not a drug under clause (C) solely because the label or the labeling contains such a statement.".

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(u) The introduction or delivery for introduction into interstate commerce of a dietary supplement that is unsafe under section 413.".

(c) SECTION 403.—Section 403 (21 U.S.C. 343), as amended by section 7, is amended by adding after paragraph (s) the following: "A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 11. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700) is null and void and of no force or effect insofar as it applies to dietary supplements. The Secretary of Health and Human Services shall publish a notice in the Federal Register to revoke the item declared to be null and void and of no force or effect under subsection (a).

Federal Register, publication.

21 USC 343 note.

SEC. 12. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President. President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. Members and staff of the Commission shall be without bias on the issue of dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims and statements for dietary supplements, including the use of literature in connection with the sale of dietary supplements and procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful, scientifically valid, and not misleading information to consumers so that such consumers may make informed and appropriate health care choices for themselves and their families.

(d) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(e) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(3) ACTION ON RECOMMENDATIONS.—Within 90 days of the issuance of the report under paragraph (1), the Secretary of Health and Human Services shall publish in the Federal Register a notice of any recommendation of Commission for changes in regulations of the Secretary for the regulation of dietary supplements and shall include in such notice a notice of proposed rulemaking on such changes together with an opportunity to present views on such changes. Such rulemaking shall be completed not later than 2 years after the date of the issuance of such report. If such rulemaking is not completed on or before the expiration of such 2 years, regulations of the Secretary published in 59 FR 395–426 on January 4, 1994, shall not be in effect. Federal Register, publication.

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 485B (42 U.S.C. 287c–3) the following:

"Subpart 4—Office of Dietary Supplements

42 USC 287c-11. **"SEC. 485C. DIETARY SUPPLEMENTS.**

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medicine;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health and provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

Approved October 25, 1994.

LEGISLATIVE HISTORY—S. 784:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 13, considered and passed Senate.
Oct. 6, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 25, Presidential statement.

Public Law 103-418
103d Congress

An Act

To amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to revise and improve veterans' benefits programs, and for other purposes.

Oct. 25, 1994
[S. 1927]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Compensation Cost-of-Living Adjustment Act of 1994.
38 USC 101 note.
38 USC 1114 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1994".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 1994, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b)

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(7) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF PERCENTAGE INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 1994. Each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased

effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) In the computation of increased dollar amounts pursuant to paragraph (1), any amount which as so computed is not an even multiple of $1 shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

38 USC 1114 note. Federal Register, publication.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1994, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased pursuant to section 2.

Approved October 25, 1994.

LEGISLATIVE HISTORY—S. 1927 (H.R. 4088):

HOUSE REPORTS: No. 103-668 accompanying H.R. 4088 (Comm. on Veterans' Affairs).
SENATE REPORTS. No. 103-254 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 4, considered and passed Senate.
Aug. 8, H.R. 4088 considered and passed House; S. 1927, amended, passed in lieu.
Oct. 6, Senate concurred in House amendments with an amendment.
Oct. 7, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 25, Presidential statement.

Public Law 103-419
103d Congress

An Act

Oct. 25, 1994
[S. 2372]

To amend the United States Commission on Civil Rights Act of 1983.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civil Rights Commission Amendments Act of 1994.
42 USC 1975 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Commission Amendments Act of 1994".

SEC. 2. AMENDMENT OF 1983 ACT.

That the portion of the United States Commission on Civil Rights Act of 1983 which follows the enacting clause is amended to read as follows:

Civil Rights Commission Act of 1983.
42 USC 1975 note.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Civil Rights Commission Act of 1983'.

42 USC 1975.

"SEC. 2. ESTABLISHMENT OF COMMISSION.

"(a) GENERALLY.—There is established the United States Commission on Civil Rights (hereinafter in this Act referred to as the 'Commission').

"(b) MEMBERSHIP.—The Commission shall be composed of 8 members. Not more than 4 of the members shall at any one time be of the same political party. The initial membership of the Commission shall be the members of the United States Commission on Civil Rights on September 30, 1994. Thereafter vacancies in the membership of the Commission shall continue to be appointed as follows:

President.

"(1) 4 members of the Commission shall be appointed by the President.

"(2) 2 members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

"(3) 2 members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

"(c) TERMS.—The term of office of each member of the Commission shall be 6 years. The term of each member of the Commission

in the initial membership of the Commission shall expire on the date such term would have expired as of September 30, 1994.

"(d) CHAIRPERSON.—(1) Except as provided in paragraphs (2) and (3), the individuals serving as Chairperson and Vice Chairperson of the United States Commission on Civil Rights on September 30, 1994 shall initially fill those roles on the Commission.

"(2) Thereafter the President may, with the concurrence of a majority of the Commission's members, designate a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

"(3) The President shall, with the concurrence of a majority of the Commission's members, fill a vacancy by designating a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members. President.

"(4) The Vice Chairperson shall act in place of the Chairperson in the absence of the Chairperson.

"(e) REMOVAL OF MEMBERS.—The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

"(f) QUORUM.—5 members of the Commission constitute a quorum of the Commission.

"SEC. 3. DUTIES OF THE COMMISSION. 42 USC 1975a.

"(a) GENERALLY.—The Commission—

"(1) shall investigate allegations in writing under oath or affirmation relating to deprivations—

"(A) because of color, race, religion, sex, age, disability, or national origin; or

"(B) as a result of any pattern or practice of fraud;

of the right of citizens of the United States to vote and have votes counted; and

"(2) shall—

"(A) study and collect information relating to;

"(B) make appraisals of the laws and policies of the Federal Government with respect to;

"(C) serve as a national clearinghouse for information relating to; and

"(D) prepare public service announcements and advertising campaigns to discourage;

discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.

"(b) LIMITATIONS ON INVESTIGATORY DUTIES.—Nothing in this or any other Act shall be construed as authorizing the Commission, its advisory committees, or any person under its supervision or control, to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, or any religious organization.

"(c) REPORTS.—

"(1) ANNUAL REPORT.—The Commission shall submit to the President and Congress at least one report annually that monitors Federal civil rights enforcement efforts in the United States.

"(2) OTHER REPORTS GENERALLY.—The Commission shall submit such other reports to the President and the Congress

as the Commission, the Congress, or the President shall deem appropriate.

"(d) ADVISORY COMMITTEES.—The Commission may constitute such advisory committees as it deems advisable. The Commission shall establish at least one such committee in each State and the District of Columbia composed of citizens of that State or District.

"(e) HEARINGS AND ANCILLARY MATTERS.—

"(1) POWER TO HOLD HEARINGS.—The Commission, or on the authorization of the Commission, any subcommittee of two or more members of the Commission, at least one of whom shall be of each major political party, may, for the purpose of carrying out this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee deems advisable. Each member of the Commission shall have the power to administer oaths and affirmations in connection with the proceedings of the Commission. The holding of a hearing by the Commission or the appointment of a subcommittee to hold a hearing pursuant to this paragraph must be approved by a majority of the Commission, or by a majority of the members present at a meeting when a quorum is present.

"(2) POWER TO ISSUE SUBPOENAS.—The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter. Such a subpoena may not require the presence of a witness more than 100 miles outside the place wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process. In case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

"(3) WITNESS FEES.—A witness attending any proceeding of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(4) DEPOSITIONS AND INTERROGATORIES.—The Commission may use depositions and written interrogatories to obtain information and testimony about matters that are the subject of a Commission hearing or report.

"(f) LIMITATION RELATING TO ABORTION.—Nothing in this or any other Act shall be construed as authorizing the Commission, its advisory committees, or any other person under its supervision or control to study and collect, make appraisals of, or serve as a clearinghouse for any information about laws and policies of the Federal Government or any other governmental authority in the United States, with respect to abortion.

42 USC 1975b.

"SEC. 4. ADMINISTRATIVE PROVISIONS.

"(a) STAFF.—

"(1) DIRECTOR.—There shall be a full-time staff director for the Commission who shall—

"(A) serve as the administrative head of the Commission; and

President.

"(B) be appointed by the President with the concurrence of a majority of the Commission.

"(2) OTHER PERSONNEL.—Within the limitation of its appropriations, the Commission may—

"(A) appoint such other personnel as it deems advisable, under the civil service and classification laws; and

"(B) procure services, as authorized in section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of title 5, United States Code.

"(b) COMPENSATION OF MEMBERS.—

"(1) GENERALLY.—Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Executive Schedule under section 5315 of title 5, United States Code, prorated on a daily basis for time spent in the work of the Commission.

"(2) PERSONS OTHERWISE IN GOVERNMENT SERVICE.—Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from such member's usual place of residence, under subchapter I of chapter 57 of title 5, United States Code.

"(c) VOLUNTARY OR UNCOMPENSATED PERSONNEL.—The Commission shall not accept or use the services of voluntary or uncompensated persons. This limitation shall apply with respect to services of members of the Commission as it does with respect to services by other persons.

"(d) RULES.—

"(1) GENERALLY.—The Commission may make such rules as are necessary to carry out the purposes of this Act.

"(2) CONTINUATION OF OLD RULES.—Except as inconsistent with this Act, and until modified by the Commission, the rules of the Commission on Civil Rights in effect on September 30, 1994 shall be the initial rules of the Commission.

"(e) COOPERATION.—All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS. 42 USC 1975c.

"There are authorized to be appropriated, to carry out this Act $9,500,000 for fiscal year 1995. None of the sums authorized to be appropriated for fiscal year 1995 may be used to create additional regional offices.

42 USC 1975d.

"SEC. 6. TERMINATION.

"This Act shall terminate on September 30, 1996.".

Approved October 25, 1994.

LEGISLATIVE HISTORY—S. 2372 (H.R. 4999):

HOUSE REPORTS: No. 103-775 accompanying H.R. 4999 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed Senate.
Oct. 3, H.R. 4999 considered and passed House; S. 2372, amended, passed in lieu.
Oct. 6, Senate concurred in House amendment with an amendment.
Oct. 7, House concurred in Senate amendment.

Public Law 103-420
103d Congress

An Act

To make improvements in the operation and administration of the Federal courts, and for other purposes.

Oct. 25, 1994
[S. 2407]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judicial Amendments Act of 1994.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Amendments Act of 1994".

SEC. 2. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by inserting after "equipment for" the following: "program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence by striking out all after "personal services" and inserting in lieu thereof ", support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1) by striking out "judicial branch" and inserting in lieu thereof "activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(3) in subsection (b)(2) by striking out "judicial branch of the United States" and inserting in lieu thereof "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting after "surplus property" the following: ", all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(5) in subsection (e)(1)—

(A) by striking out "(A)"; and

(B) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) in subsection (h) by amending the subsection to read as follows:

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(2) ADDITIONAL CONTENTS OF REPORT.—The annual report submitted under this subsection shall include—

"(A) the specific actions taken and the progress made to improve the plan developed under subsection (b) and the long range automation plan and strategic business plan developed under subsection (k); and

"(B) a comparison of planned Fund expenditures and accomplishments with actual Fund expenditures and accomplishments, and the reasons for any delays in scheduled systems development, or budget overruns.

"(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m), shall be submitted no later than 9 months before the date of such termination.";

(7) in subsection (i) by striking out all after "Judicial Conference of the United States," and inserting in lieu thereof "may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227).";

(8) in subsection (j) in the second sentence by inserting "in statute" after "not specified";

(9) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

"(1) develop an overall strategic business plan which would identify the judiciary's missions, goals, and objectives;

"(2) develop a long range automation plan based on the strategic business plan and user needs assessments;

"(3) establish effective Administrative Office oversight of court automation efforts to ensure the effective operation of existing systems and control over developments of future systems;

"(4) expedite efforts to complete the development and implementation of life cycle management standards;

"(5) utilize the standards in developing the next generation of case management and financial systems; and

"(6) assess the current utilization and future user requirements of the data communications network."; and

(10) in subsection (m) (as redesignated under paragraph (9)) of this section—

(A) in the first sentence by striking out "1994", and inserting in lieu thereof, "1997"; and

(B) in the second sentence by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931 of this title".

SEC. 3. COURT ARBITRATION AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended—

(1) in the first sentence by striking out "for the fiscal year ending September 30, 1989, and for each of the succeeding 7 fiscal years," and inserting in lieu thereof "for each of the fiscal years 1994 through 1997"; and

(2) in the third sentence by striking out all beginning with ", except that" through "this Act".

(b) REMOVAL OF REPEALER.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note), and the item relating to such section in the table of contents contained in section 3 of such Act, are repealed.

SEC. 4. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PILOT PROGRAMS.

Section 105 of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note; 104 Stat. 5097) is amended—

(1) in subsection (a)(1) by striking out "4-year period" and inserting in lieu thereof "5-year period";

(2) in subsection (b)(3)—

(A) in the first sentence by striking out "3 years" and inserting in lieu thereof "4 years"; and

(B) in the second sentence by striking out "3-year period" and inserting in lieu thereof "4-year period"; and

(3) in subsection (c)(1) by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1996,".

Approved October 25, 1994.

LEGISLATIVE HISTORY—S. 2407:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 18, considered and passed Senate.
Oct. 7, considered and passed House.

Public Law 103-421
103d Congress

An Act

Oct. 25, 1994
[S. 2534]

To revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Base Closure Community Redevelopment and Homeless Assistance Act of 1994.
42 USC 11301 note.

SECTION 1. SHORT TITLE.

This Act may cited as the "Base Closure Community Redevelopment and Homeless Assistance Act of 1994".

SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

(a) IN GENERAL.—Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Determinations of the use to assist the homeless of buildings and property located at installations approved for closure under this part after the date of the enactment of this paragraph shall be determined under this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

Federal Register, publication.

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of

the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority. Federal Register, publication.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and

"(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and Publication.

"(II) notify the Secretary of Defense of the date. Notification.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or

property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

"(VI) An assessment of the time required in order to commence carrying out the program.

"(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

"(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

"(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J).

"(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

"(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

"(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

"(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall include in an application under clause (i) the following:

"(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

"(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

"(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

"(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

"(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

"(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

"(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless—

"(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

"(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

"(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

"(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

"(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

"(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

"(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

"(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

"(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include—

"(I) an explanation of that determination; and

"(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

"(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

"(I) revise the plan in order to address the determination; and

"(II) submit the revised plan to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall submit a revised plan under this subparagraph to the Secretary of Housing and Urban Development, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

"(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

Notification.

"(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

"(K) Upon receipt of a notice under subparagraph (H)(vi) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property located at the installation that are identified in the plan as available for use to assist the homeless in accordance with the provisions of the plan. The Secretary of Defense may dispose of such buildings or property directly to the representatives of the homeless concerned or to the redevelopment authority concerned. The Secretary of Defense shall dispose of the buildings and property under this subparagraph without consideration.

"(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth

in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall—

"(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

"(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

"(III) request that each such representative submit to that Secretary the items described in clause (ii); and

"(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

"(I) A description of the program of such representative to assist the homeless.

"(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) The Secretary of Housing and Urban Development shall indicate to the Secretary of Defense and to the redevelopment authority concerned the buildings and property at an installation under clause (i)(IV) to be disposed of not later than 90 days after the date of a receipt of a revised plan for the installation under subparagraph (J).

"(iv) The Secretary of Defense shall dispose of the buildings and property at an installation referred to in clause (iii) to entities indicated by the Secretary of Housing and Urban Development or by transfer to the redevelopment authority concerned for transfer to such entities. Such disposal shall be in accordance with the indications of the Secretary of Housing and Urban Development under clause (i)(IV). Such disposal shall be without consideration.

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent prac-

ticable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

"(O) For purposes of this paragraph, the term 'communities in the vicinity of the installation', in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.".

10 USC 2687 note.

(b) DEFINITION.—Section 2910 of such Act is amended by adding at the end the following:

"(10) The term 'representative of the homeless' has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).".

10 USC 2687 note.

(c) CONFORMING AMENDMENT TO 1990 BASE CLOSURE ACT.—Section 2905(b)(6)(A) of such Act is amended by adding at the end the following: "For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).".

(d) CONFORMING AMENDMENT TO MCKINNEY ACT.—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) APPLICABILITY TO PROPERTY UNDER BASE CLOSURE PROCESS.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) after the date of the enactment of this subsection.

"(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note), before such date, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.".

10 USC 2687 note.

(e) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act, and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act

or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

Federal Register, publication.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5)(A) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act and are pending with that Secretary on that date; and

(B) in the case of any application by representatives of the homeless that was approved by the Secretary of Health and Human Services before the date of enactment of this Act, ensure that the plan adequately addresses the needs of the homeless identified in the application by providing such representatives of the homeless with—

(i) properties, on or off the installation, that are substantially equivalent to the properties covered by the application;

(ii) sufficient funding to secure such substantially equivalent properties;

(iii) services and activities that meet the needs identified in the application; or

(iv) a combination of the properties, funding, and services and activities described in clause (i), (ii), and (iii).

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term "1988 base closure Act" means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The term "1990 base closure Act" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(f) CLARIFYING AMENDMENTS TO BASE CLOSURE ACTS.—(1) Section 204(b)(6)(F)(i) of the Defense Authorization Amendments and Base Closure Act and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

(2) Section 2905(b)(6)(F)(i) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law

101–510; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

Approved October 25, 1994.

LEGISLATIVE HISTORY—S. 2534:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 6, considered and passed Senate and House.

Public Law 103-422
103d Congress
Joint Resolution

Oct. 25, 1994
[S.J. Res. 227]

Approving the location of a Thomas Paine Memorial and a World War II Memorial in the Nation's Capital.

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99–652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102–407, as amended by Public Law 102–459, authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas Public Law 103–32, approved May 25, 1993 (107 Stat. 90), authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who served in World War II; and

Whereas the Secretary of the Interior has notified the Congress of his determination that such memorials should be located in Area I: Now, therefore, be it

40 USC 1003 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the location of a Thomas Paine Memorial, authorized by Public Law 102–407, as amended by Public Law 102–459, within either Area I or Area II as described in Public Law 99–652 (100 Stat. 3650),

is approved and (b) the location of a World War II Memorial, authorized by Public Law 103–32, within either Area I or Area II as described in Public Law 99–652 (100 Stat. 3650), is hereby approved.

Approved October 25, 1994.

LEGISLATIVE HISTORY—S.J. Res. 227:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed Senate.
Oct. 6, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 103-423
103d Congress

Joint Resolution

Oct. 25, 1994
[S.J. Res. 229]

Regarding United States policy toward Haiti.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

50 USC 1541 note.

SECTION 1. SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.

It is the sense of Congress that—

(a) the men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

(b) the President should have sought and welcomed Congressional approval before deploying United States Armed Forces to Haiti;

(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people;

(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

(e) Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

50 USC 1541 note.

SEC. 2. PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.

The President shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives (hereafter, "Congress") not later than seven days after enactment of this resolution a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of United States policy, the military mission and the general rules of engagement under which operations of United States Armed Forces are conducted in and around Haiti, including the role of United States Armed Forces regarding Haitian on Haitian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

SEC. 3. REPORT ON THE SITUATION IN HAITI.

50 USC 1541 note.
President.

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including—

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 1(e) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993, in and around Haiti, including but not limited to—

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including—

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections;

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including—

(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

(2) troop commitments by other nations to UNMIH;

(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United

Nations and financial, material and other assistance to UNMIH;

(4) proposed or actual participation of United States Armed Forces in UNMIH;

(5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and

(6) the anticipated duration of UNMIH.

50 USC 1541 note.

SEC. 4. REPORT ON HUMAN RIGHTS.

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990, to December 15, 1994.

50 USC 1541 note.

SEC. 5. REPORT ON UNITED STATES AGREEMENTS.

Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

50 USC 1541 note.

SEC. 6. TRANSITION TO UNITED NATIONS MISSION IN HAITI.

Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.

Approved October 25, 1994.

LEGISLATIVE HISTORY—S.J. Res. 229 (H.J. Res. 416):

HOUSE REPORTS: No. 103-819, Pt. 1, accompanying H.J. Res. 416 (Comm. on Foreign Affairs).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Oct. 5, H.J. Res. 416 considered in House.

Oct. 6, S.J. Res. 229 considered and passed Senate. H.J. Res. 416 considered and passed House.

Oct. 7, S.J. Res. 229 considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):

Oct. 25, Presidential statement.

Public Law 103-424
103d Congress

An Act

To reauthorize the Office of Special Counsel, and for other purposes.

Oct. 29, 1994
[H.R. 2970]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after

the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Section 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that— 5 USC 1221.

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.".

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act), is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and costs as provided for under paragraphs (2) and (3).".

SEC. 9. AUTHORITIES RELATING TO ARBITRATORS AND CHOICE OF REMEDIES NOT INVOLVING JUDICIAL REVIEW.

(a) AUTHORITIES WHICH MAY BE EXTENDED TO ARBITRATORS.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(b) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW.—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

"(4) For the purpose of this subsection, a person shall be considered to have elected—

"(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(1) by striking "(d) and (e)" and inserting "(d), (e), and (g)"; and

(2) by inserting "administrative" after "exclusive".

SEC. 10. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

12 USC 1441a note.

SEC. 11. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 12. IMPLEMENTATION.

5 USC 1212 note.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue

a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations. 5 USC 1214 note.

SEC. 13. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE. 5 USC 1212 note.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

Approved October 29, 1994.

LEGISLATIVE HISTORY—H.R. 2970 (S. 622):

HOUSE REPORTS: No. 103-769 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 103-358 accompanying S. 622 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House. S. 622 considered and passed Senate.
Oct. 7, H.R. 2970 considered and passed Senate, amended. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 29, Presidential statement.

Public Law 103-425
103d Congress

An Act

To amend the Defense Department Overseas Teachers Pay and Personnel Practices Act.

Oct. 31, 1994
[H.R. 3499]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government employees.

SECTION 1. LEAVE FOR DODDS TEACHERS.

Section 6 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904) is amended—

(1) in subsection (a) by inserting "(or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen)" after "ten";

(2) in subsection (d) by striking "of the military department concerned" and inserting "of Defense"; and

(3) by adding at the end the following:

"(h) The Director of Dependents' Education, in consultation with the Director of the Office of Personnel Management—

"(1) shall establish for teachers a voluntary leave transfer program similar to the one under subchapter III of chapter 63 of title 5, United States Code; and

"(2) may establish for teachers a voluntary leave bank program similar to the one under subchapter IV of chapter 63 of title 5, United States Code.

Only leave described in the last sentence of subsection (c) of this section (relating to leave that may be used by a teacher for any purpose) may be transferred under any program established under this subsection.".

SEC. 2. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.
"4509. Prohibition of cash award to Executive Schedule officers.".

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 3499:

HOUSE REPORTS: No. 103-598, Pt. 1 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 103-396 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 19, considered and passed House.
Oct. 7, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 103-426
103d Congress

An Act

To authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources.

Oct. 31, 1994
[H.R. 3678]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

(a) SECTION 8 AMENDMENTS.—Section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

"(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

"(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

"(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against an agency of the Federal Government.

"(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), that promote the policy set forth in section 303 of that Act (16 U.S.C. 1452).

"(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this Act shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.".

(b) SECTION 20 AMENDMENTS.—Section 20(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "or other lease" after "any oil and gas lease sale"; and

(B) by inserting "or other mineral" after "affected by oil and gas"; and

(2) in paragraph (2), by inserting "In the case of an agreement under section 8(k)(2), each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be." after "scheduled before such date of enactment.".

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 3678:

HOUSE REPORTS: No. 103-817, Pt. 1 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 103-427
103d Congress

An Act

To ensure that timber-dependent communities adversely affected by the Forest Plan for a Sustainable Economy and a Sustainable Environment qualify for loans and grants from the Rural Development Administration.

Oct. 31, 1994
[H.R. 4196]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXPANDED ELIGIBILITY OF CERTAIN TIMBER-DEPENDENT COMMUNITIES IN THE PACIFIC NORTHWEST FOR LOANS AND GRANTS FROM THE RURAL DEVELOPMENT ADMINISTRATION.

7 USC 1926 note.

(a) FINDINGS.—Congress finds the following:

(1) Timber-dependent communities in the Pacific Northwest have contributed significantly to the economic needs of the United States and have helped ensure an adequate national supply of timber and timber products.

(2) A significant portion of the timber traditionally harvested in the Pacific Northwest is derived from Federal forest lands, and these forests have played an important role in sustaining local economies.

(3) A number of traditionally timber-dependent communities are experiencing significant economic difficulties as a result of their proximity to the range of the northern spotted owl.

(4) These timber-dependent communities need economic assistance to help them diversify, including support from water and waste facility loans and grants and community facility loans and grants funded through the Rural Development Administration.

(b) EXPANDED ELIGIBILITY.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the terms "rural" and "rural area", as used in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), shall include any town, city, or municipality—

(1) part or all of which lies within 100 miles of the boundary of a national forest covered by the Federal document entitled "Forest Plan for a Sustainable Economy and a Sustainable Environment", dated July 1, 1993;

(2) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

(3) that has a population of not more than 25,000 inhabitants.

(c) EFFECT ON STATE ALLOTMENTS OF FUNDS.—This section shall not be taken into consideration in allotting funds to the various States for purposes of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or otherwise affect or alter the manner under which such funds were allotted to States before the date of the enactment of this Act.

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 4196:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 29, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 103-428
103d Congress

An Act

To authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

Oct. 31, 1994
[H.R. 4455]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

(a) IN GENERAL.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended by adding at the end the following:

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the Bank determines that—

"(aa) the defense articles or services are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.". Reports.

(b) REPORT TO THE CONGRESS.—Section 2(b)(6)(H) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(H)) is amended by

inserting "or described in subparagraph (I)(i)" before the period at the end of the first sentence.

12 USC 635 note.

(c) PERIOD OF EFFECTIVENESS.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, 1997.

SEC. 2. PROMOTION OF EXPORTS OF ENVIRONMENTALLY BENEFICIAL GOODS AND SERVICES.

(a) IN GENERAL.—The first section 11(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-5(b)) is amended—

(1) by inserting before "The Bank shall" the following: "(1) IN GENERAL.—";

(2) in the first sentence, by inserting before the period "(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)"; and

(3) by adding at the end the following:

"(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriated to the Bank not more than $35,000,000 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of supporting such exports. If, in any fiscal year, the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.".

(b) TECHNICAL CORRECTION.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by redesignating the second section 11 (12 U.S.C. 635i-8) as section 14.

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 4455:

HOUSE REPORTS: No. 103-681 (Comm. on Banking, Finance and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 8, considered and passed House.
Oct. 5, considered and passed Senate, amended.
Oct. 6, House concurred in Senate amendment.

Public Law 103-429
103d Congress

An Act

To codify without substantive change recent laws related to transportation and to improve the United States Code.

Oct. 31, 1994
[H.R. 4778]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 11, UNITED STATES CODE.

Section 365 of title 11, United States Code, is amended as follows:

(1) In subsection (d)(6)(C), strike "section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301)" and substitute "section 40102(a) of title 49".

(2) In subsection (p), strike "section 101(3) of the Federal Aviation Act of 1958" and substitute "section 40102(a) of title 49".

SEC. 2. TITLE 18, UNITED STATES CODE.

Title 18, United States Code, is amended as follows:

(1) In section 2333(b), strike "section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r))" and substitute "section 46314, 46502, 46505, or 46506 of title 49".

(2) In section 2340(3), strike "section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38))" and substitute "section 46501(2) of title 49".

SEC. 3. TITLE 23, UNITED STATES CODE.

Title 23, United States Code, is amended as follows:

(1) In section 103(i)(3), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(2) In section 108(d)(2)(F), strike "section 4(f) of the Department of Transportation Act" and substitute "section 303 of title 49".

(3) In section 127(d)(2)(A), strike "sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316)" and substitute "sections 31111–31114 of title 49".

(4) In section 133(b)(2), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(5) Section 134 is amended as follows:

(A) In subsections (h)(5) and (i)(3) and (4), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(B) In subsection (i)(5), strike "section 9 of the Federal Transit Act" wherever it appears and "section 8(o) of the

Federal Transit Act" and substitute "section 5336 of title 49" and "section 5306(a) of title 49", respectively.

(C) In subsections (k)–(m), strike "the Federal Transit Act" wherever it appears and substitute "chapter 53 of title 49".

(D) In subsection (k), strike "Federal Transit Act funds" and substitute "chapter 53 funds".

(6) Section 135 is amended as follows:

(A) In subsection (f)(2), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(B) In subsection (h), strike "section 8 of the Federal Transit Act, United States Code" and "section 8 of such Act" and substitute "sections 5303–5306 and 5323(k) of title 49" and "sections 5303–5306 and 5323(k)", respectively.

(7) In section 141(b), strike "section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j))" and substitute "section 31112 of title 49".

(8) In section 303(c), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(9) In section 303(d), strike "the Federal Transit Act" and "such Act" and substitute "chapter 53 of title 49" and "chapter 53", respectively.

(10) In section 307(e)(13), strike "section 26(a)(1) of the Federal Transit Act" and substitute "section 5313(a) of title 49".

SEC. 4. TITLE 26, UNITED STATES CODE.

Section 9503(e)(3)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(e)(3)(A)) is amended by striking "paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act" and substituting "section 5338(a)(1) or (b)(1) of title 49".

SEC. 5. TITLE 39, UNITED STATES CODE.

Section 5402(g)(1)(A) of title 39, United States Code, is amended by striking "section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371)" and substituting "section 41102(a) of title 49".

SEC. 6. TITLE 49, UNITED STATES CODE.

Title 49, United States Code, is amended as follows:

(1) In section 112(e), strike "the date of the enactment of this section" and substitute "October 24, 1992".

(2) In section 321, strike ", respectively".

(3) Section 5103(b)(2) is amended as follows:

(A) Strike "include" and substitute "be conducted under section 553 of title 5, including".

(B) Strike "presentations" and substitute "presentation".

(4) In section 5104(a)(1), insert "applicable" after "each".

(5) In section 5115(b)(1)(C), strike "126" and substitute "126(g)".

(6) In section 5125(a) and (b)(1), insert "and unless authorized by another law of the United States" after "section".

(7) Section 5307(d) is amended as follows:

(A) In clause (1)(D), strike "chapter" and substitute "section".

(B) In clause (1)(E)(iii), strike "Buy-American" and substitute "Buy America".

(8) In section 5318(e), insert "Uniform" before "Relocation".

(9) In section 5320(g)(2), strike "paragraph (1)(C) of this section" and substitute "paragraph (1)(C) of this subsection".

(10) Section 5323 is amended as follows:

(A) in the catchline for subsection (j), strike "AMERICAN" and substitute "AMERICA".

(B) Add at the end of the section the following:

"(l) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary of Transportation shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient.". Regulations.

(11) In section 5326(a)(3), strike "regulations" and substitute "guidelines".

(12) In section 5327(c)(1), strike "of that Act" and substitute "or that Act".

(13) In section 5331(a)(3), strike "subchapter III of chapter 201 or section 31306" and substitute "section 20140 or 31306".

(14) In section 5337(a)(4), strike "section 5336(B)(2)(A)" and substitute "section 5336(b)(2)(A) of this title".

(15) In the catchline of section 5565, insert "**certain**" after "**converting**".

(16) In section 11301(b)(1), strike "subchapter I of chapter 2A, chapter 2B, and subchapter I of chapter 2D of title 15" and substitute "the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.)".

(17) In section 11348(a), strike "(l)(1)" and substitute "(m)(1)".

(18) In section 11706(d), strike "that limitation periods" and substitute "those limitation periods".

(19) In section 20136(2), strike "subsection" and substitute "section".

(20) In section 22108(a)(3), insert "under this subsection" after "appropriated".

(21) Section 24501 is amended as follows:

(A) In subsection (f), strike "(f) EXEMPTION FROM ADDITIONAL TAXES.—(1)" through the end of paragraph (1) and substitute the following:

"(f) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

"(A) 'additional tax' means a tax or fee—

"(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak Commuter; and

"(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak Commuter.

"(B) 'Amtrak Commuter' includes a rail carrier subsidiary of Amtrak Commuter and a lessor or lessee of Amtrak Commuter or one of its rail carrier subsidiaries.".

(B) In subsection (f)(2), insert ", even if that use is indirect" after "transportation".

(22) In section 24904(a)(2), insert ", by condemnation or otherwise," after "acquire".

(23) Sections 30141(c)(4)(A) and 30165(a) are amended as follows:

(A) Strike "section 30112" and substitute "any of sections 30112".

(B) Insert "any of" before "those sections" each place it appears.

(24) In section 30166(h), strike "the judicial" and substitute "any judicial".

(25) In section 30308(b), strike "appropriated" and substitute "authorized".

(26) In section 31501(1), strike "section 203(f)" and substitute "section 3(f)".

(27) In section 32101, the matter before clause (1) is amended to read as follows:

"In this part (except chapter 329 and except as provided in section 33101)—".

(28) Item 32309 in the analysis of chapter 323 is amended to read as follows:

"32309. Civil penalty for labeling violations.".

(29) Section 32304(a)(11) is amended to read as follows:

"(11) 'passenger motor vehicle' has the same meaning given that term in section 32101(10) of this title, except that it includes any multi-purpose vehicle or light duty truck when that vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight.".

(30) Section 32304(a)(14) is amended as follows:

(A) Insert "the Northern Mariana Islands," after "Puerto Rico,".

(B) Strike "the Canal Zone,".

(31) In the catchline of section 32309, strike "**Criminal**" and substitute "**Civil**".

(32) In section 32505(b)(3), strike "the judicial" and "was conducted" and substitute "any judicial" and "is conducted", respectively.

(33) In section 32703(3), strike "public".

(34) Section 32705(c)(2)(A) is amended to read as follows:

"(A) the lessee's mileage disclosure requirements under paragraph (1) of this subsection; and".

(35) In section 32706(e)(3), strike "the judicial" and "was conducted" and substitute "any judicial" and "is conducted", respectively.

(36) Section 32904(b) is amended as follows:

(A) Redesignate paragraphs (3)–(6) as paragraphs (5)–(8), respectively.

(B) Strike "(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1)" through the end of paragraph (2) and substitute the following:

"(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1)(A) Except as provided in paragraphs (6) and (7) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

"(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (5) of this subsection); and

"(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (5) of this subsection).

"(B) Passenger automobiles described in subparagraph (A) (i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.

"(2) In this subsection (except as provided in paragraph (3)), a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year.

"(3)(A) In this subsection, a passenger automobile is deemed to be manufactured domestically in a model year, as provided in subparagraph (B) of this paragraph, if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is imported into the United States more than 30 days after the end of the model year.

"(B) Subparagraph (A) of this paragraph applies to automobiles manufactured by a manufacturer and sold in the United States, regardless of the place of assembly, as follows:

"(i) A manufacturer that began assembling automobiles in Mexico before model year 1992 may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election.

"(ii) For a manufacturer that began assembling automobiles in Mexico after model year 1991, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994, or the model year beginning after the date the manufacturer begins assembling automobiles in Mexico, whichever is later.

"(iii) A manufacturer not described in clause (i) or (ii) of this subparagraph that assembles automobiles in the United States or Canada, but not in Mexico, may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election. However, if the manufacturer begins assembling automobiles in Mexico before making an election under this subparagraph, this clause does not apply, and the manufacturer is subject to clause (ii) of this subparagraph.

"(iv) For a manufacturer that does not assemble automobiles in the United States, Canada, or Mexico, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994.

"(v) For a manufacturer described in clause (i) or (iii) of this subparagraph that does not make an election within the specified period, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 2004.

"(C) The Secretary of Transportation shall prescribe reasonable procedures for elections under subparagraph (B) of this paragraph.

"(4) In this subsection, the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.".

(C) In paragraph (5)(B), as redesignated by subparagraph (A) of this paragraph, strike "paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii)" and substitute "paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii)".

(D) In paragraph (6)(A), as redesignated by subparagraph (A) of this paragraph, strike "paragraph (2)(A)" and substitute "paragraph (1)(A)".

(37) In section 32908(b)(1), insert "on the automobile" after "maintain the label".

(38) In section 32909(a)(1), strike "section 32901–32904" and substitute "any of sections 32901–32904".

(39) In section 32910(b), strike "the judicial" and "was conducted" and substitute "any judicial" and "is conducted", respectively.

(40) In section 32911(a), strike ", and 32917(b)" and substitute ", 32917(b), and 32918".

(41) Section 32913(b)(1) is amended as follows:

(A) In the catchline, strike "PENALTY REDUCTION" and substitute "CERTIFICATION".

(B) Strike "the penalty should be reduced" and substitute "a reduction in the penalty is necessary".

(42) Section 32916(b) is amended as follows:

(A) In paragraph (1), in the matter before clause (A), strike "section 32904(b)(4)" each place it appears and substitute "section 32904(b)(6)".

(B) In paragraph (1)(E), strike "section 32904(b)(1)(A)" and substitute "section 32904(b)(2)".

(C) In paragraph (2), strike "section 32904(b)(4)" and substitute "section 32904(b)(6)".

(43)(A) Section 32918 is redesignated as section 32919.

(B) Insert after section 32917 the following:

"§ 32918. Retrofit devices

"(a) DEFINITION.—In this section, the term 'retrofit device' means any component, equipment, or other device—

"(1) that is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) that any manufacturer, dealer, or distributor of the device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

"as determined under regulations of the Administrator of the Environmental Protection Agency. The term also includes a fuel additive for use in an automobile.

"(b) EXAMINATION OF FUEL ECONOMY REPRESENTATIONS.—The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any representation may be inaccurate, the Commission shall request the Administrator to evaluate, in accordance with subsection (c) of this section, the retrofit device with respect to which the representation was made.

"(c) EVALUATION OF RETROFIT DEVICES.—(1) On application of any manufacturer of a retrofit device (or prototype of a retrofit device), on request of the Commission under subsection (b) of this section, or on the motion of the Administrator, the Administrator shall evaluate, in accordance with regulations prescribed under subsection (e) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations, if any, made with respect to the retrofit device are accurate.

"(2) If under paragraph (1) of this subsection, the Administrator tests, or causes to be tested, any retrofit device on the application of a manufacturer of the device, the manufacturer shall supply, at the manufacturer's expense, one or more samples of the device to the Administrator and shall be liable for the costs of testing incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of the device.

"(d) RESULTS OF TESTS AND PUBLICATION IN FEDERAL REGISTER.—(1) The Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the Administrator's conclusions as to—

"(A) the effect of any retrofit device on fuel economy;

"(B) the effect of the device on emissions of air pollutants; and

"(C) any other information the Administrator determines to be relevant in evaluating the device.

"(2) The summary and conclusions shall also be submitted to the Secretary of Transportation and the Commission.

"(e) REGULATIONS ESTABLISHING TESTS AND PROCEDURES FOR EVALUATION OF RETROFIT DEVICES.—The Administrator shall prescribe regulations establishing—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants; and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.".

(C) In the analysis of chapter 329, strike item 32918 and substitute—

"32918. Retrofit devices.
"32919. Preemption.".

(44) Section 33101(2) is amended as follows:

(A) Strike "sections 33102(c)(1) and" and substitute "section".

(B) Add at the end "of this title".

(45) In section 33106(b)(3), strike "subparagraph (2)(B) or (C) of this paragraph" and substitute "paragraph (2)(B) or (C) of this subsection".

(46) In section 40102(a)(30), strike "subparts I and III" and substitute "this subpart and subpart III".

(47) Section 40104 is amended as follows:

(A) Insert at the beginning of the text of the section the following:

"(a) DEVELOPING CIVIL AERONAUTICS AND AIR COMMERCE.—".

(B) Strike "section" and substitute "subsection".

(C) Add at the end the following:

"(b) DEVELOPING AND CONSTRUCTING CIVIL SUPERSONIC AIRCRAFT.—The Secretary of Transportation may develop and construct a civil supersonic aircraft.".

(48) Section 40110(a) is amended as follows:

(A) In the matter before clause (1), strike "may".

(B) In clause (1)—

(i) strike "acquire,"; and

(ii) strike "services or" and substitute "may acquire services or, by condemnation or otherwise,".

(C) In clause (2), insert "may" before "dispose".

(D) In clause (3), insert "may" before "construct".

(49) In section 41103(a), strike "all-property" and substitute "all-cargo".

(50) Section 41110(e) is amended to read as follows:

"(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

"(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

"(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

"(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.".

(51)(A) Chapter 413 is amended by adding immediately after section 41311 the following:

"§ 41312. Ending or suspending foreign air transportation

"(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to provide foreign air transportation—

"(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary, any community affected by that decision, and the State authority of the State in which a community is located; and

"(2) if it is the only air carrier holding a certificate to provide non-stop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

"(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.".

(B) The analysis of chapter 413 is amended by adding immediately after item 41311 the following:

"41312. Ending or suspending foreign air transportation ".

(52) The chapter heading for chapter 417 is amended to read as follows:

"CHAPTER 417—OPERATIONS OF CARRIERS".

(53) In section 41715(d)(1), strike "41731(a)(3)" and substitute "41731(a)(4)".

(54) In section 44502(b), insert "Government" before "money may be expended".

(55) In section 44701(d) and (e), strike "section 44702–44716" and substitute "any of sections 44702–44716".

(56) In sections 44711(a)(2)(B), (5), and (7) and 46310(b), insert "any of sections" before "44702–44716".

(57) In section 44937, strike "44906(a)(1) or (b)" and substitute "44906".

(58) In section 45105(a), strike "section 45102(a)(1)(A)" and substitute "section 45102(a)(1)".

(59) Section 45302 is amended by adding at the end the following:

"(e) EFFECTIVE DATE.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2), and 44713(d)(2) of this title take effect.".

(60) In section 46301—

(A) in subsection (a)(1)(A), strike "section 41301–41306" and "section 44701(a)" and substitute "any of sections 41301–41306" and "any of sections 44701(a)", respectively;

(B) in subsections (a)(2)(A), (d)(2), and (f)(1)(A)(i), strike "section 44701(a)" and substitute "any of sections 44701(a)"; and

(C) in subsection (c)(1)(A), strike "section 41301–41306" and substitute "any of sections 41301–41306".

(61) In section 46502(a)(2)(B) and (b)(1)(B), insert "notwithstanding section 3559(b) of title 18," before "if the death".

(62) In section 47101(a)(12), strike "Act" and substitute "subchapter".

(63) Section 47104(c) is amended to read as follows:

"(c) EXPIRATION OF AUTHORITY.—After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

"(1) remaining available after that date under section 47117(b) of this title; or

"(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.".

(64) Section 47110(b)(2) is amended to read as follows:

"(2)(A) if the cost is incurred after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed;

"(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatability program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements; or

"(C) if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

"(i) during the fiscal year ending September 30, 1994;

"(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

"(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;".

(65) In section 47113(a)(2), strike "section 8(c) of the Act (15 U.S.C. 637(c))" and "under section 8(c)" and substitute "section 8(d) of the Act (15 U.S.C. 637(d))" and "under section 8(d)", respectively.

(66) Section 47114(c) is amended as follows:

(A) in paragraph (1)(B), strike "$400,000" and substitute "$500,000".

(B) In paragraph (3)—

(i) insert "(A)" after "(3)";

(ii) strike "The" and substitute "Except as provided in subparagraph (B) of this paragraph, the";

(iii) strike "44" each place it appears and substitute "49.5";

(iv) strike "paragraph" and substitute "subparagraph"; and

(v) insert after subparagraph (A) the following new subparagraph:

"(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.".

(67) Section 47115 is amended by adding at the end the following:

"(f) MINIMUM AMOUNT TO BE CREDITED.—(1) In a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

"(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount

calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

"(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.".

(68) Section 47117(e) is amended as follows:

(A) In paragraph (1)(A), strike "10" and substitute "5".

(B) In paragraph (1)(C), strike "2.5" and substitute "1.5".

(C) In paragraph (1)(D), strike ".5" and substitute ".75".

(D) In paragraph (2), strike "2.5" and substitute "1.5".

(69) Section 47119(b) is amended as follows:

(A) Redesignate clause (3) as clause (4).

(B) Strike clause (2) and substitute the following:

"(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

"(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under section 47110(d) of this title; and

"(B) to a sponsor of a reliever airport for the types of project costs allowable under section 47110(d), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

"(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under section 47110(d) of this title; or".

(70) In section 47128(c), strike "subsection (b)(2) or (3)" and substitute "subsection (b)(1)(B) or (C)".

(71) Section 47504(c) is amended as follows:

(A) In paragraph (1)(A), add "and" after the semicolon.

(B) In paragraph (1)(B), strike the semicolon and substitute a period.

(C) Redesignate paragraph (1)(C) and (D) as paragraph (2)(C) and (D).

(D) In paragraph (2)(A)(iii), strike "and".

(E) In paragraph (2)(B)(iii), strike the period and substitute a semicolon.

(F) In paragraph (2)(C) and (D), as redesignated, strike "an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph" and substitute "to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection".

(72)(A) Chapter 475 is amended by inserting after section 47509 the following:

"§ 47510. Tradeoff allowance

"Notwithstanding another law or a regulation prescribed or order issued under that law, the tradeoff provisions contained in appendix C of part 36 of title 14, Code of Federal Regulations, apply in

deciding whether an aircraft complies with subpart I of part 91 of title 14.".

(B) The analysis of chapter 475 is amended by inserting immediately after item 47509 the following:

"47510. Tradeoff allowance.".

(73) Section 47531 is amended as follows:

(A) Strike "sections 47528" and substitute "section 47528".

(B) Insert "any of" before "those".

(C) Insert "any of sections" before "44702–44716".

(74) In section 47532, insert "any of" before "sections".

(75) In section 60109(a)(2), strike "60102(c)" and substitute "60102(e)".

(76) In section 60112(d), add ", including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action" after "action".

(77) Section 60117(i) is amended as follows:

(A) Insert "(1)" before "After".

(B) Add at the end the following:

"(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.".

(78) The chapter heading for chapter 701 is amended to read as follows:

"CHAPTER 701—COMMERCIAL SPACE LAUNCH ACTIVITIES".

(79) The chapter heading for chapter 801 is amended to read as follows:

"CHAPTER 801—BILLS OF LADING".

(80) In section 40110(b)(2)(A), insert "notwithstanding section 1341(a)(1) of title 31," before "lease".

(81) Section 41734(g)(2) is amended to read as follows:

"(2) the authority to be transferred is being used to provide air service to another eligible place.".

SEC. 7. TECHNICAL CHANGES TO OTHER LAWS.

Effective date.

(a) Effective July 5, 1994—

45 USC 856

(1) Section 708 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 31) is repealed.

49 USC app. 1472.

(2) Section 232A of the Act of October 12, 1984 (Public Law 98–473, 98 Stat. 2031), is repealed.

(3) Section 4 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1360), is amended as follows:

31 USC 3302.

(A) In subsection (f)(1)(H), insert "of the 2d sentence" after "end".

31 USC 3726.

(B) Subsection (f)(1)(N) is repealed.

(C) Subsection (j)(5)(B) is amended to read as follows:

"(B) In the analysis of chapter 1, strike the 2 items 110 and item 111 and substitute—

"110. Saint Lawrence Seaway Development Corporation.
"111. Bureau of Transportation Statistics.".

(D) Subsection (k)(3) is amended to read as follows: 49 USC 41902.

"(3) In section 41902(b)—

"(A) strike clause (2);

"(B) redesignate clauses (3) and (4) as clauses (2) and (3), respectively; and

"(C) in clause (2), as redesignated, strike 'clauses (1) and (2)' and substitute 'clause (1)'.".

(E) Subsection (r)(1) is amended by striking "the Urban Mass Transportation Act of 1964," and substituting "the Federal Transit Act,". 23 USC 101 note.

(4) Section 5 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1374), is amended as follows:

(A) In subsection (e)(11), strike "'section' and" and substitute "'section 1679a(c)(2)' and".

(B) In subsection (f)(1), strike "the Urban Mass Transportation Act of 1964" wherever it appears and substitute "the Federal Transit Act".

(C) In subsection (f)(2), strike "the Urban Mass Transportation Act of 1964," wherever it appears and substitute "the Federal Transit Act,".

(D) In subsection (m)(25)(A), strike "the Urban Mass Transportation Act of 1964" and substitute "the Federal Transit Act".

(5) The schedule of laws repealed contained in section 7(b) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1395), related to the Act of December 22, 1987 (Public Law 100–202), is amended by striking out— 49 USC note prec. 101.

(A) ", 106" in the Section column;

(B) ", 1329–433" in the Statutes at Large Page column; and

(C) ", 2311" in the U.S. Code Section column.

Except with respect to the provisions of law restated as section 31111 of title 49, United States Code, as enacted by the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 993), the provisions of law within the purview of section 106 of the Act of December 22, 1987 (Public Law 100–202, 101 Stat. 1329–433), shall be effective as if Public Law 103–272 had not been enacted.

(b) Effective August 23, 1994, section 101 of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 698) is repealed. Effective date. 49 USC app. 2204.

(c) Effective August 26, 1994, section 119(d)(2) and (3) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311, 108 Stat. 1680) is amended to read as follows: Effective date. 49 USC 5116.

"(2) Section 5116(i)(1) is amended by striking 'and section 5107(e) of this title'.

"(3) Section 5116(i)(3) is amended by striking '5107(e), 5108(g)(2),' and substituting '5108(g)(2)'.".

(d) Section 9001(1)(D) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)(D)) is amended to read as follows:

"(D) pipeline facility (including gathering lines)—

"(i) which is regulated under chapter 601 of title 49, United States Code, or

"(ii) which is an intrastate pipeline facility regulated under State laws as provided in chapter 601 of title 49, United States Code,

"and which is determined by the Secretary to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline,".

(e) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended as follows:

42 USC 9601.

(1) In section 101(26), strike "pipeline" and substitute "a hazardous liquid pipeline facility".

(2) In section 107(c)(1)(C), strike "pipeline" and substitute "hazardous liquid pipeline facility".

42 USC 9607.

SEC. 8. REPEAL OF OTHER LAWS.

(1) The last proviso of the 1st paragraph and the words after the last semicolon in the 2d paragraph under the heading "Civil Aeronautics Administration" in section 301 of the Act of June 3, 1948 (ch. 400, 62 Stat. 323, 324), are repealed.

49 USC app. 684.

(2) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration" in section 301 of the Act of July 20, 1949 (ch. 354, 63 Stat. 464), are repealed.

49 USC app. 683, 684.

(3) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration", and the proviso of the paragraph under the heading "Civil Aeronautics Board", in section 301 of the Act of September 6, 1950 (ch. 896, 64 Stat. 621, 622, 624), are repealed.

49 USC app. 683-685.

(4) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration", and the proviso of the paragraph under the heading "Civil Aeronautics Board", in section 301 of the Act of Oct. 22, 1951 (ch. 533, 65 Stat. 587, 588, 589), are repealed.

49 USC app. 683-685.

(5) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration" in section 301 of the Act of July 10, 1952 (ch. 651, 66 Stat. 562), are repealed.

49 USC app. 683, 684.

(6) Sections 404(f), 814, 815, and 901 of the Rail Passenger Service Act (Public Law 91-518, 84 Stat. 1327, 1341) are repealed.

26 USC 250 note; 45 USC 564, 650d, 650e.

(7) Section 7(c) of the Noise Control Act of 1972 (Public Law 92-574, 86 Stat. 1241) is repealed.

49 USC app. 1431 note.

(8) Section 46 of the Airline Deregulation Act of 1978 (Public Law 95-504, 92 Stat. 1754) is repealed.

49 USC 1301 note.

(9) Section 316 of the Surface Transportation Assistance Act of 1978 (Public Law 95-599, 92 Stat. 2751) is repealed.

49 USC app. 1602-1.

(10) Sections 207 and 210 of the National Driver Register Act of 1982 (Public Law 97-364, 96 Stat. 1745, 1747) are repealed.

23 USC 401 note.

(11) Section 144 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2129) is repealed.

49 USC app. 2315 note.

(12) Section 8 of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443, 98 Stat. 1706) is repealed.

49 USC app. 1371 note.

(13) The Act of October 11, 1984 (Public Law 98-466, 98 Stat. 1825), is repealed.

49 USC app. 1303 note.

(14) Sections 108(c) and 307 of the Pipeline Safety Reauthorization Act of 1988 (Public Law 100-561, 102 Stat. 2809, 2817) are repealed.

49 USC 1680 note.

(15) Sections 1 and 15(a), (c), (e), (f), and (g)(2) of the Sanitary Food Transportation Act of 1990 (Public Law 101–500, 104 Stat. 1213, 1218, 1219, 1220, 1221) are repealed. 49 USC 2501 note, 2801 note.

(16) Sections 1, 8, and 10 of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4654, 4657, 4658) are repealed. 49 USC app. 1804 note, 1901 note.

(17) Sections 11 and 13 of the Amtrak Authorization and Development Act (Public Law 102–533, 106 Stat. 3520, 3522) are repealed. 42 USC 650d, 650e.

(18) Section 319 of the Department of Transportation and Related Agencies Appropriations Act, 1994 (Public Law 103–122, 107 Stat. 1222) is repealed. 49 USC app. 2205 note.

SEC. 9. EFFECTIVE DATE. 49 USC 321 note.

The amendments made by sections 6(2)–(15), (19)–(35), (37)–(39), (41), (44)–(52), (54)–(62), (65), (66)(B), (70), (73)–(76), and (78)–(81) of this Act shall take effect on July 5, 1994.

SEC. 10. LEGISLATIVE PURPOSE AND CONSTRUCTION. 49 USC note prec. 101.

(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before September 26, 1994, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after September 25, 1994, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catchline of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 11. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal. 49 USC note prec. 101.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act: 49 USC note prec. 1.

Public Law 103-430
103d Congress

An Act

To amend title 13, United States Code, to improve the accuracy of census address lists, and for other purposes.

Oct. 31, 1994
[H.R. 5084]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Census Address List Improvement Act of 1994
13 USC 1 note.

This Act may be cited as the "Census Address List Improvement Act of 1994".

SEC. 2. ADDRESS INFORMATION REVIEWED BY LOCAL GOVERNMENTS.

(a) IN GENERAL.—Chapter 1 of title 13, United States Code, is amended by adding after section 15 the following new section:

"§ 16. Address information reviewed by States and local governments

"(a) The Secretary, to assist efforts to ensure the accuracy of censuses and surveys under this title, shall—

"(1) publish standards defining the content and structure of address information which States and local units of general purpose government may submit to the Secretary to be used in developing a national address list; Publication.

"(2)(A) develop and publish a timetable for the Bureau to receive, review, and respond to submissions of information under paragraph (1) before the decennial census date; and

"(B) provide for a response by the Bureau with respect to such submissions in which the Bureau specifies its determinations regarding such information and the reasons for such determinations; and

"(3) be subject to the review process developed under section 3 of the Census Address List Improvement Act of 1994 relating to responses pursuant to paragraph (2).

"(b)(1) The Secretary—

"(A) shall provide officials who are designated as census liaisons by a local unit of general purpose government with access to census address information for the purpose of verifying the accuracy of the address information of the Bureau for census and survey purposes; and

"(B) together with such access, should provide an explanation of duties and obligations under this title.

"(2) Access under paragraph (1) shall be limited to address information concerning addresses within the local unit of general purpose government represented by the census liaison or an adjacent local unit of general purpose government.

"(3) The Bureau should respond to each recommendation made by a census liaison concerning the accuracy of address information, including the determination (and reasons therefor) of the Bureau regarding each such recommendation.

"(4) For the purposes of paragraph (1), in a case in which a local unit of general purpose government is within another local unit of general purpose government and is not independent of the enclosing unit, the census liaison shall be designated by the local unit of general purpose government which is within the enclosing local unit of general purpose government.

"(5) A census liaison may not use information made available under paragraph (1) for any purpose other than the purpose specified in paragraph (1).

"(c) For the purposes of this section—

"(1) the term 'local unit of general purpose government' has the meaning given such term by section 184(1) of this title; and

"(2) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.".

13 USC 9.

(b) CONFIDENTIALITY.—Section 9(a) of such title is amended—

(1) by inserting "or local government census liaison," after "thereof,"; and

(2) by inserting "or 16" after "section 8".

13 USC 214.

(c) PENALTY.—Section 214 of such title is amended by inserting "or whoever, being or having been a census liaison within the meaning of section 16 of this title," after "title," the second place it appears.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 15 the following:

"16. Address information reviewed by local governments.".

13 USC 16 note.

SEC. 3. DEVELOPMENT OF APPEALS PROCESS BY ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

The Administrator of the Office of Information and Regulatory Affairs, acting through the Chief Statistician and in consultation with the Bureau of the Census, shall develop an appeals process for those States and local units of general purpose government which desire to appeal determinations of the Bureau of the Census pursuant to section 16(a)(2) or (b)(3) of title 13, United States Code. Appeals under such process shall be resolved before the decennial census date. The Chief Statistician shall publish the proposed appeals process for a period of public comment before finalizing such process.

Publication.

SEC. 4. AUTHORITY OF UNITED STATES POSTAL SERVICE TO SHARE ADDRESS LISTS.

Section 412 of title 39, United States Code, is amended—

(1) by striking out "Except" and all that follows through "law," and inserting in lieu thereof "(a) Except as specifically provided by subsection (b) or other law,"; and

(2) by adding at the end the following:

"(b) The Postal Service shall provide to the Secretary of Commerce for use by the Bureau of the Census such address informa-

tion, address-related information, and point of postal delivery information, including postal delivery codes, as may be determined by the Secretary to be appropriate for any census or survey being conducted by the Bureau of the Census. The provision of such information under this subsection shall be in accordance with such mutually agreeable terms and conditions, including reimbursability, as the Postal Service and the Secretary of Commerce shall deem appropriate.".

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 5084:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 103-431
103d Congress

An Act

Oct. 31, 1994
[H.R. 5176]

To amend the Federal Water Pollution Control Act relating to San Diego ocean discharge and waste water reclamation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ocean Pollution Reduction Act. California. 33 USC 1251 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ocean Pollution Reduction Act".

SEC. 2. SAN DIEGO OCEAN DISCHARGE AND WASTE WATER RECLAMATION.

Section 301(j) of the Federal Water Pollution Control Act (33 U.S.C. 1311(j)) is amended—

(1) in paragraph (1)(A) by inserting before the semicolon at the end the following: ", and except as provided in paragraph (5)"; and

(2) by adding at the end the following new paragraph:

"(5) EXTENSION OF APPLICATION DEADLINE.—

"(A) IN GENERAL.—In the 180-day period beginning on the date of the enactment of this paragraph, the city of San Diego, California, may apply for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) with respect to biological oxygen demand and total suspended solids in the effluent discharged into marine waters.

"(B) APPLICATION.—An application under this paragraph shall include a commitment by the applicant to implement a waste water reclamation program that, at a minimum, will—

"(i) achieve a system capacity of 45,000,000 gallons of reclaimed waste water per day by January 1, 2010; and

"(ii) result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the modification.

"(C) ADDITIONAL CONDITIONS.—The Administrator may not grant a modification pursuant to an application submitted under this paragraph unless the Administrator determines that such modification will result in removal of not less than 58 percent of the biological oxygen demand (on an annual average) and not less than 80 percent of total suspended solids (on a monthly average) in the discharge to which the application applies.

"(D) PRELIMINARY DECISION DEADLINE.—The Administrator shall announce a preliminary decision on an application submitted under this paragraph not later than 1 year after the date the application is submitted.".

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 5176:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-432
103d Congress

An Act

Oct. 31, 1994
[H.R. 5252]

To amend the Social Security Act and related Acts to make miscellaneous and technical amendments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security Act Amendments of 1994.
42 USC 1305 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Act Amendments of 1994".

SEC. 2. REFERENCES IN ACT; TABLE OF CONTENTS.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this Act, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. References in Act; table of contents.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

Sec. 101. Provisions relating to adjustments to standardized amounts for wages and wage-related costs.
Sec. 102. Essential access community hospital (EACH) amendments.
Sec. 103. Provisions relating to rural health transition grant program.
Sec. 104. Psychology services in hospitals.
Sec. 105. Medicare-dependent, small rural hospitals and sole community hospitals.
Sec. 106. Skilled nursing facilities.
Sec. 107. Notification of availability of hospice benefit.
Sec. 108. Clarifying expertise of individuals to serve on the Prospective Payment Assessment Commission.
Sec. 109. Authority for budget neutral adjustments for changes in payment amounts for transfer cases.
Sec. 110. Clarification of DRG payment window expansion; miscellaneous and technical corrections.

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

Sec. 121. Development and implementation of resource-based methodology for practice expenses.
Sec. 122. Geographic cost of practice index refinements.
Sec. 123. Extra-billing limits.
Sec. 124. Relative values for pediatric services.
Sec. 125. Administration of claims relating to physicians' services.
Sec. 126. Miscellaneous and technical corrections.

PART II—DURABLE MEDICAL EQUIPMENT

Sec. 131. Certification of suppliers.
Sec. 132. Restrictions on certain marketing and sales activities.
Sec. 133. Beneficiary liability for noncovered services.
Sec. 134. Adjustments for inherent reasonableness.
Sec. 135. Miscellaneous and technical corrections.

PART III—OTHER ITEMS AND SERVICES

Sec. 141. Ambulatory surgical center services.
Sec. 142. Study of medicare coverage of patient care costs associated with clinical trials of new cancer therapies.
Sec. 143. Study of annual cap on amount of medicare payment for outpatient physical therapy and occupational therapy services.
Sec. 144. Payment of part B premium late enrollment penalties by States.
Sec. 145. Application of mammography certification requirements.
Sec. 146. Coverage of services of speech-language pathologists and audiologists.
Sec. 147. Miscellaneous and technical corrections.

Subtitle C—Provisions Relating to Parts A and B

Sec. 151. Medicare secondary payer reforms.
Sec. 152. Physician ownership and referral.
Sec. 153. Definition of FMGEMS examination for payment of direct graduate medical education.
Sec. 154. Qualified medicare beneficiary outreach.
Sec. 155. Hospital agreements with organ procurement organizations.
Sec. 156. Peer review organizations.
Sec. 157. Health maintenance organizations.
Sec. 158. Home health agencies.
Sec. 159. Permanent extension of authority to contract with fiscal intermediaries and carriers on other than a cost basis.
Sec. 160. Miscellaneous and technical corrections.

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

Sec. 171. Standards for medicare supplemental insurance policies.
Sec. 172. 6-month extension of period for issuance of medicare select policies.

TITLE II—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM, INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

Sec. 201. Increase in authorization of appropriations for the Maternal and Child Health Services Block Grant Program.

Subtitle A—Child Welfare, Foster Care, Adoption

Sec. 202. Required protections for foster children.
Sec. 203. Conformity reviews.
Sec. 204. States required to report on measures taken to comply with the Indian Child Welfare Act.
Sec. 205. Child welfare traineeships.
Sec. 206. Dispositional hearing.
Sec. 207. Elimination of foster care ceilings and of authority to transfer unused foster care funds to child welfare services programs.
Sec. 208. Demonstration projects.
Sec. 209. Placement accountability.
Sec. 210. Payments of State claims for foster care and adoption assistance.
Sec. 211. Effect of failure to carry out State plan.

Subtitle B—Child Support Enforcement

Sec. 212. Reports to credit bureaus on persons delinquent in child support payments.
Sec. 213. Technical amendments to provision on State paternity establishment programs.

Sec. 214. Agreement to assist in locating missing children under the parent locator service.

Subtitle C—Supplemental Security Income

Sec. 221. Definition of disability for children under age 18 applied to all individuals under age 18.

Subtitle D—Aid to Families With Dependent Children

Sec. 231. Simplification of income and eligibility verification system.
Sec. 232. Measurement and reporting of welfare receipt.
Sec. 233. New Hope demonstration project.
Sec. 234. Delay in requirement that outlying areas operate an AFDC–UP Program.
Sec. 235. State option to use retrospective budgeting without monthly reporting.

Subtitle E—JOBS Program

Sec. 241. Expansion of coverage for Indian tribes.
Sec. 242. Report to the Congress with respect to performance standards in the JOBS program.

Subtitle F—Other Provisions

Sec. 261. Extension of demonstration to expand job opportunities.
Sec. 262. Early childhood development projects.
Sec. 263. Reallocation of funds under title XX for empowerment and enterprise grants.
Sec. 264. Corrections related to the income security and human resources provisions of OBRA–1990.
Sec. 265. Technical corrections related to the human resource and income security provisions of OBRA–1989.
Sec. 266. Technical correction related to the human resource and income security provisions of OBRA–1993.
Sec. 267. Elimination of obsolete provisions relating to treatment of the earned income tax credit.
Sec. 268. Redesignation of certain provisions.

TITLE I—MEDICARE PROVISIONS

Subtitle A—Provisions Relating to Part A

SEC. 101. PROVISIONS RELATING TO ADJUSTMENTS TO STANDARDIZED AMOUNTS FOR WAGES AND WAGE-RELATED COSTS.

(a) USE OF OCCUPATIONAL MIX IN GUIDELINES FOR DETERMINATION OF AREA WAGE INDEX.—

(1) IN GENERAL.—Section 1886(d)(10)(D)(i)(I) (42 U.S.C. 1395ww(d)(10)(D)(i)(I)) is amended by inserting "(to the extent the Secretary determines appropriate)" after "taking into account".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1989.

(b) CONFORMING AMENDMENTS RELATING TO GEOGRAPHIC AREA USED TO DETERMINE WAGE INDEX APPLICABLE TO HOSPITAL.—(1) Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)), as amended by section 13501(b)(1) of OBRA–1993, is amended—

(A) in clause (iv), by striking "paragraph (1)" and inserting "paragraph (10)"; and

(B) by adding at the end the following new clause:

"(v) This subparagraph shall apply with respect to discharges occurring in a fiscal year only if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) for the fiscal year that is based on the use of Metropolitan Statistical Area classifications.".

(2) Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10)) is amended—

(A) in subparagraph (C)(i)(II), by striking "the area wage index applicable" and inserting "the factor used to adjust the DRG prospective payment rate for area differences in hospital wage levels that applies"; and

(B) in subparagraph (D)—

(i) by redesignating clause (ii) as clause (iii), and

(ii) by inserting after clause (i) the following new clause:

"(ii) Notwithstanding clause (i), if the Secretary uses a method for making adjustments to the DRG prospective payment rate for area differences in hospital wage levels under paragraph (3)(E) that is not based on the use of Metropolitan Statistical Area classifications, the Secretary may revise the guidelines published under clause (i) to the extent such guidelines are used to determine the appropriateness of the geographic area in which the hospital is determined to be located for purposes of making such adjustments.".

(c) ADJUSTMENT OF LABOR AND NON-LABOR PORTIONS OF STANDARDIZED AMOUNTS.—Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by adding at the end the following: "For discharges occurring on or after October 1, 1994, the Secretary shall adjust the ratio of the labor portion to non-labor portion of each average standardized amount to equal such ratio for the national average of all standardized amounts.".

SEC. 102. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during

the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

42 USC 1395i-4 note.

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(b) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5);

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located",

(II) by striking ", (ii)" and inserting "or (ii)", and

(III) by striking "or (iii)" and all that follows through "section,"; and

(iii) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i–4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i–4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i–4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(c) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i–4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(d) DEADLINE FOR DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1814(l)(2) (42 U.S.C. 1395f(l)(2)) is amended by striking "January 1, 1993" and inserting "January 1, 1996".

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(1) IMPLEMENTATION OF PROSPECTIVE PAYMENT SYSTEM.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(A) in paragraph (1), by striking "during a year before 1993" and inserting "during a year before the prospective payment system described in paragraph (2) is in effect"; and

(B) in paragraph (2), by striking "January 1, 1993," and inserting "January 1, 1996,".

(2) NO USE OF CUSTOMARY CHARGE IN DETERMINING PAYMENT.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following new flush sentence:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i–4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(l) (42 U.S.C. 1395i–4(l)), as redesignated by subsection (b)(2)(A), is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1997".

42 USC 1395d note.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 103. PROVISIONS RELATING TO RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) ELIGIBILITY OF RURAL PRIMARY CARE HOSPITALS FOR GRANTS.—

42 USC 1395ww note.

(1) IN GENERAL.—Section 4005(e)(2) of OBRA–1987 is amended in the matter preceding subparagraph (A) by inserting "any rural primary care hospital designated by the Secretary

under section 1820(i)(2) of the Social Security Act, or" after "means".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 1994. 42 USC 1395ww note.

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 4005(e)(9) of OBRA–1987 is amended— 42 USC 1395ww note.

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

(c) FREQUENCY OF REQUIRED REPORTS.—Section 4008(e)(8)(B) of OBRA–1987 is amended by striking "every 6 months" and inserting "every 12 months". 42 USC 1395ww note.

SEC. 104. PSYCHOLOGY SERVICES IN HOSPITALS.

Section 1861(e)(4) (42 U.S.C. 1395x(e)(4)) is amended by striking "physician;" and inserting "physician, except that a patient receiving qualified psychologist services (as defined in subsection (ii)) may be under the care of a clinical psychologist with respect to such services to the extent permitted under State law;".

SEC. 105. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS.

(a) MEDICARE DEPENDENT, SMALL RURAL HOSPITALS.—

(1) CLARIFICATION OF ADDITIONAL PAYMENT.—Section 1886(d)(5)(G)(ii)(I) (42 U.S.C. 1395ww(d)(5)(G)(ii)(I)), as amended by section 13501(e)(1) of OBRA–1993, is amended by striking "the first 3 12-month cost reporting periods that begin" and inserting "the 36-month period beginning with the first day of the cost reporting period that begins".

(2) CONFORMING TARGET AMOUNTS TO EXTENSION OF ADDITIONAL PAYMENTS.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended in the matter preceding clause (i) by striking "March 31, 1993" and inserting "September 30, 1994".

(b) CLARIFICATION OF UPDATES.—Section 1886(b)(3)(B)(iv)(II) (42 U.S.C. 1395ww(b)(3)(B)(iv)(II)), as added by section 13501(a)(2) of OBRA–1993, is amended by striking "(taking into account" and all that follows through "1994)" and inserting "(adjusted to exclude any portion of a cost reporting period beginning during fiscal year 1993 for which the applicable percentage increase is determined under subparagraph (I))".

SEC. 106. SKILLED NURSING FACILITIES.

(a) CONSTRUCTION OF WAGE INDEX.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall begin to collect data on employee compensation and paid hours of employment in skilled nursing facilities for the purpose of constructing a skilled nursing facility wage index adjustment to the routine service cost limits required under section 1888(a)(4) of the Social Security Act. 42 USC 1395yy note.

(b) CLARIFICATION OF REPEAL OF UTILIZATION REVIEW REQUIREMENTS.—

(1) IN GENERAL.—(A) Section 1814(a)(5) (42 U.S.C. 1395f(a)(5)) is amended—

(i) by striking "and with respect" and all that follows through "regulations";

(ii) by striking "or skilled nursing facility, as the case may be"; and

(iii) by striking "or facility".

(B) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended—

(i) by striking "or skilled nursing facility";

(ii) by striking "or facility" each place it appears;

(iii) by striking "or for post-hospital" and all that follows through "the case may be"; and

(iv) by striking ", or (in the case of" and all that follows through "transfer agreement,".

42 USC 1395cc note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1987.

(c) CONFORMING AMENDMENTS TO NURSING HOME REFORM.—

(1) SUSPENSION OF DECERTIFICATION OF NURSES AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS BASED ON EXTENDED SURVEYS.—

(A) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I)(b) (42 U.S.C. 1395i–3(f)(2)(B)(iii)(I)(b)) is amended by striking the semicolon and inserting the following: ", unless the survey shows that the facility is in compliance with the requirements of subsections (b), (c), and (d) of this section;".

42 USC 1395i–3 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA–1990.

(2) REQUIREMENTS FOR CONSULTANTS CONDUCTING REVIEWS ON USE OF DRUGS.—

(A) IN GENERAL.—Section 1819(c)(1)(D) (42 U.S.C. 1395i–3(c)(1)(D)) is amended by adding at the end the following sentence: "In determining whether such a consultant is qualified to conduct reviews under the preceding sentence, the Secretary shall take into account the needs of nursing facilities under this title to have access to the services of such a consultant on a timely basis.".

42 USC 1395i–3 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of OBRA–1987.

(3) INCREASE IN MINIMUM AMOUNT REQUIRED FOR SEPARATE DEPOSIT OF PERSONAL FUNDS.—

(A) IN GENERAL.—Section 1819(c)(6)(B)(i) (42 U.S.C. 1395i–3(c)(6)(B)(i)) is amended by striking "$50" and inserting "$100".

42 USC 1395i–3 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect January 1, 1995.

(4) DUE PROCESS PROTECTIONS FOR NURSES AIDES.—

(A) PROHIBITING STATE FROM INCLUDING UNDOCUMENTED ALLEGATIONS IN NURSES AIDE REGISTRY.—Section 1819(e)(2)(B) (42 U.S.C. 1395i–3(e)(2)(B)) is amended by striking the period at the end of the first sentence and inserting the following: ", but shall not include any allegations of resident abuse or neglect or misappropriation of resident property that are not specifically documented by the State under such subsection.".

(B) DUE PROCESS REQUIREMENTS FOR REBUTTING ALLEGATIONS.—Section 1819(g)(1)(C) (42 U.S.C. 1395i–3(g)(1)(C)) is amended by striking the second sentence and inserting the following: "The State shall, after providing the individual involved with a written notice of the allegations (including a statement of the availability of a hearing

for the individual to rebut the allegations) and the opportunity for a hearing on the record, make a written finding as to the accuracy of the allegations.".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect January 1, 1995. 42 USC 1395i-3 note.

(d) CORRECTIONS RELATING TO SECTION 4008.—

(1) Section 1819(b)(5)(D) (42 U.S.C. 1395i–3(b)(5)(D)), as amended by section 4008(h)(1)(D) of OBRA–1990, is amended by striking the comma before "or a new competency evaluation program.".

(2) Section 1819(b)(5)(G) (42 U.S.C. 1395i–3(b)(5)(G)) is amended by striking "or licensed or certified social worker" and inserting "licensed or certified social worker, registered respiratory therapist, or certified respiratory therapy technician".

(3) Section 1819(f)(2)(B)(i) (42 U.S.C. 1395i–3(f)(2)(B)(i)) is amended by striking "facilities," and inserting "facilities (subject to clause (iii)),".

(4) Section 1819(f)(2)(B)(iii)(I)(c) (42 U.S.C. 1395i–3(f)(2)(B)(iii)(I)(c)) is amended by striking "clauses" each place it appears and inserting "clause".

(5) Section 1819(g)(5)(B) (42 U.S.C. 1395i–3(g)(5)(B)) is amended by striking "paragraphs" and inserting "paragraph".

(6) Section 4008(h)(1)(F)(ii) of OBRA–1990 is amended— 42 USC 1395i-3 note.

(A) by striking "The amendments" and inserting "(I) The amendments";

(B) by striking "nursing facility" each place it appears and inserting "skilled nursing facility";

(C) by redesignating subclauses (I) through (V) as items (aa) through (ee); and

(D) by adding at the end the following new subclause:

"(II) Notwithstanding subclause (I) and subject to section 1819(f)(2)(B)(iii)(I) of the Social Security Act (as amended by clause (i)), a State may approve a training and competency evaluation program or a competency evaluation program offered by or in a skilled nursing facility described in subclause (I) if, during the previous 2 years, item (aa), (bb), (cc), (dd), or (ee) of subclause (I) did not apply to the facility.".

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990. 42 USC 1395i-3 note.

SEC. 107. NOTIFICATION OF AVAILABILITY OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended by inserting ", including hospice services," after "post-hospital services".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than one year after the date of the enactment of this Act. 42 USC 1395x note.

SEC. 108. CLARIFYING EXPERTISE OF INDIVIDUALS TO SERVE ON THE PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Section 1886(e)(6)(B) (42 U.S.C. 1395ww(e)(6)(B)) is amended by striking "hospital reimbursement, hospital financial management" and inserting "health facility management, reimbursement

of health facilities or other providers of services which reflect the scope of the Commission's responsibilities".

SEC. 109. AUTHORITY FOR BUDGET NEUTRAL ADJUSTMENTS FOR CHANGES IN PAYMENT AMOUNTS FOR TRANSFER CASES.

Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)) is amended—

(1) by inserting "(i)" after "(I)"; and

(2) by adding at the end the following new clause:

"(ii) In making adjustments under clause (i) for transfer cases (as defined by the Secretary) in a fiscal year, the Secretary may make adjustments to each of the average standardized amounts determined under paragraph (3) to assure that the aggregate payments made under this subsection for such fiscal year are not greater or lesser than those that would have otherwise been made in such fiscal year.".

SEC. 110. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION; MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by inserting "(or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day)" after "3 days".

(b) TECHNICAL CORRECTION RELATING TO RESIDENT ASSESSMENT IN NURSING HOMES.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "not later than" before "14 days".

(c) TECHNICAL CORRECTION RELATING TO APPLICABLE ADJUSTMENT FACTOR FOR INDIRECT MEDICAL EDUCATION ADJUSTMENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended by striking "May 1, 1986," and inserting "October 1, 1988,".

(d) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "September 30, 1990,," and inserting "September 30, 1990,".

(2) Section 1816(f)(2)(A)(ii) (42 U.S.C. 1396h(f)(2)(A)(ii)) is amended by striking "such agency" and inserting "such agency's".

Subtitle B—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

SEC. 121. DEVELOPMENT AND IMPLEMENTATION OF RESOURCE-BASED METHODOLOGY FOR PRACTICE EXPENSES.

42 USC 1395w-4 note.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a methodology for implementing in 1998 a resource-based system for determining practice expense relative value units for each physicians' service. The methodology utilized shall recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings.

(2) REPORT.—The Secretary shall transmit a report by June 30, 1996, on the methodology developed under paragraph (1) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. The report shall include a presentation of data utilized in developing the methodology and an explanation of the methodology.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—Section 1848(c)(2)(C)(ii) (42 U.S.C. 1395w–4(c)(2)(C)(ii)) is amended—

(A) by inserting "for the service for years before 1998" before "equal to",

(B) by striking the period at the end of subclause (II) and inserting a comma, and

(C) by adding after and below subclause (II) the following:

"and for years beginning with 1998 based on the relative practice expense resources involved in furnishing the service.".

(2) CONFORMING AMENDMENT.—Section 1848(c)(3)(C)(ii) (42 U.S.C. 1395w–4(c)(3)(C)(ii)) is amended by striking "The practice" and inserting "For years before 1998, the practice".

(3) APPLICATION OF CERTAIN PROVISIONS.—In implementing the amendment made by paragraph (1)(C), the provisions of clauses (ii)(II) and (iii) of section 1848(c)(2)(B) of the Social Security Act shall apply in the same manner as they apply to adjustments under clause (ii)(I) of such section. 42 USC 1395w–4 note.

SEC. 122. GEOGRAPHIC COST OF PRACTICE INDEX REFINEMENTS.

(a) REQUIRING CONSULTATION WITH REPRESENTATIVES OF PHYSICIANS IN REVIEWING GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by striking "shall review" and inserting "shall, in consultation with appropriate representatives of physicians, review".

(b) USE OF MOST RECENT DATA IN GEOGRAPHIC ADJUSTMENT.—Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended by adding at the end the following new subparagraph:

"(D) USE OF RECENT DATA.—In establishing indices and index values under this paragraph, the Secretary shall use the most recent data available relating to practice expenses, malpractice expenses, and physician work effort in different fee schedule areas.".

(c) REPORT ON REVIEW PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall study and report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on— 42 USC 1395w–4 note.

(1) the data necessary to review and revise the indices established under section 1848(e)(1)(A) of the Social Security Act, including—

(A) the shares allocated to physicians' work effort, practice expenses (other than malpractice expenses), and malpractice expenses;

(B) the weights assigned to the input components of such shares; and

(C) the index values assigned to such components;

(2) any limitations on the availability of data necessary to review and revise such indices at least every three years;

(3) ways of addressing such limitations, with particular attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and

(4) the costs of developing more accurate and timely data.

SEC. 123. EXTRA-BILLING LIMITS.

(a) ENFORCEMENT OF LIMITS.—Section 1848(g) (42 U.S.C. 1395w-4(g)), as amended by section 13517(a) of OBRA-1993, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) LIMITATION ON ACTUAL CHARGES.—

"(A) IN GENERAL.—In the case of a nonparticipating physician or nonparticipating supplier or other person (as defined in section 1842(i)(2)) who does not accept payment on an assignment-related basis for a physician's service furnished with respect to an individual enrolled under this part, the following rules apply:

"(i) APPLICATION OF LIMITING CHARGE.—No person may bill or collect an actual charge for the service in excess of the limiting charge described in paragraph (2) for such service.

"(ii) NO LIABILITY FOR EXCESS CHARGES.—No person is liable for payment of any amounts billed for the service in excess of such limiting charge.

"(iii) CORRECTION OF EXCESS CHARGES.—If such a physician, supplier, or other person bills, but does not collect, an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall reduce on a timely basis the actual charge billed for the service to an amount not to exceed the limiting charge for the service.

"(iv) REFUND OF EXCESS COLLECTIONS.—If such a physician, supplier, or other person collects an actual charge for a service in violation of clause (i), the physician, supplier, or other person shall provide on a timely basis a refund to the individual charged in the amount by which the amount collected exceeded the limiting charge for the service. The amount of such a refund shall be reduced to the extent the individual has an outstanding balance owed by the individual to the physician.

"(B) SANCTIONS.—If a physician, supplier, or other person—

"(i) knowingly and willfully bills or collects for services in violation of subparagraph (A)(i) on a repeated basis, or

"(ii) fails to comply with clause (iii) or (iv) of subparagraph (A) on a timely basis,

the Secretary may apply sanctions against the physician, supplier, or other person in accordance with paragraph (2) of section 1842(j). In applying this subparagraph, paragraph (4) of such section applies in the same manner as such paragraph applies to such section and any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.

"(C) TIMELY BASIS.—For purposes of this paragraph, a correction of a bill for an excess charge or refund of an amount with respect to a violation of subparagraph (A)(i) in the case of a service is considered to be provided 'on a timely basis', if the reduction or refund is made not later than 30 days after the date the physician, sup-

plier, or other person is notified by the carrier under this part of such violation and of the requirements of subparagraph (A)."; and

(2) in paragraph (3)(B)—

(A) by inserting after the first sentence the following: "No person is liable for payment of any amounts billed for such a service in violation of the previous sentence.", and

(B) in the last sentence, by striking "previous sentence" and inserting "first sentence".

(b) CLARIFICATION OF MANDATORY ASSIGNMENT RULES FOR CERTAIN PRACTITIONERS.—

(1) IN GENERAL.—Section 1842(b) (42 U.S.C. 1395u(b)), as amended by section 126(e), is amended by adding at the end the following new paragraph:

"(18)(A) Payment for any service furnished by a practitioner described in subparagraph (C) and for which payment may be made under this part on a reasonable charge or fee schedule basis may only be made under this part on an assignment-related basis.

"(B) A practitioner described in subparagraph (C) or other person may not bill (or collect any amount from) the individual or another person for any service described in subparagraph (A), except for deductible and coinsurance amounts applicable under this part. No person is liable for payment of any amounts billed for such a service in violation of the previous sentence. If a practitioner or other person knowingly and willfully bills (or collects an amount) for such a service in violation of such sentence, the Secretary may apply sanctions against the practitioner or other person in the same manner as the Secretary may apply sanctions against a physician in accordance with subsection (j)(2) in the same manner as such section applies with respect to a physician. Paragraph (4) of subsection (j) shall apply in this subparagraph in the same manner as such paragraph applies to such section.

"(C) A practitioner described in this subparagraph is any of the following:

"(i) A physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)).

"(ii) A certified registered nurse anesthetist (as defined in section 1861(bb)(2)).

"(iii) A certified nurse-midwife (as defined in section 1861(gg)(2)).

"(iv) A clinical social worker (as defined in section 1861(hh)(1)).

"(v) A clinical psychologist (as defined by the Secretary for purposes of section 1861(ii)).

"(D) For purposes of this paragraph, a service furnished by a practitioner described in subparagraph (C) includes any services and supplies furnished as incident to the service as would otherwise be covered under this part if furnished by a physician or as incident to a physician's service.".

(2) CONFORMING AMENDMENTS.—

(A) Section 1833 (42 U.S.C. 1395l) is amended— 42 USC 1395*l*.

(i) in subsection (l)(5), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(ii) by striking subsection (p); and

(iii) in subsection (r), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by striking subparagraph (C).

(c) INFORMATION ON EXTRA-BILLING LIMITS.—

(1) PART OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) in subparagraph (C), by striking "shall include",

(C) in subparagraph (C), by striking the period at the end and inserting ", and", and

(D) by adding at the end the following new subparagraph:

"(D) in the case of services for which the billed amount exceeds the limiting charge imposed under section 1848(g), information regarding such applicable limiting charge (including information concerning the right to a refund under section 1848(g)(1)(A)(iv)).".

(2) DETERMINATIONS BY CARRIERS.—Subparagraph (G) of section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended to read as follows:

"(G) will, for a service that is furnished with respect to an individual enrolled under this part, that is not paid on an assignment-related basis, and that is subject to a limiting charge under section 1848(g)—

"(i) determine, prior to making payment, whether the amount billed for such service exceeds the limiting charge applicable under section 1848(g)(2);

"(ii) notify the physician, supplier, or other person periodically (but not less often than once every 30 days) of determinations that amounts billed exceeded such applicable limiting charges; and

"(iii) provide for prompt response to inquiries of physicians, suppliers, and other persons concerning the accuracy of such limiting charges for their services;".

(d) REPORT ON CHARGES IN EXCESS OF LIMITING CHARGE.—Section 1848(g)(6)(B) (42 U.S.C. 1395w-4(g)(6)(B)) is amended by inserting "information on the extent to which actual charges exceed limiting charges, the number and types of services involved, and the average amount of excess charges and information" after "report to the Congress".

(e) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—Section 1833(h)(5)(D) (42 U.S.C. 1395l(h)(5)(D)) is amended—

(1) by striking "paragraphs (2) and (3)" and by inserting "paragraph (2)"; and

(2) by adding at the end the following: "Paragraph (4) of such section shall apply in this subparagraph in the same manner as such paragraph applies to such section.".

(f) EFFECTIVE DATES.—

42 USC 1395*l* note.

(1) ENFORCEMENT; MISCELLANEOUS AND TECHNICAL AMENDMENTS.—The amendments made by subsections (a) and (e) shall apply to services furnished on or after the date of the enactment of this Act; except that the amendments made by subsection (a) shall not apply to services of a nonparticipating supplier or other person furnished before January 1, 1995.

(2) PRACTITIONERS.—The amendments made by subsection (b) shall apply to services furnished on or after January 1, 1995. 42 USC 1395l note.

(3) EOMBS.—The amendments made by subsection (c)(1) shall apply to explanations of benefits provided on or after July 1, 1995. 42 USC 1395u note

(4) CARRIER DETERMINATIONS.—The amendments made by subsection (c)(2) shall apply to contracts as of January 1, 1995. 42 USC 1395u note.

(5) REPORT.—The amendment made by subsection (d) shall apply to reports for years beginning with 1995. 42 USC 1395w-4 note.

SEC. 124. RELATIVE VALUES FOR PEDIATRIC SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall fully develop, by not later than July 1, 1995, relative values for the full range of pediatric physicians' services which are consistent with the relative values developed for other physicians' services under section 1848(c) of the Social Security Act. In developing such values, the Secretary shall conduct such refinements as may be necessary to produce appropriate estimates for such relative values. 42 USC 1395w-4 note

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the relative values for pediatric and other services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting such study, the Secretary shall consult with appropriate organizations representing pediatricians and other physicians and physical and occupational therapists.

(2) REPORT.—Not later than July 1, 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1). Such report shall include any appropriate recommendations regarding needed changes in coding or other payment policies to ensure that payments for pediatric services appropriately reflect the resources required to provide these services.

SEC. 125. ADMINISTRATION OF CLAIMS RELATING TO PHYSICIANS' SERVICES.

(a) LIMITATION ON CARRIER USER FEES.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of claims related to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining) a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

(b) CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended to read as follows: "(D) payment may be made to a physician for physicians' services (and services

furnished incident to such services) furnished by a second physician to patients of the first physician if (i) the first physician is unavailable to provide the services; (ii) the services are furnished pursuant to an arrangement between the two physicians that (I) is informal and reciprocal, or (II) involves per diem or other fee-for-time compensation for such services; (iii) the services are not provided by the second physician over a continuous period of more than 60 days; and (iv) the claim form submitted to the carrier for such services includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this subparagraph for payment to the first physician".

42 USC 1395u note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 126. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—(1) Section 1842(b)(16)(B)(iii) (42 U.S.C. 1395u(b)(16)(B)(iii)) is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

42 USC 1395u note.

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES.—(1) Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by redesignating the subparagraphs (E) and (F) redesignated by section 4102(a)(1) of OBRA–1990 as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) (42 U.S.C. 1395m(b)(4)(D)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for",

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services.". 42 USC 1395m note.

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph". 42 USC 1395m.

(5) Section 1834(b)(4)(E) (42 U.S.C. 1395m(b)(4)(E)) is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) (42 U.S.C. 1395w–4(a)(2)(D)(iii)) is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES.—(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES". 42 USC 1395u.

(2) Section 1842(q)(1)(B) (42 U.S.C. 1395u(q)(1)(B)) is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) ASSISTANTS AT SURGERY.—(1) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection". 42 USC 1395w–4 note.

(2) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(e) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(f) STATEWIDE FEE SCHEDULES.—Section 4117 of OBRA–1990 is amended— 42 USC 1395w–4 note.

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991,"; and

(2) by striking subsections (b), (c), and (d).

(g) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—(1) The heading of section 1834(f) (42 U.S.C. 1395m(f)) is amended by striking "FISCAL YEAR".

(2)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraph (2), by striking "amendments" and inserting "amendment", and 42 USC 1395w–4 note.

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)". 42 USC 1395u note.

(B) Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

42 USC 1395w-4 note.

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

42 USC 1395w-4 note.

(3) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

42 USC 1395u note.

(4) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(5) Section 1848(e)(1)(C) (42 U.S.C. 1395w–4(e)(1)(C)) is amended by inserting "date of the" after "since the".

42 USC 1395w-4.

(6) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(7) Section 4118(f)(1)(N)(ii) of OBRA–1990 is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(8) Section 1845(e) (42 U.S.C. 1395w–1(e)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

42 USC 1395u.

(9) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(10)(A) Section 1848(i)(3) (42 U.S.C. 1395w–4(i)(3)) is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended—

(i) by striking "apply to" and inserting "would otherwise apply to", and

(ii) by inserting before the period at the end "but for the application of section 1848(i)(3)".

42 USC 1395w-4 note.

(h) OTHER CORRECTIONS.—(1) Effective on the date of the enactment of this Act, section 6102(d)(4) of OBRA–1989 is amended by striking all that follows the first sentence.

(2) Effective for payments for fiscal years beginning with fiscal year 1994, section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) in subparagraph (A), by striking "(A) Any contract" and inserting "Any contract"; and

(B) by striking subparagraph (B).

42 USC 1395m note.

(i) EFFECTIVE DATE.—Except as provided in subsection (h), the amendments made by this section and the provisions of this section shall take effect as if included in the enactment of OBRA–1990.

PART II—DURABLE MEDICAL EQUIPMENT

SEC. 131. CERTIFICATION OF SUPPLIERS.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m), as amended by section 13544(b)(1) of OBRA–1993, is amended by adding at the end the following new subsection:

"(j) REQUIREMENTS FOR SUPPLIERS OF MEDICAL EQUIPMENT AND SUPPLIES.—

"(1) ISSUANCE AND RENEWAL OF SUPPLIER NUMBER.—

"(A) PAYMENT.—Except as provided in subparagraph (C), no payment may be made under this part after the date of the enactment of the Social Security Act Amendments of 1994 for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number.

"(B) STANDARDS FOR POSSESSING A SUPPLIER NUMBER.—A supplier may not obtain a supplier number unless—

"(i) for medical equipment and supplies furnished on or after the date of the enactment of the Social Security Act Amendments of 1994 and before January 1, 1996, the supplier meets standards prescribed by the Secretary in regulations issued on June 18, 1992; and

"(ii) for medical equipment and supplies furnished on or after January 1, 1996, the supplier meets revised standards prescribed by the Secretary (in consultation with representatives of suppliers of medical equipment and supplies, carriers, and consumers) that shall include requirements that the supplier—

"(I) comply with all applicable State and Federal licensure and regulatory requirements;

"(II) maintain a physical facility on an appropriate site;

"(III) have proof of appropriate liability insurance; and

"(IV) meet such other requirements as the Secretary may specify.

"(C) EXCEPTION FOR ITEMS FURNISHED AS INCIDENT TO A PHYSICIAN'S SERVICE.—Subparagraph (A) shall not apply with respect to medical equipment and supplies furnished incident to a physician's service.

"(D) PROHIBITION AGAINST MULTIPLE SUPPLIER NUMBERS.—The Secretary may not issue more than one supplier number to any supplier of medical equipment and supplies unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

"(E) PROHIBITION AGAINST DELEGATION OF SUPPLIER DETERMINATIONS.—The Secretary may not delegate (other than by contract under section 1842) the responsibility to determine whether suppliers meet the standards necessary to obtain a supplier number.

"(2) CERTIFICATES OF MEDICAL NECESSITY.—

"(A) LIMITATION ON INFORMATION PROVIDED BY SUPPLIERS ON CERTIFICATES OF MEDICAL NECESSITY.—

"(i) IN GENERAL.—Effective 60 days after the date of the enactment of the Social Security Act Amendments of 1994, a supplier of medical equipment and supplies may distribute to physicians, or to individuals entitled to benefits under this part, a certificate of medical necessity for commercial purposes which contains no more than the following information completed by the supplier: Effective date

"(I) An identification of the supplier and the beneficiary to whom such medical equipment and supplies are furnished.

"(II) A description of such medical equipment and supplies.

"(III) Any product code identifying such medical equipment and supplies.

"(IV) Any other administrative information (other than information relating to the beneficiary's medical condition) identified by the Secretary.

"(ii) INFORMATION ON PAYMENT AMOUNT AND CHARGES.—If a supplier distributes a certificate of medical necessity containing any of the information permitted to be supplied under clause (i), the supplier shall also list on the certificate of medical necessity the fee schedule amount and the supplier's charge for the medical equipment or supplies being furnished prior to distribution of such certificate to the physician.

"(iii) PENALTY.—Any supplier of medical equipment and supplies who knowingly and willfully distributes a certificate of medical necessity in violation of clause (i) or fails to provide the information required under clause (ii) is subject to a civil money penalty in an amount not to exceed $1,000 for each such certificate of medical necessity so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).

"(B) DEFINITION.—For purposes of this paragraph, the term 'certificate of medical necessity' means a form or other document containing information required by the carrier to be submitted to show that an item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(3) COVERAGE AND REVIEW CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether such items should be made subject to coverage and utilization review criteria, and if appropriate, shall develop and apply such criteria to such items.

"(4) DEFINITION.—The term 'medical equipment and supplies' means—

"(A) durable medical equipment (as defined in section 1861(n));

"(B) prosthetic devices (as described in section 1861(s)(8));

"(C) orthotics and prosthetics (as described in section 1861(s)(9));

"(D) surgical dressings (as described in section 1861(s)(5));

"(E) such other items as the Secretary may determine; and

"(F) for purposes of paragraphs (1) and (3)—

"(i) home dialysis supplies and equipment (as described in section 1861(s)(2)(F)),

"(ii) immunosuppressive drugs (as described in section 1861(s)(2)(J)),

"(iii) therapeutic shoes for diabetics (as described in section 1861(s)(12)),

"(iv) oral drugs prescribed for use as an anticancer therapeutic agent (as described in section 1861(s)(2)(Q)), and

"(v) self-administered erythropoetin (as described in section 1861(s)(2)(P)).".

(2) CONFORMING AMENDMENT.—Effective 60 days after the date of enactment of the Social Security Act Amendments of 1994, paragraph (16) of section 1834(a) (42 U.S.C. 1395m(a)) is repealed.

(b) USE OF COVERED ITEMS BY DISABLED BENEFICIARIES.— 42 USC 1395m note.

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with representatives of suppliers of durable medical equipment under part B of the medicare program and individuals entitled to benefits under such program on the basis of disability, shall conduct a study of the effects of the methodology for determining payments for items of such equipment under such part on the ability of such individuals to obtain items of such equipment, including customized items.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate to assure that disabled medicare beneficiaries have access to items of durable medical equipment.

(c) CRITERIA FOR TREATMENT OF ITEMS AS PROSTHETIC DEVICES OR ORTHOTICS AND PROSTHETICS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate describing prosthetic devices or orthotics and prosthetics covered under part B of the medicare program that do not require individualized or custom fitting and adjustment to be used by a patient. Such report shall include recommendations for an appropriate methodology for determining the amount of payment for such items under such program. 42 USC 1395m note. Reports.

SEC. 132. RESTRICTIONS ON CERTAIN MARKETING AND SALES ACTIVITIES.

(a) PROHIBITING UNSOLICITED TELEPHONE CONTACTS FROM SUPPLIERS OF DURABLE MEDICAL EQUIPMENT TO MEDICARE BENEFICIARIES.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(17) PROHIBITION AGAINST UNSOLICITED TELEPHONE CONTACTS BY SUPPLIERS.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not contact an individual enrolled under this part by telephone regarding the furnishing of a covered item to the individual unless 1 of the following applies:

"(i) The individual has given written permission to the supplier to make contact by telephone regarding the furnishing of a covered item.

"(ii) The supplier has furnished a covered item to the individual and the supplier is contacting the individual only regarding the furnishing of such covered item.

"(iii) If the contact is regarding the furnishing of a covered item other than a covered item already furnished to the individual, the supplier has furnished at least 1 covered item to the individual during the

15-month period preceding the date on which the supplier makes such contact.

"(B) PROHIBITING PAYMENT FOR ITEMS FURNISHED SUBSEQUENT TO UNSOLICITED CONTACTS.—If a supplier knowingly contacts an individual in violation of subparagraph (A), no payment may be made under this part for any item subsequently furnished to the individual by the supplier.

"(C) EXCLUSION FROM PROGRAM FOR SUPPLIERS ENGAGING IN PATTERN OF UNSOLICITED CONTACTS.—If a supplier knowingly contacts individuals in violation of subparagraph (A) to such an extent that the supplier's conduct establishes a pattern of contacts in violation of such subparagraph, the Secretary shall exclude the supplier from participation in the programs under this Act, in accordance with the procedures set forth in subsections (c), (f), and (g) of section 1128.".

(2) REQUIRING REFUND OF AMOUNTS COLLECTED FOR DISALLOWED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(18) REFUND OF AMOUNTS COLLECTED FOR CERTAIN DISALLOWED ITEMS.—

"(A) IN GENERAL.—If a nonparticipating supplier furnishes to an individual enrolled under this part a covered item for which no payment may be made under this part by reason of paragraph (17)(B), the supplier shall refund on a timely basis to the patient (and shall be liable to the patient for) any amounts collected from the patient for the item, unless—

"(i) the supplier establishes that the supplier did not know and could not reasonably have been expected to know that payment may not be made for the item by reason of paragraph (17)(B), or

"(ii) before the item was furnished, the patient was informed that payment under this part may not be made for that item and the patient has agreed to pay for that item.

"(B) SANCTIONS.—If a supplier knowingly and willfully fails to make refunds in violation of subparagraph (A), the Secretary may apply sanctions against the supplier in accordance with section 1842(j)(2).

"(C) NOTICE.—Each carrier with a contract in effect under this part with respect to suppliers of covered items shall send any notice of denial of payment for covered items by reason of paragraph (17)(B) and for which payment is not requested on an assignment-related basis to the supplier and the patient involved.

"(D) TIMELY BASIS DEFINED.—A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a supplier who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the supplier receives a denial notice under subparagraph (C), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days

after the date the supplier receives notice of an adverse determination on reconsideration or appeal.".

(b) CONFORMING AMENDMENT.—Section 1834(h)(3) (42 U.S.C. 1395m(h)(3)) is amended by striking "Paragraph (12)" and inserting "Paragraphs (12) and (17)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to items furnished after the expiration of the 60-day period that begins on the date of the enactment of this Act. 42 USC 1395m note.

SEC. 133. BENEFICIARY LIABILITY FOR NONCOVERED SERVICES.

(a) UNASSIGNED CLAIMS.—

(1) IN GENERAL.—Section 1834(j) (42 U.S.C. 1395m(i)), as added by section 131(a)(1), is amended—

(A) by redesignating paragraph (4) as paragraph (5), and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) LIMITATION ON PATIENT LIABILITY.—If a supplier of medical equipment and supplies (as defined in paragraph (5))—

"(A) furnishes an item or service to a beneficiary for which no payment may be made by reason of paragraph (1);

"(B) furnishes an item or service to a beneficiary for which payment is denied in advance under subsection (a)(15); or

"(C) furnishes an item or service to a beneficiary for which payment is denied under section 1862(a)(1);

any expenses incurred for items and services furnished to an individual by such a supplier not on an assigned basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual for such items or services. The provisions of subsection (a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such subsection.".

(2) CONFORMING AMENDMENT.—Section 1128B(b)(3)(B) (42 U.S.C. 1320a–7b(b)(3)(B)), as amended by section 134(a), is amended by striking "1834(j)(4)" and inserting "1834(j)(5)".

(b) ASSIGNED CLAIMS.—Section 1879 (42 U.S.C. 1395pp) is amended by adding at the end the following new subsection:

"(h) If a supplier of medical equipment and supplies (as defined in section 1834(j)(5))—

"(1) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(j)(1);

"(2) furnishes an item or service to a beneficiary for which payment is denied in advance under section 1834(a)(15); or

"(3) furnishes an item or service to a beneficiary for which no payment may be made by reason of section 1834(a)(17)(B),

any expenses incurred for items and services furnished to an individual by such a supplier on an assignment-related basis shall be the responsibility of such supplier. The individual shall have no financial responsibility for such expenses and the supplier shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected from the individual

for such items or services. The provisions of section 1834(a)(18) shall apply to refunds required under the previous sentence in the same manner as such provisions apply to refunds under such section.".

42 USC 1320a-7b note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items or services furnished on or after January 1, 1995.

SEC. 134. ADJUSTMENTS FOR INHERENT REASONABLENESS.

(a) ADJUSTMENTS MADE TO FINAL PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by adding at the end the following: "In applying such provisions to payments for an item under this subsection, the Secretary shall make adjustments to the payment basis for the item described in paragraph (1)(B) if the Secretary determines (in accordance with such provisions and on the basis of prices and costs applicable at the time the item is furnished) that such payment basis is not inherently reasonable.".

42 USC 1395m note

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

42 USC 1395m note.

(b) ADJUSTMENT REQUIRED FOR CERTAIN ITEMS.—

(1) IN GENERAL.—In accordance with section 1834(a)(10)(B) of the Social Security Act (as amended by subsection (a)), the Secretary of Health and Human Services shall determine whether the payment amounts for the items described in paragraph (2) are not inherently reasonable, and shall adjust such amounts in accordance with such section if the amounts are not inherently reasonable.

(2) ITEMS DESCRIBED.—The items referred to in paragraph (1) are decubitus care equipment, transcutaneous electrical nerve stimulators, and any other items considered appropriate by the Secretary.

SEC. 135. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) UPDATES TO PAYMENT AMOUNTS.—(1) Subparagraph (A) of section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

Effective date. 42 USC 1395m note.

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

Effective date.

(b) ADVANCE DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended to read as follows:

"(15) ADVANCE DETERMINATIONS OF COVERAGE FOR CERTAIN ITEMS.—

"(A) DEVELOPMENT OF LISTS OF ITEMS BY SECRETARY.—The Secretary may develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization throughout a carrier's entire service area or a portion of such area.

"(B) DEVELOPMENT OF LISTS OF SUPPLIERS BY SECRETARY.—The Secretary may develop and periodically

update a list of suppliers of items for which payment may be made under this subsection with respect to whom—

"(i) the Secretary has found that a substantial number of claims for payment under this part for items furnished by the supplier have been denied on the basis of the application of section 1862(a)(1); or

"(ii) the Secretary has identified a pattern of overutilization resulting from the business practice of the supplier.

"(C) DETERMINATIONS OF COVERAGE IN ADVANCE.—A carrier shall determine in advance of delivery of an item whether payment for the item may not be made because the item is not covered or because of the application of section 1862(a)(1) if—

"(i) the item is included on the list developed by the Secretary under subparagraph (A);

"(ii) the item is furnished by a supplier included on the list developed by the Secretary under subparagraph (B); or

"(iii) the item is a customized item (other than inexpensive items specified by the Secretary) and the patient to whom the item is to be furnished or the supplier requests that such advance determination be made.".

(2) Effective for standards applied for contract years beginning after the date of the enactment of this Act, section 1842(c) (42 U.S.C. 1395u(c)), as amended by section 125(a), is amended by adding at the end the following new paragraph:

"(5) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(15)(C).".

(3) Effective on the date of the enactment of this Act, section 1834(h)(3) (42 U.S.C. 1395m(h)(3)), as amended by section 133(b), is amended by striking "(12) and (17)" and inserting "(12), (15), and (17)". Effective date.

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than July 1, 1995—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under paragraph (1), and shall include in such report the Administrator's recommendations for

a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OXYGEN RETESTING.—(1) Section 1834(a)(5)(E) (42 U.S.C. 1395m(a)(5)(E)) is amended by striking "55" and inserting "56".

Effective date. 42 USC 1395m note.

(2) The amendment made by paragraph (1) shall be effective on the date of the enactment of this Act.

(e) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

42 USC 1395m note.

(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

42 USC 1395m.

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) (42 U.S.C. 1395m(a)(7)(A)(iii)(II)) is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) (42 U.S.C. 1395m(a)(7)(C)(i)) is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)) is amended by striking subparagraph (D).

42 USC 1395m note.

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

42 USC 1395cc note.

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

Effective date. 42 USC 1395m note.

(8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

PART III—OTHER ITEMS AND SERVICES

SEC. 141. AMBULATORY SURGICAL CENTER SERVICES.

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

42 USC 1395*l*.

(1) USE OF SURVEY TO DETERMINE INCURRED COSTS.—Section 1833(i)(2)(A)(i) (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures and facilities) taken not later than January 1, 1995, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

42 USC 1395*l*

(2) AUTOMATIC APPLICATION OF INFLATION ADJUSTMENT.—Section 1833(i)(2) (42 U.S.C. 1395l(i)(2)) is amended—

(A) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(B) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has

not updated amounts established under such subparagraphs with respect to facility services furnished during a fiscal year (beginning with fiscal year 1996), such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.".

(3) CONSULTATION REQUIREMENT.—The second sentence of section 1833(i)(1) (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.". 42 USC 1395*l*.

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.— 42 USC 1395*l*.

(1) ESTABLISHMENT OF PROCESS FOR REVIEW OF AMOUNTS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(2) FACTORS CONSIDERED.—In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(3) NOTICE AND COMMENT.—The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 30-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of the Secretary's determinations with respect to intraocular lenses listed in the notice within 90 days after the close of the comment period. Federal Register, publication.

(4) EFFECTIVE DATE OF ADJUSTMENT.—Any adjustment of a payment amount (or payment limit) made under this subsection shall become effective not later than 30 days after the date on which the notice with respect to the adjustment is published under paragraph (3).

(c) TECHNICAL CORRECTION RELATING TO BLEND AMOUNTS FOR AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) IN GENERAL.—Subclauses (I) and (II) of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) are each amended— 42 USC 1395*l*.

(A) by striking "for reporting" and inserting "for portions of cost reporting"; and

(B) by striking "and on or before" and inserting "and ending on or before".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990. 42 USC 1395*l* note.

(d) TECHNICAL CORRECTION RELATED TO CATARACT SURGERY.—Effective as if included in the enactment of OBRA–1990, section 4151(c)(3) of such Act is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

42 USC 1395*l* note.

42 USC 1395*l* note.

SEC. 142. STUDY OF MEDICARE COVERAGE OF PATIENT CARE COSTS ASSOCIATED WITH CLINICAL TRIALS OF NEW CANCER THERAPIES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the effects of expressly covering under the medicare program the patient care costs for beneficiaries enrolled in clinical trials of new cancer therapies, where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an institutional review board. The study shall include—

(1) an estimate of the cost of such coverage, taking into account the extent to which medicare currently pays for such patient care costs in practice;

(2) an assessment of the extent to which such clinical trials represent the best available treatment for the patients involved and of the effects of participation in the trials on the health of such patients;

(3) an assessment of whether progress in developing new anticancer therapies would be assisted by medicare coverage of such patient care costs; and

(4) an evaluation of whether there should be special criteria for the admission of medicare beneficiaries (on account of their age or physical condition) to clinical trials for which medicare would pay the patient care costs.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report on the study conducted under subsection (a) to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate. Such report shall include recommendations as to the coverage under the medicare program of patient care costs of beneficiaries enrolled in clinical trials of new cancer therapies.

42 USC 1395*l* note

SEC. 143. STUDY OF ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the appropriateness of continuing an annual limitation on the amount of payment for outpatient services of independently practicing physical and occupational therapists under the medicare program.

(b) REPORT.—By not later than January 1, 1996, the Secretary shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a). Such report shall include such recommendations for changes in such annual limitation as the Secretary finds appropriate.

SEC. 144. PAYMENT OF PART B PREMIUM LATE ENROLLMENT PENALTIES BY STATES.

Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1) Upon the request of a State, the Secretary may enter into an agreement with the State under which the State agrees to pay on a quarterly or other periodic basis to the Secretary (to be deposited in the Treasury to the credit of the Federal Supplementary Medical Insurance Trust Fund) an amount equal to the amount of the part B late enrollment premium increases with respect to the premiums for eligible individuals (as defined in paragraph (3)(A)). Contracts.

"(2) No part B late enrollment premium increase shall apply to an eligible individual for premiums for months for which the amount of such an increase is payable under an agreement under paragraph (1).

"(3) In this subsection:

"(A) The term 'eligible individual' means an individual who is enrolled under this part B and who is within a class of individuals specified in the agreement under paragraph (1).

"(B) The term 'part B late enrollment premium increase' means any increase in a premium as a result of the application of subsection (b).".

SEC. 145. APPLICATION OF MAMMOGRAPHY CERTIFICATION REQUIREMENTS.

(a) SCREENING MAMMOGRAPHY.—Section 1834(c) (42 U.S.C. 1395m(c)) is amended—

(1) in paragraph (1)(B), by striking "meets the quality standards established under paragraph (3)" and inserting "is conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act";

(2) in paragraph (1)(C)(iii), by striking "paragraph (4)" and inserting "paragraph (3)";

(3) by striking paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(b) DIAGNOSTIC MAMMOGRAPHY.—Section 1861(s)(3) (42 U.S.C. 1395x(s)(3)) is amended by inserting "and including diagnostic mammography if conducted by a facility that has a certificate (or provisional certificate) issued under section 354 of the Public Health Service Act" after "necessary".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by striking "or which does not meet the standards established under section 1834(c)(3)" and inserting "or which is not conducted by a facility described in section 1834(c)(1)(B)".

(2) Section 1863 (42 U.S.C. 1395z) is amended by striking "or whether screening mammography meets the standards established under section 1834(c)(3),".

(3) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(4) The third sentence of section 1865(a) (42 U.S.C. 1395bb(a)) is amended by striking "1834(c)(3),".

42 USC 1395m note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to mammography furnished by a facility on and after the first date that the certificate requirements of section 354(b) of the Public Health Service Act apply to such mammography conducted by such facility.

SEC. 146. COVERAGE OF SERVICES OF SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS.

(a) SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 148(f)(6)(E), is amended by inserting after subsection (kk) the following new subsection:

"Speech-Language Pathology Services; Audiology Services

"(ll)(1) The term 'speech-language pathology services' means such speech, language, and related function assessment and rehabilitation services furnished by a qualified speech-language pathologist as the speech-language pathologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician.

"(2) The term 'audiology services' means such hearing and balance assessment services furnished by a qualified audiologist as the audiologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), as would otherwise be covered if furnished by a physician.

"(3) In this subsection:

"(A) The term 'qualified speech-language pathologist' means an individual with a master's or doctoral degree in speech-language pathology who—

"(i) is licensed as a speech-language pathologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license speech-language pathologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 9 months of supervised full-time speech-language pathology services after obtaining a master's or doctoral degree in speech-language pathology or a related field, and successfully completed a national examination in speech-language pathology approved by the Secretary.

"(B) The term 'qualified audiologist' means an individual with a master's or doctoral degree in audiology who—

"(i) is licensed as an audiologist by the State in which the individual furnishes such services, or

"(ii) in the case of an individual who furnishes services in a State which does not license audiologists, has successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating such supervised clinical experience), performed not less than 9 months of supervised full-time audiology services after obtaining a master's or doctoral degree in audiology or a related field, and successfully completed a national examination in audiology approved by the Secretary.".

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE TREATMENT OF SPEECH AND LANGUAGE SERVICES.—

(1) EXTENDED CARE SERVICES.—Section 1861(h)(3) (42 U.S.C. 1395x(h)(3)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(2) HOME HEALTH SERVICES.—Section 1861(m)(2) (42 U.S.C. 1395x(m)(2)) is amended by striking ", occupational, or speech therapy" and inserting "or occupational therapy or speech-language pathology services".

(3) OUTPATIENT PHYSICAL THERAPY SERVICES.—The fourth sentence of section 1861(p) (42 U.S.C. 1395x(p)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(4) COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES.—Section 1861(cc)(1)(B) (42 U.S.C. 1395x(cc)(1)(B)) is amended by striking "speech pathology services" and inserting "speech-language pathology services".

(5) HOSPICE CARE.—Section 1861(dd)(1)(B) (42 U.S.C. 1395x(dd)(1)(B)) is amended by striking "therapy or speech-language pathology" and inserting "therapy, or speech-language pathology services".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995. 42 USC 1395x note.

SEC. 147. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) (42 U.S.C. 1395l(q)(1)) is amended— 42 USC 1395*l*

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of OBRA–1989 is amended— Effective date. 42 USC 1395*l* note.

(1) by inserting "and clinical social worker services" after "psychologist services"; and

(2) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(c) REPORTS ON HOSPITAL OUTPATIENT PAYMENT.—(1) OBRA–1989 is amended by striking section 6137. 42 USC 1395*l* note.

(2) Section 1135(d) (42 U.S.C. 1320b–5(d)) is amended—

(A) by striking paragraph (6); and

(B) in paragraph (7)—

(i) by striking "systems" each place it appears and inserting "system"; and

(ii) by striking "paragraphs (1) and (6)" and inserting "paragraph (1)".

(d) RADIOLOGY AND DIAGNOSTIC SERVICES PROVIDED IN HOSPITAL OUTPATIENT DEPARTMENTS.—(1) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended— Effective date.

(A) by inserting "and for services described in subsection (a)(2)(E)(ii) furnished on or after January 1, 1992" after "1989"; and

(B) by striking "1842(b)" and inserting "1842(b) (or, in the case of services furnished on or after January 1, 1992, under section 1848)".

(2) Effective as if included in the enactment of OBRA–1989, section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended by striking "January 1, 1989" and inserting "April 1, 1989". 42 USC 1395*l*.

(e) PAYMENTS TO NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—(1) Section 1861(s)(2)(K)(iii) (42 U.S.C. 1395x(s)(2)(K)(iii)) is amended—

(A) by striking "subsection (aa)(3)" and inserting "subsection (aa)(5)"; and

(B) by striking "subsection (aa)(4)" and inserting "subsection (aa)(6)".

(2) Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended— 42 USC 1395*l*.

(A) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(B) by striking "center," and inserting "center".

(3) Section 1833(r)(2)(A) (42 U.S.C. 1395l(r)(2)(A)) is amended by striking "subsection (a)(1)(M)" and inserting "subsection (a)(1)(O)". 42 USC 1395*l*.

(4) Section 1861(b)(4) (42 U.S.C. 1395x(b)(4)) is amended by striking "subsection (s)(2)(K)(i)" and inserting "clauses (i) or (iii) of subsection (s)(2)(K)".

(5) Section 1861(aa)(5) (42 U.S.C. 1395x(aa)(5)) is amended by striking "this Act" and inserting "this title".

(6) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(7) Section 1866(a)(1)(H) (42 U.S.C. 1395cc(a)(1)(H)) is amended by striking "1861(s)(2)(K)(i)" and inserting "1861(s)(2)(K)(i) or 1861(s)(2)(K)(iii)".

(f) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act. Effective date. 42 USC 1395p note.

(2) CLINICAL DIAGNOSTIC LABORATORY TESTS.—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),". 42 USC 1395l note.

(3) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES.—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section". 42 USC 1395x

(4) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.—(A) The fourth sentence of section 1861(aa)(2) (42 U.S.C. 1395x(aa)(2)) is amended—

(i) by striking "certification" the first place it appears and inserting "approval"; and

(ii) by striking "the Secretary's approval or disapproval of the certification" and inserting "Secretary's approval or disapproval".

(B) Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives". 42 USC 254b note.

(5) SCREENING MAMMOGRAPHY.—Section 4163 of OBRA–1990 is amended—

(A) by adding at the end of subsection (d) the following new paragraph: 42 USC 1395y note.

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(B) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments". 42 USC 1395l note.

(6) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—

(A) CLARIFICATION OF DRUGS COVERED.—The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended—

(i) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(ii) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(B) LIMITING COVERAGE TO DRUGS PROVIDED BY HOME HEALTH AGENCIES.—(i) The section 1861(jj) (42 U.S.C. 1395x(jj)) inserted by section 4156(a)(2) of OBRA–1990 is amended by striking "if" and inserting "by a home health agency if".

(ii) Section 1861(m)(5) (42 U.S.C. 1395x(m)(5)) is amended by striking "but excluding" and inserting "and a covered osteoporosis drug (as defined in subsection (kk)), but excluding other".

(iii) Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(I) by adding "and" at the end of subparagraph (N), and

(II) by striking subparagraph (O) and redesignating subparagraph (P) as subparagraph (O).

(C) PAYMENT BASED ON REASONABLE COST.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended— 42 USC 1395*l*.

(i) in subparagraph (A), by striking "health services" and inserting "health services (other than a covered osteoporosis drug (as defined in section 1861(kk)))";

(ii) by striking "and" at the end of subparagraph (D);

(iii) by striking the semicolon at the end of subparagraph (E) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to a covered osteoporosis drug (as defined in section 1861(kk)) furnished by a home health agency, 80 percent of the reasonable cost of such service, as determined under section 1861(v);".

(D) APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b)(2) (42 U.S.C. 1395l(b)(2)) is amended by striking "services" and inserting "services (other than a covered osteoporosis drug (as defined in section 1861(kk)))". 42 USC 1395*l*.

(E) COVERED OSTEOPOROSIS DRUG (SECTION 4156 OF OBRA–1990).—Section 1861 (42 U.S.C. 1395x) is amended, in the subsection (jj) inserted by section 4156(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(7) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) (42 U.S.C. 1320a–3a(a)(2)(A)) is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs". 42 USC 1395u note.

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

(g) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the enactment of OBRA–1990. 42 USC 1320a–3a note.

Subtitle C—Provisions Relating to Parts A and B

SEC. 151. MEDICARE SECONDARY PAYER REFORMS.

(a) IMPROVING IDENTIFICATION OF MEDICARE SECONDARY PAYER SITUATIONS.—

(1) SURVEY OF BENEFICIARIES.—

(A) IN GENERAL.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended by adding at the end the following new subparagraph:

"(D) OBTAINING INFORMATION FROM BENEFICIARIES.—Before an individual applies for benefits under part A or enrolls under part B, the Administrator shall mail the individual a questionnaire to obtain information on whether the individual is covered under a primary plan and the

nature of the coverage provided under the plan, including the name, address, and identifying number of the plan.".

(B) DISTRIBUTION OF QUESTIONNAIRE BY CONTRACTOR.— The Secretary of Health and Human Services shall enter into an agreement with an entity not later than 60 days after the date of the enactment of the Social Security Act Amendments of 1994, to distribute the questionnaire described in section 1862(b)(5)(D) of the Social Security Act (as added by subparagraph (A)). 42 USC 1395y note.

(C) NO MEDICARE SECONDARY PAYER DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.—Section 1862(b)(2) (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary may not fail to make payment under subparagraph (A) solely on the ground that an individual failed to complete a questionnaire concerning the existence of a primary plan.".

(2) MANDATORY SCREENING BY PROVIDERS AND SUPPLIERS UNDER PART B.—

(A) IN GENERAL.—Section 1862(b) (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(6) SCREENING REQUIREMENTS FOR PROVIDERS AND SUPPLIERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, no payment may be made for any item or service furnished under part B unless the entity furnishing such item or service completes (to the best of its knowledge and on the basis of information obtained from the individual to whom the item or service is furnished) the portion of the claim form relating to the availability of other health benefit plans.

"(B) PENALTIES.—An entity that knowingly, willfully, and repeatedly fails to complete a claim form in accordance with subparagraph (A) or provides inaccurate information relating to the availability of other health benefit plans on a claim form under such subparagraph shall be subject to a civil money penalty of not to exceed $2,000 for each such incident. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply with respect to items and services furnished on or after the expiration of the 120-day period beginning on the date of the enactment of this Act. 42 USC 1395y note.

(b) IMPROVEMENTS IN RECOVERY OF PAYMENTS FROM PRIMARY PAYERS.—

(1) SUBMISSION OF REPORTS ON EFFORTS TO RECOVER ERRONEOUS PAYMENTS.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1396h) is amended by adding at the end the following new subsection: 42 USC 1395h.

"(k) An agreement with an agency or organization under this section shall require that such agency or organization submit an annual report to the Secretary describing the steps taken to recover payments made for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(B) CARRIERS UNDER PART B.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(i) by striking "and" at the end of subparagraph (G);

(ii) by striking "and" at the end of subparagraph (H); and

(iii) by inserting after subparagraph (H) the following new subparagraph:

"(I) will submit annual reports to the Secretary describing the steps taken to recover payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)); and".

(2) REQUIREMENTS UNDER CARRIER PERFORMANCE EVALUATION PROGRAM.—

(A) FISCAL INTERMEDIARIES UNDER PART A.—Section 1816(f)(1)(A) (42 U.S.C. 1396h(f)(1)(A)) is amended by striking "processing" and inserting "processing (including the agency's or organization's success in recovering payments made under this title for services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)))".

42 USC 1395h.

(B) CARRIERS UNDER PART B.—Section 1842(b)(2) (42 U.S.C. 1395u(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) In addition to any other standards and criteria established by the Secretary for evaluating carrier performance under this paragraph relating to avoiding erroneous payments, the carrier shall be subject to standards and criteria relating to the carrier's success in recovering payments made under this part for items or services for which payment has been or could be made under a primary plan (as defined in section 1862(b)(2)(A)).".

(3) DEADLINE FOR REIMBURSEMENT BY PRIMARY PLANS.—

(A) IN GENERAL.—Section 1862(b)(2)(B)(i) (42 U.S.C. 1395y(b)(2)(B)(i)) is amended by adding at the end the following sentence: "If reimbursement is not made to the appropriate Trust Fund before the expiration of the 60-day period that begins on the date such notice or other information is received, the Secretary may charge interest (beginning with the date on which the notice or other information is received) on the amount of the reimbursement until reimbursement is made (at a rate determined by the Secretary in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments).".

(B) CONFORMING AMENDMENT.—The heading of clause (i) of section 1862(b)(2)(B) is amended to read as follows: "REPAYMENT REQUIRED.—".

42 USC 1395y.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to payments for items and services

42 USC 1395y note.

furnished on or after the date of the enactment of this Act.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to contracts with fiscal intermediaries and carriers under title XVIII of the Social Security Act for contract years beginning with 1995.

(c) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—

(1) Effective as if included in the enactment of OBRA–1993, section 1862(b)(1)(A) (42 U.S.C. 1395y(b)(1)(A)), as amended by section 13561(e)(1) of OBRA–1993, is amended—

(A) in clause (i)(II), by striking "over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer" and inserting "older (and the spouse age 65 or older of any individual) who has current employment status with an employer"; and

(B) in clause (ii), by striking "or employee organization that has 20 or more individuals in current employment status" and inserting "that has 20 or more employees".

(2) Effective as if included in the enactment of OBRA–1993, section 1837(i) (42 U.S.C. 1395p(i)) is amended—

(A) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" each place it appears in the second sentence of paragraph (1), and the second sentence of paragraph (2) and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)";

(B) in paragraph (3)(B), by striking "as an active individual in a large group health plan (as such terms are defined in section 1862(b)(1)(B)(iv))" and inserting "in a large group health plan (as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)";

(C) in the second sentence of paragraph (2) (as amended by subparagraph (A)), by striking "as an active individual" and inserting "by reason of the individual's current employment status (or the current employment status of a family member of the individual)"; and

(D) by inserting "status" after "current employment" each place it appears in paragraphs (1)(A), (2)(B), (2)(C), and (3)(A).

(3) Effective as if included in the enactment of OBRA–1993, the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) is amended—

(A) by inserting "status" after "current employment", and

(B) by striking "as an active individual (as those terms are defined in section 1862(b)(1)(B)(iv))" and inserting "(as that term is defined in section 1862(b)(1)(B)(iv)) by reason of the individual's current employment status (or the current employment status of a family member of the individual)".

(4) Effective as if included in the enactment of OBRA–1990, the sentence in section 1862(b)(1)(C) added by section

4203(c)(1)(B) of OBRA–1990 is amended by striking "clauses (i) and (ii)" and inserting "this subparagraph".

42 USC 1395y

(5) Effective as if included in the enactment of OBRA–1989, section 1862(b)(1)(C) is amended in the matter after clause (ii), by striking "taking into account that" and inserting "paying benefits secondary to this title when".

(6) Effective as if included in the enactment of OBRA–1989, section 1862(b)(5)(C)(i) (42 U.S.C. 1395y(b)(5)(C)(i)) is amended by striking "6103(l)(12)(D)(iii)" and inserting "6103(l)(12)(E)(iii)".

42 USC 1395y note.

(7) Effective as if included in the enactment of OBRA–1990, section 4203(c)(2) of such Act is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

26 USC 6103 note.

(8) Effective as if included in the enactment of OBRA–1990, section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(9) Effective as if included in the enactment of OBRA–1993, section 13561(e)(1)(D) of OBRA–1993 is amended—

42 USC 1395y note.

(A) by inserting "effective as if included in the enactment of OBRA–1989," after "(D)", and

42 USC 1395y.

(B) by striking "of each subparagraph".

42 USC 1395y note.

(10) The amendment made by section 13561(e)(1)(G) of OBRA–1993, to the extent it relates to the definition of large group health plan, shall be effective as if included in the enactment of OBRA–1989.

SEC. 152. PHYSICIAN OWNERSHIP AND REFERRAL.

(a) IN GENERAL.—Section 1877(f) (42 U.S.C. 1395nn) is amended—

(1) in the matter before paragraph (1), by inserting ", investment, and compensation" after "ownership";

(2) in paragraph (2), by inserting ", or with a compensation arrangement (as described in subsection (a)(2)(B))," after "investment interest (as described in subsection (a)(2)(A))";

(3) in paragraph (2), by inserting "interest or who have such a compensation relationship with the entity" before the period at the end;

(4) in the fourth sentence, by striking "covered items and" and inserting "designated health"; and

(5) by striking the third and fifth sentences.

(b) RADIOLOGY SERVICES.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)), as amended by section 13562(a)(2) of OBRA–1993, is amended—

(1) in subparagraph (D), by striking "or other diagnostic services" and inserting "services, including magnetic resonance

imaging, computerized axial tomography scans, and ultrasound services"; and

(2) in subparagraphs (E), (F), and (H), by inserting "and supplies" before the period at the end.

(c) REVISION OF EFFECTIVE DATE EXCEPTION PROVISION.—Section 13562(b)(2) of OBRA–1993 is amended by striking subparagraphs (A) and (B) and inserting the following: 42 USC 1395nn note

"(A) the second sentence of subsection (a)(2), and subsections (b)(2)(B) and (d)(2), of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of the corresponding provisions in section 1877 (as amended by this Act);

"(B) section 1877(b)(4) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply;

"(C) the requirements of section 1877(c)(2) of the Social Security Act (as amended by this Act) shall not apply to any securities of a corporation that meets the requirements of section 1877(c)(2) of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(D) section 1877(e)(3) of the Social Security Act (as amended by this Act) shall apply, except that it shall not apply to any arrangement that meets the requirements of subsection (e)(2) or subsection (e)(3) of section 1877 of the Social Security Act (as in effect on the day before the date of the enactment of this Act);

"(E) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A), and of clause (i) of section 1877(h)(4)(B), of the Social Security Act (as amended by this Act) shall not apply; and

"(F) section 1877(h)(4)(B) of the Social Security Act (as in effect on the day before the date of the enactment of this Act) shall apply instead of section 1877(h)(4)(A)(ii) of such Act (as amended by this Act).".

(d) EFFECTIVE DATES.— 42 USC 1395nn note.

(1) The amendments made by subsections (a) and (b) shall apply to referrals made on or after January 1, 1995.

(2) The amendment made by subsection (c) shall apply as if included in the enactment of OBRA–1993.

SEC. 153. DEFINITION OF FMGEMS EXAMINATION FOR PAYMENT OF DIRECT GRADUATE MEDICAL EDUCATION.

(a) IN GENERAL.—Section 1886(h)(5)(E) (42 U.S.C. 1395ww(h)(5)(E)) is amended by inserting "or any successor examination" after "Medical Sciences".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272). 42 USC 1395ww note.

SEC. 154. QUALIFIED MEDICARE BENEFICIARY OUTREACH. 42 USC 1395b–3 note.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and implement a method for obtaining information from newly eligible medicare beneficiaries that may be used to determine whether such beneficiaries may be eligible for medical assistance for medicare cost-sharing under State medicaid plans as qualified

medicare beneficiaries, and for transmitting such information to the State in which such a beneficiary resides.

SEC. 155. HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT ORGANIZATIONS.

(a) HOSPITAL AGREEMENTS.—

(1) IN GENERAL.—

(A) IDENTIFICATION OF ORGAN DONORS.—Section 1138(a)(1)(A)(iii) (42 U.S.C. 1320b–8(a)(1)(A)(iii)) is amended to read as follows:

"(iii) require that such hospital's designated organ procurement agency (as defined in paragraph (3)(B)) is notified of potential organ donors;".

(B) AGREEMENTS WITH DESIGNATED ORGAN PROCUREMENT AGENCIES.—Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(ii) by adding at the end the following new subparagraph:

"(C) the hospital or rural primary care hospital has an agreement (as defined in paragraph (3)(A)) only with such hospital's designated organ procurement agency.".

(C) WAIVER OF REQUIREMENTS RELATED TO AGREEMENTS.—Section 1138(a) (42 U.S.C. 1320b–8(a)) is amended—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The Secretary shall grant a waiver of the requirements under subparagraphs (A)(iii) and (C) of paragraph (1) to a hospital or rural primary care hospital desiring to enter into an agreement with an organ procurement agency other than such hospital's designated organ procurement agency if the Secretary determines that—

"(i) the waiver is expected to increase organ donation; and

"(ii) the waiver will assure equitable treatment of patients referred for transplants within the service area served by such hospital's designated organ procurement agency and within the service area served by the organ procurement agency with which the hospital seeks to enter into an agreement under the waiver.

"(B) In making a determination under subparagraph (A), the Secretary may consider factors that would include, but not be limited to—

"(i) cost effectiveness;

"(ii) improvements in quality;

"(iii) whether there has been any change in a hospital's designated organ procurement agency due to a change made on or after December 28, 1992, in the definitions for metropolitan statistical areas (as established by the Office of Management and Budget); and

"(iv) the length and continuity of a hospital's relationship with an organ procurement agency other than the hospital's designated organ procurement agency;

except that nothing in this subparagraph shall be construed to permit the Secretary to grant a waiver that does not meet the requirements of subparagraph (A).

"(C) Any hospital or rural primary care hospital seeking a waiver under subparagraph (A) shall submit an application to the Secretary containing such information as the Secretary determines appropriate.

"(D) The Secretary shall—

"(i) publish a public notice of any waiver application received from a hospital or rural primary care hospital under this paragraph within 30 days of receiving such application; and

"(ii) prior to making a final determination on such application under subparagraph (A), offer interested parties the opportunity to submit written comments to the Secretary during the 60-day period beginning on the date such notice is published.".

(D) DEFINITIONS.—Section 1138(a)(3) (42 U.S.C. 1320b–8(a)(3)), as redesignated by subparagraph (C), is amended to read as follows:

"(3) For purposes of this subsection—

"(A) the term 'agreement' means an agreement described in section 371(b)(3)(A) of the Public Health Service Act;

"(B) the term 'designated organ procurement agency' means, with respect to a hospital or rural primary care hospital, the organ procurement agency designated pursuant to subsection (b) for the service area in which such hospital is located; and

"(C) the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.".

(2) EXISTING AGREEMENTS.—Any hospital or rural primary care hospital which has an agreement (as defined in section 1138(a)(3)(A) of the Social Security Act) with an organ procurement agency other than such hospital's designated organ procurement agency (as defined in section 1138(a)(3)(B) of such Act) on the date of the enactment of this section shall, if such hospital desires to continue such agreement on and after the effective date of the amendments made by paragraph (1), submit an application to the Secretary for a waiver under section 1138(a)(2) of such Act not later than January 1, 1996, and such agreement may continue in effect pending the Secretary's determination with respect to such application. 42 USC 1320b–8 note.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to hospitals and rural primary care hospitals participating in the programs under titles XVIII and XIX of the Social Security Act beginning January 1, 1996. 42 USC 1320b–8 note.

(b) STUDY ON HOSPITAL AGREEMENTS WITH ORGAN PROCUREMENT AGENCIES.— 42 USC 273 note.

(1) IN GENERAL.—The Office of Technology Assessment (referred to in this section as the "OTA") shall, pursuant to the approval of the Technology Assessment Board of the OTA, conduct a study to determine the efficacy and fairness of requiring a hospital to enter into an agreement under section 371(b)(3)(A) of the Public Health Service Act with the organ procurement agency designated pursuant to section 1138(b) of the Social Security Act for the service area in which such

hospital is located and the impact of such requirement on the efficacy and fairness of organ procurement and distribution.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the OTA shall complete the study required under paragraph (1) and prepare and submit to the Committee on Finance and the Committee on Labor and Human Resources of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing the findings of such study and the implications of such findings with respect to policies affecting organ procurement and distribution.

SEC. 156. PEER REVIEW ORGANIZATIONS.

(a) REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.—

(1) IN GENERAL.—Section 1164 (42 U.S.C. 1320c–13) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 1154 (42 U.S.C. 1320c–3) is amended—

(i) in subsection (a), by striking paragraph (12), and

(ii) in subsection (d), by striking "(and except as provided in section 1164)".

(B) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(ii) in subsection (a)(1), by striking subparagraph (G);

(iii) in subsection (a)(2)(A), by striking ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),";

(iv) in subsection (a)(2)(D)(i)—

(I) by striking "basis," and inserting "basis or", and

(II) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)";

(v) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion"; and

(vi) in the first sentence of subsection (b), by striking "(4)" and all that follows through "and (5)" and inserting "and (4)".

(C) Section 1834(g)(1)(B) (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if

the second opinion was in disagreement with the first opinion".

(D) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) by adding "or" at the end of paragraph (14),

(ii) by striking "; or" at the end of paragraph (15) and inserting a period, and

(iii) by striking paragraph (16).

(E) The third sentence of section 1866(a)(2)(A) (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services provided on or after the date of the enactment of this Act. 42 USC 1320c-3 note.

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) The third sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "whehter" and inserting "whether".

(2)(A) Section 1154(a)(9)(B) (42 U.S.C. 1320c–3(a)(9)(B)) is amended to read as follows:

"(B) If the organization finds, after reasonable notice to and opportunity for discussion with the physician or practitioner concerned, that the physician or practitioner has furnished services in violation of section 1156(a) and the organization determines that the physician or practitioner should enter into a corrective action plan under section 1156(b)(1), the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician or practitioner of its finding and of any action taken as a result of the finding.".

(B) Subparagraph (D) of section 1160(b)(1) (42 U.S.C. 1320c–9(b)(1)) is amended to read as follows:

"(D) to provide notice in accordance with section 1154(a)(9)(B);".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment". 42 USC 1320c-5 note.

(4) Section 1160(d) (42 U.S.C. 1320c–9(d)) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all". 42 USC 1320c-9 note.

(6)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990. 42 USC 1320c-9 note.

(B) The amendments made by paragraph (2) (relating to the requirement on reporting of information to State boards) shall take effect on the date of the enactment of this Act. Effective date.

SEC. 157. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—Section 4204(b) of OBRA–1990 is amended to read as follows: 42 USC 1395mm note.

"(b) REVISIONS IN THE PAYMENT METHODOLOGY FOR RISK CONTRACTORS.—(1)(A) Not later than October 1, 1995, the Secretary of Health and Human Services (in this subsection referred to as the 'Secretary') shall submit a proposal to the Congress that provides for revisions to the payment method to be applied in years

beginning with 1997 for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act.

"(B) In proposing the revisions required under subparagraph (A), the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics; and

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas.

Reports. "(2) Not later than 3 months after the date of submittal of the proposal under paragraph (1), the Comptroller General shall review the proposal and shall report to Congress on the appropriateness of the proposed modifications.".

(b) MISCELLANEOUS AND TECHNICAL CORRECTIONS.—(1) Section 1876(a)(3) (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

42 USC 1395mm note. (2) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(3) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(4) Section 1876(a)(1)(E)(ii)(I) (42 U.S.C. 1395mm(a)(1)(E)(ii)(I)) is amended by striking the comma after "contributed to".

(5) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(6) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(7) Section 1862(b)(3)(C) (42 U.S.C. 1395y(b)(3)(C)) is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN";

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

42 USC 1395y note. (8) The amendments made by this subsection shall take effect as if included in the enactment of OBRA–1990.

SEC. 158. HOME HEALTH AGENCIES.

(a) USE OF MOST CURRENT DATA IN DETERMINING WAGE INDEX.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "as of such date to" and inserting "and determined using the survey of the most recent available wages and wage-related costs of".

42 USC 1395x note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after July 1, 1996.

(b) CLARIFICATION OF EXTENSION OF WAIVER OF LIABILITY.—

42 USC 1395y note. (1) IN GENERAL.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985

is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of OBRA–1990. 42 USC 1395y note.

SEC. 159. PERMANENT EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.

(a) IN GENERAL.—Section 2326(a) of the Deficit Reduction Act of 1984, as amended by section 6215 of OBRA–1989, is amended in the third sentence by striking "during such period" and inserting "beginning with fiscal year 1990 and any subsequent fiscal year". 42 USC 1395h note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994. 42 USC 1395h note.

SEC. 160. MISCELLANEOUS AND TECHNICAL CORRECTIONS.

(a) SURVEY AND CERTIFICATION REQUIREMENTS.—(1) Section 1864 (42 U.S.C. 1395aa) is amended—

(A) in subsection (e), by striking "title" and inserting "title (other than any fee relating to section 353 of the Public Health Service Act)"; and

(B) in the first sentence of subsection (a), by striking "1861(s) or" and all that follows through "Service Act," and inserting "1861(s),".

(2) An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act. 42 USC 1395aa note.

(b) HOME DIALYSIS DEMONSTRATION TECHNICAL CORRECTIONS.—Section 4202 of OBRA–1990 is amended— 42 USC 1395rr note.

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))";

(2) in subsection (b)(2)(B)(ii)(I), by striking "(as adjusted to reflect differences in area wage levels)";

(3) in subsection (c)(1)(A), by striking "skilled"; and

(4) in subsection (c)(1)(E), by striking "(b)(4)" and inserting "(b)(2)".

(c) TECHNICAL CORRECTION TO REVISIONS OF COVERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.—The Secretary of Health and Human Services may administer section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) in a manner such that the months of coverage of drugs described in such section are provided consecutively, so long as the total number of months of coverage provided is the same as the number of months described in such section. 42 USC 1395x note.

(d) OTHER MISCELLANEOUS AND TECHNICAL PROVISIONS.—(1) Section 1833 (42 U.S.C. 1395l) is amended by redesignating the subsection (r) added by section 4206(b)(2) of OBRA–1990 as subsection (s). 42 USC 1395*l*.

(2) Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended by striking "1833(r)" and inserting "1833(s)".

42 USC 1395rr.

(3) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(4) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this subtitle is referred to as section 4207 of OBRA–1990.

42 USC 1395dd.

(5)(A) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

42 USC 1395dd note.

(B) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

42 USC 1395ww note.

(C) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(6) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitly" and inserting "feasibility".

(7) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(8) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

42 USC 1395x note.

(9) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

42 USC 1395x note

(10) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

42 USC 1395bbb note.

(11) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

42 USC 1395hh note.

(12) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subtitle D—Provisions Relating to Medicare Supplemental Insurance Policies

SEC. 171. STANDARDS FOR MEDICARE SUPPLEMENTAL INSURANCE POLICIES.

(a) SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.—

42 USC 1395ss.

(1) Section 4351 of OBRA–1990 is amended by striking "(a) IN GENERAL.—".

(2) Section 1882(p) (42 U.S.C. 1395ss(p)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'),", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders";

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C).";

and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)".

(b) GUARANTEED RENEWABILITY.—Section 1882(q) (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) ENFORCEMENT OF STANDARDS.—

(1) Section 1882(a)(2) (42 U.S.C. 1395ss(a)(2)) is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

42 USC 1395ss.

(2) The sentence in section 1882(b)(1) added by section 4353(c)(5) of OBRA–1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 1882(g)(2)(B) (42 U.S.C. 1395ss(g)(2)(B)) is amended by striking "Panel" and inserting "Secretary".

(4) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended by striking "the the Secretary" and inserting "the Secretary".

(d) PREVENTING DUPLICATION.—

(1) Section 1882(d)(3)(A) (42 U.S.C. 1395ss(d)(3)(A)) is amended—

(A) by amending the first sentence to read as follows: "(i) It is unlawful for a person to sell or issue to an individual entitled to benefits under part A or enrolled under part B of this title—

"(I) a health insurance policy with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled under this title or title XIX,

"(II) a medicare supplemental policy with knowledge that the individual is entitled to benefits under another medicare supplemental policy, or

"(III) a health insurance policy (other than a medicare supplemental policy) with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled, other than benefits to which the individual is entitled under a requirement of State or Federal law.";

(B) by designating the second sentence as clause (ii) and, in such clause, by striking "the previous sentence" and inserting "clause (i)";

(C) by designating the third sentence as clause (iii) and, in such clause—

(i) by striking "the previous sentence" and inserting "clause (i) with respect to the sale of a medicare supplemental policy", and

(ii) by striking "and the statement" and all that follows up to the period at the end; and

(D) by striking the last sentence.

(2) Section 1882(d)(3)(B) (42 U.S.C. 1395ss(d)(3)(B)) is amended—

(A) in clause (ii)(II), by striking "65 years of age or older",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if (aa) a State medicaid plan under such title pays the premiums for the policy, (bb) in the case of a qualified medicare beneficiary described in section 1905(p)(1), the policy provides for coverage of outpatient prescription drugs, or (cc) the only medical assistance to which the individual is entitled under the State plan is medicare cost sharing described in section 1905(p)(3)(A)(ii).".

(3)(A) Section 1882(d)(3)(C) (42 U.S.C. 1395ss(d)(3)(C)) is amended—

(i) by striking "the selling" and inserting "(i) the sale or issuance", and

(ii) by inserting before the period at the end the following: ", (ii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(I) (other than a medicare supplemental policy to an individual entitled to any medical assistance under title XIX) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual but only if (for policies sold or issued more than 60 days after the date the statements are published or promulgated under subparagraph (D)) there is disclosed in a prominent manner as part of (or together with) the application the applicable statement (specified under subparagraph (D)) of the extent to which benefits payable under the policy or plan duplicate benefits under this title, or (iii) the sale or issuance of a policy or plan described in subparagraph (A)(i)(III) under which all the benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual".

(B) Section 1882(d)(3) (42 U.S.C. 1395ss(d)(3)) is amended by adding at the end the following:

"(D)(i) If—

"(I) within the 90-day period beginning on the date of the enactment of this subparagraph, the National Association of Insurance Commissioners develops (after consultation with consumer and insurance industry representatives) and submits to the Secretary a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and

"(II) the Secretary approves all the statements submitted as meeting the requirements of subclause (I),

each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved. The Secretary shall review and approve (or disapprove) all the statements submitted under subclause (I) within 30 days after the date of their submittal. Upon approval of such statements, the Secretary shall publish such statements.

"(ii) If the Secretary does not approve the statements under clause (i) or the statements are not submitted within the 90-day period specified in such clause, the Secretary shall promulgate (after consultation with consumer and insurance industry representatives and not later than 90 days after the date of disapproval or the end of such 90-day period (as the case may be)) a statement for each of the types of health insurance policies (other than medicare supplemental policies and including, but not limited to, as separate types of policies, policies paying directly to the beneficiary fixed, cash benefits, and policies that limit benefit payments to specific diseases) which are sold or issued to persons entitled to health benefits under this title, of the extent to which benefits payable under the policy or plan duplicate benefits under this title, and each such statement shall be (for purposes of subparagraph (C)) the statement specified under this subparagraph for the type of policy involved.".

42 USC 1395ss note.

(C) The requirement of a disclosure under section 1882(d)(3)(C)(ii) of the Social Security Act shall not apply to an application made for a policy or plan before 60 days after the date the Secretary of Health and Human Services publishes or promulgates all the statements under section 1882(d)(3)(D) of such Act.

42 USC 1395ss.

(4) Subparagraphs (A) and (B) of section 1882(q)(5) are amended by striking "of the Social Security Act".

(e) LOSS RATIOS AND REFUNDS OF PREMIUMS.—

(1) Section 1882(r) (42 U.S.C. 1395ss(r)) is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed (or otherwise provide coverage after the date described in subsection (p)(1)(C))";

(B) in paragraph (1)(A), by inserting "for periods after the effective date of these provisions" after "the policy can be expected";

(C) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)";

(D) in paragraph (1)(B), by inserting before the period at the end the following: ", treating policies of the same type as a single policy for each standard package";

(E) by adding at the end of paragraph (1) the following: "For the purpose of calculating the refund or credit required under paragraph (1)(B) for a policy issued before the date specified in subsection (p)(1)(C), the refund or credit calculation shall be based on the aggregate benefits provided and premiums collected under all such policies issued by an insurer in a State (separated as to individual and group policies) and shall be based only on aggregate benefits provided and premiums collected under such policies after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994.";

(F) in the first sentence of paragraph (2)(A), by striking "by policy number" and inserting "by standard package";

(G) by striking the second sentence of paragraph (2)(A) and inserting the following: "Paragraph (1)(B) shall not apply to a policy until 12 months following issue.";

(H) in the last sentence of paragraph (2)(A), by striking "in order" and all that follows through "are effective";

(I) by adding at the end of paragraph (2)(A), the following new sentence: "In the case of a policy issued before the date specified in subsection (p)(1)(C), paragraph (1)(B) shall not apply until 1 year after the date specified in section 171(m)(4) of the Social Security Act Amendments of 1994.";

(J) in paragraph (2), by striking "policy year" each place it appears and inserting "calendar year";

(K) in paragraph (4), by striking "February", "disllowance", "loss-ratios" each place it appears, and "loss-ratio" and inserting "October", "disallowance", "loss ratios", and "loss ratio", respectively;

(L) in paragraph (6)(A), by striking "issues a policy in violation of the loss ratio requirements of this subsection" and "such violation" and inserting "fails to provide refunds or credits as required in paragraph (1)(B)" and "policy issued for which such failure occurred", respectively; and

(M) in paragraph (6)(B), by striking "to policyholders" and inserting "to the policyholder or, in the case of a group policy, to the certificate holder".

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended, in the matter after subparagraph (H), by striking "subsection (F)" and inserting "subparagraph (F)".

(3) Section 4355(d) of OBRA–1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed (or otherwise providing coverage after the date described in section 1882(p)(1)(C) of the Social Security Act) on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.". 42 USC 1395ss note.

(f) TREATMENT OF HMO'S.—

(1) Section 1882(g)(1) (42 U.S.C. 1395ss(g)(1)) is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or an approved demonstration project described in section 603(c) of the Social Security Amendments of 1983, section 2355 of the Deficit Reduction Act of 1984, or section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, or, during the period beginning on the date specified in subsection (p)(1)(C) and ending on December 31, 1995, a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA–1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act". 42 USC 1395ss note.

(g) PRE-EXISTING CONDITION LIMITATIONS.—Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual for whom an application is submitted prior to or",

(2) in paragraph (2)(A), by striking "in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B" and inserting "as of the first day on which the individual is 65 years of age or older and is enrolled for benefits under part B", and

(3) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(h) MEDICARE SELECT POLICIES.—

(1) Section 1882(t) (42 U.S.C. 1395ss(t)) is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation", and

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty".

(2) Section 1154(a)(4)(B) (42 U.S.C. 1320c–3(a)(4)(B)) is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING.—Section 4360 of OBRA–1990 is amended— 42 USC 1395b–4.

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report", and

(C) in paragraph (1), by striking "State-wide";

(7) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(8) in the second subsection (f) (relating to authorization of appropriations for grants)—

(A) by striking "and 1993" and inserting "1993, 1994, 1995, and 1996"; and

(B) by redesignating such subsection as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM.—

(1) Section 1804 (42 U.S.C. 1395b–2) is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection: Communications.

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) (42 U.S.C. 1395ss(f)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 is repealed.

(k) MAILING OF POLICIES.—Section 1882(d)(4) (42 U.S.C. 1395ss(d)(4)) is amended—

(1) in subparagraph (D), by striking ", if such policy" and all that follows up to the period at the end, and

(2) by adding at the end the following new subparagraph:

"(E) Subparagraph (A) shall not apply in the case of an issuer who mails or causes to be mailed a policy, certificate, or other matter solely to comply with the requirements of subsection (q).".

(l) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of OBRA–1990; except that— 42 USC 1395ss note.

(1) the amendments made by subsection (d)(1) shall take effect on the date of the enactment of this Act, but no penalty shall be imposed under section 1882(d)(3)(A) of the Social Security Act (for an action occurring after the effective date of the amendments made by section 4354 of OBRA–1990 and before the date of the enactment of this Act) with respect to the sale or issuance of a policy which is not unlawful under section 1882(d)(3)(A)(i)(II) of the Social Security Act (as amended by this section);

(2) the amendments made by subsection (d)(2)(A) and by subparagraphs (A), (B), and (E) of subsection (e)(1) shall be effective on the date specified in subsection (m)(4); and

(3) the amendment made by subsection (g)(2) shall take effect on January 1, 1995, and shall apply to individuals who attain 65 years of age or older on or after the effective date of section 1882(s)(2) of the Social Security Act (and, in the case of individuals who attained 65 years of age after such effective date and before January 1, 1995, and who were not covered under such section before January 1, 1995, the 6-month period specified in that section shall begin January 1, 1995).

(m) TRANSITION PROVISIONS.— 42 USC 1395ss note.

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by this section, the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 6 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the

"NAIC") modifies its 1991 NAIC Model Regulation (adopted in July 1991) to conform to the amendments made by this section and to delete from section 15C the exception which begins with "unless", such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the 1991 Regulation for the purposes of section 1882 of the Social Security Act.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 172. 6-MONTH EXTENSION OF PERIOD FOR ISSUANCE OF MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1320c–3 note) is amended by striking "3-year" and inserting "3½-year".

42 USC 1320c-3 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

TITLE II—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM, INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

SEC. 201. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

Subtitle A—Child Welfare, Foster Care, Adoption

SEC. 202. REQUIRED PROTECTIONS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 422(b) (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) provide assurances that the State—

"(A) since June 17, 1980, has completed an inventory of all children who, before the inventory, had been in foster care under the responsibility of the State for 6 months or more, which determined—

"(i) the appropriateness of, and necessity for, the foster care placement;

"(ii) whether the child could or should be returned to the parents of the child or should be freed for adoption or other permanent placement; and

"(iii) the services necessary to facilitate the return of the child or the placement of the child for adoption or legal guardianship;

"(B) is operating, to the satisfaction of the Secretary—

"(i) a statewide information system from which can be readily determined the status, demographic characteristics, location, and goals for the placement of every child who is (or, within the immediately preceding 12 months, has been) in foster care;

"(ii) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State;

"(iii) a service program designed to help children—

"(I) where appropriate, return to families from which they have been removed; or

"(II) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement; and

"(iv) a preplacement preventive services program designed to help children at risk of foster care placement remain with their families; and

"(C)(i) has reviewed (or within 12 months after the date of the enactment of this paragraph will review) State policies and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of such children); and

"(ii) is implementing (or within 24 months after the date of the enactment of this paragraph will implement) such policies and procedures as the State determines, on the basis of the review described in clause (i), to be necessary to enable permanent decisions to be made expeditiously with respect to the placement of such children.".

(b) RESTRICTION ON REALLOTMENT.—Section 424 (42 U.S.C. 624) is amended—

(1) in the first sentence, by striking "The amount" and inserting the following:

"(a) IN GENERAL.—Subject to subsection (b), the amount"; and

(2) by adding at the end the following:

"(b) EXCEPTION RELATING TO FOSTER CHILD PROTECTIONS.—The Secretary shall not reallot under subsection (a) of this section any amount that is withheld or recovered from a State due to the failure of the State to meet the requirements of section 422(b)(9).".

(c) REPEAL.—Section 427 (42 U.S.C. 627) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Section 423(a) (42 U.S.C. 623(a)) is amended by striking "and in section 427".

(2) Section 425(a)(2) (42 U.S.C. 625(a)(2)) is amended by striking "the statistical report required by section" and inserting "section 422(b)(9) or".

(3) Section 472(d) (42 U.S.C. 672(d)) is amended by striking "427(b)" and inserting "422(b)(9)".

42 USC 622 note.

(e) EFFECTIVE DATE.—The amendments and repeal made by this section shall be effective with respect to fiscal years beginning on or after April 1, 1996.

SEC. 203. CONFORMITY REVIEWS.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

"REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS, AND OF FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS, FOR CONFORMITY WITH STATE PLAN REQUIREMENTS

Regulations.

"SEC. 1123. (a) IN GENERAL.—The Secretary, in consultation with the State agencies administering the State programs under parts B and E of title IV, shall promulgate regulations for the review of such programs to determine whether such programs are in substantial conformity with—

"(1) State plan requirements under such parts B and E,

"(2) implementing regulations promulgated by the Secretary, and

"(3) the relevant approved State plans.

"(b) ELEMENTS OF REVIEW SYSTEM.—The regulations referred to in subsection (a) shall—

"(1) specify the timetable for conformity reviews of State programs, including—

"(A) an initial review of each State program;

"(B) a timely review of a State program following a review in which such program was found not to be in substantial conformity; and

"(C) less frequent reviews of State programs which have been found to be in substantial conformity, but such regulations shall permit the Secretary to reinstate more frequent reviews based on information which indicates that a State program may not be in conformity;

"(2) specify the requirements subject to review, and the criteria to be used to measure conformity with such requirements and to determine whether there is a substantial failure to so conform;

"(3) specify the method to be used to determine the amount of any Federal matching funds to be withheld (subject to paragraph (4)) due to the State program's failure to so conform, which ensures that—

"(A) such funds will not be withheld with respect to a program, unless it is determined that the program fails substantially to so conform;

"(B) such funds will not be withheld for a failure to so conform resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and

"(C) the amount of such funds withheld is related to the extent of the failure to so conform; and

"(4) require the Secretary, with respect to any State program found to have failed substantially to so conform—

"(A) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the failure to so conform;

"(B) to make technical assistance available to the State to the extent feasible to enable the State to develop and implement such a corrective action plan;

"(C) to suspend the withholding of any Federal matching funds under this section while such a corrective action plan is in effect; and

"(D) to rescind any such withholding if the failure to so conform is ended by successful completion of such a corrective action plan.

"(c) PROVISIONS FOR ADMINISTRATIVE AND JUDICIAL REVIEW.—The regulations referred to in subsection (a) shall—

"(1) require the Secretary, not later than 10 days after a final determination that a program of the State is not in conformity, to notify the State of—

"(A) the basis for the determination; and

"(B) the amount of the Federal matching funds (if any) to be withheld from the State;

"(2) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days after receipt of the notice described in paragraph (1) (or, if later, after failure to continue or to complete a corrective action plan); and

"(3) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, within 60 days after the State receives notice of the decision of the Board, by appeal to the district court of the United States for the judicial district

in which the principal or headquarters office of the agency responsible for administering the program is located.".

(b) CONFORMING AMENDMENT.—Section 471(b) (42 U.S.C. 671(b)) is amended by striking all that follows the first sentence.

(c) EFFECTIVE DATES.—

42 USC 1320a-1a note.

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

42 USC 671 note

(2) CONFORMING AMENDMENT.—The amendment made by subsection (b) shall take effect on October 1, 1995.

42 USC 1320a-1a note.

(3) REGULATIONS.—The Secretary shall promulgate the regulations referred to in section 1123(a) of the Social Security Act (as added by this section) not later than July 1, 1995, to take effect on April 1, 1996.

SEC. 204. STATES REQUIRED TO REPORT ON MEASURES TAKEN TO COMPLY WITH THE INDIAN CHILD WELFARE ACT.

(a) STATE PLAN REQUIREMENT.—Section 422(b) (42 U.S.C. 622(b)), as amended by section 202(a), is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following:

"(10) contain a description, developed after consultation with tribal organizations (as defined in section 4 of the Indian Self-Determination and Education Assistance Act) in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.".

42 USC 622 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal years beginning on or after October 1, 1995.

SEC. 205. CHILD WELFARE TRAINEESHIPS.

(a) IN GENERAL.—Subpart 1 of part B of title IV (42 U.S.C. 620–628) is amended by inserting after section 428 the following:

"CHILD WELFARE TRAINEESHIPS

42 USC 628a.

"SEC. 429. The Secretary may approve an application for a grant to a public or nonprofit institution for higher learning to provide traineeships with stipends under section 426(a)(1)(C) only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (in this section referred to as a 'recipient') will enter into an agreement with the institution under which the recipient agrees—

"(A) to participate in training at a public or private nonprofit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship, in a public or private nonprofit child welfare agency in any State, within a period of time (determined by the Secretary in accordance with regulations) after completing the postsecondary education for which the traineeship was awarded;

"(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs (A) and (B); and

"(D) if the recipient fails to comply with subparagraph (A) or (B) and does not qualify for any exception to this subparagraph which the Secretary may prescribe in regulations, to repay to the Secretary all (or an appropriately prorated part) of the amount of the stipend, plus interest, and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary);

"(2) provides assurances that the institution will—

"(A) enter into agreements with child welfare agencies for onsite training of recipients;

"(B) permit an individual who is employed in the field of child welfare services to apply for a traineeship with a stipend if the traineeship furthers the progress of the individual toward the completion of degree requirements; and

"(C) develop and implement a system that, for the 3-year period that begins on the date any recipient completes a child welfare services program of study, tracks the employment record of the recipient, for the purpose of determining the percentage of recipients who secure employment in the field of child welfare services and remain employed in the field.".

(b) CONFORMING AMENDMENT.—Section 426(a)(1)(C) (42 U.S.C. 626(a)(1)(C)) is amended by inserting "described in section 429" after "including traineeships".

(c) APPLICABILITY.—The amendments made by this section shall apply to grants awarded on or after October 1, 1995. 42 USC 626 note.

SEC. 206. DISPOSITIONAL HEARING.

(a) MOST APPROPRIATE SETTING.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by inserting "and most appropriate" after "(most family like)".

(b) TIMING OF SUBSEQUENT REVIEW.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by striking "periodically" and inserting "not less frequently than every 12 months".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995. 42 USC 675 note

SEC. 207. ELIMINATION OF FOSTER CARE CEILINGS AND OF AUTHORITY TO TRANSFER UNUSED FOSTER CARE FUNDS TO CHILD WELFARE SERVICES PROGRAMS.

(a) REPEAL.—Subsections (b) and (c) of section 474 (42 U.S.C. 674 (b) and (c)) are hereby repealed.

(b) CONFORMING AMENDMENTS.—Section 474 (42 U.S.C. 674) is amended—

(1) in subsection (d)(1)—

(A) by striking "subsections (a), (b), and (c)" and inserting "subsection (a)"; and

(B) by striking "the provisions of such subsections" and inserting "subsection (a)"; and

(2) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

(c) EFFECTIVE DATE.—The amendments and repeals made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1993. 42 USC 674 note.

SEC. 208. DEMONSTRATION PROJECTS.

Part A of title XI (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1129 the following:

"DEMONSTRATION PROJECTS

42 USC 1320a-9.

"SEC. 1130. (a) IN GENERAL.—The Secretary may authorize not more than 10 States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of title IV.

"(b) WAIVER AUTHORITY.—The Secretary may waive compliance with any requirement of part B or E of title IV which (if applied) would prevent a State from carrying out a demonstration project under this section or prevent the State from effectively achieving the purpose of such a project, except that the Secretary may not waive—

"(1) any provision of section 427 (as in effect before April 1, 1996), section 422(b)(9) (as in effect after such date), or section 479; or

"(2) any provision of such part E, to the extent that the waiver would impair the entitlement of any qualified child or family to benefits under a State plan approved under such part E.

"(c) TREATMENT AS PROGRAM EXPENDITURES.—For purposes of parts B and E of title IV, the Secretary shall consider the expenditures of any State to conduct a demonstration project under this section to be expenditures under subpart 1 or 2 of such part B, or under such part E, as the State may elect.

"(d) DURATION OF DEMONSTRATION.—A demonstration project under this section may be conducted for not more than 5 years.

"(e) APPLICATION.—Any State seeking to conduct a demonstration project under this section shall submit to the Secretary an application, in such form as the Secretary may require, which includes—

"(1) a description of the proposed project, the geographic area in which the proposed project would be conducted, the children or families who would be served by the proposed project, and the services which would be provided by the proposed project (which shall provide, where appropriate, for random assignment of children and families to groups served under the project and to control groups);

"(2) a statement of the period during which the proposed project would be conducted;

"(3) a discussion of the benefits that are expected from the proposed project (compared to a continuation of activities under the approved plan or plans of the State);

"(4) an estimate of the costs or savings of the proposed project;

"(5) a statement of program requirements for which waivers would be needed to permit the proposed project to be conducted;

"(6) a description of the proposed evaluation design; and

"(7) such additional information as the Secretary may require.

"(f) EVALUATIONS; REPORT.—Each State authorized to conduct a demonstration project under this section shall—

"(1) obtain an evaluation by an independent contractor of the effectiveness of the project, using an evaluation design approved by the Secretary which provides for—

"(A) comparison of methods of service delivery under the project, and such methods under a State plan or plans,

with respect to efficiency, economy, and any other appropriate measures of program management;

"(B) comparison of outcomes for children and families (and groups of children and families) under the project, and such outcomes under a State plan or plans, for purposes of assessing the effectiveness of the project in achieving program goals; and

"(C) any other information that the Secretary may require; and

"(2) provide interim and final evaluation reports to the Secretary, at such times and in such manner as the Secretary may require.

"(g) COST NEUTRALITY.—The Secretary may not authorize a State to conduct a demonstration project under this section unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the project over its approved term (or such portion thereof or other period as the Secretary may find appropriate) will not exceed the amount of such funds that would be expended by the State under the State plans approved under parts B and E of title IV if the project were not conducted.".

SEC. 209. PLACEMENT ACCOUNTABILITY.

(a) CASE PLAN REQUIREMENTS.—Section 475(5)(A) (42 U.S.C. 675(5)(A)) is amended by adding at the end the following: "which—

"(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

"(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 12 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, or of the State in which the child has been placed, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,".

(b) DISPOSITIONAL HEARING.—Section 475(5)(C) (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child described in subparagraph (A)(ii), whether the out-of-State placement continues to be appropriate and in the best interests of the child," after "long-term basis)".

(c) DATA COLLECTION.—Section 479(c)(3)(C) (42 U.S.C. 679(c)(3)(C)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following:

"(iii) children placed in foster care outside the State which has placement and care responsibility, and".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal years beginning on or after October 1, 1995. 42 USC 675 note.

SEC. 210. PAYMENTS OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

(a) IN GENERAL.—Section 474(b) (42 U.S.C. 674(b)), as redesignated by section 207(b)(2), is amended by adding at the end the following:

"(4)(A) Within 60 days after receipt of a State claim for expenditures pursuant to subsection (a), the Secretary shall allow, disallow, or defer such claim.

"(B) Within 15 days after a decision to defer such a State claim, the Secretary shall notify the State of the reasons for the deferral and of the additional information necessary to determine the allowability of the claim.

"(C) Within 90 days after receiving such necessary information (in readily reviewable form), the Secretary shall—

"(i) disallow the claim, if able to complete the review and determine that the claim is not allowable, or

"(ii) in any other case, allow the claim, subject to disallowance (as necessary)—

"(I) upon completion of the review, if it is determined that the claim is not allowable; or

"(II) on the basis of findings of an audit or financial management review.".

42 USC 674 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to claims made on or after the date of the enactment of this Act.

SEC. 211. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) IN GENERAL.—Part A of title XI (42 U.S.C. 1301–1320b–13), as amended by section 208, is amended by inserting after section 1130 the following:

"EFFECT OF FAILURE TO CARRY OUT STATE PLAN

42 USC 1320a–10.

"SEC. 1130A. In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability: *Provided, however,* That this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.".

42 USC 1320a–10 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

Subtitle B—Child Support Enforcement

SEC. 212. REPORTS TO CREDIT BUREAUS ON PERSONS DELINQUENT IN CHILD SUPPORT PAYMENTS.

(a) IN GENERAL.—Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended—

(1) by striking "Procedures" and all that follows through "request of such agency" and inserting "Procedures which

require the State to periodically report to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))) the name of any parent who owes overdue support and is at least 2 months delinquent in the payment of such support and the amount of such delinquency"; and

(2) by striking "(C) a fee" and all that follows through "by the State" and inserting "(C) such information shall not be made available to (i) a consumer reporting agency which the State determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity which has not furnished evidence satisfactory to the State that the entity is a consumer reporting agency".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1995. 42 USC 666 note.

SEC. 213. TECHNICAL AMENDMENTS TO PROVISION ON STATE PATERNITY ESTABLISHMENT PROGRAMS.

Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)), as amended by section 13721(a) of OBRA–1993, is amended—

(1) in clause (i), by striking "during the fiscal year";

(2) in subclause (I) of clause (ii), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(3) in subclause (II) of clause (ii), by striking "or E as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(4) in clause (iii), by striking "during the fiscal year"; and

(5) in the matter following clause (iii)—

(A) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(B) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(C) by striking "or E" the second place it appears.

SEC. 214. AGREEMENT TO ASSIST IN LOCATING MISSING CHILDREN UNDER THE PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 463 (42 U.S.C. 663) is amended by adding at the end the following new subsection:

"(f) The Secretary shall enter into an agreement with the Attorney General of the United States, under which the services of the Parent Locator Service established under section 453 shall be made available to the Office of Juvenile Justice and Delinquency Prevention upon its request to locate any parent or child on behalf of such Office for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child, or

"(2) making or enforcing a child custody determination.

The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

(b) CONFORMING AMENDMENT.—Section 463(c) (42 U.S.C. 663(c)) is amended by striking "(a), (b), or (e)" and inserting "(a), (b), (e), or (f)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995. 42 USC 663 note.

Subtitle C—Supplemental Security Income

SEC. 221. DEFINITION OF DISABILITY FOR CHILDREN UNDER AGE 18 APPLIED TO ALL INDIVIDUALS UNDER AGE 18.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraphs (A) and (H), by striking "a child" each place it appears and inserting "an individual"; and

(2) in subparagraph (H), by striking "child" the second and third place it appears and inserting "individual".

42 USC 1382c note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations made on or after the date of the enactment of this Act.

Subtitle D—Aid to Families With Dependent Children

SEC. 231. SIMPLIFICATION OF INCOME AND ELIGIBILITY VERIFICATION SYSTEM.

Paragraph (1)(A) of section 1137(d) (42 U.S.C. 1320b–7(d)) is amended to read as follows:

"(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under a program listed in subsection (b), a declaration in writing, under penalty of perjury—

"(i) by the individual,

"(ii) in the case in which eligibility for program benefits is determined on a family or household basis, by any adult member of such individual's family or household (as applicable), or

"(iii) in the case of an individual born into a family or household receiving benefits under such program, by any adult member of such family or household no later than the next redetermination of eligibility of such family or household following the birth of such individual,

stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.".

Welfare Indicators Act of 1994 42 USC 1314a.

SEC. 232. MEASUREMENT AND REPORTING OF WELFARE RECEIPT.

(a) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce the rate at which and the degree to which families depend on income from welfare programs and the duration of welfare receipt, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and that the life prospects of children are improved, and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare receipt to improve their education and job skills, to obtain child care and other

necessary support services, and to take such other steps as may be necessary to assist them to become financially independent; and

(4) it is the purpose of this section to provide the public with generally accepted measures of welfare receipt so that it can track such receipt over time and determine whether progress is being made in reducing the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt.

(b) DEVELOPMENT OF WELFARE INDICATORS AND PREDICTORS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") in consultation with the Secretary of Agriculture shall—

(1) develop—

(A) indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt; and

(B) predictors of welfare receipt;

(2) assess the data needed to report annually on the indicators and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

(3) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in paragraphs (1) and (2), to—

(A) the Committee on Ways and Means of the House of Representatives;

(B) the Committee on Education and Labor of the House of Representatives;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Energy and Commerce of the House of Representatives;

(E) the Committee on Finance of the Senate;

(F) the Committee on Labor and Human Resources of the Senate; and

(G) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) ADVISORY BOARD ON WELFARE INDICATORS.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Indicators (in this subsection referred to as the "Board").

(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and welfare statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues. President.

(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(4) DUTIES.—Duties of the Board shall include—

(A) providing advice and recommendations to the Secretary on the development of indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt; and

(B) providing advice on the development and presentation of annual reports required under subsection (d).

(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in paragraph (4) have been completed, but in any case prior to the submission of the first report required under subsection (d).

(d) ANNUAL WELFARE INDICATORS REPORT.—

(1) PREPARATION.—The Secretary shall prepare annual reports on welfare receipt in the United States.

(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and the Supplemental Security Income program under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or as general assistance under programs administered by State and local governments.

(3) CONTENTS.—Each report shall set forth for each of the means-tested benefit programs described in paragraph (2)—

(A) indicators of—

(i) the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs, and

(ii) the duration of welfare receipt;

(B) trends in indicators;

(C) predictors of welfare receipt;

(D) the causes of welfare receipt;

(E) patterns of multiple program receipt;

(F) such other information as the Secretary deems relevant; and

(G) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose

barriers to program access, as the Secretary may determine to be necessary or desirable to reduce—

(i) the rate at which and the degree to which families depend on income from welfare programs, and

(ii) the duration of welfare receipt.

(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section and annually thereafter, to the committees specified in subsection (b)(3)(C). Each such report shall be transmitted during the first 60 days of each regular session of Congress.

(e) SHORT TITLE.—This section may be cited as the "Welfare Indicators Act of 1994".

SEC. 233. NEW HOPE DEMONSTRATION PROJECT. 42 USC 602 note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin, in accordance with this section.

(b) PAYMENTS.—For each calendar quarter in which there is a qualified program approved under this subsection, the Secretary shall pay to the operator of the qualified program, for no more than 20 calendar quarters, an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program for such calendar quarter, in the absence of the program, for cash assistance and child care under part A of title IV of the Social Security Act, for medical assistance under title XIX of such Act, and for administrative expenses related to such assistance. The amount payable to the operator of the program under this section shall not include the costs of evaluating the effects of the program.

(c) DEMONSTRATION PROJECT DESCRIBED.—For purposes of this section, the term "qualified program" means a program operated—

(1) by The New Hope Project, Inc., a private, not-for-profit corporation incorporated under the laws of the State of Wisconsin (in this section referred to as the "operator"), which offers low-income residents of Milwaukee, Wisconsin, employment, wage supplements, child care, health care, and counseling and training for job retention or advancement; and

(2) in accordance with an application submitted by the operator of the program and approved by the Secretary based on the Secretary's determination that the application satisfies the requirements of subsection (d).

(d) CONTENTS OF APPLICATION.—The operator of the qualified program shall provide, in its application to conduct a demonstration project for the program, that the following terms and conditions will be met:

(1) The operator will develop and implement an evaluation plan designed to provide valid and reliable information on the impact and implementation of the program. The evaluation plan will include adequately sized groups of project participants and control groups assigned at random.

(2) The operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting the requirements of this paragraph.

(3) The operator will specify a reliable methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount that would otherwise have been payable to the State in the absence of the program, pursuant to subsection (b).

Reports.

(4) The operator will issue an interim and final report on the results of the evaluation described in paragraph (1) to the Secretary at such times as required by the Secretary.

(e) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the date of the enactment of this Act.

SEC. 234. DELAY IN REQUIREMENT THAT OUTLYING AREAS OPERATE AN AFDC-UP PROGRAM.

(a) IN GENERAL.—Section 401(g)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note; 102 Stat. 2396) is amended by striking "October 1, 1992" and inserting "the date of the repeal of the limitations contained in section 1108(a) of the Social Security Act on payments to such jurisdictions for purposes of making maintenance payments under parts A and E of title IV of such Act".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provision of the Family Support Act of 1988 to which the amendment relates at the time such provision became law.

SEC. 235. STATE OPTION TO USE RETROSPECTIVE BUDGETING WITHOUT MONTHLY REPORTING.

(a) IN GENERAL.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended—

(1) by striking all that precedes subparagraph (A) and inserting the following:

"(13) provide, at the option of the State and with respect to such category or categories as the State may select and identify in the State plan, that—"; and

(2) in each of subparagraphs (A) and (B), by striking ", in the case of families who are required to report monthly to the State agency pursuant to paragraph (14)".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and such payments for succeeding fiscal years.

Subtitle E—JOBS Program

SEC. 241. EXPANSION OF COVERAGE FOR INDIAN TRIBES.

(a) IN GENERAL.—Section 482(i)(2)(A) (42 U.S.C. 682(i)(2)(A)) is amended by striking "members of such Indian tribe receiving aid to families with dependent children" and inserting "Indians receiving aid to families with dependent children who reside on the reservation or within the designated service area".

42 USC 682 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 242. REPORT TO THE CONGRESS WITH RESPECT TO PERFORMANCE STANDARDS IN THE JOBS PROGRAM.

Section 487(a) (42 U.S.C. 687(a)) is amended—

(1) by striking "3" and inserting "4";
(2) in paragraph (1), by inserting "criteria for" after "develop";
(3) in paragraph (2), by striking "for" and inserting "with respect to"; and
(4) in the second sentence, by striking "under this subsection" and inserting "with respect to the program under this part".

Subtitle F—Other Provisions

SEC. 261. EXTENSION OF DEMONSTRATION TO EXPAND JOB OPPORTUNITIES.

(a) IN GENERAL.—Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2404) is amended—
(1) in subsection (e), by striking "3-year period" and inserting "6-year period",
(2) in subsection (f)(2), by striking "January 1, 1993" and inserting "January 1, 1995", and
(3) in subsection (g), by striking "1991, and 1992" and inserting "1991, 1992, 1993, 1994, 1995, and 1996".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993. 42 USC 1315 note.

SEC. 262. EARLY CHILDHOOD DEVELOPMENT PROJECTS.

Section 501(a) of the Family Support Act of 1988 (42 U.S.C. 1315 note; 102 Stat. 2400) is amended by adding at the end the following:
"(4) For grants to States to conduct demonstration projects under this subsection, there are authorized to be appropriated not to exceed $3,000,000 for each of the fiscal years 1995 through 1999.".

SEC. 263. REALLOCATION OF FUNDS UNDER TITLE XX FOR EMPOWERMENT AND ENTERPRISE GRANTS.

Section 2007 (42 U.S.C. 1397f), as added by section 13761 of OBRA–1993, is amended—
(1) by redesignating subsection (e) as subsection (f); and
(2) by inserting after subsection (d) the following new subsection:
"(e) REALLOCATION OF REMAINING FUNDS.—
"(1) REMITTED AMOUNTS.—The amount specified in section 2003(c) for any fiscal year is hereby increased by the total of the amounts remitted during the fiscal year pursuant to subsection (d) of this section.
"(2) AMOUNTS NOT PAID TO THE STATES.—The amount specified in section 2003(c) for fiscal year 1998 is hereby increased by the amount made available for grants under this section that has not been paid to any State by the end of fiscal year 1997.".

SEC. 264. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF OBRA-1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of OBRA–1990 is amended by striking "a semicolon" and inserting "'; and'". 42 USC 1382a.

(b) AMENDMENT RELATED TO SECTION 5040.—Section 1631(n) (42 U.S.C. 1383(n)) is amended by striking "subsection" and inserting "section".

(c) AMENDMENT RELATED TO SECTION 5051(a).—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended to read as follows:

"(14) at the option of the State and with respect to such category or categories as the State may select and identify in the plan, provide that—

"(A) the State agency will require each family to which the State provides (or, but for paragraph (22) or (32), would provide) aid to families with dependent children, as a condition to the continued receipt of such aid (or to continuing to be deemed to be a recipient of such aid), to report to the State agency monthly (or less frequently in the case of such categories of recipients as the State may select) on—

"(i) the income of the family, the composition of the family, and other relevant circumstances during the prior month; and

"(ii) the income and resources the family expects to receive, or any changes in circumstances affecting continued eligibility for, or amount of benefits, the family expects to occur, in that month or in future months; and

"(B) in addition to any action that may be appropriate based on other reports or information received by the State agency, the State agency will—

"(i) take prompt action to adjust the amount of assistance payable, as may be appropriate, on the basis of the information contained in the report (or upon the failure of the family to submit a timely report); and

"(ii) give the family an appropriate explanatory notice concurrent with any action taken under clause (i);".

(d) REPEAL OF PROVISION INADVERTENTLY INCLUDED.—Section 5057 of OBRA–1990, and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

42 USC 1320b-9.

(e) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The second paragraph of section 1631(a) (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(f) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) in clause (i), by striking "to representative" and inserting "to a representative";

(2) by striking clause (ii);

(3) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(4) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(g) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(h) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of OBRA–1990 to which the amendment relates at the time such provision became law. 42 USC 602 note.

SEC. 265. TECHNICAL CORRECTIONS RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF OBRA–1989.

(a) AMENDMENT RELATING TO SECTION 8004(a).—Section 408(m)(2)(A) (42 U.S.C. 608(m)(2)(A)) is amended by striking "a fiscal" and inserting "the fiscal".

(b) AMENDMENT RELATING TO SECTION 8006(a).—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(c) AMENDMENT RELATING TO SECTION 8007(b)(3).—Subparagraph (D) of section 475(5) (42 U.S.C. 675(5)(D)) is amended by moving such subparagraph 2 ems to the right so that the left margin of such subparagraph is aligned with the left margin of subparagraph (C) of such section.

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if the amendment had been included in the provision of OBRA–1989 to which the amendment relates, at the time the provision became law. 42 USC 608 note.

SEC. 266. TECHNICAL CORRECTION RELATED TO THE HUMAN RESOURCE AND INCOME SECURITY PROVISIONS OF OBRA–1993.

(a) AMENDMENT RELATING TO SECTION 13713(a).—Section 473(a)(6)(B) (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(C)" and inserting "474(a)(3)(E)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if the amendment had been included in the provision of OBRA–1993 to which the amendment relates, at the time the provision became law. 42 USC 673 note.

SEC. 267. ELIMINATION OF OBSOLETE PROVISIONS RELATING TO TREATMENT OF THE EARNED INCOME TAX CREDIT.

(a) TREATMENT OF EITC AS EARNED INCOME.—Section 1612(a)(1) (42 U.S.C. 1382a(a)(1)) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) ADJUSTMENT OF BENEFITS DUE TO TREATMENT OF EITC AS EARNED INCOME.—Section 1631(b) (42 U.S.C. 1383(b)) is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 268. REDESIGNATION OF CERTAIN PROVISIONS.

The first paragraph 6 of section 1631(e) (42 U.S.C. 1383(e)(6)) is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively.

Approved October 31, 1994.

LEGISLATIVE HISTORY—H.R. 5252:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-433
103d Congress

An Act

To designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks, to establish the Mojave National Preserve, and for other purposes.

Oct. 31, 1994
[S. 21]

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

California Desert Protection Act of 1994.
16 USC 410aaa note.

Sections 1 and 2, and titles I through IX of this Act may be cited as the "California Desert Protection Act of 1994".

Short title.

SEC. 2. FINDINGS AND POLICY.

Supra.
16 USC 410aaa note.

(a) The Congress finds and declares that—

(1) the federally owned desert lands of southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national

parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

Short title.
Ante, p. 4471.

TITLE I—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's activities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

16 USC 1132 note.

SEC. 102. DESIGNATION OF WILDERNESS.

In furtherance of the purpose of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps referenced herein, are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred and ninety acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed 1", dated May 1991, and two maps enti-

tled "Argus Range Wilderness—Proposed 2" and "Argus Range Wilderness—Proposed 3", dated January 1989, and which shall be known as the Argus Range Wilderness. If at any time within fifteen years after the date of enactment of this Act the Secretary of the Navy notifies the Secretary that permission has been granted to use lands within the area of the China Lake Naval Air Warfare Center for installation of a space energy laser facility, and that establishment of a right-of-way across lands within the Argus Range Wilderness is desirable in order to facilitate access to the lands to be used for such facility, the Secretary of the Interior, pursuant to the Federal Land Policy and Management Act of 1976, may grant a right-of-way for, and authorize construction of, a road to be used solely for that purpose across such lands, notwithstanding the designation of such lands as wilderness. So far as practicable, any such road shall be aligned in a manner that takes into account the desirability of minimizing adverse impacts on wilderness values.

(2) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand three hundred and eighty acres, as generally depicted on a map entitled "Bigelow Cholla Garden Wilderness— Proposed", dated July 1993, and which shall be known as the Bigelow Cholla Garden Wilderness.

(3) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and within the San Bernardino National Forest, which comprise approximately thirty-nine thousand one hundred and eighty-five acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", dated July 1993, and which shall be known as the Bighorn Mountain Wilderness.

(4) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred and seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Big Maria Mountains Wilderness.

(5) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirteen thousand nine hundred and forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated July 1993, and which shall be known as the Black Mountain Wilderness.

(6) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred and twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", dated October 1993, and which shall be known as the Bright Star Wilderness.

(7) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-eight thousand five hundred and fifteen acres, as generally depicted on two maps entitled "Bristol Mountains Wilderness—Proposed 1", and "Bristol Mountains Wilderness—Proposed 2", dated September 1991, and which shall be known as Bristol Mountains Wilderness.

(8) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-nine thousand seven hundred and forty acres, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", dated July 1993, and which shall be known as the Cadiz Dunes Wilderness.

(9) Certain lands in the California Desert Conservation Area and Eastern San Diego County, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", dated February 1986, and which shall be known as the Carrizo Gorge Wilderness.

(10) Certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management, which comprise approximately sixty-four thousand three hundred and twenty acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Chemehuevi Mountains Wilderness.

(11) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on two maps entitled "Chimney Park Wilderness—Proposed 1" and "Chimney Peak Wilderness—Proposed 2", dated May 1991, and which shall be known as the Chimney Peak Wilderness.

(12) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty thousand seven hundred and seventy acres, as generally depicted on two maps entitled "Chuckwalla Mountains Wilderness—Proposed 1" and "Chuckwalla Mountains Wilderness—Proposed 2", dated July 1992, and which shall be known as the Chuckwalla Mountains Wilderness.

(13) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirty-three thousand nine hundred and eighty acres, as generally depicted on a map entitled "Cleghorn Lakes Wilderness—Proposed", dated July 1993, and which shall be known as the Cleghorn Lakes Wilderness. The Secretary may, pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road within the area depicted as "nonwilderness road corridor" on such map.

(14) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Clipper Mountain Wilderness—Proposed", dated July 1993, and which shall be known as Clipper Mountain Wilderness.

(15) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand five hundred and twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", dated May 1991, and which shall be known as Coso Range Wilderness.

(16) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand acres, as generally depicted

on a map entitled "Coyote Mountains Wilderness—Proposed", dated July 1993, and which shall be known as Coyote Mountains Wilderness.

(17) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred acres, as generally depicted on a map entitled "Darwin Falls Wilderness—Proposed", dated May 1991, and which shall be known as Darwin Falls Wilderness.

(18) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-eight thousand eight hundred and fifty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Dead Mountains Wilderness.

(19) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on two maps entitled "Domeland Wilderness Additions—Proposed 1" and "Domeland Wilderness Additions—Proposed 2", dated February 1986, and which are hereby incorporated in, and which shall be deemed to be a part of, the Domeland Wilderness as designated by Public Laws 93–632 and 98–425.

(20) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-three thousand seven hundred and eighty acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the El Paso Mountains Wilderness.

(21) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand nine hundred and forty acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated July 1993, and which shall be known as Fish Creek Mountains Wilderness.

(22) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand one hundred and ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Funeral Mountains Wilderness.

(23) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", dated February 1986, and which shall be known as Golden Valley Wilderness.

(24) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand six hundred and ninety-five acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed", dated July 1993, and which shall be known as the Grass Valley Wilderness.

(25) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred and forty acres, as generally depicted on a map entitled "Hollow Hills

Wilderness—Proposed", dated May 1991, and which shall be known as the Hollow Hills Wilderness.

(26) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed", dated May 1991, and which shall be known as the Ibex Wilderness.

(27) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand eight hundred and fifty-five acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed", dated July 1993, and which shall be known as the Indian Pass Wilderness.

(28) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, and within the Inyo National Forest, which comprise approximately two hundred and five thousand and twenty acres, as generally depicted on three maps entitled "Inyo Mountains Wilderness—Proposed 1", "Inyo Mountains Wilderness—Proposed 2", "Inyo Mountains Wilderness—Proposed 3", dated May 1991, and which shall be known as the Inyo Mountains Wilderness.

(29) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand six hundred and seventy acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated July 1993, and which shall be known as the Jacumba Wilderness.

(30) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred and twenty-nine thousand five hundred and eighty acres, as generally depicted on a map entitled "Kelso Dunes Wilderness—Proposed 1", dated October 1991, a map entitled "Kelso Dunes Wilderness—Proposed 2", dated May 1991, and a map entitled "Kelso Dunes Wilderness—Proposed 3", dated September 1991, and which shall be known as the Kelso Dunes Wilderness.

(31) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred and ninety acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed 1", dated February 1986, and a map entitled "Kiavah Wilderness—Proposed 2", dated October 1993, and which shall be known as the Kiavah Wilderness.

(32) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred nine thousand, six hundred and eight acres, as generally depicted on four maps entitled "Kingston Range Wilderness—Proposed 1", "Kingston Range Wilderness—Proposed 2", "Kingston Range Wilderness—Proposed 3", "Kingston Range Wilderness—Proposed 4", dated July 1993, and which shall be known as the Kingston Range Wilderness.

(33) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand eight hundred and eighty

acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Little Chuckwalla Mountains Wilderness.

(34) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately thirty-three thousand six hundred acres, as generally depicted on a map entitled "Little Picacho Wilderness—Proposed", dated July 1993, and which shall be known as the Little Picacho Wilderness.

(35) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and sixty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated September 1991, and which shall be known as the Malpais Mesa Wilderness.

(36) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred and five acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", dated October 1991, and which shall be known as the Manly Peak Wilderness.

(37) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-four thousand two hundred acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated July 1993, and which shall be known as the Mecca Hills Wilderness.

(38) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred and thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated May 1991, and which shall be known as the Mesquite Wilderness.

(39) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Newberry Mountains Wilderness.

(40) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred and sixty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", dated July 1993, and which shall be known as the Nopah Range Wilderness.

(41) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand two hundred and forty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated October 1991, and which shall be known as the North Algodones Dunes Wilderness.

(42) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand five hundred and forty acres, as generally depicted on a map entitled "North Mesquite

Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the North Mesquite Mountains Wilderness.

(43) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand and twenty acres, as generally depicted on a map entitled "Old Woman Mountains Wilderness—Proposed 1", dated July 1993 and a map entitled "Old Woman Mountains Wilderness—Proposed 2", dated July 1993, and which shall be known as the Old Woman Mountains Wilderness.

(44) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand seven hundred and thirty-five acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Orocopia Mountains Wilderness.

(45) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-four thousand and sixty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed 1", dated February 1986, a map entitled "Owens Peak Wilderness—Proposed 2", dated March 1994, and a map entitled "Owens Peak Wilderness—Proposed 3", dated May 1991, and which shall be known as the Owens Peak Wilderness.

(46) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", dated February 1986, and which shall be known as the Pahrump Valley Wilderness.

(47) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred seventy thousand six hundred and twenty-nine acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Proposed 1", dated July 1993, and a map entitled "Palen/McCoy Wilderness—Proposed 2", dated July 1993, and which shall be known as the Palen/McCoy Wilderness.

(48) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and ten acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Palo Verde Mountains Wilderness.

(49) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated May 1991, and which shall be known as the Picacho Peak Wilderness.

(50) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand five hundred and seventy-five acres, as generally depicted on a map entitled "Piper Mountain Wilderness—Proposed", dated October 1993, and which shall be known as the Piper Mountain Wilderness.

(51) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-six thousand eight hundred and forty acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Piute Mountains Wilderness.

(52) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Resting Spring Range Wilderness—Proposed", dated May 1991, and which shall be known as the Resting Spring Range Wilderness.

(53) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred and twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", dated May 1991, and which shall be known as the Rice Valley Wilderness.

(54) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately twenty-two thousand three hundred eighty acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Riverside Mountains Wilderness.

(55) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand six hundred and ninety acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated October 1994, and which shall be known as the Rodman Mountains Wilderness.

(56) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-one thousand nine hundred acres, as generally depicted on two maps entitled "Sacatar Trail Wilderness—Proposed 1" and "Sacatar Trail Wilderness—Proposed 2", dated May 1991, and which shall be known as the Sacatar Trail Wilderness.

(57) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one thousand four hundred and forty acres, as generally depicted on a map entitled "Saddle Peak Hills Wilderness—Proposed", dated July 1993, and which shall be known as the Saddle Peak Hills Wilderness.

(58) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand nine hundred and eighty acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", dated July 1993, and which are hereby incorporated in, and which shall be deemed to be a part of, the San Gorgonio Wilderness as designated by Public Laws 88-577 and 98-425.

(59) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-four thousand three hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", dated March 1994, and which

are hereby incorporated in, and which shall be deemed to be part of, the Santa Rosa Wilderness designated by Public Law 98–425.

(60) Certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand and eighty acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Sawtooth Mountains Wilderness.

(61) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-four thousand eight hundred acres, as generally depicted on two maps entitled "Sheephole Valley Wilderness—Proposed 1", dated July 1993, and "Sheephole Valley Wilderness—Proposed 2", dated July 1993, and which shall be known as the Sheephole Valley Wilderness.

(62) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred and eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", dated February 1986, and which shall be known as the South Nopah Range Wilderness.

(63) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand and fifty acres, as generally depicted on a map entitled "Stateline Wilderness—Proposed", dated May 1991, and which shall be known as the Stateline Wilderness.

(64) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Stepladder Mountains Wilderness.

(65) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand one hundred and eighty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Surprise Canyon Wilderness.

(66) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred and twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Sylvania Mountains Wilderness.

(67) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand one hundred and sixty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated July 1993, and which shall be known as the Trilobite Wilderness.

(68) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Moun-

tains Wilderness—Proposed 1", dated February 1986 and a map entitled "Turtle Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Turtle Mountains Wilderness.

(69) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately seventy-seven thousand five hundred and twenty acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Whipple Mountains Wilderness.

SEC. 103. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, each wilderness area designated under section 102 shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") or the Secretary of Agriculture, as appropriate, in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

(b) MAP AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of section 102, the Secretary concerned shall file a map and legal description for each wilderness area designated under this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Each such map and description shall have the same force and effect as if included in this title, except that the Secretary or the Secretary of Agriculture, as appropriate, may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as appropriate.

(c) LIVESTOCK.—Within the wilderness areas designated under section 102, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 101(f) of Public Law 101-628.

(d) NO BUFFER ZONES.—The Congress does not intend for the designation of wilderness areas in section 102 of this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction of the State of California with respect to wildlife and fish on the public lands located in that State.

(f) FISH AND WILDLIFE MANAGEMENT.— Management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title and shall include the use of motorized vehicles by the appropriate State agencies.

(g) LAW ENFORCEMENT ACCESS.—Nothing in this Act, including the wilderness designations made by such Act, may be construed to preclude Federal, State, and local law enforcement agencies from conducting law enforcement and border operations as permitted before the date of enactment of this Act, including the use of motorized vehicles and aircraft, on any lands designated as wilderness by this Act.

SEC. 104. WILDERNESS REVIEW.

(a) IN GENERAL.—Except as provided in subsection (b), the Congress hereby finds and directs that lands in the California Desert Conservation Area, of the Bureau of Land Management, not designated as wilderness or wilderness study areas by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(b) AREAS NOT RELEASED.—The following areas shall continue to be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976, pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness—

(1) certain lands which comprise approximately sixty-one thousand three hundred and twenty, as generally depicted on a map entitled "Avawatz Mountains Wilderness—Proposed", dated May 1991;

(2) certain lands which comprise approximately thirty-nine thousand seven hundred and fifty acres, as generally depicted on a map entitled "Kingston Range Wilderness—Proposed 4", dated July 1993;

(3) certain lands which comprise approximately eighty thousand four hundred and thirty acres, as generally depicted on two maps entitled "Soda Mountains Wilderness—Proposed 1", dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989;

(4) certain lands which compromise approximately twenty-three thousand two hundred and fifty acres, as generally depicted on a map entitled "South Avawatz Mountains—Proposed", dated May 1991;

(5) certain lands which comprise approximately seventeen thousand two hundred and eighty acres, as generally depicted on a map entitled "Death Valley National Park Boundary and Wilderness 17—Proposed", dated July 1993;

(6) certain lands which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed", dated February 1986; and

(7) certain lands which comprise approximately eighty-four thousand four hundred acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", dated July 1993.

(c) WITHDRAWAL.—Subject to valid existing rights, the Federal lands referred to in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 105. DESIGNATION OF WILDERNESS STUDY AREA.

In furtherance of the provisions of the Wilderness Act, certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated May 1991, are hereby designated as the White Mountains Wilderness Study Area and shall be administered by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

SEC. 106. SUITABILITY REPORT.

The Secretary is required, ten years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future wilderness designation of, the lands as generally depicted on maps entitled "Surprise Canyon Wilderness—Proposed", "Middle Park Canyon Wilderness—Proposed", and "Death Valley National Park Boundary and Wilderness 15", dated September 1991 and a map entitled "Manly Peak Wilderness—Proposed", dated October 1991.

SEC. 107. DESERT LILY SANCTUARY. 43 USC 1781 note.

(a) DESIGNATION.—There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary shall administer the area to provide maximum protection to the desert lily.

(b) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the Desert Lily Sanctuary are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 108. DINOSAUR TRACKWAY AREA OF CRITICAL ENVIRONMENTAL CONCERN. 43 USC 1781 note.

(a) DESIGNATION.—There is hereby established the Dinosaur Trackway Area of Critical Environmental Concern within the California Desert Conservation Area, of the Bureau of Land Management, comprising approximately five hundred and ninety acres as generally depicted on a map entitled "Dinosaur Trackway Area of Critical Environmental Concern", dated July 1993. The

Secretary shall administer the area to preserve the paleontological resources within the area.

(b) WITHDRAWAL.—Subject to valid existing rights, the Federal lands within and adjacent to the Dinosaur Trackway Area of Critical Environmental Concern, as generally depicted on a map entitled "Dinosaur Trackway Mineral Withdrawal Area", dated July 1993, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

Short title.
Ante, p. 4471.

TITLE II—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 201. DESIGNATION AND MANAGEMENT.

16 USC 1132 note.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Havasu National Wildlife Refuge, California, which comprise approximately three thousand one hundred and ninety-five acres, as generally depicted on a map entitled "Havasu Wilderness—Proposed", and dated October 1991, and which shall be known as the Havasu Wilderness.

(2) Certain lands in the Imperial National Wildlife Refuge, California, which comprise approximately five thousand eight hundred and thirty-six acres, as generally depicted on two maps entitled "Imperial Refuge Wilderness—Proposed 1" and "Imperial Refuge Wilderness—Proposed 2", and dated October 1991, and which shall be known as the Imperial Refuge Wilderness.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated under this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) MAPS AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this title, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committees on Energy and Natural Resources and Environment and Public Works of the United States Senate and Natural Resources and Merchant Marine and Fisheries of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

SEC. 202. NO EFFECT ON COLORADO RIVER DAMS.

Nothing in this title shall be construed to affect the operation of federally owned dams located on the Colorado River in the Lower Basin.

SEC. 203. NO EFFECT ON UPPER BASIN.

Nothing in this Act shall amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty pertaining to the Colorado River (including its tributaries) in the Upper Basin, including, but not limited to the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those rivers.

SEC. 204. COLORADO RIVER.

With respect to the Havasu and Imperial wilderness areas designated by subsection 201(a) of this title, no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise.

TITLE III—DEATH VALLEY NATIONAL PARK

Short title.
Ante, p. 4471.

SEC. 301. FINDINGS.

16 USC 410aaa.

The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical ad wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a National Park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

SEC. 302. ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK.

16 USC 410aaa-1.

There is hereby established the Death Valley National Park (hereinafter in this title referred to as the "park") as generally depicted on twenty-three maps entitled "Death Valley National Park Boundary and Wilderness—Proposed", numbered in the title one through twenty-three, and dated July 1993 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part

16 USC 431 note.

of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

16 USC 410aaa-2.

SEC. 303. TRANSFER AND ADMINISTRATION OF LANDS.

Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted in the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the National Park Service for administration as part of the National Park System, and the boundary of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

16 USC 410aaa-3.

SEC. 304. MAPS AND LEGAL DESCRIPTION.

Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior.

16 USC 410aaa-4.

SEC. 305. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

16 USC 410aaa-5.

SEC. 306. GRAZING.

(a) IN GENERAL.—The privilege of grazing domestic livestock on lands within the park shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) SALE OF PROPERTY.—If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

SEC. 307. DEATH VALLEY NATIONAL PARK ADVISORY COMMISSION.

16 USC 410aaa-6.

(a) The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park. Establishment.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment. Termination date.

SEC. 308. BOUNDARY ADJUSTMENT.

16 USC 410aaa-7.

In preparing the maps and legal descriptions required by sections 304 and 602 of this Act, the Secretary shall adjust the boundaries of the Death Valley National Park and Death Valley National Park Wilderness so as to exclude from such National Park and Wilderness the lands generally depicted on the map entitled "Porter Mine (Panamint Range) Exclusion Area" dated June 1994.

TITLE IV—JOSHUA TREE NATIONAL PARK

Short title. *Ante*, p. 4471.

SEC. 401. FINDINGS.

16 USC 410aaa-21.

The Congress finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical, and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a National Park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

16 USC 410aaa-22.

SEC. 402. ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK.

There is hereby established the Joshua Tree National Park, (hereinafter in this section referred to as the "park"), as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed", dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness", numbered in the title one through four, and dated October 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

16 USC 431 note.

16 USC 410aaa-23.

SEC. 403. TRANSFER AND ADMINISTRATION OF LANDS.

Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the National Park Service for administration as part of the National Park System. The boundaries of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

16 USC 410aaa-24.

SEC. 404. MAPS AND LEGAL DESCRIPTION.

Within six months after the date of enactment of this title, the Secretary shall file maps and legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and maps. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

16 USC 410aaa-25.

SEC. 405. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

16 USC 410aaa-26.

SEC. 406. UTILITY RIGHTS-OF-WAY.

Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 601(a)(2).

Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 601(a)(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within one hundred and eighty days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

SEC. 407. JOSHUA TREE NATIONAL PARK ADVISORY COMMISSION.

16 USC 410aaa-27.

Establishment.

(a) The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Joshua Tree National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

Termination date.

TITLE V—MOJAVE NATIONAL PRESERVE

Short title.

Ante, p. 4471.

SEC. 501. FINDINGS.

16 USC 410aaa-41.

The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national preserve;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop services, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans With Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

16 USC 410aaa-42.

SEC. 502. ESTABLISHMENT OF THE MOJAVE NATIONAL PRESERVE.

There is hereby established the Mojave National Preserve, comprising approximately one million four hundred nineteen thousand eight hundred acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated May 17, 1994, which shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service, Department of the Interior.

16 USC 410aaa-43.

SEC. 503. TRANSFER OF LANDS.

Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 502 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

16 USC 410aaa-44.

SEC. 504. MAPS AND LEGAL DESCRIPTION.

Within six months after the date of enactment of this title, the Secretary shall file maps and a legal description of the preserve designated under this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 502. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

16 USC 410aaa-45.

SEC. 505. ABOLISHMENT OF SCENIC AREA.

The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), is hereby abolished.

16 USC 410aaa-46.

SEC. 506. ADMINISTRATION OF LANDS.

(a) The Secretary shall administer the preserve in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

(b) The Secretary shall permit hunting, fishing, and trapping on lands and waters within the preserve designated by this Act in accordance with applicable Federal and State laws except that the Secretary may designate areas where, and establish periods

when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, regulations closing areas to hunting, fishing, or trapping pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife on Federal lands and waters covered by this title nor shall anything in this Act be construed as authorizing the Secretary concerned to require a Federal permit to hunt, fish, or trap on Federal lands and waters covered by this title.

SEC. 507. WITHDRAWAL.

16 USC 410aaa-47.

Subject to valid existing rights, all Federal lands within the preserve are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 508. REGULATION OF MINING.

16 USC 410aaa-48.

Subject to valid existing rights, all mining claims located within the preserve shall be subject to all applicable laws and regulations applicable to mining within units of the National Park System, including the Mining in the Parks Act (16 U.S.C. 1901 et seq.), and any patent issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes, subject to such laws and regulations.

SEC. 509. STUDY AS TO VALIDITY OF MINING CLAIMS.

16 USC 410aaa-49.

(a) The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the preserve and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

(b)(1) Notwithstanding any other provision of law, the Secretary shall permit the holder or holders of mining claims identified on the records of the Bureau of Land Management as Volco #A CAMC 105446, Volco #B CAMC 105447, Volco 1 CAMC 80155, Volco 2 CAMC 80156, Volco 3 CAMC 170259, Volco 4 CAMC 170260, Volco 5 CAMC 78405, Volco 6 CAMC 78404, and Volco 7 CAMC 78403, Volco Placer 78332, to continue exploration and development activities on such claims for a period of two years after the date of enactment of this title, subject to the same regulations as applied to such activities on such claims on the day before such date of enactment.

(2) At the end of the period specified in paragraph (1), or sooner if so requested by the holder or holders of the claims specified in such paragraph, the Secretary shall determine whether there has been a discovery of valuable minerals on such claims and whether, if such discovery had been made on or before July 1, 1994, such claims would have been valid as of such date under the mining laws of the United States in effect on such date.

(3) If the Secretary, pursuant to paragraph (2), makes an affirmative determination concerning the claims specified in paragraph (1), the holder or holders of such claims shall be permitted to continue to operate such claims subject only to such regulations as applied on July 1, 1994 to the exercise of valid existing rights on patented mining claims within a unit of the National Park System.

16 USC 410aaa-50.

SEC. 510. GRAZING.

(a) The privilege of grazing domestic livestock on lands within the preserve shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the preserve, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the preserve and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

16 USC 410aaa-51.

SEC. 511. UTILITY RIGHTS OF WAY.

(a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way, or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: *Provided,* That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than three electrical transmission lines;

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the upgraded transmission line begins, after which time there may be only one electrical transmission line

in the lands encompassed by Mojave right-of-way and adjacent right-of-way;

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed;

(D) in the Eldorado rights-of-way and Mojave right-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to preserve resources;

(E) no more than 350 feet of additional land shall be issued, granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to preserve resources; and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on preserve resources.

(3) The Secretary shall prepare within one hundred and eighty days after the date of enactment of this title, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way issued, granted, or permitted to the Southern California Gas Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) The Secretary shall prepare within one hundred and eighty days after the date of enactment of this title, in consultation with the Southern California Gas Company, plans for emergency access by the Southern California Gas Company to its rights-of-way.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(d) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted to Molybdenum Corporation of America; Molycorp, Incorporated; or Union Oil Company of California (d/b/a Unocal Corporation); or its successors or assigns, or prohibiting renewal of such right-of-way, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

16 USC 410aaa-52.

SEC. 512. PREPARATION OF MANAGEMENT PLAN.

Within three years after the date of enactment of this title, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a detailed and comprehensive management plan for the preserve. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the preserve. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the preserve. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101-336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

16 USC 410aaa-53.

SEC. 513. GRANITE MOUNTAINS NATURAL RESERVE.

(a) ESTABLISHMENT.—There is hereby designated the Granite Mountains Natural Reserve within the preserve comprising approximately nine thousand acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) COOPERATIVE MANAGEMENT AGREEMENT.—Upon enactment of this title, the Secretary shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of this title and laws generally applicable to units of the National Park System.

16 USC 410aaa-54.
Contracts.
California State University.

SEC. 514. SODA SPRINGS DESERT STUDY CENTER.

Upon enactment of this title, the Secretary shall enter into a cooperative management agreement with California State University for the purposes of managing facilities at the Soda Springs Desert Study Center. Such cooperative agreement shall ensure continuation of the desert research and educational activities of California State University, consistent with the provisions of this title and laws generally applicable to units of the National Park System.

16 USC 410aaa-55.

SEC. 515. CONSTRUCTION OF VISITOR CENTER.

The Secretary is authorized to construct a visitor center in the preserve for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the preserve.

16 USC 410aaa-56.

SEC. 516. ACQUISITION OF LANDS.

The Secretary is authorized to acquire all lands and interest in lands within the boundary of the preserve by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the preserve which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by the California State Lands Commission; and

(2) lands or interests therein within the boundary of the preserve which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the preserve or which is otherwise incompatible with the purposes of this title: *Provided, however,* That the construction, modification, repair, improvement, or replacement of a single-family residence shall not be determined to be detrimental to the integrity of the preserve or incompatible with the purposes of this title.

SEC. 517. ACQUIRED LANDS TO BE MADE PART OF MOJAVE NATIONAL PRESERVE. 16 USC 410aaa-57.

Any lands acquired by the Secretary under this title shall become part of the Mojave National Preserve.

SEC. 518. MOJAVE NATIONAL PRESERVE ADVISORY COMMISSION. 16 USC 410aaa-58.

(a) The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for the Mojave National Preserve. Establishment.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the preserve is located, a representative of the owners of private properties located within or immediately adjacent to the preserve, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment. Termination date.

SEC. 519. NO ADVERSE AFFECT ON LAND UNTIL ACQUIRED. 16 USC 410aaa-59.

Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law. Neither the location of such lands within such boundaries nor the possible acquisition of such lands by the United States shall constitute a bar to the otherwise lawful issuance of any Federal license or permit other than a license or permit related to activities governed by 16 U.S.C. 460l–22(c). Nothing in this section shall be construed as affecting the applicability of any provision of the Mining in the Parks Act (16 U.S.C. 1901 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), or regulations applicable to oil and gas development as set forth in 36 CFR 9B.

Short title.
Ante, p. 4471.

TITLE VI—NATIONAL PARK SYSTEM WILDERNESS

SEC. 601. DESIGNATION OF WILDERNESS.

16 USC 1132 note.

(a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1311 et seq.), the following lands within the units of the National Park System designated by this Act are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred fifty-eight thousand thirty-eight acres, as generally depicted on twenty-three maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated October 1993 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, and dated July 1993 or prior, and which shall be known as the Death Valley Wilderness.

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand seven hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94–567.

(3) Mojave National Preserve Wilderness, comprising approximately six hundred ninety-five thousand two hundred acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", and numbered in the title one through ten, and dated March 1994 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated March 1994 or prior, and which shall be known as the Mojave Wilderness.

(b) POTENTIAL WILDERNESS.—Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, and which shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (a)(1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

SEC. 602. FILING OF MAPS AND DESCRIPTIONS.

Maps and a legal description of the boundaries of the areas designated in section 601 of this title shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. As soon as practicable after the date of enactment of this title, maps and legal descriptions

of the wilderness areas shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives, and such maps and legal descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

SEC. 603. ADMINISTRATION OF WILDERNESS AREAS.

The areas designated by section 601 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VII—MISCELLANEOUS PROVISIONS

Short title.
Ante, p. 4471.

SEC. 701. TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK.

16 USC 410aaa-71.

Upon enactment of this title, the Secretary shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

SEC. 702. LAND TENURE ADJUSTMENTS.

16 USC 410aaa-72.

In preparing land tenure adjustment decisions with the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

SEC. 703. LAND DISPOSAL.

16 USC 410aaa-73.

Except as provided in section 406 of this Act, none of the lands within the boundaries of the wilderness or park areas designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District or any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar Acts.

SEC. 704. MANAGEMENT OF NEWLY ACQUIRED LANDS.

16 USC 410aaa-74.

Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

16 USC 410aaa-75.

SEC. 705. NATIVE AMERICAN USES AND INTERESTS.

(a) ACCESS.—In recognition of the past use of the National Park System units and wilderness areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such park system units and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the park system unit or wilderness area in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

(b) STUDY.—(1) The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area within and outside the boundaries of the Death Valley National Monument and the Death Valley National Park, as described in title III of this Act.

Reports.

(2) Not later than 1 year after the date of enactment of this title, the Secretary shall submit a report to the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the United States Senate, and the Committee on Natural Resources of the United States House of Representatives on the results of the study conducted under paragraph (1).

16 USC 410aaa-76.

SEC. 706. FEDERAL RESERVED WATER RIGHTS.

(a) Except as otherwise provided in section 204 of this Act, with respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 43 U.S.C. 666), commonly referred to as the McCarran Amendment.

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness area located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

SEC. 707. CALIFORNIA STATE SCHOOL LANDS.

16 USC 410aaa-77.

(a) NEGOTIATIONS TO EXCHANGE.—Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School lands or interests therein which are located within the boundaries of one or more of the wilderness areas or park system units designated by this Act (hereinafter in this section referred to as "State School lands."). The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976.

(b) PREPARATION OF LIST.—Within six months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a list of the following:

(1) State School lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park system units designated by this Act.

(2) Lands within the State of California under the jurisdiction of the Secretary that the Secretary determines to be suitable for disposal for exchange, identified in the following priority—

(A) lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues;

(B) Federal claims in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project; and

(C) any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in the Secretary's discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

(4) The Secretary shall maintain such list and shall annually transmit such list to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives until all of the State School lands identified in paragraph (1) have been acquired.

(c) DISPOSAL OF SURPLUS FEDERAL PROPERTY.—(1) Effective upon the date of enactment of this title and until all State School lands identified in paragraph (b)(1) of this section are acquired, no Federal lands or interests therein within the State of California may be disposed of from Federal ownership unless—

(A) the Secretary is notified of the availability of such lands or interest therein;

(B) the Secretary has notified the Commission of the availability of such lands or interests therein for exchange; and

(C) the Commission has not notified the Secretary within six months that it wishes to consider entering into an exchange for such lands or interests therein.

(2) If the Commission notifies the Secretary that it wishes to consider an exchange for such lands or interests therein, the Secretary shall attempt to conclude such exchange in accordance with the provisions of this section as quickly as possible.

(3) If an agreement is reached and executed with the Commission, then upon notice to the head of the agency having administrative jurisdiction over such lands or interests therein, the Secretary shall be vested with administrative jurisdiction over such land or interests therein for the purpose of concluding such exchange.

(4) Upon the acquisition of all State School lands or upon notice by the Commission to the Secretary that it no longer has an interest in such lands or interests therein, such lands or interests shall be released to the agency that originally had jurisdiction over such lands or interests for disposal in accordance with the laws otherwise applicable to such lands or interests.

(d) NO EFFECT ON MILITARY BASE CLOSURES.—The provisions of this section shall not apply to the disposal of property under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627; 10 U.S.C. 2687 note) or the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 104 Stat. 1808; 10 U.S.C. 2687 note).

16 USC 410aaa–78.

SEC. 708. ACCESS TO PRIVATE PROPERTY.

The Secretary shall provide adequate access to nonfederally owned land or interests in land within the boundaries of the conservation units and wilderness areas designated by this Act which will provide the owner of such land or interest the reasonable use and enjoyment thereof.

16 USC 410aaa–79.

SEC. 709. FEDERAL FACILITIES FEE EQUITY.

(a) POLICY STATEMENT.—It is the intent of Congress that entrance, tourism or recreational use fees for use of Federal lands and facilities not discriminate against any State or any region of the country.

Reports.

(b) FEE STUDY.—The Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1996 to the Committee on Energy and Natural Resources of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall—

(1) identify all Federal lands and facilities that provide recreational or tourism use; and

(2) analyze by State and region any fees charged for entrance, recreational or tourism use, if any, on Federal lands or facilities in a State or region, individually and collectively.

Reports.

(c) RECOMMENDATIONS.—Following completion of the report in subsection (b), the Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1997 to the Committee on Energy and Natural Resources of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall contain recommendations which the Secretary deems appropriate for implementing the congressional intent outlined in subsection (a).

SEC. 710. LAND APPRAISAL.

16 USC 410aaa-80.

Lands and interests in lands acquired pursuant to this Act shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 711. DEFINITION.

16 USC 410aaa-81.

Any reference to the term "this Act" in titles I through IX shall be deemed to be solely a reference to sections 1 and 2, and titles I through IX.

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

California Military Lands Withdrawal and Overflights Act of 1994.

SEC. 801. SHORT TITLE AND FINDINGS.

Short title.

Ante, p. 4471.

16 USC 410aaa-82 note.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

(2) the National Park System units and wilderness areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(3) there is a lack of alternative sites available for these military training, testing, and research activities;

(4) continued use of the lands and airspace in the California desert region is essential for military purposes; and

(5) continuation of these military activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. MILITARY OVERFLIGHTS.

16 USC 410aaa-82.

(a) OVERFLIGHTS.—Nothing in this Act, the Wilderness Act, or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude low-level overflights of military aircraft over such units, including military overflights that can be seen or heard within such units.

(b) SPECIAL AIRSPACE.—Nothing in this Act, the Wilderness Act, or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude the designation of new units of special airspace or the use or establishment of military flight training routes over such new park system or wilderness units.

(c) NO EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to modify, expand, or diminish any authority under other Federal law.

SEC. 803. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support;

(D) geothermal leasing and development and related power production activities; and

(E) subject to the requirements of section 804(f) of this title, other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands located within the boundaries of the China Lake Naval Weapons Center, comprising approximately one million one hundred thousand acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f) of this title, other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately two hundred twenty-six thousand seven hundred and eleven acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated July 1993.

SEC. 804. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary shall—

Federal Register, publication.

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy

and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the appropriate offices of the Bureau of Land Management; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary for the cost of implementing this section.

SEC. 805. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary shall manage the lands withdrawn under section 802 of this title pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 of this title may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders were permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) of this title (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 802(a) of this title (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

Notification.

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 of this title during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 of this title as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary and the Secretary of the Navy shall (with respect to each land withdrawal under section 802 of this title) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—Lands withdrawn under section 802 of this title may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary may assign the management responsibility for the lands withdrawn under section 802(a) of this title to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary and the Secretary of the Navy: *Provided,* That nothing in this subsection shall affect geothermal leases issued by the Secretary prior to

the date of enactment of this title, or the responsibility of the Secretary to administer and manage such leases, consistent with the provisions of this section. In the case that the Secretary assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary) shall develop such management plan.

(2) The Secretary shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) of this title and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary shall transmit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Reports.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) of this title and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) of this title pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary before taking action under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal or relinquishment of China Lake, Navy contracts for the development of geothermal resources at China Lake then in effect (as amended or renewed by the Navy after the date of enactment of this title) shall remain in effect: *Provided,* That the Secretary, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

SEC. 806. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawals and reservations established by this title shall terminate twenty years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than eighteen years after the date of enactment of this title, the Secretary Publication.

of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this section. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution of Congress.

SEC. 807. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the United States Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the United States House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including—

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full contamination of such lands and the estimate of the time to complete such decontamination.

SEC. 808. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary of the Navy shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the

Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of the Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

Federal Register, publication.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquish-

Federal Register, publication.

ment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands law, including the mining laws.

SEC. 809. DELEGABILITY.

(a) DEPARTMENT OF DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) DEPARTMENT OF THE INTERIOR.—The functions of the Secretary under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 810. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 811. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 812. EL CENTRO RANGES.

The Secretary is authorized to permit the Secretary of the Navy to use until January 1, 1997, the approximately forty-four thousand eight hundred and seventy acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. All military uses of such lands shall cease on January 1, 1997, unless authorized by a subsequent Act of Congress.

Short title.
Ante, p. 4471.

TITLE IX—AUTHORIZATION OF APPROPRIATIONS

16 USC 410aaa-83.

SEC. 901. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the National Park Service and to the Bureau of Land Management to carry out this Act an amount not to exceed $36,000,000 over and above that provided in fiscal year 1994 for additional administrative and construction costs over the fiscal year 1995–1999 period, and $300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific

authorization in an Act of Congress enacted after the date of enactment of this Act.

TITLE X—PROTECTION OF BODIE BOWL

Bodie Protection Act of 1994.

SEC. 1001. SHORT TITLE.

This title may be cited as the "Bodie Protection Act of 1994".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated as a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghost town character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 1003. DEFINITIONS.

For the purposes of this title:

(1) The term "Bodie Bowl" means the Federal lands and interests therein within the area generally depicted on the map referred to in section 1004(a).

(2) The term "mineral activities" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 1004. APPLICABILITY OF MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICTION.—Subject to valid existing rights, after the date of enactment of this title Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Management and the National Park Service. As soon as practicable after the date of enactment of this title, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in this section, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this title, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this title, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this title. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within two years after the date of enactment of this title.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After January 11, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this title, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After January 11, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before January 11, 1993; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this title, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 1005. MINERAL ACTIVITIES.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities be conducted in the Bodie Bowl so as to—

(1) avoid adverse effects on the historic, cultural, recreational, and natural resource values of the Bodie Bowl; and

(2) minimize other adverse impacts to the environment.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (d).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate rules to implement this section, in consultation with the Governor of the State of California, within 180 days after the date of enactment of this title. Such rules shall be no less stringent that the rules promulgated pursuant to the Act of September 28, 1976 entitled "An Act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National

Park System, and for other purposes" (Public Law 94–429; 16 U.S.C. 1901–1912).

SEC. 1006. STUDY.

Beginning as soon as possible after the date of enactment of this title, the Secretary shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

16 USC 1a-5 note.

TITLE XI—LOWER MISSISSIPPI DELTA REGION INITIATIVES

SEC. 1101. FINDINGS.

(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100–460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities for Delta residents;

(4) the Delta Initiatives Report recommended—

(A) designating the Great River Road as a scenic byway, and designating other hiking and motorized trails throughout the Delta Region;

(B) that the Federal Government identify sites and structures of historic and prehistoric importance throughout the Delta Region;

(C) the further study of potential new units of the National Park System within the Delta Region; and

(D) that Federal agencies target more monies in selected areas to institutions of higher education in the Delta Region, especially Historically Black Colleges and Universities.

SEC. 1102. DEFINITIONS.

As used in this title, the term—

(1) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100–460;

(2) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential";

(3) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this title;

(4) "Department" means the United States Department of the Interior, unless otherwise specifically stated;

(5) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2));

(6) "minority college or university" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3));

(7) "Secretary" means the Secretary of the Interior, unless otherwise specifically stated.

SEC. 1103. LOWER MISSISSIPPI DELTA REGION HERITAGE STUDY.

(a) IN GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Lower Mississippi Delta Development Center, and other appropriate Delta Region institutions, is directed to prepare and transmit to the Congress within three years after the date of the enactment of this title, a study of significant natural, recreational, historical or prehistorical, and cultural lands, waters, sites, and structures located within the Delta Region. This study shall take into consideration the research and inventory of resources conducted by the Mississippi River Heritage Corridor Study Commission.

(b) TRANSPORTATION ROUTES.—(1) The study shall include recommendations on appropriate designation and interpretation of historically significant roads, trails, byways, waterways, or other routes within the Delta Region.

(2) In order to provide for public appreciation, education, understanding, interpretation, and enjoyment of the significant sites identified pursuant to subsection (a), which are accessible by public roads, the Secretary shall recommend in the study vehicular tour routes along existing public roads linking such sites within the Delta Region.

(3) Such recommendations shall include an analysis of designating the Great River Road (as depicted on the map entitled "Proposed Delta Transportation Network" on pages 102–103 of the Delta Initiatives Report) and other sections of the Great River Road between Baton Rouge and New Orleans, Louisiana and an analysis of des-

ignating that portion of the Old Antonio Road and the Louisiana Natchez Trace which extends generally along Highway 84 from Vidalia, Louisiana, to Clarence, Louisiana, and Louisiana Highway 6 from Clarence, Louisiana, to the Toledo Bend Reservoir, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(4) The Secretary shall also recommend in the study an appropriate route along existing public roads to commemorate the importance of timber production and trade to the economic development of the Delta Region in the early twentieth century, and to highlight the continuing importance of timber production and trade to the economic life of the Delta Region. Recommendations shall include an analysis of designating that portion of US 165 which extends from Alexandria, Louisiana, to Monroe, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(5) The study shall also include a comprehensive recreation, interpretive, and visitor use plan for the routes described in the above paragraphs, including bicycle and hiking paths, and make specific recommendations for the acquisition and construction or related interpretive and visitor information facilities at selected sites along such routes.

(6) The Secretary is authorized to make grants to States for work necessary to stabilize, maintain, and widen public roads to allow for adequate access to the nationally significant sites and structures identified by the study, to allow for proper use of the vehicular tour route, trails, byways, including the routes defined in paragraphs (3) and (4) or other public roads within the Delta Region and to implement the comprehensive recreation, interpretive, and visitor use plan required in paragraph (5).

(c) LISTING.—On the basis of the study, and in consultation with the National Trust for Historic Preservation, the Secretary shall inventory significant structures and sites in the Delta Region. The Secretary shall further recommend and encourage cooperative preservation and economic development efforts such as the establishment of preservation districts linking groups of contiguous counties or parishes, especially those that lie along the aforementioned designated routes. The Secretary shall prepare a list of the sites and structures for possible inclusion by the National Park Service as National Historic Landmarks or such other designation as the Secretary deems appropriate.

SEC. 1104. DELTA REGION HERITAGE CORRIDORS AND HERITAGE AND CULTURAL CENTERS.

(a) FINDINGS.—The Congress finds that—

(1) in 1990, the Congress authorized the Institute of Museum Services to prepare a report assessing the needs of small, emerging, minority, and rural museums in order to identify the resources such museums needed to meet their educational mission, to identify the areas of museum operation in which the needs were greatest, and tc make recommendations on how these needs could best be met;

(2) the Institute of Museum Services undertook a comprehensive eighteen month study of such needs with the assistance of two advisory groups, surveyed 524 museums from throughout the Nation, held discussion groups in which rep-

resentatives of 25 museum groups participated, and conducted case studies of 12 museum facilities around the Nation;

(3) on the basis of this assessment, the Institute of Museum Services issued a report in September, 1992, entitled, "National Needs Assessment of Small, Emerging, Minority and Rural Museums in the United States" (hereinafter "National Needs Assessment") which found that small, emerging, minority, and rural museums provide valuable educational and cultural resources for their communities and contain a reservoir of the Nation's material, cultural and historical heritage, but due to inadequate resources are unable to meet their full potential or the demands of the surrounding communities;

(4) the needs of these institutions are not being met through existing Federal programs;

(5) fewer than half of the participants in the survey had applied for Federal assistance in the past two years and that many small, emerging, minority and rural museums believe existing Federal programs do not meet their needs;

(6) based on the National Needs Assessment, that funding agencies should increase support available to small, emerging, minority, and rural museums and make specific recommendations for increasing technical assistance in order to identify such institutions and provide assistance to facilitate their participation in Federal programs;

(7) the Delta Initiatives Report made specific recommendations for the creation and development of centers for the preservation of the cultural, historical, and literary heritage of the Delta Region, including recommendations for the establishment of a Delta Region Native American Heritage and Cultural Center and a Delta Region African American Heritage and Cultural Center with additional satellite centers or museums linked throughout the Delta Region;

(8) the Delta Initiatives Report stated that new ways of coordinating, preserving, and promoting the Delta Region's literature, art, and music should be established including the creation of a network to promote the Delta Region's literary, artistic, and musical heritage; and

(9) wholesale destruction and attrition of archeological sites and structures has eliminated a significant portion of Native American heritage as well as the interpretive potential of the Delta Region's parks and museums. Furthermore, site and structure destruction is so severe that an ambitious program of site and structure acquisition in the Delta Region is necessary.

(b) IN GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Smithsonian Institution, the Lower Mississippi Delta Development Center, Historically Black Colleges and Universities, and appropriate African American, Native American and other relevant institutions or organizations in the Delta Region, is further directed to prepare and transmit to the Congress a plan outlining specific recommendations, including recommendations for necessary funding, for the establishment of a Delta Region Native American Heritage Corridor and Heritage and Cultural Center and a Delta Region African American Heritage Corridor and

Heritage and Cultural Center with a network of satellite or cooperative units.

(c) DELTA REGION NATIVE AMERICAN HERITAGE CORRIDOR AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a network of parks, museums, and other centers to interpret Native American culture and heritage in the Delta Region, including a ten year development strategy for such a network.

(2) Such plan shall include specific proposals for the development of a Native American Heritage Corridor and Heritage and Cultural Center in the Delta Region, along with recommendations for the appropriate Federal role in such a center including matching grants, technical and interpretive assistance.

(3) Such plan shall be conducted in consultation with tribal leaders in the Delta Region.

(4) Such plan shall also include specific proposals for educational and training assistance for Delta Region Native Americans to carry out the recommendations provided in the study.

(d) DELTA REGION AFRICAN AMERICAN HERITAGE CORRIDOR AND HERITAGE AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a heritage corridor or trail system, consisting of one or two major north-south routes and several east-west-spur loops to preserve, interpret and commemorate the African American heritage and culture in the Delta Region during all significant historical periods.

(2) Such plan shall make specific recommendations for representing all forms of expressive culture including the musical, folklore, literary, artistic, scientific, historical, educational, and political contributions and accomplishments of African Americans in the Delta Region.

(3) Such plan shall make specific recommendations for implementing the findings of the Delta Initiatives Report with respect to establishing an African American Heritage Corridor and Heritage and Cultural Center and related satellite museums in the Delta Region, together with specific funding levels necessary to carry out these recommendations and shall also include recommendations for improving access of small, emerging, minority or rural museums to technical and financial assistance.

(4) Such plan shall be conducted in consultation with institutions of higher education in the Delta Region with expertise in African American studies, Southern studies, archeology, anthropology, history and other relevant fields.

(5) Such plan shall make specific recommendations for improving educational programs offered by existing cultural facilities and museums as well as establishing new outreach programs for elementary, middle and secondary schools, including summer programs for youth in the Delta Region.

(e) GRANTS.—(1) In furtherance of the purposes of this section, the Secretary is authorized to make planning grants to State Humanities Councils in the Delta Region to assist small, emerging, minority and rural museums selected on a financial needs basis in the development of a comprehensive long term plan for these institutions. The Secretary is also authorized to make implementation grants to State Humanities Councils in the Delta Region who, in consultations with State Museum Associations, shall make grants to small, emerging, minority or rural museums for the purpose

of carrying out an approved plan for training personnel, improving exhibits or other steps necessary to assure the integrity of collections in their facilities, for educational outreach programs, or for other activities the Secretary deems appropriate including the promotion of tourism in the region. Such institutions shall be selected competitively and on the basis of demonstrated financial need. The Secretary is also authorized to make grants to State Humanities Councils to update, simplify and coordinate the respective State Works Progress Administration guides and to develop a single comprehensive guide for the Delta Region.

(2) The Secretary is authorized to provide grants and other appropriate technical assistance to State Humanities Councils, State museum Associations, and State Arts Councils in the Delta Region for the purpose of assessing the needs of such institutions. Such grants may be used by these institutions to undertake such an assessment and to provide other technical, administrative and planning assistance to small, emerging, minority or rural institutions seeking to preserve the Delta Region's literary, artistic, and musical heritage.

(f) MUSIC HERITAGE PROGRAM.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a Music Heritage Program, with specific emphasis on the Mississippi Delta Blues. The plan shall include specific recommendations for developing a network of heritage sites, structures, small museums, and festivals in the Delta Region.

(2) The plan shall include an economic strategy for the promotion of the Delta Region's music, through the participation of musicians, festival developers, museum operators, universities, economic development districts, and other relevant individuals and organizations.

(g) COMPLETION DATE.—The plan authorized in this section shall be completed not later than three years after the date funds are made available for such plan.

SEC. 1105. HISTORIC AND PREHISTORIC STRUCTURES AND SITES SURVEY. Minorities.

(a) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities to undertake a comprehensive survey of historic and prehistoric structures and sites located on their campuses, including recommendations as to the inclusion of appropriate structures and sites on the National Register of Historic Places, designation as National Historic Landmarks, or other appropriate designation as determined by the Secretary. The Secretary shall also make specific proposals and recommendations, together with estimates of necessary funding levels, for a comprehensive plan to be carried out by the Department to assist Historically Black Colleges and Universities in the preservation and interpretation of such sites and structures.

(b) GRANTS.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities for stabilization, preservation and interpretation of such sites and structures.

SEC. 1106. DELTA ANTIQUITIES SURVEY.

(a) IN GENERAL.—(1) The Secretary is directed to prepare and transmit to the Congress, in cooperation with the States of the Delta Region, State Archaeological Surveys and Regional

Archeological Centers, a study of the feasibility of establishing a Delta Antiquities Trail or Delta Antiquities Heritage Corridor in the Delta Region.

(2) Such study shall, to the extent practicable, use nonintrusive methods of identifying, surveying, inventorying, and stabilizing ancient archeological sites and structures.

(3) In undertaking this study, the Secretary is directed to enter into cooperative agreements with the States of the Delta Region, the State Archeological Surveys, and Regional Archeological Centers located in Delta Region institutions of higher education for on-site activities including surveys, inventories, and stabilization and other activities which the Secretary deems appropriate.

(4) In addition to the over 100 known ancient archeological sites located in the Delta Region including Watson's Brake, Frenchman's Bend, Hedgepeth, Monte Sano, Banana Bayou, Hornsby, Parkin, Toltec, Menard-Hodges, Eaker, Blytheville Mound, Nodena, Taylor Mounds, DeSoto Mound and others, such study shall also employ every practical means possible, including assistance from the National Aeronautics and Space Administration, the Forest Service and Soil Conservation Service of the Department of Agriculture, the Army Corps of Engineers of the Department of Defense, and other appropriate Federal agencies, to locate and confirm the existence of a site known as Balbansha in southern Louisiana and a site known as Autiamque in Arkansas. The heads of these Federal agencies shall cooperate with the Secretary as the Secretary requires on a non-reimbursable basis.

(b) TECHNICAL ASSISTANCE.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical assistance and grants to private landowners for necessary stabilization activities of identified sites and for preparing recommendations for designating such sites as National Landmarks or other appropriate designations as the Secretary, with the concurrence of the landowners, determines to be appropriate.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the States, State Archeological Surveys, and Regional Archeological Centers of the Delta Region to develop a ten-year plan for the stabilization, preservation and interpretation of those sites and structures as may be identified by the Secretary.

SEC. 1107. HISTORIC AND ARCHEOLOGICAL RESOURCES PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a comprehensive program for the research, interpretation, and preservation of significant historic and archeological resources in the Delta Region.

(b) ELEMENTS OF THE PROGRAM.—The program shall include, but not be limited to—

(1) identification of research projects related to historic and archeological resources in the Delta Region and a proposal for the regular publication of related research materials and publications;

(2) the development of a survey program to investigate, inventory and further evaluate known historic and archeological sites and structures and identify those sites and structures that require additional study;

(3) identification of a core system of interpretive sites and structures that would provide a comprehensive overview of historic and archeological resources of the Delta Region;

(4) preparation of educational materials to interpret the historical and archeological resources of the Delta Region;

(5) preparation of surveys and archeological and historical investigations of sites, structures, and artifacts relating to the Delta Region, including the preparation of reports, maps, and other related activities.

(c) GRANTS AND TECHNICAL ASSISTANCE.—(1) The Secretary is authorized to award grants to qualified tribal, governmental and non-governmental entities and individuals to assist the Secretary in carrying out those elements of the program which the Secretary deems appropriate.

(2) The Secretary is further authorized to award grants and provide other types of technical and financial assistance to such entities and individuals to conserve and protect historic and archeological sites and structures in the Delta Region identified in the program prepared pursuant to this section.

(d) DEMONSTRATION PROJECT.—The Secretary shall establish a national demonstration project for the conservation and curation of the archeological records and collections of Federal and State management agencies in the Delta Region.

SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE XII—NEW ORLEANS JAZZ NATIONAL HISTORICAL PARK

New Orleans Jazz National Historical Park Act of 1994. Cultural preservation. 16 USC 410bbb note.

SEC. 1201. SHORT TITLE.

This title may be cited as the "New Orleans Jazz National Historical Park Act of 1994".

SEC. 1202. FINDINGS AND PURPOSE. 16 USC 410bbb.

(a) FINDINGS.—The Congress finds that:

(1) Jazz is the United States' most widely recognized indigenous music and art form. Congress previously recognized jazz in 1987 through Senate Concurrent Resolution 57 as a rare and valuable national treasure of international importance.

(2) The city of New Orleans is widely recognized as the birthplace of jazz. In and around this city, cultural and musical elements blended to form the unique American music that is known as New Orleans jazz, which is an expression of the cultural diversity of the lower Mississippi Delta Region.

(3) Jean Lafitte National Historical Park and Preserve was established to commemorate the cultural diversity of the lower Mississippi Delta Region including a range of cultural expressions like jazz.

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of jazz, it is the purpose of this title to establish a New Orleans Jazz National Historical Park to preserve the origins, early history, development and progression of jazz; provide visitors with opportunities to experience the sights, sounds, and places where jazz evolved; and implement innovative ways of establishing jazz educational partnerships that will help to ensure that jazz continues as a vital element of the culture of New Orleans and our Nation.

16 USC 410bbb-1.

SEC. 1203. ESTABLISHMENT.

(a) IN GENERAL.—In order to assist in the preservation, education, and interpretation of jazz as it has evolved in New Orleans, and to provide technical assistance to a broad range of organizations involved with jazz music and its history, there is hereby established the New Orleans Jazz National Historical Park (hereinafter referred to as the "historical park"). The historical park shall be administered in conjunction with the Jean Lafitte National Historical Park and Preserve, which was established to preserve and interpret the cultural and natural resources of the lower Mississippi Delta Region.

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) Lands which the Secretary of the Interior (hereinafter referred to as "the Secretary") may designate for an interpretive visitor center complex.

(2) Sites that are the subject of cooperative agreements with the National Park Service for the purposes of interpretive demonstrations and programs associated with the purposes of this title.

(3)(A) Sites designated by the Secretary as provided in subparagraph (B).

(B)(i) No later than 18 months after the date of enactment of this title, the Secretary is directed to complete a national historic landmark evaluation of sites associated with jazz in and around New Orleans as identified in the document entitled "New Orleans Jazz Special Resource Study", prepared by the National Park Service pursuant to Public Law 101–499. In undertaking the evaluation, the Secretary shall, to the extent practicable, utilize existing information relating to such sites.

(ii) If any of the sites evaluated are found to meet the standards of the National Historic Landmark program and National Park Service tests of suitability and feasibility, and offer outstanding opportunities to further the purposes of this title, the Secretary may designate such sites as part of the historical park, following consultation with the owners of such sites, the city of New Orleans, the Smithsonian Institution, and the New Orleans Jazz Commission, and notification to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

16 USC 410bbb-2.

SEC. 1204. ADMINISTRATION.

(a)(1) IN GENERAL.—The Secretary shall administer the historical park in accordance with this title and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). The Secretary shall manage the historical park in such a manner as will preserve and perpetuate knowledge and understanding of the history of jazz and its continued evolution as a true American art form.

(2) To minimize operational costs associated with the management and administration of the historical park and to avoid duplication of effort, the Secretary shall, to the maximum extent prac-

ticable, utilize the facilities, administrative staff and other services of the Jean Lafitte National Historical Park and Preserve.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or other public entities for the purposes of providing services, programs, and facilities that further the purposes of this title.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center in the historical park on lands identified by the Secretary pursuant to section 1203(b)(1). Programs at the center shall include, but need not be limited to, live jazz interpretive and educational programs, and shall provide visitors with information about jazz-related programs, performances, and opportunities.

(d) JAZZ HERITAGE DISTRICTS.—The Secretary may provide technical assistance to the city of New Orleans and other appropriate entities for the designation of certain areas in and around New Orleans as jazz heritage districts. Such districts shall include those areas with an exceptional concentration of jazz historical sites and established community traditions of jazz street parades.

(e) COOOPERATIVE AGREEMENTS, GRANTS AND TECHNICAL ASSISTANCE.—In furtherance of the purposes of this title—

(1) the Secretary, after consultation with the New Orleans Jazz Commission established pursuant to section 1207, is authorized to enter into cooperative agreements with owners of properties that are designated pursuant to section 1203(b)(3) which provide outstanding educational and interpretive opportunities relating to the evolution of jazz in New Orleans. The Secretary may assist in rehabilitating, restoring, marking, and interpreting and may provide technical assistance for the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the National Park Service will have reasonable rights of access for operational and visitor use needs, that rehabilitation and restoration will meet the Secretary's standards for rehabilitation of historic buildings, and that specify the roles and responsibilities of the Secretary for each site or structure;

(2) the Secretary is authorized to enter into cooperative agreements with the city of New Orleans, the State of Louisiana, and other appropriate public and private organizations under which the other parties to the agreement may contribute to the acquisition, construction, operation, and maintenance of the interpretive center and to the operation of educational and interpretive programs to further the purposes of this title; and

(3) the Secretary, in consultation with the New Orleans Jazz Commission, is authorized to provide grants or technical assistance to public and private organizations.

(f) JAZZ EDUCATIONAL PROGRAMS.—The Secretary shall, in the administration of the historical park, promote a broad range of educational activities relating to jazz and its history. The Secretary shall cooperate with schools, universities, and organizations supporting jazz education to develop educational programs that provide expanded public understanding of jazz and enhanced opportunities for public appreciation. The Secretary may assist appropriate entities in the development of an information base

including archival material, audiovisual records, and objects that relate to the history of jazz.

16 USC 410bbb-3.

SEC. 1205. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—The Secretary may acquire lands and interests therein within the sites designated pursuant to section 1203(b)(1) and (3) by donation or purchase with donated or appropriated funds or long term lease: *Provided,* That sites designated pursuant to section 1203(b)(3) shall only be acquired with the consent of the owner thereof.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests in lands which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

16 USC 410bbb-4.

SEC. 1206. GENERAL MANAGEMENT PLAN.

Within three years after the date funds are made available therefor and concurrent with the national landmark study referenced in section 1203(b)(3), the Secretary, in consultation with the New Orleans Jazz Commission, shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities associated with park programs that will be made available to the public;

(2) preservation and use plans for any structures and sites that are identified through the historic landmark study for inclusion within the historical park;

(3) the location and associated cost of public facilities that are proposed for inclusion within the historical park, including a visitor center;

(4) identification of programs that the Secretary will implement or be associated with through cooperative agreements with other groups and organizations;

(5) a transportation plan that addresses visitor use access needs to sites, facilities, and programs central to the purpose of the historical park;

(6) plans for the implementation of an archival system for materials, objects, and items of importance relating to the history of jazz; and

(7) guidelines for the application of cooperative agreements that will be used to assist in the management of historical park facilities and programs.

16 USC 410bbb-5.

SEC. 1207. ESTABLISHMENT OF THE NEW ORLEANS JAZZ COMMISSION.

(a) ESTABLISHMENT.—To assist in implementing the purposes of this title and the document entitled "New Orleans Jazz Special Resource Study", there is established the New Orleans Jazz Commission (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 17 members to be appointed no later than six months after the date of enactment of this title. The Commission shall be appointed by the Secretary as follows:

(1) One member from recommendations submitted by the Mayor of New Orleans.

(2) Two members who have recognized expertise in music education programs that emphasize jazz.

(3) One member, with experience in and knowledge of tourism in the greater New Orleans area, from recommendations submitted by local businesses.

(4) One member from recommendations submitted by the Board of the New Orleans Jazz and Heritage Foundation.

(5) One member, with experience in and knowledge of historic preservation within the New Orleans area.

(6) Two members, one from recommendations submitted by the Secretary of the Smithsonian Institution and one member from recommendations submitted by the Chairman of the National Endowment of the Arts, who are recognized musicians with knowledge and experience in the development of jazz in New Orleans.

(7) Two members, one from recommendations submitted by the Secretary of the Smithsonian Institution and one member from recommendations submitted by the Director of the Louisiana State Museum with recognized expertise in the interpretation of jazz history or traditions related to jazz in New Orleans.

(8) Two members who represent local neighborhood groups or other local associations; from recommendations submitted by the Mayor of New Orleans.

(9) One member representing local mutual aid and benevolent societies as well as local social and pleasure clubs, from recommendations submitted by the Board of the New Orleans Jazz and Heritage Foundation.

(10) One member from recommendations submitted by the Governor of the State of Louisiana, who shall be a member of the Louisiana State Music Commission.

(11) One member representing the New Orleans Jazz Club from recommendations submitted by the club.

(12) One member who is a recognized local expert on the history, development and progression of jazz in New Orleans and is familiar with existing archival materials from recommendations submitted by the Librarian of Congress.

(13) The Director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) advise the Secretary in the preparation of the general management plan for the historical park; assist in public discussions of planning proposals; and assist the National Park Service in working with individuals, groups, and organizations including economic and business interests in determining programs in which the Secretary should participate through cooperative agreement;

(2) in consultation and cooperation with the Secretary, develop partnerships with educational groups, schools, universities, and other groups to furtherance of the purposes of this title;

(3) in consultation and cooperation with the Secretary, develop partnerships with city-wide organizations, and raise and disperse funds for programs that assist mutual aid and benevolent societies, social and pleasure clubs and other traditional groups in encouraging the continuation of and enhancement of jazz cultural traditions;

(4) acquire or lease property for jazz education, and advise on hiring brass bands and musical groups to participate in education programs and help train young musicians;

(5) in consultation and cooperation with the Secretary, provide recommendations for the location of the visitor center and other interpretive sites;

(6) assist the Secretary in providing funds to support research on the origins and early history of jazz in New Orleans; and

(7) notwithstanding any other provision of law, seek and accept donations of funds, property, or services from individuals, foundations, corporations, or other public or private entities and expend and use the same for the purposes of providing services, programs, and facilities for jazz education, or assisting in the rehabilitation and restoration of structures identified in the national historic landmark study referenced in section 1203(b)(3) as having outstanding significance to the history of jazz in New Orleans.

(d) APPOINTMENT.—Members of the Commission shall be appointed for staggered terms of 3 years, as designated by the Secretary at the time of the initial appointment.

(e) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(f) TERMS.—Any member of the Commission appointed by the Secretary for a 3-year term may serve after the expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(g) PER DIEM EXPENSES.—Members of the Commission shall serve without compensation. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

(h) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission with assistance in obtaining such personnel, equipment, and facilities as may be needed by the Commission to carry out its duties.

(i) ANNUAL REPORT.—The Commission shall submit an annual report to the Secretary identifying its expenses and income and the entities to which any grants or technical assistance were made during the year for which the report is made.

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS. 16 USC 410bbb-6.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

Approved October 31, 1994.

LEGISLATIVE HISTORY—S. 21 (H.R. 518):

HOUSE REPORTS: Nos. 103-498 accompanying H.R. 518 (Comm. on Natural Resources) and 103-832 (Comm. of Conference).
SENATE REPORTS: No. 103-165 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Apr. 12, 13, considered and passed Senate.
May 17, June 10, 13, July 12-14, 27, H.R. 518 considered and passed House; S. 21, amended, passed in lieu.
Oct. 6, House agreed to conference report.
Oct. 7, 8, Senate considered and agreed to conference report
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Oct. 31, Presidential statement.

Public Law 103-434
103d Congress

An Act

Oct. 31, 1994
[S. 1146]

To provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994.

TITLE I—YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994".

SEC. 102. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to the Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 7, 1935, and by actions subsequent thereto, the United States established a reservation for the Yavapai-Prescott Indian Tribe in Arizona adjacent to the city of Prescott;

(5) proceedings to determine the full extent of Yavapai-Prescott Tribe's water rights are currently pending before the Superior Court of the State of Arizona in and for Maricopa County, as part of the general adjudication of the Gila River system and source;

(6) recognizing that final resolution of the general adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the full extent of the Yavapai-Prescott Tribe's entitlement to water and the availability of water supplies to fulfill that entitlement, and impair orderly planning and development by the Tribe and the city of Prescott; the Tribe, the city of Prescott, the Chino Valley Irrigation

District, the State of Arizona and the United States have sought to settle all claims to water between and among them;

(7) representatives of the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have negotiated a Settlement Agreement to resolve all water rights claims between and among them, and to provide the Tribe with long term, reliable water supplies for the orderly development and maintenance of the Tribe's reservation;

(8) pursuant to the Settlement Agreement and the Water Service Agreement, the quantity of water made available to the Yavapai-Prescott Tribe by the city of Prescott and the Chino Valley Irrigation District will be secured, such Agreements will be continued in perpetuity, and the Tribe's continued on-reservation use of water for municipal and industrial, recreational and agricultural purposes will be provided for;

(9) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and assist in firming up the long-term water supplies of the city of Prescott and the Yavapai-Prescott Tribe so as to enable the Tribe to utilize fully its water entitlements in developing a diverse, efficient reservation economy; and

(10) the assignment of the CAP contract of the Yavapai-Prescott Tribe and the CAP subcontract of the city of Prescott is a cost-effective means to ensure reliable, long-term water supplies for the Yavapai-Prescott Tribe and to promote efficient, environmentally sound use of available water supplies in the Verde River basin.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this title are—

(1) to approve, ratify and confirm the Settlement Agreement among the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement;

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Yavapai-Prescott Tribe as provided in the Settlement Agreement and this title;

(4) to require that expenditures of funds obtained through the assignment of CAP contract entitlements by the Yavapai-Prescott Tribe and Prescott for the acquisition or development of replacement water supplies in the Verde River basin shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of riparian habitat, flows and biota of the Verde River and its tributaries; and

(5) to repeal section 406(k) of Public Law 101–628 which authorizes $30,000,000 in appropriations for the acquisition of land and water resources in the Verde River basin and for the development thereof as an alternative source of water for the Fort McDowell Indian Community.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(2) The term "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 1, 1988, for the delivery of water and repayment of costs of the Central Arizona Project.

(3) The term "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(4) The term "Prescott AMA" means the Active Management Area, established pursuant to Arizona law and encompassing the Prescott ground water basin, wherein the primary goal is to achieve balance between annual ground water withdrawals and natural and artificial recharge by the year 2025.

(5) The term "Prescott" means the city of Prescott, an Arizona municipal corporation.

(6) The term "Reservation" means the reservation established by the Act of June 7, 1935 (49 Stat. 332) and the Act of May 18, 1956 (70 Stat. 157) for the Yavapai-Prescott Tribe of Indians.

(7) The term "Secretary" means the Secretary of the United States Department of the Interior.

(8) The term "Settlement Agreement" means that agreement entered into by the city of Prescott, the Chino Valley Irrigation District, the Yavapai-Prescott Indian Tribe, the State of Arizona, and the United States, providing for the settlement of all water claims between and among them.

(9) The term "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

(10) The term "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the city of Prescott, as approved by the Secretary, providing for water, sewer, and effluent service from the city of Prescott to the Yavapai-Prescott Tribe.

SEC. 104. RATIFICATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL OF SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this title, such Agreement is approved, ratified and confirmed. The Secretary shall execute and perform such Agreement, and shall execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(b) PERPETUITY.—The Settlement Agreement and Water Service Agreement shall include provisions which will ensure that the benefits to the Tribe thereunder shall be secure in perpetuity. Notwithstanding the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81) relating to the term of the Agreement, the Secretary is authorized and directed to approve the Water Service Agreement with a perpetual term.

SEC. 105. ASSIGNMENT OF CAP WATER.

The Secretary is authorized and directed to arrange for the assignment of, or to purchase, the CAP contract of the Tribe and

the CAP subcontract of the city of Prescott to provide funds for deposit into the Verde River Basin Water Fund established pursuant to section 106.

SEC. 106. REPLACEMENT WATER FUND; CONTRACTS.

(a) FUND.—The Secretary shall establish a fund to be known as the "Verde River Basin Water Fund" (hereinafter called the "Fund") to provide replacement water for the CAP water relinquished by the Tribe and by Prescott. Moneys in the Fund shall be available without fiscal year limitations.

(b) CONTENT OF FUND.—The Fund shall consist of moneys obtained through the assignment or purchase of the contract and subcontract referenced in section 105, appropriations as authorized in section 109, and any moneys returned to the Fund pursuant to subsection (d) of this section.

(c) PAYMENTS FROM FUND.—The Secretary shall, subsequent to the publication of a statement of findings as provided in section 112(a), promptly cause to be paid from the Fund to the Tribe the amounts deposited to the Fund from the assignment or purchase of the Tribe's CAP contract, and, to the city of Prescott, the amounts deposited to the Fund from the assignment or purchase of the city's CAP subcontract.

(d) CONTRACTS.—The Secretary shall require, as a condition precedent to the payment of any moneys pursuant to subsection (c), that the Tribe and Prescott agree, by contract with the Secretary, to establish trust accounts into which the payments would be deposited and administered, to use such moneys consistent with the purpose and intent of section 107, to provide for audits of such accounts, and for the repayment to the Fund, with interest, any amount determined by the Secretary not to have been used within the purpose and intent of section 107.

SEC. 107. EXPENDITURES OF FUNDS.

(a) BY THE CITY.—All moneys paid to Prescott for relinquishing its CAP subcontract and deposited into a trust account pursuant to section 106(d), shall be used for the purposes of defraying expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under this title. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated water rights, development of ground water resources outside the Prescott Active Management Area established pursuant to the laws of the State of Arizona, and artificial recharge; except that none of the moneys paid to Prescott may be used for construction or renovation of the city's existing waterworks or water delivery system.

(b) BY THE TRIBE.—All funds paid to the Tribe for relinquishing its CAP contract and deposited into a trust account pursuant to section 106(d), shall be used to defray its water service costs under the Water Service Agreement or to develop and maintain facilities for on-reservation water or effluent use.

(c) NO PER CAPITA PAYMENTS.—No amount of the Tribe's portion of the Fund may be used to make per capita payments to any member of the Tribe, nor may any amount of any payment made pursuant to section 106(c) be distributed as a dividend or per capita payment to any constituent, member, shareholder, director or employee of Prescott.

(d) DISCLAIMER.—Effective with the payment of funds pursuant to section 106(c), the United States shall not be liable for any claim or cause of action arising from the use of such funds by the Tribe or by Prescott.

SEC. 108. ENVIRONMENTAL COMPLIANCE.

The Secretary, the Tribe and Prescott shall comply with all applicable Federal environmental and State environmental and water laws in developing alternative water sources pursuant to section 107(a). Development of such alternative water sources shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of the riparian habitat, flows and biota of the Verde River and its tributaries.

SEC. 109. APPROPRIATIONS AUTHORIZATION AND REPEAL.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Fund established pursuant to section 106(a):

(1) Such sums as may be necessary, but not to exceed $200,000, to the Secretary for the Tribe's costs associated with judicial confirmation of the settlement.

(2) Such sums as may be necessary to establish, maintain and operate the gauging station required under section 111(e).

(b) STATE CONTRIBUTION.—The State of Arizona shall contribute $200,000 to the trust account established by the Tribe pursuant to the Settlement Agreement and section 106(d) for uses consistent with section 107(b).

(c) REPEAL.—Subsection 406(k) of the Act of November 28, 1990 (Public Law 101–628; 104 Stat. 4487) is repealed.

SEC. 110. SATISFACTION OF CLAIMS.

(a) WAIVER.—The benefits realized by the Tribe or any of its members under the Settlement Agreement and this title shall constitute full and complete satisfaction of all claims by the Tribe and all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water and effluent) from time immemorial to the effective date of this title, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this title. Nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's reservation.

(b) WAIVER AND RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized and required, as a condition to the implementation of this title, to execute a waiver and release, except as provided in subsection (d) and the Settlement Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) WAIVER BY UNITED STATES.—Except as provided in subsection (d) and the Settlement Agreement, the United States, in its own right or on behalf of the Tribe, shall not assert any claim against the State of Arizona or any political subdivision thereof,

or against any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona based upon water rights or injuries to water rights of the Tribe and its members or based upon water rights or injuries to water rights held by the United States on behalf of the Tribe and its members.

(d) RIGHTS RETAINED.—In the event the waivers of claims authorized in subsection (b) of this section do not become effective pursuant to section 112(a), the Tribe, and the United States on behalf of the Tribe, shall retain the right to assert past and future water rights claims as to all reservation lands.

(e) JURISDICTION.—The United States District Court for the District of Arizona shall have original jurisdiction of all actions arising under this title, the Settlement Agreement and the Water Service Agreement, including review pursuant to title 9, United States Code, of any arbitration and award under the Water Service Agreement.

(f) CLAIMS.—Nothing in this title shall be deemed to prohibit the Tribe, or the United States on behalf of the Tribe, from asserting or maintaining any claims for the breach or enforcement of the Settlement Agreement or the Water Service Agreement.

(g) DISCLAIMER.—Nothing in this title shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the reservation of any member of the Tribe.

(h) FULL SATISFACTION OF CLAIMS.—Payments made to Prescott under this title shall be in full satisfaction for any claim that Prescott might have against the Secretary or the United States related to the allocation, reallocation, relinquishment or delivery of CAP water.

SEC. 111. MISCELLANEOUS PROVISIONS.

(a) JOINING OF PARTIES.—In the event any party to the Settlement Agreement should file a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of the Settlement Agreement or this title, naming the United States of America or the Tribe as parties, authorization is hereby granted to join the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived. In the event Prescott submits a dispute under the Water Service Agreement to arbitration or seeks review by the United States District Court for the District of Arizona of an arbitration award under the Water Service Agreement, any claim by the Tribe to sovereign immunity from such arbitration or review is hereby waived.

(b) NO REIMBURSEMENT.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of the Settlement Agreement or this title against any lands within the Yavapai-Prescott Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) WATER MANAGEMENT.—The Tribe shall establish a ground water management plan for the Reservation which, except to be consistent with the Water Service Agreement, the Settlement Agreement and this title, will be compatible with the ground water management plan in effect for the Prescott Active Management

Area and will include an annual information exchange with the Arizona Department of Water Resources. In establishing a ground water management plan pursuant to this section, the Tribe may enter into a Memorandum of Understanding with the Arizona Department of Water Resources for consultation. Notwithstanding any other law, the Tribe may establish a tribal water code, consistent with the above-described water management plan, under which the Tribe will manage, regulate, and control the water resources granted it in the Settlement Act, the Settlement Agreement, and the Water Service Agreement, except that such management, regulation and control shall not authorize any action inconsistent with the trust ownership of the Tribe's water resources.

(d) GAUGING STATION.—The Secretary, acting through the Geological Survey, shall establish, maintain and operate a gauging station at the State Highway 89 bridge across Granite Creek adjacent to the reservation to assist the Tribe and the CVID in allocating the surface flows from Granite Creek as provided in the Settlement Agreement.

SEC. 112. EFFECTIVE DATE.

(a) WAIVERS AND RELEASES.—The waivers and releases required by section 110(b) of this title shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1)(A) the Secretary has determined that an acceptable party, or parties, have executed contracts for the assignments of the Tribe's CAP contract and the city of Prescott's CAP subcontract, and the proceeds from the assignments have been deposited into the Fund as provided in section 106(d); or

(B) the Secretary has executed contracts for the acquisition of the Tribe's CAP contract and the city of Prescott's CAP subcontract as provided in section 106(d);

(2) the stipulation which is attached to the Settlement Agreement as exhibit 9.5, has been approved in substantially the form of such exhibit no later than December 31, 1995;

(3) the Settlement Agreement has been modified to the extent it is in conflict with this title and has been executed by the Secretary; and

(4) the State of Arizona has appropriated and deposited into the Tribe's trust account $200,000 as required by the Settlement Agreement.

(b) DEADLINE.—If the actions described in paragraphs (1), (2), (3), and (4) of subsection (a) have not occurred by December 31, 1995, any contract between Prescott and the United States entered into pursuant to section 106(d) shall not thereafter be effective, and any funds appropriated by the State of Arizona pursuant to the Settlement Agreement shall be returned by the Tribe to the State of Arizona.

SEC. 113. OTHER CLAIMS.

(a) OTHER TRIBES.—Nothing in the Settlement Agreement or this title shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Tribe.

(b) FEDERAL AGENCIES.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal

agency, other than the Bureau of Indian Affairs on behalf of the Tribe.

TITLE II—AUBURN INDIAN RESTORATION

Auburn Indian Restoration Act. California.

SEC. 201. SHORT TITLE. 25 USC 1300*l* note.

This title may be cited as the "Auburn Indian Restoration Act".

SEC. 202. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES. 25 USC 1300*l*.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this title, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85–671), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this title.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this title, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 203. ECONOMIC DEVELOPMENT. 25 USC 1300*l*-1.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 107, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 104.

25 USC 1300*l*–2.

SEC. 204. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or such distributees' or dependent members' Indian heirs or successors in interest.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the Tribe's reservation.

25 USC 1300*l*–3.

SEC. 205. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this title, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 207, an individual shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the individual's name was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671;

(B) the individual was not listed on, but met the requirements that had to be met to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After adoption of a tribal constitution pursuant to section 207, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll

shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 206. INTERIM GOVERNMENT. 25 USC 1300*l*-4.

Until a new tribal constitution and bylaws are adopted and become effective under section 207, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this title, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution adopted July 20, 1991, as long as such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 205(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 207. TRIBAL CONSTITUTION. 25 USC 1300*l*-5.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 205(a) and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), except that absentee balloting shall be permitted regardless of voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 208. DEFINITIONS. 25 USC 1300*l*-6.

For purposes of this title:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 206.

(4) The term "member" means those persons meeting the enrollment criteria under section 205(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 204.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

25 USC 1300*l*-7.

SEC. 209. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this title.

TITLE III—CENTRAL UTAH PROJECT

SEC. 301. APPLICATION OF THE WARREN ACT.

(a) AUTHORITY.—The Secretary of the Interior may—

(1) enter into contracts with private entities pursuant to the Act of February 21, 1911 (commonly known as the "Warren Act") (36 Stat. 925 et seq., chapter 141; 43 U.S.C. 523 et seq.), for the impounding, storage, and carriage of nonproject water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes, using any facilities associated with the Central Utah Project, Utah; and

(2) enter into agreements, under terms and conditions authorized for contracts under such Act, with appropriate officials of other Federal agencies, municipalities, public water districts and agencies, and States for impounding, storage, and carriage of nonproject water for purposes described in paragraph (1) using facilities referred to in such paragraph.

(b) NONPROJECT WATER DEFINED.—In subsection (a), the term "nonproject water" means water that is not from a Federal Reclamation project.

SEC. 302. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

Section 301(d) of Public Law 102–575 (106 Stat. 4626) is amended by adding the following new paragraph at the end:

"(8) Any employee of the District or member of the Board of Directors of the District may serve as a member of the Commission.".

Mountain Park Project Act of 1994, Oklahoma.

TITLE IV—MOUNTAIN PARK PROJECT

SEC. 401. SHORT TITLE.

This title may be cited as the "Mountain Park Project Act of 1994".

SEC. 402. MODIFICATION OF MOUNTAIN PARK PROJECT.

43 USC 616aaaa.

(a) IN GENERAL.—The first section of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Mountain Park reclamation project, Oklahoma, and for other purposes" (Public Law 90–503; 82 Stat. 853) is amended by striking out "and controlling floods." and inserting in lieu thereof "controlling floods, and environmental quality activities. As used in this Act, the term 'environmental quality activity' means any activity that primarily benefits the quality of natural environmental resources.".

(b) REALLOCATION OF PROJECT COSTS.—Such Act is further amended by adding at the end the following new section:

"SEC. 7. (a)(1) Not later than 180 days after the date of enactment of the Mountain Park Project Act of 1994, the Secretary of the Interior (referred to in this section as the 'Secretary') shall— 43 USC 616ffff-2.

"(A) conduct appropriate investigations to determine environmental quality activities that could be carried out for the Mountain Park project; and

"(B) on the basis of the determination made under subparagraph (A), make an appropriate reallocation of the costs of the project under sections 2 and 3 (referred to in this section as 'project costs') to accommodate the environmental quality activities that the Secretary authorizes pursuant to this subsection.

"(2) In conducting investigations under this subsection, the Secretary shall examine the benefits to natural environmental resources achievable from an environmental quality activity that requires reallocating water or using facilities or land of the Mountain Park project, including any of the following activities:

"(A) Developing in-stream flows.

"(B) Developing wetland habitat.

"(C) Any other environmental quality activity that the Secretary determines to be appropriate to benefit the overall quality of the environment.

"(b)(1) Upon completion of the investigations under subsection (a)(2), the Secretary shall carry out the following:

"(A) The preparation of a proposed reallocation of project costs in conformance with subsection (a)(1)(B).

"(B) Negotiations with the Mountain Park Master Conservancy District (referred to in this section as the 'District') to amend the contract executed by the District pursuant to this Act to adjust the obligation of the District to repay project costs, as described in section 2, to reflect the reallocation of nonreimbursable project costs.

"(2) For the purposes of paragraph (1), project costs associated with an environmental quality activity specified by the Secretary pursuant to subsection (a)(2) shall be nonreimbursable project costs.

"(c)(1) Notwithstanding any other provision of this Act, the Secretary is authorized to accept prepayment of the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city of Altus, Oklahoma, the city of Frederick, Oklahoma, or the city of Snyder, Oklahoma (or any combination thereof), and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs, and any security held therefor, shall be released by the Secretary.

"(2) Any prepayment made pursuant to subsection (c)(1) shall realize to the United States an amount calculated by discounting the remaining repayment obligation by the interest rate determined in accordance with subsection (d).

"(d)(1) The Secretary of the Treasury shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget and the Department of Treasury Financial Manual. In determining the interest rate, the Secretary shall consider the price of the District's obligation if it were to be sold on the open market to a third party.

"(2) If the District uses tax-exempt financing to finance a prepayment under subsection (c)(1), then the interest rate by which the Secretary discounts the remaining payments due on the District's obligation shall be adjusted by an amount that compensates the United States for the direct or indirect loss of future tax revenues.

"(e) Notwithstanding any payment made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.".

(c) REPEAL.—Section 3101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4698) is repealed.

Texas.

TITLE V—SAN ANGELO FEDERAL RECLAMATION PROJECT

SEC. 501. INCREASE IN IRRIGABLE ACREAGE.

43 USC 615o.

(a) IN GENERAL.—The first section of the Act entitled "An Act to provide for the construction by the Secretary of the Interior of the San Angelo Federal reclamation project, Texas, and for other purposes", approved August 16, 1957 (71 Stat. 372), is amended by striking "ten thousand acres" and inserting "fifteen thousand acres".

(b) AMENDMENT TO CONTRACT.—The Secretary of the Interior is authorized to amend contract numbered 14–06–500–369 to reflect the amendment made by subsection (a), except that such amendment shall not be construed to require a change in the proportionate amount of all remaining payments due and payable to the United States by Tom Green County Water Control Improvement District No. 1.

Wyoming.

TITLE VI—SHOSHONE FEDERAL RECLAMATION PROJECT

SEC. 601. CONVEYANCE TO THE BIG HORN COUNTY SCHOOL DISTRICT.

The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lot 18 of Block 22, Lots 1–6 of Block 25, all of Block 21, and all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of T. 58N., R. 97 W., Big Horn County.

TITLE VII—LAKE POWELL

SEC. 701. ELIMINATION OF 24-HOUR RESTRICTION.

The second sentence of section 104(c) of the Reclamation Development Act of 1974 (Public Law 93–493; 88 Stat. 1488) is amended by striking "or three million gallons of water in any twenty-four-hour period,".

TITLE VIII—MNI WICONI RURAL WATER SUPPLY PROJECT

Mni Wiconi Act Amendments of 1994.

SEC. 801. SHORT TITLE.

This title may be cited as the "Mni Wiconi Act Amendments of 1994".

SEC. 802. REFERENCE.

Whenever in this title a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Mni Wiconi Project Act of 1988 (102 Stat. 2566).

SEC. 803. FINDINGS AND PURPOSES.

(a) FINDINGS.—Subsection (a) of section 2 (102 Stat. 2566) is amended—

(1) in paragraph (1), by striking "Reservation" and inserting "Reservation, Rosebud Indian Reservation, and Lower Brule Indian Reservation";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) the lack of water supplies on the Rosebud Reservation and Lower Brule Reservation restrict efforts to promote economic development on those reservations;";

(3) in paragraph (5), as redesignated by paragraph (2) of this subsection, by striking "Reservation;" and inserting "Reservation, Rosebud Indian Reservation, and Lower Brule Indian Reservation;"; and

(4) in paragraph (6), as redesignated by paragraph (2) of this subsection, by inserting "Rosebud Indian Reservation and Lower Brule Indian Reservation," after "Reservation,".

(b) PURPOSE.—Subsection (b) of section 2 (102 Stat. 2566) is amended by inserting ", Rosebud Indian Reservation, and Lower Brule Indian Reservation" after "Reservation" each place it appears.

SEC. 804. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—Subsection (a) of section 3 (102 Stat. 2567) is amended—

(1) in the matter preceding paragraph (1), by striking "1988." and inserting "1988, and as more specifically described in the Final Engineering Report dated May, 1993."; and

(2) by amending paragraph (3) to read as follows:

"(3) facilities to allow for interconnections with the West River Rural Water System, Lyman-Jones Rural Water System, Rosebud Sioux Rural Water System, and Lower Brule Sioux Rural Water System;".

(b) CONSTRUCTION REQUIREMENTS.—Subsection (d) of such section (102 Stat. 2568) is amended—

(1) by striking "West River Rural Water System, and the Lyman-Jones Rural Water System,"; and by inserting "West River Rural Water System, the Lyman-Jones Rural Water System, the Rosebud Sioux Rural Water System, and the Lower Brule Sioux Rural Water System,"; and

(2) by striking "three systems" and inserting "five systems authorized under this Act".

(c) TITLE TO SYSTEM.—Subsection (e) of such section (102 Stat. 2568) is amended by inserting "or encumbered" after "transferred".

SEC. 805. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

102 Stat. 2568.

Section 4(a) of the Act is amended—

(1) in paragraph (2), by striking out "65 per centum" and inserting in lieu thereof "80 percent"; and

(2) in paragraph (3), by striking out "35 per centum" and inserting in lieu thereof "20 percent".

SEC. 806. ROSEBUD SIOUX RURAL WATER SYSTEM AND LOWER BRULE SIOUX RURAL WATER SYSTEM.

The Act is amended by inserting after section 3 the following:

"SEC. 3A. ROSEBUD SIOUX RURAL WATER SYSTEM.

"(a) AUTHORIZATION.—The Secretary is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Rosebud Sioux Rural Water System, as generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May, 1993. The Rosebud Sioux Rural Water system shall consist of—

"(1) necessary pumping and treatment facilities;

"(2) pipelines extending from the points of interconnections with the Oglala Sioux Rural Water System to the Rosebud Indian Reservation;

"(3) facilities to allow for interconnections with the Lyman-Jones Rural Water Supply System;

"(4) distribution and treatment facilities to serve the needs of the Rosebud Indian Reservation, and other areas described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, including (but not limited to) the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents of the Rosebud Indian Reservation;

"(5) appurtenant buildings and property rights;

"(6) necessary property and property rights;

"(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

"(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary and appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Rosebud Sioux Tribe and reservation villages, towns, and municipalities.

"(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN THE ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM.—

"(1) In carrying out subsection (a), the Secretary, with the concurrence of the Rosebud Sioux Tribal Council, shall enter into cooperative agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Rosebud Sioux Rural Water System.

"(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

"(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

"(B) the procedures and requirements for approval and acceptance of such design and construction; and

"(C) the rights, responsibilities, and liabilities of each party to the agreement.

"(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Rosebud Indian Reservation.

"(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Rosebud Sioux Tribe.

"(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10(a) for the Rosebud Sioux Rural Water System.

"(c) SERVICE AREA.—The service area of the Rosebud Sioux Rural Water System shall extend to all of Todd County, South Dakota, and to all other territory and lands generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993 and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May 1993.

"(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Rosebud Sioux Rural Water System shall be planned and constructed to a size sufficient to meet the municipal, rural and industrial water supply requirements of the Rosebud Sioux Tribe and the Lyman-Jones Rural Water System, as generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May, 1993, taking into account the effects of the conservation plans described in section 5. The Rosebud Rural Water System and Lyman-Jones Rural Water System may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Rosebud Sioux Rural Water System.

"(e) TITLE TO SYSTEM.—Title to the Rosebud Sioux Rural Water System shall be held in trust for the Rosebud Sioux Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

"(f) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Rosebud Sioux Tribe to plan, develop, construct, operate,

maintain, and replace the Rosebud Sioux Rural Water System, including (but not limited to) operation and management training.

"(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, and operation of the Rosebud Sioux Rural Water System shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93–638, 25 U.S.C. 450).

"SEC. 3B. LOWER BRULE SIOUX RURAL WATER SYSTEM.

"(a) AUTHORIZATION.—The Secretary is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Lower Brule Sioux Rural Water System, as generally described in the Final Engineering Report for the Mni Wiconi Rural Water Supply Project, dated May 1993. The Lower Brule Sioux Rural Water System shall consist of—

"(1) necessary pumping and treatment facilities;

"(2) pipelines extending from the points of interconnections with the Oglala Sioux Rural Water Supply System to the Lower Brule Indian Reservation;

"(3) facilities to allow for interconnections with the Lyman-Jones Rural Water Supply System;

"(4) distribution and treatment facilities to serve the needs of the Lower Brule Indian Reservation, including (but not limited to) the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents of the Lower Brule Indian Reservation;

"(5) appurtenant buildings and property rights;

"(6) necessary property and property rights;

"(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

"(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary and appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Lower Brule Sioux Tribe and reservation villages, towns and municipalities.

"(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN THE LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM.—

"(1) In carrying out subsection (a), the Secretary, with the concurrence of the Lower Brule Sioux Tribal Council, shall enter into cooperative agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Lower Brule Sioux Rural Water System.

"(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

"(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design, construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

"(B) the procedures and requirements for approval and acceptance of such design and construction; and

"(C) the rights, responsibilities, and liabilities of each party to the agreement.

"(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Lower Brule Indian Reservation.

"(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Lower Brule Sioux Tribe.

"(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10(a) for the Lower Brule Sioux Rural Water System.

"(c) SERVICE AREA.—The service area of the Lower Brule Sioux Rural Water System shall be the boundaries of the Lower Brule Indian Reservation.

"(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Lower Brule Sioux Rural Water System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Lower Brule Sioux Tribe and the Lyman-Jones Rural Water System, as generally described in the Final Engineering Report of the Mni Wiconi Rural Water Supply Project, dated May 1993, taking into account the effects of the conservation plans described in section 5. The Lower Brule Sioux Rural Water System and Lyman-Jones Rural Water System may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Lower Brule Sioux Rural Water System.

"(e) TITLE TO SYSTEM.—Title to the Lower Brule Sioux Rural Water System shall be held in trust for the Lower Brule Sioux Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

"(f) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Lower Brule Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Lower Brule Sioux Rural Water System, including (but not limited to) operation and management training.

"(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, and operation of the Lower Brule Sioux Rural Water System shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638, 25 U.S.C. 450).".

SEC. 807. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) SERVICE AREA.—Subsection (d) of section 4 (102 Stat. 2569) is amended by striking the period at the end thereof and inserting ", and Final Engineering Report dated May 1993.".

(b) INTERCONNECTION OF FACILITIES AND WAIVER OF CHARGES.—Section 4 of the Act (102 Stat. 2568) is amended by

redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) INTERCONNECTION OF FACILITIES AND WAIVER OF CHARGES.—The Secretary is authorized to interconnect the Lyman-Jones Rural Water System, and the West River Rural Water System, with each of the other systems authorized under this Act, and to provide for the delivery of water to the West River Rural Water System, and Lyman-Jones Rural Water System, without charge or cost, from the Missouri River and through common facilities of the Oglala Sioux Rural Water Supply System, Rosebud Rural Water System and Lower Brule Rural Water System.".

SEC. 808. WATER CONSERVATION.

Section 5 of the Act (102 Stat. 2570) is amended by striking "The non-Federal parties (including the Oglala Sioux Tribe)" and inserting "Each non-Federal party (including the Oglala Sioux Tribe, Rosebud Sioux Tribe, and Lower Brule Sioux Tribe)".

SEC. 809. MITIGATION OF FISH AND WILDLIFE LOSSES.

Section 6 of the Act (102 Stat. 2570) is amended—

(1) in subsection (a)—

(A) by inserting ", ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM, LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM," after "SUPPLY SYSTEM"; and

(B) by inserting "Rosebud Sioux Rural Water Supply System, Lower Brule Sioux Rural Water Supply System," after "Supply System,"; and

(2) in subsection (b)—

(A) by inserting ", all Indian tribes residing on reservations within the State of South Dakota," after "South Dakota";

(B) by inserting "and terrestrial" after "wildlife";

(C) by striking "Such plans" and inserting "Such recommendations"; and

(D) by adding at the end the following:

"The Indian tribes shall be afforded an opportunity to review and concur within any recommendations affecting their reservations before they are submitted to Congress.".

SEC. 810. PROHIBITION OF USE OF FUNDS FOR IRRIGATION PURPOSES.

Section 7 of the Act (102 Stat. 2570) is amended by striking "Supply System," and inserting "Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Rural Water Supply System,".

SEC. 811. RULE OF CONSTRUCTION.

Section 8 of the Act (102 Stat. 2570) is amended—

(1) by inserting ", Rosebud Sioux Tribe, and Lower Brule Sioux Tribe" after "Tribe"; and

(2) by striking "or construct" and inserting "construct, maintain, or replace".

SEC. 812. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—Subsection (a) of section 9 (102 Stat. 2570) is amended by striking "sections 3" and inserting "sections 3, 3A, 3B,".

(b) DEFINITIONS.—Subsection (e)(1) of section 9 (102 Stat. 2571) is amended by striking "Supply System," and inserting "Supply

System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Sioux Rural Water Supply System,".

SEC. 813. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act (102 Stat. 2571) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $263,241,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Sioux Rural Water Supply System, the West River Rural Water Supply System, and the Lyman-Jones Rural Water Supply System described in sections 3, 3A, 3B, and 4. Such funds are authorized to be appropriated only through the end of the year 2003. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the Systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after October 1, 1992, as indicated by engineering costs indices applicable for the type of construction involved.

"(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM, ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM AND LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System, Rosebud Sioux Rural Water Supply System and Lower Brule Sioux Rural Water Supply System. The operation and maintenance expenses associated with water deliveries to the West River and Lyman-Jones Rural Water Systems are a non-Federal responsibility and for such deliveries the Secretary shall enter into a contract with the West River and Lyman-Jones Systems for the payment of an annual operation and maintenance fee. Such fee shall be based on the incremental operation and maintenance costs for water actually delivered each year to the West River and Lyman-Jones Rural Water Systems. Such operation and maintenance payments shall be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations as indicated by indices applicable to comparable regional rural water supply systems for the type of operation and maintenance involved.

"(c) WASTE WATER DISPOSAL SYSTEMS FEASIBILITY STUDIES.—There is authorized to be appropriated such sums as may be necessary to complete the feasibility studies authorized by section 15(c).".

SEC. 814. WATER RIGHTS.

Paragraph (5) of section 11 (102 Stat. 2571) is amended—

(1) by inserting "rights, benefits, privileges or claims, including" after "affect any";

(2) by inserting "Rosebud Sioux Tribe and Lower Brule Sioux Tribe," after "Tribe," the first place it appears;

(3) by striking "the Pine Ridge Indian Reservation" and inserting "their respective reservations"; and

(4) by striking "Tribe," the second place it appears and inserting "Tribe, Rosebud Sioux Tribe, Lower Brule Sioux Tribe,".

SEC. 815. FEASIBILITY STUDIES.

96 Stat. 1181.

(a) ALTERNATE USES.—Section 3 of Public Law 97–273, as amended by section 12(b) of Public Law 100–516 (102 Stat. 2572), is amended by striking "Dakota," and inserting "Dakota and all Indian tribes residing on reservations within the State of South Dakota,".

(b) WASTE WATER DISPOSAL SYSTEMS.—Section 12 of the Act (102 Stat. 2572) is amended by adding at the end the following:

"(c) WASTE WATER DISPOSAL SYSTEMS.—(1) The Secretary is authorized and directed, in consultation with the Oglala Sioux Tribe, Rosebud Sioux Tribe and Lower Brule Sioux Tribe, to conduct feasibility studies on the need to develop waste water disposal facilities and systems, and rehabilitate existing waste water disposal facilities and systems, on the Pine Ridge Indian Reservation, Rosebud Indian Reservation and Lower Brule Indian Reservation, and to report to the Congress the findings of such studies along with his recommendations.

"(2) The feasibility studies authorized under this subsection shall be completed and presented to Congress within one year after the date that funds are first made available by the Secretary to complete the studies.".

TITLE IX—BELLE FOURCHE IRRIGATION PROJECT

SEC. 901. EXPANSION OF BELLE FOURCHE IRRIGATION PROJECT.

(a) AUTHORIZATION OF ADDITIONAL ACTIVITIES.—The Act entitled "An Act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes." (Public Law 98–157, 97 Stat. 989) is amended in the first section—

(1) by striking "That the general" and inserting in lieu thereof, so as to appear immediately after and below the enacting clause, the following:

"SECTION 1. (a) The general plan for"; and

(2) by adding at the end the following:

"(b)(1) In addition to the activities authorized under subsection (a), the general plan for the Belle Fourche project is modified to include the following:

"(A) Rehabilitation of the following major water control structures:

"(i) The Whitewood Siphon.

"(ii) 2 Belle Fourche dam outlets.

"(B) Lining at South Canal and rehabilitation of Johnson Lateral for water conservation.

"(C) Replacement or rehabilitation of deteriorated canal bridges.

"(D) Provision of minor lateral rehabilitation and contract support work by the Belle Fourche irrigation district.

"(E) Conduct of a detailed study of project-wide water use management and implementation of improved management practices for the purpose of achieving optimal conservation of water supplies.

"(2) The Federal share of the cost of activities under this subsection may not exceed $10,500,000. The State share of those

costs may not exceed $4,000,000, and shall be paid concurrently with Federal expenditures for activities under this subsection.".

(b) EXTENSION OF REPAYMENT PERIOD.—Section 2(b) of that Act is amended by striking "the year in which such amendatory repayment contract is executed" and inserting "July 1, 1995". 97 Stat. 989.

(c) APPLICABLE RATES OF CHARGE AND ASSESSABLE ACREAGE.—Section 2(c) of that Act is amended to read as follows:

"(c)(1) Before July 1, 1995, the rates of charge to land class in the unit shall continue to be as established in the November 29, 1949, repayment contract with the district, as subsequently amended and supplemented. On and after July 1, 1995, such rates of charge and assessable acreage shall, subject to subsection (d), be in accordance with the amortization capacity and classification of unit lands as then determined by the Secretary.

"(2) After final completion of the rehabilitation and betterment program authorized by this Act, and at intervals agreed to by the Secretary and the Belle Fourche irrigation district, the rates of charge and assessable acreage may be amended as determined necessary by the Secretary.".

(d) AUTHORIZATION OF APPROPRIATION.—Section 7 of that Act is amended— 97 Stat. 990.

(1) by inserting "(a)" after "SEC. 7."; and

(2) by adding at the end the following:

"(b) In addition to amounts authorized under subsection (a), for activities under section 1(b) there are authorized to be appropriated $10,500,000, plus or minus such amounts (if any) as may be justified by reason of ordinary fluctuations in construction cost indexes applicable to types of construction conducted under that section.".

(e) AMENDMENT OF CONTRACT.—The Secretary of the Interior and the Belle Fourche irrigation district shall amend the contract numbered 5-07-60-WR170 to reflect the amendments made by this section.

TITLE X—UPPER YAMPA WATER CONSERVANCY PROJECT

Stagecoach Reservoir Project Act of 1994.

SEC. 1001. SHORT TITLE.

This title may be cited as the "Stagecoach Reservoir Project Act of 1994".

SEC. 1002. SALE OF THE STAGECOACH RESERVOIR PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the Upper Yampa Water Conservancy District in Colorado (referred to in this title as the "District") for the Stagecoach Reservoir Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-40-R0480 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government

calculated by discounting the remaining payments due on the loans by the interest rate determined pursuant to subsection (c).

(c) INTEREST RATE.—

(1) IN GENERAL.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(2) DETERMINATION.—In determining the interest rate, the Secretary—

(A) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party; and

(B) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(3) ADJUSTMENT.—If the borrower or purchaser of the loan has access to tax-exempt financing, including tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity, to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(4) LIMITATION.—Notwithstanding any other provision of law, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(5) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 1003. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 1002(b)—

(1) the obligation of the District under the loan contract described in section 1002(a)(2) shall terminate;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Stagecoach Reservoir Project to the District; and

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Stagecoach Reservoir Project.

SEC. 1004. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority granted by this title to sell loans shall terminate 2 years after the date of enactment of this Act.

(b) TIME TO RESPOND TO OFFER.—The borrower shall have not less than 60 days to respond to any prepayment offer made by the Secretary.

TITLE XI—MANCOS PROJECT

Mancos Project Private Power Development Authorization Act of 1994.

SEC. 1101. SHORT TITLE.

This title may be cited as the "Mancos Project Private Power Development Authorization Act of 1994".

SEC. 1102. FINDINGS.

Congress finds that—

(a) development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, and revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District—

(1) will be without cost to the United States;

(2) will not impair the efficiency of the project for irrigation purposes;

(3) will not alter the volume, timing or temperatures of flows from the reservoir; and

(4) is not likely to cause any new or increased adverse impacts to any federally listed or candidate species;

(b) that the Mancos Water Conservancy District is currently operating and maintaining facilities at the Mancos Project and that the development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District will not increase operation and maintenance costs of the Federal Government; and

(c) that any lease of power privileges issued by the Secretary pursuant to this title does not constitute a "contract" under section 202(1) of Public Law 97–293 (96 Stat. 1261; 43 U.S.C. section 390bb) and that nothing in this title is intended to make applicable any section of Public Law 97–293 (96 Stat. 1261; 43 U.S.C. section 390aa et. seq.) that would not previously apply.

SEC. 1103. AUTHORIZATION TO LEASE POWER PRIVILEGES.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y–590z–11) or any relevant provision of the repayment contract Ilr–384, dated July 20, 1942, as amended December 22, 1947, the Secretary is authorized to enter into a lease of power privileges at the Mancos Project, Colorado, with the Mancos Water Conservancy District.

SEC. 1104. LEASE CONDITIONS.

Any such lease of power privileges issued pursuant to section 1103 of this title shall not exceed a period of forty years and shall be consistent with rates charged by the Federal Energy Regulatory Commission for comparable sized projects. Moneys derived from such lease shall be covered into the reclamation fund in accordance with relevant parts of Federal reclamation law, the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

SEC. 1105. REVENUES DERIVED FROM POWER DEVELOPMENT.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y–590z–11) or any relevant provision of the repayment contract Ilr–384, dated July 20, 1942, as amended December 22, 1947, the Mancos Water Conservancy District may receive revenues from the sale of the power generated pursuant to such lease of power privilege.

TITLE XII—YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

SEC. 1201. PURPOSES.

The purposes of this title are—

(1) to protect, mitigate, and enhance fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation and enhancement of wetlands; and by other appropriate means of habitat improvement;

(2) to improve the reliability of water supply for irrigation;

(3) to authorize a Yakima River basin water conservation program that will improve the efficiency of water delivery and use; enhance basin water supplies; improve water quality; protect, create and enhance wetlands; and determine the amount of basin water needs that can be met by water conservation measures;

(4) to realize sufficient water savings from the Yakima River Basin Water Conservation Program so that not less than 40,000 acre-feet of water savings per year are achieved by the end of the fourth year of the Basin Conservation Program, and not less than 110,000 acre-feet of water savings per year are achieved by the end of the eighth year of the program, to protect and enhance fish and wildlife resources; and not less than 55,000 acre feet of water savings per year are achieved by the end of the eighth year of the program for availability for irrigation;

(5) to encourage voluntary transactions among public and private entities which result in the implementation of water conservation measures, practices, and facilities; and

(6) to provide for the implementation by the Yakama Indian Nation at its sole discretion of (A) an irrigation demonstration project on the Yakama Indian Reservation using water savings from system improvements to the Wapato Irrigation Project, and (B) a Toppenish Creek corridor enhancement project integrating agricultural, fish, wildlife, and cultural resources.

SEC. 1202. DEFINITIONS.

As used in this title:

(1) The term "Basin Conservation Plan" means a plan for implementing water conservation measures found in the various water conservation plans developed under the Basin Conservation Program.

(2) The term "Basin Conservation Program" means the Yakima River Basin Water Conservation Program established under section 1203(a).

(3) The term "comprehensive basin operating plan" means a plan that will provide guidance to the Yakima Project Super-

intendent for operation of the existing Yakima Project as modified by actions taken pursuant to this title.

(4) The term "Conservation Advisory Group" means the Yakima River Basin Conservation Advisory Group established under section 1203(c).

(5) The term "conserved water" means water saved and attributable to the program established under the Basin Conservation Program.

(6) The term "Irrigation Demonstration Project" means the Yakama Indian Reservation Irrigation Demonstration Project authorized in section 1204(b).

(7) The term "nonproratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is not subject to proration in times of water shortage.

(8) The term "on-district storage" means small water storage facilities located within the boundaries of an irrigation entity, including reregulating reservoirs, holding ponds, or other new storage methods which allow for efficient water use.

(9) The term "proratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is subject to proration in times of water shortage.

(10) The term "Secretary" means the Secretary of the Interior.

(11) The term "System Operations Advisory Committee" means a group of fishery biologists—

(A) created by the Yakima Project Superintendent in response to the supplemental instructions entitled "Supplementary Instructions to the Water Master", and dated November 28, 1980, in the case of Kittitass Reclamation District, et al. vs. the Sunnyside Valley Irrigation District, et al. (E.D. Wash., Civil No. 21.);

(B) who advise the Yakima Project Superintendent on operations of the Yakima Project for fish and wildlife purposes; and

(C) who, together with others, were identified for consultation on November 29, 1990, in the amended partial summary judgment entered in the basin adjudication (Yakima County Superior Court No. 77–2–01484–5).

(12) The term "Toppenish Enhancement Project" means the Toppenish Creek corridor enhancement project authorized by section 1204(c).

(13) The term "Yakama Indian Nation" means the Confederated Tribes and Bands of the Yakama Indian Nation as redesignated under section 1204(g).

(14) The term "Yakima Project Superintendent" means the individual designated by the Regional Director, Pacific Northwest Region, Bureau of Reclamation, to be responsible for the operation and management of the Yakima Federal Reclamation Project, Washington.

SEC. 1203. YAKIMA RIVER BASIN WATER CONSERVATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River Washington.

basin irrigators, and other interested parties, shall establish and administer a Yakima River Basin Water Conservation Program for the purpose of evaluating and implementing measures to improve the availability of water supplies for irrigation and the protection and enhancement of fish and wildlife resources, including wetlands, while improving the quality of water in the Yakima Basin. The Secretary may make grants to eligible entities for the purposes of carrying out this title under such terms and conditions as the Secretary may require. Such terms and conditions shall include a requirement that all water districts, irrigation districts, individuals, or other entities eligible to participate in the Basin Conservation Program must equip all surface water delivery systems within their boundaries with volumetric water meters or equally effective water measuring methods within 5 years of the date of enactment of this Act.

(2) Conserved water resulting in whole or in part from the expenditure of Federal funds shall not be used to expand irrigation in the Yakima Basin, except as specifically provided in section 1204(a)(3) on the Yakama Indian Reservation.

(3) The provisions of this section shall not apply to the Yakama Indian Nation except as to any funds specifically applied for from the Basin Conservation Program.

(b) FOUR PHASES OF PROGRAM.—The Basin Conservation Program shall encourage and provide funding assistance for four phases of water conservation, which shall consist of the following:

(1) The development of water conservation plans, consistent with applicable water conservation guidelines of the Secretary, by irrigation districts, conservation districts, water purveyors, other areawide entities, and individuals not included within an areawide entity.

(2) The investigation of the feasibility of specific potential water conservation measures identified in conservation plans.

(3) The implementation of measures that have been identified in conservation plans and have been determined to be feasible.

(4) Post implementation monitoring and evaluation of implemented measures.

(c) CONSERVATION ADVISORY GROUP.—(1) Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested and related parties, shall establish the Yakima River Basin Conservation Advisory Group.

(2) Members of the Conservation Advisory Group shall be appointed by the Secretary and shall be comprised of—

(A) one representative of the Yakima River basin nonproratable irrigators,

(B) one representative of the Yakima River basin proratable irrigators,

(C) one representative of the Yakama Indian Nation,

(D) one representative of environmental interests,

(E) one representative of the Washington State University Agricultural Extension Service,

(F) one representative of the Department of Wildlife of the State of Washington, and

(G) one individual who shall serve as the facilitator.

(3) The Conservation Advisory Group shall—

(2) The Yakima River Basin Water Enhancement Project is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Yakima River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1989 (94 Stat. 2697) and independent water-related improvements of the State of Washington and other public and private entities to improve irrigation water use, water supply, and water quality, shall be treated as non-Federal cost share expenditures and shall be consolidated in any final calculation of required cost sharing. Within one year of the date of enactment of this Act, the Secretary shall enter into a binding cost sharing agreement with the State of Washington. The agreement shall describe the terms and conditions of specific contributions and other activities that may, subject to approval by the Secretary, qualify as non-Federal cost share expenditures.

(3) Costs of the Basin Conservation Program related to projects on the Yakama Indian Reservation are a Federal responsibility and shall be nonreimbursable and not subject to the cost-sharing provisions of this subsection.

(e) ENTITY WATER CONSERVATION PLANS.—To participate in the Conservation Basin Program an entity must submit a proposed water conservation plan to the Secretary. The Secretary shall approve a water conservation plan submitted under this subsection if the Secretary determines that the plan meets the applicable water conservation guidelines of the Secretary.

(f) BASIN CONSERVATION PLAN.—The Conservation Advisory Group shall, within 2½ years after the date of enactment of this Act, submit a draft basin conservation plan to the Secretary.

(g) PUBLIC COMMENT.—The Secretary shall distribute the draft basin conservation plan and the entity water conservation plans submitted under subsections (e) and (f), respectively, for public comment for a 60-day period.

(h) PUBLICATION OF BASIN CONSERVATION PLAN.—Within 60 days after the close of the comment period under subsection (g), the Secretary shall publish the Basin Conservation Plan which plan will provide the basis—

(1) for prioritizing and allocating funds to implement conservation measures under this title; and

(2) for preparing an interim comprehensive basin operating plan under section 1210 of this title as provided for in Public Law 96–162 (93 Stat. 1241).

(i) CONSERVATION MEASURES.—(1) Measures considered for implementation in the Basin Conservation Program may include, among others, conveyance and distribution system monitoring, automation of water conveyance systems, water measuring or metering devices and equipment, lining and piping of water conveyance and distribution systems, on-district storage, electrification of hydraulic turbines, tail-water recycling, consolidation of irrigation systems, irrigation scheduling, and improvement of on-farm water application systems. Basin Conservation Program funds may also be used throughout all four phases of the Basin Conservation Program to mitigate for adverse impacts of program measures.

(2) In addition to implementing existing technologies, the Secretary shall encourage the testing of innovative water conservation measures. The Secretary shall, to the maximum extent possible

under applicable Federal, State, and tribal law, cooperate with the State of Washington to facilitate water and water right transfers, water banking, dry year options, the sale and leasing of water, and other innovative allocation tools used to maximize the utility of existing Yakima River basin water supplies.

(3) The Secretary may, consistent with applicable law, use funds appropriated to carry out this section for the purchase or lease of land, water, or water rights from any entity or individual willing to limit or forego water use on a temporary or permanent basis. Funds used for purchase or lease under this paragraph are not subject to the cost sharing provisions of subsection (d). Efforts to acquire water should be made immediately upon availability of funds to meet the three-year goal specified in section 1205(a)(4) to provide water to be used by the Yakima Project Superintendent under the advisement of the System Operations Advisory Committee for instream flow purposes. The use of Basin Conservation Program funds under this paragraph are in addition to those specifically authorized to be appropriated by subsection (j)(4).

(4) On-farm water management improvements shall be coordinated with programs administered by the Secretary of Agriculture and State conservation districts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary, at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, the following amounts for the Basin Conservation Program:

(1) $1,000,000 for the development of water conservation plans.

(2) $4,000,000 for investigation of specific potential water conservation measures identified in conservation plans for consideration for implementing through the Basin Conservation Program.

(3) Up to $67,500,000 for design, implementation, post-implementation monitoring and evaluation of measures, and addressing environmental impacts.

(4) Up to $10,000,000 for the initial acquisition of water from willing sellers or lessors specifically to provide instream flows for interim periods to facilitate the outward migration of anadromous fish flushing flows. Such funds shall not be subject to the cost sharing provisions of subsection (d).

(5) $100,000 annually for the establishment and support of the Conservation Advisory Group during its duration. Such funds shall be available for travel and per diem, rental of meeting rooms, typing, printing and mailing, and associated administrative needs. The Secretary and the State of Washington shall provide appropriate staff support to the Conservation Advisory Group.

SEC. 1204. YAKAMA INDIAN NATION.

(a) WAPATO IRRIGATION PROJECT IMPROVEMENTS AND APPROPRIATIONS.—(1) The Yakama Indian Nation's proposed system improvements to the Wapato Irrigation Project, as well as the design, construction, operation, and maintenance of the Irrigation Demonstration Project and the Toppenish Creek corridor enhancement project, pursuant to this title shall be coordinated with the Bureau of Indian Affairs.

(2) There is authorized to be appropriated to the Secretary not more than $23,000,000 for the preparation of plans, investigation of measures, and following the Secretary's certification that such measures are consistent with the water conservation objectives of this title, the implementation of system improvements to the Wapato Irrigation Project. Funding for further improvements within the Wapato Irrigation Project may be acquired under the Basin Conservation Program or other sources identified by the Yakama Indian Nation.

(3) Water savings resulting from irrigation system improvements shall be available for the use of the Yakama Indian Nation for irrigation and other purposes on the reservation and for protection and enhancement of fish and wildlife within the Yakima River basin. The conveyance of such water through irrigation facilities other than the Wapato Irrigation Project shall be on a voluntary basis and shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(b) IRRIGATION DEMONSTRATION PROJECT APPROPRIATIONS.—(1)(A) There is hereby authorized to be appropriated to the Secretary—

(i) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, $8,500,000 for the design and construction of the Yakama Indian Reservation Irrigation Demonstration Project; and

(ii) such sums as may be necessary for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies for the period specified by the Secretary, which sums are in addition to operation and maintenance funds for wildlife and cultural purposes appropriated to the Secretary under other authorization.

(B) Funds may not be made available under this subsection until the Yakama Indian Nation obtains the concurrence of the Secretary in the construction, management, and administrative aspects of the Irrigation Demonstration Project.

(C) After the end of the period specified under subparagraph (A)(ii), costs for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies referred to in that subparagraph, shall be borne exclusively by the lands directly benefitting from the Irrigation Demonstration Project.

(2) The Irrigation Demonstration Project shall provide for the construction of distribution and on-farm irrigation facilities to use all or a portion of the water savings, as determined by the Yakama Indian Nation, resulting from the Wapato Irrigation Project system improvements for—

(A) demonstrating cost-effective state of the art irrigation water management and conservation,

(B) the training of tribal members in irrigation methods, operation, and management, and

(C) upgrading existing hydroelectric facilities and construction of additional hydroelectric facilities on the reservation to meet irrigation pumping power needs.

(c) TOPPENISH CREEK CORRIDOR ENHANCEMENT PROJECT APPROPRIATIONS.—There is hereby authorized to be appropriated

to the Secretary $1,500,000 for the further investigation by the Yakama Indian Nation of measures to develop a Toppenish Creek corridor enhancement project to demonstrate integration of management of agricultural, fish, wildlife, and cultural resources to meet tribal objectives and such amount as the Secretary subsequently determines is necessary for implementation. There is also authorized to be appropriated to the Secretary such sums as may be necessary for the operation and maintenance of the Toppenish Enhancement Project.

(d) REPORT.—Within 5 years of the implementation of the Irrigation Demonstration Project and the Toppenish Enhancement Project, the Secretary, in consultation with the Yakama Indian Nation, shall report to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington on the effectiveness of the conservation, training, mitigation, and other measures implemented.

(e) STATUS OF IMPROVEMENTS AND FACILITIES.—The Wapato Irrigation Project system improvements and any specific irrigation facility of the Irrigation Demonstration Project (excluding on-farm irrigation facilities) and the Toppenish Enhancement Project shall become features of the Wapato Irrigation Project.

(f) TREATMENT OF CERTAIN COSTS.—Costs related to Wapato Irrigation Project improvements, the Irrigation Demonstration Project, and the Toppenish Enhancement Project shall be a Federal responsibility and are nonreimbursable and nonreturnable.

(g) REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION.—

(1) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 1205. OPERATION OF YAKIMA BASIN PROJECTS.

Fish and wildlife. Recreation and recreational areas.

(a) WATER SAVINGS FROM BASIN CONSERVATION PROGRAM.—(1) The Basin Conservation Program is intended to result in reductions in water diversions allowing for changes in the present operation of the Yakima Project to improve stream flow conditions in the Yakima River basin. Except as provided by paragraph (5) of this subsection and section 1209, commencing with the enactment of this title, and notwithstanding that anticipated water savings are yet to be realized, the Secretary, upon the enactment of this title and acting through the Yakima Project Superintendent, shall (A) continue to estimate the water supply which is anticipated

to be available to meet water entitlements; and (B) provide instream flows in accordance with the following criteria:

Water Supply Estimate for Period (million acre feet):				Target Flow from Date of Estimate thru October Downstream of (cubic feet per second):	
April thru September	May thru September	June thru September	July thru September	Sunnyside Diversion Dam	Prosser Diversion Dam
(1) 3.2	2.9	2.4	1.9	600	600
(2) 2.9	2.65	2.2	1.7	500	500
(3) 2.65	2.4	2.0	1.5	400	400
Less than line 3 water supply				300	300

(2) The initial target flows represent target flows at the respective points. Reasonable fluctuations from these target flows are anticipated in the operation of the Yakima Project, except that for any period exceeding 24 hours—

(A) actual flows at the Sunnyside Diversion Dam may not decrease to less than 65 percent of the target flow at the Sunnyside Diversion Dam; and

(B) actual flows at the Prosser Diversion Dam may not decrease by more than 50 cubic feet per second from the target flow.

(3) The instream flows shall be increased for interim periods during any month of April through October to facilitate when necessary the outward migration of anadromous fish. Increased instream flows for such interim periods shall be obtained through voluntary sale and leasing of water or water rights or from conservation measures taken under this title.

(4)(A)(i) Within the three-year period beginning when appropriations are first provided to carry out the Basin Conservation Program, the instream flow goal in the Yakima River is as follows: to secure water which is to be used for instream flows to facilitate meeting recommendations of the System Operations Advisory Committee for flushing flows or other instream uses.

(ii) In addition to any other authority of the Secretary to provide water for flushing flows, the water required to meet the goal specified in clause (i) shall be acquired through the voluntary purchase or lease of land, water, or water rights and from the development of additional storage capability at Lake Cle Elum provided for in section 1206(a).

(iii) In addition to water required to meet the instream flow goal specified in clause (i), the System Operations Advisory Committee may recommend additional water to meet instream flow goals pursuant to judicial actions.

(B) After the period referred to in subparagraph (A), such instream flow goal is modified as follows:

(i) The goal increases so that the instream target flows specified in the table in paragraph (1) increase by 50 cubic feet per second for each 27,000 acre-feet of reduced annual water diversions achieved through implementation of measures under the Basin Conservation Program. Such increases do not

apply to actions taken pursuant to section 1204. Such increases shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(ii) The goal changes directly with the availability of water resulting from Federal expenditures under this title for purchase or lease of water under this title.

(C) The Yakima Project Superintendent shall maintain an account of funded and completed conservation measures taken under the Basin Conservation Program.

(D) No later than March 31 of each calendar year, the Yakima Project Superintendent shall meet with the State of Washington, Yakama Indian Nation, and Yakima River basin irrigators to mutually determine total diversion reductions and respective adjustments to the target flows referred to in this subsection. The Yakima Project Superintendent shall announce such adjustments with the announcements of Total Water Supply Available. For the purposes of this subparagraph, conserved water will be considered available for adjusting target flows in the first year following completion of a measure or following a result from the post implementation monitoring and evaluation program, as the case may be.

(5) Operational procedures and processes in the Yakima River basin which have or may be implemented through judicial actions shall not be impacted by this title.

(6)(A) Within three years after the date of enactment of this Act, the Secretary shall conduct a study and submit a report with recommendations to the appropriate committees of the Congress on whether the water supply available for irrigation is adequate to sustain the agricultural economy of the Yakima River basin. Reports.

(B) The target flows provided for under this subsection shall be evaluated within three years after the date of enactment of this Act by the Systems Operations Advisory Committee for the purpose of making a report with recommendations to the Secretary and the Congress evaluating what is necessary to have biologically-based target flows.

(C) The recommendations and reports under subparagraphs (A) and (B) shall provide a basis for the third phase of the Yakima River Basin Water Enhancement Project.

(b) WATER FROM LAKE CLE ELUM.—Water accruing from the development of additional storage capacity at Lake Cle Elum, made available pursuant to the modifications authorized in section 1206(a), shall not be part of the Yakima River basin's water supply as provided in subsection (a)(1). Water obtained from such development is exclusively dedicated to instream flows for use by the Yakima Project Superintendent as flushing flows or as otherwise advised by the System Operations Advisory Committee. Water may be carried over from year-to-year in the additional capacity to the extent that there is space available. Releases may be made from other Yakima Project storage facilities to most effectively utilize this additional water, except that water deliveries to holders of existing water rights shall not be impaired.

(c) STATUS OF BASIN CONSERVATION PROGRAM FACILITIES.—Measures of the Basin Conservation Program which are implemented on facilities currently under the administrative jurisdiction of the Secretary, except as provided in section 1204, shall be considered features of the Yakima River Basin Water Enhancement Project, and their operation and maintenance shall be integrated

and coordinated with other features of the existing Yakima Project. The responsibility for operation and maintenance and the related costs shall remain with the current operating entity. As appropriate, the Secretary shall incorporate the operation and maintenance of such facilities into existing agreements. The Secretary shall assure that such facilities are operated in a manner consistent with Federal and State law and in accordance with water rights recognized pursuant to State and Federal law.

(d) WATER ACQUIRED BY PURCHASE AND LEASE.—Water acquired from voluntary sellers and lessors shall be administered as a block of water separate from the Total Water Supply Available, in accordance with applicable Federal and State law.

(e) YAKIMA PROJECT PURPOSE.—(1) An additional purpose of the Yakima Project shall be for fish, wildlife, and recreation.

(2) The existing storage rights of the Yakima Project shall include storage for the purposes of fish, wildlife, and recreation.

(3) The purposes specified in paragraphs (1) and (2) shall not impair the operation of the Yakima Project to provide water for irrigation purposes nor impact existing contracts.

SEC. 1206. LAKE CLE ELUM AUTHORIZATION OF APPROPRIATIONS.

(a) MODIFICATIONS AND IMPROVEMENTS.—There is hereby authorized to be appropriated to the Secretary—

(1) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuation of applicable indexes, $2,934,000 to—

(A) modify the radial gates at Cle Elum Dam to provide an additional 14,600 acre-feet of storage capacity in Lake Cle Elum,

(B) provide for shoreline protection of Lake Cle Elum, and

(C) construct juvenile fish passage facilities at Cle Elum Dam, plus

(2) such additional amounts as may be necessary which may be required for environmental mitigation.

(b) OPERATION AND MAINTENANCE APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary such sums as may be necessary for that portion of the operation and maintenance of Cle Elum Dam determined by the Secretary to be a Federal responsibility.

SEC. 1207. ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA BASIN TRIBUTARIES.

(a) GENERAL PROVISIONS.—The following shall be applicable to the investigation and implementation of measures to enhance water supplies for fish and wildlife and irrigation purposes on tributaries of the Yakima River basin:

(1) An enhancement program authorized by this section undertaken in any tributary shall be contingent upon the agreement of appropriate water right owners to participate.

(2) The enhancement program authorized by this section shall not be construed to affect (A) the water rights of any water right owners in the tributary or other water delivering entities; (B) the capability of tributary water users to divert, convey, and apply water; and (C) existing water and land uses within the tributary area.

(3) The water supply for tributary enhancement shall be administered in accordance with applicable State and Federal laws.

(4) Any enhancement program authorized by this section shall be predicated upon the availability of a dependable water supply.

(b) STUDY.—(1) The Secretary, following consultation with the State of Washington, the tributary water right owners, and the Yakama Indian Nation, and agreement of appropriate water right owners to participate, shall conduct a study concerning the measures that can be implemented to enhance water supplies for fish and wildlife and irrigation purposes on Taneum Creek, including (but not limited to)—

(A) water use efficiency improvements;

(B) the conveyance of water from the Yakima Project through the facilities of any irrigation entity willing to contract with the Secretary without adverse impact to water users;

(C) the construction, operation, and maintenance of ground water withdrawal facilities;

(D) contracting with any entity that is willing to voluntarily limit or forego present water use through lease or sale of water or water rights on a temporary or permanent basis;

(E) purchase of water rights from willing sellers; and

(F) other measures compatible with the purposes of this title, including restoration of stream habitats.

(2) In conducting the Taneum Creek study, the Secretary shall consider—

(A) the hydrologic and environmental characteristics;

(B) the engineering and economic factors relating to each measure; and

(C) the potential impacts upon the operations of present water users in the tributary and measures to alleviate such impacts.

(3) The Secretary shall make available to the public for a 45-day comment period a draft report describing in detail the findings, conclusions, and recommendations of the study. The Secretary shall consider and include any comment made in developing a final report. The Secretary's final report shall be submitted to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington, and made available to the public.

Public information.

Reports.

(c) IMPLEMENTATION OF NONSTORAGE MEASURES.—After securing the necessary permits the Secretary may, in cooperation with the Department of Ecology of the State of Washington and in accordance with the laws of the State of Washington, implement nonstorage measures identified in the final report under subsection (b) upon fulfillment of the following conditions:

(1) The Secretary shall enter into an agreement with the appropriate water right owners who are willing to participate, the State of Washington, and the Yakama Indian Nation, for the use and management of the water supply to be provided by proposed tributary measures pursuant to this section.

Contracts.

(2) The Secretary and the State of Washington find that the implementation of the proposed tributary measures will not impair the water rights of any person or entity in the affected tributary.

(d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—Enhancement programs similar to the enhancement program authorized by this section may be investigated and implemented by the Secretary in other tributaries contingent upon the agreement of the appropriate tributary water right owners to participate. The provisions set forth in this section shall be applicable to such programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated to the Secretary $500,000 for the study of the Taneum Creek Project and such amount as the Secretary subsequently determines is necessary for implementation of tributary measures pursuant to this section.

(2) There is also authorized to be appropriated to the Secretary such funds as are necessary for the investigation of enhancement programs similar to the enhancement program authorized by this section in other Yakima River basin tributaries contingent upon the agreement of the appropriate water right owners to participate. Funds for the implementation of any such similar enhancement program may not be appropriated until after the Secretary submits an investigation report to the appropriate congressional committees.

SEC. 1208. CHANDLER PUMPING PLANT AND POWERPLANT-OPERATIONS AT PROSSER DIVERSION DAM.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ELECTRIFICATION.—In order to provide for electrification to enhance instream flows by eliminating the need to divert water to operate the hydraulic turbines which pump water to the Kennewick Irrigation District, there is authorized to be appropriated—

(1) $50,000 to conduct an assessment of opportunities for alternative pumping plant locations;

(2) $4,000,000 for construction; and

(3) such sums as may be necessary for the prorata share of the operation and maintenance allocated to fish and wildlife as determined by the Secretary.

(b) POWER FOR PROJECT PUMPING.—(1) The Administrator of the Bonneville Power Administration shall provide for project power needed to effect the electrification as provided in subsection (a).

(2)(A) There is authorized to be appropriated for the Bureau of Reclamation for each fiscal year in which the Administrator provides power under this subsection an amount equal to the cost to the Bonneville Power Administration of providing power under this subsection during such fiscal year. The rate to be utilized by the Administrator in determining the cost of power under this paragraph in a fiscal year shall be the rate for priority firm power charged by the Bonneville Power Administration in that fiscal year under section 7(b) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(b)).

(B) The Bureau of Reclamation shall, using funds appropriated pursuant to the authorization of appropriations in subparagraph (A), reimburse the Bonneville Power Administration for the costs of the project power provided under this subsection. Such funds shall be available for such purpose without fiscal year limitation.

(c) SUBORDINATION.—Any diversions for hydropower generation at the Chandler Powerplant shall be subordinated to meet the flow targets determined under subsection (f).

(d) WATER SUPPLY FOR KENNEWICK IRRIGATION DISTRICT.—The Secretary shall ensure that the irrigation water supply for the Kennewick Irrigation District shall not be affected by conserva-

tion, electrification, or subordination pursuant to this title and any reduction in its irrigation water supply resulting from conservation measures adopted or implemented by other entities pursuant to this title shall be replaced by water developed through subordination, electrification, or a combination of the two.

(e) TREATMENT OF CERTAIN FUNDS.—Funds appropriated and project power provided pursuant to this section shall be nonreimbursable since such funds are used for fish and wildlife purposes and such funds are not subject to cost share under section 1203(d).

(f) TARGET FLOWS.—Target flows measured at appropriate biological and hydrological location or locations shall be determined by the Yakima Project Superintendent in consultation with the System Operations Advisory Committee.

SEC. 1209. AUGMENTATION OF KACHESS RESERVOIR STORED WATER.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to augment Kachess Reservoir stored water supplies from flows of Cabin Creek and Silver Creek which are excess to system demands, there is authorized to be appropriated—

(1) such sums as may be necessary to carry out a feasibility study, including the benefits, costs, and environmental aspects, of the facility described in paragraph (2);

(2) for the construction of facilities to convey such flows to Kachess Reservoir, $20,000,000; and

(3) such sums as may be necessary for the pro rata share of the operation and maintenance allocated to fish and wildlife determined by the Secretary.

(b) LIMITATION.—Construction of the facilities described in subsection (a)(1) is contingent on the completion of the feasibility study referred to in subsection (a)(2).

(c) USE OF ADDITIONAL WATER.—The stored water supply resulting from the construction of facilities under this section shall be used by the Secretary to—

(1) enhance the water supply available to the Kittitas Reclamation District and the Roza Irrigation District in years of proration; and

(2) facilitate reservoir operations in the Easton Dam to Keechelus Dam reach of the Yakima River for the propagation of anadromous fish.

(d) TREATMENT OF COSTS.—The construction and operation and maintenance costs of the facilities under this section shall be allocated to irrigation and fishery enhancement, as follows:

(1) The portion of such costs allocated to irrigation is reimbursable, with the construction costs to be paid prior to initiation of construction by the Kittitas Reclamation District and the Roza Irrigation District.

(2) The portion of such costs allocated to fishery enhancement is nonreimbursable.

(e) KACHESS DAM MODIFICATIONS.—There is authorized to be appropriated $2,000,000 for the modification of the discharge facilities of Kachess Dam to improve reservoir operations for anadromous fish enhancement. Amounts appropriated under this subsection are nonreimbursable. Appropriation authorization.

SEC. 1210. INTERIM COMPREHENSIVE BASIN OPERATING PLAN.

(a) DEVELOPMENT.—The Secretary shall, in consultation with the State of Washington, Yakama Indian Nation, Yakima River

Basin irrigation districts, Bonneville Power Administration, and other entities as determined by the Secretary, develop an interim comprehensive operating plan for providing a general framework within which the Yakima Project Superintendent operates the Yakima Project, including measures implemented under the Yakima River Basin Water Enhancement Project, including (but not limited to)—

(1) operating capability and constraints of the system;

(2) information on water supply calculations and water needs;

(3) system operations and stream flow objectives; and

(4) the System Operations Advisory Committee activities.

Publication.

(b) PROCESS REQUIREMENTS.—A draft of the interim comprehensive basin operating plan shall be completed within 18 months after the completion of the Basin Conservation Plan under section 1203(f) and, upon completion, published for a 90-day public review period. The Secretary shall complete and publish the final interim comprehensive operating plan within 90 days after the close of the public review period. The Secretary shall update the plan as needed to respond to decisions from water adjudications relating to the Yakima River basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000 to carry out this section.

SEC. 1211. ENVIRONMENTAL COMPLIANCE.

Appropriation authorization.

There are hereby authorized to be appropriated to the Secretary $2,000,000 for environmental compliance activities including the conduct, in cooperation with the State of Washington, of an inventory of wildlife and wetland resources in the Yakima River basin and an investigation of measures, including "wetland banking", which could be implemented to address potential impacts which could result from the activities taken under this title.

SEC. 1212. SAVINGS AND CONTINGENCIES.

(a) IN GENERAL.—Nothing in this title shall be construed to—

(1) affect or modify any treaty or other right of the Yakama Indian Nation;

(2) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakama Indian Nation, or any other entity or individual;

(3) impair the rights or jurisdictions of the United States, the States, the Yakama Indian Nation, or other entities over waters of any river or stream or over any ground water resource;

(4) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(5) alter, establish, or impair the respective rights of States, the United States, the Yakama Indian Nation, or any other entity or individual with respect to any water or water-related right;

(6) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakama Indian Nation, or other entity, public or private;

(7) affect or modify the rights of the Yakama Indian Nation or its successors in interest to, and management and regulation of, those water resources arising or used, within the external boundaries of the Yakama Indian Reservation;

(8) affect or modify the settlement agreement between the United States and the State of Washington filed in Yakima County Superior Court with regard to Federal reserved water rights other than those rights reserved by the United States for the benefit of the Yakama Indian Nation and its members;

(9) affect or modify the rights of any Federal, State, or local agency, the Yakama Indian Nation, or any other entity, public or private with respect to any unresolved and unsettled claims in any water right adjudications, or court decisions, including State against Acquavella, or constitute evidence in any such proceeding in which any water or water related right is adjudicated; or

(10) preclude other planning studies and projects to accomplish the purposes of this title by other means: funded publicly, privately, or by a combination of public and private funding.

(b) CONTINGENCY BASED ON APPROPRIATIONS.—The performance of any activity under this title which requires accomplishment within a specified period that may require appropriation of money by Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made.

TITLE XIII—LIMITATION ON APPLICATION OF REQUIREMENT FOR ACQUISITIONS BY UNITED STATES UNDER MIGRATORY BIRD CONSERVATION ACT

Section 7 of the Migratory Bird Conservation Act (16 U.S.C. 715f) is amended by inserting "in fee" after "conveyance".

Approved October 31, 1994.

LEGISLATIVE HISTORY—S. 1146:

HOUSE REPORTS: No. 103-812 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-239 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 26, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 4, Senate concurred in House amendment.

Public Law 103-435
103d Congress

An Act

Nov. 2, 1994
[H.R. 4709]

To make certain technical corrections, and for other purposes.

Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASING AUTHORITY OF THE INDIAN PUEBLO FEDERAL DEVELOPMENT CORPORATION.

Notwithstanding the provisions of section 17 of the Act of June 18, 1934 (48 Stat. 988, chapter 576; 25 U.S.C. 477), the Indian Pueblo Federal Development Corporation, whose charter was issued pursuant to such section by the Secretary of the Interior on January 15, 1993, shall have the authority to lease or sublease trust or restricted Indian lands for up to 50 years.

SEC. 2. GRAND RONDE RESERVATION ACT.

(a) LANDS DESCRIBED.—Section 1 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended—

25 USC 713f note.

(1) in subsection (c)—

(A) by striking "9,879.65" and inserting "10,120.68"; and

(B) by striking all after

"6	8	1	SW¼SW¼,W½SE¼SW¼	53.78"

and inserting the following:

"6	8	1	S½E½SE¼SW¼	10.03
6	7	8	Tax lot 800	5.55
4	7	30	Lots 3, 4, SW¼NE¼, SE¼NW¼,E½SW¼	240
			Total	10,120.68.";

and

(2) by adding at the end the following new subsection:

"(d) CLAIMS EXTINGUISHED; LIABILITY.—

"(1) CLAIMS EXTINGUISHED.—All claims to lands within the State of Oregon based upon recognized title to the Grand Ronde Indian Reservation established by the Executive order of June 30, 1857, pursuant to treaties with the Kalapuya, Molalla, and other tribes, or any part thereof by the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor in interest, are hereby extinguished, and any trans-

fers pursuant to the Act of April 28, 1904 (Chap. 1820; 33 Stat. 567) or other statute of the United States, by, from, or on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor interest, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including, but not limited to, the Act of July 22, 1790, commonly known as the 'Trade and Intercourse Act of 1790' (1 Stat. 137, chapter 33, section 4)).

"(2) LIABILITY.—The Tribe shall assume responsibility for lost revenues, if any, to any county because of the transfer of revested Oregon and California Railroad grant lands in section 30, Township 4 South, Range 7 West.".

(b) CIVIL AND CRIMINAL JURISDICTION.—Section 3 of such Act (102 Stat. 1595) is amended by adding at the end the following: "Such exercise shall not affect the Tribe's concurrent jurisdiction over such matters.". 25 USC 713f note.

SEC. 3. CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON.

Section 2 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon, approved September 4, 1980 (Public Law 96–340; 94 Stat. 1072) is amended— 25 USC 711 note.

(1) by inserting "(a)" after "SEC. 2."; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Interior, acting at the request of the Confederated Tribes of the Siletz Indians of Oregon, shall accept (subject to all valid rights-of-way and easements existing on the date of such request) any appropriate warranty deed conveying to the United States in trust for the Confederated Tribes of the Siletz Indians of Oregon, contingent upon payment of all accrued and unpaid taxes, the following parcels of land located in Lincoln County, State of Oregon:

"(A) In Township 10 South, Range 8 West, Willamette Meridian—

"(i) a tract of land in the northwest and the northeast quarters of section 7 consisting of 208.50 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990; and

"(ii) 3 tracts of land in section 7 consisting of 18.07 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990.

"(B) In Township 10 South, Range 10 West, Willamette Meridian—

"(i) a tract of land in section 4, including a portion of United States Government Lot 31 lying west and south of the Siletz River, consisting of 15.29 acres, more or less, conveyed to the Tribe by warranty deed from Patrick J. Collson and Patricia Ann Collson on February 27, 1991;

"(ii) a tract of land in section 9, located in Tract 60, consisting of 4.00 acres, more or less, conveyed to the Tribe by contract of sale from Gladys M. Faulkner on December 9, 1987;

"(iii) a tract of land in section 9, including portions of the north one-half of United States Government Lot

15, consisting of 7.34 acres, more or less, conveyed to the Tribe by contract of sale from Clayton E. Hursh and Anna L. Hursh on December 9, 1987;

"(iv) a tract of land in section 9, including a portion of the north one-half of United States Government Lot 16, consisting of 5.62 acres, more or less, conveyed to the Tribe by warranty deed from Steve Jebert and Elizabeth Jebert on December 1, 1987;

"(v) a tract of land in the southwest quarter of the northwest quarter of section 9, consisting of 3.45 acres, more or less, conveyed to the Tribe by warranty deed from Eugenie Nashif on July 11, 1988; and

"(vi) a tract of land in section 10, including United States Government Lot 8 and portions of United States Government Lot 7, consisting of 29.93 acres, more or less, conveyed to the Tribe by warranty deed from Doyle Grooms on August 6, 1992.

"(C) In the northwest quarter of section 2 and the northeast quarter of section 3, Township 7 South, Range 11 West, Willamette Meridian, a tract of land comprising United States Government Lots 58, 59, 63, and 64, Lincoln Shore Star Resort, Lincoln City, Oregon.

"(2) The parcels of land described in paragraph (1), together with the following tracts of lands which have been conveyed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon—

"(A) a tract of land in section 3, Township 10 South, Range 10 West, Willamette Meridian, including portions of United States Government Lots 25, 26, 27, and 28, consisting of 49.35 acres, more or less, conveyed by the Siletz Tribe to the United States in trust for the Tribe on March 15, 1986; and

"(B) a tract of land in section 9, Township 10 South, Range 10 West, Willamette Meridian, including United States Government Lot 33, consisting of 2.27 acres, more or less, conveyed by warranty deed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon from Harold D. Alldridge and Sylvia C. Alldridge on June 30, 1981;

shall be subject to the limitations and provisions of sections 3, 4, and 5 of this Act and shall be deemed to be a restoration of land pursuant to section 7 of the Siletz Indian Tribe Restoration Act (25 U.S.C. 711(e)).

"(3) Notwithstanding any other provision of law, the United States should not incur any liability for conditions on any parcels of land taken into trust under this section.

"(4) As soon as practicable after the transfer of the parcels provided in paragraphs (1) and (2), the Secretary of the Interior shall convey such parcels and publish a description of such lands in the Federal Register.".

SEC. 4. TRANSFER OF PARCEL BY YSLETA DEL SUR PUEBLO.

(a) RATIFICATION.—The transfer of the land described in subsection (b), together with fixtures thereon, on July 12, 1991, by the Ysleta Del Sur Pueblo is hereby ratified and shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including section 2116 of the Revised

Statutes (25 U.S.C. 177)) as if Congress had given its consent prior to the transfer.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are more particularly described as follows:

Tract 1–B–1 (1.9251 acres) and Tract 1–B–2–A (0.0748 acres), Block 2 San Elizario, El Paso County, Texas.

SEC. 5. AUTHORIZATION FOR 99-YEAR LEASES.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415(a)) is amended by inserting "the Viejas Indian Reservation," after "Soboba Indian Reservation,".

SEC. 6. WIND RIVER INDIAN IRRIGATION PROJECT.

Funds appropriated for construction of the Wind River Indian Irrigation Project for fiscal year 1990 (pursuant to Public Law 101–121), fiscal year 1991 (pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512)), and fiscal year 1992 (pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154)) shall be made available on a nonreimbursable basis.

SEC. 7. REIMBURSEMENT OF COSTS INCURRED BY GILA RIVER INDIAN COMMUNITY FOR CERTAIN RECLAMATION CONSTRUCTION.

The Secretary of the Interior is authorized to pay $1,842,205 to the Gila River Indian Community as reimbursement for the costs incurred by the Gila River Indian Community for construction allocated to irrigation on the Sacaton Ranch that would have been nonreimbursable if such construction had been performed by the Bureau of Reclamation under section 402 of the Colorado River Basin Project Act (43 U.S.C. 1542).

SEC. 8. RECOGNITION OF INDIAN COMMUNITY.

Section 10 of the Indian Law Technical Amendments of 1987 (Public Law 100–153) is amended— 101 Stat. 889.

(1) by striking "The Frank's" and inserting "(a) Subject to subsection (b), the Frank's";

(2) by striking "recognized as eligible" and inserting the following:

"recognized—

"(1) as eligible";

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) as a self-governing dependent Indian community that is not subject to the jurisdiction of any federally recognized tribe.

"(b)(1) Nothing in this section may be construed to alter or affect the jurisdiction of the State of Washington under section 1162 of title 18, United States Code.

"(2) Nothing in this section may be construed to constitute the recognition by the United States that the Frank's Landing Indian Community is a federally recognized Indian tribe.

"(3) Notwithstanding any other provision of law, the Frank's Landing Indian Community shall not engage in any class III gaming

activity (as defined in section 3(8) of the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2703(8))).".

SEC. 9. RECONVEYANCE OF CERTAIN EXCESS LANDS.

(a) IN GENERAL.—The Congress finds that the Sac and Fox Nation of Oklahoma has determined the lands described in subsection (b) to be excess to their needs and should be returned to the original Indian grantors or their heirs. The Secretary of the Interior is authorized to accept transfer of title from the Sac and Fox Nation of Oklahoma of its interest in the lands described in subsection (b).

(b) PERSONS AND LANDS.—The lands and individuals referred to in subsection (a) are as follows:

(1) To the United States of America in trust for Sadie Davis, now Tyner, or her heirs or devisees, the Surface and Surface Rights only in and to the SE¼SE¼SE¼SE¼ of section 28, Township 17 North, Range 6 East of the Indian Meridian, Lincoln County, Oklahoma, containing 2.50 acres, more or less.

(2) To the United States of America in trust for Mabel Wakole, or her heirs or devisees, the Surface and Surface Rights only in and to the NE¼NE¼ of Lot 6 of NW¼ of section 14, Township 11 North, Range 4 East of the Indian Meridian, Pottawatomie County, Oklahoma, containing 2.50 acres, more or less.

SEC. 10. TITLE I OF PUBLIC LAW 97-459, PERTAINING TO THE DEVILS LAKE SIOUX TRIBE.

Paragraph (1) of section 108(a) of title I of Public Law 97-459 (96 Stat. 2515) is amended by striking out "of the date of death of the decedent" and inserting in lieu thereof "after the date on which the Secretary's determination of the heirs of the decedent becomes final".

SEC. 11. NORTHERN CHEYENNE LAND TRANSFER.

(a) IN GENERAL.—Notwithstanding any contrary provision of law, the Secretary of the Interior or an authorized representative of the Secretary (referred to in this section as the "Secretary") is hereby authorized and directed to transfer by deed to Lame Deer High School District No. 6, Rosebud County, Montana (referred to in this section as the "School District"), all right, title, and interest of the United States and the Northern Cheyenne Tribe (referred to in this section as the "Tribe") in and to the lands described in this subsection (referred to in this section as "Subject Lands"), to be held and used by the School District for the exclusive purpose of constructing and operating thereon a public high school and related facilities. The Subject Lands consist of a tract of approximately 40 acres within the Northern Cheyenne Indian Reservation, more particularly described as follows:

A tract of land located in the W½SE¼ and the E½SW¼ of section 10, Township 3 South, Range 41 East, M.P.M., described as follows: Beginning at the south ¼ corner of said section 10, thence south 89 degrees 56 minutes west 393.31 feet on and along the south line of said section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500.0 feet on and along said section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east 2382.26 feet, thence south 23 degrees 44 minutes 21 seconds east 622.56 feet, thence south 51 degrees

14 minutes 40 seconds west 2177.19 feet to the true point of beginning, containing in all 40.0 acres, more or less.

(b) DEED AND LEASE.—

(1) IN GENERAL.—The deed issued under this section shall provide that—

(A) title to all coal and other minerals, including oil, gas, and other natural deposits, within the Subject Lands shall remain in the Secretary in trust for the Tribe, as provided in Public Law 90–424 (82 Stat. 424);

(B) the Subject Lands may be used for the purpose of constructing and operating a public high school and related facilities thereon, and for no other purpose;

(C) title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe, and the deed shall be of no further force or effect, if, within 8 years after the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such 8-year period, but the facility subsequently permanently ceases operating as a public high school; and

(D) at any time after the conclusion of the current litigation (commenced before the date of enactment of this Act and including all trial and, if any, appellate proceedings) challenging the November 9, 1993, decision of the Superintendent of Public Instruction for the State of Montana granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction (referred to in this section as the "Superintendent's Approval"), the Tribe shall have the right to replace the deed with a lease covering the Subject Lands issued under section 1(a) of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415(a)) having a term of 25 years, with a right to renew for an additional 25 years.

(2) CONDITIONS OF LEASE.—Under the lease referred to in paragraph (1)(D), the Subject Lands shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities thereon. The lease shall terminate if, within 8 years after the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such 8-year period, but the facility subsequently permanently ceases operating as a public high school. In the event the Tribe seeks and obtains the Superintendent's Approval, the Tribe may tender a lease, signed by the Tribe and approved by the Secretary, which complies with the provisions of this subsection. Upon such tender, the deed shall be of no further force or effect, and, subject to the leasehold interest offered to the School District, title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe. The Tribe may at any time irrevocably relinquish the right provided to it under this subsection by resolution of the Northern Cheyenne Tribal Council explicitly so providing.

(c) EFFECT OF ACCEPTANCE OF DEED.—Upon the School District's acceptance of a deed delivered under this section, the School

District, and any party who may subsequently acquire any right, title, or interest of any kind whatsoever in or to the Subject Lands by or through the School District, shall be subject to, be bound by, and comply with all terms and conditions set forth in subparagraphs (A) through (D) of subsection (b)(1).

SEC. 12. INDIAN AGRICULTURE AMENDMENT.

(a) LEASING OF INDIAN AGRICULTURAL LANDS.—Section 105 of the American Indian Agriculture Resource Management Act (25 U.S.C. 3715) is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body."; and

(2) in subsection (c), amending paragraph (1) to read as follows:

"(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.".

(b) TRIBAL IMMUNITY.—The American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

25 USC 3746.

"SEC. 306. TRIBAL IMMUNITY.

"Nothing in this Act shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.".

SEC. 13. SAN CARLOS APACHE WATER RIGHTS SETTLEMENT ACT OF 1992.

25 USC 390 note.

Section 3711(b)(1) of title XXXVII of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking "December 31, 1994" and inserting "December 31, 1995".

SEC. 14. RELATIONSHIP BETWEEN BUY INDIAN ACT AND MENTOR-PROTEGE PROGRAM.

Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47; commonly referred to as the "Buy Indian Act"), is amended by adding at the end the following: "Participation in the Mentor-Protege Program established under section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) or receipt of assistance pursuant to any developmental assistance agreement authorized under such program shall not render Indian labor or Indian industry ineligible to receive any assistance authorized under this section. For the purposes of this section—

"(1) no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assist-

ance described in subsection (f) of section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note); and

"(2) the terms 'protege firm' and 'mentor firm' have the meaning given such terms in subsection (c) of such section 831.".

SEC. 15. ACQUISITION OF LANDS ON WIND RIVER RESERVATION. 25 USC 574a.

(a) AUTHORITY TO HOLD LANDS IN TRUST FOR THE INDIVIDUAL TRIBE.—The Secretary of the Interior is hereby authorized to acquire individually in the name of the United States in trust for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation or the Northern Arapaho Tribe of the Wind River Reservation, as appropriate, lands or other rights when the individual assets of only one of the tribes is used to acquire such lands or other rights.

(b) LANDS REMAIN PART OF JOINT RESERVATION SUBJECT TO EXCLUSIVE TRIBAL CONTROL.—Any lands acquired under subsection (a) within the exterior boundaries of the Wind River Reservation shall remain a part of the Reservation and subject to the joint tribal laws of the Reservation, except that the lands so acquired shall be subject to the exclusive use and control of the tribe for which such lands were acquired.

(c) INCOME.—The income from lands acquired under subsection (a) shall be credited to the tribe for which such lands were acquired.

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prevent the joint acquisition of lands for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation and the Northern Arapaho Tribe of the Wind River Reservation.

SEC. 16. ADVANCED TRAINING AND RESEARCH.

(a) Section 111 of the Indian Health Care Improvement Act (25 U.S.C. 1616d) is amended—

(1) in subsection (a)—

(A) by striking "who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time"; and

(B) by adding at the end the following new sentence: "In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications."; and

(2) in subsection (b), by inserting after "Indian health program" the following: "(as defined in section 108(a)(2))".

(b) NURSING RESIDENCY PROGRAM.—Section 118(b) of such Act (25 U.S.C. 1616k(b)) is amended by inserting before the period the following: "or a Master's degree".

SEC. 17. REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION. 25 USC 601 note.

(a) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(b) REFERENCES.—Any reference in a law (including any regulation), map, document, paper, or other record of the United States to Confederated Tribes and Bands of the Yakima Indian Nation

referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 18. EXPENDITURE OF JUDGMENT FUNDS.

Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with the letter of Charles Dawes, the Chief of the Ottowa Tribe of Oklahoma, to the Bureau of Indian Affairs, Muskogee Area Office, dated September 21, 1993, and the accompanying Resolution that was approved by the Business Committee of the Ottawa Tribe of Oklahoma August 19, 1993, the specific changes in the Secretarial Plan that became effective on June 14, 1983, for the use of funds that were awarded in satisfaction of judgments in final awards by the Indian Claims Commission for claims with the following docket numbers: 133–A, 133–B, 133–C, 302, and 338.

25 USC 166.

SEC. 19. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The activities of the Department of the Interior associated with the Department's consultation with Indian tribes and organizations related to the management of funds held in trust by the United States for Indian tribes shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 20. POKAGON POTAWATOMI MEMBERSHIP LIST.

The Act entitled "An Act to restore Federal services to the Pokagon Band of Potawatomi Indians", approved September 21, 1994 (Public Law 103–323) is amended—

25 USC 1300j-8.

(1) by redesignating section 9 as section 10; and

(2) by inserting after section 8 the following new section:

25 USC 1300j-7a.

"SEC. 9. MEMBERSHIP LIST.

"(a) LIST OF MEMBERS AS OF SEPTEMBER 1994.—Not later than 120 days after the date of enactment of this Act, the Bands shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the respective Bands.

"(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Bands shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Bands. Each such Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

Federal Register, publication.

"(2) PUBLICATION OF NOTICE.—At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls.

"(3) MAINTENANCE OF ROLLS.—The Bands shall ensure that the rolls are maintained and kept current.".

SEC. 21. ODAWA AND OTTAWA MEMBERSHIP LISTS.

The Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (Public Law 103–324) is amended by adding at the end the following new section:

"SEC. 9. MEMBERSHIP LIST. 25 USC 1300k-7.

"(a) LIST OF PRESENT MEMBERSHIP.—Not later than 120 days after the date of enactment of this Act, the Band shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the Band.

"(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band. The Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

"(2) PUBLICATION OF NOTICE.—At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls. Federal Register, publication.

"(3) MAINTENANCE OF ROLLS.—The Band shall ensure that the rolls are maintained and kept current.".

SEC. 22. INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) IN GENERAL.—The Indian Self-Determination Act is amended—

(1) in section 107(b)(2) (25 U.S.C. 450k(b)(2)), by striking "Committee on Interior and Insular Affairs" and inserting "Committee on Natural Resources";

(2) in section 301 (25 U.S.C. 450f note), by striking "eight" and inserting "18"; and

(3) in section 302(a) (25 U.S.C. 450f note), by striking "The Secretaries" and inserting "For each fiscal year, the Secretaries".

(b) ADVISORY COMMITTEES.—The Indian Self-Determination and Education Assistance Act Amendments of 1990 (title II of Public Law 101-644) is amended by adding at the end the following new section:

"SEC. 204. TRIBAL AND FEDERAL ADVISORY COMMITTEES. 25 USC 450a-1.

"Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund advisory committees or other advisory bodies composed of members of Indian tribes or members of Indian tribes and representatives of the Federal Government to ensure tribal participation in the implementation of the Indian Self-Determination and Education Assistance Act (Public Law 93-638).".

SEC. 23. CROW BOUNDARY SETTLEMENT.

Section 6(c) of the Crow Boundary Settlement Act of 1994 is amended to read as follows: *Post*, p. 4638.

"(c) INVESTMENT.—At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with the first section of the Act of February 12, 1929 (45 Stat. 1164, chapter 178, 25 U.S.C. 161a).".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4709:

HOUSE REPORTS: No. 103-704 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 16, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 6, House concurred in Senate amendment.

Public Law 103-436
103d Congress

An Act

To provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes.

Nov. 2, 1994
[H.R. 4757]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Bonneville Power Administration.

(2) The term "Bonneville Power Administration" means the Bonneville Power Administration of the Department of Energy or any successor Agency, Corporation, or entity that markets power produced at the Dam.

(3) The term "Dam" means the Grand Coulee Dam operated by the Bureau of Reclamation of the Department of the Interior, the power from which is marketed by the Bonneville Power Administration of the Department of Energy.

(4) The term "Settlement Agreement" means the Settlement Agreement entered into between the United States and the Tribe, signed by the United States on April 21, 1994, and by the Tribe on April 16, 1994, to settle the claims of the Tribe in Docket 181-D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims.

(5) The term "Tribe" means the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is pending before the United States Court of Federal Claims, a suit by the Confederated Tribes of the Colville Reservation against the United States, in which the Tribe seeks to recover damages under the "Fair and Honorable Dealings" clause of the Indian Claims Commission Act (Act of August 13, 1946, 60 Stat. 1049), and in which, although the matter is in dispute, the potential liability of the United States is substantial;

(2) the claim alleges that the United States has since the construction of Grand Coulee Dam used Colville Reservation

land in the generation of electric power, and will continue to use such reservation land for as long as Grand Coulee Dam produces power; and that the United States has promised and undertaken to pay the Tribe for such use and has not done so;

(3) the United States, after years of litigation, has negotiated a Settlement Agreement with the Tribe, signed by the Department of Justice, the Bonneville Power Administration and the Department of the Interior. The Settlement Agreement is contingent on the enactment of the enabling legislation; and

(4) the Settlement Agreement, approved in this Act, will provide mutually agreeable compensation for the past use of reservation land in connection with the generation of electric power at Grand Coulee Dam, and will establish a method to ensure that the Tribe will be compensated for the future use of reservation land in the generation of electric power at Grand Coulee Dam, and will settle the claims of the Tribe against the United States brought under the Indian Claims Commission Act.

(b) PURPOSES.—It is the purpose of this Act—

(1) to approve and ratify the Settlement Agreement entered into by the United States and the Tribe; and

(2) to direct the Bonneville Power Administration to carry out its obligations under the Settlement Agreement.

SEC. 4. APPROVAL, RATIFICATION, AND IMPLEMENTATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL AND RATIFICATION.—The Settlement Agreement is approved and ratified.

(b) ANNUAL PAYMENTS.—The Bonneville Power Administration shall make annual payments to the Tribe as set forth in the Settlement Agreement and shall carry out its other obligations under the Settlement Agreement.

(c) SETTLEMENT.—Consistent with the negotiated terms of the Settlement Agreement, the United States shall join in the motion that the Tribe has agreed to file in Confederated Tribes v. United States, Indian Claims Commission Docket 181–D, for the entry of a compromise final judgment in the amount of $53,000,000. The judgment shall be paid from funds appropriated pursuant to section 1304 of title 31, United States Code, and is not reimbursable by the Bonneville Power Administration.

SEC. 5. DISTRIBUTION OF THE SETTLEMENT FUNDS.

(a) LUMP-SUM PAYMENT.—The judgment of $53,000,000, when paid, shall be deposited in the Treasury of the United States and the principal amount and interest on the judgment, shall be credited to the account of the Tribe. These funds may be advanced or expended for any purpose by the tribal governing body of the Confederated Tribes of the Colville Reservation, pursuant to a distribution plan developed by the Tribe and approved by the Secretary of the Interior pursuant to section 3 of Public Law 93–134 (25 U.S.C. 1403): *Provided,* That any payment to a minor under the distribution plan shall be held in trust by the United States for the minor until the minor reaches the age of 18, or until the minor's class is scheduled to graduate from high school, whichever is later: *Provided further,* That emergency use of trust funds may

Children and youth.

be authorized for the benefit of the minor pursuant to regulations of the Bureau of Indian Affairs.

(b) ANNUAL PAYMENTS.—In addition to the lump-sum payment, annual payments shall be made directly to the Tribe in accordance with the Settlement Agreement, and may be used in the same manner as any other income received by the tribe from the lease or sale of natural resources.

SEC. 6. REPAYMENT CREDIT.

Beginning with fiscal year 2000 and continuing for so long as annual payments are made under this Act, the Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds as defined in section 13 of the Federal Columbia River Transmission System Act, an amount equal to 26 percent of the payment made to the Tribe for the prior fiscal year. Each deduction made under this section shall be a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made, and shall be allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during that fiscal year; except that, if the deduction in any fiscal year is greater than the interest due on debt associated with the generation function for that fiscal year, then the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during that fiscal year. To the extent that the deduction exceeds the total amount of any such interest, the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary.

SEC. 7. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, the interest or investment income earned or received on those funds, and any payment authorized by the Tribe or the Secretary of the Interior to be made from those funds to tribal members, and the interest or investment income on those payments earned or received while the payments are held in trust for the member, are not subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) ELIGIBILITY FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, the interest or investment income earned or received on such funds, and any payment authorized by the Tribe or the Secretary of the Interior to be made from those funds to tribal members, and the interest or investment income on those payments earned or received while the payments are held in trust for the member, may not be treated as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefit to which the Tribe, a tribal member, or household would otherwise be entitled under the Social Security Act or any Federal or federally assisted program.

(c) TRUST RESPONSIBILITY.—This Act and the Settlement Agreement do not affect the trust responsibility of the United States and its agencies to the Tribe and the members of the Tribe.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4757 (S. 2259):

HOUSE REPORTS: No. 103-685 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-356 accompanying S. 2259 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-437
103d Congress

An Act

To make technical improvements in the United States Code by amending provisions to reflect the current names of congressional committees.

Nov. 2, 1994
[H.R. 4777]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 1, UNITED STATES CODE.

Section 112b(a) of title 1, United States Code, is amended by striking "Committee on International Relations" and substituting "Committee on Foreign Affairs".

SEC. 2. TITLE 2, UNITED STATES CODE.

(a) Section 214(e) of the Postal Revenue and Federal Salary Act of 1967 (2 U.S.C. 74a–2) is amended by striking "Internal Revenue".

(b) Section 1(b) of House Resolution 1047, approved April 4, 1978, and enacted into law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 130–1(b)), is amended by striking "Committee on International Relations" and substituting "Committee on Foreign Affairs".

SEC. 3. TITLE 5, UNITED STATES CODE.

(a) Section 1304(e)(6) of title 5, United States Code, is amended by striking "Committees on Post Office and Civil Service of the Senate and House" and substituting "Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House".

(b) Section 2954 of title 5, United States Code, is amended by striking "Committee on Government Operations of the Senate" and substituting "Committee on Governmental Affairs of the Senate".

SEC. 4. TITLE 7, UNITED STATES CODE.

(a) The following provisions are amended by striking "Committee on Agriculture and Forestry" and substituting "Committee on Agriculture, Nutrition, and Forestry":

(1) section 11(b)(5) of the United States Grain Standards Act (7 U.S.C. 87(b)(5)).

(2) section 407(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228(d)).

(3) section 6 of the Act of May 20, 1936 (7 U.S.C. 906).

(4) section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(5) section 317(i)(2) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(i)(2)).

(6) section 104(c) of the Agricultural Act of 1949 (7 U.S.C. 1444a(c)).

(7) section 345 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1993).

(8) section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005).

(b) Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended as follows:

(1) In subsection (a), strike "Committees on Agriculture of the Senate and House" and substitute "Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House".

(2) In subsection (b), strike "Committees on Agriculture of the Senate and the House" and substitute "Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House".

SEC. 5. TITLE 15, UNITED STATES CODE.

(a) Sections 6 (paragraphs after subsection (h)) and 18(b)(2) of the Federal Trade Commission Act (15 U.S.C. 46 (paragraphs after subsection (h)), 57a(b)(2)) are amended by striking "Committee on Interstate and Foreign Commerce" each place it appears and substituting "Committee on Energy and Commerce".

(b) The following provisions are amended by striking "Committee on Science and Technology" and substituting "Committee on Science, Space, and Technology":

(1) section 202(1) of the Act of July 15, 1983 (15 U.S.C. 1517(note)).

(2) section 201(d) of the Act of October 15, 1982 (15 U.S.C. 1517(note)).

(3) section 6083 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (15 U.S.C. 1530).

(4) section 304(f)(3) of the Automotive Propulsion Research and Development Act of 1976 (15 U.S.C. 2703(f)(3)).

(5) section 4(d)(3) of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3803(d)(3)).

(6) section 3151(b)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4631(b)(2)).

(c) The Consumer Product Safety Act is amended as follows:

(1) In section 32(b)(1) (15 U.S.C. 2081(b)(1)), strike "Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate" and substitute "Committee on Energy and Commerce of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate".

(2) In section 35(c)(2)(D)(iii) and (e)(1) (15 U.S.C. 2082(c)(2)(D)(iii), (e)(1)), strike "Committee on Interstate and Foreign Commerce" and substitute "Committee on Energy and Commerce".

(d) The Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2501 et seq.) is amended as follows:

(1) In section 7(b)(4) (15 U.S.C. 2506(b)(4)), strike "Committee on Science and Technology" and substitute "Committee on Science, Space, and Technology".

(2) In section 10(e)(1) (15 U.S.C. 2509(e)(1))—

(A) strike "Committee on Science and Technology" and substitute "Committee on Science, Space, and Technology"; and

(B) strike "Committee on Commerce" and substitute "Committee on Commerce, Science, and Transportation".

SEC. 6. TITLE 16, UNITED STATES CODE.

(a) The following provisions are amended by striking "Committees on Interior and Insular Affairs of the United States Congress" each place it appears and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives":

(1) section 6 of the Act of August 18, 1970 (16 U.S.C. 1a–3).

(2) section 10(b)(4) of the Grand Canyon National Park Enlargement Act (16 U.S.C. 228i(b)(4)).

(3) sections 2(a) and 4(b) of the Act of July 4, 1976 (16 U.S.C. 410aa–1(a), 410aa–3(b)).

(4) section 1 of the Act of January 3, 1975 (16 U.S.C. 459j).

(5) section 2(a) of the Act of December 27, 1974 (16 U.S.C. 460ff–1(a)).

(6) section 1(c) of the Act of October 11, 1974 (16 U.S.C. 698(c)).

(7) section 7(b)(i) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(b)(i)).

(b) Section 8 of the Act of August 18, 1970 (16 U.S.C. 1a–5) is amended as follows:

(1) In subsection (a), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In subsection (b), strike "Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs" and substitute "The Secretary shall submit to the Committee on Natural Resources".

(c) Section 12(a) and (c) of the Act of August 18, 1970 (16 U.S.C. 1a–7(a), (c)), is amended by striking "Committees on Interior and Insular Affairs" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(d) The following provisions are amended by striking "Interior and Insular Affairs" and substituting "Natural Resources":

(1) section 4(b) of the Act of October 24, 1984 (16 U.S.C. 1a–8(b)).

(2) section 1213 of the Civil War Sites Study Act of 1990 (16 U.S.C. 1a–9).

(3) section 4(d) of the Act of July 27, 1990 (16 U.S.C. 19jj–3(d)).

(4) section 2 of the Joint Resolution of June 19, 1986 (16 U.S.C. 45a–1(note)).

(5) sections 314(b)(1) and 507(c)(1) of the National Parks and Recreation Act of 1978 (16 U.S.C. 45f(b)(1), 460kk(c)(1)).

(6) section 4 of the Act of July 21, 1968 (16 U.S.C. 47–5).

(7) section 2(c) of the Act of October 2, 1968 (16 U.S.C. 79b(c)).

(8) sections 4(b)(3) and 9 of the Wolf Trap Farm Park Act (16 U.S.C. 284c(b)(3), 284h).

(9) section 104(a)(2) and (j) of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8(a)(2), (j)).

(10) section 101 of the Act of June 28, 1980 (16 U.S.C. 410gg).

(11) sections 2(b) and 4(d)(1) of the San Francisco Maritime National Historical Park Act of 1988 (16 U.S.C. 410nn(b), 410nn–2(d)(1)).

(12) section 205 of the Act of June 27, 1990 (16 U.S.C. 410rr–4).

(13) section 105(c)(1) of the Omnibus Insular Areas Act of 1992 (16 U.S.C. 410tt–3(c)(1)).

(14) section 9 of the Marsh-Billings National Historical Park Establishment Act (16 U.S.C. 410vv–7).

(15) sections 1(b)(2)(A) and 3(d) of the Act of December 23, 1987 (16 U.S.C. 426n(b)(2)(A), 426o–1(d)).

(16) section 2(a) of the Act of September 13, 1962 (16 U.S.C. 459c–1(a)).

(17) section 12(e)(4)(B) of the Act of October 21, 1970 (16 U.S.C. 460x–11(e)(4)(B)).

(18) sections 101, 104(b), 302(c), 303(b), and 304(b)(2) of the Act of August 15, 1978 (16 U.S.C. 460ii, 460ii–3(b), 2302(c), 2303(b), 2304(b)(2)).

(19) section 507(c) of the Act of December 31, 1987 (16 U.S.C. 460uu–47(c)).

(20) section 13 of the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–11).

(21) section 201(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(c)).

(22) section 106 of the Arizona-Idaho Conservation Act of 1988 (16 U.S.C. 460xx–5).

(23) section 5(a)(1) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–3(a)(1)).

(24) sections 201(c) and (k) and 503(d) of the Act of November 28, 1990 (16 U.S.C. 460ddd(c), (k), 460eee–1(d)).

(25) section 5 of the Chattahoochee National Forest Protection Act of 1991 (16 U.S.C. 460ggg–3).

(26) section 120(b) of the Act of March 5, 1980 (16 U.S.C. 467b(b)).

(27) section 5(c) of the Act of June 27, 1960 (16 U.S.C. 469a–3(c)).

(28) sections 208(3) and 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 469c–2(3), 470a–1(b)).

(29) sections 101(a)(1)(B), 212(b), and 307 (a) and (b) of the National Historic Preservation Act (16 U.S.C. 470a(a)(1)(B), 470t(b), 470w–6(a), (b)).

(30) section 10(a) and (c) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ii(a), (c)).

(31) sections 706(a) and 1315(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(a), 3203(d)).

(32) section 205(c) of the Act of December 19, 1980 (16 U.S.C. 542d(c)).

(33) section 301 of the California Wilderness Act of 1984 (16 U.S.C. 543).

(34) section 4(c) of the Columbia River Gorge National Scenic Area Act (16 U.S.C. 544b(c)).

(35) section 498(b) of the Customs and Trade Act of 1990 (16 U.S.C. 620i(b)).

(36) section 4(b)(2)(B) of the Little River Canyon National Preserve Act of 1992 (16 U.S.C. 698s(b)(2)(B)).

(37) section 2404(a) of the Energy Policy Act of 1992 (16 U.S.C. 797(note)).

(38) sections 5 (e) and (f) and 10(a)(2) of the National Trails System Act (16 U.S.C. 1244(e), (f), 1249(a)(2)).

(39) section 2 of the Act of August 3, 1992 (16 U.S.C. 1244(note)).

(40) section 3(a)(19) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(19)).

(41) section 3(1) of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3902(1)).

(42) section 605(b)(1) of the International Forestry Cooperation Act of 1990 (16 U.S.C. 4503a(b)(1)).

(43) section 7 of the Pacific Yew Act (16 U.S.C. 4806).

(e) Section 603(a) of the Act of October 2, 1968 (16 U.S.C. 90e–2(a)) is amended by striking "Interior and Insular Affairs Committees of the United States Senate and House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(f) Section 101 of the Act of January 8, 1971 (16 U.S.C. 160a), is amended by striking "Committees on Interior and Insular Affairs of both the Senate and the House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(g) Section 3(a)(3) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y–1(a)(3)) is amended by striking "Committees on Interior and Insular Affairs of the United States House of Representatives and Senate" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(h) The following provisions are amended by striking "Committees on Interior and Insular Affairs of the Congress of the United States" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives":

(1) section 1(a) of the Act of June 30, 1976 (16 U.S.C. 410bb(a)).

(2) section 1 of the Act of June 30, 1944 (16 U.S.C. 450bb).

(i) Section 6 of the Act of August 18, 1978 (16 U.S.C. 410dd) is amended as follows:

(1) In subsection (b), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) Subsection (h) is repealed.

(j) Section 201 of the Act of November 10, 1978 (16 U.S.C. 410ee) is amended as follows:

(1) In subsection (a), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In subsection (f)(2), strike the last sentence.

(k) Sections 3(c) and (d), 7(a), and 8 of the Zuni-Cibola National Historical Park Establishment Act of 1988 (16 U.S.C. 410pp–1(c), (d), 410pp–5(a), 410pp–6) are amended by—

(1) striking "Interior and Insular Affairs" and substituting "Natural Resources"; and

(2) striking "Select".

(*l*) Section 1 of the Act of October 23, 1972 (16 U.S.C. 459i), is amended by striking "Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(m) Section 9 of the Act of January 3, 1975 (16 U.S.C. 459j–8) is amended as follows:

(1) In subsection (a), strike "Committees on Interior and Insular Affairs of the United States Congress" and substitute "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(2) In subsection (b), strike the last sentence.

(n) The following provisions are amended by striking "Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate" and substituting "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate":

(1) sections 1 and 4 of the Act of March 1, 1972 (16 U.S.C. 460m–8, 460m–11).

(2) section 2(b) of the Act of October 27, 1972 (16 U.S.C. 460bb–1(b)).

(3) section 1(b) of the Act of October 27, 1972 (16 U.S.C. 460cc(b)).

(*o*) Section 2 of the Act of January 3, 1975 (16 U.S.C. 459j–1), is amended by striking "Interior and Insular Affairs of the Congress and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate" and substituting "Natural Resources and on Science, Space, and Technology of the House of Representatives and to the Committees on Energy and Natural Resources and on Commerce, Science, and Transportation of the Senate".

(p) The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.) is amended as follows:

(1) In section 4(h) (16 U.S.C. 460*l*–6a(h)), strike "Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

(2) In section 6(f)(7) (16 U.S.C. 460*l*–8(f)(7)), strike "Committees on Interior and Insular Affairs of the United States Congress" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

(3) In section 7(a)(3) and (c) (16 U.S.C. 460*l*–9(a)(3), (c)), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(q) Section 1(c) of the Act of October 12, 1993 (16 U.S.C. 460jjj(c)), is amended by striking "Select".

(r) Section 17(b) of the National Food Management Act of 1976 (16 U.S.C. 521b) is amended by striking "Agriculture and Forestry" and substituting "Agriculture, Nutrition, and Forestry".

(s) Section 16(e)(6) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(e)(6)) is amended by striking "Agriculture and Forestry" and substituting "Agriculture, Nutrition, and Forestry".

(t) Section 1(2)(C) of the Act of March 3, 1885 (16 U.S.C. 743a(c)), is amended by striking "Committee on Commerce" and substituting "Committee on Commerce, Science, and Transportation".

(u) Section 4(h)(12)(A) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839b(h)(12)(A)) is amended by striking "Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs" and substituting "Committees on Energy and Commerce and on Natural Resources".

(v) Section 2 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1002) is amended by—

(1) striking "Committee on Agriculture and Forestry" and substituting "Committee on Agriculture, Nutrition, and Forestry"; and

(2) striking "Committee on Public Works of the Senate and the Committee on Public Works of the House" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House".

(w) Section 1 of the Act of September 5, 1962 (16 U.S.C. 1009), is amended by striking "Committee on Public Works of the Senate or the Committee on Public Works of the House" and substituting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House".

(x) Section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823) is amended as follows:

(1) In subsection (b), strike "Commerce and" and substitute "Commerce, Science, and Transportation and on".

(2) In subsection (d)(2)(B), strike "Commerce" and substitute "Commerce, Science, and Transportation".

(y) Section 806 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3116) is amended by striking "Committee on Interior and Insular Affairs" and substituting "the Committees on Natural Resources".

SEC. 7. TITLE 20, UNITED STATES CODE.

(a) The General Education Provisions Act is amended as follows:

(1) In sections 406(e)(1) and (2)(A), 406A(b), 431(b)(2)(B), (d)(2), and (g), and 448(a) (20 U.S.C. 1221e–1(e)(1), (2)(A), 1221e–1a(b), 1232(b)(2)(B), (d)(2), (g), 1233g(a)), strike "Labor and Public Welfare" and substitute "Labor and Human Resources".

(2) In section 417(a) (20 U.S.C. 1226c(a)), strike "Human Resources" and substitute "Labor and Human Resources".

(b) Section 1523 of the Education Amendments of 1978 (20 U.S.C. 1226c–1) is amended by striking "Human Resources" and substituting "Labor and Human Resources".

(c) Section 107 of The Equal Access Act (20 U.S.C. 3917) is amended by striking "Science and Technology" and substituting "Science, Space, and Technology".

SEC. 8. TITLE 21, UNITED STATES CODE.

The following provisions are amended by striking "Agriculture and Forestry" and substituting "Agriculture, Nutrition, and Forestry":

(1) sections 5(c)(4) and 27 of the Poultry Products Inspection Act (21 U.S.C. 454(c)(4), 470).

(2) sections 20(e) and 301(c)(4) of the Federal Meat Inspection Act (21 U.S.C. 620(e), 661(c)(4)).

(3) section 17 of the Wholesome Meat Act (21 U.S.C. 691).

(4) section 26 of the Egg Products Inspection Act (21 U.S.C. 1054).

SEC. 9. TITLE 22, UNITED STATES CODE.

(a) The following provisions are amended by striking "International Relations" each place it appears and substituting "Foreign Affairs":

(1) section 3 of the Act of June 28, 1935 (22 U.S.C. 276a–1).

(2) section 105(b) of the Legislative Branch Appropriation Act, 1961 (22 U.S.C. 276c–1).

(3) section 1 of the Joint Resolution of June 11, 1959 (22 U.S.C. 276d).

(4) section 1 of the Joint Resolution of April 9, 1960 (22 U.S.C. 276h).

(5) section 1 of the Joint Resolution of July 11, 1956 (22 U.S.C. 1928a).

(6) sections 116, 502B(c)(1), 505(g)(4)(A), and 634A(a) of The Foreign Assistance Act of 1961 (22 U.S.C. 2151n, 2304(c)(1), 2314(g)(4)(A), 2394–1(a)).

(7) sections 5(d)(1), 26(c), and 36(b)(1) and (c)(1) of the Arms Export Control Act (22 U.S.C. 2755(d)(1), 2766(c), 2776(b)(1), (c)(1)).

(8) section 602(c) and (d) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c), (d)).

(b) Section 3 of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2022) is amended by striking "Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations" and substituting "Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate".

(c) Section 107 of the Department of Energy Act of 1978—Civilian Applications (22 U.S.C. 3224a) is amended by striking "Science and Technology" and substituting "Science, Space, and Technology".

SEC. 10. TITLE 25, UNITED STATES CODE.

(a) The Act of September 22, 1961 (25 U.S.C. 15), is amended by striking "Committees on Interior and Insular Affairs of the Senate and the House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(b) Section 2 of the Act of September 22, 1961 (25 U.S.C. 165), is amended by striking "Committees on Interior and Insular Affairs of the Senate and House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(c) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended as follows:

(1) In section 303(a)(9) (25 U.S.C. 450f(note))—

(A) strike "Select"; and

(B) strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In section 107 (25 U.S.C. 450k)—

(A) subsection (b) is repealed; and

(B) in subsection (c), strike "Committees on Interior and Insular Affairs of the United States Senate and House of Representatives" and substitute "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(d) Section 204(b) of the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. 734(b)) is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources of the House of Representatives".

(e)(1) The provisions specified in paragraph (2) of this subsection are amended by—

(A) striking "Select"; and

(B) striking "Interior and Insular Affairs" and substituting "Natural Resources".

(2) Paragraph (1) of this subsection applies to the following provisions:

(A) section 2(e) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1402(e)).

(B) section 218(d)(4) of the Indian Health Care Improvement Act (25 U.S.C. 1621q(d)(4)).

(C) sections 16 and 17(b) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3415, 3416(b)).

(D) section 2605(m)(1) of the Energy Policy Act of 1992 (25 U.S.C. 3505(m)(1)).

(f) Section 312 of the National Indian Forest Resources Management Act (25 U.S.C. 3111) is amended as follows:

(1) In subsections (a)(4) and (c)—

(A) strike "Select"; and

(B) strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In subsection (c), insert "the" after "report to".

SEC. 11. TITLE 30, UNITED STATES CODE.

(a) The following provisions are amended by striking "Interior and Insular Affairs" and substituting "Natural Resources":

(1) sections 17(b)(1)(B), 28(w)(1) and (2), and 31(e) of the Mineral Leasing Act (30 U.S.C. 185(w)(1), (2), 188(e), 226(b)(1)(B)).

(2) section 302(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1752(a)).

(b) Section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141(e)) is

amended by striking "Science and Technology" and substituting "Science, Space, and Technology".

SEC. 12. TITLE 33, UNITED STATES CODE.

(a) Section 3 of the Act of June 13, 1902 (33 U.S.C. 541), is amended by striking "Committee on Rivers and Harbors of the House of Representatives, or the Committee on Commerce of the Senate" and substituting "Committee on Public Works and Transportation of the House of Representatives, or the Committee on Environment and Public Works of the Senate".

(b) Section 4 of the Act of March 4, 1913 (33 U.S.C. 542), is amended by striking "Committee on Commerce of the Senate or the Committee on Rivers and Harbors of the House of Representatives" and substituting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

(c) The last paragraph of section 3 of the Act of March 1, 1917 (33 U.S.C. 701(last par.)), is repealed.

(d) Section 2 of the Act of January 19, 1948 (33 U.S.C. 701b–7), is amended by striking "Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate" and substituting "Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate".

SEC. 13. TITLE 39, UNITED STATES CODE.

Section 2401(e) of title 39, United States Code, is amended by—

(1) striking, in the matter before clause (1), "Committees on Post Office and Civil Service" and substituting "Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives"; and

(2) striking, in the matter after clause (4), "Committees on Post Office and Civil Service of the Senate and the House of Representatives" and substituting "Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives".

SEC. 14. TITLE 40, UNITED STATES CODE.

(a) Section 5(a) of the Public Buildings Amendments of 1972 (40 U.S.C. 602a(a)) is amended by striking "Committees on Public Works of the Senate and House of Representatives" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives".

(b) The Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended as follows:

(1) In section 7 (40 U.S.C. 606)—

(A) in subsection (a), strike "Committee on Public Works of the Senate and House of Representatives, respectively" each place it appears and substitute "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(B) in subsection (c)—

(i) strike "Committees on Public Works of the Senate and of the House of Representatives, respectively" and substitute "Committee on Environment and Public

Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(ii) strike "the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives," and substitute "of those Committees".

(2) In section 11(b) (40 U.S.C. 610(b)), strike "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives" and substitute "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

(c) Section 6 of the Alaska Federal-Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is amended as follows:

(1) In subsection (a)—

(A) strike the subsection designation; and

(B) strike "Senate Committee on Energy and Natural Resources and the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs" and substitute "Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and on Natural Resources".

(2) Subsection (b) is repealed.

(d) Section 5(e)(3) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874(e)(3)) is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

(e) Section 403 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 403) is amended by striking "Committee on Public Works of the Senate or of the House of Representatives" and substituting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

SEC. 15. TITLE 42, UNITED STATES CODE.

(a) The Public Health Service Act is amended as follows:

(1) In section 1122(b)(1) and (c) (42 U.S.C. 300c–12(b)(1), (c)), strike "Interstate and Foreign Commerce" and substitute "Energy and Commerce".

(2) In section 1450(h) (42 U.S.C. 300j–9(h)), strike "Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House" and substitute "Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House".

(b) Section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4) is amended as follows:

(1) In the first subsection (f), strike "the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging" and substitute "and the Committee on Energy and Commerce".

(2) Redesignate the 2d subsection (f) as subsection (g).

(c) The following provisions are amended by striking "Science and Technology" and substituting "Science, Space, and Technology":

(1) section 5(e)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1864(e)(2)).

(2) section 9 of the National Science Foundation Authorization Act for Fiscal Year 1980 (42 U.S.C. 1882).

(3) section 6 of the National Aeronautics and Space Administration Authorization Act, 1978 (42 U.S.C. 2463).

(4) section 110 of the Act of July 15, 1983 (42 U.S.C. 2465).

(5) section 204(b) and (c)(1) of the National Aeronautics and Space Administration Authorization Act of 1986 (42 U.S.C. 2466c(b), (c)(1)).

(6) section 5(a) and (b) of the Environmental Research, Development, and Demonstration Authorization Act of 1979 (42 U.S.C. 4369(a), (b)).

(7) section 111(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5821(b)(1)).

(8) section 106 of the Act of June 3, 1977 (42 U.S.C. 5903c).

(9) sections 19(*l*)(3) and (m) and 20(d)(1) and (3) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919(*l*)(3), (m), 5920(d)(1), (3)).

(10) section 218(e)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10198(e)(1)).

(d) Section 201(a) of the Flood Control Act of 1965 (42 U.S.C. 1962d–5(a)) is amended by striking "Committees on Public Works of the Senate and House" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House".

(e) The Water Resources Development Act of 1976 is amended as follows:

(1) In section 167(b) (42 U.S.C. 1962d–5g(b)), strike "Committee on Public Works of the Senate" and substitute "Committee on Environment and Public Works of the Senate".

(2) In section 203(g)(1) (42 U.S.C. 1962d–14a(g)(1)), strike "Committees on Public Works and Appropriations of the Senate and House" and substitute "Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House".

(f) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended as follows:

(1) In section 11 *o.* (42 U.S.C. 2014(*o*)), strike "'Joint Committee' means the Joint Committee on Atomic Energy" and substitute "'Energy Committees' means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives".

(2) In section 51 (42 U.S.C. 2071), strike "Joint Committee" each place it appears and substitute "Energy Committees".

(3) In section 54 a. (42 U.S.C. 2074(a))—

(A) strike "Joint Committee" the first time it appears and substitute "Energy Committees"; and

(B) strike "Joint Committee shall submit a report to the Congress of its views" and substitute "Energy Committees shall submit to their respective houses reports of their views".

(4) In sections 58 and 61 (42 U.S.C. 2078, 2091), strike "Joint Committee" each place it appears and substitute "Energy Committees".

(5) In sections 123, 126, and 128–130 (42 U.S.C. 2153, 2155, 2157–2159), strike "International Relations" each place it appears and substitute "Foreign Affairs".

(6) In section 131 (42 U.S.C. 2160)—

(A) strike "International Relations" each place it appears and substitute "Foreign Affairs"; and

(B) in subsection f. (2), strike "Science and Technology" and substitute "Science, Space, and Technology".

(7) In section 164 (42 U.S.C. 2204), strike "Joint Committee" each place it appears and substitute "Energy Committees".

(8) In section 192 b. (42 U.S.C. 2242(b)), strike "Interior and Insular Affairs and" and substitute "Natural Resources and on".

(g) Section 404(d) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2153c(d)) is amended by striking "International Relations" and substituting "Foreign Affairs".

(h) Section 107(c) of the Act of June 30, 1964 (42 U.S.C. 2204a(c)), is amended by—

(1) striking "Joint Committee" the first time it appears and substituting "Energy Committees (as defined by section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014))"; and

(2) striking "Joint Committee" the 2d time it appears and substituting "Energy Committees".

(i) Section 120 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2349) is amended by—

(1) striking "the Joint Committee on Atomic Energy" the first time it appears and substituting "the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives"; and

(2) striking "the Joint Committee on Atomic Energy" the 2d time it appears and substituting "those Committees".

(j) Section 207 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476a) is amended by—

(1) striking "Committee on Science and Astronautics" and substituting "Committee on Science, Space, and Technology"; and

(2) striking "Committee on Aeronautical and Space Sciences" and substituting "Committee on Commerce, Science, and Transportation".

(k) Section 806(c) of the Native American Programs Act of 1974 (42 U.S.C. 2991d–1(c)) is amended by striking "Select Committee on Indian Affairs" and substituting "Committee on Indian Affairs".

(*l*) Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended by striking clause (A) and redesignating clauses (B)–(D) as clauses (A)–(C).

(m) Section 1200(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509(a)) is amended by—

(1) striking "Labor and Public Welfare" and substituting "Labor and Human Resources"; and

(2) striking "Interstate and Foreign Commerce" and substituting "Energy and Commerce".

(n) Section 7(b) of the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968) (42 U.S.C. 4157(b)), is amended by striking "Public Works Committee" and substituting "Environment and Public Works Committee".

(*o*) Section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365) is amended as follows:

(1) In subsection (a), strike "Committees on Science and Technology, Interstate and Foreign Commerce, or" and sub-

stitute "Committee on Science, Space, and Technology, on Energy and Commerce, or on".

(2) Subsection (d) is repealed.

(p) Section 203(b) of the Omnibus Insular Areas Act of 1992 (42 U.S.C. 5204b(b)) is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

(q) Section 104(c)(2) and (d)(2) and (3) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504(c)(2), (d)(2), (3)) is amended by striking "Committees on Interior and Insular Affairs of the Senate and the House" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House".

(r) Section 1008(b) of the Solid Waste Disposal Act (42 U.S.C. 6907(b)) is amended by striking "Committee on Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House".

(s) Section 325(a)(2) of the Clean Air Act (42 U.S.C. 7625–1(a)(2)), is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

SEC. 16. TITLE 43, UNITED STATES CODE.

(a) The following provisions are amended by striking "Interior and Insular Affairs" each place it appears and substituting "Natural Resources":

(1) sections 4(b)(1) and 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1), 31g).

(2) sections 1606(c), 1608(c), 1609(c), 1610(c), 1611(c), 1616(c), 3003(a), and 3004(b)(2) of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 371(note), 390h–4(c), 390h–6(c), 390h–7(c), 390h–8(c), 390h–9(c), 390h–14(c)).

(3) section 224(g) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(g)).

(4) section 3(a) of the Colorado River Floodway Protection Act (43 U.S.C. 1600a(a)).

(5) section 34(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629(j)).

(6) section 103 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2213).

(b) Section 4(e) of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422d(e)) is amended by striking "House nor the Senate Interior and Insular Affairs Committee" and substituting "Committee on Natural Resources of the House of Representatives nor the Committee on Energy and Natural Resources of the Senate".

(c) Section 1 of the Act of October 7, 1949 (known as the Rehabilitation and Betterment Act of 1949) (43 U.S.C. 504), is amended by striking "Committee on Interior and Insular Affairs of the Senate and the Committee on Public Lands of the House" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House".

(d) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) is amended as follows:

(1) In section 204 (43 U.S.C. 1714)—

(A) in subsection (e)—

(i) strike "Committee on Interior and Insular Affairs of either the House of Representatives or the Senate" and substitute "Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate"; and

(ii) strike "the Committees on Interior and Insular Affairs of the Senate and the House of Representatives" and substitute "both of those Committees"; and

(B) in subsection (f), strike "Committees on Interior and Insular Affairs of the House of Representatives and the Senate" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

(2) In section 215(b)(5) (43 U.S.C. 1723(b)(5)), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(3) In section 311(b) (43 U.S.C. 1741(b)), strike "Committees on Interior and Insular Affairs of the House and Senate" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

SEC. 17. TITLE 48, UNITED STATES CODE.

(a) The following provisions are amended by striking "Interior and Insular Affairs" each place it appears and substituting "Natural Resources":

(1) section 22B of the Organic Act of Guam (48 U.S.C. 1424–2).

(2) section 601(c) of the Act of December 24, 1980 (48 U.S.C. 1469d(c)).

(3) section 5003(b) of the Anti-Drug Abuse Act of 1986 (48 U.S.C. 1494a(b)).

(4) section 23 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1613).

(b) Section 1(c) of the Act of October 5, 1974 (48 U.S.C. 1705(c)), is amended by striking "Committees on Interior and Insular Affairs of the House of Representatives and the Senate" and substituting "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

SEC. 18. TITLE 49, UNITED STATES CODE.

Section 10309(a) of title 49, United States Code, is amended by striking "Interstate and Foreign Commerce" and substituting "Energy and Commerce".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4777:

HOUSE REPORTS: No. 103-779 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate.

Public Law 103-438
103d Congress

An Act

To facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes.

Nov. 2, 1994
[H.R. 4781]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Antitrust Enforcement Assistance Act of 1994. 15 USC 6201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE. 15 USC 6201.

In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General of the United States and the Federal Trade Commission may provide to a foreign antitrust authority with respect to which such agreement is in effect under this Act, antitrust evidence to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE. 15 USC 6202.

(a) REQUEST FOR INVESTIGATIVE ASSISTANCE.—A request by a foreign antitrust authority for investigative assistance under this section shall be made to the Attorney General, who may deny the request in whole or in part. No further action shall be taken under this section with respect to any part of a request that has been denied by the Attorney General.

(b) AUTHORITY TO INVESTIGATE.—In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General and the Commission may, using their respective authority to investigate possible violations of the Federal antitrust laws, conduct investigations to obtain antitrust evidence relating to a possible violation of the foreign antitrust laws administered or enforced by the foreign antitrust authority with respect to which such agreement is in effect under this Act, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of such foreign antitrust laws, or

(2) in enforcing any of such foreign antitrust laws.

(c) SPECIAL SCOPE OF AUTHORITY.—An investigation may be conducted under subsection (b), and antitrust evidence obtained through such investigation may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(d) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled in connection with an investigation under this section to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(e) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) is amended—

15 USC 1311.

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any", and

(II) by inserting before the semicolon "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, any of the foreign antitrust laws", and

(ii) by adding at the end the following:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994.", and

15 USC 1312.

(B) in the first sentence of section 3(a)—

(i) by inserting "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, an investigation authorized by section 3 of such Act" after "investigation", and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

15 USC 46.

(A) in section 6 by inserting after subsection (h) the following:

"(i) With respect to the International Antitrust Enforcement Assistance Act of 1994, to conduct investigations of possible violations of foreign antitrust laws (as defined in section 12 of such Act).";

15 USC 57b-1.

(B) in section 20(a) by amending paragraph (8) to read as follows:

"(8) The term 'antitrust violation' means—

"(A) any unfair method of competition (within the meaning of section 5(a)(1));

"(B) any violation of the Clayton Act or of any other Federal statute that prohibits, or makes available to the Commission a civil remedy with respect to, any restraint upon or monopolization of interstate or foreign trade or commerce;

"(C) with respect to the International Antitrust Enforcement Assistance Act of 1994, any violation of any of the foreign antitrust laws (as defined in section 12 of such Act) with respect to which a request is made under section 3 of such Act; or

"(D) any activity in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in any such unfair method of competition or in any such violation.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES. 15 USC 6203.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement in effect under this Act, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist a foreign antitrust authority with respect to which such agreement is in effect under this Act—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) USE OF APPOINTEE TO RECEIVE EVIDENCE.—(A) An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(B) A person appointed under subparagraph (A) shall have power to administer any necessary oath and to take such testimony or such statement.

(2) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements and for producing documents and other things.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY. 15 USC 6204.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-

Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except that for the purpose of applying Rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure with respect to this section—

(A) a foreign antitrust authority with respect to which a particularized need for such antitrust evidence is shown shall be considered to be an appropriate official of any of the several States, and

(B) a foreign antitrust law administered or enforced by the foreign antitrust authority shall be considered to be a State criminal law.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor, or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

15 USC 6205.

SEC. 6. EXCEPTION TO CERTAIN DISCLOSURE RESTRICTIONS.

Section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313), and sections 6(f) and 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b–2), shall not apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

Federal Register, publication.
15 USC 6206.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text, and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before an agreement is entered into that makes an amendment to an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND TERMINATIONS.—Not later than 45 days after an antitrust mutual assistance agreement is entered into or terminated, or an agreement that makes an amendment to an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the text of the antitrust mutual assistance agreement or amendment, or the terms of the termination, as the case may be, and

(2) in the case of an agreement that makes an amendment to an antitrust mutual assistance agreement, a notice containing—

(A) citations to the locations in the Federal Register at which the text of the antitrust mutual assistance agreement that is so amended, and of any previous amendments to such agreement, are published, and

(B) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General and the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, with respect to which publication does not occur in accordance with subsections (a), (b), and (c) shall not be considered to be in effect under this Act.

SEC. 8. CONDITIONS ON USE OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS. 15 USC 6207.

(a) DETERMINATIONS.—Neither the Attorney General nor the Commission may conduct an investigation under section 3, apply for an order under section 4, or provide antitrust evidence to a foreign antitrust authority under an antitrust mutual assistance agreement, unless the Attorney General or the Commission, as the case may be, determines in the particular instance in which the investigation, application, or antitrust evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions described in subparagraphs (A), (B), and (E) of section 12(2), and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence,

(2) providing the requested antitrust evidence will not violate section 5, and

(3) conducting such investigation, applying for such order, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state or regional economic integration organization represented by the foreign antitrust authority holds any proprietary interest that could benefit or otherwise be affected by such investigation, by the granting of such order, or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may

disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(H), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

15 USC 6208.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW.

(a) DETERMINATIONS.—Determinations made under paragraphs (1) and (3) of section 8(a) shall not be subject to judicial review.

(b) CITATIONS TO AND DESCRIPTIONS OF CONFIDENTIALITY LAWS.—Whether an antitrust mutual assistance agreement satisfies section 12(2)(C) shall not be subject to judicial review.

(c) RULES OF CONSTRUCTION.—

(1) ADMINISTRATIVE PROCEDURE ACT.—The requirements in section 7 with respect to publication and request for public comment shall not be construed to create any availability of judicial review under chapter 7 of title 5 of the United States Code.

(2) LAWS REFERENCED IN SECTION 5.—Nothing in this section shall be construed to affect the availability of judicial review under laws referred to in section 5.

15 USC 6209.

SEC. 10. PRESERVATION OF EXISTING AUTHORITY.

(a) IN GENERAL.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) ATTORNEY GENERAL AND COMMISSION.—This Act shall not be construed to modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

15 USC 6210.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act and with the concurrence of the Commission, the Attorney General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws,

(2) describing the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act,

(3) specifying separately the identities of the foreign states, regional economic integration organizations, and foreign antitrust authorities that have entered into such agreements and the identities of the foreign antitrust authorities with respect to which such foreign states and such organizations have entered into such agreements,

(4) specifying the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act,

(5) giving the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence,

(6) giving the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3, for orders under section 4, and for antitrust evidence, and

(7) describing any significant problems or concerns of which the Attorney General is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS. 15 USC 6211.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things that are obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into by the United States and a foreign state or regional economic integration organization (with respect to the foreign antitrust authorities of such foreign state or such organization, and such other governmental entities of such foreign state or such organization as the Attorney General and the Commission jointly determine may be necessary in order to provide the assistance described in subparagraph (A)), or jointly by the Attorney General and the Commission and a foreign antitrust authority, for the purpose of conducting investigations under section 3, applying for orders under section 4, or providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General and the Commission assistance that is comparable in scope to the assistance the Attorney General and the Commission provide under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain securely the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to and brief descriptions of the laws of the United States, and the laws of the foreign state or regional economic integration organization represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws and, with

respect to a regional economic integration organization, the applicability of such laws, enforcement mechanisms, and penalties to the foreign states composing such organization.

(D) Citations to the Federal antitrust laws, and the foreign antitrust laws, with respect to which such agreement or such memorandum applies.

(E) Terms and conditions that specifically require using, disclosing, or permitting the use or disclosure of, antitrust evidence received under such agreement or such memorandum only—

(i) for the purpose of administering or enforcing the foreign antitrust laws involved, or

(ii) with respect to a specified disclosure or use requested by a foreign antitrust authority and essential to a significant law enforcement objective, in accordance with the prior written consent that the Attorney General or the Commission, as the case may be, gives after—

(I) determining that such antitrust evidence is not otherwise readily available with respect to such objective,

(II) making the determinations described in paragraphs (2) and (3) of section 8(a), with respect to such disclosure or use, and

(III) making the determinations applicable to a foreign antitrust authority under section 8(a)(1) (other than the determination regarding the assurance described in subparagraph (A) of this paragraph), with respect to each additional governmental entity, if any, to be provided such antitrust evidence in the course of such disclosure or use, after having received adequate written assurances applicable to each such governmental entity.

(F) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(G) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that the confidentiality required under such agreement or such memorandum is not violated again.

(H) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively, and

(ii) by the Attorney General or the Commission to the person (if any) that provided such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states, and on which such foreign states have conferred sovereign authority to make decisions that are binding on such foreign states, and that are directly applicable to and binding on persons within such foreign states, including the decisions with respect to—

(A) administering or enforcing the foreign antitrust laws of such organization, and

(B) prohibiting and regulating disclosure of information that is obtained by such organization in the course of administering or enforcing such laws.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENT. 15 USC 6212.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, or from the foreign state or regional economic integration organization represented by such foreign antitrust authority, reimbursement for the costs incurred by the Attorney General or the Commission, respectively, in conducting an investigation under section 3 requested by such for-

eign antitrust authority, applying for an order under section 4 to assist such foreign antitrust authority, or providing antitrust evidence to such foreign antitrust authority under an antitrust mutual assistance agreement in effect under this Act with respect to such foreign antitrust authority.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4781 (S. 2297):

HOUSE REPORTS: No. 103-772 (Comm. on the Judiciary).
SENATE REPORTS: No. 103-388 accompanying S. 2297 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 7, S. 2297 considered and passed Senate.
Oct. 8, H.R. 4781 considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Nov. 2, Presidential statement.

Public Law 103-439
103d Congress

An Act

To grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact.

Nov. 2, 1994
[H.R. 4814]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Central Midwest Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1994.
Illinois.
Kentucky.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Central Midwest Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1994".

SEC. 2. CONDITIONS OF CONSENT TO COMPACT AMENDMENTS.

The consent of the Congress to the compact amendments set forth in section 3—

(1) shall become effective on the date of the enactment of this Act; Effective date.

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(3) is granted only for so long as the regional commission established in the amended compact complies with all of the provisions of such Act.

SEC. 3. CONSENT OF CONGRESS TO COMPACT AMENDMENTS.

42 USC 2021d note.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to amendments made by the States of Illinois and Kentucky to the Central Midwest Interstate Low-Level Radioactive Waste Compact, which compact was consented to by the Congress in section 224 of the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act (Public Law 99-240; 42 U.S.C. 2021 note). The amendments to which such consent is given are substantially as follows:

(1) The 2d undesignated paragraph of article I of the compact is amended to read as follows: 99 Stat. 1880.

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.".

99 Stat. 1882.

(2) Section (k) of article II of the compact is amended to read as follows:

"k) 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11e. (2) of the Atomic Energy Act of 1954. This definition shall apply notwithstanding any declaration by the federal government, a state or any regulatory agency that any radioactive material is exempt from any regulatory control.".

99 Stat. 1883.

(3) Section (q) of article II of the compact is amended to read as follows:

"q) 'Regional facility' means any facility as defined in Article II(f) that is (1) located within the region, and (2) established by a party state pursuant to designation of that state as a host state by the Commission.".

99 Stat. 1883.

(4) Sections (a) and (b) of article III of the compact are amended to read as follows:

"a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting Commissioners from each state eligible to be designated a host state under Article VI(b), one voting Commissioner from any other party state, and for each regional facility, one non-voting Commissioner who is an elected official of local government and a resident of the county where that regional facility is located. The Governor of each party state shall notify the Commission in writing of its Commissioners and any alternates.

"b) Each voting Commissioner is entitled to one vote. No action of the Commission is binding unless a majority of the voting membership casts its vote in the affirmative. In addition, no agreement by the Commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3) is valid unless all voting Commissioners from the party state in which the facility where waste would be sent is located cast their votes in the affirmative.".

99 Stat. 1884.

(5) Sections (d) and (e) of article III of the compact are amended to read as follows:

"d) The Commission shall meet at least once annually and shall also meet upon the call of any voting Commissioner.

"e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any voting Commissioner.".

99 Stat. 1884.

(6) Section (g) of article III of the compact is amended to read as follows:

"g) The Office of the Commission shall be in Illinois. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.".

(7) Sections (i) and (j) of article III of the compact are amended to read as follows: 99 Stat. 1884, 1885.

"i) The Commission may:

"1) Enter into an agreement with any person to allow waste from outside the region to be disposed of at facilities in the region. However, no such agreement shall be effective unless and until ratified by a law enacted by the party state to which the waste would be sent for disposal.

"2) Enter into an agreement with any person to allow waste described in Article VII(a)(6) to be treated, stored, or disposed of at regional facilities. However, no such agreement shall be effective unless and until ratified by a law enacted by the host state of the regional facility to which the waste would be sent for treatment, storage, or disposal.

"3) Enter into an agreement with any person to allow waste from outside the region to be treated or stored at facilities in the region. However, any such agreement shall be revoked as a matter of law if, within one year of the effective date of the agreement, a law is enacted ordering such revocation by the party state to which the waste would be sent for treatment or storage.

"4) Approve, or enter into an agreement with any person for, the export of waste from the region.

"5) Approve the disposal of waste generated within the region at a facility in the region other than a regional facility, subject to the limitations of Articles V(f) and VII(a)(6).

"6) Require that waste generated within the region be treated or stored at available regional facilities, subject to the limitations of Articles V(f), VII(a)(3) and VII(a)(6).

"7) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"8) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"9) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"10) Suspend the privileges or revoke the membership of a party state.

"j) The Commission shall:

"1) Submit within 10 days of its execution to the governor and the appropriate officers of the legislative body of the party state in which any affected facility is located a copy of any

agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3).

Reports. "2) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission. The annual report shall include a description of the status of the activities taken pursuant to any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3) and any violation of any provision thereof, and a description of the source, volume, activity, and current status of any waste from outside the region or waste described under Article VII(a)(6) that was treated, stored, or disposed of in the region in the previous year.

"3) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"4) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

"5) Adopt an annual budget.".

99 Stat. 1886. (8) Sections (o) and (p) of article III of the compact are amended to read as follows:

"o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Commissioners are not personally liable for actions taken by them in their official capacity.

"p) Except as provided under Article III(n), Article III(o), Article VI(p) and Article VI(q), nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.".

99 Stat. 1886, 1887. (9) Sections (b) and (c) of article V of the compact are amended to read as follows:

"b) Other than the provisions of Article V(f) and VII(a)(6), each party state has the right to have all wastes generated within borders managed at regional facilities. This right shall be subject to the provisions of this Compact. All party states have an equal right of access to any facility outside the region made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(4).

"c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III(i)(4).".

(10) Section (f) of article V of the compact is amended to read as follows:

"f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to any facility in Illinois for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and such waste shall not be subject to the provisions of Articles IX(b)(3) and (4) of this compact.".

99 Stat. 1887. (11) Section (b) of article VI of the compact is amended to read as follows:

"b) If all regional facilities required by the regional management plan are not developed pursuant to Article VI(a), or upon notification that an existing regional facility will be closed, the Commission may designate a party state as a host state. A party state shall not be designated as a host state for any regional facility under

this Article VI(b) unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10% of the total volume recorded on such manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a)(6).".

(12) Section (c) of article VI of the compact is repealed.

(13) Section (e) of article VI of the compact is amended to read as follows: 99 Stat. 1887.

"e) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders or for other good cause shown and consistent with the purposes of this Compact.".

(14) Sections (l) and (m) of article VI of the compact are amended to read as follows:

"l) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within 3 working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"m) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10% of the total volume recorded on the manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a)(6).".

(15) Sections (o) through (q) of article VI of the compact are amended to read as follows: 99 Stat. 1889.

"o) The host state shall create an 'Extended Care and Long-Term Liability Fund' and shall allocate sufficient fee revenues, received pursuant to Article VI(i), to provide for the costs of:

"1) decommissioning and other procedures required for the proper closure of a regional facility;

"2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

"3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility; and

"4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Article VI(n) shall in no manner limit the financial responsibilities of the site operator under Article VI(o), the party states under Article VI(p), or any person who sends waste to a regional facility, under Article VI(q).

"p) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

"q) All party states shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10% of the total volume recorded on such manifests for the region during the same year.".

(16) Sections (d) through (q) of article VI of the compact are redesignated as sections (c) through (p), respectively.

(17) Article VI of the compact is amended by adding at the end the following new section:

"q) Any person who sends waste from outside the region or waste described in Article VII(a)(6) for treatment, storage or disposal at a regional facility shall be liable for the cost of extended care and long-term liability of that regional facility in excess of the monies available from the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). The extent of the liability for the person shall be based on the propor-

tionate share of the total volume of waste sent by that person to the regional facility.".

(18) Section (a)(6) of article VII of the compact is amended to read as follows: 99 Stat. 1890.

"6) establishes any right to the treatment, storage or disposal at any facility in the region or provides any authority to prohibit export from the region of waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon; or".

(19) Section (d) of article VII of the compact is amended to read as follows:

"d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal of waste from outside the region shall be allowed to dispose of any waste, regardless of origin, in the region unless specifically permitted under an agreement entered into by the Commission in accordance with the requirements of Article III(i)(1).".

(20) Section (c) of article VIII of the compact is amended to read as follows: 99 Stat. 1891.

"c) The Commission is formed upon the appointment of the Commissioners and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.".

(21) Section (e) of article VIII of the compact is amended to read as follows:

"e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region under Article III(i)(4).". Effective date.

(22) Section (b) of article IX of the compact is amended to read as follows: 99 Stat. 1891.

"b) Unless authorized by the Commission pursuant to Article III(i), or otherwise provided in this compact, after January 1, 1986 it is a violation of this compact:

"1) for any person to deposit at a facility in the region waste from outside the region;

"2) for any facility in the region to accept waste from outside the region;

"3) for any person to export from the region waste that is generated within the region;

"4) for any person to dispose of waste at a facility other than a regional facility;

"5) for any person to deposit at a regional facility waste described in Article VII(a)(6); or

"6) for any regional facility to accept waste described in Article VII(a)(6).".

(23) Article IX of the compact is amended by redesignating sections (c) and (d) as sections (d) and (e), respectively, and by inserting after section (b) the following new section:

"c) It is a violation of this compact for any person to treat or store waste at a facility other than a regional facility if such treatment or storage is prohibited by the Commission under Article III(i)(6).".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4814 (S. 2369):

HOUSE REPORTS: No. 103-816, Pt. 1 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-440
103d Congress

An Act

To authorize appropriations for high-speed rail transportation, and for other purposes.

Nov. 2, 1994
[H.R. 4867]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HIGH-SPEED RAIL

Swift Rail Development Act of 1994.

SEC. 101. SHORT TITLE.

49 USC 20101 note.

This title may be cited as the "Swift Rail Development Act of 1994".

SEC. 102. FINDINGS; PURPOSE.

49 USC 26101 note.

(a) FINDINGS.—The Congress finds that—

(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this title is to encourage far-sighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity corridors.

SEC. 103. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) AMENDMENTS.—(1) Part D of subtitle V of title 49, United States Code, is redesignated as part E, chapter 261 of such title is redesignated as chapter 281, and sections 26101 and 26102 of such title are redesignated as sections 28101 and 28102.

(2) Subtitle V of title 49, United States Code, is amended by inserting after part C the following new part:

"PART D—HIGH-SPEED RAIL

"CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

"Sec.
"26101. Corridor planning.
"26102. High-speed rail technology improvements.
"26103. Safety regulations.
"26104. Authorization of appropriations.
"26105. Definitions.

"§ 26101. Corridor planning

"(a) CORRIDOR PLANNING ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

"(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

"(b) ELIGIBLE ACTIVITIES.—(1) A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue, and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) coordination with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use

of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

"(2) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 mph or greater;

"(3) the integration of the corridor into metropolitan area and statewide transportation planning;

"(4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(5) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

"(7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(8) the estimated level of ridership;

"(9) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossings;

"(10) rail transportation employment impacts;

"(11) community economic impacts;

"(12) the extent to which the projected revenues of the proposed high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

"(13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

"(14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

"§ 26102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution

located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"§ 26103. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.

"§ 26104. Authorization of appropriations

"(a) FISCAL YEAR 1995.—There are authorized to be appropriated to the Secretary $29,000,000 for fiscal year 1995, for carrying out sections 26101 and 26102 (including payment of administrative expenses related thereto).

"(b) FISCAL YEAR 1996.—(1) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1996, for carrying out section 26101 (including payment of administrative expenses related thereto).

"(2) There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1996, for carrying out section 26102 (including payment of administrative expenses related thereto).

"(c) FISCAL YEAR 1997.—(1) There are authorized to be appropriated to the Secretary $45,000,000 for fiscal year 1997, for carrying out section 26101 (including payment of administrative expenses related thereto).

"(2) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1997, for carrying out section 26102 (including payment of administrative expenses related thereto).

"(d) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

"§ 26105. Definitions

"For purposes of this chapter—

"(1) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(2) the term 'high-speed rail' has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;

"(3) the term 'publicly financed costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'Secretary' means the Secretary of Transportation;

"(5) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(6) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters of subtitle V of title 49, United States Code, is amended by striking

the items relating to part D and inserting in lieu thereof the following:

"PART D—HIGH-SPEED RAIL

"261. HIGH-SPEED RAIL ASSISTANCE 26101

"PART E—MISCELLANEOUS

"281. LAW ENFORCEMENT .....28101".

(2) The table of sections of chapter 281 of title 49, United States Code, as such chapter is redesignated by subsection (a)(1) of this section, is amended—

(A) by striking "26101" and inserting in lieu thereof "28101"; and

(B) by striking "26102" and inserting in lieu thereof "28102".

SEC. 104. COLUMBUS AND GREENVILLE RAILWAY.

45 USC 838 note.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus and Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

TITLE II—RAIL SAFETY

Federal Railroad Safety Authorization Act of 1994. 49 USC 20101 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Railroad Safety Authorization Act of 1994".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a)(1) of title 49, United States Code, is amended by adding after subparagraph (B) the following new subparagraphs:

"(C) $68,289,000 for fiscal year 1995.

"(D) $75,112,000 for fiscal year 1996.

"(E) $82,563,000 for fiscal year 1997.

"(F) $90,739,000 for fiscal year 1998.".

SEC. 203. HOURS OF SERVICE PILOT PROJECTS.

(a) AMENDMENT.—Chapter 211 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 21108. Pilot projects

"(a) WAIVER.—A railroad carrier or railroad carriers and all labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of a waiver, in whole or in part, of compliance with this chapter, to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter

to such class or craft of employees, including requirements concerning maximum on-duty and minimum off-duty periods. Based on such a joint petition, the Secretary may, after notice and opportunity for comment, waive in whole or in part compliance with this chapter for a period of no more than two years, if the Secretary determines that such waiver of compliance is in the public interest and is consistent with railroad safety. Any such waiver may, based on a new petition, be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

Federal Register, publication.

"(b) REPORT.—The Secretary of Transportation shall submit to Congress, no later than January 1, 1997, a report that—

"(1) explains and analyzes the effectiveness of all pilot projects established pursuant to a waiver granted under subsection (a);

"(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

"(3) recommends appropriate legislative changes to this chapter.

"(c) DEFINITION.—For purposes of this section, the term 'directly affected covered service employees' means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end the following new item:

"21108. Pilot projects.".

SEC. 204. CONFORMING AMENDMENT REGARDING HOURS OF SERVICE VIOLATIONS.

Section 21303(a)(1) of title 49, United States Code, is amended by inserting "or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title," after "chapter 211 of this title".

SEC. 205. TECHNICAL AMENDMENT REGARDING FEDERAL RAILROAD SAFETY.

Section 20111(c) of title 49, United States Code, is amended by inserting "this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e)(1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or" after "individual's violation of".

SEC. 206. BIENNIAL FEDERAL RAILROAD SAFETY REPORTING.

(a) Section 20116 of title 49, United States Code, is amended—

(1) by striking in its heading "**Annual**" and inserting in lieu thereof "**Biennial**";

(2) by striking "not later than July 1 of each year a report on carrying out this chapter for the prior calendar year. The report shall include the following information about the prior year" and inserting in lieu thereof "every two years, on or before July 1 of the year due, a comprehensive report on the administration of this chapter for the preceding two calendar years. The report shall include the following information about such calendar years"; and

(3) in paragraph (1), by inserting ", by calendar year" after "casualties by cause".

(b) The item relating to section 20116 in the table of sections for chapter 201 of title 49, United States Code, is amended to read as follows:

"20116. Biennial report.".

SEC. 207. REPORT ON BRIDGE DISPLACEMENT DETECTION SYSTEMS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20145. Report on bridge displacement detection systems

"Not later than 18 months after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary on railroad bridge displacement detection systems.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20145. Report on bridge displacement detection systems.".

SEC. 208. TRACK SAFETY.

Section 20142 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "September 3, 1994" and inserting in lieu thereof "September 1, 1995";

(2) in subsection (a)(1), by inserting ", including cold weather installation procedures" after "attendant structure"; and

(3) by adding at the end the following new subsection:

"(d) IDENTIFICATION OF INTERNAL RAIL DEFECTS.—In carrying out subsections (a) and (b), the Secretary shall consider whether or not to prescribe regulations and issue orders concerning—

"(1) inspection procedures to identify internal rail defects, before they reach imminent failure size, in rail that has significant shelling; and

"(2) any specific actions that should be taken when a rail surface condition, such as shelling, prevents the identification of internal defects.".

SEC. 209. RESIDENCE OF EMPLOYEES.

49 USC 11504 note.

The amendments made by section 7 of the Amtrak Reauthorization and Improvement Act of 1990 shall apply to all periods before and after the date of their enactment.

SEC. 210. INSTITUTE FOR RAILROAD SAFETY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20146. Institute for Railroad Safety

"The Secretary of Transportation, in conjunction with a university or college having expertise in transportation safety, shall establish, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, an Institute for Railroad

Safety. The Institute shall research, develop, fund, and test measures for reducing the number of fatalities and injuries relevant to railroad operations. There are authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 1996 through 2000 to fund activities carried out under this section by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results thereof to the Secretary of Transportation and the Congress.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20146. Institute for Railroad Safety.".

SEC. 211. WARNING OF CIVIL LIABILITY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20147. Warning of civil liability

"The Secretary of Transportation shall encourage railroad carriers to warn the public about potential liability for violation of regulations related to vandalism of railroad signs, devices, and equipment and to trespassing on railroad property.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20147. Warning of civil liability.".

SEC. 212. RAILROAD CAR VISIBILITY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20148. Railroad car visibility

"(a) REVIEW OF RULES.—The Secretary of Transportation shall conduct a review of the Department of Transportation's rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service.

"(b) REGULATIONS.—If the review conducted under subsection (a) establishes that enhanced railroad car visibility would likely improve safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to prescribe regulations requiring enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

"(1) visibility of railroad cars from the perspective of nonrailroad traffic;

"(2) whether certain railroad car paint colors should be prohibited or required;

"(3) the use of reflective materials;

"(4) the visibility of lettering on railroad cars;

"(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

"(6) the cost/benefit ratio of any new regulations.

"(c) EXCLUSIONS.—In prescribing regulations under subsection (b), the Secretary may exclude from any specific visibility require-

ment any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20148. Railroad car visibility.".

SEC. 213. COORDINATION WITH THE DEPARTMENT OF LABOR.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20149. Coordination with the Department of Labor

"The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to ensure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to ensure a safe and productive working environment for the railroad industry.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20149. Coordination with the Department of Labor.".

SEC. 214. POSITIVE TRAIN CONTROL SYSTEM PROGRESS REPORT.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20150. Positive train control system progress report

"The Secretary of Transportation shall submit a report to the Congress on the development, deployment, and demonstration of positive train control systems by December 31, 1995.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20150. Positive train control system progress report.".

SEC. 215. PASSENGER CAR SAFETY STANDARDS.

(a) AMENDMENT.—Section 20133 of title 49, United States Code, is amended to read as follows:

"§ 20133. Passenger cars

"(a) MINIMUM STANDARDS.—The Secretary of Transportation shall prescribe regulations establishing minimum standards for the safety of cars used by railroad carriers to transport passengers. Before prescribing such regulations, the Secretary shall consider— Regulations.

"(1) the crashworthiness of the cars;

"(2) interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;

"(3) maintenance and inspection of the cars;

"(4) emergency response procedures and equipment; and

"(5) any operating rules and conditions that directly affect safety not otherwise governed by regulations.

The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary

shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

"(b) INITIAL AND FINAL REGULATIONS.—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after the date of enactment of the Federal Railroad Safety Authorization Act of 1994. The initial regulations may exempt equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

"(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after such date of enactment.

"(c) PERSONNEL.—The Secretary may establish within the Department of Transportation 2 additional full-time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

"(d) CONSULTATION.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 U.S.C. App.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.".

(b) TABLE OF SECTIONS AMENDMENT.—The item relating to section 20133 in the table of sections for chapter 201 of title 49, United States Code, is amended to read as follows:

"20133. Passenger cars.".

SEC. 216. CONTRACT AND GRANT AUTHORITY.

Section 103 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) Subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.".

SEC. 217. TOURIST RAILROAD CARRIERS.

Section 20103 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f) TOURIST RAILROAD CARRIERS.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.".

Reports.

SEC. 218. OPERATION LIFESAVER.

Section 20117 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) OPERATION LIFESAVER.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development $300,000 for fiscal year 1995, $500,000 for fiscal year 1996, and $750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.".

SEC. 219. RAILROAD TRESPASSING AND VANDALISM PREVENTION STRATEGY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20151. Railroad trespassing and vandalism prevention strategy

"(a) EVALUATION OF EXISTING LAWS.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after the date of enactment of the Federal Railroad Safety Authorization Act of 1994. The Secretary shall revise such model prevention strategies and enforcement codes periodically.

"(b) OUTREACH PROGRAM.—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and safety.

"(c) MODEL LEGISLATION.—Within 18 months after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for—

"(1) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

"(2) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20151. Railroad trespassing and vandalism prevention strategy.".

TITLE III—GRADE CROSSING SAFETY

SEC. 301. EMERGENCY NOTIFICATION OF GRADE CROSSING PROBLEMS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20152. Emergency notification of grade crossing problems

"(a) PILOT PROGRAMS.—The Secretary of Transportation shall conduct a pilot program to demonstrate an emergency notification system utilizing a toll free telephone number that the public can use to convey to railroad carriers, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings. The pilot program, at a minimum—

"(1) shall include railroad-highway grade crossings in at least 2 States;

"(2) shall include provisions for public education and awareness of the program; and

"(3) shall require information to be posted at the railroad-highway grade crossing describing the emergency notification system and instructions on how to use the system.

The Secretary may, by grant, provide funding for the expense of information signs and public awareness campaigns necessary to demonstrate the notification system.

"(b) REPORT.—The Secretary shall complete the pilot program not later than 24 months after the date of enactment of this section, and shall submit to the Congress not later than 30 months after that date an evaluation of the pilot program, together with findings as to the effectiveness of such emergency notification systems. The report shall compare and contrast the structure, cost, and effectiveness of the pilot program with other emergency notification systems in effect within other States. Such evaluation shall include analyses of the safety benefits derived from the programs, cost effectiveness, and the burdens on participants, including railroad carriers and law enforcement personnel.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20152. Emergency notification of grade crossing problems.".

SEC. 302. AUDIBLE WARNINGS AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20153. Audible warnings at highway-rail grade crossings

"(a) DEFINITIONS.—As used in this section—

"(1) the term "highway-rail grade crossing" includes any street or highway crossing over a line of railroad at grade;

"(2) the term "locomotive horn" refers to a train-borne audible warning device meeting standards specified by the Secretary of Transportation; and

"(3) the term "supplementary safety measure" refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

"(b) REQUIREMENT.—The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing. Regulations.

"(c) EXCEPTION.—(1) In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation)—

"(A) that the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury;

"(B) for which use of the locomotive horn as a warning measure is impractical; or

"(C) for which, in the judgment of the Secretary, supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

"(2) In order to provide for safety and the quiet of communities affected by train operations, the Secretary may specify in such regulations that any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

"(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this subchapter, the Secretary may not entertain an application for waiver or exemption of the regulations issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

"(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures,

order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

"(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

"(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

"(1) Private highway-rail grade crossings.

"(2) Pedestrian crossings.

"(3) Crossings utilized primarily by nonmotorized vehicles and other special vehicles.

Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

Regulations.

"(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following the date of enactment of this section. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following the date of enactment of this section.

"(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20153. Audible warnings at highway-rail grade crossings.".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4867 (S. 839):

HOUSE REPORTS: No. 103-692 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 103-208 accompanying S. 839 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 16, considered and passed House.
Aug. 18, considered and passed Senate, amended, in lieu of S. 839.
Oct. 6, House concurred in Senate amendment with an amendment.
Oct. 8, Senate concurred in House amendment.

Public Law 103-441
103d Congress

An Act

To designate the United States courthouse located at 231 West Lafayette Street in Detroit, Michigan, as the "Theodore Levin United States Courthouse" and to designate the postal facility located at 1401 West Fort Street in Detroit, Michigan, as the "George W. Young Post Office".

Nov. 2, 1994
[H.R. 4967]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEODORE LEVIN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 231 West Lafayette Street in Detroit, Michigan, shall be known and designated as the "Theodore Levin United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin United States Courthouse".

SEC. 2. GEORGE W. YOUNG POST OFFICE.

(a) DESIGNATION.—The postal facility located at 1401 West Fort Street in Detroit, Michigan, shall be known and designated as the "George W. Young Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the postal facility referred to in subsection (a) shall be deemed to be a reference to the "George W. Young Post Office".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4967 (S. 2395):

HOUSE REPORTS: No. 103-762 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, S. 2395 considered and passed Senate.
Oct. 3, 4, H.R. 4967 considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-442
103d Congress

An Act

Nov. 2, 1994
[H.R. 5102]

To amend title 18, United States Code, with respect to certain crimes relating to Congressional medals of honor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 704(b)(2)(B) of title 18, United States Code, is amended by inserting ", 6241, or 8741" after "3741".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 5102:

HOUSE REPORTS: No. 103-786 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-443
103d Congress

An Act

To amend the Omnibus Budget Reconciliation Act of 1993 to permit the prompt sharing of timber sale receipts of the Forest Service and the Bureau of Land Management.

Nov. 2, 1994
[H.R. 5161]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION REGARDING SHARING OF TIMBER SALE RECEIPTS.

(a) FOREST SERVICE.—Section 13982(b)(1) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 681; 16 U.S.C. 500 note) is amended by inserting "out of any money in the Treasury not otherwise appropriated," before "for the benefit of counties".

(b) BUREAU OF LAND MANAGEMENT.—Section 13983(b)(1) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 682; 43 U.S.C. 1181f note) is amended by inserting ", out of any money in the Treasury not otherwise appropriated," after "shall make payments".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 5161:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-444
103d Congress

An Act

Nov. 2, 1994
[H.R. 5200]

To resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crow Boundary Settlement Act of 1994.
Montana.
25 USC 1776 note.
25 USC 1776.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crow Boundary Settlement Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Under the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649), the eastern boundary of the Crow Indian Reservation was established as the 107th meridian for approximately 90 miles from the Yellowstone River to the boundary between Montana and Wyoming.

(2) Under Executive orders issued in 1884 and 1900, the western boundary of the Northern Cheyenne Reservation was established as the 107th meridian. The 107th meridian was intended to be the common boundary between the Crow Reservation and Northern Cheyenne Reservation for approximately 25 miles.

(3) From 1889 through 1891, a survey was conducted of the eastern boundary of the Crow Reservation. The 1891 survey line strayed to the west, and resulted in the exclusion from the Crow Indian Reservation of a strip of land of approximately 36,164 acres. Approximately 12,964 acres of such strip of land were included in the Northern Cheyenne Reservation. Deposits of low sulphur coal underlie the land excluded from the Crow Indian Reservation, including the land included in the Northern Cheyenne Indian Reservation.

(4)(A) The erroneous nature of the survey was not discovered for several decades. Meanwhile, the areas along the 107th meridian to the north and south of the Northern Cheyenne Indian Reservation were opened to settlement in the late nineteenth century and early part of the twentieth century. Patents were issued to non-Indian persons and to the State of Montana for most of the surface land and a significant portion of the minerals in these areas between the 107th meridian and the 1891 survey line.

(B) The 12,964 acres included in the Northern Cheyenne Reservation have been treated as part of the Northern Chey-

enne Reservation and occupied by the Northern Cheyenne Tribe and the Northern Cheyenne allottees, and their successors in interest.

(5) Legislation to resolve the 107th meridian boundary dispute was introduced in Congress in the 1960's and 1970's, and again in 1992, but no such legislation was enacted into law.

(b) PURPOSE.—The purpose of this Act is to settle the 107th meridian boundary dispute created by the erroneous survey of the eastern boundary of the Crow Indian Reservation made by the Federal Government described in subsection (a)(3).

SEC. 3. DEFINITIONS. 25 USC 1776a.

As used in this Act:

(1) CROW TRIBE.—The term "Crow Tribe" means the Crow Tribe of Indians, the duly recognized governing body of the Crow Indian Reservation.

(2) DISPUTED AREA.—The term "disputed area" means the approximately 36,164 acres of land, including the minerals, located between the 107th meridian on the east and the 1891 survey line on the west from the Yellowstone River on the north to the boundary between the State of Wyoming and the State of Montana on the south.

(3) 1891 SURVEY.—The term "1891 survey" means the survey of the eastern boundary of the Crow Reservation conducted by the United States Government from 1889 through 1891.

(4) 1891 SURVEY LINE.—The term "1891 survey line" means the erroneous boundary line resulting from the survey of the 107th meridian which was completed in 1891.

(5) NORTHERN CHEYENNE TRIBE.—The term "Northern Cheyenne Tribe" means the Northern Cheyenne Tribe of Indians, with the Northern Cheyenne Tribal Council as the duly recognized governing body of the Northern Cheyenne Indian Reservation.

(6) 107TH MERIDIAN BOUNDARY DISPUTE.—The term "107th meridian boundary dispute" means the dispute resulting from the disparity between the location of the 107th meridian and the location of the 1891 survey line.

(7) 107TH MERIDIAN ESCROW FUND.—The term "107th meridian escrow fund" means the revenues that arise from, or are derived from, parcel number 2, including all accrued interest on such revenues, which are held by the Bureau of Indian Affairs in an escrow account as of the date of enactment of this Act.

(8) PARCEL NUMBER 1.—The term "parcel number 1" means the area, encompassing approximately 11,317 acres, bounded on the south by the Montana-Wyoming border, on the east by the 107th meridian, on the north by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(9) PARCEL NUMBER 2.—The term "parcel number 2" means the area, encompassing approximately 12,964 acres, bounded on the south by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(10) PARCEL NUMBER 3.—The term "parcel number 3" means the area, encompassing approximately 2,469 acres, bounded on the south by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the northern boundary of the Crow Indian Reservation, and on the west by the 1891 survey line.

(11) PARCEL NUMBER 4.—The term "parcel number 4" means the area, encompassing approximately 9,415 acres, bounded on the south by the northern boundary of the Crow Indian Reservation, on the east by the 107th meridian, on the north by the midpoint of the Yellowstone River, and on the west by the 1891 survey line.

(12) PUBLIC LANDS.—The term "public lands" means any land or interest in land owned by the United States (without regard to the means by which the United States acquired ownership of the land or interest in land) and administered by the Secretary through the Bureau of Land Management.

(13) ROYALTIES RECEIVED AND RETAINED BY THE UNITED STATES.—The term "royalties received and retained by the United States" means the royalties derived from minerals owned by the United States that the United States retains after all payments from the royalties have been made to the State of Montana or any unit of local government of the State of Montana.

(14) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(15) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement between the Secretary, on behalf of the United States and the Crow Tribe, that provides for the resolution of all claims held by the Crow Tribe arising from the 107th meridian boundary dispute.

(16) UNDISPOSED OF COAL.—The term "undisposed of coal" means coal that has not been conveyed to private parties or to the State of Montana by the United States.

(17) UNDISPOSED OF SURFACE LANDS.—The term "undisposed of surface lands" means surface land that has not been conveyed to private parties or to the State of Montana by the United States.

(18) UNDISPOSED OF OIL, GAS, COAL METHANE, OR OTHER MINERALS.—The term "undisposed of oil, gas, coal methane, or other minerals" means oil, gas, coal methane, or other minerals (excluding coal) that have not been conveyed to private parties or to the State of Montana by the United States.

25 USC 1776b.

SEC. 4. SETTLEMENT AGREEMENT.

(a) EXECUTION OF THE SETTLEMENT AGREEMENT.—Subject to the terms and conditions of this Act, the Secretary shall enter into the Settlement Agreement with the Crow Tribe.

(b) RATIFICATION OF THE SETTLEMENT AGREEMENT.—Subject to the conditions set forth in section 9(a), the United States hereby approves, ratifies, and confirms the Settlement Agreement, to the extent that such Settlement Agreement does not conflict with this Act.

(c) MODIFICATION OF THE SETTLEMENT AGREEMENT.—The terms and conditions of the Settlement Agreement may be modified by

mutual agreement of the Crow Tribe and the Secretary if such modification—

(1) is not inconsistent with this Act; and

(2) does not diminish or impair any right or benefit secured to the Northern Cheyenne Tribe, the Northern Cheyenne allottees, or their successors in interest by or pursuant to any provision of this Act.

(d) ENFORCEMENT OF THE SETTLEMENT AGREEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Settlement Agreement shall be subject to the enforcement provisions under chapter 7 of title 5, United States Code.

(2) ADDITIONAL ENFORCEMENT.—If, with respect to the enforcement of the Settlement Agreement, the remedies available under the provisions referred to in paragraph (1) do not provide adequate or complete relief, the Settlement Agreement shall be subject to the enforcement provisions under section 1505 of title 28, United States Code.

SEC. 5. SETTLEMENT TERMS AND CONDITIONS AND EXTINGUISHMENT OF CLAIMS. 25 USC 1776c.

(a) PROPERTY WITHIN PARCEL NUMBER 1.—

(1) IN GENERAL.—With respect to the property within parcel number 1, the following provisions shall apply:

(A) The boundary of the Crow Indian Reservation shall be the 107th meridian.

(B) Title to the undisposed of coal of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(C) Title to the undisposed of surface lands of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(D) Title to the undisposed of oil, gas, coal methane, or other minerals of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) PROHIBITION.—Nothing in this Act or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, oil, gas, coal methane, or mineral within parcel number 1 that is based on the 1891 survey line, except for the specific rights that are vested in the United States for the sole use and benefit of the Crow Tribe pursuant to subparagraphs (B) through (D) of paragraph (1).

(3) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, title, claim, or interest in all the land and minerals within parcel number 1, except for the rights, titles, and interests recognized as beneficially owned by the Crow Tribe and as part of the Crow Indian Reservation in subparagraphs (B) through (D) of paragraph (1).

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability

arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 1.

(b) PROPERTY WITHIN PARCEL NUMBER 2.—

(1) IN GENERAL.—With respect to the property within parcel number 2, the following provisions shall apply:

(A) The boundary between the Crow and Northern Cheyenne Indian Reservations shall be the 1891 survey line.

(B) All surface lands and minerals of such parcel shall constitute part of the Northern Cheyenne Reservation.

(C) All surface lands, including all rights appurtenant to the surface lands, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe, except that surface lands that have been allotted shall be recognized as held in trust for, or owned in fee by (as the case may be), the Northern Cheyenne allottees or their successors in interest.

(D) The oil, gas, coal, coal methane, and other minerals, including all rights appurtenant to such minerals, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe.

(2) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals within parcel number 2, including all rights appurtenant to such land and minerals.

(B) A release by the Crow Tribe of all persons and entities, including the United States, the Northern Cheyenne Tribe, the Northern Cheyenne allottees and their successors in interest, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 2.

(3) ENFORCEMENT.—The provisions of subsection (b) may be enforced, in law or in equity, by the Northern Cheyenne Tribe, Northern Cheyenne allottees, and their successors in interest, in accordance with their respective interests.

(c) PROPERTY WITHIN PARCEL NUMBER 3 AND PARCEL NUMBER 4.—

(1) IN GENERAL.—With respect to the property within parcel number 3 and parcel number 4, the boundary of the Crow Indian Reservation shall be the 1891 survey line.

(2) PROHIBITION.—Nothing in this Act or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, or mineral within parcel number 3 or parcel number 4 that is based on the 1891 survey line.

(3) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals situated within parcel number 3 and parcel number 4.

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subse-

quent occupancy and use of parcel number 3 and parcel number 4.

(d) EXCHANGE OF PUBLIC LANDS.—With respect to the land exchanges with the State of Montana and private landowners made under this Act the following provisions shall apply:

(1) IN GENERAL.—(A) The Secretary shall negotiate with the State of Montana for the purpose of exchanging public lands within the State of Montana for State trust lands within the Crow Reservation having a total value substantially equal to the value of the surface estate of the approximately 46,625 acres of State trust lands obtained by the State of Montana pursuant to the Act of February 22, 1889 (commonly known as the "Montana Enabling Act"; 25 Stat. 676, chapter 180), and the Act entitled "An Act to provide for the allotment of lands of the Crow Tribe for the distribution of tribal funds and for other purposes" approved June 4, 1920 (commonly known as the "Crow Allotment Act"; 41 Stat. 751, chapter 224) within the Crow Indian Reservation and the disputed area.

(B) The exchange described in subparagraph (A) shall be in accordance with the exchange procedures set forth in section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(C) In determining the fair market value of the lands described in subparagraph (A), the parties to the exchange shall give due consideration to the value of improvements on the lands.

(D) The Secretary shall ensure that lands exchanged pursuant to this paragraph as part of the settlement of the 107th Meridian boundary dispute made pursuant to this Act shall be selected in such manner that the financial impact on local governments, if any, will be minimized.

(E) The Secretary shall provide such financial or other assistance to the State of Montana and to the Crow Tribe as may be necessary to obtain the appraisals, and to satisfy administrative requirements, necessary to accomplish the exchanges made pursuant to subparagraph (A).

(F) Upon approving an exchange made pursuant to this paragraph, the Secretary shall—

(i) receive title to the State trust lands involved in the exchange on behalf of the United States; and

(ii) transfer title to the public lands disposed of pursuant to the exchanges with the State of Montana by such means of conveyance as the Secretary considers appropriate.

(G) Title to the State trust lands acquired pursuant to the exchanges made with the State of Montana pursuant to this paragraph shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) REQUIREMENT FOR EXCHANGES.—(A) In carrying out the exchanges with the State of Montana pursuant to paragraph (1), the Secretary shall, during a period of at least 5 years beginning on the date on which the Settlement Agreement becomes effective, give first priority to the exchange of public lands within the State of Montana for State trust lands owned

by the State of Montana as of the date of the enactment of this Act.

(B) Subject to subparagraph (C), if, for any reason, after the expiration of the period specified in subparagraph (A), the exchanges of the State trust lands identified in paragraph (1) have not provided the Crow Tribe with a total of 46,625 acres of surface lands within the boundaries of the existing Crow Indian Reservation (including parcel number 1), the Secretary shall, at the request of, and in cooperation with, the Crow Tribe, develop and implement a program to provide the Crow Tribe with additional land within the Crow Indian Reservation (including parcel number 1) through land exchanges with private landowners.

(C) The total value of—

(i) the value of the lands exchanged and acquired for the Crow Tribe pursuant to paragraph (1), and

(ii) the value of the lands exchanged and acquired for the Crow Tribe pursuant to this paragraph,

shall not exceed the value of the surface estate of the 46,625 acres of land identified in paragraph (1)(A).

(D) In carrying out a program developed pursuant to this paragraph, the Secretary may exchange public lands within the State of Montana for private lands of substantially equal value within the boundaries of the existing Crow Indian Reservation in accordance with section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716).

(E) In determining the fair market value of the lands described in subparagraph (D), the parties to an exchange made pursuant to subparagraph (D) shall give due consideration to the value of improvements on the lands.

(F) If the Secretary obtains private lands pursuant to subparagraph (D), the Secretary shall transfer title to such lands to the Crow Tribe.

(G) Title to any private or public lands transferred to the Crow Tribe pursuant to this paragraph shall—

(i) be vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(ii) be recognized as part of the Crow Indian Reservation, if such lands are located within the boundaries of the Crow Indian Reservation.

(H) The Crow Tribe shall assist in obtaining prospective willing parties to exchange private lands within the Crow Indian Reservation for public lands within the State of Montana pursuant to this paragraph.

(e) CROW TRIBAL TRUST FUND.—The Settlement Agreement shall include provisions governing the distribution of interest income to the Crow Tribe from the Crow Tribal Trust Fund pursuant to the terms and conditions described in section 6.

25 USC 1776d.

SEC. 6. ESTABLISHMENT AND ADMINISTRATION OF CROW TRIBAL TRUST FUND.

(a) ESTABLISHMENT OF CROW TRIBAL TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Crow Tribal Trust Fund".

(2) AVAILABILITY OF AMOUNTS IN THE CROW TRIBAL TRUST FUND.—Amounts in the Crow Tribal Trust Fund shall be avail-

able, without fiscal year limitation, to the Secretary for distribution to the Crow Tribe in accordance with subsection (d).

(b) CONTRIBUTIONS TO CROW TRIBAL TRUST FUND.—

(1) IN GENERAL.—Subject to paragraph (2) and the requirements of section 10—

(A) on or before November 30, 1994, the Secretary of the Treasury shall deposit into the Crow Tribal Trust Fund an amount equal to the amounts of royalties received and retained by the United States during fiscal year 1994 from the East Decker, West Decker, and Spring Creek coal mines; and

(B) commencing with fiscal year 1995 and for such period thereafter as may be necessary, the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into the Crow Tribal Trust Fund of the royalties received and retained by the United States for the immediately preceding month from the East Decker, West Decker, and Spring Creek coal mines in the State of Montana for the life of such mines, including any extensions of the existing leases for such mines and any expansions of such mines to nearby and adjacent federally owned coal deposits, as specified in the Settlement Agreement.

(2) AMOUNT OF ROYALTIES.—The total amount of royalties described in paragraph (1) that are paid, transferred, or deposited into the Crow Tribal Trust Fund shall not exceed, in the aggregate, $85,000,000, excluding—

(A) any interest earned on moneys in the Crow Tribal Trust Fund; and

(B) the funds transferred to the Suspension Accounts pursuant to section 10.

(3) PAYMENTS OF ROYALTIES RECEIVED AND RETAINED BY THE UNITED STATES.—Subject to paragraph (2) and the requirements of section 10, the royalties received and retained by the United States from the East Decker, West Decker, and Spring Creek coal mines shall be paid, transferred or deposited into the Crow Tribal Trust Fund not later than 30 days after the date on which the royalties are due and paid.

(4) ADDITIONAL PAYMENTS.—The Federal Government shall make payments, in addition to the payments referred to in paragraph (3), from the royalties received and retained by the United States from other coal mines within the State of Montana into the Crow Tribal Trust Fund in an amount equal to any lost interest income (as determined by the Secretary), if any portion of the sums described in paragraph (3) are not paid, transferred or deposited into the Crow Tribal Trust Fund within the 30-day period prescribed in paragraph (3).

(c) INVESTMENT.—At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with the Act of February 12, 1929 (45 Stat. 1164, chapter 178; 25 U.S.C. 161a).

(d) DISTRIBUTION OF INTEREST.—

(1) IN GENERAL.—Only the interest received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe for use for education,

land acquisition, economic development, youth and elderly programs or other tribal purposes in accordance with plans and budgets developed and approved by the Crow Tribe and approved by the Secretary.

(2) REQUIREMENTS FOR DISTRIBUTION OF INTEREST.—Commencing with fiscal year 1996 and for each fiscal year thereafter, without fiscal year limitation, the interest received on monies in the Crow Tribal Trust Fund shall be available for distribution under this subsection only if—

(A) the United States and the Crow Tribe enter into the Settlement Agreement; and

(B) the requirements of section 9 relating to the approval and execution of the Settlement Agreement are satisfied.

(3) PROHIBITION.—No portion of the Crow Tribal Trust Fund or the interest earned on the Crow Tribal Trust Fund may be distributed to members of the Crow Tribe on a per capita basis.

(e) USE OF INTEREST FOR ECONOMIC DEVELOPMENT.—Notwithstanding any other provision of law, the Crow Tribe may, subject to approval by the Secretary, assign the right of the Crow Tribe to the interest earned on monies in the Crow Tribal Trust Fund to a third party in connection with loans made for economic development projects on or near the Crow Indian Reservation.

(f) LIMITATION.—Notwithstanding any other provision of law, no portion of the principal of the Crow Tribal Trust Fund shall be available for withdrawal or disbursement or used for any purpose other than the purposes specified in this section and section 10.

25 USC 1776e.

SEC. 7. ELIGIBILITY FOR OTHER FEDERAL SERVICES.

No payments made or benefits conferred pursuant to this Act shall result in the reduction or denial of any Federal services or programs to any tribe or to any member of a tribe to which the tribe or member of the tribe is entitled or eligible because of the status of the tribe as a federally recognized Indian tribe or the status of a member of such tribe as a member.

25 USC 1776f.

SEC. 8. EXCHANGES OF LAND OR MINERALS.

(a) IN GENERAL.—(1) Subject to approval by the Secretary, the Crow Tribe may exchange any land or minerals to which its title is recognized in or obtained pursuant to this Act for other land or minerals of substantially equivalent value within the Crow Indian Reservation (including parcel number 1).

(2) Lands or minerals received by the Crow Tribe in any exchange made pursuant to paragraph (1) shall be—

(A) vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(B) recognized as part of the Crow Indian Reservation.

(b) OWNERSHIP BY NON-INDIANS.—Any land or minerals received by a person who is not an Indian in an exchange referred to in subsection (a) shall be owned in fee.

25 USC 1776g.

SEC. 9. APPLICABILITY.

(a) IN GENERAL.—The Act shall take effect upon the occurrence of the following conditions:

(1) The Settlement Agreement is approved and executed by the Secretary.

(2) The Settlement Agreement is approved and executed by the Crow Tribe.

(3) The Settlement Agreement and the releases and waivers required by section 5 are approved and duly executed by the Crow Tribe in accordance with the requirements and procedures set forth in the constitution of the Crow Tribe.

(4) The Settlement Agreement becomes effective in accordance with the terms and conditions specified in the Settlement Agreement.

(b) APPROVAL OF RELEASES AND WAIVERS.—The United States hereby approves and confirms the releases and waivers required by section 5.

SEC. 10. ESCROW FUNDS. 25 USC 1776h.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall make distributions from the 107th meridian escrow fund as follows:

(1) One-half of the fund shall be distributed to the Crow Tribe.

(2) One-half of the fund shall be distributed to the Northern Cheyenne Tribe.

(3) The receipt and acceptance by a tribe of funds distributed under this section shall be deemed to be—

(A) a disclaimer, relinquishment and waiver by such tribe of all right, claim or interest in the 107th meridian escrow fund; and

(B) a release by such tribe of all persons and entities, including the United States, from any liability arising from, or related to, the establishment and administration of the 107th meridian escrow fund.

(b) ESTABLISHMENT OF SUSPENSION ACCOUNTS.—As soon as practicable after the Settlement Agreement is executed and approved pursuant to this Act, the Secretary of the Treasury shall establish in the Treasury of the United States two interest bearing accounts to be known respectively as the "Crow Tribal Suspension Account" and the "Northern Cheyenne Tribal Suspension Account" (collectively referred to in this subsection as the "Suspension Accounts"), consisting of—

(1) such amounts as are transferred to the Suspension Accounts under subsection (c); and

(2) any interest earned on investments of amounts in the Suspension Accounts under subsection (e).

(c) CONTRIBUTIONS TO THE SUSPENSION ACCOUNTS.—

(1) IN GENERAL.—Beginning with fiscal year 1995, and ending on the date on which the total amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d)), the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into each of the Suspension Accounts of an amount equal to one-half of the royalties received and retained by the United States for the immediately preceding month, as determined in accordance with section 6(b)(1), by the date specified under section 6(b)(3).

(2) SUBSEQUENT DEPOSITS.—At such time as the amount deposited pursuant to this subsection into the Suspension

Accounts is equal to $200,000 for each such account (as specified in subsection (d)), in accordance with section 6(b)(1), the Secretary and the Secretary of the Treasury shall thereafter deposit any remaining amounts determined under section 6(b)(1) in the Crow Tribal Trust Fund established under section 6(a).

(d) LIMITATION.—The Secretary and the Secretary of the Treasury shall not transfer more than a total amount equal to $200,000 to each of the Suspension Accounts from the amounts determined under section 6(b)(1).

(e) INVESTMENT.—All sums deposited in, accruing to and remaining in the Suspension Accounts shall be invested by the Secretary and the Secretary of the Treasury in interest bearing deposits and securities in accordance with the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

(f) WITHDRAWALS AND TERMINATION.—

(1) IN GENERAL.—(A) Beginning on the date that is 5 years after the date of enactment of this Act, the Crow Tribe and the Northern Cheyenne Tribe may each submit a duly authorized request to the Secretary for the withdrawal of all of the funds from the Suspension Account of the tribe established under subsection (b).

(B) Not later than 60 days after receiving a request for the distribution of funds from a Suspension Account made by a tribe under subparagraph (A)—

(i) the Secretary shall, in cooperation with the Secretary of the Treasury, withdraw and distribute such funds in accordance with such request; and

(ii) the Secretary of the Treasury shall terminate the Suspension Account.

(2) OTHER MEANS OF TERMINATION.—With respect to a Suspension Account established under subsection (b) that is not terminated pursuant to paragraph (1), at such time as the corpus and the accrued interest of the Suspension Account of the Crow Tribe or the Northern Cheyenne Tribe is approximately equal to the amount specified in paragraph (1) or (2) of subsection (a), the Secretary of the Treasury shall terminate the Suspension Account and the Secretary of the Interior shall distribute the funds from the Suspension Account to the tribe.

25 USC 1776i.

SEC. 11. FORT LARAMIE TREATY OF 1868.

Except for the adjustment to the eastern boundary of the Crow Indian Reservation, nothing in this Act or in the Settlement Agreement shall affect or modify the terms and conditions of the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649).

25 USC 1776j.

SEC. 12. SATISFACTION OF CLAIMS.

The benefits available to the Crow Tribe under the terms and conditions of this Act and the Settlement Agreement shall constitute full and complete satisfaction of all claims by the Crow Tribe and the members of the Crow Tribe arising from or related to the erroneous survey of the 107th meridian described in section 2(a)(3).

SEC. 13. AUTHORIZATION OF APPROPRIATIONS. 25 USC 1776k.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this Act.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 5200:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 6, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-445
103d Congress

An Act

Nov. 2, 1994
[H.R. 5220]

To provide for the acceptance by the Secretary of Education of applications submitted by the local educational agency serving the Window Rock Unified School District, Window Rock, Arizona, under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1994 and 1995.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION BY WINDOW ROCK, ARIZONA, LOCAL EDUCATIONAL AGENCY FOR FUNDING UNDER SECTION 3 OF PUBLIC LAW 874, 81ST CONGRESS.

Notwithstanding section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress; 20 U.S.C. 240(a)(2)) (as such section was in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994), the Secretary of Education shall accept from the local educational agency serving the Window Rock Unified School District, Window Rock, Arizona, applications for funding under section 3 of the Act of September 30, 1950 (as so in effect) for fiscal years 1994 and 1995 as if such applications were timely received in accordance with section 222.10(a)(1) of title 34, Code of Federal Regulations.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 5220:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-446
103d Congress

An Act

To amend title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes.

Nov. 2, 1994
[H.R. 5244]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits Improvements Act of 1994.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. Development of medical evaluation protocol.
Sec. 105. Outreach to Persian Gulf veterans.
Sec. 106. Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf War.
Sec. 107. Evaluation of health status of spouses and children of Persian Gulf War veterans.
Sec. 108. Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries.
Sec. 109. Survey of Persian Gulf veterans.
Sec. 110. Authorization for epidemiological studies.
Sec. 111. Cost-savings provisions.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Sec. 201. Appointment, pay comparability, and performance reviews for members of the Board of Veterans' Appeals.
Sec. 202. Deadline for establishment of performance evaluation criteria for Board members.
Sec. 203. Continuation in office of Chairman pending appointment of successor.

TITLE III—ADJUDICATION IMPROVEMENTS

Sec. 301. Acceptance of certain documentation for claims purposes.
Sec. 302. Expedited treatment of remanded claims.
Sec. 303. Screening of appeals.
Sec. 304. Report on feasibility of reorganization of adjudication divisions in VBA regional offices.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Sec. 401. Establishment of commission.
Sec. 402. Duties of the commission.
Sec. 403. Powers of the commission.
Sec. 404. Commission personnel matters.
Sec. 405. Termination of the commission.
Sec. 406. Definitions.
Sec. 407. Funding.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Restatement of intent of Congress concerning coverage of Radiation-Exposed Veterans Compensation Act of 1988.
Sec. 502. Extension of authority to maintain regional office in the Philippines.
Sec. 503. Renouncement of benefit rights.
Sec. 504. Clarification of payment of attorney fees under contingent fee agreements.
Sec. 505. Codification of herbicide-exposure presumptions established administratively.
Sec. 506. Treatment of certain income of Alaska natives for purposes of needs-based benefits.
Sec. 507. Elimination of requirement for payment of certain benefits in Philippine pesos.
Sec. 508. Study of health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.
Sec. 509. Center for Minority Veterans and Center for Women Veterans.
Sec. 510. Advisory Committee on Minority Veterans.
Sec. 511. Mailing of notices of appeal to the Court of Veterans Appeals.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

Sec. 601. Flight training.
Sec. 602. Training and rehabilitation for veterans with service-connected disabilities.
Sec. 603. Alternative teacher certification programs.
Sec. 604. Education outside the United States.
Sec. 605. Correspondence courses.
Sec. 606. State approving agencies.
Sec. 607. Measurement of courses.
Sec. 608. Veterans' Advisory Committee on Education.
Sec. 609. Contract educational and vocational counseling.
Sec. 610. Service Members Occupational Conversion and Training Act of 1992.

TITLE VII—EMPLOYMENT PROGRAMS

Sec. 701. Job counseling, training, and placement.
Sec. 702. Employment and training of veterans.

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

Sec. 801. Eligibility for burial in national cemeteries of spouses who predecease veterans.
Sec. 802. Restoration of burial eligibility for unremarried spouses.
Sec. 803. Extension of authorization of appropriations for State cemetery grant program.
Sec. 804. Authority to use flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

Sec. 901. Eligibility.
Sec. 902. Revision in computation of aggregate guaranty.
Sec. 903. Public and community water and sewerage systems.
Sec. 904. Authority to guarantee home refinance loans for energy efficiency improvements.
Sec. 905. Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages.
Sec. 906. Manufactured home loan inspections.
Sec. 907. Procedures on default.
Sec. 908. Minimum active-duty service requirement.

TITLE X—HOMELESS VETERANS PROGRAMS

Sec. 1001. Reports on activities of the Department of Veterans Affairs to assist homeless veterans.
Sec. 1002. Report on assessment and plans for response to needs of homeless veterans.
Sec. 1003. Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1004. Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1005. Sense of Congress.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Sec. 1101. Findings.

Sec. 1102. Requirement for minimum number of full-time equivalent positions.
Sec. 1103. Enhanced authority to contract for necessary services.
Sec. 1104. Study.

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

Sec. 1201. Amendments to title 38, United States Code.
Sec. 1202. Amendments to other laws administered by Secretary of Veterans Affairs.
Sec. 1203. Amendments to other laws.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

Persian Gulf War Veterans' Benefits Act.

SEC. 101. SHORT TITLE.

38 USC 101 note.

This Act may be cited as the "Persian Gulf War Veterans' Benefits Act".

SEC. 102. FINDINGS.

38 USC 1117 note.

The Congress makes the following findings:

(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102–585, directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public Law 103–210, the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103–160 (the National Defense Authorization Act for Fiscal Year 1994) for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the National Defense Authorization Act for Fiscal Year 1995, which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earnings capacities they may be experiencing.

38 USC 1117 note.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

SEC. 104. DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

38 USC 1117 note.

(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

(b) RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol described in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

(c) CASE DEFINITIONS AND DIAGNOSES.—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

38 USC 1117 note.

SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

(b) NEWSLETTER.—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semiannually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

Termination date.

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 1999.

(c) TOLL-FREE NUMBER.—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Chapter 11 is amended by adding at the end of subchapter II the following new section:

"§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

"(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

"(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).

"(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War. Regulations.

"(c)(1) The Secretary shall prescribe regulations to carry out this section.

"(2) Those regulations shall include the following:

"(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

"(B) A description of the illnesses for which compensation under this section may be paid.

"(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

"(d) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

"(e) For purposes of this section, the term 'Persian Gulf veteran' means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116 the following new item:

"1117. Compensation for disabilities occurring in Persian Gulf War veterans.".

(b) CONFORMING AMENDMENTS.—Section 1113 is amended— 38 USC 1113.

(1) by striking out "section 1112 or 1116" in the first and third place it appears and inserting in lieu thereof "section 1112, 1116, or 1117";

(2) by striking out "title" the second place it appears and inserting in lieu thereof "title, or payments of compensation pursuant to section 1117 of this title,"; and

(3) by inserting "or disabilities" after "diseases" both places it appears in subsection (a).

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report stating whether or not the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a). 38 USC 1117 note.

(d) REGULATIONS.—If the Secretary states in the report under subsection (c) that the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a), the Secretary shall, not later than 30 days after the date on which such report is submitted, publish in the Federal Federal Register, publication. 38 USC 1117 note.

Register proposed regulations under subsections (b) and (c) of that section.

38 USC 1117 note.

SEC. 107. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EVALUATION PROGRAM.—Subject to subsection (c), the Secretary of the Veterans Affairs shall conduct a study to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the study, the Secretary shall provide for the conduct of diagnostic testing and appropriate medical examinations of any individual—

(1) who is the spouse or child of a veteran who—

(A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102–585; and

(B) is suffering from an illness or disorder;

(2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and

(3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.

Such testing and examinations shall be carried out so as to gather such medical data as the Secretary considers relevant and appropriate in order to determine the nature and extent of the association, if any, between illness or disorder of the spouse or child and the illness of the veteran.

(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on September 30, 1996.

(c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed $2,000,000.

(d) CONTRACTING.—The Secretary shall provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements.

(e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.

(f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.

(g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary to ensure that implementation of this section results in sufficient information to enable the Secretary—

(1) to analyze the health status of large numbers of spouses and children of Persian Gulf veterans; and

(2) to formulate research hypotheses regarding possible association between illnesses or disorders suffered by Persian Gulf veterans and illnesses or disorders (including birth defects, miscarriages, and stillbirths) suffered by their spouses and children.

(h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—

(1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and

(2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.

(i) REPORTS TO CONGRESS.—(1) The Secretary shall submit to Congress no later than October 31, 1995, a report on the Secretary's implementation of this section.

(2) The Secretary shall analyze the data entered into the registry under this section and shall submit to Congress, not later than March 1, 1997, a report on that analysis and on the Secretary's recommendation for any further legislation or studies regarding the health status of spouses and children of Persian Gulf War veterans.

(j) DEFINITIONS.—For purposes of this section, the terms "child" and "spouse" have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

SEC. 108. CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES.

Section 703 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note) is amended—

(1) by inserting "(including diagnostic tests)" after "examination" each place it appears other than in subsection (a)(1)(A);

(2) in subsection (a)(1)(A)—

(A) by inserting "(including any appropriate diagnostic tests)" after "a health examination"; and

(B) by inserting "and the tests" after "the examination"; and

(3) in subsection (a)(2), by inserting "(including any diagnostic tests)" after "examinations".

SEC. 109. SURVEY OF PERSIAN GULF VETERANS.

38 USC 1117 note.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

(b) COORDINATION WITH DEPARTMENT OF DEFENSE.—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

(c) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations

during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

38 USC 1117 note.

SEC. 110. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

(a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585) a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

(b) OVERSIGHT.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

Contracts.

(c) ACCESS TO DATA.—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).

SEC. 111. COST-SAVINGS PROVISIONS.

38 USC 1317.

(a) ELECTION OF DEATH PENSION BY SURVIVING SPOUSE.—Section 1317 is amended—

(1) by striking out "No person" and inserting in lieu thereof "(a) Except as provided in subsection (b), no person"; and

(2) by adding at the end the following:

"(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.".

38 USC 1101 note.

(b) POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES FOR FISCAL YEAR 1995.—The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased

monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

SEC. 201. APPOINTMENT, PAY COMPARABILITY, AND PERFORMANCE REVIEWS FOR MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) MEMBERS OTHER THAN CHAIRMAN.—(1) Chapter 71 is amended by inserting after section 7101 the following new section:

"§ 7101A. Members of Board: appointment; pay; performance review

"(a) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

"(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

Establishment.

"(c)(1)(A) The Chairman shall establish a panel to review the performance of members of the Board. The panel shall be comprised of the Chairman and two other members of the Board (other than the Vice Chairman). The Chairman shall periodically rotate membership on the panel so as to ensure that each member of the Board (other than the Vice Chairman) serves as a member of the panel for and within a reasonable period.

"(B) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the performance review panel shall determine, with respect to each member of the Board (other than the Chairman or a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

"(2) If the determination of the performance review panel in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the Chairman shall recertify the member's appointment as a member of the Board.

"(3) If the determination of the performance review panel in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

"(A) grant the member a conditional recertification; or

"(B) recommend to the Secretary that the member be noncertified.

"(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3)(A) or (5)(A), the performance review panel shall review the member's job perform-

ance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the performance review panel at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

"(5) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary, after considering the recommendation of the Chairman, may either—

"(A) grant the member a conditional recertification; or

"(B) determine that the member should be noncertified.

"(d)(1) If the Secretary, based upon the recommendation of the Chairman, determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

"(2) Upon removal from the Board under paragraph (1), a member of the Board (other than the Chairman) who was a career or career-conditional employee in the civil service before commencement of service as a member of the Board shall revert to the civil service grade and series held by the member immediately before the appointment of the member to the Board.

"(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

"(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

"(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than the Chairman or a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

"(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7101 the following new item:

"7101A. Members of Board: appointment; pay; performance review.".

38 USC 7101A note.

(b) SAVE PAY PROVISION.—The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act may not be reduced

by reason of the amendments made by this section to a rate below the rate payable to such individual on the day before such date.

(c) EFFECTIVE DATE.—Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994. 38 USC 7101A note.

(d) CONFORMING AMENDMENTS.—Section 7101(b) is amended— 38 USC 7101.

(1) by striking out paragraph (2);

(2) by designating as paragraph (2) the text in paragraph (1) beginning "The Chairman may be removed"; and

(3) by striking out "Members (including the Chairman)" in paragraph (3) and inserting in lieu thereof "The Chairman".

SEC. 202. DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS. 38 USC 7101A note.

(a) DEADLINE.—The job performance standards required to be established by section 7101A(f) of title 38, United States Code, as added by section 201(a), shall be established not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the standards established by the Chairman of the Board of Veterans' Appeals. Reports

SEC. 203. CONTINUATION IN OFFICE OF CHAIRMAN PENDING APPOINTMENT OF SUCCESSOR.

Section 7101(b)(3) is amended by adding at the end the following new sentence: "If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.".

TITLE III—ADJUDICATION IMPROVEMENTS

SEC. 301. ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES.

(a) STATEMENTS OF CLAIMANT TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.—Chapter 51 is amended by adding at the end the following new section:

"§ 5124. Acceptance of claimant's statement as proof of relationship

"(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

"(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

"(1) Marriage.
"(2) Dissolution of a marriage.
"(3) Birth of a child.
"(4) Death of any family member.

"(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

"(1) the claimant does not reside within a State;
"(2) the statement on its face raises a question as to its validity;
"(3) there is conflicting information of record; or
"(4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.".

(b) REPORTS OF EXAMINATIONS BY PRIVATE PHYSICIANS.—Such chapter, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 5125. Acceptance of reports of private physician examinations

"For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"5124. Acceptance of claimant's statement as proof of relationship.
"5125. Acceptance of reports of private physician examinations.".

38 USC 5101 note.

SEC. 302. EXPEDITED TREATMENT OF REMANDED CLAIMS.

The Secretary of Veterans Affairs shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action.

SEC. 303. SCREENING OF APPEALS.

38 USC 7107.

Section 7107 is amended—

(1) in subsection (a)(1), by striking out "Each case" and inserting in lieu thereof "Except as provided in subsection (f), each case"; and

(2) by adding at the end the following new subsection:

"(f) Nothing in this section shall preclude the screening of cases for purposes of—

"(1) determining the adequacy of the record for decisional purposes; or
"(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.".

SEC. 304. REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the

Committees on Veterans' Affairs of the Senate and House of Representatives a report addressing the feasibility and impact of a reorganization of the adjudication divisions located within the regional offices of the Veterans Benefits Administration to a number of such divisions that would result in improved efficiency in the processing of claims filed by veterans, their survivors, or other eligible persons for benefits administered by the Secretary.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

38 USC 5101 note.

SEC. 401. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Claims Adjudication Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of nine members, appointed by the Secretary of Veterans Affairs as follows:

(A) One member shall be appointed from among former officials of the Department of Veterans Affairs (or the Veterans' Administration).

(B) Two members shall be appointed from among individuals in the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits.

(C) Two members shall be appointed from among individuals employed in the Federal Government (other than the Department of Veterans Affairs) who have expertise in the adjudication of claims for benefits under Federal law other than under laws administered by the Secretary of Veterans Affairs.

(D) Two members shall be appointed from among individuals recommended to the Secretary by representatives of veterans service organizations.

(E) One member shall be appointed based on a recommendation of the American Bar Association or a similar private organization from among individuals who have expertise in the field of administrative law.

(F) One member shall be appointed from among current officials of the Department of Veterans Affairs.

(2) The appointment of members of the commission under this subsection shall be made not later than February 1, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which all members of the commission have been appointed.

(e) MEETINGS.—The commission shall meet at the call of the chairman.

(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Secretary shall designate a member of the commission (other than the commission member who is a cur-

rent official of the Department of Veterans Affairs) to be chairman of the commission.

SEC. 402. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The commission shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(b) PURPOSE OF STUDY.—The purpose of the study is to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine the following:

(1) The efficiency of current processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits, including the effect of judicial review on the system, and means of increasing the efficiency of the system.

(2) Means of reducing the number of claims under the system for which final disposition is pending.

(3) Means of enhancing the ability of the Department of Veterans Affairs to achieve final determination regarding claims under the system in a prompt and appropriate manner.

(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section is a comprehensive evaluation and assessment of the Department of Veterans Affairs system for the disposition of claims for veterans benefits (as defined in section 406) and of the system for the delivery of such benefits, together with any related issues that the commission determines are relevant to the study. The study shall include an evaluation and assessment of the following:

(1) The preparation and submission of claims by veterans under the system.

(2) The processes and procedures under the system for the disposition of claims, including—

(A) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process, including the role of hearings throughout the process;

(B) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

(C) opportunities for the submittal of new evidence; and

(D) the availability of alternative means of completing claims.

(3) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

(4) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the use of electronic data management systems.

(5) The effect on the system of any work performance standards used by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

(6) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Committees on Veterans' Affairs

of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

(7) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

(8) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

(d) COOPERATION OF SECRETARY.—Upon the request of the chairman of the commission, the Secretary shall, within 30 days of such request, submit to the commission, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the chairman shall determine is necessary for the commission to carry out the study required under this section.

(e) REPORTS.—(1) Not later than one year after the date of the enactment of this Act, the commission shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings and conclusions of the commission with respect to the evaluation and assessment required under the study.

(2) Not later than 18 months after such date, the commission shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

(A) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in subsection (c).

(B) The recommendations of the commission for means of improving the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(C) Such other information and recommendations with respect to the system as the commission considers appropriate.

SEC. 403. POWERS OF THE COMMISSION.

(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 402(d), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 404. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive

Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of the department or agency to the commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 405. TERMINATION OF THE COMMISSION.

The commission shall terminate 90 days after the date on which the commission submits its report under section 402(e)(2).

SEC. 406. DEFINITIONS.

For the purposes of this title:

(1) The term "Department of Veterans Affairs system for the disposition of claims for veterans benefits" means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

(2) The term "Secretary" means the Secretary of Veterans Affairs.

(3) The term "veterans service organizations" means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

SEC. 407. FUNDING.

(a) FISCAL YEAR 1995.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 1995 for the payment of compensation and pension, the amount of $400,000 is hereby made available for the activities of the commission under this title.

(b) AVAILABILITY.—Any sums appropriated to the commission shall remain available until expended.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988.

(a) RESTATEMENT OF ABSENCE OF STATUTORY LIMITATION TO UNITED STATES TESTS.—Clause (i) of section 1112(c)(3)(B) is amended by inserting "(without regard to whether the nation conducting the test was the United States or another nation)" after "nuclear device". 38 USC 1112.

(b) PROOF OF SERVICE CONNECTION OF DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION.—(1) Section 1113(b) is amended— 38 USC 1113.

(A) by striking out "title or" and inserting in lieu thereof "title,"; and

(B) by inserting ", or section 5 of Public Law 98–542 (38 U.S.C. 1154 note)" after "of this section".

(2) The amendments made by paragraph (1) shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act. 38 USC 1113 note.

SEC. 502. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1999". 38 USC 315.

SEC. 503. RENOUNCEMENT OF BENEFIT RIGHTS.

Section 5306 is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.".

SEC. 504. CLARIFICATION OF PAYMENT OF ATTORNEY FEES UNDER CONTINGENT FEE AGREEMENTS.

(a) CLARIFICATION.—Subparagraph (A) of section 5904(d)(2) is amended to read as follows: 38 USC 5904.

"(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the attorney—

"(i) is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

"(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act.

SEC. 505. CODIFICATION OF HERBICIDE-EXPOSURE PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY.

38 USC 1116.

Section 1116(a)(2) is amended by adding at the end the following new subparagraphs:

"(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

"(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of 10 percent or more within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.".

38 USC 1101 note.

SEC. 506. TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEEDS-BASED BENEFITS.

Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PAYMENT OF CERTAIN BENEFITS IN PHILIPPINE PESOS.

38 USC 107.

(a) GENERAL RULE.—The second sentence of each of subsections (a) and (b) of section 107 is amended—

(1) by striking out "rate in pesos as is equivalent to" and inserting in lieu thereof "rate of"; and

(2) by striking out "rate in Philippine pesos as is equivalent to" and inserting in lieu thereof "rate of".

38 USC 3532, 3565.

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Sections 3532(d) and 3565(b)(1) are amended by striking out "a rate in Philippine pesos equivalent to" and inserting in lieu thereof "the rate of".

38 USC 107 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1994.

SEC. 508. STUDY OF HEALTH CONSEQUENCES FOR FAMILY MEMBERS OF ATOMIC VETERANS OF EXPOSURE OF ATOMIC VETERANS TO IONIZING RADIATION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Veterans Affairs shall enter into an agreement with the Medical Follow-Up Agency of the Institute of the Medicine of the National Academy of Sciences under which that agency shall convene a panel of

appropriate individuals to carry out the evaluation described in subsection (b).

(b) EVALUATION OF FEASIBILITY OF STUDY.—(1) The panel convened under subsection (a) shall evaluate the feasibility of carrying out a study as described in subsection (c).

(2) The panel shall submit the results of the evaluation under paragraph (1) to the Secretary not later than 180 days after the date of the enactment of this Act. The Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of such results. Notification.

(c) DESCRIPTION OF STUDY TO BE EVALUATED.—The study referred to in subsection (b) (the feasibility of which is to be evaluated under that subsection by the panel convened under subsection (a)) is one which would determine the nature and extent, if any, of the relationship between the exposure of veterans described in subsection (d) to ionizing radiation and the following:

(1) Genetic defects and illnesses in the children and grandchildren of such veterans.

(2) Untoward pregnancy outcomes experienced by the wives of such veterans, including premature births, stillbirths, miscarriages, neonatal illnesses and deaths.

(3) Periparturient diseases of the mother which are the direct result of such untoward pregnancy outcomes.

(d) COVERED VETERANS.—Subsection (c) applies to—

(1) any veteran who was exposed (as determined by the Secretary) to ionizing radiation as a result of—

(A) participation while on active duty in the Armed Forces in an atmospheric nuclear test that included the detonation of a nuclear device;

(B) service in the Armed Forces with the United States occupation force of Hiroshima or Nagasaki, Japan, before July 1, 1946; or

(C) internment or detention as a prisoner of war of Japan before that date in circumstances providing the opportunity for exposure to ionizing radiation comparable to the exposure of individuals who served with such occupation force before that date; and

(2) any other veteran who the Secretary designates for coverage under the study.

SEC. 509. CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS.

(a) IN GENERAL.—Chapter 3 is amended by striking out section 317 and inserting in lieu thereof the following new sections:

"§ 317. Center for Minority Veterans

"(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are minorities:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

"(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

"(10) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

"§ 318. Center for Women Veterans

"(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are women:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

"(9) Publicize the results of medical research which are of particular significance to veterans who are women.

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (relating to the inclusion of women and minorities in clinical research) and of particular health conditions affecting women's health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

"(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

"(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 317 and inserting in lieu thereof the following new items:

"317. Center for Minority Veterans.
"318. Center for Women Veterans.".

SEC. 510. ADVISORY COMMITTEE ON MINORITY VETERANS.

(a) ESTABLISHMENT.—Subchapter III of chapter 5 is amended by adding at the end the following new section:

"§ 544. Advisory Committee on Minority Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of veterans who are minority group members;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

"(iii) veterans who are minority group members and who have experience in a military theater of operations; and

"(iv) veterans who are minority group members and who do not have such experience.

"(B) The Committee shall include, as ex officio members, the following:

"(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

"(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

"(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

"(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

"(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include— Reports.

"(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

"(5) Pacific-Islander American.

"(e) The Committee shall cease to exist December 31, 1997.". Termination date.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 543 the following new item:

"544. Advisory Committee on Minority Veterans.".

SEC. 511. MAILING OF NOTICES OF APPEAL TO THE COURT OF VETERANS APPEALS.

38 USC 7266.

(a) IN GENERAL.—Section 7266(a) is amended to read as follows:

"(a)(1) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

"(2) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

"(3) A notice of appeal shall be deemed to be received by the Court as follows:

"(A) On the date of receipt by the Court, if the notice is delivered.

"(B) On the date of the United States Postal Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

"(4) For a notice of appeal mailed to the Court to be deemed to be received under paragraph (3)(B) on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.".

38 USC 7266 note.

(b) APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals on or after that date.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

SEC. 601. FLIGHT TRAINING.

38 USC 3034.

(a) ACTIVE DUTY PROGRAM.—Section 3034(d) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(d)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

38 USC 3241.

(b) POST-VIETNAM ERA.—Section 3241(b) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(b)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

38 USC 2136.

(c) RESERVE PROGRAM.—Section 2136(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1994. 38 USC 3304 note.

SEC. 602. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) REHABILITATION RESOURCES.—Section 3115 is amended— 38 USC 3115.

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "or" after "(including the Department of Veterans Affairs),"; and

(ii) by inserting "or of any federally recognized Indian tribe," after "financial assistance,"; and

(B) in paragraph (4), by inserting "any federally recognized Indian tribe," after "contributions,"; and

(2) by adding at the end the following:

"(c) For purposes of this section, the term 'federally recognized Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) ALLOWANCES.—Section 3108(c)(2) is amended by inserting "or federally recognized Indian tribe" after "local government agency". 38 USC 3108.

(c) TECHNICAL CORRECTION.—(1) Section 404(b) of the Veterans' Benefits Act of 1992 (106 Stat. 4338) is amended by striking out the period at the end and inserting in lieu thereof ", but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.". 38 USC 3102 note.

(2) The amendment made by paragraph (1) shall take effect as of October 29, 1992. Effective date.

SEC. 603. ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

(a) IN GENERAL.—Section 3452(c) is amended by adding at the end the following: "For the period ending on September 30, 1996, such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).". 38 USC 3102 note. 38 USC 3452.

(b) CLARIFYING AMENDMENT.—Section 3002 is amended by adding at the end the following new paragraph: 38 USC 3002.

"(8) The term 'educational institution' has the meaning given such term in section 3452(c) of this title.".

SEC. 604. EDUCATION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The first sentence of section 3476 is amended to read as follows: "An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary.". 38 USC 3476.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to courses approved on or after the date of the enactment of this Act. 38 USC 3476 note.

SEC. 605. CORRESPONDENCE COURSES.

(a) APPROVAL OF PROGRAMS OF EDUCATION.—(1) Section 3672 is amended by adding at the end the following new subsection: 38 USC 3672.

"(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.".

38 USC 3675. (2)(A) Section 3675(a)(2)(B) is amended by striking out "A State" and inserting in lieu thereof "Except as provided in section 3672(e) of this title, a State".

38 USC 3680. (B) Section 3680(a) is amended—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(iii) by striking out paragraph (4).

38 USC 3686. (C) Section 3686(c) is amended by striking out "(other than one subject to the provisions of section 3676 of this title)".

38 USC 3672 note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after the date of the enactment of this Act.

SEC. 606. STATE APPROVING AGENCIES.

38 USC 3674. (a) REIMBURSEMENT.—(1) Section 3674(a)(4) is amended by striking out "$12,000,000" each place it appears and inserting in lieu thereof "$13,000,000".

38 USC 3674 note. (2) The amendments made by subsection (a) shall apply with respect to services provided under such section after September 30, 1994.

(b) ELIMINATION OF REQUIREMENT FOR QUARTERLY REPORT TO CONGRESS.—Section 3674(a)(3) is amended— 38 USC 3674.

(1) by striking out subparagraph (B); and

(2) by striking out "(A)" after "(3)".

38 USC 3674A. (c) EVALUATION OF AGENCY PERFORMANCE.—Section 3674A is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(2) in subsection (b)—

(A) by striking out "subsection (a)(5) of this section" both places it appears and inserting in lieu thereof "subsection (a)(4)"; and

(B) by inserting "of this title" after "section 3674(a)" both places it appears.

SEC. 607. MEASUREMENT OF COURSES.

38 USC 3688. Section 3688(b) is amended—

(1) by striking out "this chapter or" and inserting in lieu thereof "this chapter,"; and

(2) by inserting before the period at the end thereof the following: ", or chapter 106 of title 10".

SEC. 608. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

38 USC 3692. Section 3692 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "34,"; and

(B) by inserting "and chapter 106 of title 10" before the period at the end;

(2) in the first sentence of subsection (b), by striking out "this chapter" and all that follows through "of this title" and inserting in lieu thereof "this chapter, chapter 30, 32, and 35 of this title, and chapter 106 of title 10"; and

(3) in subsection (c), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 2003".

SEC. 609. CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) PAYMENT LIMITATION.—Section 3697(b) is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000". 38 USC 3697.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994. 38 USC 3697 note.

SEC. 610. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(a) PERIOD OF TRAINING.—(1) Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (106 Stat. 2759; 10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2)(A) Section 4486(d)(2) of such Act (102 Stat. 2760; 10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community for the entire period of training of the eligible person.".

(B) The amendment made by subparagraph (A) shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 beginning after the date of the enactment of this Act. 10 USC 1143 note.

(b) PAYMENTS.—Section 4487 of such Act (106 Stat. 2762; 10 U.S.C. 1143 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)";

(B) by inserting before the period at the end of subparagraph (A) the following: "but in no event to exceed hours equivalent to 18 months of training"; and

(C) by adding at the end the following new subparagraph:

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B).."; and

(2) in subsection (b)(3), by inserting before the period at the end thereof ", or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such

official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".

TITLE VII—EMPLOYMENT PROGRAMS

SEC. 701. JOB COUNSELING, TRAINING, AND PLACEMENT.

38 USC 4102A.

(a) DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 4102A(a) is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran.".

38 USC 4103A.

(b) DVOP SPECIALISTS COMPENSATION RATES.—Section 4103A(a)(1) is amended by striking out "a rate not less than the rate prescribed for an entry level professional" and inserting in lieu thereof "rates comparable to those paid other professionals performing essentially similar duties".

38 USC 4110A.

(c) SPECIAL UNEMPLOYMENT STUDY.—Subsection (a) of section 4110A is amended to read as follows:

"(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:

"(A) Special disabled veterans.

"(B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

"(C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

"(D) Veterans who served on active duty after the Vietnam era.

"(E) Veterans discharged or released from active duty within four years of the applicable study.

Women.

"(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

Reports.

"(3) The Secretary shall promptly submit to Congress a report on the results of each study under paragraph (1).".

SEC. 702. EMPLOYMENT AND TRAINING OF VETERANS.

38 USC 4212.

(a) FEDERAL CONTRACTS.—Section 4212(a) is amended by striking out "all of its suitable employment openings," in clause (1) of the third sentence and inserting in lieu thereof "all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less,".

(b) ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS.—Section 4213 is amended—

(1) by striking out "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran and" and inserting in lieu thereof "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran,";

(2) by inserting "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and"; and

(3) by striking out "the needs or qualifications of participants in" and inserting in lieu thereof "eligibility under".

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

SEC. 801. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES OF SPOUSES WHO PREDECEASE VETERANS.

Section 2402(5) is amended by inserting "spouse," after "The". 38 USC 2402.

SEC. 802. RESTORATION OF BURIAL ELIGIBILITY FOR UNREMARRIED SPOUSES.

Section 2402(5), as amended by section 801, is further amended by inserting after "surviving spouse" the following: "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)".

SEC. 803. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 2408(a) is amended by striking out "nine" and inserting in lieu thereof "fourteen". 38 USC 2408.

SEC. 804. AUTHORITY TO USE FLAT GRAVE MARKERS AT THE WILLAMETTE NATIONAL CEMETERY, OREGON. 38 USC 2404 note.

Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

SEC. 901. ELIGIBILITY.

(a) RESERVISTS DISCHARGED BECAUSE OF A SERVICE-CONNECTED DISABILITY.—Section 3701(b)(5)(A) is amended— 38 USC 3701.

(1) by inserting "(i)" before "who has"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.".

(b) SURVIVING SPOUSES OF RESERVISTS WHO DIED WHILE IN ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—The second sentence of section 3701(b)(2) is amended—

(1) by inserting "or service in the Selected Reserve" after "duty" each place it appears; and

(2) by striking out "spouse shall" and inserting in lieu thereof "deceased spouse shall".

SEC. 902. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

38 USC 3702.

Section 3702(b) is amended—

(1) in the matter preceding paragraph (1), by striking out "loan, if—" and inserting in lieu thereof "loan under the following circumstances:";

(2) in paragraph (1)—

(A) by striking out "the property" at the beginning of subparagraph (A) and inserting in lieu thereof "The property";

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "a veteran-transferee" at the beginning and inserting in lieu thereof "A veteran-transferee";

(B) by striking out "; or" at the end and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "the loan" at the beginning of subparagraph (A) and inserting in lieu thereof "The loan";

(5) by inserting after paragraph (3) the following new paragraph:

"(4) In a case not covered by paragraph (1) or (2)—

"(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

"(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.";

(6) in the last sentence, by striking out "clause (1) of the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(7) by adding at the end the following new sentence: "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).".

SEC. 903. PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS.

38 USC 3704.

Section 3704 is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 904. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

38 USC 3710.

(a) LOANS.—Section 3710(a) is amended by inserting after paragraph (10) the following new paragraph:

"(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).".

(b) AMOUNT OF GUARANTY.—Section 3710(e)(1) is amended—

(1) in the matter preceding subparagraph (A), by inserting "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)"; and

(2) in subparagraph (C), by striking out "may not exceed" and all that follows in such subparagraph and inserting in lieu thereof "may not exceed—

"(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

"(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);".

(c) FEE.—Section 3729(a)(2)(E) is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),". 38 USC 3729.

SEC. 905. AUTHORITY TO GUARANTEE LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES.

Section 3710(e)(1)(A) is amended by inserting before the semicolon at the end the following: "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee". 38 USC 3710.

SEC. 906. MANUFACTURED HOME LOAN INSPECTIONS.

(a) CERTIFICATION OF CONFORMITY WITH STANDARDS.—Paragraph (2) of subsection (h) of section 3712 is amended to read as follows: 38 USC 3712.

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).".

(b) REPEAL OF INSPECTION REQUIREMENTS.—Subsection (j) of such section is amended by striking out "in the case of" the first place it appears and all that follows and inserting in lieu thereof "in the case of—

"(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

"(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

"(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.".

(c) ELIMINATION OF REPORTING REQUIREMENT.—Subsection (l) of such section is amended—

(1) by striking out "the results of inspections required by subsection (h) of this section,"; and

(2) by striking out "of this section,".

SEC. 907. PROCEDURES ON DEFAULT.

(a) IN GENERAL.—Paragraph (7) of section 3732(c) is amended— 38 USC 3732.

(1) in the matter preceding subparagraph (A), by striking out "that was the minimum amount for which, under applicable

State law, the property was permitted to be sold at the liquidation sale";

(2) in subparagraph (A)—

(A) by striking out "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and inserting in lieu thereof "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to"; and

(B) by striking out "and" after "loan;" and inserting in lieu thereof "or";

(C) by adding at the end the following:

"(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and"; and

(3) in subparagraph (B), by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)".

(b) CONFORMING AMENDMENT.—Paragraph (6) of such section is amended—

(1) by striking out "either";

(2) by striking out "sale or acquires" and all that follows through "(B) the" and inserting in lieu thereof "sale, the"; and

(3) by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively.

SEC. 908. MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT.

38 USC 5303A.

Subparagraph (F) of section 5303A(b)(3) is amended by inserting "or chapter 37" after "chapter 30" in the matter preceding clause (i).

TITLE X—HOMELESS VETERANS PROGRAMS

38 USC 7721 note.

SEC. 1001. REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS.

(a) ANNUAL REPORT.—(1) Not later than April 15 of each year, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department of Veterans Affairs during the year preceding the report under programs of the Department for the provision of assistance to homeless veterans.

(2) The report shall—

(A) set forth the number of homeless veterans provided assistance under those programs;

(B) describe the cost to the Department of providing such assistance under those programs; and

(C) provide any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(b) BI-ANNUAL REQUIREMENT.—The Secretary shall include in the report submitted under subsection (a)(1) in 1995, and every two years thereafter, an evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans.

(c) CONFORMING REPEAL.—Section 10 of Public Law 102–590 (106 Stat. 5141; 37 U.S.C. 7721 note) is repealed. 38 USC 7721 note.

SEC. 1002. REPORT ON ASSESSMENT AND PLANS FOR RESPONSE TO NEEDS OF HOMELESS VETERANS.

(a) UPDATE OF ASSESSMENT.—Subsection (b) of section 107 of the Veterans' Medical Programs Amendments of 1992 (Public Law 102–405; 106 Stat. 1977; 38 U.S.C. 527 note) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall require that the directors referred to in paragraph (1) update the assessment required under that paragraph during each of 1995, 1996, and 1997.".

(b) REPORTS ON ASSESSMENTS AND PLAN.—Subsection (i) of such section (106 Stat. 1978) is amended— 38 USC 527 note.

(1) by striking out "REPORT.—" and inserting in lieu thereof "REPORTS.—(1)"; and

(2) by adding at the end the following:

"(2) Not later than December 31, 1994, the Secretary shall submit to such committees a report that—

"(A) describes the results of the assessment carried out under subsection (b);

"(B) sets forth the lists developed under paragraph (1) of subsection (c); and

"(C) describes the progress, if any, made by the directors of the medical centers and the directors of the benefits offices referred to in such subsection (c) in developing the plan referred to in paragraph (2) of such subsection (c).

"(3) Not later than December 31 of each of 1995, 1996, and 1997, the Secretary shall submit to such committees a report that describes the update to the assessment that is carried out under subsection (b)(6) in the year preceding the report.".

SEC. 1003. INCREASE IN NUMBER OF DEMONSTRATION PROGRAMS UNDER HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 2(b) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended in the first sentence by striking out "four" and inserting in lieu thereof "eight".

SEC. 1004. REMOVAL OF FUNDING REQUIREMENT OF HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out the second sentence.

SEC. 1005. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) of the funds appropriated for any fiscal year to support Federal programs which are designed to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans

should be appropriated to the Secretary of Veterans Affairs for programs to assist homeless veterans that are administered by that Secretary;

(2) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and

(3) the Secretary of Veterans Affairs should take such actions as are necessary to ensure that Federal agencies that provide assistance, either directly or indirectly, to homeless individuals, including homeless veterans, are aware of and encouraged to make appropriate referrals to facilities of the Department of Veterans Affairs for benefits and services, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

38 USC 712 note.

SEC. 1101. FINDINGS.

Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs will be required to provide health care services to veterans on a competitive basis with other health care providers.

(2) The elimination of positions from the Department that the Office of Management and Budget has scheduled to occur in fiscal years 1995 through 1999 would prevent the Department from meeting the responsibilities of the Department to provide health care to veterans under law and from maintaining the quality of health care that is currently provided to veterans.

SEC. 1102. REQUIREMENT FOR MINIMUM NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

(a) IN GENERAL.—Chapter 7 is amended by adding at the end the following new section:

"§ 712. Full-time equivalent positions: limitation on reduction

"(a) Notwithstanding any other provision of law, the number of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on the date of the enactment of this section and ending on September 30, 1999, may not (except as provided in subsection (c)) be less than 224,377.

"(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-

time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

"(1) the number of such positions in the Department during that fiscal year, reduced by

"(2) the sum of—

"(A) the number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds; and

"(B) the number of such positions held during that fiscal year by persons involved in medical care cost recovery activities under section 1729 of this title.

"(c) The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department unless such reduction—

"(1) is necessary due to a reduction in funds available to the Department; or

"(2) is required under a law that is enacted after the date of the enactment of this section and that refers specifically to this section.

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, through the year 2000, on the number and type of full-time equivalent positions in the Department that are reduced under this section. The report shall include a justification for the reductions and shall be submitted with the materials provided in support of the budget for the Department contained in the President's budget submitted to Congress for a fiscal year pursuant to section 1105 of title 31.". Reports.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"712. Full-time equivalent positions: limitation on reduction.".

SEC. 1103. ENHANCED AUTHORITY TO CONTRACT FOR NECESSARY SERVICES.

Section 8110(c) is amended by striking out paragraph (7) and inserting in lieu thereof the following: 38 USC 8110.

"(7) Paragraphs (1) through (6) shall not be in effect during fiscal years 1995 through 1999.

"(8) During the period covered by paragraph (7), whenever an activity at a Department health-care facility is converted from performance by Federal employees to performance by employees of a contractor of the Government, the Secretary shall—

"(A) require in the contract for the performance of such activity that the contractor, in hiring employees for the performance of the contract, give priority to former employees of the Department who have been displaced by the award of the contract; and

"(B) provide to such former employees of the Department all possible assistance in obtaining other Federal employment or entrance into job training and retraining programs.

"(9) The Secretary shall include in the Secretary's annual report to Congress under section 529 of this title, for each fiscal year covered by paragraph (7), a report on the use during the year covered by the report of contracting-out authority made available by reason of paragraph (7). The Secretary shall include in each Reports.

such report a description of each use of such authority, together with the rationale for the use of such authority and the effect of the use of such authority on patient care and on employees of the Department.".

38 USC 1701 note. Contracts.

SEC. 1104. STUDY.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall enter into an agreement with an appropriate non-Federal entity under which the entity shall carry out a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a wholly-owned Government corporation or a Government-sponsored enterprise, for the effective provision of health care services to veterans.

(b) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study required under subsection (a). The report shall be submitted not later than one year after the date of the enactment of this Act.

(c) AUTHORIZATION OF FUNDS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs the sum of $1,000,000 for the purposes of carrying out the study required under subsection (a).

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1201. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

(a) REFERENCES TO "SECRETARY" AND "DEPARTMENT".—Title 38, United States Code, is amended as follows:

38 USC 101. (1) Paragraph (1) of section 101 is amended to read as follows:

"(1) The terms 'Secretary' and 'Department' mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.".

38 USC 1532. (2) Section 1532(c) is amended by striking out "Secretary" and inserting in lieu thereof "Veterans' Administration".

38 USC 3745. (3) Section 3745(a) is amended by striking out "Secretary" after "consult with the" and inserting in lieu thereof "Administrator".

38 USC 4102A. (4) Section 4102A(e) is amended by striking out "Regional Secretary" both places it appears and inserting in lieu thereof "Regional Administrator".

38 USC 4110. (5) Section 4110(d)(9) is amended by striking out "Secretary of the Small Business Administration" and inserting in lieu thereof "Administrator of the Small Business Administration".

(b) REFERENCES TO DEPARTMENT OF MEDICINE AND SURGERY.—

38 USC 3121, 7603, 7604, 7612, 7615, 7616, 7622, 7623, 7635, 8110. (1) The following sections of title 38, United States Code, are amended by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Administration": sections 3120(a), 3120(f), 3121(a)(3), 7603(a), 7603(c)(1)(B), 7604(1)(B), 7604(2)(D), 7612(c)(1)(B), 7615, 7616(b)(2), 7616(c), 7622(b)(1), 7622(c)(2)(A), 7623(b), 7635(a)(1), 7635(a)(2), and 8110(a).

(2) Section 7622(c)(2)(B) of such title is amended by striking out "such Department" and inserting in lieu thereof "the Veterans Health Administration".

(c) CONFORMING AMENDMENTS RELATING TO CONVERSION OF POSITIONS OF CHIEF MEDICAL DIRECTOR AND CHIEF BENEFITS DIRECTOR TO UNDER SECRETARY POSITIONS.—Title 38, United States Code, is amended as follows:

(1) Section 305 is amended— 38 USC 305.

(A) in subsection (a)(1), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Medical Director of the Veterans' Administration)".

(2) Section 306 is amended—

(A) in subsection (a), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Benefits Director of the Veterans' Administration)".

(3) Section 7306 is amended— 38 USC 7306.

(A) in subsection (a)—

(i) in paragraph (3), by striking out "Assistant Chief Medical Directors" and inserting in lieu thereof "Assistant Under Secretaries for Health";

(ii) by redesignating the last three paragraphs as paragraphs (8), (7), and (9) respectively;

(iii) by reversing the order in which the penultimate and antepenultimate paragraphs appear; and

(iv) in paragraph (8), as so redesignated, by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health";

(B) in subsection (b), by striking out "Assistant Chief Medical Directors" in the matter preceding paragraph (1) and inserting in lieu thereof "Assistant Under Secretaries for Health"; and

(C) in subsection (c), by striking out "and (7)" and inserting in lieu thereof "and (8)".

(4) Section 7314(d) is amended— 38 USC 7314.

(A) in paragraph (1)—

(i) by striking out "the Chief Medical Director and the Secretary to carry out" and inserting in lieu thereof "the Secretary and the Under Secretary for Health in carrying out"; and

(ii) by striking out "the Assistant Chief Medical Director described in section 7306(b)(3)" and inserting in lieu thereof "the Assistant Under Secretary for Health described in section 7306(b)(3)"; and

(B) in paragraph (3), by striking out "Assistant Chief Medical Director" both places it appears and inserting in lieu thereof "Assistant Under Secretary".

(5) Section 7318 is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health". 38 USC 7318.

38 USC 7440. (6) Section 7440(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

38 USC 7451. (7) Section 7451(g)(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(d) CROSS REFERENCE AMENDMENTS TO PROVISIONS OF TITLE 38.—Title 38, United States Code, is amended as follows:

38 USC 115. (1) Section 115 is amended by striking out "sections 230" and inserting in lieu thereof "sections 314, 315, 316,".

38 USC 1710. (2) Section 1710(f)(3)(E) is amended by striking out "section 1712(f)" and "section 1712(f)(4)" and inserting in lieu thereof "section 1712(a)" and "section 1712(f)", respectively.

38 USC 1712. (3) Section 1712 is amended—

(A) in subsection (i)(5), by striking out "section 1722(a)(1)(C)" and inserting in lieu thereof "section 1722(a)(3)"; and

(B) in subsection (j), by striking out "Section 4116" and inserting in lieu thereof "Section 7316".

38 USC 3018A. (4) Section 3018A(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

38 USC 3018B. (5) Section 3018B(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

38 USC 3032. (6) Section 3032(f)(3) is amended by striking out "(c), or (d)(1)" and inserting in lieu thereof "(d), or (e)(1)".

38 USC 3035. (7) Section 3035(b) is amended—

(A) in paragraph (2), by striking out "section 3015(c)" and inserting in lieu thereof "section 3015(d)"; and

(B) in paragraph (3)(C), by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

38 USC 3103. (8) Section 3103(b)(3) is amended by striking out "section 3102(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

38 USC 3106. (9) Section 3106(a) is amended by striking out "section 3102(1)(A) or (B)" and inserting in lieu thereof "clause (i) or (ii) of section 3102(1)(A)".

38 USC 3113. (10) Section 3113(a) is amended by striking out "section 3102(1)(B) and (2)" and inserting in lieu thereof "subparagraphs (A)(ii) and (B) of section 3102(1)".

38 USC 3120. (11) Section 3120(b) is amended by striking out "section 3012(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

38 USC 3241. (12) Section 3241(c) is amended by striking out "1663,".

38 USC 3735. (13) Section 3735(a)(1)(A) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

38 USC 4103. (14) Section 4103(c)(2) is amended by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77".

38 USC 5104. (15) Section 5104(a) is amended by striking out "section 211(a)" and inserting in lieu thereof "section 511".

38 USC 8103. (16) Section 8103(d)(6)(A) is amended by striking out "section 230(c)" and inserting in lieu thereof "section 316".

38 USC 8110. (17) Section 8110(c)(3)(B) is amended by striking out "section 213 or 4117" and inserting in lieu thereof "section 513 or 7409".

38 USC 8135. (18) Section 8135(a)(3) is amended by striking out "section 8134(2)" and inserting in lieu thereof "section 8134(a)(2)".

38 USC 8155. (19) Section 8155(a) is amended by striking out "section 4112" and inserting in lieu thereof "section 7312".

(20) Section 8201(c) is amended by striking out "section 4112(a)" and inserting in lieu thereof "section 7312(a)". 38 USC 8201.

(e) PUNCTUATION, CAPITALIZATION, SPELLING, ETC.—Title 38, United States Code, is amended as follows:

(1) Section 111(b)(3)(B) is amended by striking out "the Department facility" and inserting in lieu thereof "a Department facility". 38 USC 111

(2) Sections 305(d)(2)(F) and 306(d)(2)(F) are amended by striking out "Commission" and inserting in lieu thereof "commission". 38 USC 305, 306.

(3) Section 312(a) is amended by striking out "(5 U.S.C. App. 3)" and inserting in lieu thereof "(5 U.S.C. App.)". 38 USC 312.

(4) Section 317(b)(2) is amended by striking out "provided, by the" and inserting in lieu thereof "provided by, the". 38 USC 317.

(5) Section 711(d) is amended by striking out "Committees" and inserting in lieu thereof "committees". 38 USC 711.

(6) Section 1116(a)(1)(B) is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively. 38 USC 1116.

(7) Section 1722A(a)(1) is amended by striking out the closing parenthesis after "veteran" in the first sentence. 38 USC 1722A.

(8) Section 1969(e) is amended— 38 USC 1969.

(A) by striking out "sections 1971 (a) and (c)" and inserting in lieu thereof "subsections (a) and (c) of section 1971"; and

(B) by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(9) Section 1977(f) is amended by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971". 38 USC 1977.

(10) Section 3011(f)(1) is amended by striking out "whose length" and inserting in lieu thereof "the length of which". 38 USC 3011.

(11) Section 3018B(d) is amended— 38 USC 3018B.

(A) in paragraph (1), by striking out "(a)(2)(D) of this subsection" and inserting in lieu thereof "(a)(2)(D) of this section"; and

(B) in paragraph (3)—

(i) by striking out "such Account" and inserting in lieu thereof "such account"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "this title".

(12) Section 3688(a)(6) is amended by inserting a comma after "3241(a)(2)". 38 USC 3688

(13) Section 3706 is amended by striking out "of this chapter" the second and third places it appears and inserting in lieu thereof "of this title". 38 USC 3706.

(14) Section 3712 is amended— 38 USC 3712.

(A) in subsection (c)(3)—

(i) by inserting "of" in subparagraph (D) after "subparagraph (B)"; and

(ii) by striking out "of this subsection" in subparagraph (E) and inserting in lieu thereof "of this paragraph"; and

(B) in subsection (m), by striking out "section 3704(d) and section 3721 of this chapter" and inserting in lieu thereof "sections 3704(d) and 3721 of this title".

38 USC 3713. (15) Section 3713(b) is amended in the last sentence by striking out "subsection 5302(b) of this title, if eligible thereunder" and inserting in lieu thereof "section 5302(b) of this title, if the veteran is eligible for relief under that section".

38 USC 5702. (16) Section 5702 is amended—

(A) by inserting "(a)" before "Any person desiring";

(B) by striking out "custody of" and all that follows through "stating" and inserting in lieu thereof "custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state"; and

(C) in subsection (c), by striking out "is authorized to fix" and inserting in lieu thereof "may establish".

38 USC 6101. (17) Section 6101(a) is amended by inserting a comma after "title 18".

38 USC 6103. (18) Section 6103(d)(1) is amended in the second sentence—

(A) by striking out "(a)" and "(b)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(B) by striking out "prior to" and inserting in lieu thereof "before".

38 USC 6105. (19) Section 6105(c) is amended—

(A) in the first sentence, by striking out "clauses (2), (3), or (4) of subsection (b) of this section" and inserting in lieu thereof "paragraph (2), (3), or (4) of subsection (b)";

(B) in the second sentence, by striking out "clause (1) of that subsection" and inserting in lieu thereof "paragraph (1) of subsection (b)"; and

(C) by transposing the two sentences of that subsection (as so amended).

38 USC 7312. (20) Section 7312(d) is amended by striking out "the advisory groups activities" and inserting in lieu thereof "the activities of the advisory group".

38 USC 7408. (21) Section 7408(a) is amended by striking out "civil-service" and inserting in lieu thereof "civil service".

38 USC 7433. (22) Sections 7433(b)(3)(A) and 7435(b)(3)(A) are amended by striking out "nation-wide" and inserting in lieu thereof "nationwide".

38 USC 7451. (23) Section 7451(d)(3)(C)(i)(I) is amended by striking out "labor market area" and inserting in lieu thereof "labor-market area".

38 USC 7453. (24) Section 7453 is amended by striking out "subsections" in subsections (f) and (g) and inserting in lieu thereof "subsection".

38 USC 7601. (25) Section 7601(a) is amended by striking out the comma at the end of paragraph (1) and inserting in lieu thereof a semicolon.

38 USC 7604. (26) Section 7604 is amended by striking out "subchapters" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapter".

38 USC 8126. (27) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "1-year" and inserting in lieu thereof "one-year"; and

(B) in subsection (f)(2), by striking out ", and" and inserting in lieu thereof a period.

(f) DATE OF ENACTMENT REFERENCES.—Title 38, United States Code, is amended as follows:

(1) Section 1922A(b) is amended by striking out "insurance not later than" and all that follows through "that the Department" and inserting in lieu thereof "insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary". 38 USC 1922A.

(2) Sections 3011(e) and 3012(f) are amended by striking out "the end of the 24-month period beginning on the date of the enactment of this subsection" and inserting in lieu thereof "October 28, 1994,". 38 USC 3011, 3012.

(3) Section 3018B(a)(2)(A) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 23, 1992,". 38 USC 3018B.

(4) Section 3702(a)(2)(E) is amended by striking out "For the 7-year period beginning on the date of enactment of this subparagraph," and inserting in lieu thereof "For the period beginning on October 28, 1992, and ending on October 27, 1999,". 38 USC 3702.

(5) Section 6103(d)(2) is amended by striking out "the date of enactment of this amendatory Act" and inserting in lieu thereof "June 30, 1972". 38 USC 6103.

(6) Section 8126 is amended— 38 USC 8126.

(A) in subsection (e)(1)(A), by striking out "30 days after the date of the enactment of this section" and inserting in lieu thereof "December 4, 1992"; and

(B) in subsection (g), by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "November 4, 1992".

(g) OBSOLETE OR EXECUTED PROVISIONS.—Title 38, United States Code, is amended as follows:

(1) Section 312(b) is amended by striking out paragraph (3). 38 USC 312.

(2) Section 1524(a)(2) is amended by striking out "Subject to paragraph (3) of this subsection, if" and inserting in lieu thereof "If". 38 USC 1524.

(3) Section 4110(c)(1) is amended by striking out "shall, within 90 days after the date of the enactment of this section, appoint" and inserting in lieu thereof "shall appoint". 38 USC 4110.

(4)(A) Section 5505 is repealed.

(B) The table of sections at the beginning of chapter 55 is amended by striking out the item relating to section 5505.

(5) Section 7311 is amended by striking out subsections (f) and (g). 38 USC 7311.

(6) Section 7453(i)(3) is amended by striking out "of title 5". 38 USC 7453.

(7) Section 8110(c) is amended by striking out paragraph (7). 38 USC 8110.

(8) Section 8111(b) is amended— 38 USC 8111.

(A) in paragraph (2)—

(i) by striking out "During fiscal years 1982 and 1983" in the second sentence and inserting in lieu thereof "During odd-numbered fiscal years";

(ii) by striking out "During fiscal year 1984" in the third sentence and inserting in lieu thereof "During even-numbered fiscal years"; and

(iii) by striking out the fourth sentence; and

(B) in paragraph (4), by striking out "Within nine months of the date of the enactment of this subsection and at such times thereafter as" and inserting in lieu thereof "At such times as".

(h) AMENDMENTS TO HEADINGS AND TABLES OF CONTENTS.—Title 38, United States Code, is amended as follows:

(1) The table of chapters before part I and the table of chapters at the beginning of part III are amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"42. Employment and Training of Veterans ..... 4211".

(2) The heading of section 2106 is amended by revising each word after the first word so that the initial letter of each such word is lower case.

(3) The item relating to subchapter III in the table of sections at the beginning of chapter 73 is amended to read as follows:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS".

(4) The heading of section 7458 is amended to read as follows:

"§ 7458. Recruitment and retention bonus pay".

(5) The heading of chapter 81 is amended by inserting "ENHANCED-USE" before "LEASES OF REAL".

(6) The item relating to section 8126 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"8126. Limitation on prices of drugs procured by Department and certain other Federal agencies.".

(i) OTHER MISCELLANEOUS CORRECTIONS.—Title 38, United States Code, is amended as follows:

38 USC 1718. (1) Section 1718(c)(1) is amended by inserting "of Veterans Affairs" after "Department" in the first sentence.

38 USC 1922. (2) Section 1922(b)(4) is amended by striking out "Notwithstanding" and all that follows through "title," and inserting in lieu thereof "Notwithstanding section 1917 of this title,".

38 USC 1969. (3) Section 1969(d)(3) is amended by striking out "General Operating Expenses, Department" and inserting in lieu thereof "General Operating Expenses, Department of Veterans Affairs".

38 USC 3018A. (4) Section 3018A(a)(1) is amended by striking "after December 31, 1990," and all that follows through "whichever is later," and inserting in lieu thereof "after February 2, 1991,".

38 USC 3121. (5) Section 3121(a)(3) is amended by striking out "Department of Veterans' Benefits" and inserting in lieu thereof "Veterans Benefits Administration".

38 USC 3680. (6) Section 3680(a)(C) is amended by striking out "1 full" and inserting in lieu thereof "one full".

38 USC 4110. (7) Section 4110(e)(3)(B) is amended—

(A) by striking out ", United States Code,"; and

(B) by striking out "the Board" and inserting in lieu thereof "the advisory committee".

38 USC 5110. (8) Section 5110 is amended by striking out subsection (m).

38 USC 7315. (9) Section 7315(b)(2) is amended by striking out "Department" and inserting in lieu thereof "Veterans' Administration".

38 USC 8111. (10) Section 8111(f)(6) is amended by inserting "of Defense" after "the Secretary" the second place it appears.

(11) Section 8502(d) is amended by striking out "General Post Fund, National Homes, Department," and inserting in lieu thereof "General Post Fund, National Homes, Department of Veterans Affairs,". 38 USC 8502.

SEC. 1202. AMENDMENTS TO OTHER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) PUBLIC LAW 102–54.—Effective as of June 13, 1991, and as if included in the enactment of Public Law 102–54, Public Law 102–54 is amended as follows:

(1) Section 13(e) (105 Stat. 275) is amended by striking out "subsection (b)(10)" and inserting in lieu thereof "subsection (c)(10)". 15 USC 644 note.

(2) Section 15(a)(1)(A) (105 Stat. 289) is amended by inserting "the first place it appears" before "in the first sentence". 38 USC 3705.

(b) PUBLIC LAW 102–83.—Effective as of August 6, 1991, and as if included in the enactment of Public Law 102–83, section 4(a) of Public Law 102–83 (105 Stat. 403) is amended as follows:

(1) Paragraph (2)(E) is amended by striking out "Section 601(4)" and inserting in lieu thereof "Section 601(3)". 38 USC 1701.

(2) Paragraph (4) is amended by adding at the end the following: 38 USC 3714, 3715.

"(E) Sections 7314(b)(1) and 7315(b)(2).".

(c) PUBLIC LAW 102–86.—Section 403(b)(4) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102–86; 105 Stat. 423; 36 U.S.C. 493(b)(4)) is amended by striking out "section 235" and inserting in lieu thereof "section 707".

(d) PUBLIC LAW 102–547.—Section 10(b)(2) of the Veterans Home Loan Program Amendments of 1992 (106 Stat. 3643; 38 U.S.C. 3703 note) is amended by striking out "paragraph 4" and inserting in lieu thereof "paragraph (4)".

(e) PUBLIC LAW 102–585.—The Veterans Health Care Act of 1992 (Public Law 102–585) is amended as follows:

(1) Section 202 (38 U.S.C. 8111 note) is amended by striking out "the Chief Medical Director" and inserting in lieu thereof "the Under Secretary for Health of the Department of Veterans Affairs".

(2) Section 511(c) (38 U.S.C. 7318 note) is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

SEC. 1203. AMENDMENTS TO OTHER LAWS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended as follows:

(1) Section 502(b)(2)(D) (42 U.S.C. 290aa–1(b)(2)(D)) is amended to read as follows:

"(D) the Under Secretary for Health of the Department of Veterans Affairs;".

(2) Section 542(b)(2) (42 U.S.C. 290dd–1(b)(2)) is amended by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health".

(3) Section 2604(b)(2)(A) (42 U.S.C. 300ff–14(b)(2)(A)) is amended by striking out "Veterans Administration facilities" and inserting in lieu thereof "Department of Veterans Affairs facilities".

(b) MISCELLANEOUS DEPARTMENT AND SECRETARY REFERENCES.—Section 5102(c)(3) of title 5, United States Code, is

amended by striking out the comma after "Department of Veterans Affairs".

(c) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS.—

(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "section 4303".

(2) Section 441(b)(2)(B) of the Job Training Partnership Act (29 U.S.C. 1721(b)(2)(B)) is amended—

(A) by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77"; and

(B) by striking out "sections 612A, 620A, 1787, and 2003A" and inserting in lieu thereof "sections 1712A, 1720A, 3687, and 4103A".

(3) Section 107 of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6706) is amended by striking out "section 4211(2)(A)" and "section 2011(1)" inserting in lieu thereof "section 4211(2)" and "section 4211(1)", respectively.

(4) Section 4(g)(2) of the Employment Act of 1946 (15 U.S.C. 1022a(g)(2)) is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "section 2011(1) or (2)(A)" and inserting in lieu thereof "section 4211(1) or (2)".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 5244:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Nov. 2, Presidential statement.

Public Law 103-447
103d Congress

An Act

To amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes.

Nov. 2, 1994
[H.R. 5246]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Narcotics Control Corrections Act of 1994".

International Narcotics Control Corrections Act of 1994. 22 USC 2151 note.

TITLE I—INTERNATIONAL NARCOTICS CONTROL

SEC. 101. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) USE OF HERBICIDES FOR AERIAL ERADICATION.—Section 481(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(d)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) DEFINITIONS.—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) in the matter preceding paragraph (1), by striking "Except as provided in sections 490 (h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for" and inserting "For";

(2) by amending paragraph (2) to read as follows:

"(2) the term 'major illicit drug producing country' means a country in which—

"(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;

"(B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or

"(C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States;";

(3) by striking "; and" at the end of paragraph (5);

(4) by redesignating paragraph (6) as paragraph (8); and

(5) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33));

"(7) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking; and".

(c) ADVANCE NOTIFICATION OF TRANSFER OF SEIZED ASSETS.—Section 482 of that Act (22 U.S.C. 2291a) is amended by adding at the end the following new subsection:

"(e) ADVANCE NOTIFICATION OF TRANSFER OF SEIZED ASSETS.—The President shall notify the appropriate congressional committees at least 10 days prior to any transfer by the United States Government to a foreign country for narcotics control purposes of any property or funds seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity.".

President.

(d) REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.—Section 486 of that Act (22 U.S.C. 2291e) is amended—

(1) by striking "(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—";

(2) by striking "security assistance" in the matter preceding paragraph (1) of subsection (a) and inserting "assistance under this Act";

(3) in paragraph (2) of subsection (a)—

(A) in the heading, by striking "SECURITY" and inserting "OTHER"; and

(B) by striking "security"; and

(4) by striking subsection (b).

(e) PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.—Section 487(a)(1) of that Act (22 U.S.C. 2291f(a)(1)) is amended by inserting "to" after "relating".

(f) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Section 489 of that Act (22 U.S.C. 2291h) is amended—

(A) in the section heading, by striking "**FOR FISCAL YEARS 1993 AND 1994**" and inserting "**FOR FISCAL YEAR 1995**";

(B) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "April 1" and inserting "March 1"; and

(ii) in paragraph (3)—

(I) by striking subparagraph (B); and

(II) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(C) by striking subsection (c);

(D) by redesignating subsection "(d)" as subsection "(c)"; and

(E) by amending subsection (c) (as redesignated) to read as follows:

"(c) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 489A does not apply during that fiscal year.".

(2) CONFORMING AMENDMENT.—Section 489A of that Act (22 U.S.C. 2291i) is amended in the section heading by striking "**1994**" and inserting "**1995**".

(g) ANNUAL CERTIFICATION PROCEDURES.—

(1) IN GENERAL.—Section 490 of that Act (22 U.S.C. 2291j) is amended—

(A) in the section heading, by striking "**FOR FISCAL YEARS 1993 AND 1994**" and inserting "**FOR FISCAL YEAR 1995**";

(B) in subsection (a)(1), by striking "(as determined under subsection (h))";

(C) in subsection (a)(2), by striking "April 1" and inserting "March 1";

(D) in subsection (c), by striking "that such country has taken adequate steps" and all that follows and inserting "that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.";

(E) in subsection (d), by striking "45" and inserting "30";

(F) in subsection (g)—

(i) by striking "CONGRESSIONAL" and all that follows through "(1) SENATE.—" and inserting "SENATE PROCEDURES.—"; and

(ii) by striking paragraph (2);

(G) in subsection (h)—

(i) in the heading, by striking "FOR FISCAL YEARS 1993 AND 1994"; and

(ii) by striking "January 1" and inserting "November 1"; and

(H) by amending subsection (i) to read as follows:

"(i) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 490A does not apply during that fiscal year.".

(2) CONFORMING AMENDMENT.—Section 490A of that Act (22 U.S.C. 2291k) is amended—

(A) in the section heading, by striking "**1994**" and inserting "**1995**"; and

(B) in the heading of subsection (g), by striking "1994" and inserting "1995".

SEC. 102. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) EXPORT-IMPORT BANK ACT.—Section 2(b)(6)(C)(ii) of the Export-Import Bank Act of 1945 (22 U.S.C. 635(b)(6)(C)(ii)) is amended by striking "determined under section 490(h) or 481(e), as appropriate," and inserting "defined in section 481(e)". 12 USC 635.

(b) TITLE 18, U.S.C.—Section 981(i)(1)(C) of title 18, United States Code, is amended by striking "paragraph (1)(A) of section 481(h)" and inserting "section 490(a)(1)".

(c) TARIFF ACT OF 1930.—Section 616(c)(2)(C) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)(2)(C)) is amended by striking "481(h)" and inserting "490(b)".

(d) CONTROLLED SUBSTANCES ACT.—Section 511(e)(1)(E) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(E)) is amended by striking "481(h)" and inserting "490(b)".

SEC. 103. REPEAL OF OBSOLETE PROVISIONS.

(a) 1992 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1992 (Public Law 102–583) is repealed. 22 USC 2151 note, 2291h note, 2420 note.

(b) 1988 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988; Public Law 100–690) is repealed except for the title heading and section 4702 (a) through (f). 22 USC 2151 note, 2291–2; 31 USC 5311 note; 41 USC 701 note.

(c) 1986 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986; Public Law 99–570) is repealed except for the title heading and section 2018.

22 USC 2151 note, 2291 note; 46 USC app. 1902 note.

SEC. 104. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

22 USC 2420 note.

(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

President.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

22 USC 2151 note.

SEC. 105. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal year 1995, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act (22 U.S.C. 2291j(e)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e))[1] in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

22 USC 2151 note.

SEC. 106. AUTHORITY FOR ANTICRIME ASSISTANCE.

(a) POLICY.—International criminal activities, including international narcotics trafficking, money laundering, smuggling, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(b) AUTHORITY.—

(1) IN GENERAL.—For fiscal year 1995, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may deter-

[1] When the original law was received by the National Archives and Records Administration there was a penciled editorial caret here, and in the adjacent margin, also in pencil was the word fragment *paren* handwritten and circled and below that a closing parenthesis mark. Through an oversight in the enrolling process this editorial direction was not incorporated into the text before it was printed and signed.

mine, for the prevention and suppression of international criminal activities.

(2) WAIVER OF PROHIBITION OF POLICE TRAINING.—Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to assistance furnished under paragraph (1).

SEC. 107. ASSISTANCE TO DRUG TRAFFICKERS.

8 USC 1182.

The President shall take all reasonable steps provided by law to ensure that the immediate relatives of any individual described in section 487(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291f(a)), and the business partners of any such individual or of any entity described in such section, are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

President.

TITLE II—NATO PARTICIPATION ACT OF 1994

NATO Participation Act of 1994. 22 USC 1928 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "NATO Participation Act of 1994".

SEC. 202. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 203. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary,

the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3) Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(4) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

(1) are full and active participants in the Partnership for Peace;

(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

(3) are likely in the near future to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961. President.

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

SEC. 204. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 203(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 203(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 203(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 205. REPORTING REQUIREMENT.

The President shall include in the report required by section 514(a) of Public Law 103–236 (22 U.S.C. 1928 note) the following: President.

(1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d).

(2) A description, on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d).

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 5246:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-448
103d Congress

An Act

To amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

Nov. 2, 1994
[S. 1614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Healthy Meals for Healthy Americans Act of 1994. Intergovernmental relations. 42 USC 1751 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy Meals for Healthy Americans Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Sense of Congress.

TITLE I—AMENDMENTS TO NATIONAL SCHOOL LUNCH ACT

Sec. 101. Purchase of fresh fruits and vegetables.
Sec. 102. Delivery of commodities.
Sec. 103. Requirement of minimum percentage of commodity assistance.
Sec. 104. Combined Federal and State commodity purchases.
Sec. 105. Technical assistance to ensure compliance with nutritional requirements.
Sec. 106. Nutritional and other program requirements.
Sec. 107. Nutritional requirements relating to provision of milk.
Sec. 108. Use of free and reduced price meal eligibility information.
Sec. 109. Automatic eligibility of Head Start participants.
Sec. 110. Use of nutrition education and training program resources.
Sec. 111. Special assistance for schools electing to serve all children free lunches or breakfasts.
Sec. 112. Miscellaneous provisions and definitions.
Sec. 113. Food and nutrition projects.
Sec. 114. Summer food service program for children.
Sec. 115. Commodity distribution program.
Sec. 116. Child and adult care food program.
Sec. 117. Homeless children nutrition program.
Sec. 118. Pilot projects.
Sec. 119. Reduction of paperwork.
Sec. 120. Food service management institute.
Sec. 121. Compliance and accountability.
Sec. 122. Duties of the Secretary of Agriculture relating to nonprocurement debarment under certain child nutrition programs.
Sec. 123. Information clearinghouse.
Sec. 124. Guidance and grants for accommodating special dietary needs of children with disabilities.
Sec. 125. Study of adulteration of juice products sold to school meal programs.

TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

Sec. 201. School breakfast program.
Sec. 202. State administrative expenses.
Sec. 203. Competitive foods of minimal nutritional value.
Sec. 204. Special supplemental nutrition program.

Sec. 205. Nutrition education and training program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Consolidation of school lunch program and school breakfast program into comprehensive meal program.
Sec. 302. Study and report relating to use of private food establishments and caterers under school lunch program and school breakfast program.
Sec. 303. Amendment to Commodity Distribution Reform Act and WIC Amendments of 1987.
Sec. 304. Study of the effect of combining federally donated and federally inspected meat or poultry.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

42 USC 1751 note.

SEC. 2. FINDINGS.

Congress finds that—

(1) undernutrition can permanently retard physical growth, brain development, and cognitive functioning of children;

(2) the longer a child's nutritional, emotional, and educational needs go unmet, the greater the likelihood of cognitive impairment;

(3) low-income children who attend school hungry score significantly lower on standardized tests than non-hungry low-income children; and

(4) supplemental nutrition programs under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) funds should be made available for child nutrition programs to remove barriers to the participation of needy children in the school lunch program, school breakfast program, summer food service program for children, and the child and adult care food program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(2) the Secretary of Agriculture should take actions to further strengthen the efficiency of child nutrition programs by streamlining administrative requirements to reduce the administrative burden on participating schools and other meal providers; and

(3) as a part of efforts to continue to serve nutritious meals to youths in the United States and to educate the general public regarding health and nutrition issues, the Secretary of Agriculture should take actions to coordinate the nutrition education efforts of all nutrition programs.

TITLE I—AMENDMENTS TO NATIONAL SCHOOL LUNCH ACT

SEC. 101. PURCHASE OF FRESH FRUITS AND VEGETABLES.

Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended—

(1) in the second sentence, by striking "Any school" and inserting "Except as provided in the next 2 sentences, any school"; and

(2) by inserting after the second sentence the following new sentences: "Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence.".

SEC. 102. DELIVERY OF COMMODITIES.

Subsection (b) of section 6 of the National School Lunch Act (42 U.S.C. 1755(b)) is amended to read as follows:

"(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.".

SEC. 103. REQUIREMENT OF MINIMUM PERCENTAGE OF COMMODITY ASSISTANCE.

Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 4, this section, and section 11 shall be in the form of commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section.

"(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirement for the school year.".

SEC. 104. COMBINED FEDERAL AND STATE COMMODITY PURCHASES.

Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by the school food service authority in meals served under the school lunch program under this Act.".

SEC. 105. TECHNICAL ASSISTANCE TO ENSURE COMPLIANCE WITH NUTRITIONAL REQUIREMENTS.

(a) SCHOOL LUNCH PROGRAM.—Section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(f) of such Act (42 U.S.C. 1761(f)) is amended—

(1) by inserting after the first sentence the following new sentences: "The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection. The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements."; and

(2) in the fourth sentence (after the amendment made by paragraph (1)), by striking "Such meals" and inserting "Meals described in the first sentence".

(c) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17(g)(1) of such Act (42 U.S.C. 1766(g)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance to those institutions participating in the program under this section to assist the institutions and family or group day care home sponsoring organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A). The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements.".

SEC. 106. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) MINIMUM NUTRITIONAL REQUIREMENTS BASED ON WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL LUNCHES.—Section 9(a)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(a)(1)(A)) (as amended by section 105(a)) is further amended—

(1) by striking "; except that such minimum nutritional requirements shall not" and inserting ", except that the minimum nutritional requirements—

"(i) shall not";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.".

(b) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than the first day of the 1996–97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than the first day of the 1996–97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii) and section 4(e)(1)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary—

"(i) shall—

"(I) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(II) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

"(ii) may provide to schools information regarding other approaches, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph. In the case of schools that elect to use food-based menu systems to meet the requirements of this paragraph, the Secretary may not require the schools to conduct or use nutrient analysis.".

(c) PRODUCTION RECORDS.—Section 9 of such Act (42 U.S.C. 1758) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(g) Not later than 1 year after the date of enactment of this subsection, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.". Notification.

SEC. 107. NUTRITIONAL REQUIREMENTS RELATING TO PROVISION OF MILK.

Section 9(a)(2) of the National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended to read as follows:

"(2)(A) Lunches served by schools participating in the school lunch program under this Act—

"(i) shall offer students fluid milk; and

"(ii) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.

"(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

Reports.

"(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

"(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.".

SEC. 108. USE OF FREE AND REDUCED PRICE MEAL ELIGIBILITY INFORMATION.

Section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)) is amended by striking clause (iii) and inserting the following new clauses:

"(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

"(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

"(II) a person directly connected with the administration or enforcement of—

"(aa) a Federal education program;

"(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or

"(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; and

"(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

"(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

"(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

"(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.".

SEC. 109. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

(a) IN GENERAL.—Section 9(b)(6) of the National School Lunch Act (42 U.S.C. 1758(b)(6)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "a member of";

(B) in clause (i)—

(i) by inserting "a member of" after "(i)"; and

(ii) by striking "or" at the end;

(C) in clause (ii)—

(i) by inserting "a member of" after "(ii)"; and

(ii) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))."; and

(2) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),".

(b) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17(c) of such Act (42 U.S.C. 1766(c)) is amended by adding at the end the following new paragraph:

"(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))."

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on September 25, 1995. 42 USC 1758 note.

SEC. 110. USE OF NUTRITION EDUCATION AND TRAINING PROGRAM RESOURCES.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) (as amended by section 106(c)) is further amended by adding at the end the following new subsection:

"(h) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may

use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.".

SEC. 111. SPECIAL ASSISTANCE FOR SCHOOLS ELECTING TO SERVE ALL CHILDREN FREE LUNCHES OR BREAKFASTS.

Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the second sentence, by striking "In the case of" and inserting the following:

"(B) Except as provided in subparagraph (C), (D), or (E), in the case of"; and

(3) by striking the third and fourth sentences and inserting the following new subparagraphs:

"(C)(i) Except as provided in subparagraph (D), in the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

"(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

"(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school-year period.

"(D)(i) In the case of any school that, on the date of enactment of this subparagraph, is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data

approved by the Secretary, that the income level of the population of the school has remained stable.

"(ii) A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period. The school may reapply to the State at the end of the 5-school-year period, and at the end of each 5-school-year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school-year period.

"(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 5-school-year period for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

"(iv) For the purpose of updating information and reimbursement levels, a school described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

"(E)(i) In the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

"(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of

the school in the last school year for which the school accepted the applications described in clause (i).

"(iii) Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall evaluate the effects of this subparagraph and notify the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the results of the evaluation.".

SEC. 112. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) TECHNICAL AMENDMENT TO DEFINITION OF SCHOOL.—

(1) IN GENERAL.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(A) in the first sentence—

(i) in clause (A), by inserting "and" at the end;

(ii) in clause (B), by striking ", and" and inserting a period; and

(iii) by striking clause (C); and

(B) in the second sentence, by striking "of clauses (A) and (B)".

42 USC 1760 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on October 1, 1995.

(b) REIMBURSEMENT FOR MEALS, SUPPLEMENTS, AND MILK UNDER CERTAIN PROGRAMS CONTINGENT ON TIMELY SUBMISSION OF CLAIMS AND FINAL PROGRAM OPERATIONS REPORT.—Section 12 of such Act (42 U.S.C. 1760) is amended by adding at the end the following new subsection:

"(j)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

"(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

"(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

"(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.".

(c) EXPEDITED RULEMAKING.—Section 12 of such Act (42 U.S.C. 1760) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(k)(1) Prior to the publication of final regulations that implement changes that are intended to bring the meal pattern requirements of the school lunch and breakfast programs into conformance with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), the Secretary shall issue proposed regulations permitting the use of food-based menu systems.

Federal Register, publication.

"(2) Notwithstanding chapter 5 of title 5, United States Code, not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register of, and hold, a public meeting with—

"(A) representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers; and

"(B) organizations representing affected parties, such as public interest antihunger organizations, doctors specializing in pediatric nutrition, health and consumer groups, commodity groups, food manufacturers and vendors, and nutritionists involved with the implementation and operation of programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

to discuss and obtain public comments on the proposed rule.

"(3) Not later than June 1, 1995, the Secretary shall issue final regulations to conform the nutritional requirements of the school lunch and breakfast programs with the Guidelines. The final regulations shall include—

"(A) rules permitting the use of food-based menu systems; and

"(B) adjustments to the rule on nutrition objectives for school meals published in the Federal Register on June 10, 1994 (59 Fed. Reg. 30218).

"(4) No school food service authority shall be required to implement final regulations issued pursuant to this subsection until the regulations have been final for at least 1 year.

"(5) The final regulations shall reflect comments made at each phase of the proposed rulemaking process, including the public meeting required under paragraph (2).".

(d) AUTHORITY OF SECRETARY TO WAIVE STATUTORY AND REGULATORY REQUIREMENTS.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for a State or eligible service provider that requests a waiver if—

"(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

"(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

"(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

"(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

"(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

"(i) identifies the statutory or regulatory requirements that are requested to be waived;

"(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

"(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted;

"(iv) includes a description of the impediments to the efficient operation and administration of the program;

"(v) describes the management goals to be achieved, such as fewer hours devoted to, or fewer number of personnel involved in, the administration of the program;

"(vi) provides a timetable for implementing the waiver; and

"(vii) describes the process the State or eligible service provider will use to monitor the progress in implementing the waiver, including the process for monitoring the cost implications of the waiver to the Federal Government.

"(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

"(3)(A) The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

"(B) If the Secretary grants a waiver request, the Secretary shall state in writing the expected outcome of granting the waiver.

"(C) The result of the decision of the Secretary shall be disseminated by the State or eligible service provider through normal means of communication.

"(D)(i) Except as provided in clause (ii), a waiver granted by the Secretary under this subsection shall be for a period not to exceed 3 years.

"(ii) The Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State or eligible service provider to carry out the purposes of the program.

"(4) The Secretary may not grant a waiver under this subsection of any requirement relating to—

"(A) the nutritional content of meals served;

"(B) Federal reimbursement rates;

"(C) the provision of free and reduced price meals;

"(D) offer versus serve provisions;

"(E) limits on the price charged for a reduced price meal;

"(F) maintenance of effort;

"(G) equitable participation of children in private schools;

"(H) distribution of funds to State and local school food service authorities and service institutions participating in a program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

"(I) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

"(J) prohibiting the operation of a profit producing program;

"(K) the sale of competitive foods;

"(L) the commodity distribution program under section 14;

"(M) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(N) enforcement of any constitutional or statutory right of an individual, including any right under—

"(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

"(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

"(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

"(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

"(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

"(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

"(6)(A)(i) An eligible service provider that receives a waiver under this subsection shall annually submit to the State a report that— Reports.

"(I) describes the use of the waiver by the eligible service provider; and

"(II) evaluates how the waiver contributed to improved services to children served by the program for which the waiver was requested.

"(ii) The State shall annually submit to the Secretary a report that summarizes all reports received by the State from eligible service providers.

"(B) The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

"(i) summarizing the use of waivers by the State and eligible service providers;

"(ii) describing whether the waivers resulted in improved services to children;

"(iii) describing the impact of the waivers on providing nutritional meals to participants; and

"(iv) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

"(7) As used in this subsection, the term 'eligible service provider' means—

"(A) a local school food service authority;

"(B) a service institution or private nonprofit organization described in section 13; or

"(C) a family or group day care home sponsoring organization described in section 17.".

SEC. 113. FOOD AND NUTRITION PROJECTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 112(d)) is further amended by adding at the end the following new subsection:

Grants.

"(m)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

"(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

"(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

"(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

"(C) create community service learning opportunities or educational programs;

"(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

"(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

"(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

"(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

"(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

Appropriation authorization.

"(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.".

SEC. 114. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) PRIORITY REQUIREMENTS FOR DETERMINING PARTICIPATION OF CERTAIN ELIGIBLE SERVICE INSTITUTIONS.—Section 13(a)(4) of the National School Lunch Act (42 U.S.C. 1761(a)(4)) is amended by striking subparagraphs (A) through (F) and inserting the following new subparagraphs:

"(A) Local schools.

"(B) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

"(C) New public institutions.

"(D) New private nonprofit organizations eligible under paragraph (7).".

(b) ELIMINATION OF 1-YEAR WAITING PERIOD WITH RESPECT TO PARTICIPATION OF PRIVATE NONPROFIT ORGANIZATIONS IN CER-

TAIN AREAS UNDER THE PROGRAM.—Section 13(a)(7) of such Act (42 U.S.C. 1761(a)(7)) is amended by striking subparagraph (C).

(c) NON-SCHOOL SITES.—Section 13(c)(1) of such Act (42 U.S.C. 1761(c)(1)) is amended by inserting before the period at the end the following: "or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause".

(d) REGISTERED FOOD SERVICE MANAGEMENT COMPANY REPORTS.—Section 13(l)(3) of such Act (42 U.S.C. 1761(l)(3)) is amended by striking "and their program record" and inserting "that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies,".

(e) MANAGEMENT AND ADMINISTRATION PLAN.—Section 13(n) of such Act (42 U.S.C. 1761(n)) is amended—

(1) by striking paragraphs (5), (6), (8), and (10); and

(2) by redesignating paragraphs (7), (9), and (11) as paragraphs (5), (6), and (7), respectively;

(3) by inserting "and" after the semicolon at the end of paragraph (6) (as so redesignated); and

(4) by striking "; and (12)" and all that follows through "reimbursement".

(f) ELIMINATION OF WARNING IN PRIVATE NONPROFIT ORGANIZATION APPLICATION RELATING TO CRIMINAL PROVISIONS AND RELATED MATTERS.—Section 13(q) of such Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(3) in paragraph (3) (as so redesignated), by striking "paragraphs (1) and (3)" and inserting "paragraphs (1) and (2)".

(g) EXTENSION OF PROGRAM.—Section 13(r) of such Act (42 U.S.C. 1761(r)) is amended by striking "1994" and inserting "1998".

(h) ALL-DAY ACTIVITIES.—The Secretary of Agriculture shall— 42 USC 1761 note.

(1) not later than 180 days after the date of enactment of this Act, in consultation with the heads of other Federal agencies, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources. Notification.

SEC. 115. COMMODITY DISTRIBUTION PROGRAM.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) in subsection (a), by striking "1994" and inserting "1998"; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided

to schools to assist the schools in improving the nutritional content of meals.

"(3) The Secretary shall—

"(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

"(B) otherwise provide nutritional content information regarding the commodities provided to the schools.".

SEC. 116. CHILD AND ADULT CARE FOOD PROGRAM.

(a) AUTOMATIC ELIGIBILITY OF CERTAIN EVEN START PARTICIPANTS.—Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) (as amended by section 109(b)) is further amended by adding at the end the following new paragraph:

"(6)(A) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

"(B) Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997.".

(b) REAPPLICATION FOR ASSISTANCE AT 3-YEAR INTERVALS.—Section 17(d)(2)(A) of such Act (42 U.S.C. 1766(d)(2)(A)) is amended by striking "2-year intervals" and inserting "3-year intervals".

(c) USE OF ADMINISTRATIVE FUNDS TO CONDUCT OUTREACH AND RECRUITMENT TO UNLICENSED DAY CARE HOMES.—Section 17(f)(3)(C) of such Act (42 U.S.C. 1766(f)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following new clause:

"(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.".

(d) INFORMATION AND TRAINING CONCERNING CHILD HEALTH AND DEVELOPMENT.—Section 17(k) of such Act (42 U.S.C. 1766(k)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall instruct States to provide, through sponsoring organizations, information and training concerning child health and development to family or group day care homes participating in the program.".

(e) EXTENSION OF STATEWIDE DEMONSTRATION PROJECTS.—Section 17(p) of such Act (42 U.S.C. 1766(p)) is amended—

(1) in paragraph (1)(A), by striking "25 percent of the children served by such organization" and inserting "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,";

(2) in paragraph (4)(B), by striking "1992" and inserting "1998"; and

(3) in paragraph (5), by striking "1994" and inserting "1998".

(f) WIC INFORMATION.—Section 17 of such Act (42 U.S.C. 1766) is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special

supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(2) The State agency shall—

"(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

"(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

"(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

"(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

"(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

"(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

"(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

"(ii) information on the maximum income limits, according to family size, applicable to the program; and

"(iii) information on where parents may apply to participate in the program.".

SEC. 117. HOMELESS CHILDREN NUTRITION PROGRAM.

(a) HOMELESS CHILDREN NUTRITION PROGRAM.—

(1) IN GENERAL.—The National School Lunch Act is amended by inserting after section 17A (42 U.S.C. 1766a) the following new section:

"SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM. 42 USC 1766b.

"(a) IN GENERAL.—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

"(b) AGREEMENTS TO PARTICIPATE IN PROJECTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

"(2) ELIGIBILITY REQUIREMENTS.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section. The requirements shall include the following:

"(A) Each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

"(B) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

"(c) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—A project conducted under this section shall—

"(A) use the same meal patterns and receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements; and

"(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project.

"(2) MODIFICATION.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

"(3) HOMELESS CHILDREN ELIGIBLE FOR FREE MEALS WITHOUT APPLICATION.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

"(d) FUNDING PRIORITIES.—From the amount described in subsection (g), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the 'current fiscal year') in the following order of priority, to the maximum extent practicable:

"(1) The Secretary shall first provide the funding to entities and organizations, each of which—

"(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

"(B) is eligible to receive funding under this section to carry out the project for the current fiscal year;

to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

"(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

"(e) NOTICE.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

"(f) PLAN TO ALLOW PARTICIPATION IN THE CHILD AND ADULT CARE FOOD PROGRAM.—Not later than September 30, 1996, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan describing—

"(1) how emergency shelters and homeless children who have not attained the age of 6 and who are served by the shelters under the program might participate in the child and adult care food program authorized under section 17 by September 30, 1998; and

"(2) the advantages and disadvantages of the action described in paragraph (1).

"(g) FUNDING.—

"(1) IN GENERAL.—In addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) and any amounts that are otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this section $1,800,000 for fiscal year 1995, $2,600,000 for fiscal year 1996, $3,100,000 for fiscal year 1997, $3,400,000 for fiscal year 1998, and $3,700,000 for fiscal year 1999 and each succeeding fiscal year. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(2) INSUFFICIENT NUMBER OF APPLICANTS.—The Secretary may expend less than the amount described in paragraph (1) for a fiscal year if there is an insufficient number of suitable applicants to carry out projects under this section for the fiscal year. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

"(h) DEFINITION OF EMERGENCY SHELTER.—As used in this section, the term 'emergency shelter' has the meaning provided the term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).".

(2) CONFORMING AMENDMENTS.—

(A) NATIONAL SCHOOL LUNCH ACT.—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (c).

(B) CHILD NUTRITION ACT OF 1966.—Section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) is amended—

(i) by striking "projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c))" and inserting "projects under section 17B of the National School Lunch Act"; and

(ii) by striking "each of fiscal years 1993 and 1994" each place it appears and inserting "fiscal year 1995 and each subsequent fiscal year".

(b) DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES.—Section 18 of the National School Lunch Act (42 U.S.C. 1769(c)) (as amended by subsection (a)(2)(A)) is further amended by inserting after subsection (b) the following new subsection:

"(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

"(A) homeless pregnant women; and

"(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

Homeless. Women.

"(2) To be eligible to obtain funds under this subsection, a homeless shelter, a transitional housing organization, or another entity that provides or will provide temporary housing for individ-

uals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

"(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(B) receive the approval of the Secretary for the proposal;

"(C) be located in an urban area that has—

"(i) a significant population of boarder babies;

"(ii) a very high rate of mortality for children under 1 year of age; or

"(iii) a significant population of homeless pregnant women and homeless women with infants;

as determined by the Secretary; and

"(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

"(3) Food and nutrition services funded under this subsection—

"(A) may include—

"(i) meals, supplements, and other food;

"(ii) nutrition education;

"(iii) nutrition assessments;

"(iv) referrals to—

"(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

"(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(III) the food stamp program established under section 4 of the Food Stamp Act of 1977 (7 U.S.C. 2013); and

"(IV) other public or private programs and services;

"(v) activities related to the services described in any of clauses (i) through (iv); and

"(vi) administrative activities related to the services described in any of clauses (i) through (v); and

"(B) may not include the construction, purchase, or rental of real property.

"(4)(A) A participating entity shall—

"(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 17 for free meals and supplements;

"(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

"(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women,

homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

"(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

"(5) The Secretary shall impose such auditing and record-keeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

"(6) The Secretary shall notify the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on projects carried out under this subsection. Notification.

"(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 17B.

"(8) As used in this subsection:

"(A) The term 'boarder baby' means an abandoned infant described in section 103(1) of the Abandoned Infants Assistance Act of 1988 (Public Law 100-505; 42 U.S.C. 670 note).

"(B) The term 'nutrition education' has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).".

SEC. 118. PILOT PROJECTS.

(a) COMMODITY LETTER OF CREDIT (CLOC) PROGRAMS.—The first sentence of section 18(b)(1) of the National School Lunch Act (42 U.S.C. 1769(b)(1)) is amended by striking ", and ending September 30, 1994".

(b) DEMONSTRATION PROGRAM TO PROVIDE MEALS AND SUPPLEMENTS OUTSIDE OF SCHOOL HOURS.—Section 18 of such Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1)(A) The Secretary shall establish a demonstration program to provide grants to eligible institutions or schools to provide meals or supplements to adolescents participating in educational, recreational, or other programs and activities provided outside of school hours. Grants.

"(B) The amount of a grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 17.

"(2) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school submits to the Secretary an application containing such information as the Secretary may reasonably require.

"(3) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school agrees that the institution or school will—

"(A) use amounts from the grant to provide meals or supplements under educational, recreational, or other programs and activities for adolescents outside of school hours, and the programs and activities are carried out in geographic areas in which there are high rates of poverty, violence, or drug and alcohol abuse among school-aged youths; and

"(B) use the same meal patterns as meal patterns required under the child and adult care food program under section 17.

"(4) Determinations with regard to eligibility for free and reduced price meals and supplements provided under programs and activities under this subsection shall be made in accordance with the income eligibility guidelines for free and reduced price lunches under section 9.

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 17, $325,000 for fiscal year 1995, $475,000 for each of fiscal years 1996 and 1997, and $525,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

"(6) As used in this subsection:

"(A) The term 'adolescent' means a child who has attained the age of 13 but has not attained the age of 19.

"(B) The term 'eligible institution or school' means—

"(i) an institution, as the term is defined in section 17; or

"(ii) an elementary or secondary school participating in the school lunch program under this Act.

"(C) The term 'outside of school hours' means after-school hours, weekends, or holidays during the regular school year.".

(c) FORTIFIED FLUID MILK.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(f)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

"(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

"(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

"(A) all whole milk in final package form for beverage use shall contain not less than—

"(i) 3.25 percent milk fat; and

"(ii) 8.7 percent milk solids not fat;

"(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

"(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

"(5) Not later than 2 years after the establishment of the first pilot project under this subsection, the Secretary shall report to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on— Reports.

"(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

"(B) the impact of offering the milk on milk consumption;

"(C) the views of the school food service authorities on the pilot projects; and

"(D) any increases or reductions in costs attributed to the pilot projects.

"(6) The Secretary shall—

"(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

"(B) on request, make available to State agencies and the public— Public information.

"(i) the information obtained under subparagraph (A); and

"(ii) information about where to obtain milk described in paragraph (3).

"(7)(A) Each pilot project established under this subsection shall terminate on the last day of the third year after the establishment of the pilot project.

"(B) The Secretary shall advise representatives of each district participating in a pilot project that the district may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.".

(d) INCREASED CHOICES OF FRUITS, VEGETABLES, LEGUMES, CEREALS, AND GRAIN-BASED PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

"(A) the extent to which participating children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of requiring that—

"(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(e) INCREASED CHOICES OF LOWFAT DAIRY PRODUCTS AND LEAN MEAT AND POULTRY PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (d)) is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products (including lactose-free dairy products) and lean meat and poultry products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maxi-

mum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

"(A) the extent to which participating children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of requiring that—

"(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of the school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(f) REDUCED PAPERWORK AND APPLICATION REQUIREMENTS AND INCREASED PARTICIPATION PILOTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (e)) is further amended by adding at the end the following new subsection:

"(i)(1) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to a limited number of schools to conduct pilot projects in 2 or more States approved by the Secretary to—

"(A) reduce paperwork;

"(B) reduce application and meal counting requirements; and

"(C) make changes that will increase participation in the school lunch and school breakfast programs.

"(2)(A) Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

"(B) The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

"(C) No child otherwise eligible for free or reduced price meals under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall be required to pay more under a program carried out under this subsection for such a meal than the child would otherwise pay under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively.

"(3) To be eligible to receive a grant to conduct a pilot project under this subsection, a school shall—

"(A) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including, at a minimum, information—

"(i) demonstrating that the program carried out under the project differs from programs carried out under subparagraph (C), (D), or (E) of section 11(a)(1);

"(ii) demonstrating that at least 40 percent of the students participating in the school lunch program at the school are eligible for free or reduced price meals;

"(iii) demonstrating that the school operates both a school lunch program and a school breakfast program;

"(iv) describing the funding, if any that the school will receive from non-Federal sources to carry out the pilot project;

"(v) describing and justifying the additional amount, over the most recent prior year reimbursement amount received under the school lunch program and the school breakfast program (adjusted for inflation and fluctuations in enrollment), that the school needs from the Federal government to conduct the pilot; and

"(vi) describing the policy of the school on a la carte and competitive foods;

"(B) not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

"(C) meet any other requirement that the Secretary may reasonably require.

"(4) To the extent practicable, the Secretary shall select schools to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of schools:

"(A) Urban and rural schools.

"(B) Elementary, middle, and high schools.

"(C) Schools of varying income levels.

"(5)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive

commodities in an amount equal to the amount the school received in the prior year under the school lunch program under this Act and under the school breakfast program under section 4 of the Child Nutrition Act of 1966, adjusted for inflation and fluctuations in enrollment.

"(B) Commodities required for the pilot project in excess of the amount of commodities received by the school in the prior year under the school lunch program and the school breakfast program may be funded from amounts appropriated to carry out this section.

"(6)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school lunch program and school breakfast program in an amount equal to the total Federal reimbursement for the school in the prior year under each such program (adjusted for inflation and fluctuations in enrollment).

"(B) Funds required for the pilot project in excess of the level of reimbursement received by the school in the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts appropriated to carry out this subsection. If no appropriations are made for the pilot projects, schools may not conduct the pilot projects.

"(7)(A) The Secretary shall require each school conducting a pilot project under this subsection to submit to the Secretary documentation sufficient for the Secretary, to the extent practicable, to—

"(i) determine the effect that participation by schools in the pilot projects has on the rate of student participation in the school lunch program and the school breakfast program, in total and by various income groups;

"(ii) compare the quality of meals served under the pilot project to the quality of meals served under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

"(iii) summarize the views of students, parents, and administrators with respect to the pilot project;

"(iv) compare the amount of administrative costs under the pilot project to the amount of administrative costs under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

"(v) determine the reduction in paperwork under the pilot project from the amount of paperwork under the school lunch and school breakfast programs at the school; and

"(vi) determine the effect of participation in the pilot project on sales of, and school policy regarding, a la carte and competitive foods.

"(B) Not later than January 31, 1998, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing— Reports.

"(i) a description of the pilot projects approved by the Secretary under this subsection;

"(ii) a compilation of the information received by the Secretary under paragraph (1) as of this date from each school conducting a pilot project under this subsection; and

"(iii) an evaluation of the program by the Secretary.

Appropriation authorization.

"(8) There are authorized to be appropriated to carry out this subsection $9,000,000 for each fiscal year during the period beginning October 1, 1995, and ending July 31, 1998.".

SEC. 119. REDUCTION OF PAPERWORK.

Section 19(a) of the National School Lunch Act (42 U.S.C. 1769a(a)) is amended—

(1) by striking "and other agencies" and inserting "other agencies"; and

(2) by inserting ", and families of children participating in the programs," after "assisted under such Acts".

SEC. 120. FOOD SERVICE MANAGEMENT INSTITUTE.

(a) REQUIRED ACTIVITIES.—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b–1(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "and" at the end of clause (viii);

(B) by redesignating clause (ix) as clause (x); and

(C) by inserting after clause (viii) the following new clause:

"(ix) culinary skills; and";

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(F) training food service personnel to comply with the nutrition guidance and objectives of section 24 through a national network of instructors or other means;

"(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

"(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 24.".

(b) USE OF FOOD SERVICE MANAGEMENT INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—Section 21(d) of such Act (42 U.S.C. 1769b–1(d)) is amended—

(1) by striking "(d) COORDINATION.—The" and inserting the following:

"(d) COORDINATION.—

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following new paragraph:

"(2) USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 21 of such Act (42 U.S.C. 1769b–1) is amended—

(1) in subsection (a)(1), by striking "from" and inserting "subject to the availability of, and from,"; and

(2) by striking subsection (e) and inserting the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated to carry out subsection (a)(1) $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year

1991, and $1,000,000 for each of fiscal years 1992 through 1998.

"(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

"(A) FUNDING.—In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $147,000 for fiscal year 1995, and $2,000,000 for fiscal year 1996 and each subsequent fiscal year, to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) ADDITIONAL FUNDING.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

"(C) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

SEC. 121. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking "1990, 1991, 1992, 1993, and 1994" and inserting "1994 through 1996".

SEC. 122. DUTIES OF THE SECRETARY OF AGRICULTURE RELATING TO NONPROCUREMENT DEBARMENT UNDER CERTAIN CHILD NUTRITION PROGRAMS.

(a) IN GENERAL.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT. 42 USC 1769f.

"(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

"(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

"(2) providing training, technical advice, and guidance in identifying and preventing the activities.

"(b) DEFINITIONS.—As used in this section:

"(1) CHILD NUTRITION PROGRAM.—The term 'child nutrition program' means—

"(A) the school lunch program established under this Act;

"(B) the summer food service program for children established under section 13;

"(C) the child and adult care food program established under section 17;

"(D) the homeless children nutrition program established under section 17B;

"(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

"(F) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

"(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

"(2) CONTRACTOR.—The term 'contractor' means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

"(3) LOCAL AGENCY.—The term 'local agency' means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

"(4) NONPROCUREMENT DEBARMENT.—The term 'nonprocurement debarment' means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

"(5) PERSON.—The term 'person' means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

"(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

"(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

"(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(d) NONPROCUREMENT DEBARMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

"(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in

any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

"(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

"(B) fraud, bribery, theft, forgery, or embezzlement;

"(C) knowingly receiving stolen property;

"(D) making a false claim or statement; or

"(E) any other obstruction of justice.

"(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

"(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

"(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

"(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

"(i) reverse a debarment decision;

"(ii) reduce the period or scope of a debarment;

"(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

"(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

"(5) INFORMATION.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee

on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

"(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

"(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

"(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2)), unless the action—

"(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

"(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

"(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not involved in the improper activity that would otherwise result in the debarment;

"(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

"(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

"(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

"(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

"(1) exhaust all administrative procedures prescribed by the Secretary; and

"(2) receive notice of the final determination of the Secretary.

"(g) INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.".

42 USC 1769f note.

(b) APPLICABILITY.—Section 25 of the National School Lunch Act (as added by subsection (a)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act.

(c) NO REDUCTION IN AUTHORITY TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS.—The authority of the Secretary of Agriculture that exists on the day before the date of enactment of this Act to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by subsection (a) or the amendment made by subsection (a). 42 USC 1769f note.

SEC. 123. INFORMATION CLEARINGHOUSE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 122) is further amended by adding at the end the following new section:

"SEC. 26. INFORMATION CLEARINGHOUSE. 42 USC 1769g.

"(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance. Contracts.

"(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

"(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

"(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

"(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

"(4) be sponsored by an organization, or be an organization, that—

"(A) has helped combat hunger for at least 10 years;

"(B) is committed to reinvesting in the United States; and

"(C) is knowledgeable regarding Federal nutrition programs;

"(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

"(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-

income individuals and communities become more self-sufficient.

"(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

"(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for fiscal year 1997, and $100,000 for fiscal year 1998. The Secretary shall be entitled to receive the funds and shall accept the funds.".

SEC. 124. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

42 USC 1769h.

"SEC. 27. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' means individuals, each of whom is—

"(A) a participant in a covered program; and

"(B) an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) COVERED PROGRAM.—The term 'covered program' means—

"(A) the school lunch program established under this Act;

"(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

"(C) any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a school food service authority, or an institution or organization, that participates in a covered program.

"(b) GUIDANCE.—

"(1) DEVELOPMENT.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidance for accommodating the medical and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) TIMING.—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 150 days after the date of enactment of this section.

"(3) DISTRIBUTION.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guid-

ance to school food service authorities, and institutions and organizations, participating in the covered program.

"(4) REVISION OF GUIDANCE.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidances to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) ADDITIONAL ASSISTANCE.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

"(3) ALLOCATION BY SECRETARY.—

"(A) PREFERENCE.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

"(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

"(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

"(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

"(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

"(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 21.

"(B) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

"(C) APPLICATIONS.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

"(4) ALLOCATION BY STATE EDUCATIONAL AGENCIES.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

"(5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 1998 to carry out this subsection.".

42 USC 1751 note.

SEC. 125. STUDY OF ADULTERATION OF JUICE PRODUCTS SOLD TO SCHOOL MEAL PROGRAMS

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the costs and problems associated with the sale of adulterated fruit juice and juice products to the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including a study of—

(1) the nature and extent to which juice products have been and are currently being adulterated;

(2) the adequacy of current requirements and standards to preclude manufacturers from processing adulterated products for school meal programs;

(3) the availability and effectiveness of various detection methods and testing procedures used to identify adulterated juice products;

(4) the adequacy of existing enforcement mechanisms and efforts to detect and prosecute manufacturers of adulterated juice products;

(5) the economic effect of the sale of adulterated juice products on the school meal program and on manufacturers of the products; and

(6) the effect alternative mandatory inspection methods would have on program costs and various purchasing options.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the study conducted under subsection (a) (including any related recommendations) to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

SEC. 201. SCHOOL BREAKFAST PROGRAM.

(a) MINIMUM NUTRITIONAL REQUIREMENTS MEASURED BY WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL BREAK-

FASTS.—The first sentence of section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended by inserting before the period at the end the following: ", except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts".

(b) TECHNICAL ASSISTANCE FOR SCHOOL BREAKFAST PROGRAM.—Section 4(e)(1) of such Act (42 U.S.C. 1773(e)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(c) PROMOTION OF PROGRAM.—Section 4(f)(1) of such Act (42 U.S.C. 1773(f)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraphs:

"(B) In cooperation with State educational agencies, the Secretary shall promote the school breakfast program by—

"(i) marketing the program in a manner that expands participation in the program by schools and students; and

"(ii) improving public education and outreach efforts in language appropriate materials that enhance the public image of the program.

"(C) As used in this paragraph, the term 'language appropriate materials' means materials using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.".

(d) STARTUP AND EXPANSION OF SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Subsection (g) of section 4 of such Act (42 U.S.C. 1773(g)) is amended to read as follows:

"STARTUP AND EXPANSION COSTS

"(g)(1) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $5,000,000 for each of fiscal years 1991 through 1997, $6,000,000 for fiscal year 1998, and $7,000,000 for fiscal year 1999 and each subsequent fiscal year to make payments under this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds. The Secretary shall use the funds to make payments on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(9) Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

"(10) As used in this subsection:

"(A) The term 'eligible school' means a school—

"(i) attended by children a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

"(C) The term 'summer food service program for children' means a program authorized by section 13 of such Act (42 U.S.C. 1761).".

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) WITHHOLDING.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended by adding at the end the following new paragraph:

"(9)(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the National School Lunch Act (42 U.S.C. 1751 et seq.), or compliance with a regulation issued pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

"(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.".

(b) EXTENSION OF AUTHORITY TO PROVIDE FUNDS FOR STATE ADMINISTRATIVE EXPENSES.—Section 7(h) of such Act (42 U.S.C. 1776(h)) is amended by striking "1994" and inserting "1998".

(c) PROHIBITION OF FUNDING UNLESS STATE AGREES TO PARTICIPATE IN CERTAIN STUDIES OR SURVEYS.—Section 7 of such Act (42 U.S.C. 1776) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in any study or survey of programs authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) and conducted by the Secretary.".

SEC. 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (c), respectively;

(2) by indenting the margins of subsections (b) and (c) so as to align with the margins of subsection (b) of section 11 of such Act (42 U.S.C. 1780); and

(3) in subsection (b) (as designated by paragraph (1))—

(A) by striking "Such regulations" and inserting "(1) The regulations"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall develop and provide to State agencies, for distribution to private elementary schools and to public elementary schools through local educational agencies, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

"(3) The Secretary shall provide to State agencies, for distribution to private secondary schools and to public secondary schools through local educational agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

"(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.".

SEC. 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) DEFINITION OF NUTRITIONAL RISK.—Section 17(b)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by inserting after "health," at the end of subparagraph (C) the following new subparagraph: "(D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse,"; and

(3) in subparagraph (E) (as redesignated by paragraph (1)), by striking "alcoholism and drug addiction, homelessness, and" and inserting "homelessness and".

(b) PROMOTION OF PROGRAM.—Section 17(c) of such Act (42 U.S.C. 1786(c)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall promote the special supplemental nutrition program by producing and distributing materials, including television and radio public service announcements in English and other appropriate languages, that inform potentially eligible individuals of the benefits and services under the program.".

(c) ELIGIBILITY FOR CERTAIN PREGNANT WOMEN.—Section 17(d) of such Act (42 U.S.C. 1786(d)) is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) In the case of a pregnant woman who is otherwise ineligible for participation in the program because the family of the woman is of insufficient size to meet the income eligibility standards of the program, the pregnant woman shall be considered to have satisfied the income eligibility standards if, by increasing the number of individuals in the family of the woman by 1 individual, the income eligibility standards would be met."; and

(2) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) A State may consider pregnant women who meet the income eligibility standards to be presumptively eligible to participate in the program and may certify the women for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of such a woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.".

(d) TECHNICAL CORRECTIONS.—Section 17(e) of such Act (42 U.S.C. 1786(e)) is amended by redesignating paragraph (3) (as added by section 123(a)(3)(D) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101–147; 103 Stat. 895)) and paragraphs (4) and (5) as paragraphs (4), (5), and (6), respectively.

(e) COORDINATION OF WIC AND MEDICAID PROGRAMS USING COORDINATED CARE PROVIDERS.—Section 17(f)(1)(C)(iii) of such Act (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by inserting before the semicolon at the end the following: ", including medicaid programs that use coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)".

(f) PRIORITY CONSIDERATION FOR CERTAIN MIGRANT POPULATIONS.—The first sentence of section 17(f)(3) of such Act (42 U.S.C. 1786(f)(3)) is amended by inserting before the period at the end the following: "and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time".

(g) INCOME ELIGIBILITY GUIDELINES.—Paragraph (18) of section 17(f) of such Act (42 U.S.C. 1786(f)(18)) is amended to read as follows:

"(18) Notwithstanding subsection (d)(2)(A)(i), not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).".

(h) USE OF RECOVERED PROGRAM FUNDS IN YEAR COLLECTED.—Section 17(f) of such Act (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.".

(i) COORDINATION INITIATIVE FOR WIC AND MEDICAID PROGRAMS.—Section 17(f) of such Act (42 U.S.C. 1786(f)) (as amended by subsection (h)) is further amended by adding at the end the following new paragraph:

"(24) The Secretary and the Secretary of Health and Human Services shall carry out an initiative to assure that, in a case in which a State medicaid program uses coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)), coordination between the program authorized by this section and the medicaid program is continued, including—

"(A) the referral of potentially eligible women, infants, and children between the 2 programs; and

"(B) the timely provision of medical information related to the program authorized by this section to agencies carrying out the program.".

(j) EXTENSION OF PROGRAM.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in the first sentence of subsection (g)(1), by striking "1991, 1992, 1993, and 1994" and inserting "1995 through 1998"; and

(2) in the first sentence of subsection (h)(2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1995 through 1998".

(k) USE OF FUNDS FOR TECHNICAL ASSISTANCE AND RESEARCH EVALUATION PROJECTS.—Section 17(g)(5) of such Act (42 U.S.C. 1786(g)(5)) is amended—

(1) by striking "and administration of pilot projects" and inserting "administration of pilot projects"; and

(2) by inserting before the period at the end the following: ", and carrying out technical assistance and research evaluation projects of the programs under this section".

(l) BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES.—Section 17(h)(3) of such Act (42 U.S.C. 1786(h)(3)) is amended—

(1) in subparagraph (A)(i)(II)—

(A) by striking "an amount" and inserting "except as otherwise provided in subparagraphs (F) and (G), an amount"; and

(B) by striking "$8,000,000," and inserting "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E),"; and

(2) by adding at the end the following new subparagraphs:

"(E) In the case of fiscal year 1996 (except as provided in subparagraph (G)) and each subsequent fiscal year, the national minimum breastfeeding promotion expenditure means an amount that is—

"(i) equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program nationwide, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data; and

"(ii) adjusted for inflation on October 1, 1996, and each October 1 thereafter, in accordance with paragraph (1)(B)(ii).

"(F) In the case of fiscal year 1995, a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

"(i) an amount that is more than the expenditure of the State for fiscal year 1994 on the activities described in subparagraph (A)(i); or

"(ii) an amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.

"(G)(i) If the Secretary determines that a State agency is unable, for reasons the Secretary considers to be appropriate, to make the expenditure required under subparagraph (A)(i)(II) for fiscal year 1996, the Secretary may permit the State to make the required level of expenditure not later than October 1, 1996.

"(ii) In the case of fiscal year 1996, if the Secretary makes a determination described in clause (i), a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

"(I) an amount that is more than the expenditure of the State for fiscal year 1995 on the activities described in subparagraph (A)(i); and

"(II) an amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.".

(m) DEVELOPMENT OF STANDARDS FOR THE COLLECTION OF BREASTFEEDING DATA.—Section 17(h)(4) of such Act (42 U.S.C. 1786(h)(4)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program and, on development of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4).".

(n) SUBMISSION OF INFORMATION TO CONGRESS ON WAIVERS WITH RESPECT TO PROCUREMENT OF INFANT FORMULA.—Section 17(h)(8)(D)(iii) of such Act (42 U.S.C. 1786(h)(8)(D)(iii)) is amended by striking "at 6-month intervals" and inserting "on a timely basis".

(o) COST CONTAINMENT.—

(1) IN GENERAL.—Section 17(h)(8)(G) of such Act (42 U.S.C. 1786(h)(8)(G)) is amended by adding at the end the following new clause:

"(ix) Not later than September 30, 1996, the Secretary shall offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal manufac-

turers and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. The Secretary may carry out this clause without issuing regulations.".

(2) REPEAL OF TERMINATION OF AUTHORITY.—Section 209 of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is repealed.

(p) PROHIBITION ON INTEREST LIABILITY TO FEDERAL GOVERNMENT ON REBATE FUNDS.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) is amended by adding at the end the following new subparagraph:

"(L) A State shall not incur any interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used for program purposes.".

(q) USE OF UNIVERSAL PRODUCT CODES.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (p)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects in at least 1 State, with the consent of the State, to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

Notification.

"(ii) The Secretary shall provide a notification to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the system is feasible, is cost-effective, reduces the incidence of incorrect redemptions described in clause (i), and results in any additional costs to States.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

(r) USE OF UNSPENT NUTRITION SERVICES AND ADMINISTRATION FUNDS.—Section 17(h) of such Act (42 U.S.C. 1786(h)) is amended by adding at the end the following new paragraph:

"(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use for the purposes specified in subparagraph (B), $10,000,000 or the amount of nutrition services and administration funds for the prior fiscal year that has not been obligated, whichever is less.

"(B) Funds under subparagraph (A) shall be used for—

"(i) development of infrastructure for the program under this section, including management information systems;

"(ii) special State projects of regional or national significance to improve the services of the program under this section; and

"(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular

breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.".

(s) SPENDBACK FUNDS.—Section 17(i)(3) of such Act (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)(i), by inserting "(except as provided in subparagraph (H))" after "1 percent"; and

(2) by adding at the end the following new subparagraph:

"(H) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in infant formula cost containment savings provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.".

(t) ELIMINATION OF DUPLICATIVE MIGRANT REPORTS.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in subsection (d)(4), by inserting after "Congress" the following: "and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k)"; and

(2) by striking subsection (j).

(u) INITIATIVE TO PROVIDE PROGRAM SERVICES AT COMMUNITY AND MIGRANT HEALTH CENTERS.—Section 17 of such Act (42 U.S.C. 1786) (as amended by subsection (t)(2)) is further amended by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the 'Secretaries') shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers.

"(2) The initiative shall also include—

"(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

"(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

"(3) The initiative may include—

"(A) outreach and technical assistance for State and local agencies and the facilities described in paragraph (2)(A) and the health centers and facilities described in paragraph (2)(B);

"(B) demonstration projects in selected State or local areas; and

"(C) such other activities as the Secretaries find are appropriate.

Notification.

"(4)(A) Not later than April 1, 1995, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries intend to take to carry out the initiative.

"(B) Not later than July 1, 1996, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries are taking under the initiative or actions the Secretaries intend to take under the initiative as a result of their experience in implementing the initiative.

"(C) On completion of the initiative, the Secretaries shall provide to Congress a notification concerning an evaluation of the initiative by the Secretaries and a plan of the Secretaries to further the goals of the initiative.

"(5) As used in this subsection:

"(A) The term 'community health center' has the meaning given the term in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

"(B) The term 'migrant health center' has the meaning given the term in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).".

(v) EXPANSION OF FARMERS' MARKET NUTRITION PROGRAM.—

(1) MATCHING REQUIREMENT FOR INDIAN STATE AGENCIES.—Section 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is amended by adding at the end the following new sentence: "The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.".

(2) EXPANSION.—Section 17(m)(5)(F) of such Act (42 U.S.C. 1786(m)(5)(F)) is amended—

(A) in clause (i), by striking "15 percent" and inserting "17 percent";

(B) by striking clause (ii) and inserting the following new clause:

"(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use not more than 2 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables."; and

(C) in clause (iii), strike "for the administration of the program".

(3) CONTINUED FUNDING FOR CERTAIN STATES UNDER FARMERS' MARKET NUTRITION PROGRAM.—Subparagraph (A) of section 17(m)(6) of such Act (42 U.S.C. 1786(m)(6)(A)) is amended to read as follows:

"(A) The Secretary shall give the same preference for funding under this subsection to eligible States that participated in the program under this subsection in a prior fiscal year as to States that participated in the program in the most recent fiscal year. The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.".

(4) FUNDING REDUCTION FLOOR.—Section 17(m)(6)(B)(ii) of such Act (42 U.S.C. 1786(m)(6)(B)(ii)) is amended by striking "$50,000" each place it appears and inserting "$75,000".

(5) STATE PLAN SUBMISSION DATE.—Section 17(m)(6)(D)(i) of such Act (42 U.S.C. 1786(m)(6)(D)(i)) is amended by striking "at such time and in such manner as the Secretary may reasonably require" and inserting "by November 15 of each year".

(6) PERCENTAGE OF ANNUAL APPROPRIATIONS AVAILABLE TO STATES UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(6)(G) of such Act (42 U.S.C. 1786(m)(6)(G)) is amended—

(A) in the first sentence of clause (i), by striking "45 to 55 percent" and inserting "75 percent"; and

(B) in the first sentence of clause (ii), by striking "45 to 55 percent" and inserting "25 percent".

(7) DATA COLLECTION REQUIREMENTS.—Section 17(m)(8) of such Act (42 U.S.C. 1786(m)(8)) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraphs:

"(D) the change in consumption of fresh fruits and vegetables by recipients, if the information is available;

"(E) the effects of the program on farmers' markets, if the information is available; and".

(8) EXTENSION OF COUPON PROGRAM.—Section 17(m)(10)(A) of such Act (42 U.S.C. 1786(m)(10)(A)) is amended—

(A) by striking "$3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and"; and

(B) by inserting before the period at the end ", $10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998".

(9) ELIMINATION OF FUNDING CARRYOVER PROVISION UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(10)(B)(i) of such Act (42 U.S.C. 1786(m)(10)(B)(i)) is amended—

(A) in subclause (I), by striking "Except as provided in subclause (II), each" and inserting "Each"; and

(B) in subclause (II), by striking "or may be retained" and all that follows and inserting a period.

(10) ELIMINATION OF REALLOCATION OF UNEXPENDED FUNDS WITH RESPECT TO DEMONSTRATION PROJECTS UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(10)(B)(ii) of such Act (42 U.S.C. 1786(m)(10)(B)(ii)) is amended by striking the second sentence.

(11) DEFINITION.—Section 17(m)(11)(D) of such Act (42 U.S.C. 1786(m)(11)(D)) is amended by inserting before the period at the end the following: "and any other agency approved by the chief executive officer of the State".

(12) PROMOTION BY THE SECRETARY.—The Secretary of Agriculture shall promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary. 42 USC 1786 note.

(w) CHANGE IN NAME OF PROGRAM.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN";

(B) in the first sentence of subsection (c)(1), by striking "special supplemental food program" and inserting "special supplemental nutrition program";

(C) in the second sentence of subsection (k)(1), by striking "special supplemental food program" each place it appears and inserting "special supplemental nutrition program"; and

(D) in subsection (o)(1)(B), by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(B) Section 685(b)(8) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a(b)(8)) is amended by striking "Special Supplemental Food Program for Women, Infants and Children" and inserting "special supplemental nutrition program for women, infants, and children".

(C) Section 3803(c)(2)(C)(x) of title 31, United States Code, is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(D) Section 399(b)(6) of the Public Health Service Act (42 U.S.C. 280c–6(b)(6)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(E) Paragraphs (11)(C) and (53)(A) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) are each amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(F) Section 202(b) of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

42 USC 1786 note.

(3) REFERENCES.—Any reference to the special supplemental food program established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) in any provision of law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under such section.

SEC. 205. NUTRITION EDUCATION AND TRAINING PROGRAM.

(a) NAME OF PROGRAM.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking "information and education" each place it appears in subsections (b), (c), (d)(1), (f)(1)(G), and (j)(1) and inserting "education and training".

(b) NUTRITION EDUCATION PROGRAMS.—The second sentence of section 19(c) of such Act (42 U.S.C. 1788(c)) is amended—

(1) in subparagraph (B), by striking "school food service" and inserting "child nutrition program";

(2) by striking "and" at the end of subparagraph (C); and

(3) by inserting before the period at the end the following: "; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health".

(c) NUTRITION EDUCATION AND TRAINING.—Section 19(d) of such Act (42 U.S.C. 1788(d)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and the provision of nutrition education to parents and caregivers";

(2) in the first sentence of paragraph (4), by striking "educational and school food service personnel" and inserting "educational, school food service, child care, and summer food service personnel"; and

(3) in the first sentence of paragraph (5), by inserting after "schools" the following: ", and in child care institutions and summer food service institutions,".

(d) USE OF FUNDS.—Section 19(f)(1) of such Act (42 U.S.C. 1788(f)(1)) is amended—

(1) by striking "(f)(1) The funds" and inserting "(f)(1)(A) The funds";

(2) by striking "for (A) employing" and inserting "for—
"(i) employing";

(3) by redesignating subparagraphs (B) through (I) as clauses (ii) through (ix), respectively;

(4) by indenting the margins of each of clauses (ii) through (ix) (as redesignated by paragraph (3)) so as to align with the margins of clause (i) (as amended by paragraph (2));

(5) by striking "and" at the end of clause (viii);

(6) by redesignating clause (ix) as clause (xx);

(7) by inserting after clause (viii) the following new clauses:

"(ix) providing funding for a nutrition component that can be offered in consumer and homemaking education programs as well as in the health education curriculum offered to children in kindergarten through grade 12;

"(x) instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children from a variety of linguistic and cultural backgrounds to practice sound eating habits;

"(xi) developing means of providing nutrition education in language appropriate materials to children and families of children through after-school programs;

"(xii) training in relation to healthy and nutritious meals;

"(xiii) creating instructional programming, including language appropriate materials and programming, for teachers, school food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

"(xiv) funding aspects of the Strategic Plan for Nutrition and Education issued by the Secretary;

"(xv) encouraging public service advertisements, including language appropriate materials and advertisements, to promote healthy eating habits for children;

"(xvi) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, child nutrition programs);

"(xvii) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

"(xviii) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;

"(xix) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766); and"; and

(8) by adding at the end the following new subparagraph:

"(B) As used in this paragraph, the term 'language appropriate' used with respect to materials, programming, or advertisements means materials, programming, or advertisements, respectively, using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.".

(e) ADMINISTRATIVE PURPOSES.—Section 19(f) of such Act (42 U.S.C. 1788(f)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.".

(f) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of such Act (42 U.S.C. 1788(h)) is amended—

(1) in the first sentence of paragraph (2), by inserting "and training" after "education"; and

(2) in the third sentence of paragraph (3)—

(A) by striking "and" at the end of subparagraph (D); and

(B) by inserting before the period at the end the following: "; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i)(2)(A) of such Act (42 U.S.C. 1788(i)(2)(A)) is amended to read as follows:

"(A) Out of any moneys in the Treasury not otherwise appropriated, and in addition to any amounts otherwise made available for fiscal year 1995, the Secretary of the Treasury shall provide to the Secretary $1,000 for fiscal year 1995 and $10,000,000 for fiscal year 1996 and each succeeding fiscal year for making grants under this section to each State for the conduct of nutrition education and training programs. The Secretary shall be entitled to receive the funds and shall accept the funds.".

(h) AVAILABILITY OF FUNDS.—Section 19(i) of such Act (42 U.S.C. 1788(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal

year succeeding the fiscal year in which the funds were received by the State.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CONSOLIDATION OF SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE MEAL PROGRAM.

42 USC 1751 note.

(a) IN GENERAL.—Notwithstanding any provision of National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as otherwise provided in this section, the Secretary of Agriculture shall, not later than 18 months after the date of enactment of this Act, develop and implement regulations to consolidate the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) into a comprehensive meal program.

(b) REQUIREMENTS.—In establishing the comprehensive meal program under subsection (a), the Secretary shall meet the following requirements:

(1) The Secretary shall ensure that the program continues to serve children who are eligible for free and reduced price meals. The meals shall meet the nutritional requirements of section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) and section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

(2) The Secretary shall continue to make breakfast assistance payments in accordance with section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and food assistance payments in accordance with the National School Lunch Act (42 U.S.C. 1751 et seq.).

(3) The Secretary may not consolidate any aspect of the school lunch program or the school breakfast program with respect to any matter described in any of subparagraphs (A) through (N) of section 12(l)(4) of the National School Lunch Act (42 U.S.C. 1760(l)(4)).

(c) PLAN AND RECOMMENDATIONS.—

(1) PLAN FOR CONSOLIDATION AND SIMPLIFICATION.—Not later than 180 days prior to implementing the regulations described in subsection (a), the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan for the consolidation and simplification of the school lunch program and the school breakfast program.

(2) RECOMMENDATIONS WITH RESPECT TO CHANGE IN PAYMENT AMOUNTS.—If the Secretary proposes to change the amount of the breakfast assistance payment or the food assistance payment under the comprehensive meal program, the Secretary shall not include the change in the consolidation and shall prepare and submit to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutri-

tion, and Forestry of the Senate recommendations for legislation to effect the change.

42 USC 1751 note.

SEC. 302. STUDY AND REPORT RELATING TO USE OF PRIVATE FOOD ESTABLISHMENTS AND CATERERS UNDER SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM.

(a) STUDY.—The Comptroller General of the United States, in conjunction with the Director of the Office of Technology Assessment, shall conduct a study on the use of private food establishments and caterers by schools that participate in the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773). In conducting the study, the Comptroller General of the United States shall—

(1) examine the extent to which, manner in which, and terms under which the private food establishments and caterers supply meals and food to students and schools that participate in the school lunch program or the school breakfast program;

(2) determine the nutritional profile of all foods provided to students during school hours;

(3) evaluate the impact that the services provided by the establishments and caterers have on local child nutrition programs and the ability of the establishments and caterers to utilize the commodities under section 14 of the National School Lunch Act (42 U.S.C. 1762a); and

(4) examine the impact that private food establishments and caterers have on—

(A) student participation in the national school lunch program;

(B) school food service employment;

(C) generation of revenues through school lunch sales and a la carte sales of food in schools; and

(D) the number of students leaving schools during lunch periods.

(b) REPORT.—Not later than September 1, 1996, the Comptroller General of the United States shall submit to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains the findings, determinations, and evaluations of the study conducted pursuant to subsection (a).

SEC. 303. AMENDMENT TO COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS OF 1987.

Section 3(h)(3) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) is amended—

(1) by striking "Hawaii,"; and

(2) by adding at the end the following new sentence: "The requirement established in paragraph (1) shall apply to recipient agencies in Hawaii only with respect to the purchase of pineapples.".

42 USC 1762a note.

SEC. 304. STUDY OF THE EFFECT OF COMBINING FEDERALLY DONATED AND FEDERALLY INSPECTED MEAT OR POULTRY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the incidence and the effect of States restricting

or prohibiting a legally contracted commercial entity from physically combining federally donated and inspected meat or poultry from another State.

(b) REPORT.—Not later than September 1, 1996, the Comptroller General of the United States shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the findings, determinations, and evaluations of the study conducted pursuant to subsection (a).

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

42 USC 1755 note.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on October 1, 1994.

Approved November 2, 1994.

LEGISLATIVE HISTORY—S. 1614:

SENATE REPORTS: No. 103-300 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 12, 25, considered and passed Senate.
Oct. 4, 5, considered and passed House, amended.
Oct. 6, Senate concurred in House amendment.

Public Law 103-449
103d Congress

An Act

Nov. 2, 1994
[H.R. 1348]

To establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic preservation.

Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994.
16 USC 461 note.

TITLE I—QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR

SECTION 101. SHORT TITLE.

This title may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and other permanent open space;

(2) the State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other Northeastern States in the amount of land set-aside for public recreation;

(3) the beautiful rural landscapes, scenic vistas and excellent water quality of the Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States;

(4) the Quinebaug and Shetucket Rivers Valley is within a two-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for significant population;

(5) the existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution;

(6) the Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States;

(7) the Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the Northeastern United States;

(8) the Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period, leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence; and

(9) many local, regional and State agencies businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 103. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this title to provide assistance to the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley.

SEC. 104. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

Federal Register, publication.

SEC. 105. STATE CORRIDOR PLAN.

(a) PREPARATION OF PLAN.—Within two years after the date of enactment of this title, the Governor of the State of Connecticut is encouraged to develop a Cultural Heritage and Corridor Management Plan. The plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a comprehensive historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) recommend non-binding advisory standards and criteria pertaining to the construction, preservation, restoration, alteration and use of properties within the Corridor, including an inventory of such properties which potentially could be preserved, restored, managed, developed, maintained, or acquired based upon their historic, cultural or recreational significance;

(2) develop an historic interpretation plan to interpret the history of the Corridor;

(3) develop an inventory of existing and potential recreational sites which are developed or which could be developed within the Corridor;

(4) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(5) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this title; and

(6) contain a program for implementation of the plan by the State and its political subdivisions.

(b) PUBLIC INVOLVEMENT IN PLAN DEVELOPMENT.—During development of the plan, the Governor is encouraged to include:

(1) The participation of at least the following:

(A) Local elected officials in the communities defined in section 104.

(B) Representatives of the three Regional Planning Agencies as defined in section 108.

(C) Representatives of Northeast Connecticut Visitors District and Southeastern Connecticut Tourism District.

(D) The Commissioners, or their designees, of the Connecticut Department of Environmental Protection and the Connecticut Department of Economic Development.

(E) Director, or his designee of the Connecticut State Historical Commission.

(F) Residents of the communities within the Corridor as defined in section 104.

(2) Hold at least one public hearing in each of the following counties: Windham; Tolland; and New London.

(3) Consider, to the maximum extent practicable, the recommendations, comments, proposals and other information submitted at the public hearings when developing the final version of the plan. The Governor is encouraged to publish notice of hearings discussed in subparagraph (2) of this paragraph in newspapers of general circulation at least 30 days prior to the hearing date. The Governor is encouraged to use any other means authorized by Connecticut law to gather public input and/or involve members of the public in the development of the plan.

(c) IMPLEMENTATION OF PLAN.—After review of the plan by the Secretary as provided for in section 106, the Governor shall implement the plan. Upon the request of the Governor, the Secretary may take appropriate steps to assist in the preservation and interpretation of historic resources, and to assist in the development of recreational resources within the Corridor. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in establishing and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and non-profit organizations in the restoration of historic buildings within the Corridor identified pursuant to the inventory required in section 5(a)(1);

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the plan; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 106. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—The Secretary and the heads of other Federal agencies shall, upon request of the Governor assist the Governor in the preparation and implementation of the plan.

(b) COMPLETION.—Upon completion of the plan the Governor shall submit such plan to the Secretary for review and comment. The Secretary shall complete such review and comment within 60 days. The Governor shall make such changes in the plan as he deems appropriate based on the Secretary's review and comment.

SEC. 107. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall consult with the Secretary and the Governor with respect to such activities to minimize any adverse effect on the Corridor.

SEC. 108. DEFINITIONS.

For the purposes of this title:

(1) The term "State" means the State of Connecticut.

(2) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor under section 3.

(3) The term "Governor" means the Governor of the State of Connecticut.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "regional planning organizations" means each of the three regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency or its successor, and the

Southeastern Connecticut Regional Planning Agency or its successor).

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to the appropriated such sums as may be necessary to carry out this title: *Provided,* That not more than $200,000 shall be appropriated for fiscal year 1995, and not more than $250,000 annually thereafter shall be appropriated for the Secretary to carry out his duties under this title for a period not to exceed seven years: *Provided further,* That the Federal funding for the Corridor shall not exceed 50 percent of the total annual costs for the Corridor.

SEC. 110. NATIONAL PARK SERVICE.

The Corridor shall not be deemed to be a unit of the National Park System.

TITLE II—WEIR FARM NATIONAL HISTORIC SITE ADDITIONS

Weir Farm National Historic Site Expansion Act of 1994.
16 USC 461 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Weir Farm National Historic Site Expansion Act of 1994".

SEC. 202. PURPOSE.

The purpose of this title is to preserve the last remaining undeveloped parcels of the historic Weir Farm that remain in private ownership by including the parcels within the boundary of the Weir Farm National Historic Site.

SEC. 203. BOUNDARY ADJUSTMENT.

(a) ADJUSTMENT.—Section 4(b) of the Weir Farm National Historic Site Establishment Act of 1990 (Public Law 101–485; 104 Stat. 1171) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the flush material below paragraph (2); and

(3) by adding at the end the following:

"(3) the approximately 2-acre parcel of land situated in the town of Wilton, Connecticut, designated as lot 18 on a map entitled 'Revised Map of Section I, Thunder Lake at Wilton, Connecticut, Scale 1'=100', October 27, 1978, Ryan and Faulds Land Surveyors, Wilton, Connecticut', that is on file in the office of the town clerk of the town of Wilton, and therein numbered 3673; and

"(4) the approximately 0.9-acre western portion of a parcel of land situated in the town of Wilton, Connecticut, designated as Tall Oaks Road on the map referred to in paragraph (3).".

(b) GENERAL DEPICTION.—Section 4 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

"(c) GENERAL DEPICTION.—The parcels referred to in paragraphs (1) through (4) of subsection (b) are all as generally depicted on a map entitled 'Boundary Map, Weir Farm National Historic Site, Fairfield County Connecticut', dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.".

TITLE III—CANE RIVER CREOLE NATIONAL HISTORIC PARK

Cane River Creole National Historical Park and National Heritage Area Act. 16 USC 410ccc note.

SEC. 301. SHORT TITLE.

Titles III and IV of this Act may be cited as the "Cane River Creole National Historical Park and National Heritage Area Act".

SEC. 302. FINDINGS AND PURPOSES.

16 USC 410ccc.

(a) FINDINGS.—The Congress finds that—

(1) the Natchitoches area along Cane River, established in 1714, is the oldest permanent settlement in the Louisiana Purchase territory;

(2) the Cane River area is the locale of the development of Creole culture, from French-Spanish interactions of the early 18th century of today's living communities;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, unlike the Cane River area, most are isolated examples, and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features with original elements in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, four other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefitted from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs.

(b) PURPOSES.—The purposes of titles III and IV of this Act are to—

(1) recognize the importance of the Cane River Creole culture as a nationally significant element of the cultural heritage of the United States;

(2) establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river; and

(3) establish a Cane River National Heritage Area and Commission to be undertaken in partnership with the State of Louisiana, the City of Natchitoches, local communities and settlements of the Cane River area, preservation organizations,

and private landowners, with full recognition that programs must fully involve the local communities and landowners.

16 USC 410ccc-1.

SEC. 303. ESTABLISHMENT OF CANE RIVER CREOLE NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—In order to assist in the preservation and interpretation of, and education concerning, the Creole culture and diverse history of the Natchitoches region, and to provide technical assistance to a broad range of public and private landowners and preservation organizations, there is hereby established the Cane River Creole National Historical Park in the State of Louisiana (hereinafter in titles III and IV of this Act referred to as the "historical park").

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) Lands and structures associated with the Oakland Plantation as depicted on map CARI, 80,002, dated January 1994.

(2) Lands and structures owned or acquired by Museum Contents, Inc. as depicted on map CARI, 80,001A, dated May 1994.

(3) Sites that may be the subject of cooperative agreements with the National Park Service for the purposes of historic preservation and interpretation including, but not limited to, the Melrose Plantation, the Badin-Rouge site, the Cherokee Plantation, the Beau Fort Plantation, and sites within the Natchitoches National Historical Landmark District: *Provided,* That such sites may not be added to the historical park unless the Secretary of the Interior (hereinafter referred to as the "Secretary") determines, based on further research and planning, that such sites meet the applicable criteria for national historical significance, suitability, and feasibility, and notification of the proposed addition has been transmitted to the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of the House of Representatives.

(4) Not to exceed 10 acres of land that the Secretary may designate for an interpretive visitor center complex to serve the needs of the historical park and heritage area established in title IV of this Act.

16 USC 410ccc-2.

SEC. 304. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in accordance with this title and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4); and the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461–467). The Secretary shall manage the historical park in such a manner as will preserve resources and cultural landscapes relating to the Creole culture of the Cane River and enhance public understanding of the important cultural heritage of the Cane River region.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, or other public or private entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of titles III and IV of this Act. Any funds donated

to the Secretary pursuant to this subsection may be expended without further appropriation.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center on lands identified by the Secretary pursuant to section 303(b)(4). Such center shall provide for the general information and orientation needs of the historical park and the heritage area. The Secretary shall consult with the State of Louisiana, the City of Natchitoches, the Association for the Preservation of Historic Natchitoches, and the Cane River National Heritage Area Commission pursuant to section 402 of this Act in the planning and development of the interpretive center.

(d) COOPERATIVE AGREEMENTS AND TECHNICAL ASSISTANCE.—(1) The Secretary, after consultation with the Cane River Heritage Area Commission established pursuant to section 402 of this Act, is authorized to enter into cooperative agreements with owners of properties within the heritage area and owners of properties within the historical park that provide important educational and interpretive opportunities relating to the heritage of the Cane River region. The Secretary may also enter into cooperative agreements for the purpose of facilitating the preservation of important historic sites and structures identified in the historical park's general management plan or other heritage elements related to the heritage of the Cane River region. Such cooperative agreements shall specify that the National Park Service shall have reasonable rights of access for operational and visitor use needs and that preservation treatments will meet the Secretary's standards for rehabilitation of historic buildings.

(2) The Secretary is authorized to enter into cooperative agreements with the City of Natchitoches, the State of Louisiana, and other public or private organizations for the development of the interpretive center, educational programs, and other materials that will facilitate public use of the historical park and heritage area.

(e) RESEARCH.—The Secretary, acting through the National Park Service, shall coordinate a comprehensive research program on the complex history of the Cane River region, including ethnography studies of the living communities along the Cane River, and how past and present generations have adapted to their environment, including genealogical studies of families within the Cane River area. Research shall include, but not be limited to, the extensive primary historic documents within the Natchitoches and Cane River areas, and curation methods for their care and exhibition. The research program shall be coordinated with Northwestern State University of Louisiana, and the National Center for Preservation of Technology and Training in Natchitoches.

SEC. 305. ACQUISITION OF PROPERTY. 16 USC 410ccc-3.

(a) GENERAL AUTHORITY.—Except as otherwise provided in this section, the Secretary is authorized to acquire lands and interest therein within the boundaries of the historical park by donation, purchase with donated or appropriated funds, or exchange.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests therein that are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) MUSEUM CONTENTS, INC.—Lands and structures identified in section 303(b)(2) may be acquired only by donation.

(d) COOPERATIVE AGREEMENT SITES.—Lands and interests therein that are the subject of cooperative agreements pursuant to section 303(b)(3) shall not be acquired except with the consent of the owner thereof.

16 USC 410ccc-4.

SEC. 306. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and in consultation with the Cane River Heritage Area Commission, the National Park Service shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities that will be provided for public use, including the location and cost of an interpretive center;

(2) programs and management actions that the National Park Service will undertake cooperatively with the heritage area commission, including preservation treatments for important sites, structures, objects, and research materials. Planning shall address educational media, roadway signing, and brochures that could be coordinated with the Commission pursuant to section 403 of this Act; and

(3) preservation and use plans for any sites and structures that are identified for National Park Service involvement through cooperative agreements.

Short title.
Ante, p. 4757.

TITLE IV—CANE RIVER NATIONAL HERITAGE AREA

16 USC 410ccc-21.

SEC. 401. ESTABLISHMENT OF THE CANE RIVER NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Cane River National Heritage Area (hereinafter in this title referred to as the "heritage area").

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of the Cane River region and in recognition of the findings of section 302(a) of this Act, it is the purpose of this title to establish a heritage area to complement the historical park and to provide for a culturally sensitive approach to the preservation of the heritage of the Cane River region, and for other needs including—

(1) recognizing areas important to the Nation's heritage and identity;

(2) assisting in the preservation and enhancement of the cultural landscape and traditions of the Cane River region;

(3) providing a framework for those who live within this important dynamic cultural landscape to assist in preservation and educational actions; and

(4) minimizing the need for Federal land acquisition and management.

(c) AREA INCLUDED.—The heritage area shall include—

(1) an area approximately 1 mile on both sides of the Cane River as depicted on map CARI, 80,000A, dated May 1994;

(2) those properties within the Natchitoches National Historic Landmark District which are the subject of cooperative agreements pursuant to section 304(d) of this Act;

(3) the Los Adaes State Commemorative Area;
(4) the Fort Jesup State Commemorative Area;
(5) the Fort St. Jean Baptiste State Commemorative Area; and
(6) the Kate Chopin House.

A final identification of all areas and sites to be included in the heritage area shall be included in the heritage area management plan as required in section 403.

SEC. 402. CANE RIVER NATIONAL HERITAGE AREA COMMISSION.

16 USC 410ccc-22.

(a) ESTABLISHMENT.—To assist in implementing the purposes of titles II and III of this Act and to provide guidance for the management of the heritage area, there is established the Cane River National Heritage Area Commission (hereinafter in this title referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 19 members to be appointed no later than 6 months after the date of enactment of this title. The Commission shall be appointed by the Secretary as follows—

(1) one member from recommendations submitted by the Mayor of Natchitoches;
(2) one member from recommendations submitted by the Association for the Preservation of Historic Natchitoches;
(3) one member from recommendations submitted by the Natchitoches Historic Foundation, Inc.;
(4) two members with experience in and knowledge of tourism in the heritage area from recommendations submitted by local business and tourism organizations;
(5) one member from recommendations submitted by the Governor of the State of Louisiana;
(6) one member from recommendations submitted by the Police Jury of Natchitoches Parish;
(7) one member from recommendations submitted by the Concern Citizens of Cloutierville;
(8) one member from recommendations submitted by the St. Augustine Historical Society;
(9) one member from recommendations submitted by the Black Heritage Committee;
(10) one member from recommendations submitted by the Los Adaes/Robeline Community;
(11) one member from recommendations submitted by the Natchitoches Historic District Commission;
(12) one member from recommendations submitted by the Cane River Waterway Commission;
(13) two members who are landowners in and residents of the heritage area;
(14) one member with experience and knowledge of historic preservation from recommendations submitted by the Museum Contents, Inc.;
(15) one member with experience and knowledge of historic preservation from recommendations submitted by the President of Northwestern State University of Louisiana;
(16) one member with experience in and knowledge of environmental, recreational and conservation matters affecting the heritage area from recommendations submitted by the Natchitoches Sportsmans Association and other local recreational and environmental organizations; and

(17) the director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) prepare a management plan for the heritage area in consultation with the National Park Service, the State of Louisiana, the City of Natchitoches, Natchitoches Parish, interested groups, property owners, and the public;

(2) consult with the Secretary on the preparation of the general management plan for the historical park;

(3) develop cooperative agreements with property owners, preservation groups, educational groups, the State of Louisiana, the City of Natchitoches, universities, and tourism groups, and other groups to further the purposes of titles III and IV of this Act; and

(4) identify appropriate entities, such as a non-profit corporation, that could be established to assume the responsibilities of the Commission following its termination.

(d) POWERS OF THE COMMISSION.—In furtherance of the purposes of titles III and IV of this Act, the Commission is authorized to—

(1) procure temporary and intermittent services to the same extent that is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable;

(2) accept the services of personnel detailed from the State of Louisiana or any political subdivision thereof, and may reimburse the State or political subdivision for such services;

(3) upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties;

(4) appoint and fix the compensation of such staff as may be necessary to carry out its duties. Staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) enter into cooperative agreements with public or private individuals or entities for research, historic preservation, and education purposes;

(6) make grants to assist in the preparation of studies that identify, preserve, and plan for the management of the heritage area;

(7) notwithstanding any other provision of law, seek and accept donations of funds or services from individuals, foundations, or other public or private entities and expend the same for the purposes of providing services and programs in furtherance of the purposes of titles III and IV of this Act;

(8) assist others in developing educational, informational, and interpretive programs and facilities;

(9) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; and

(10) use the United States mails in the same manner and under the same conditions as other departments or agencies of the United States.

(e) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(g) TERMS.—The terms of Commission members shall be for 3 years. Any member of the Commission appointed by the Secretary for a 3-year term may serve after expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(h) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report is made, and actions that are planned for the following year.

SEC. 403. PREPARATION OF THE PLAN.

16 USC 410ccc-23.

(a) IN GENERAL.—Within 3 years after the Commission conducts its first meeting, it shall prepare and submit a heritage area management plan to the Governor of the State of Louisiana. The Governor shall, if the Governor approves the plan, submit it to the Secretary for review and approval. The Secretary shall provide technical assistance to the Commission in the preparation and implementation of the plan, in concert with actions by the National Park Service to prepare a general management plan for the historical park. The plan shall consider local government plans and shall present a unified heritage preservation and education plan for the heritage area. The plan shall include, but not be limited to—

Technical assistance.

(1) an inventory of important properties and cultural landscapes that should be preserved, managed, developed, and maintained because of their cultural, natural, and public use significance;

(2) an analysis of current land uses within the area and how they affect the goals of preservation and public use of the heritage area;

(3) an interpretive plan to address the cultural and natural history of the area, and actions to enhance visitor use. This element of the plan shall be undertaken in consultation with the National Park Service and visitor use plans for the historical park;

(4) recommendations for coordinating actions by local, State, and Federal governments within the heritage area, to further the purposes of titles III and IV of this Act; and

(5) an implementation program for the plan including desired actions by State and local governments and other involved groups and entities.

(b) APPROVAL OF THE PLAN.—The Secretary shall approve or disapprove the plan within 90 days after receipt of the plan from the Commission. The Commission shall notify the Secretary of

the status of approval by the Governor of Louisiana when the plan is submitted for review and approval. In determining whether or not to approve the plan the Secretary shall consider—

(1) whether the Commission has afforded adequate opportunity, including public meetings and hearings, for public and governmental involvement in the preparation of the plan; and

(2) whether reasonable assurances have been received from the State and local governments that the plan is supported and that the implementation program is feasible.

(c) DISAPPROVAL OF THE PLAN.—If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons for disapproval, and shall provide recommendations and assistance in the revision plan. Following completion of any revisions to the plan, the Commission shall resubmit the plan to the Governor of Louisiana for approval, and to the Secretary, who shall approve or disapprove the plan within 90 days after the date that the plan is revised.

16 USC 410ccc-24.

SEC. 404. TERMINATION OF HERITAGE AREA COMMISSION.

(a) TERMINATION.—The Commission shall terminate on the day occurring 10 years after the first official meeting of the Commission.

(b) EXTENSION.—The Commission may petition to be extended for a period of not more than 5 years beginning on the day referred to in subsection (a), provided the Commission determines a critical need to fulfill the purposes of titles III and IV of this Act; and the Commission obtains approval from the Secretary, in consultation with the Governor of Louisiana.

(c) HERITAGE AREA MANAGEMENT FOLLOWING TERMINATION OF THE COMMISSION.—The national heritage area status for the Cane River region shall continue following the termination of the Commission. The management plan, and partnerships and agreements subject to the plan shall guide the future management of the heritage area. The Commission, prior to its termination, shall recommend to the Governor of the State of Louisiana and the Secretary, appropriate entities, including the potential for a nonprofit corporation, to assume the responsibilities of the Commission.

16 USC 410ccc-25.

SEC. 405. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal entity conducting or supporting activities directly affecting the heritage area shall—

(1) consult with the Secretary and the Commission with respect to implementation of their proposed actions; and

(2) to the maximum extent practicable, coordinate such activities with the Commission to minimize potential impacts on the resources of the heritage area.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

16 USC 410ccc-26.

There are authorized to be appropriated such sums as may be necessary to carry out titles III and IV of this Act.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 1348:

HOUSE REPORTS: No. 103-233 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-305 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Sept. 13, considered and passed House.
Vol. 140 (1994): Oct. 6, considered and passed Senate, amended.
Oct. 7, House concurred in Senate amendment.

Public Law 103-450
103d Congress

An Act

Nov. 2, 1994
[H.R. 3050]

To expand the boundaries of the Red Rock Canyon National Conservation Area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY EXPANSION.

Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–1(a)(2)) is amended to read as follows:

"(2) The conservation area shall consist of approximately 195,610 acres as generally depicted on a map entitled 'Red Rock Canyon National Conservation Area—Proposed Expansion', numbered NV–RRCNCA–002, and dated July 1994.".

SEC. 2. OTHER AMENDMENTS TO THE RED ROCK CANYON NATIONAL CONSERVATION AREA ESTABLISHMENT ACT OF 1990.

(a) DEADLINE FOR MANAGEMENT PLAN.—Section 5(a)(1) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–3(a)(1)) is amended by striking "Within 3 full fiscal years following the fiscal year in which the date of enactment of this Act occurs," and inserting in lieu thereof "No later than January 1, 1997,".

(b) EXCHANGE AUTHORITY.—Section 7 of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–5) is amended—

(1) by striking "Except as specifically authorized" and inserting in lieu thereof "(a) Except as specifically authorized"; and

(2) by adding at the end thereof a new subsection, as follows:

"(b) The Secretary may transfer to the owner of the Old Nevada recreation facility the approximately 20 acres of Federal lands within the conservation area which, on March 1, 1994, were used to provide parking for visitors to such facility, in exchange for lands of equal or greater value within the conservation area acceptable to the Secretary.".

(c) PRIORITY DATES.—Section 10(b) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–8(b)) is amended by striking "Act." and by inserting in lieu thereof "Act, except that as related to rights associated with lands added to the conservation area after such date, the priority date shall be the date of enactment of the Act adding such lands to the conservation area.".

SEC. 3. POTENTIAL CONSERVATION LANDS.

16 USC 460ccc-1 note

(a) WITHDRAWAL.—Subject to valid existing rights, the lands identified in subsection (b) are hereby withdrawn from all forms of entry under the public land laws, including the mining laws, and from operation of the mineral and geothermal leasing laws: *Provided*, That nothing in this subsection shall limit the issuance of any necessary licenses or public land rights-of-way for any hydroelectric project involving such lands.

(b) LANDS.—The lands referred to in subsection (a) are the approximately 1,280 acres of public lands as generally depicted on the map entitled "Potential Conservation Lands: Possible Hydroelectric Project" dated July, 1994.

(c) FUTURE STATUS.—(1) Effective on the date 5 years after the date of enactment of this Act, the lands described in subsection (b) shall be added to the Red Rock Canyon National Conservation Area unless before such effective date all necessary licenses and public land rights-of-way have been issued for a hydroelectric project involving some or all of such lands.

(2) For purposes of section 10(b) of the Red Rock Canyon National Conservation Area Establishment Act of 1990, as amended by this Act, the date on which the lands identified in subsection (b) of this section are added to the Red Rock Canyon National Conservation Area shall be deemed to be the date of enactment of an Act adding such lands to the conservation area.

SEC. 4. AUSTIN, NEVADA MUSEUM.

(a) LANDS.—The Austin Historic Mining District Historical Society (hereafter referred to as "the Historical Society") shall be permitted to use the lands located in Austin, Nevada, identified as township 19 North, range 44 East, section 19, block 38, lots 1 through 16, assessor's parcel number 01–147–01, amounting to approximately 0.59 acres, in accordance with the requirements of this section.

(b) USES.—The Historical Society's use of the lands identified in subsection (a) shall be subject to the requirements of this section and shall be limited to use for a museum or other facility to illustrate the history of the Austin Historic Mining District.

(c) TERMS AND CONDITIONS.—(1) The Secretary of Agriculture shall permit the Historical Society to use the lands identified in subsection (a) for a period of 20 years after the date of enactment of this Act. After such period, the Historical Society may continue to use such lands, at the discretion of the Secretary of Agriculture.

(2) During the period of 20 years after the date of the enactment of this Act, the Historical Society, if it elects to use the lands identified in subsection (a), shall pay to the Secretary of Agriculture, on behalf of the United States, an annual rental of $100.

(3) If the Secretary of Agriculture permits continued use of the lands identified in subsection (a) after the end of the period of 20 years after the date of enactment of this Act, the Secretary of Agriculture shall require payment of such annual rental as the Secretary determines reasonable.

(4) At all times that the lands identified in subsection (a) are used by the Historical Society, the Historical Society shall be solely responsible for all necessary maintenance and repairs of all structures and improvements on such lands and for all necessary payments for utilities or other services.

(5) All rentals received by the Secretary of Agriculture under this section shall be deemed to have been deposited with such Secretary pursuant to the Act of December 4, 1967 (16 U.S.C. 484a).

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 3050:

HOUSE REPORTS: No. 103-679 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 8, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 103-451
103d Congress

An Act

To establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage.

Nov. 2, 1994
[H.R. 3059]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Maritime Heritage Act of 1994.
16 USC 5401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Maritime Heritage Act of 1994".

16 USC 5401.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The United States is a nation with a rich maritime history, and it is desirable to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture.

(2) The maritime historical and cultural foundations of the Nation should be preserved as a part of our community life and development.

(3) National, State, and local groups have been working independently to preserve the maritime heritage of the United States.

(4) Historic resources significant to the Nation's maritime heritage are being lost or substantially altered, often inadvertently, with increasing frequency.

(5) The preservation of this irreplaceable maritime heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, and economic benefits will be maintained and enriched for future generations of Americans.

(6) The current governmental and nongovernmental historic preservation programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich maritime heritage of our Nation.

(7) A coordinated national program is needed immediately to redress the adverse consequences of a period of indifference during which the maritime heritage of the United States has become endangered and to ensure the future preservation of the Nation's maritime heritage.

(8) A national maritime heritage policy would greatly increase public awareness of, and participation in, the preservation of the Nation's maritime heritage.

16 USC 5402.

SEC. 3. NATIONAL MARITIME HERITAGE POLICY.

It shall be the policy of the Federal Government, in partnership with the States and local governments and private organizations and individuals, to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic maritime resources can exist in productive harmony;

(2) provide leadership in the preservation of the historic maritime resources of the United States;

(3) contribute to the preservation of historic maritime resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; and

(4) assist State and local governments to expand their maritime historic preservation programs and activities.

16 USC 5403.

SEC. 4. NATIONAL MARITIME HERITAGE GRANTS PROGRAM.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the National Maritime Heritage Grants Program, to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture. The Program shall consist of—

(1) annual grants to the National Trust for Historic Preservation for subgrants administered by the National Trust for maritime heritage education projects under subsection (b);

(2) grants to State Historic Preservation Officers for maritime heritage preservation projects carried out or administered by those Officers under subsection (c); and

(3) grants for interim projects under subsection (j).

(b) GRANTS FOR MARITIME HERITAGE EDUCATION PROJECTS.—

(1) GRANTS TO NATIONAL TRUST FOR HISTORIC PRESERVATION.—The Secretary, subject to paragraphs (2), (3), and (4), and the availability of amounts for that purpose under section 6(b)(1)(A), shall make an annual grant to the National Trust for maritime heritage education projects.

(2) USE OF GRANTS.—Amounts received by the National Trust as an annual grant under this subsection shall be used to make subgrants to State and local governments and private nonprofit organizations to carry out education projects which have been approved by the Secretary under subsection (f) and which consist of—

(A) assistance to any maritime museum or historical society for—

(i) existing and new educational programs, exhibits, educational activities, conservation, and interpretation of artifacts and collections;

(ii) minor improvements to educational and museum facilities; and

(iii) other similar activities;

(B) activities designed to encourage the preservation of traditional maritime skills, including—

(i) building and operation of vessels of all sizes and types for educational purposes;

(ii) special skills such as wood carving, sail making, and rigging;

(iii) traditional maritime art forms; and

(iv) sail training;

(C) other educational activities relating to historic maritime resources, including—

(i) maritime educational waterborne-experience programs in historic vessels or vessel reproductions;

(ii) maritime archaeological field schools; and

(iii) educational programs on other aspects of maritime history;

(D) heritage programs focusing on maritime historic resources, including maritime heritage trails and corridors; or

(E) the construction and use of reproductions of historic maritime resources for educational purposes, if a historic maritime resource no longer exists or would be damaged or consumed through direct use.

(c) GRANTS FOR MARITIME HERITAGE PRESERVATION PROJECTS.—

(1) GRANTS TO STATE HISTORIC PRESERVATION OFFICES.—The Secretary, acting through the National Maritime Initiative of the National Park Service and subject to paragraphs (2) and (3), and the availability of amounts for that purpose under section 6(b)(1)(B), shall make grants to State Historic Preservation Officers for maritime heritage preservation projects.

(2) USE OF GRANTS.—Amounts received by a State Historic Preservation Officer as a grant under this subsection shall be used by the Officer to carry out or to make subgrants to local governments and private nonprofit organizations to carry out, projects which have been approved by the Secretary under subsection (f) for the preservation of historic maritime resources through—

(A) identification of historic maritime resources, including underwater archaeological sites;

(B) acquisition of historic maritime resources for the purposes of preservation;

(C) repair, restoration, stabilization, maintenance, or other capital improvements to historic maritime resources, in accordance with standards prescribed by the Secretary; and

(D) research, recording (through drawings, photographs, or otherwise), planning (through feasibility studies, architectural and engineering services, or otherwise), and other services carried out as part of a preservation program for historic maritime resources.

(d) CRITERIA FOR DIRECT GRANT AND SUBGRANT ELIGIBILITY.—To qualify for a subgrant from the National Trust under subsection (b), or a direct grant to or a subgrant from a State Historic Preservation Officer under subsection (c), a person must—

(1) demonstrate that the project for which the direct grant or subgrant will be used has the potential for reaching a broad audience with an effective educational program based on American maritime history, technology, or the role of maritime endeavors in American culture;

(2) match the amount of the direct grant or subgrant, on a 1-to-1 basis, with non-Federal assets from non-Federal sources, which may include cash or donated services fairly valued as determined by the Secretary;

Records.

(3) maintain records as may be reasonably necessary to fully disclose—

(A) the amount and the disposition of the proceeds of the direct grant or subgrant;

(B) the total cost of the project for which the direct grant or subgrant is made; and

(C) other records as may be required by the Secretary, including such records as will facilitate an effective accounting for project funds;

(4) provide access to the Secretary for the purposes of any required audit and examination of any books, documents, papers, and records of the person; and

(5) be a unit of State or local government, or a private nonprofit organization.

(e) PROCEDURES, TERMS, AND CONDITIONS.—

(1) APPLICATION PROCEDURES.—An application for a subgrant under subsection (b), or a direct grant or subgrant under subsection (c), shall be submitted under procedures prescribed by the Secretary.

(2) TERMS AND CONDITIONS.—A person may not receive a subgrant under subsection (b), or a direct grant or subgrant under subsection (c), unless the person has agreed to assume, after completion of the project for which the direct grant or subgrant is awarded, the total cost of the continued maintenance, repair, and administration of any property for which the subgrant will be used in a manner satisfactory to the Secretary.

(f) REVIEW OF PROPOSALS.—

(1) COMMITTEE RECOMMENDATIONS.—The National Maritime Heritage Grants Committee shall review applications for subgrants under subsection (b), and direct grants or subgrants under subsection (c), and submit recommendations to the Secretary regarding projects which should receive funding under those direct grants and subgrants.

(2) ALLOCATION OF GRANT FUNDING.—To the extent feasible, the Secretary shall ensure that the amount made available under subsection (b) for maritime heritage education projects is equal to the amount made available under subsection (c) for maritime heritage preservation projects.

(3) LIMITATION.—The amount provided by the Secretary in a fiscal year as grants under this section for projects relating to historic maritime resources owned or operated by the Federal Government shall not exceed 40 percent of the total amount available for the fiscal year for grants under this section.

(g) DIRECT GRANTS AND SUBGRANTS PROCESS.—

Federal Register, publication.

(1) DIRECT GRANTS AND SUBGRANTS SOLICITATION.—The Secretary shall publish annually in the Federal Register and otherwise as the Secretary considers appropriate—

(A) a solicitation of applications for direct grants and subgrants under this section;

(B) a list of priorities for the making of those direct grants and subgrants;

(C) a single deadline for the submission of applications for those direct grants and subgrants; and

(D) other relevant information.

(2) RECEIPT AND APPROVAL OR DISAPPROVAL OF DIRECT GRANT AND SUBGRANT APPLICATIONS.—Within 60 days after the

submission of recommendations by the Committee to the Secretary under subsection (h)(6), the Secretary shall review and approve or disapprove a direct grant or subgrant for each project recommended by the Committee and provide to the Committee and the applicant the reasons for that approval or disapproval.

(h) DIRECT GRANT AND SUBGRANT ADMINISTRATION.—The National Trust shall be responsible for administering subgrants for maritime heritage education projects under subsection (b), the Secretary shall be responsible for administering direct grants for maritime heritage preservation projects under subsection (c), and the various State Historic Preservation Officers shall be responsible for administering subgrants for maritime heritage preservation projects under subsection (c), by—

(1) publicizing the Program to prospective grantees, subgrantees, and to the public at large, in cooperation with the National Park Service, the Maritime Administration, and other appropriate government agencies and private institutions;

(2) answering inquiries from the public, including providing information on the Program as requested;

(3) distributing direct grant and subgrant applications;

(4) receiving direct grant and subgrant applications and ensuring their completeness;

(5) forwarding the applications to the Committee for review and recommendation;

(6) submitting to the Secretary applications that the Committee recommends should be approved by the Secretary;

(7) keeping records of all direct grant and subgrant awards and expenditures of funds;

(8) monitoring progress of projects carried out with direct grants and subgrants; and

(9) providing to the Secretary such progress reports as may be required by the Secretary.

(i) ASSISTANCE OF MARITIME PRESERVATION ORGANIZATIONS.—The Secretary, the National Trust, and the State Historic Preservation Officers may, individually or jointly, enter into cooperative agreements with any private nonprofit organization with appropriate expertise in maritime preservation issues, or other qualified maritime preservation organizations, to assist in the administration of the Program.

(j) GRANTS FOR INTERIM PROJECTS.—

(1) GRANTS AUTHORITY.—The Secretary, subject to paragraph (3), may use amounts available under section 6(b)(2) to make one or more grants described in paragraph (2).

(2) GRANTS DESCRIBED.—The grants referred to in paragraph (1) are the following:

(A) A grant to the National Museum Association (a nonprofit organization located in San Francisco, California) for payment of expenses directly related to the preservation and restoration of the historic fleet of the San Francisco Maritime National Historical Park, located in San Francisco, California.

(B) A grant to the Virginia V Foundation (a nonprofit organization) for use in restoration and preservation of the historic steamship VIRGINIA V.

(C) A grant to any nonprofit organization which operates and maintains a former hospital ship to be converted

to engage in public health activities, for use in refurbishing and maintaining the ship for those activities.

(D) A grant to the Mariners' Museum (a not-for-profit educational institution located in Newport News, Virginia, for use for expenses directly related to the computerization of the library and archives of that museum, including for the purpose of providing to the public enhanced national access to those materials.

(E) A grant for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to the Center for Maritime and Underwater Resource Management at Michigan State University, for a pilot project to plan, design, implement, and evaluate innovative approaches to management and development of maritime and underwater cultural resources at the following sites: Thunder Bay, the Manitou Passage, Isle Royale National Park, Keweenaw Peninsula, Marquette County, Alger County, Whitefish Point, the Straits of Mackinac, the Thumb Area, and Sanilac Shores.

(3) GRANT CONDITIONS.—The Secretary may not make a grant under this subsection unless the grantee complies with the requirements set forth in paragraphs (1) through (5) of section 4(d).

(k) REPORT TO CONGRESS.—The Secretary shall submit to the Congress, after review by the Committee, an annual report on the Program, including—

(1) a description of each project funded under the Program in the period covered by the report;

(2) the results or accomplishments of each such project; and

(3) recommended priorities for achieving the policy set forth in section 3.

16 USC 5404.

SEC. 5. NATIONAL MARITIME HERITAGE GRANTS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established a National Maritime Heritage Grants Advisory Committee.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall consist of 13 members appointed by the Secretary from among individual members of the public who—

(A) are representatives of various sectors of the maritime community who are knowledgeable and experienced in maritime heritage and preservation;

(B) to the extent practicable, are selected in a manner that ensures regional geographic balance;

(C) to the extent practicable, include a representative of each of the fields of—

(i) small craft preservation;
(ii) large vessel preservation;
(iii) sail training;
(iv) preservation architecture;
(v) underwater archaeology;
(vi) lighthouse preservation;
(vii) maritime education;
(viii) military naval history;
(ix) maritime museums or historical societies;
(x) maritime arts and crafts;

(xi) maritime heritage tourism; and

(xii) maritime recreational resources management; and

(D) include a member of the general public.

(2) EX OFFICIO MEMBERS.—In addition to the members appointed under paragraph (1), the President of the National Trust and the President of the National Conference of State Historic Preservation Officers (or their respective designees) shall be ex officio voting members of the Committee.

(3) TERM.—The term of a member of the Committee appointed under paragraph (1) shall be 3 years, except that of the members first appointed 4 shall be appointed for an initial term of 1 year and 4 shall be appointed for an initial term of 2 years, as specified by the Secretary at the time of appointment.

(4) COMPLETION OF APPOINTMENTS.—The Secretary shall complete appointment of the members of the Committee under paragraph (1) by not later than 120 days after the date of enactment of this Act.

(5) VACANCIES.—In the case of a vacancy in the membership of the Committee appointed under paragraph (1), the Secretary shall appoint an individual to serve the remainder of the term that is vacant by not later than 60 days after the vacancy occurs.

(c) FEDERAL GOVERNMENT EX OFFICIO MEMBERS.—There shall be ex officio Federal Government members of the Committee as follows:

(1) At least 1 individual designated by each of—

(A) the Director of the National Park Service;

(B) the Administrator of the Maritime Administration;

(C) the Commandant of the Coast Guard;

(D) the Secretary of the Navy;

(E) the Administrator of the National Oceanic and Atmospheric Administration; and

(F) the Advisory Council on Historic Preservation.

(2) Other representatives designated by the heads of such other interested Federal Government agencies as the Secretary considers appropriate.

(d) DUTIES OF THE COMMITTEE.—The duties of the Committee include—

(1) reviewing direct grant and subgrant proposals and making funding recommendations to the Secretary;

(2) identifying and advising the Secretary regarding priorities for achieving the policy set forth in section 3;

(3) reviewing the Secretary's annual report to the Congress under section 4(k); and

(4) performing any other duties the Secretary considers appropriate.

(e) QUORUM.—Nine members of the Committee shall constitute a quorum for making recommendations on subgrant applications.

(f) APPOINTMENTS PROCESS.—The Secretary shall—

(1) publicize annually, in the Federal Register and through publications of preservation and maritime organizations, a request for submission of nominations for appointments to the Committee under subsection (b)(1); and

Federal Register, publication.

(2) designate from among the members of the Committee—

(A) a Chairman; and

(B) a Vice Chairman who may act in place of the Chairman during the absence or disability of the Chairman or when the office of Chairman is vacant.

(g) COMPENSATION AND TRAVEL EXPENSES.—An individual shall not receive any pay by reason of membership on the Committee. While away from home or regular place of business in the performance of service for the Committee, a member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code.

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the Committee, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of the Interior to the Committee to assist it in carrying out its duties under this Act.

(i) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Committee, the National Trust shall provide to the Committee the support services necessary for the Committee to carry out its duties under this Act.

(j) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that meetings of the Committee may be closed to the public by majority vote and section 14(b) of that Act does not apply to the Committee.

(k) TERMINATION.—The Committee shall terminate on September 30, 2000.

16 USC 5405.

SEC. 6. FUNDING.

(a) AVAILABILITY OF FUNDS FROM SALE AND SCRAPPING OF OBSOLETE VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (46 App. U.S.C. 1241a), that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 508 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158) shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

(C) The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b).

(2) APPLICATION.—Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

(b) USE OF AMOUNTS FOR PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C)—

(A) ½ shall be used for grants under section 4(b); and

(B) ½ shall be used for grants under section 4(c).

(2) USE FOR INTERIM PROJECTS.—Amounts available for the Program under subsection (a)(1)(C) that are the proceeds of any of the first 6 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 508 of the Merchant Marine Act, 1936 (46 U.S.C. 1158) are available to the Secretary for grants for interim projects approved under section 4(j) of this Act.

(3) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Not more than 15 percent or $500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) for a fiscal year may be used for expenses of administering the Program.

(B) ALLOCATION.—Of the amount available under subparagraph (A) for a fiscal year—

(i) ½ shall be allocated to the National Trust for expenses incurred in administering grants under section 4(b); and

(ii) ½ shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

(c) DISPOSALS OF VESSELS.—

(1) REQUIREMENT.—The Secretary of Transportation shall dispose of all vessels described in paragraph (2)—

(A) by September 30, 1999;

(B) in a manner that maximizes the return on the vessels to the United States; and

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

(2) VESSELS DESCRIBED.—The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

(d) TREATMENT OF AMOUNTS AVAILABLE.—Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

SEC. 7. DEFINITIONS. 16 USC 5406.

In this Act:

(1) COMMITTEE.—The term "Committee" means the Maritime Heritage Grants Advisory Committee established under section 5.

(2) NATIONAL TRUST.—The term "National Trust" means the National Trust for Historic Preservation created by section 1 of the Act of October 26, 1949 (16 U.S.C. 468).

(3) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" means any person that is exempt from

taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)) and described in section 501(c)(3) of that Code (26 U.S.C. 501(c)(3)).

(4) PROGRAM.—The term "Program" means the National Maritime Heritage Grants Program established by section 4(a).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE HISTORIC PRESERVATION OFFICER.—The term "State Historic Preservation Officer" means a State Historic Preservation Officer appointed pursuant to paragraph (1)(A) of section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)(1)(A)) by the Governor of a State having a State Historic Preservation Program approved by the Secretary under that section.

16 USC 5407.

SEC. 8. REGULATIONS.

The Secretary, after consultation with the National Trust, the National Conference of State Historic Preservation Officers, and appropriate members of the maritime heritage community, shall promulgate appropriate guidelines, procedures, and regulations within 1 year after the date of enactment of this Act to carry out the Act, including regulations establishing terms of office for the initial membership of the Committee, direct grant and subgrant priorities, the method of solicitation and review of direct grant and subgrant proposals, criteria for review of direct grant and subgrant proposals, administrative requirements, reporting and recordkeeping requirements, and any other requirements the Secretary considers appropriate.

16 USC 5408.

SEC. 9. SAVINGS PROVISION.

The authorities contained in this Act shall be in addition to, and shall not be construed to supercede or modify those contained in the National Historic Preservation Act (16 U.S.C. 470–470x–6).

SEC. 10. AUTHORITY TO CONVEY VESSEL TO THE BATTLE OF THE ATLANTIC HISTORICAL SOCIETY.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel S/S AMERICAN VICTORY (Victory Ship VC2–S–AP3; United States official number 248005), or a vessel of a comparable size and class, to the Battle of the Atlantic Historical Society (in this section referred to as "the recipient"), if—

(1) the recipient agrees to use the vessel for the purposes of a Merchant Marine memorial, historical preservation, and educational activities;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government if the Secretary of Transportation requires use of the vessel by the Government for war or a national emergency;

(4) the recipient agrees that when the recipient no longer requires the vessel for use for the purposes described in paragraph (1)—

(A) the recipient will, at the discretion of the Secretary of Transportation, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the recipient has decided to dissolve according to the laws of the State of New York, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that is described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and that is exempt from taxation under section 501(a) of that Code (26 U.S.C. 501(a)), or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4);

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000; and

(7) the recipient is described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and is exempt from taxation under section 501(a) of that Code (26 U.S.C. 501(a)).

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary of Transportation shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary of Transportation may convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet for use to restore the S/S AMERICAN VICTORY, or a vessel of a comparable size and class, to museum quality.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary of Transportation under this section to convey a vessel to the Battle of the Atlantic Historical Society shall expire 2 years after the date of enactment of this Act.

(e) REVERSIONARY INTEREST OF THE UNITED STATES.—All right, title, and interest in and to a vessel that is conveyed under subsection (a) to and held by the recipient shall revert to the United States at any time that it is finally determined that the recipient is not exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)).

SEC. 11. AUTHORITY TO CONVEY VESSEL TO WARSAW, KENTUCKY.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other provision of law, the Secretary of Transportation may, subject to subsection (c), convey to the City of Warsaw, Kentucky, without consideration, for use by the City for the promotion of economic development and tourism, all right, title, and interest of the United States in a vessel, including related spare parts and vessel equipment, which—

(1) is in the National Defense Reserve Fleet on the date of enactment of this Act;

(2) has no usefulness to the United States Government; and

(3) is scheduled to be scrapped.

(b) DELIVERY.—At the request of the City of Warsaw, Kentucky, the Secretary of Transportation is authorized to deliver the vessel referred to in subsection (a)—

(1) at the place where the vessel is located on the date of the approval of the conveyance;

(2) in its condition on that date; and

(3) without cost to the United States Government.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Secretary of Transportation shall require that the City—

(1) raise, before the date of the conveyance, at least $100,000 from non-Federal sources to support the intended use of the vessel;

(2) agree to indemnify the United States for any liability arising from or caused by the vessel after the date of the conveyance of the vessel, including liability—

(A) for personal injury or damage to property;

(B) related to the delivery of the vessel to the City; and

(C) related to asbestos; and

(3) comply with any other conditions the Secretary considers appropriate.

(d) UNITED STATES NOT LIABLE.—Notwithstanding any other provision of law, the Government of the United States shall not be liable to any person for any liability described in subsection (c)(2).

(e) TERMINATION OF AUTHORITY.—The authority of the Secretary of Transportation under this section to convey a vessel to the City of Warsaw, Kentucky, shall expire 2 years after the date of enactment of this Act.

SEC. 12. AUTHORITY TO CONVEY VESSEL TO ASSISTANCE INTERNATIONAL, INC.

(a) CONVEYANCE.—Notwithstanding any other law, the Secretary of Transportation may convey, without compensation and by not later than September 30, 1996, all right, title, and interest of the United States Government in and to the vessels L.S.T. TIOGA COUNTY, R.V. LYNCH, and L.S.T. LORRAINE COUNTY, including related spare parts and vessel equipment, to the nonprofit corporation Assistance International, Inc. (hereinafter in this section referred to as the "recipient"), for use in emergencies, vocational training, and economic development programs.

(b) CONDITIONS.—As a condition of any vessel conveyance under this section the Secretary of Transportation shall require the recipient to—

(1) agree to use the vessel solely for nonprofit activities;

(2) agree to not use the vessel for commercial transportation purposes in competition with any United States-flag vessel;

(3) agree to make the vessel available to the Government whenever use of the vessel is required by the Government;

(4) agree that, whenever the recipient no longer requires the use of the vessel for its nonprofit activities, the recipient shall—

(A) at the discretion of the Secretary of Transportation, reconvey the vessel to the Government in as good a condition as when it was received from the Government, except for ordinary wear and tear; and

(B) deliver the vessel to the Government at the place where the vessel was delivered to the recipient;

(5) agree to hold the Government harmless for any claim arising after conveyance of the vessel, except for claims against the Government arising during the use of the vessel by the Government under paragraph (3) or (4);

(6) have available at least $100,000 from non-Federal sources to support the intended uses of the vessel; and

(7) agree to any other conditions the Secretary of Transportation considers appropriate.

(c) DELIVERY.—The Secretary of Transportation shall deliver each vessel conveyed under this section to the recipient—

(1) at the place where the vessel is located on the date of enactment of this Act;

(2) in its condition on July 25, 1991, except for ordinary wear and tear occurring after that date; and

(3) without cost to the Government.

(d) TERMINATION OF AUTHORITY.—The Authority of the Secretary of Transportation under this section to convey vessels to Assistance International, Inc., shall expire 2 years after the date of enactment of this Act.

SEC. 13. AUTHORITY TO CONVEY VESSEL TO THE RIO GRANDE MILITARY MUSEUM.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS SPHINX (ARL–24), to the Rio Grande Military Museum (a not-for-profit corporation, hereinafter in this section referred to as the "recipient") for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary of Transportation requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will at the discretion of the Secretary of Transportation, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Directors of the recipient has decided to dissolve the recipient according to the laws of the State of Texas, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to

the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary of Transportation shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary of Transportation may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS SPHINX (ARL–24) to museum quality.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary of Transportation under this section to convey a vessel to the Rio Grande Military Museum shall expire 2 years after the date of enactment of this Act.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 3059:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 4, 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-452
103d Congress

An Act

To amend title 38, United States Code, to extend certain expiring veterans' health care programs, and for other purposes.

Nov. 2, 1994
[H.R. 3313]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans Health Programs Extension Act of 1994.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Extension Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

Sec. 101. Sexual trauma counseling and services.
Sec. 102. Research relating to women veterans.
Sec. 103. Extension of expiring authorities.
Sec. 104. Facilities in Republic of the Philippines.
Sec. 105. Savings provision.

TITLE II—CONSTRUCTION AUTHORIZATION

Sec. 201. Authorization of major medical facility projects and major medical facility leases.
Sec. 202. Authorization of appropriations.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEC. 101. SEXUAL TRAUMA COUNSELING AND SERVICES.

(a) AUTHORITY TO PROVIDE TREATMENT SERVICES FOR SEXUAL TRAUMA; REPEAL OF LIMITATION ON TIME TO SEEK SERVICES.—Subsection (a) of section 1720D is amended— 38 USC 1720D.

(1) by striking out paragraph (2); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) During the period referred to in paragraph (1), the Secretary may provide appropriate care and services to a veteran

for an injury, illness, or other psychological condition that the Secretary determines to be the result of a physical assault, battery, or harassment referred to in that paragraph.".

(b) EXTENSION OF PERIOD OF AUTHORITY TO PROVIDE SEXUAL TRAUMA SERVICES.—Such subsection is further amended—

(1) in paragraph (1), by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1998,"; and

(2) in paragraph (3), by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1998,".

(c) REPEAL OF LIMITATION ON PERIOD OF RECEIPT OF SERVICES.—Such section is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(d) COORDINATION OF CARE.—Paragraph (1) of subsection (b) of such section, as redesignated by subsection (c)(2), is amended to read as follows:

"(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.".

38 USC 1712.

(e) INCREASED PRIORITY OF CARE.—Section 1712(i) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "To a veteran"; and

(B) by inserting ", or (B) who is eligible for counseling and care and services under section 1720D of this title, for the purposes of such counseling and care and services" before the period at the end; and

(2) in paragraph (2)—

(A) by striking out ", (B)" and inserting in lieu thereof "or (B)"; and

(B) by striking out ", or (C)" and all that follows through "such counseling".

(f) PROGRAM REVISION.—(1) Section 1720D is further amended—

(A) by striking out "woman" in subsection (a)(1);

(B) by striking out "women" in subsection (b)(2)(C) and in the first sentence of subsection (c), as redesignated by subsection (c); and

(C) by striking out "women" in subsection (c)(2), as so redesignated, and inserting in lieu thereof "individuals".

(2)(A) The heading of such section is amended to read as follows:

"§ 1720D. Counseling and treatment for sexual trauma".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows: "1720D. Counseling and treatment for sexual trauma.".

(g) INFORMATION BY TELEPHONE.—(1) Paragraph (1) of section 1720D(c), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number); and".

(2) In providing information on counseling available to veterans as required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)), the Secretary of Veterans Affairs shall ensure that the Department of Veterans Affairs personnel who provide assistance under such section are trained in the provision to persons who have experienced sexual trauma of information about the care and services relating to sexual trauma that are available to veterans in the communities in which such veterans reside, including care and services available under programs of the Department (including the care and services available under section 1720D of such title) and from non-Department agencies or organizations. 38 USC 1720D note.

(3) The telephone assistance service shall be operated in a manner that protects the confidentiality of persons who place calls to the system. Privacy. 38 USC 1720D note.

(4) The Secretary shall ensure that information about the availability of the telephone assistance service is visibly posted in Department medical facilities and is advertised through public service announcements, pamphlets, and other means. 38 USC 1720D note.

(5) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the operation of the telephone assistance service required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)). The report shall set forth the following: Reports. 38 USC 1720D note.

(A) The number of persons who sought information during the period covered by the report through a toll-free telephone number regarding services available to veterans relating to sexual trauma, with a separate display of the number of such persons arrayed by State (as such term is defined in section 101(20) of title 38, United States Code).

(B) A description of the training provided to the personnel who provide such assistance.

(C) The recommendations and plans of the Secretary for the improvement of the service.

(h) CONFORMING REPEAL.—Section 102(b) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4946; 38 U.S.C. 1720D note) is repealed.

SEC. 102. RESEARCH RELATING TO WOMEN VETERANS.

(a) INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH PROJECTS.—Section 7303 is amended— 38 USC 7303.

(1) by transferring the text of subsection (c) to the end of subsection (a)(1); and

(2) by striking out "(c)" and inserting in lieu thereof the following:

"(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate—

"(A) women who are veterans are included as subjects in each project of such research; and

"(B) members of minority groups who are veterans are included as subjects of such research.

"(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research

affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.".

(b) HEALTH RESEARCH.—(1) Such section is further amended by adding after subsection (c), as added by subsection (a), the following new subsection:

"(d)(1) The Secretary, in carrying out the Secretary's responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

"(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

"(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

"(B) The members of the Advisory Committee on Women Veterans.

"(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).".

(2) Section 109 of the Veterans Health Care Act of 1992 (Public Law 102–585; 38 U.S.C. 7303 note) is repealed.

38 USC 1710 note.

(c) POPULATION STUDY.—Section 110(a) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4948) is amended by adding at the end of paragraph (3) the following: "If it is feasible to do so within the amounts available for the conduct of the study, the Secretary shall ensure that the sample referred to in paragraph (1) constitutes a representative sampling (as determined by the Secretary) of the ages, the ethnic, social and economic backgrounds, the enlisted and officer grades, and the branches of service of all veterans who are women.".

SEC. 103. EXTENSION OF EXPIRING AUTHORITIES.

(a) AUTHORITY TO PROVIDE PRIORITY HEALTH CARE FOR VETERANS EXPOSED TO TOXIC SUBSTANCES.—Chapter 17 is amended—

38 USC 1710.

(1) in section 1710(e)(3)—

(A) by striking out "June 30, 1994" and inserting in lieu thereof "June 30, 1995"; and

(B) by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995"; and

38 USC 1712.

(2) in section 1712(a)(1)(D), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

38 USC 1720A.

(b) DRUG AND ALCOHOL ABUSE AND DEPENDENCE.—Section 1720A(e) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

Effective date.
38 USC 1720C.

(c) PILOT PROGRAM FOR NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.—(1) Effective as of October 1, 1994, subsection (a) of section 1720C is amended by striking out "During the four-year period beginning on October 1, 1990," and inserting in lieu thereof "During the period through September 30, 1995,".

(2) Such subsection is further amended by striking out "care and who—" and inserting in lieu thereof "care. The Secretary shall give priority for participation in such program to veterans who—".

38 USC 8169.

(d) ENHANCED-USE LEASES OF REAL PROPERTY.—Section 8169 is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(e) AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(f) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY.—Section 7(a) of Public Law 102–54 (105 Stat. 269; 38 U.S.C. 1718 note) is amended by striking out "1994" and inserting in lieu thereof "1995".

(g) REPORT DEADLINES.—Section 201(b) of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101–366; 38 U.S.C. 1720C note) is amended by striking out "February 1, 1994," and inserting in lieu thereof "February 1, 1995,".

SEC. 104. FACILITIES IN REPUBLIC OF THE PHILIPPINES.

Notwithstanding section 1724 of title 38, United States Code, the Secretary of Veterans Affairs may contract with facilities in the Republic of the Philippines other than the Veterans Memorial Medical Center to furnish, during the period from February 28, 1994, through June 1, 1994, hospital care and medical services to veterans for nonservice-connected disabilities if such veterans are unable to defray the expenses of necessary hospital care. When the Secretary determines it to be most feasible, the Secretary may provide medical services under the preceding sentence to such veterans at the Department of Veterans Affairs Outpatient Clinic at Manila, Republic of the Philippines.

SEC. 105. RATIFICATION OF ACTIONS DURING PERIOD OF LAPSED AUTHORITY.

38 USC 1710 note.

Any action of the Secretary of Veterans Affairs under section 1710(e) of title 38, United States Code, during the period beginning on July 1, 1994, and ending on the date of the enactment of this Act is hereby ratified.

TITLE II—CONSTRUCTION AUTHORIZATION

SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES.

(a) PROJECTS AUTHORIZED.—The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for fiscal year 1995. The authorization in the preceding sentence applies to projects and leases which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects and leases which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(b) ADDITIONAL PROJECTS.—(1) In addition to the projects authorized in subsection (a), the Secretary may carry out the following major medical facility projects in the amounts specified for such projects:

(A) The projects that are proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget of the President for fiscal year 1995

to be financed with funds from the proposed Health Care Investment Fund.

(B) Construction of a nursing home facility at the Department of Veterans Affairs Medical Center in Charleston, South Carolina, in the amount of $7,300,000.

(C) Construction of an outpatient care addition at the Department of Veterans Affairs medical center in Phoenix, Arizona, in the amount of $50,000,000.

(D) A lease/purchase of a nursing home facility near Fort Myers, Florida, in the amount of $12,800,000.

(2) The authorizations in paragraph (1) apply to projects which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(c) PROJECTS FOR WHICH FUNDS APPROPRIATED.—In addition to the projects authorized in subsections (a) and (b), the Secretary may carry out the following major medical facility projects for which funds were appropriated in chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103–211; 108 Stat. 10) in the amounts specified:

(1) Construction of an ambulatory care/support services facility at the Department of Veterans Affairs Medical Center in Sepulveda, California, $53,700,000.

(2) Other major medical facility projects required to repair, restore, or replace earthquake-damaged facilities at the Department of Veterans Affairs Medical Center in Sepulveda, California, $50,000,000.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995—

(1) $379,370,000 for the major medical facility projects authorized in subsections (a), (b), and (c) of section 201; and

(2) $15,800,000 for the major medical facility leases authorized in section 201(a).

(b) LIMITATION.—The projects authorized in subsections (a) and (b) of section 201 may only be carried out using—

(1) funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1995 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1995 for a category of activity not specific to a project.

(c) LIMITATION ON CERTAIN PROJECTS.—The projects authorized in subsection (c) of section 201 may only be carried out using—

(1) funds appropriated to the Construction, Major Projects account under chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103–211; 108 Stat. 10) and funds transferred by the President to the Construction, Major Projects account pursuant to chapter 8 of that Act (108 Stat. 14);

(2) funds appropriated to the Medical Care account by chapter 7 of the Emergency Supplemental Appropriations Act

of 1994 that are transferred to the Construction, Major Projects account;

(3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and

(4) funds appropriated to the Construction, Major Projects account for fiscal year 1995 for a category of activity not specific to a project.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 3313 (S. 1030) (S. 1626):

HOUSE REPORTS: No. 103-349 (Comm. on Veterans' Affairs).
SENATE REPORTS: Nos. 103-136 accompanying S. 1030 and 103-267 accompanying S. 1626 (both from Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 16, considered and passed House.
Vol. 140 (1994): May 25, S. 1030 considered and passed Senate.
June 8, H.R. 3313 considered and passed Senate, amended, in lieu of S. 1626.
July 26, Senate vitiated passage of S. 1030; reconsidered and passed Senate, amended.
Oct. 7, House concurred in Senate amendments to H.R. 3313 with amendments. Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Nov. 2, Presidential statement.

Public Law 103-453
103d Congress

An Act

Nov. 2, 1994
[H.R. 3984]

To designate the building located at 216 Coleman Avenue in Waveland, Mississippi, for the period of time during which it houses operations of the United States Postal Service, as the "John Longo, Jr. Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 216 Coleman Avenue in Waveland, Mississippi, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "John Longo, Jr. Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall, with respect to the period referred to in section 1, be deemed to be a reference to the John Longo, Jr. Post Office.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 3984:

CONGRESSIONAL RECORD, Vol. 140 (1994):
May 23, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-454
103d Congress

An Act

To provide for the annual publication of a list of federally recognized Indian tribes, and for other purposes.

Nov. 2, 1994
[H.R. 4180]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WITHDRAWAL OF ACKNOWLEDGEMENT OR RECOGNITION

Federally Recognized Indian Tribe List Act of 1994.

SEC. 101. SHORT TITLE.

25 USC 479a note.

This title may be cited as the "Federally Recognized Indian Tribe List Act of 1994".

SEC. 102. DEFINITIONS.

25 USC 479a.

For the purposes of this title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

(3) The term "list" means the list of recognized tribes published by the Secretary pursuant to section 104 of this title.

SEC. 103. FINDINGS.

25 USC 479a note.

The Congress finds that—

(1) the Constitution, as interpreted by Federal case law, invests Congress with plenary authority over Indian Affairs;

(2) ancillary to that authority, the United States has a trust responsibility to recognized Indian tribes, maintains a government-to-government relationship with those tribes, and recognizes the sovereignty of those tribes;

(3) Indian tribes presently may be recognized by Act of Congress; by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated "Procedures for Establishing that an American Indian Group Exists as an Indian Tribe;" or by a decision of a United States court;

(4) a tribe which has been recognized in one of these manners may not be terminated except by an Act of Congress;

(5) Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated;

(6) the Secretary of the Interior is charged with the responsibility of keeping a list of all federally recognized tribes;

(7) the list published by the Secretary should be accurate, regularly updated, and regularly published, since it is used by the various departments and agencies of the United States to determine the eligibility of certain groups to receive services from the United States; and

(8) the list of federally recognized tribes which the Secretary publishes should reflect all of the federally recognized Indian tribes in the United States which are eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

25 USC 479a-1.

SEC. 104. PUBLICATION OF LIST OF RECOGNIZED TRIBES.

Federal Register, publication.

(a) PUBLICATION OF THE LIST.—The Secretary shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) FREQUENCY OF PUBLICATION.—The list shall be published within 60 days of enactment of this Act, and annually on or before every January 30 thereafter.

Tlingit and Haida Status Clarification Act.

TITLE II—CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

25 USC 1212 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Tlingit and Haida Status Clarification Act".

25 USC 1212.

SEC. 202. FINDINGS.

The Congress finds and declares that—

(1) the United States has acknowledged the Central Council of Tlingit and Haida Indian Tribes of Alaska pursuant to the Act of June 19, 1935 (49 Stat. 388, as amended, commonly referred to as the "Jurisdiction Act"), as a federally recognized Indian tribe;

(2) on October 21, 1993, the Secretary of the Interior published a list of federally recognized Indian tribes pursuant to part 83 of title 25 of the Code of Federal Regulations which omitted the Central Council of Tlingit and Haida Indian Tribes of Alaska;

(3) the Secretary does not have the authority to terminate the federally recognized status of an Indian tribe as determined by Congress;

(4) the Secretary may not administratively diminish the privileges and immunities of federally recognized Indian tribes without the consent of Congress; and

(5) the Central Council of Tlingit and Haida Indian Tribes of Alaska continues to be a federally recognized Indian tribe.

25 USC 1213.

SEC. 203. REAFFIRMATION OF TRIBAL STATUS.

The Congress reaffirms and acknowledges that the Central Council of Tlingit and Haida Indian Tribes of Alaska is a federally recognized Indian tribe.

SEC. 204. DISCLAIMER. 25 USC 1214.

(a) IN GENERAL.—Nothing in this title shall be interpreted to diminish or interfere with the government-to-government relationship between the United States and other federally recognized Alaska Native tribes, nor to vest any power, authority, or jurisdiction in the Central Council of Tlingit and Haida Indian Tribes of Alaska over other federally recognized Alaska Native tribes.

(b) CONSTITUTION OF CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA.—Nothing in this title shall be construed as codifying the Constitution of the Central Council of the Tlingit and Haida Indian Tribes of Alaska into Federal law.

SEC. 205. PROHIBITION AGAINST DUPLICATIVE SERVICES. 25 USC 1215.

Other federally recognized tribes in Southeast Alaska shall have precedence over the Central Council of Tlingit and Haida Indian Tribes of Alaska in the award of a Federal compact, contract or grant to the extent that their service population overlaps with that of the Central Council of Tlingit and Haida Indian tribes of Alaska. In no event shall dually enrolled members result in duplication of Federal service funding.

TITLE III—PASKENTA BAND OF NOMLAKI INDIANS OF CALIFORNIA

Paskenta Band Restoration Act.

SEC. 301. SHORT TITLE. 25 USC 1300m note.

This title may be cited as the "Paskenta Band Restoration Act".

SEC. 302. DEFINITIONS. 25 USC 1300m.

For purposes of this title:

(1) The term "Tribe" means the Paskenta Band of Nomlaki Indians of the Paskenta Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 307.

(4) The term "member" means an individual who meets the membership criteria under section 306(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 305.

(7) The term "service area" means the counties of Tehama and Glenn, in the State of California.

SEC. 303. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES. 25 USC 1300m-1.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this title, all laws and regulations of general application to Indians and nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement,

or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85–671; 72 Stat. 619), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

25 USC 1300m-2.

SEC. 304. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 308, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 305.

25 USC 1300m-3.

SEC. 305. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Tehama County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe and shall be part of the Tribe's reservation.

25 USC 1300m-4.

SEC. 306. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within one year after the date of the enactment of this Act, the Secretary

shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR MEMBERSHIP.—(1) Until a tribal constitution is adopted pursuant to section 308, an individual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of Nomlaki Indian ancestry, and if—

(A) such individual's name was listed on the Paskenta Indian Rancheria distribution roll compiled on February 26, 1959, by the Bureau of Indian Affairs and approved by the Secretary of the Interior on July 7, 1959, pursuant to Public Law 85–671;

(B) such individual was not listed on the Paskenta Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Paskenta Indian Rancheria list;

(C) such individual is identified as an Indian from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs; or

(D) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).

(2) After adoption of a tribal constitution pursuant to section 308, such tribal constitution shall govern membership in the Tribe.

(c) CONCLUSIVE PROOF OF PASKENTA INDIAN ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing Paskenta Indian ancestry. The Secretary shall accept as conclusive evidence of Paskenta Indian ancestry, information contained in the census of the Indians in and near Paskenta, prepared by Special Indian Agent John J. Terrell, in any other roll or census of Paskenta Indians prepared by the Bureau of Indian Affairs, and in the Paskenta Indian Rancheria distribution list, compiled by the Bureau of Indian Affairs on February 26, 1959. John J. Terrell.

SEC. 307. INTERIM GOVERNMENT. 25 USC 1300m–5.

Until a new tribal constitution and bylaws are adopted and become effective under section 308, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal constitution adopted December 18, 1993. Any new members filling vacancies on the Interim Council shall meet the membership criteria set forth in section 306(b) and be elected in the same manner as are Tribal Council members under the tribal constitution adopted December 18, 1993.

SEC. 308. TRIBAL CONSTITUTION. 25 USC 1300m–6.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 306(a) and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), except that absentee balloting shall be permitted regardless of voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by

secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

25 USC 1300m-7.

SEC. 309. GENERAL PROVISION.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this title.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4180:

HOUSE REPORTS: No. 103-781 (Comm. on Natural Resources).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate, amended.
Oct. 8, Senate vitiated passage; reconsidered and passed Senate.

Public Law 103-455
103d Congress

An Act

To designate the building located at 100 Vester Gade, in Cruz Bay, Saint Thomas, Virgin Islands, for the period of time during which it houses operations of the United States Postal Service, as the "Ubaldina Simmons Post Office".

Nov. 2, 1994
[H.R. 4193]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 100 Vester Gade, in Cruz Bay, Saint Thomas, Virgin Islands, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "Ubaldina Simmons Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall, with respect to the period referred to in section 1, be deemed to be a reference to the Ubaldina Simmons Post Office.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4193:

CONGRESSIONAL RECORD, Vol 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-456
103d Congress

An Act

Nov. 2, 1994
[H.R. 4452]

To designate the United States Post Office building located at 115 North Chester in Ruleville, Mississippi, as the "Fannie Lou Hamer Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 115 North Chester in Ruleville, Mississippi, shall be known and designated as the "Fannie Lou Hamer Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Fannie Lou Hamer Post Office.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4452:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-457
103d Congress

An Act

To award a congressional gold medal to Rabbi Menachem Mendel Schneerson.

Nov. 2, 1994
[H.R. 4497]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

31 USC 5111 note.

The Congress hereby finds the following:

(1) Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement for 40 years, has made outstanding and lasting contributions toward improvements in world education, morality, and acts of charity.

(2) Rabbi Menachem Mendel Schneerson, as a refugee first from Stalinist Russia and then from Nazi Germany, has made the headquarters of the Chabad-Lubavitch movement in New York City a center of over 2,000 educational, social, and rehabilitative institutions touching millions of people from all walks of life in every corner of the globe.

(3) Rabbi Menachem Mendel Schneerson, throughout his 92 years of life, has exemplified the highest ideals of scholarship, teaching, ethics, and charity.

(4) Rabbi Menachem Mendel Schneerson has interpreted with keen insight the miraculous events of our time and has inspired people to a renewal of individual values of spirituality, cooperation, and love of learning.

(5) Rabbi Menachem Mendel Schneerson's extraordinary life and work have long been recognized by the Congress through the enactment of joint resolutions designating his birthday in each of the last 16 years as "Education and Sharing Day, U.S.A.".

SEC. 2. CONGRESSIONAL GOLD MEDAL.

31 USC 5111 note.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to the Lubavitcher rebbe, Rabbi Menachem Mendel Schneerson, a gold medal of appropriate design, in recognition of his outstanding and enduring contributions toward world education, morality, and acts of charity.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions reflecting the theme of education to be determined by the Secretary.

(c) GIFTS OR DONATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall accept, use, and disburse gifts or donations of property or money to carry out this section.

(2) NO APPROPRIATION AUTHORIZED.—No amount is authorized to be appropriated to carry out this section.

31 USC 5111 note.

SEC. 3. DUPLICATE MEDALS.

The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

31 USC 5111 note.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4497:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 103-458
103d Congress

An Act

To designate the United States Post Office building located at 301 West Lexington Street in Independence, Missouri, as the "William J. Randall Post Office".

Nov. 2, 1994
[H.R. 4551]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 301 West Lexington Street in Independence, Missouri, shall be known and designated as the "William J. Randall Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the William J. Randall Post Office.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4551:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate

Public Law 103-459
103d Congress

An Act

Nov. 2, 1994
[H.R. 4571]

To designate the United States Post Office building located at 103–104 Estate Richmond in Saint Croix, Virgin Islands, as the "Wilbert Armstrong Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 103–104 Estate Richmond in Saint Croix, Virgin Islands, shall be known and designated as the "Wilbert Armstrong Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the Wilbert Armstrong Post Office.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4571:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 19, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-460
103d Congress

An Act

To designate the building located at 4021 Laclede in St. Louis, Missouri, for the period of time during which it houses operations of the United States Postal Service, as the "Marian Oldham Post Office".

Nov. 2, 1994
[H.R. 4595]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 4021 Laclede in St. Louis, Missouri, shall, for the period of time during which it houses operations of the United States Postal Service, be known and designated as the "Marian Oldham Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall, with respect to the period referred to in section 1, be deemed to be a reference to the Marian Oldham Post Office.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4595:

CONGRESSIONAL RECORD, Vol. 140 (1994):
June 27, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-461
103d Congress

An Act

Nov. 2, 1994
[H.R. 4598]

To direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and to authorize appropriations to carry out the Coastal Barrier Resources Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 3503 note.

SECTION 1. CORRECTIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that—

(1) depictions of areas on the maps are consistent with the depictions of areas appearing on the maps entitled "Coastal Barrier Resources System", dated September 27, 1994, and on file with the Secretary of the Interior; and

(2) the Coastal Barrier Resources System does not include any area that, on the day before the date of the enactment of this Act, was part of unit FL–05P of the System.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) related to the following units of the Coastal Barrier Resources System: AL–01P, FL–05P, P11A, P17, P17A, P18P, P19P, FL–15, FL–95P, FL–36P, P31P, FL–72P, MI21, NY75, and VA62P.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for carrying out this Act $2,000,000 for each of fiscal years 1995 to 1998.".

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.R. 4598:

SENATE REPORTS: No. 103-398 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 140 (1994):
July 12, considered and passed House.
Oct. 6, considered and passed Senate, amended.
Oct. 7, House concurred in Senate amendment.

Public Law 103-462
103d Congress

Joint Resolution

Designating the month of November in each of calendar years 1993 and 1994 as "National American Indian Heritage Month".

Nov. 2, 1994
[H.J. Res 271]

Whereas American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indian Governments developed the fundamental principles of freedom of speech and separation of powers in government, and these principles form the foundation of the United States Government today;

Whereas American Indian societies have exhibited a respect for the finiteness of natural resources through deep respect for the earth, and these values continue to be widely held today;

Whereas American Indian people have served with valor in all wars from the Revolutionary War to the conflict in the Persian Gulf, often in a percentage well above their percentage in the population of the Nation as a whole;

Whereas American Indians have made distinct and important contributions to America and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians deserve to be recognized for their individual contributions to American society as artists, sculptors, musicians, authors, poets, artisans, scientists, and scholars;

Whereas designating the month of November in each of calendar years 1993 and 1994 to recognize the heritage and the contributions to American society of American Indians will encourage self-esteem, pride, and self-awareness in American Indians of all ages; and

Whereas November is traditionally the month when American Indians have harvested their crops and is generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the month of November in each of calendar years 1993 and 1994 is designated as "National American Indian Heritage Month"; and

(2) the President is authorized and requested to issue a proclamation in each of those years calling on the people of the United States to observe such month with appropriate ceremonies and activities.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.J. Res. 271:

CONGRESSIONAL RECORD:
Vol. 139 (1993): Nov. 2, considered and passed House.
Vol. 140 (1994): Oct. 6, considered and passed Senate.

Public Law 103-463
103d Congress

Joint Resolution

Designating January 16, 1995, as "National Good Teen Day".

Nov. 2, 1994
[H.J. Res. 326]

Whereas Salem City Schools in Salem, Ohio, have proclaimed January 16, 1992, as "Good Teen Day";
Whereas both the United States Congress and the President of the United States have proclaimed January 16, 1993, and January 16, 1994, as "National Good Teen Day";
Whereas there are more than twenty-four million teenagers in the United States according to the 1990 census;
Whereas our Nation's teenagers represent an important part of our society, and the many physical and emotional changes and character-building experiences which teenagers go through are an important concern;
Whereas it is easy to stereotype teenagers as either those who have problems or those who excel;
Whereas teenagers should not simply be recognized for their intelligence, abilities, skills and talents, but rather for the good which is inherent in all human beings;
Whereas as unique individuals, teenagers are encouraged to esteem the good as well as the potential that is within each of them;
Whereas a day should be created to focus on the positive qualities in America's youth; and
Whereas teenagers are the future of this great country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1995, is designated "National Good Teen Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day by recognizing the teenagers of the United States and by participating in appropriate ceremonies and activities.

Approved November 2, 1994.

LEGISLATIVE HISTORY—H.J. Res. 326:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Sept. 30, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-464
103d Congress

Joint Resolution

Nov. 9, 1994
[H.J. Res. 390]

Designating September 17, 1994, as "Constitution Day".

Whereas the Constitution of the United States is the cornerstone of the Nation's system of government under law;

Whereas the Constitution of the United States signifies the importance of the rule of law and affirms the Nation's dedication to the principles of freedom and justice;

Whereas the Constitution of the United States is recognized by many to be the most significant and important document in history for establishing freedom and justice through democracy;

Whereas the Constitution of the United States provides the framework of the Nation's law, spirit, and beliefs;

Whereas the Constitution of the United States deserves the recognition, respect, and reverence of all Americans;

Whereas every American should celebrate the freedom and responsibilities of the Constitution of the United States; and

Whereas the Constitution of the United States was signed on September 17, 1787: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 17, 1994, is designated as "Constitution Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved November 9, 1994.

LEGISLATIVE HISTORY—H.J. Res. 390:

CONGRESSIONAL RECORD, Vol. 140 (1994):
Aug. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 103-465
103d Congress

An Act

To approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations.

Dec. 8, 1994
[H.R. 5110]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uruguay Round Agreements Act.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Uruguay Round Agreements Act".

19 USC 3501 note.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

Sec. 101. Approval and entry into force of the Uruguay Round Agreements.
Sec. 102. Relationship of the agreements to United States law and State law.
Sec. 103. Implementing actions in anticipation of entry into force; regulations.

Subtitle B—Tariff Modifications

Sec. 111. Tariff modifications.
Sec. 112. Implementation of Schedule XX provisions on ship repairs.
Sec. 113. Liquidation or reliquidation and refund of duty paid on certain entries.
Sec. 114. Modifications to the HTS.
Sec. 115. Consultation and layover requirements for, and effective date of, proclaimed actions.
Sec. 116. Effective date.

Subtitle C—Uruguay Round Implementation and Dispute Settlement

Sec. 121. Definitions.
Sec. 122. Implementation of Uruguay Round Agreements.
Sec. 123. Dispute settlement panels and procedures.
Sec. 124. Annual report on the WTO.
Sec. 125. Review of participation in the WTO.
Sec. 126. Increased transparency.
Sec. 127. Access to the WTO dispute settlement process.
Sec. 128. Advisory committee participation.
Sec. 129. Administrative action following WTO panel reports.
Sec. 130. Effective date.

Subtitle D—Related Provisions

Sec. 131. Working party on worker rights.
Sec. 132. Implementation of rules of origin work program.
Sec. 133. Membership in WTO of boycotting countries.
Sec. 134. Africa trade and development policy.
Sec. 135. Objectives for extended negotiations.
Sec. 136. Repeal of tax on imported perfumes; drawback of tax on distilled spirits used in perfume manufacture.
Sec. 137. Certain nonrubber footwear.
Sec. 138. Effective date.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

Sec. 201. Reference.

Subtitle A—General Provisions

Sec. 211. Action with respect to petitions.
Sec. 212. Petition and preliminary determination.
Sec. 213. De minimis dumping margin.
Sec. 214. Critical circumstances.
Sec. 215. Provisional measures.
Sec. 216. Conditions on acceptance of suspension agreements.
Sec. 217. Termination of investigation.
Sec. 218. Special rules for regional industries.
Sec. 219. Determination of weighted average dumping margin.
Sec. 220. Review of determinations.
Sec. 221. Review determinations.
Sec. 222. Definitions.
Sec. 223. Export price and constructed export price.
Sec. 224. Normal value.
Sec. 225. Currency conversion.
Sec. 226. Proprietary and nonproprietary information.
Sec. 227. Opportunity for comment by consumers and industrial users.
Sec. 228. Public notice and explanation of determinations.
Sec. 229. Sampling and averaging; determination of weighted average dumping margin.
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Sec. 761. Minimum funding requirements.
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Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.
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TITLE VIII—PIONEER PREFERENCES

Sec. 801. Pioneer preferences.

SEC. 2. DEFINITIONS. 19 USC 3501.

For purposes of this Act:

(1) GATT 1947; GATT 1994.—

(A) GATT 1947.—The term "GATT 1947" means the General Agreement on Tariffs and Trade, dated October 30, 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended, or modified by the terms of legal instruments which have entered into force before the date of entry into force of the WTO Agreement.

(B) GATT 1994.—The term "GATT 1994" means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

(2) HTS.—The term "HTS" means the Harmonized Tariff Schedule of the United States.

(3) INTERNATIONAL TRADE COMMISSION.—The term "International Trade Commission" means the United States International Trade Commission.

(4) MULTILATERAL TRADE AGREEMENT.—The term "multilateral trade agreement" means an agreement described in section 101(d) of this Act (other than an agreement described in paragraph (17) or (18) of such section).

(5) SCHEDULE XX.—The term "Schedule XX" means Schedule XX—United States of America annexed to the Marrakesh Protocol to the GATT 1994.

(6) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(7) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" means the agreements approved by the Congress under section 101(a)(1).

(8) WORLD TRADE ORGANIZATION AND WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(9) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(10) WTO MEMBER AND WTO MEMBER COUNTRY.—The terms "WTO member" and "WTO member country" mean a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO Agreement.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE URUGUAY ROUND AGREEMENTS

Subtitle A—Approval of Agreements and Related Provisions

19 USC 3511.

SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE URUGUAY ROUND AGREEMENTS.

(a) APPROVAL OF AGREEMENTS AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 1103 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2903) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), the Congress approves—

(1) the trade agreements described in subsection (d) resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade, entered into on April 15, 1994, and submitted to the Congress on September 27, 1994; and

(2) the statement of administrative action proposed to implement the agreements that was submitted to the Congress on September 27, 1994.

(b) ENTRY INTO FORCE.—At such time as the President determines that a sufficient number of foreign countries are accepting the obligations of the Uruguay Round Agreements, in accordance with article XIV of the WTO Agreement, to ensure the effective operation of, and adequate benefits for the United States under, those Agreements, the President may accept the Uruguay Round Agreements and implement article VIII of the WTO Agreement.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated annually such sums as may be necessary for the payment by the United States of its share of the expenses of the WTO.

(d) TRADE AGREEMENTS TO WHICH THIS ACT APPLIES.—Subsection (a) applies to the WTO Agreement and to the following agreements annexed to that Agreement:

(1) The General Agreement on Tariffs and Trade 1994.

(2) The Agreement on Agriculture.

(3) The Agreement on the Application of Sanitary and Phytosanitary Measures.
(4) The Agreement on Textiles and Clothing.
(5) The Agreement on Technical Barriers to Trade.
(6) The Agreement on Trade-Related Investment Measures.
(7) The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.
(8) The Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
(9) The Agreement on Preshipment Inspection.
(10) The Agreement on Rules of Origin.
(11) The Agreement on Import Licensing Procedures.
(12) The Agreement on Subsidies and Countervailing Measures.
(13) The Agreement on Safeguards.
(14) The General Agreement on Trade in Services.
(15) The Agreement on Trade-Related Aspects of Intellectual Property Rights.
(16) The Understanding on Rules and Procedures Governing the Settlement of Disputes.
(17) The Agreement on Government Procurement.
(18) The International Bovine Meat Agreement.

SEC. 102. RELATIONSHIP OF THE AGREEMENTS TO UNITED STATES LAW AND STATE LAW. 19 USC 3512.

(a) RELATIONSHIP OF AGREEMENTS TO UNITED STATES LAW.—
(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.
(2) CONSTRUCTION.—Nothing in this Act shall be construed—
(A) to amend or modify any law of the United States, including any law relating to—
(i) the protection of human, animal, or plant life or health,
(ii) the protection of the environment, or
(iii) worker safety, or
(B) to limit any authority conferred under any law of the United States, including section 301 of the Trade Act of 1974,
unless specifically provided for in this Act.
(b) RELATIONSHIP OF AGREEMENTS TO STATE LAW.—
(1) FEDERAL-STATE CONSULTATION.—
(A) IN GENERAL.—Upon the enactment of this Act, the President shall, through the intergovernmental policy advisory committees on trade established under section 306(c)(2)(A) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114c(2)(A)), consult with the States for the purpose of achieving conformity of State laws and practices with the Uruguay Round Agreements. President.
(B) FEDERAL-STATE CONSULTATION PROCESS.—The Trade Representative shall establish within the Office of the United States Trade Representative a Federal-State consultation process for addressing issues relating to the Uruguay Round Agreements that directly relate to, or will

potentially have a direct effect on, the States. The Federal-State consultation process shall include procedures under which—

(i) the States will be informed on a continuing basis of matters under the Uruguay Round Agreements that directly relate to, or will potentially have a direct impact on, the States;

(ii) the States will be provided an opportunity to submit, on a continuing basis, to the Trade Representative information and advice with respect to matters referred to in clause (i); and

(iii) the Trade Representative will take into account the information and advice received from the States under clause (ii) when formulating United States positions regarding matters referred to in clause (i).

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Federal-State consultation process established by this paragraph.

(C) FEDERAL-STATE COOPERATION IN WTO DISPUTE SETTLEMENT.—

(i) When a WTO member requests consultations with the United States under Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) (hereafter in this subsection referred to as the "Dispute Settlement Understanding") concerning whether the law of a State is inconsistent with the obligations undertaken by the United States in any of the Uruguay Round Agreements, the Trade Representative shall notify the Governor of the State or the Governor's designee, and the chief legal officer of the jurisdiction whose law is the subject of the consultations, as soon as possible after the request is received, but in no event later than 7 days thereafter.

(ii) Not later than 30 days after receiving such a request for consultations, the Trade Representative shall consult with representatives of the State concerned regarding the matter. If the consultations involve the laws of a large number of States, the Trade Representative may consult with an appropriate group of representatives of the States concerned, as determined by those States.

(iii) The Trade Representative shall make every effort to ensure that the State concerned is involved in the development of the position of the United States at each stage of the consultations and each subsequent stage of dispute settlement proceedings regarding the matter. In particular, the Trade Representative shall—

(I) notify the State concerned not later than 7 days after a WTO member requests the establishment of a dispute settlement panel or gives notice of the WTO member's decision to appeal a report by a dispute settlement panel regarding the matter; and

(II) provide the State concerned with the opportunity to advise and assist the Trade Rep-

resentative in the preparation of factual information and argumentation for any written or oral presentations by the United States in consultations or in proceedings of a panel or the Appellate Body regarding the matter.

(iv) If a dispute settlement panel or the Appellate Body finds that the law of a State is inconsistent with any of the Uruguay Round Agreements, the Trade Representative shall consult with the State concerned in an effort to develop a mutually agreeable response to the report of the panel or the Appellate Body and shall make every effort to ensure that the State concerned is involved in the development of the United States position regarding the response.

(D) NOTICE TO STATES REGARDING CONSULTATIONS ON FOREIGN SUBCENTRAL GOVERNMENT LAWS.—

(i) Subject to clause (ii), the Trade Representative shall, at least 30 days before making a request for consultations under Article 4 of the Dispute Settlement Understanding regarding a subcentral government measure of another WTO member, notify, and solicit the views of, appropriate representatives of each State regarding the matter.

(ii) In exigent circumstances clause (i) shall not apply, in which case the Trade Representative shall notify the appropriate representatives of each State not later than 3 days after making the request for consultations referred to in clause (i).

(2) LEGAL CHALLENGE.—

(A) IN GENERAL.—No State law, or the application of such a State law, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with any of the Uruguay Round Agreements, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(B) PROCEDURES GOVERNING ACTION.—In any action described in subparagraph (A) that is brought by the United States against a State or any subdivision thereof—

(i) a report of a dispute settlement panel or the Appellate Body convened under the Dispute Settlement Understanding regarding the State law, or the law of any political subdivision thereof, shall not be considered as binding or otherwise accorded deference;

(ii) the United States shall have the burden of proving that the law that is the subject of the action, or the application of that law, is inconsistent with the agreement in question;

(iii) any State whose interests may be impaired or impeded in the action shall have the unconditional right to intervene in the action as a party, and the United States shall be entitled to amend its complaint to include a claim or cross-claim concerning the law of a State that so intervenes; and

(iv) any State law that is declared invalid shall not be deemed to have been invalid in its application during any period before the court's judgment becomes

final and all timely appeals, including discretionary review, of such judgment are exhausted.

(C) REPORTS TO CONGRESSIONAL COMMITTEES.—At least 30 days before the United States brings an action described in subparagraph (A), the Trade Representative shall provide a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) describing the proposed action;

(ii) describing efforts by the Trade Representative to resolve the matter with the State concerned by other means; and

(iii) if the State law was the subject of consultations under the Dispute Settlement Understanding, certifying that the Trade Representative has substantially complied with the requirements of paragraph (1)(C) in connection with the matter.

Following the submission of the report, and before the action is brought, the Trade Representative shall consult with the committees referred to in the preceding sentence concerning the matter.

(3) DEFINITION OF STATE LAW.—For purposes of this subsection—

(A) the term "State law" includes—

(i) any law of a political subdivision of a State; and

(ii) any State law regulating or taxing the business of insurance; and

(B) the terms "dispute settlement panel" and "Appellate Body" have the meanings given those terms in section 121.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—

(1) LIMITATIONS.—No person other than the United States—

(A) shall have any cause of action or defense under any of the Uruguay Round Agreements or by virtue of congressional approval of such an agreement, or

(B) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with such agreement.

(2) INTENT OF CONGRESS.—It is the intention of the Congress through paragraph (1) to occupy the field with respect to any cause of action or defense under or in connection with any of the Uruguay Round Agreements, including by precluding any person other than the United States from bringing any action against any State or political subdivision thereof or raising any defense to the application of State law under or in connection with any of the Uruguay Round Agreements—

(A) on the basis of a judgment obtained by the United States in an action brought under any such agreement; or

(B) on any other basis.

(d) STATEMENT OF ADMINISTRATIVE ACTION.—The statement of administrative action approved by the Congress under section 101(a) shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application.

SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE; REGULATIONS. 19 USC 3513.

(a) IMPLEMENTING ACTIONS.—After the date of the enactment of this Act—

(1) the President may proclaim such actions, and

(2) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date any of the Uruguay Round Agreements enters into force with respect to the United States is appropriately implemented on such date. Such proclamation or regulation may not have an effective date earlier than the date of entry into force with respect to the United States of the agreement to which the proclamation or regulation relates.

(b) REGULATIONS.—Any interim regulation necessary or appropriate to carry out any action proposed in the statement of administrative action approved under section 101(a) to implement an agreement described in section 101(d) (7), (12), or (13) shall be issued not later than 1 year after the date on which the agreement enters into force with respect to the United States.

Subtitle B—Tariff Modifications

SEC. 111. TARIFF MODIFICATIONS. 19 USC 3521.

(a) IN GENERAL.—In addition to the authority provided by section 1102 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902), the President shall have the authority to proclaim— President.

(1) such other modification of any duty,

(2) such other staged rate reduction, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out Schedule XX.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover requirements of section 115, the President may proclaim—

(1) the modification of any duty or staged rate reduction of any duty set forth in Schedule XX if—

(A) the United States agrees to such modification or staged rate reduction in a multilateral negotiation under the auspices of the WTO, and

(B) such modification or staged rate reduction applies to the rate of duty on an article contained in a tariff category that was the subject of reciprocal duty elimination or harmonization negotiations during the Uruguay Round of multilateral trade negotiations, and

(2) such modifications as are necessary to correct technical errors in Schedule XX or to make other rectifications to the Schedule.

(c) AUTHORITY TO INCREASE DUTIES ON ARTICLES FROM CERTAIN COUNTRIES.—

(1) IN GENERAL.—

(A) DETERMINATION WITH RESPECT TO CERTAIN COUNTRIES.—Notwithstanding section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881), after the entry into force of the WTO Agreement with respect to the United States, if the President—

(i) determines that a foreign country (other than a foreign country that is a WTO member country) is not according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States, and

(ii) consults with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate,

the President may proclaim an increase in the rate of duty with respect to any article of such country in accordance with subparagraph (B).

(B) RATE OF DUTY DESCRIBED.—The President may proclaim a rate of duty on any article of a country identified under subparagraph (A) that is equal to the greater of—

(i) the rate of duty set forth for such article in the base rate of duty column of Schedule XX, or

(ii) the rate of duty set forth for such article in the bound rate of duty column of Schedule XX.

President. (2) TERMINATION OF INCREASED DUTIES.—The President shall terminate any increase in the rate of duty proclaimed under this subsection by a proclamation which shall be effective on the earlier of—

(A) the date set out in such proclamation of termination, or

(B) the date the WTO Agreement enters into force with respect to the foreign country with respect to which the determination under paragraph (1) was made.

Federal Register, publication. (3) PUBLICATION OF DETERMINATION AND TERMINATION.—The President shall publish in the Federal Register notice of a determination made under paragraph (1) and a termination occurring by reason of paragraph (2).

President. (d) ADJUSTMENTS TO CERTAIN COLUMN 2 RATES OF DUTY.—At such time as the President proclaims any modification to the HTS to implement the provisions of Schedule XX, the President shall also proclaim the rate of duty set forth in Column B as the column 2 rate of duty for the subheading of the HTS that corresponds to the subheading in Schedule XX listed in Column A.

Column A	Column B
Schedule XX subheading:	Rate of duty for column 2 of the HTS:
0201.10.50	31.1%
0201.20.80	31.1%
0201.30.80	31.1%

0202.10.50	31.1%
0202.20.80	31.1%
0202.30.80	31.1%
0401.30.25	90.8¢/liter
0401.30.75	$1.936/kg
0402.10.50	$1.018/kg
0402.21.25	$1.018/kg
0402.21.50	$1.285/kg
0402.21.90	$1.831/kg
0402.29.50	$1.299/kg + 17.5%
0402.91.60	36.8¢/kg
0402.99.50	58.4¢/kg
0402.99.90	54.5¢/kg + 17.5%
0403.10.50	$1.217/kg + 20%
0403.90.16	90.8¢/liter
0403.90.45	$1.03/kg
0403.90.55	$1.285/kg
0403.90.65	$1.831/kg
0403.90.78	$1.936/kg
0403.90.95	$1.217/kg + 20%
0404.10.11	20%
0404.10.15	$1.217/kg + 10%
0404.10.90	$1.03/kg
0404.90.30	25%
0404.90.50	$1.399/kg + 10%
0405.00.40	$1.813/kg
0405.00.90	$2.194/kg + 10%
0406.10.08	$1.775/kg
0406.10.18	$2.67/kg
0406.10.28	$1.443/kg
0406.10.38	$1.241/kg
0406.10.48	$2.121/kg
0406.10.58	$2.525/kg
0406.10.68	$1.631/kg
0406.10.78	$1.328/kg
0406.10.88	$1.775/kg
0406.20.28	$2.67/kg
0406.20.33	$1.443/kg
0406.20.39	$1.241/kg
0406.20.48	$2.121/kg
0406.20.53	$2.525/kg
0406.20.63	$2.67/kg
0406.20.67	$1.443/kg
0406.20.71	$1.241/kg
0406.20.75	$2.121/kg
0406.20.79	$2.525/kg
0406.20.83	$1.631/kg
0406.20.87	$1.328/kg
0406.20.91	$1.775/kg
0406.30.18	$2.67/kg
0406.30.28	$1.443/kg
0406.30.38	$1.241/kg
0406.30.48	$2.121/kg
0406.30.53	$1.631/kg
0406.30.63	$2.67/kg
0406.30.67	$1.443/kg
0406.30.71	$1.241/kg
0406.30.75	$2.121/kg

0406.30.79	$2.525/kg
0406.30.83	$1.631/kg
0406.30.87	$1.328/kg
0406.30.91	$1.775/kg
0406.40.70	$2.67/kg
0406.90.12	$1.443/kg
0406.90.18	$2.121/kg
0406.90.33	$2.525/kg
0406.90.38	$2.525/kg
0406.90.43	$2.525/kg
0406.90.48	$2.208/kg
0406.90.64	$1.241/kg
0406.90.68	$2.525/kg
0406.90.74	$2.67/kg
0406.90.78	$1.443/kg
0406.90.84	$1.241/kg
0406.90.88	$2.121/kg
0406.90.92	$1.631/kg
0406.90.94	$1.328/kg
0406.90.97	$1.775/kg
1202.10.80	192.7%
1202.20.80	155%
1517.90.60	40.2¢/kg
1701.11.50	39.85¢/kg
1701.12.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1701.12.50	42.05¢/kg
1701.91.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1701.91.30	42.05¢/kg
1701.91.48	39.9¢/kg + 6%
1701.91.58	39.9¢/kg + 6%
1701.99.10	6.58170¢/kg less 0.0622005¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 5.031562¢/kg
1701.99.50	42.05¢/kg
1702.20.28	19.9¢/kg of total sugars + 6%
1702.30.28	19.9¢/kg of total sugars + 6%
1702.40.28	39.9¢/kg of total sugars + 6%
1702.60.28	39.9¢/kg of total sugars + 6%
1702.90.10	6.58170¢/kg of total sugars
1702.90.20	42.05¢/kg
1702.90.58	39.9¢/kg of total sugars + 6%
1702.90.68	39.9¢/kg + 6%
1704.90.58	47.4¢/kg + 12.2%
1704.90.68	47.4¢/kg + 12.2%
1704.90.78	47.4¢/kg + 12.2%
1806.10.15	25.5¢/kg
1806.10.28	39.5¢/kg
1806.10.38	39.5¢/kg

1806.10.55	39.5¢/kg
1806.10.75	39.5¢/kg
1806.20.26	43.8¢/kg + 5%
1806.20.28	62.1¢/kg + 5%
1806.20.36	43.8¢/kg + 5%
1806.20.38	62.1¢/kg + 5%
1806.20.73	35.9¢/kg + 10%
1806.20.77	35.9¢/kg + 10%
1806.20.82	43.8¢/kg + 10%
1806.20.83	62.1¢/kg + 10%
1806.20.87	43.8¢/kg + 10%
1806.20.89	62.1¢/kg + 10%
1806.20.92	43.8¢/kg + 10%
1806.20.93	62.1¢/kg + 10%
1806.20.96	43.8¢/kg + 10%
1806.20.97	62.1¢/kg + 10%
1806.32.06	43.8¢/kg + 5%
1806.32.08	62.1¢/kg + 5%
1806.32.16	43.8¢/kg + 5%
1806.32.18	62.1¢/kg + 5%
1806.32.70	43.8¢/kg + 7%
1806.32.80	62.1¢/kg + 7%
1806.90.08	43.8¢/kg + 7%
1806.90.10	62.1¢/kg + 7%
1806.90.18	43.8¢/kg + 7%
1806.90.20	62.1¢/kg + 7%
1806.90.28	43.8¢/kg + 7%
1806.90.30	62.1¢/kg + 7%
1806.90.38	43.8¢/kg + 7%
1806.90.40	62.1¢/kg + 7%
1806.90.48	43.8¢/kg + 7%
1806.90.50	62.1¢/kg + 7%
1806.90.58	43.8¢/kg + 7%
1806.90.60	62.1¢/kg + 7%
1901.10.30	$1.217/kg + 17.5%
1901.10.40	$1.217/kg + 17.5%
1901.10.75	$1.217/kg + 17.5%
1901.10.85	$1.217/kg + 17.5%
1901.20.15	49.8¢/kg + 10%
1901.20.25	49.8¢/kg + 10%
1901.20.35	49.8¢/kg + 10%
1901.20.50	49.8¢/kg + 10%
1901.20.60	49.8¢/kg + 10%
1901.20.70	49.8¢/kg + 10%
1901.90.36	$1.328/kg
1901.90.42	25%
1901.90.44	$1.217/kg + 16%
1901.90.46	25%
1901.90.48	$1.217/kg + 16%
1901.90.54	27.9¢/kg + 10%
1901.90.58	27.9¢/kg + 10%
2008.11.15	155%
2008.11.35	155%
2008.11.60	155%
2101.10.38	35.9¢/kg + 10%
2101.10.48	35.9¢/kg + 10%
2101.10.58	35.9¢/kg + 10%
2101.20.38	35.9¢/kg + 10%

2101.20.48	35.9¢/kg + 10%
2101.20.58	35.9¢/kg + 10%
2103.90.78	35.9¢/kg + 7.5%
2105.00.20	59¢/kg + 20%
2105.00.40	59¢/kg + 20%
2106.90.02	$1.014/kg
2106.90.04	$2.348/kg
2106.90.08	$2.348/kg
2106.90.11	6.58170¢/kg of total sugars
2106.90.12	42.05¢/kg
2106.90.34	82.8¢/kg + 10%
2106.90.38	82.8¢/kg + 10%
2106.90.44	82.8¢/kg + 10%
2106.90.48	82.8¢/kg + 10%
2106.90.57	33.9¢/kg + 10%
2106.90.67	33.9¢/kg + 10%
2106.90.77	33.9¢/kg + 10%
2106.90.87	33.9¢/kg + 10%
2202.90.28	27.6¢/liter + 17.5%
2309.90.28	94.6¢/kg + 7.5%
2309.90.48	94.6¢/kg + 7.5%
2401.10.70	85¢/kg
2401.10.90	85¢/kg
2401.20.30	$1.21/kg
2401.20.45	$1.15/kg
2401.20.55	$1.15/kg
2801.30.20	37%
2805.30.00	31.3%
2805.40.00	5.7%
2811.19.10	4.9%
2818.10.20	4.1%
2822.00.00	1.7%
2827.39.20	31.9%
2833.11.50	3.6%
2833.27.00	4.2%
2836.40.20	4.8%
2836.60.00	8.4%
2837.20.10	5.1%
2840.11.00	1.2%
2840.19.00	0.4%
2849.20.20	1.6%
2903.15.00	88%
2903.16.00	33.3%
2903.30.05	46.3%
2906.11.00	6.2%
2907.12.00	48.3%
2909.11.00	4%
2912.11.00	12.1%
2916.15.10	35.2%
2916.19.30	24.4%
2923.20.20	33.4%
3213.90.00	48.6%
3307.10.20	81.7%
3307.49.00	73.2%
3403.11.20	0.4%
3403.19.10	0.4%
3506.10.10	30.4%
3603.00.30	8.3%

3603.00.90	0.3%
3604.10.00	12.5%
3606.90.30	56.7%
3706.10.30	7%
3807.00.00	0.2%
3823.90.33	26.3%
3904.61.00	34.1%
3916.90.10	40.6%
3920.51.50	48.2%
3920.59.80	51.7%
3926.90.65	8.4%
5201.00.18	36.9¢/kg
5201.00.28	36.9¢/kg
5201.00.38	36.9¢/kg
5201.00.80	36.9¢/kg
5202.99.30	9.2¢/kg
5203.00.30	36.9¢/kg

(e) AUTHORITY TO CONSOLIDATE SUBHEADINGS AND MODIFY COLUMN 2 RATES OF DUTY FOR TARIFF SIMPLIFICATION PURPOSES.—

(1) IN GENERAL.—Whenever the HTS column 1 general rates of duty for 2 or more 8-digit subheadings are at the same level and such subheadings are subordinate to a provision required by the International Convention on the Harmonized Commodity Description and Coding System, the President may proclaim, subject to the consultation and layover requirements of section 115, that the goods described in such subheadings be provided for in a single 8-digit subheading of the HTS, and that—

(A) the HTS column 1 general rate of duty for such single subheading be the column 1 general rate of duty common to all such subheadings, and

(B) the HTS column 2 rate of duty for such single subheading be the highest column 2 rate of duty for such subheadings that is in effect on the day before the effective date of such proclamation.

(2) SAME LEVEL OF DUTY.—The provisions of this subsection apply to subheadings described in paragraph (1) that have the same column 1 general rate of duty—

(A) on the date of the enactment of this Act, or

(B) after such date of enactment as a result of a staged reduction in such column 1 rates of duty.

SEC. 112. IMPLEMENTATION OF SCHEDULE XX PROVISIONS ON SHIP REPAIRS.

(a) IN GENERAL.—Section 484E(b) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note; 104 Stat. 710) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(3) any entry made pursuant to section 466(h) (1) or (2) of the Tariff Act of 1930 (19 U.S.C. 1466(h) (1) or (2)), on or after the date of the entry into force of the WTO Agreement with respect to the United States.".

(b) EXEMPTION FOR CERTAIN SPARE PARTS.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", or"; and

(3) by adding at the end the following new paragraph:

"(3) the cost of spare parts necessarily installed before the first entry into the United States, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

19 USC 3522.

SEC. 113. LIQUIDATION OR RELIQUIDATION AND REFUND OF DUTY PAID ON CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, and subject to subsection (b), the Secretary of the Treasury shall liquidate or reliquidate the entries listed or otherwise described in subsection (c) and refund any duty or excess duty that was paid, as provided in subsection (c).

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date on which the WTO Agreement enters into force with respect to the United States, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

(c) ENTRIES.—The entries referred to in subsection (a) are as follows:

(1) AGGLOMERATED STONE TILES.—Any goods—

(A) for which the importer claimed or would have claimed entry under subheading 6810.19.12 of the HTS on or after October 1, 1990, and before the effective date of a proclamation issued by the President under section 103(a) of this Act with respect to items under such subheading in order to carry out Schedule XX, or

(B) entered on or after January 1, 1989, and before October 1, 1990, for which entry would have been claimed under subheading 6810.19.12 of the HTS on or after October 1, 1990,

shall be liquidated or reliquidated as if the wording of that subheading were "Of stone agglomerated with binders other than cement", and the Secretary of the Treasury shall refund any excess duties paid with respect to such entries.

(2) CLOMIPHENE CITRATE.—

(A) Any entry, or withdrawal from warehouse for consumption, of goods described in heading 9902.29.95 of the HTS (relating to clomiphene citrate) which was made after December 31, 1988, and before January 1, 1993, and with respect to which there would have been no duty if the reference to subheading "2922.19.15" in such heading were a reference to subheading "2922.19.15 or any subheading of chapter 30" at the time of such entry or withdrawal, shall be liquidated or reliquidated as free of duty.

(B) The Secretary of the Treasury shall refund any duties paid with respect to entries described in subparagraph (A).

SEC. 114. MODIFICATIONS TO THE HTS.

(a) WOOL.—

(1) AMENDMENTS.—Chapter 51 of the HTS is amended—

(A) by striking subheading 5101.21.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5101.11.60:

"

	Other:			
5101.21.65	Unimproved wool; other wool, not finer than 46s	Free		81.6¢/ kg+20%
5101.21.70	Other	7.7¢/ kg+6.25%	Free (MX) 0.8¢/kg+0.6% (IL) 3¢/ kg+2.5% (CA)	81.6¢/ kg+20%

";

(B) by striking subheading 5101.29.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the article description in subheading 5102.10.20:

"

	Other:			
5101.29.65	Unimproved wool; other wool, not finer than 46s	Free		81.6¢/ kg+20%
5101.29.70	Other	7.7¢/ kg+6.25%	0.8¢/kg+0.6% (IL) 3¢/ kg+2.5% (CA) 6.1¢/kg+5% (MX)	81.6¢/ kg+20%

";

and

(C) by striking subheading 5101.30.60 and inserting the following new superior text and subheadings, with the superior text having the same degree of indentation as the superior text immediately preceding subheading 5102.10.20:

"

	Other:			
5101.30.65	Unimproved wool; other wool, not finer than 46s	Free		81.6¢/ kg+20%
5101.30.70	Other	7.7¢/ kg+6.25%	Free (MX) 0.8¢/kg+0.6% (IL) 3¢/ kg+2.5% (CA)	81.6¢/ kg+20%

".

(2) EFFECTIVE DATE.—The amendments made by this subsection take effect on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX.

(b) DUTY FREE TREATMENT FOR OCTADECYL ISOCYANATE AND 5-CHLORO-2-(2,4-DICHLORO-PHENOXY)PHENOL.—The President— 19 USC 3523.

(1) shall proclaim duty-free entry for octadecyl isocyanate and 5-Chloro-2-(2,4-dichloro-phenoxy)phenol, to be effective on the effective date of the proclamation issued by the President under section 103(a) to carry out Schedule XX, and

(2) shall take such actions as are necessary to reflect such tariff treatment in Schedule XX.

19 USC 3524.

SEC. 115. CONSULTATION AND LAYOVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and

(B) the International Trade Commission;

President. Reports.

(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(A) the action proposed to be proclaimed and the reasons for such actions, and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action, has expired; and

(4) the President has consulted with such committees regarding the proposed action during the period referred to in paragraph (3).

19 USC 3521 note.

SEC. 116. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 114(a) and subsection (b) of this section, this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 115.—Section 115 takes effect on the date of the enactment of this Act.

Subtitle C—Uruguay Round Implementation and Dispute Settlement

19 USC 3531.

SEC. 121. DEFINITIONS.

For purposes of this subtitle:

(1) ADMINISTERING AUTHORITY.—The term "administering authority" has the meaning given that term in section 771(1) of the Tariff Act of 1930.

(2) APPELLATE BODY.—The term "Appellate Body" means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES; CONGRESSIONAL COMMITTEES.—

(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the committees referred to in subparagraph (B) and any other committees of the Congress that have jurisdiction involving the matter with respect to which consultations are to be held.

(B) CONGRESSIONAL COMMITTEES.—The term "congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(4) DISPUTE SETTLEMENT PANEL; PANEL.—The terms "dispute settlement panel" and "panel" mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(5) DISPUTE SETTLEMENT BODY.—The term "Dispute Settlement Body" means the Dispute Settlement Body administering the rules and procedures set forth in the Dispute Settlement Understanding.

(6) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16).

(7) GENERAL COUNCIL.—The term "General Council" means the General Council established under paragraph 2 of Article IV of the WTO Agreement.

(8) MINISTERIAL CONFERENCE.—The term "Ministerial Conference" means the Ministerial Conference established under paragraph 1 of Article IV of the WTO Agreement.

(9) OTHER TERMS.—The terms "Antidumping Agreement", "Agreement on Subsidies and Countervailing Measures", and "Safeguards Agreement" mean the agreements referred to in section 101(d) (7), (12), and (13), respectively.

SEC. 122. IMPLEMENTATION OF URUGUAY ROUND AGREEMENTS. 19 USC 3532.

(a) DECISIONMAKING.—In the implementation of the Uruguay Round Agreements and the functioning of the World Trade Organization, it is the objective of the United States to ensure that the Ministerial Conference and the General Council continue the practice of decisionmaking by consensus followed under the GATT 1947, as required by paragraph 1 of article IX of the WTO Agreement.

(b) CONSULTATIONS WITH CONGRESSIONAL COMMITTEES.—In furtherance of the objective set forth in subsection (a), the Trade Representative shall consult with the appropriate congressional committees before any vote is taken by the Ministerial Conference or the General Council relating to—

(1) the adoption of an interpretation of the WTO Agreement or another multilateral trade agreement,

(2) the amendment of any such agreement,

(3) the granting of a waiver of any obligation under any such agreement,

(4) the adoption of any amendment to the rules or procedures of the Ministerial Conference or the General Council,

(5) the accession of a state or separate customs territory to the WTO Agreement, or

(6) the adoption of any other decision,

if the action described in paragraph (1), (2), (3), (4), (5), or (6) would substantially affect the rights or obligations of the United States under the WTO Agreement or another multilateral trade agreement or potentially entails a change in Federal or State law.

(c) REPORT ON DECISIONS.—

(1) IN GENERAL.—Not later than 30 days after the end of any calendar year in which the Ministerial Conference or the General Council adopts by vote any decision to take any

action described in paragraph (1), (2), (4), or (6) of subsection (b), the Trade Representative shall submit a report to the appropriate congressional committees describing—

(A) the nature of the decision;

(B) the efforts made by the United States to have the matter decided by consensus pursuant to paragraph 1 of article IX of the WTO Agreement, and the results of those efforts;

(C) which countries voted for, and which countries voted against, the decision;

(D) the rights or obligations of the United States affected by the decision and any Federal or State law that would be amended or repealed, if the President after consultation with the Congress determined that such amendment or repeal was an appropriate response; and

(E) the action the President intends to take in response to the decision or, if the President does not intend to take any action, the reasons therefor.

(2) ADDITIONAL REPORTING REQUIREMENTS.—

(A) GRANT OF WAIVER.—In the case of a decision to grant a waiver described in subsection (b)(3), the report under paragraph (1) shall describe the terms and conditions of the waiver and the rights and obligations of the United States that are affected by the waiver.

(B) ACCESSION.—In the case of a decision on accession described in subsection (b)(5), the report under paragraph (1) shall state whether the United States intends to invoke Article XIII of the WTO Agreement.

(d) CONSULTATION ON REPORT.—Promptly after the submission of a report under subsection (c), the Trade Representative shall consult with the appropriate congressional committees with respect to the report.

19 USC 3533.

SEC. 123. DISPUTE SETTLEMENT PANELS AND PROCEDURES.

(a) REVIEW BY PRESIDENT.—The President shall review annually the WTO panel roster and shall include the panel roster and the list of persons serving on the Appellate Body in the annual report submitted by the President under section 163(a) of the Trade Act of 1974.

(b) QUALIFICATIONS OF APPOINTEES TO PANELS.—The Trade Representative shall—

(1) seek to ensure that persons appointed to the WTO panel roster are well-qualified, and that the roster includes persons with expertise in the subject areas covered by the Uruguay Round Agreements; and

(2) inform the President of persons nominated to the roster by other WTO member countries.

(c) RULES GOVERNING CONFLICTS OF INTEREST.—The Trade Representative shall seek the establishment by the General Council and the Dispute Settlement Body of rules governing conflicts of interest by persons serving on panels and members of the Appellate Body and shall describe, in the annual report submitted under section 124, any progress made in establishing such rules.

(d) NOTIFICATION OF DISPUTES.—Promptly after a dispute settlement panel is established to consider the consistency of Federal or State law with any of the Uruguay Round Agreements,

the Trade Representative shall notify the appropriate congressional committees of—

(1) the nature of the dispute, including the matters set forth in the request for the establishment of the panel, the legal basis of the complaint, and the specific measures, in particular any State or Federal law cited in the request for establishment of the panel;

(2) the identity of the persons serving on the panel; and

(3) whether there was any departure from the rule of consensus with respect to the selection of persons to serve on the panel.

(e) NOTICE OF APPEALS OF PANEL REPORTS.—If an appeal is taken of a report of a panel in a proceeding described in subsection (d), the Trade Representative shall, promptly after the notice of appeal is filed, notify the appropriate congressional committees of—

(1) the issues under appeal; and

(2) the identity of the persons serving on the Appellate Body who are reviewing the report of the panel.

(f) ACTIONS UPON CIRCULATION OF REPORTS.—Promptly after the circulation of a report of a panel or of the Appellate Body to WTO members in a proceeding described in subsection (d), the Trade Representative shall—

(1) notify the appropriate congressional committees of the report;

(2) in the case of a report of a panel, consult with the appropriate congressional committees concerning the nature of any appeal that may be taken of the report; and

(3) if the report is adverse to the United States, consult with the appropriate congressional committees concerning whether to implement the report's recommendation and, if so, the manner of such implementation and the period of time needed for such implementation.

(g) REQUIREMENTS FOR AGENCY ACTION.—

(1) CHANGES IN AGENCY REGULATIONS OR PRACTICE.—In any case in which a dispute settlement panel or the Appellate Body finds in its report that a regulation or practice of a department or agency of the United States is inconsistent with any of the Uruguay Round Agreements, that regulation or practice may not be amended, rescinded, or otherwise modified in the implementation of such report unless and until—

(A) the appropriate congressional committees have been consulted under subsection (f);

(B) the Trade Representative has sought advice regarding the modification from relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155);

(C) the head of the relevant department or agency has provided an opportunity for public comment by publishing in the Federal Register the proposed modification and the explanation for the modification; Federal Register, publication.

(D) the Trade Representative has submitted to the appropriate congressional committees a report describing the proposed modification, the reasons for the modification, and a summary of the advice obtained under subparagraph (B) with respect to the modification;

(E) the Trade Representative and the head of the relevant department or agency have consulted with the appropriate congressional committees on the proposed contents of the final rule or other modification; and

Federal Register, publication.

(F) the final rule or other modification has been published in the Federal Register.

(2) EFFECTIVE DATE OF MODIFICATION.—A final rule or other modification to which paragraph (1) applies may not go into effect before the end of the 60-day period beginning on the date on which consultations under paragraph (1)(E) begin, unless the President determines that an earlier effective date is in the national interest.

(3) VOTE BY CONGRESSIONAL COMMITTEES.—During the 60-day period described in paragraph (2), the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate may vote to indicate the agreement or disagreement of the committee with the proposed contents of the final rule or other modification. Any such vote shall not be binding on the department or agency which is implementing the rule or other modification.

(4) INAPPLICABILITY TO ITC.—This subsection does not apply to any regulation or practice of the International Trade Commission.

(h) CONSULTATIONS REGARDING REVIEW OF WTO RULES AND PROCEDURES.—Before the review is conducted of the dispute settlement rules and procedures of the WTO that is provided for in the Decision on the Application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, as such decision is set forth in the Ministerial Declarations and Decisions adopted on April 15, 1994, together with the Uruguay Round Agreements, the Trade Representative shall consult with the congressional committees regarding the policy of the United States concerning the review.

19 USC 3534.

SEC. 124. ANNUAL REPORT ON THE WTO.

Not later than March 1 of each year beginning in 1996, the Trade Representative shall submit to the Congress a report describing, for the preceding fiscal year of the WTO—

(1) the major activities and work programs of the WTO, including the functions and activities of the committees established under article IV of the WTO Agreement, and the expenditures made by the WTO in connection with those activities and programs;

(2) the percentage of budgetary assessments by the WTO that were accounted for by each WTO member country, including the United States;

(3) the total number of personnel employed or retained by the Secretariat of the WTO, and the number of professional, administrative, and support staff of the WTO;

(4) for each personnel category described in paragraph (3), the number of citizens of each country, and the average salary of the personnel, in that category;

(5) each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law, and any efforts by the Trade Representative to provide for implementation of the recommendations contained in a report that is adverse to the United States;

(6) each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue;

(7) the status of consultations with any State whose law was the subject of a report adverse to the United States that was issued by a panel or the Appellate Body; and

(8) any progress achieved in increasing the transparency of proceedings of the Ministerial Conference and the General Council, and of dispute settlement proceedings conducted pursuant to the Dispute Settlement Understanding.

SEC. 125. REVIEW OF PARTICIPATION IN THE WTO. 19 USC 3535.

(a) REPORT ON THE OPERATION OF THE WTO.—The first annual report submitted to the Congress under section 124—

(1) after the end of the 5-year period beginning on the date on which the WTO Agreement enters into force with respect to the United States, and

(2) after the end of every 5-year period thereafter,

shall include an analysis of the effects of the WTO Agreement on the interests of the United States, the costs and benefits to the United States of its participation in the WTO, and the value of the continued participation of the United States in the WTO.

(b) CONGRESSIONAL DISAPPROVAL OF U.S. PARTICIPATION IN THE WTO.—

(1) GENERAL RULE.—The approval of the Congress, provided under section 101(a), of the WTO Agreement shall cease to be effective if, and only if, a joint resolution described in subsection (c) is enacted into law pursuant to the provisions of paragraph (2).

(2) PROCEDURAL PROVISIONS.—(A) The requirements of this paragraph are met if the joint resolution is enacted under subsection (c), and—

(i) the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 154(b) of the Trade Act of 1974), beginning on the date on which the Congress receives a report referred to in subsection (a), and

(ii) if the President vetoes the joint resolution, each House of Congress votes to override that veto on or before the later of the last day of the 90-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 154(b) of the Trade Act of 1974) beginning on the date on which the Congress receives the veto message from the President.

(B) A joint resolution to which this section applies may be introduced at any time on or after the date on which the President transmits to the Congress a report described in subsection (a), and before the end of the 90-day period referred to in subparagraph (A).

(c) JOINT RESOLUTIONS.—

(1) JOINT RESOLUTIONS.—For purposes of this section, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round

Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act.".

(2) PROCEDURES.—(A) Joint resolutions may be introduced in either House of the Congress by any member of such House.

(B) Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(b), (d), (e), and (f)) apply to joint resolutions to the same extent as such provisions apply to resolutions under such section.

(C) If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 154(b) of the Trade Act of 1974), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(E) A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) CONSIDERATION OF SECOND RESOLUTION NOT IN ORDER.—It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

19 USC 3536.

SEC. 126. INCREASED TRANSPARENCY.

The Trade Representative shall seek the adoption by the Ministerial Conference and General Council of procedures that will ensure broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions, through the observance of open and equitable procedures in trade matters by the Ministerial Conference and the General Council, and by the dispute settlement panels and the Appellate Body under the Dispute Settlement Understanding.

SEC. 127. ACCESS TO THE WTO DISPUTE SETTLEMENT PROCESS. 19 USC 3537.

(a) IN GENERAL.—Whenever the United States is a party before a dispute settlement panel established pursuant to Article 6 of the Dispute Settlement Understanding, the Trade Representative shall, at each stage of the proceeding before the panel or the Appellate Body, consult with the appropriate congressional committees, the petitioner (if any) under section 302(a) of the Trade Act of 1974 (19 U.S.C. 2412) with respect to the matter that is the subject of the proceeding, and relevant private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155), and shall consider the views of representatives of appropriate interested private sector and nongovernmental organizations concerning the matter.

(b) NOTICE AND PUBLIC COMMENT.—In any proceeding described in subsection (a), the Trade Representative shall—

(1) promptly after requesting the establishment of a panel, or receiving a request from another WTO member country for the establishment of a panel, publish a notice in the Federal Register— Federal Register, publication.

(A) identifying the initial parties to the dispute,

(B) setting forth the major issues raised by the country requesting the establishment of a panel and the legal basis of the complaint,

(C) identifying the specific measures, including any State or Federal law cited in the request for establishment of the panel, and

(D) seeking written comments from the public concerning the issues raised in the dispute; and

(2) take into account any advice received from appropriate congressional committees and relevant private sector advisory committees referred to in subsection (a), and written comments received pursuant to paragraph (1)(D), in preparing United States submissions to the panel or the Appellate Body.

(c) ACCESS TO DOCUMENTS.—In each proceeding described in subsection (a), the Trade Representative shall—

(1) make written submissions by the United States referred to in subsection (b) available to the public promptly after they are submitted to the panel or Appellate Body, except that the Trade Representative is authorized to withhold from disclosure any information contained in such submissions identified by the provider of the information as proprietary information or information treated as confidential by a foreign government;

(2) request each other party to the dispute to permit the Trade Representative to make that party's written submissions to the panel or the Appellate Body available to the public; and

(3) make each report of the panel or the Appellate Body available to the public promptly after it is circulated to WTO members, and inform the public of such availability.

(d) REQUESTS FOR NONCONFIDENTIAL SUMMARIES.—In any dispute settlement proceeding conducted pursuant to the Dispute Settlement Understanding, the Trade Representative shall request each party to the dispute to provide nonconfidential summaries of its written submissions, if that party has not made its written submissions public, and shall make those summaries available to the public promptly after receiving them.

Reports.

(e) PUBLIC FILE.—The Trade Representative shall maintain a file accessible to the public on each dispute settlement proceeding to which the United States is a party that is conducted pursuant to the Dispute Settlement Understanding. The file shall include all United States submissions in the proceeding and a listing of any submissions to the Trade Representative from the public with respect to the proceeding, as well as the report of the dispute settlement panel and the report of the Appellate Body.

(f) CONFORMING AMENDMENT.—Section 135(a)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2155(a)(1)(B)) is amended to read as follows:

"(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and".

SEC. 128. ADVISORY COMMITTEE PARTICIPATION.

Section 135(b)(1) of the Trade Act of 1974 (19 U.S.C. 2155(b)(1)) is amended by inserting "nongovernmental environmental and conservation organizations," after "retailers,".

19 USC 3538.

SEC. 129. ADMINISTRATIVE ACTION FOLLOWING WTO PANEL REPORTS.

(a) ACTION BY UNITED STATES INTERNATIONAL TRADE COMMISSION.—

(1) ADVISORY REPORT.—If a dispute settlement panel finds in an interim report under Article 15 of the Dispute Settlement Understanding, or the Appellate Body finds in a report under Article 17 of that Understanding, that an action by the International Trade Commission in connection with a particular proceeding is not in conformity with the obligations of the United States under the Antidumping Agreement, the Safeguards Agreement, or the Agreement on Subsidies and Countervailing Measures, the Trade Representative may request the Commission to issue an advisory report on whether title VII of the Tariff Act of 1930 or title II of the Trade Act of 1974, as the case may be, permits the Commission to take steps in connection with the particular proceeding that would render its action not inconsistent with the findings of the panel or the Appellate Body concerning those obligations. The Trade Representative shall notify the congressional committees of such request.

(2) TIME LIMITS FOR REPORT.—The Commission shall transmit its report under paragraph (1) to the Trade Representative—

(A) in the case of an interim report described in paragraph (1), within 30 calendar days after the Trade Representative requests the report; and

(B) in the case of a report of the Appellate Body, within 21 calendar days after the Trade Representative requests the report.

(3) CONSULTATIONS ON REQUEST FOR COMMISSION DETERMINATION.—If a majority of the Commissioners issues an affirmative report under paragraph (1), the Trade Representative shall consult with the congressional committees concerning the matter.

(4) COMMISSION DETERMINATION.—Notwithstanding any provision of the Tariff Act of 1930 or title II of the Trade Act of 1974, if a majority of the Commissioners issues an affirmative report under paragraph (1), the Commission, upon

the written request of the Trade Representative, shall issue a determination in connection with the particular proceeding that would render the Commission's action described in paragraph (1) not inconsistent with the findings of the panel or Appellate Body. The Commission shall issue its determination not later than 120 days after the request from the Trade Representative is made.

(5) CONSULTATIONS ON IMPLEMENTATION OF COMMISSION DETERMINATION.—The Trade Representative shall consult with the congressional committees before the Commission's determination under paragraph (4) is implemented.

(6) REVOCATION OF ORDER.—If, by virtue of the Commission's determination under paragraph (4), an antidumping or countervailing duty order with respect to some or all of the imports that are subject to the action of the Commission described in paragraph (1) is no longer supported by an affirmative Commission determination under title VII of the Tariff Act of 1930 or this subsection, the Trade Representative may, after consulting with the congressional committees under paragraph (5), direct the administering authority to revoke the antidumping or countervailing duty order in whole or in part.

(7) MODIFICATION OF ACTION UNDER TITLE II OF TRADE ACT OF 1974.—Section 204(b) of the Trade Act of 1974 (19 U.S.C. 2254(b)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), the President may, after receipt of a Commission determination under section 129(a)(4) of the Uruguay Round Agreements Act and consulting with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, reduce, modify, or terminate action taken under section 203.".

(b) ACTION BY ADMINISTERING AUTHORITY.—

(1) CONSULTATIONS WITH ADMINISTERING AUTHORITY AND CONGRESSIONAL COMMITTEES.—Promptly after a report by a dispute settlement panel or the Appellate Body is issued that contains findings that an action by the administering authority in a proceeding under title VII of the Tariff Act of 1930 is not in conformity with the obligations of the United States under the Antidumping Agreement or the Agreement on Subsidies and Countervailing Measures, the Trade Representative shall consult with the administering authority and the congressional committees on the matter. Reports.

(2) DETERMINATION BY ADMINISTERING AUTHORITY.—Notwithstanding any provision of the Tariff Act of 1930, the administering authority shall, within 180 days after receipt of a written request from the Trade Representative, issue a determination in connection with the particular proceeding that would render the administering authority's action described in paragraph (1) not inconsistent with the findings of the panel or the Appellate Body.

(3) CONSULTATIONS BEFORE IMPLEMENTATION.—Before the administering authority implements any determination under paragraph (2), the Trade Representative shall consult with the administering authority and the congressional committees with respect to such determination.

(4) IMPLEMENTATION OF DETERMINATION.—The Trade Representative may, after consulting with the administering

authority and the congressional committees under paragraph (3), direct the administering authority to implement, in whole or in part, the determination made under paragraph (2).

(c) EFFECTS OF DETERMINATIONS; NOTICE OF IMPLEMENTATION.—

(1) EFFECTS OF DETERMINATIONS.—Determinations concerning title VII of the Tariff Act of 1930 that are implemented under this section shall apply with respect to unliquidated entries of the subject merchandise (as defined in section 771 of that Act) that are entered, or withdrawn from warehouse, for consumption on or after—

(A) in the case of a determination by the Commission under subsection (a)(4), the date on which the Trade Representative directs the administering authority under subsection (a)(6) to revoke an order pursuant to that determination, and

(B) in the case of a determination by the administering authority under subsection (b)(2), the date on which the Trade Representative directs the administering authority under subsection (b)(4) to implement that determination.

Federal Register, publication.

(2) NOTICE OF IMPLEMENTATION.—

(A) The administering authority shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title VII of the Tariff Act of 1930.

(B) The Trade Representative shall publish in the Federal Register notice of the implementation of any determination made under this section with respect to title II of the Trade Act of 1974.

(d) OPPORTUNITY FOR COMMENT BY INTERESTED PARTIES.—Prior to issuing a determination under this section, the administering authority or the Commission, as the case may be, shall provide interested parties with an opportunity to submit written comments and, in appropriate cases, may hold a hearing, with respect to the determination.

(e) JUDICIAL OR BINATIONAL PANEL REVIEW.—

(1) REVIEW OF DETERMINATIONS ON RECORD.—Section 516A(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) in subclause (I) by striking "(B), or" and inserting "(B)", and

(ii) by adding after subclause (II) the following:

"(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or"; and

(B) in subparagraph (B), by adding at the end the following new clause:

"(vii) A determination by the administering authority or the Commission under section 129 of the Uruguay Round Agreements Act concerning a determination under title VII of the Tariff Act of 1930.".

(2) TIME LIMITS FOR CASES INVOLVING FREE TRADE AREA COUNTRIES.—Section 516A(a)(5) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(5)) is amended by adding at the end the following new subparagraph:

"(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register.".

(3) REVIEW OF CASES INVOLVING FREE TRADE AREA COUNTRY MERCHANDISE.—Section 516A(g)(8)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1516a(g)(8)(A)(i)) is amended by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (E)".

SEC. 130. EFFECTIVE DATE. 19 USC 3531 note.

This subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle D—Related Provisions

SEC. 131. WORKING PARTY ON WORKER RIGHTS. President. 19 USC 3551.

(a) IN GENERAL.—The President shall seek the establishment in the GATT 1947, and, upon entry into force of the WTO Agreement with respect to the United States, in the WTO, of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to the articles, objectives, and related instruments of the GATT 1947 and of the WTO, respectively.

(b) OBJECTIVES OF WORKING PARTY.—The objectives of the United States for the working party described in subsection (a) are to—

(1) explore the linkage between international trade and internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, taking into account differences in the level of development among countries;

(2) examine the effects on international trade of the systematic denial of such rights;

(3) consider ways to address such effects; and

(4) develop methods to coordinate the work program of the working party with the International Labor Organization.

(c) REPORT TO CONGRESS.—The President shall report to the Congress, not later than 1 year after the date of the enactment of this Act, on the progress made in establishing the working party under this section, and on United States objectives with respect to the working party's work program.

SEC. 132. IMPLEMENTATION OF RULES OF ORIGIN WORK PROGRAM. 19 USC 3552.

If the President enters into an agreement developed under the work program described in Article 9 of the Agreement on Rules of Origin referred to in section 101(d)(10), the President may implement United States obligations under such an agreement under United States law only pursuant to authority granted to the President for that purpose by law enacted after the effective date of this title.

SEC. 133. MEMBERSHIP IN WTO OF BOYCOTTING COUNTRIES. 19 USC 3553.

It is the sense of the Congress that the Trade Representative should vigorously oppose the admission into the World Trade Organization of any country which, through its laws, regulations, official policies, or governmental practices, fosters, imposes, com-

plies with, furthers, or supports any boycott described in section 8(a) of the Export Administration Act of 1979 (50 U.S.C. App. 2407(a)) (as in effect on August 20, 1994), including requiring or encouraging entities within that country to refuse to do business with persons who do not comply with requests to take any action prohibited under that section.

President.
19 USC 3554.

SEC. 134. AFRICA TRADE AND DEVELOPMENT POLICY.

(a) DEVELOPMENT OF POLICY.—The President should develop and implement a comprehensive trade and development policy for the countries of Africa.

(b) REPORTS TO CONGRESS.—The President shall, not later than 12 months after the date of the enactment of this Act and annually thereafter for a period of 4 years, submit to the Committee on Ways and Means and the Committee on Foreign Affairs of the House of Representatives, the Committee on Finance and the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress, a report on the steps taken to carry out subsection (a).

19 USC 3555

SEC. 135. OBJECTIVES FOR EXTENDED NEGOTIATIONS.

(a) TRADE IN FINANCIAL SERVICES.—The principal negotiating objective of the United States in the extended negotiations on financial services to be conducted under the auspices of the WTO is to seek to secure commitments, from a wide range of commercially important developed and developing countries, to reduce or eliminate barriers to the supply of financial services, including barriers that deny national treatment or market access by restricting the establishment or operation of financial services providers, as the condition for the United States—

(1) offering commitments to provide national treatment and market access in each of the financial services subsectors, and

(2) making such commitments on a most-favored-nation basis.

(b) TRADE IN BASIC TELECOMMUNICATIONS SERVICES.—The principal negotiating objective of the United States in the extended negotiations on basic telecommunications services to be conducted under the auspices of the WTO is to obtain the opening on nondiscriminatory terms and conditions of foreign markets for basic telecommunications services through facilities-based competition or through the resale of services on existing networks.

(c) TRADE IN CIVIL AIRCRAFT.—

(1) NEGOTIATIONS.—The principal negotiating objectives of the United States in the extended negotiations on trade in civil aircraft to be conducted under the auspices of the WTO are—

(A) to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to those afforded to foreign products in the United States,

(B) to obtain the reduction or elimination of specific tariff and nontariff barriers, including through expanded membership in the Agreement on Trade in Civil Aircraft and in the US–EC bilateral agreement for large civil aircraft,

(C) to maintain vigorous and effective disciplines on subsidies practices with respect to civil aircraft products

under the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12),

(D) to maintain the scope and coverage on indirect support as specified in the US–EC bilateral agreement on large civil aircraft, and

(E) to obtain increased transparency with respect to foreign subsidy programs in the civil aircraft sector, both through greater government disclosure with respect to the use of taxpayer moneys and higher financial disclosure standards for companies receiving government supports (including disclosure comparable to that required under United States securities laws).

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term "civil aircraft" means those products to which the Agreement on Trade in Civil Aircraft applies,

(B) the term "large civil aircraft" has the meaning given that term in Annex II to the US–EC bilateral agreement,

(C) the term "indirect support" means indirect government support as defined in Annex II to the US–EC bilateral agreement,

(D) the term "Agreement on Trade in Civil Aircraft" means the Agreement on Trade in Civil Aircraft approved by the Congress under section 2 of the Trade Agreements Act of 1979, and

(E) the term "US–EC bilateral agreement" means the Agreement Concerning the Application of the GATT Agreement on Trade in Civil Aircraft Between the European Economic Community and the Government of the United States of America on trade in large civil aircraft, entered into on July 17, 1992.

SEC. 136. REPEAL OF TAX ON IMPORTED PERFUMES; DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN PERFUME MANUFACTURE.

(a) REPEAL OF TAX ON IMPORTED PERFUMES.—Subsection (a) of section 5001 of the Internal Revenue Code of 1986 is amended by striking paragraph (3) and redesignating the following paragraphs accordingly. 26 USC 5001.

(b) DRAWBACK OF TAX ON DISTILLED SPIRITS USED IN PERFUME MANUFACTURE.—Sections 5131(a), 5132, 5134(c)(1), and 7652(g) of such Code are each amended by striking "or flavoring extracts" and inserting "flavoring extracts, or perfume". 26 USC 5131, 5132, 5134, 7652.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 5002 of such Code is amended by striking paragraph (1) and redesignating the following paragraphs accordingly. 26 USC 5002.

(2) Subsection (f) of section 5005 of such Code is amended— 26 USC 5005.

(A) by striking "section 5001(a)(6) and (7)" in paragraph (3) and inserting "section 5001(a)(5) and (6)", and

(B) by striking "section 5001(a)(5)" in paragraph (4) and inserting "section 5001(a)(4)".

(3) Subsection (b) of section 5007 of such Code is amended to read as follows: 26 USC 5007.

"(b) COLLECTION OF TAX ON IMPORTED DISTILLED SPIRITS.—The internal revenue tax imposed by section 5001(a)(1) and (2) upon imported distilled spirits shall be collected by the Secretary

and deposited as internal revenue collections, under such regulations as the Secretary may prescribe. Section 5688 shall be applicable to the disposition of imported spirits.".

26 USC 5007.

(4) Paragraph (3) of section 5007(c) of such Code is amended by striking "section 5001(a)(5), (6), and (7)" and inserting "section 5001(a)(4), (5), and (6)".

(5) Paragraph (1) of section 5061(b) of such Code is amended to read as follows:

"(1) section 5001(a)(4), (5), or (6),".

26 USC 5001 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

19 USC 3556.

SEC. 137. CERTAIN NONRUBBER FOOTWEAR.

In the case of nonrubber footwear imported from Brazil—

(1) which is subject to Treasury Decision 74-233, dated September 9, 1974,

(2) which was entered, or withdrawn from warehouse for consumption, on or before October 28, 1981, and

(3) with respect to which entries are unliquidated on the date of the enactment of this Act,

countervailing duties shall be assessed at rates equal to the amount of the cash deposit of the estimated countervailing duties required on such footwear at the time of entry or withdrawal from warehouse for consumption. Interest on underpayments of amounts required to be deposited as countervailing duties shall be paid in accordance with section 778 of the Tariff Act of 1930 (19 U.S.C. 1677g).

19 USC 3551 note.

SEC. 138. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 136(d) and subsection (b) of this section, this subtitle and the amendments made by this subtitle take effect on the date of the enactment of this Act.

(b) SECTIONS 132 AND 135.—Sections 132 and 135 take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE II—ANTIDUMPING AND COUNTERVAILING DUTY PROVISIONS

SEC. 201. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Tariff Act of 1930.

Subtitle A—General Provisions

SEC. 211. ACTION WITH RESPECT TO PETITIONS.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—Section 702(b) (19 U.S.C. 1671a(b)) is amended—

(1) in paragraph (3) by striking "subsection 702(b)(1)" and inserting "paragraph (1)", and

(2) by adding at the end the following:

"(4) ACTION WITH RESPECT TO PETITIONS.—

"(A) NOTIFICATION OF GOVERNMENTS.—Upon receipt of a petition filed under paragraph (1), the administering authority shall—

"(i) notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country; and

"(ii) provide the government of any exporting country named in the petition that is a Subsidies Agreement country an opportunity for consultations with respect to the petition.

"(B) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 771(9) (C), (D), (E), (F), or (G) before the administering authority makes its decision whether to initiate an investigation, except as provided in subparagraph (A)(ii) and subsection (c)(4)(D), and except for inquiries regarding the status of the administering authority's consideration of the petition.

"(C) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under paragraph (1).".

(b) ANTIDUMPING INVESTIGATIONS.—Section 732(b) (19 U.S.C. 1673a(b)) is amended by adding at the end the following:

"(3) ACTION WITH RESPECT TO PETITIONS.—

"(A) NOTIFICATION OF GOVERNMENTS.—Upon receipt of a petition filed under paragraph (1), the administering authority shall notify the government of any exporting country named in the petition by delivering a public version of the petition to an appropriate representative of such country.

"(B) ACCEPTANCE OF COMMUNICATIONS.—The administering authority shall not accept any unsolicited oral or written communication from any person other than an interested party described in section 771(9) (C), (D), (E), (F), or (G) before the administering authority makes its decision whether to initiate an investigation, except as provided in subsection (c)(4)(D), and except for inquiries regarding the status of the administering authority's consideration of the petition.

"(C) NONDISCLOSURE OF CERTAIN INFORMATION.—The administering authority and the Commission shall not disclose information with regard to any draft petition submitted for review and comment before it is filed under paragraph (1).".

SEC. 212. PETITION AND PRELIMINARY DETERMINATION.

(a) GENERAL REQUIREMENTS.—

(1) COUNTERVAILING DUTY PETITION.—Section 702(c) (19 U.S.C. 1671a(c)) is amended to read as follows:

"(c) PETITION DETERMINATION.—

"(1) IN GENERAL.—

"(A) TIME FOR INITIAL DETERMINATION.—Except as provided in subparagraph (B), within 20 days after the date

on which a petition is filed under subsection (b), the administering authority shall—

"(i) after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition alleges the elements necessary for the imposition of a duty under section 701(a) and contains information reasonably available to the petitioner supporting the allegations, and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) EXTENSION OF TIME.—In any case in which the administering authority is required to poll or otherwise determine support for the petition by the industry under paragraph (4)(D), the administering authority may, in exceptional circumstances, apply subparagraph (A) by substituting 'a maximum of 40 days' for '20 days'.

"(C) TIME LIMITS WHERE PETITION INVOLVES SAME MERCHANDISE AS AN ORDER THAT HAS BEEN REVOKED.—If a petition is filed under this section with respect to merchandise that was the subject merchandise of—

"(i) a countervailing duty order that was revoked under section 751(d) in the 24 months preceding the date the petition is filed, or

"(ii) a suspended investigation that was terminated under section 751(d) in the 24 months preceding the date the petition is filed,

the administering authority and the Commission shall, to the maximum extent practicable, expedite any investigation initiated under this section with respect to the petition.

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether a countervailable subsidy is being provided with respect to the subject merchandise.

"(3) NEGATIVE DETERMINATIONS.—If the determination under clause (i) or (ii) of paragraph (1)(A) is negative, the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the industry, if—

"(i) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and

"(ii) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—

"(i) PRODUCERS RELATED TO FOREIGN PRODUCERS.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition,

if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of a countervailing duty order.

"(ii) PRODUCERS WHO ARE IMPORTERS.—The administering authority may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.

"(C) SPECIAL RULE FOR REGIONAL INDUSTRIES.—If the petition alleges that the industry is a regional industry, the administering authority shall determine whether the petition has been filed by or on behalf of the industry by applying subparagraph (A) on the basis of production in the region.

"(D) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering authority shall—

"(i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(E) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 771(9) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means those interested parties who are eligible to file a petition under subsection (b)(1)(A).".

(2) ANTIDUMPING DUTY PETITION.—Section 732(c) (19 U.S.C. 1673a(c)) is amended to read as follows:

"(c) PETITION DETERMINATION.—

"(1) IN GENERAL.—

"(A) TIME FOR INITIAL DETERMINATION.—Except as provided in subparagraph (B), within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(i) after examining, on the basis of sources readily available to the administering authority, the accuracy and adequacy of the evidence provided in the petition, determine whether the petition alleges the elements necessary for the imposition of a duty under section 731 and contains information reasonably available to the petitioner supporting the allegations, and

"(ii) determine if the petition has been filed by or on behalf of the industry.

"(B) EXTENSION OF TIME.—In any case in which the administering authority is required to poll or otherwise determine support for the petition by the industry under paragraph (4)(D), the administering authority may, in exceptional circumstances, apply subparagraph (A) by substituting 'a maximum of 40 days' for '20 days'.

"(C) TIME LIMITS WHERE PETITION INVOLVES SAME MERCHANDISE AS AN ORDER THAT HAS BEEN REVOKED.—If a petition is filed under this section with respect to merchandise that was the subject merchandise of—

"(i) an antidumping duty order or finding that was revoked under section 751(d) in the 24 months preceding the date the petition is filed, or

"(ii) a suspended investigation that was terminated under section 751(d) in the 24 months preceding the date the petition is filed,

the administering authority and the Commission shall, to the maximum extent practicable, expedite any investigation initiated under this section with respect to the petition.

"(2) AFFIRMATIVE DETERMINATIONS.—If the determinations under clauses (i) and (ii) of paragraph (1)(A) are affirmative, the administering authority shall initiate an investigation to determine whether the subject merchandise is being, or is likely to be, sold in the United States at less than its fair value.

"(3) NEGATIVE DETERMINATIONS.—If the determination under clause (i) or (ii) of paragraph (1)(A) is negative, the administering authority shall dismiss the petition, terminate the proceeding, and notify the petitioner in writing of the reasons for the determination.

"(4) DETERMINATION OF INDUSTRY SUPPORT.—

"(A) GENERAL RULE.—For purposes of this subsection, the administering authority shall determine that the petition has been filed by or on behalf of the industry, if—

"(i) the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and

"(ii) the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition.

"(B) CERTAIN POSITIONS DISREGARDED.—

"(i) PRODUCERS RELATED TO FOREIGN PRODUCERS.—In determining industry support under subparagraph (A), the administering authority shall disregard the position of domestic producers who oppose the petition, if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order.

"(ii) PRODUCERS WHO ARE IMPORTERS.—The administering authority may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.

"(C) SPECIAL RULE FOR REGIONAL INDUSTRIES.—If the petition alleges the industry is a regional industry, the

administering authority shall determine whether the petition has been filed by or on behalf of the industry by applying subparagraph (A) on the basis of production in the region.

"(D) POLLING THE INDUSTRY.—If the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering authority shall—

"(i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or

"(ii) if there is a large number of producers in the industry, the administering authority may determine industry support for the petition by using any statistically valid sampling method to poll the industry.

"(E) COMMENTS BY INTERESTED PARTIES.—Before the administering authority makes a determination with respect to initiating an investigation, any person who would qualify as an interested party under section 771(9) if an investigation were initiated, may submit comments or information on the issue of industry support. After the administering authority makes a determination with respect to initiating an investigation, the determination regarding industry support shall not be reconsidered.

"(5) DEFINITION OF DOMESTIC PRODUCERS OR WORKERS.—For purposes of this subsection, the term 'domestic producers or workers' means those interested parties who are eligible to file a petition under subsection (b)(1)(A).".

(b) DETERMINATION BY THE COMMISSION OF REASONABLE INDICATION OF INJURY; PRELIMINARY DETERMINATION BY THE ADMINISTERING AUTHORITY.—

(1) COUNTERVAILING DUTY INVESTIGATIONS.—

(A) Section 703(a) (19 U.S.C. 1671b(a)) is amended to read as follows:

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 702(c)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the subject merchandise and that imports of the subject merchandise are not negligible. If the Commission finds that imports of the subject merchandise are negligible or otherwise makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1)—

"(A) in the case of a petition filed under section 702(b)—

"(i) within 45 days after the date on which the petition is filed, or

"(ii) if the time has been extended pursuant to section 702(c)(1)(B), within 25 days after the date on which the Commission receives notice from the administering authority of initiation of the investigation, and

"(B) in the case of an investigation initiated under section 702(a), within 45 days after the date on which the Commission receives notice from the administering authority that an investigation has been initiated under such section.".

(B) Section 705(b)(1) (19 U.S.C. 1671d(b)(1)) is amended by adding at the end the following: "If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated.".

(C) Section 703(b) (19 U.S.C. 1671b(b)) is amended—

(i) in paragraph (1)—

(I) by striking "85 days after the date on which the petition is filed under section 702(b)" and inserting "65 days after the date on which the administering authority initiates an investigation under section 702(c)";

(II) by striking "best information" and inserting "information"; and

(III) by striking the last sentence; and

(ii) in paragraph (2), by striking "85 days after the date on which the petition is filed under section 702(b)" and inserting "65 days after the date on which the administering authority initiates an investigation under section 702(c)".

(D) Section 703(c)(1) (19 U.S.C. 1671b(c)) is amended by striking "150th day after the date on which a petition is filed under section 702(b)" and inserting "130th day after the date on which the administering authority initiates an investigation under section 702(c)".

(E) Section 702(b)(3) (19 U.S.C. 1671a(b)(3)) is amended by striking "twenty days" and inserting "5 days after the date on which the administering authority initiates an investigation under subsection (c),".

(F) Section 703(f) (19 U.S.C. 1671b(f)) is amended to read as follows:

"(f) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.".

(2) ANTIDUMPING DUTY INVESTIGATIONS.—

(A) Section 733(a) (19 U.S.C. 1673b(a)) is amended to read as follows:

"(a) DETERMINATION BY COMMISSION OF REASONABLE INDICATION OF INJURY.—

"(1) GENERAL RULE.—Except in the case of a petition dismissed by the administering authority under section 732(c)(3), the Commission, within the time specified in paragraph (2), shall determine, based on the information available to it at the time of the determination, whether there is a reasonable indication that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the subject merchandise and that imports of the subject merchandise are not negligible. If the Commission finds that imports of the subject merchandise are negligible or otherwise makes a negative determination under this paragraph, the investigation shall be terminated.

"(2) TIME FOR COMMISSION DETERMINATION.—The Commission shall make the determination described in paragraph (1)—

"(A) in the case of a petition filed under section 732(b)—

"(i) within 45 days after the date on which the petition is filed, or

"(ii) if the time has been extended pursuant to section 732(c)(1)(B), within 25 days after the date on which the Commission receives notice from the administering authority of initiation of the investigation, and

"(B) in the case of an investigation initiated under section 732(a), within 45 days after the date on which the Commission receives notice from the administering authority that an investigation has been initiated under such section.".

(B) Section 735(b)(1) (19 U.S.C. 1673d(b)(1)) is amended by adding at the end the following: "If the Commission determines that imports of the subject merchandise are negligible, the investigation shall be terminated.".

(C) Section 733(b)(1) (19 U.S.C. 1673b(b)(1)) is amended—

(i) in subparagraph (A)—

(I) by striking "160 days after the date on which a petition is filed under section 732(b)" and inserting "140 days after the date on which the administering authority initiates an investigation under section 732(c)"; and

(II) by striking "best information" and inserting "information"; and

(ii) in subparagraph (B)—

(I) by striking "120" and inserting "100";

(II) by striking "160" and inserting "140";

(III) by striking "100" and inserting "80"; and

(IV) by striking "160" and inserting "140".

(D) Section 733(c)(1) (19 U.S.C. 1673b(c)(1)) is amended by striking "210th day after the date on which a petition is filed under section 732(b)" and inserting "190th day after the date on which the administering authority initiates an investigation under section 732(c)".

(E) Section 733(f) (19 U.S.C. 1673b(f)) is amended to read as follows:

"(f) NOTICE OF DETERMINATION.—Whenever the Commission or the administering authority makes a determination under this section, the Commission or the administering authority, as the case may be, shall notify the petitioner, and other parties to the investigation, and the Commission or the administering authority (whichever is appropriate) of its determination. The administering authority shall include with such notification the facts and conclusions on which its determination is based. Not later than 5 days after the date on which the determination is required to be made under subsection (a)(2), the Commission shall transmit to the administering authority the facts and conclusions on which its determination is based.".

SEC. 213. DE MINIMIS DUMPING MARGIN.

(a) PRELIMINARY DETERMINATIONS.—Section 733(b) (19 U.S.C. 1673b(b)) is amended by adding at the end the following new paragraph:

"(3) DE MINIMIS DUMPING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any weighted average dumping margin that is de minimis. For purposes of the preceding sentence, a weighted average dumping margin is de minimis if the administering authority determines that it is less than 2 percent ad valorem or the equivalent specific rate for the subject merchandise.".

(b) FINAL DETERMINATIONS.—Section 735(a) (19 U.S.C. 1673d(a)) is amended by adding at the end the following new paragraph:

"(4) DE MINIMIS DUMPING MARGIN.—In making a determination under this subsection, the administering authority shall disregard any weighted average dumping margin that is de minimis as defined in section 733(b)(3).".

SEC. 214. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) PRELIMINARY DETERMINATIONS.—Section 703(e)(1) (19 U.S.C. 1671b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking "best information" and inserting "information"; and

(B) by amending subparagraphs (A) and (B) to read as follows:

"(A) the alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and

"(B) there have been massive imports of the subject merchandise over a relatively short period.".

(2) FINAL DETERMINATIONS.—(A) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)) is amended—

(i) in subparagraph (A) by inserting "Subsidies" before "Agreement"; and

(ii) in subparagraph (B) by striking "class or kind of merchandise involved" and inserting "subject merchandise".

(B) Section 705(b)(4)(A) (19 U.S.C. 1671d(b)(4)) is amended to read as follows:

"(A) COMMISSION STANDARD FOR RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether the imports subject to the affirmative determination under subsection (a)(2) are likely to undermine seriously the remedial effect of the countervailing duty order to be issued under section 706.

"(ii) FACTORS TO CONSIDER.—In making the evaluation under clause (i), the Commission shall consider, among other factors it considers relevant—

"(I) the timing and the volume of the imports,

"(II) any rapid increase in inventories of the imports, and

"(III) any other circumstances indicating that the remedial effect of the countervailing duty order will be seriously undermined.".

(b) ANTIDUMPING INVESTIGATIONS.—

(1) PRELIMINARY DETERMINATIONS.—Section 733(e)(1) (19 U.S.C. 1673b(e)(1)) is amended—

(A) in the matter preceding subparagraph (A) by striking "best information" and inserting "information"; and

(B) by amending subparagraphs (A) and (B) to read as follows:

"(A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and

"(B) there have been massive imports of the subject merchandise over a relatively short period.".

(2) FINAL DETERMINATIONS.—(A) Section 735(a)(3) (19 U.S.C. 1673d(a)(3)) is amended—

(i) in clause (i) of subparagraph (A)—

(I) by inserting "and material injury by reason of dumped imports" after "history of dumping"; and

(II) by striking "class or kind of the merchandise which is the subject of the investigation" and inserting "subject merchandise";

(ii) in clause (ii) of subparagraph (A) by striking "merchandise which is the subject of the investigation at less than its fair value" and inserting "subject merchandise at less than its fair value and that there would be material injury by reason of such sales"; and

(iii) in subparagraph (B) by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(B) Section 735(b)(4)(A) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

"(A) COMMISSION STANDARD FOR RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall

include a finding as to whether the imports subject to the affirmative determination under subsection (a)(3) are likely to undermine seriously the remedial effect of the antidumping duty order to be issued under section 736.

"(ii) FACTORS TO CONSIDER.—In making the evaluation under clause (i), the Commission shall consider, among other factors it considers relevant—

"(I) the timing and the volume of the imports,

"(II) a rapid increase in inventories of the imports, and

"(III) any other circumstances indicating that the remedial effect of the antidumping order will be seriously undermined.".

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SEC. 215. PROVISIONAL MEASURES.

(a) COUNTERVAILING DUTIES.—

(1) SUSPENSION OF LIQUIDATION.—Section 703(d) (19 U.S.C. 1671b(d)) is amended—

(A) in paragraph (1), by striking "warehouse" and all that follows through "Register," and inserting "warehouse, for consumption on or after the later of—

"(A) the date on which notice of the determination is published in the Federal Register, or

"(B) the date that is 60 days after the date on which notice of the determination to initiate the investigation is published in the Federal Register,"; and

(B) by adding at the end the following:

"The instructions of the administering authority under paragraphs (1) and (2) may not remain in effect for more than 4 months.".

(2) CRITICAL CIRCUMSTANCES CASES.—Section 703(e)(2) (19 U.S.C. 1671b(e)(2)) is amended by striking "warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered." and inserting "warehouse, for consumption on or after the later of—

"(A) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or

"(B) the date on which notice of the determination to initiate the investigation is published in the Federal Register.".

(b) ANTIDUMPING DUTIES.—

(1) SUSPENSION OF LIQUIDATION.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—

(A) in paragraph (1), by striking "warehouse" and all that follows through "Register," and inserting "warehouse, for consumption on or after the later of—

"(A) the date on which notice of the determination is published in the Federal Register, or

"(B) the date that is 60 days after the date on which notice of the determination to initiate the investigation is published in the Federal Register,"; and

(B) by adding at the end the following:

"The instructions of the administering authority under paragraphs (1) and (2) may not remain in effect for more than 4 months, except that the administering authority may, at the request of exporters representing a significant proportion of exports of the

subject merchandise, extend that 4-month period to not more than 6 months.".

(2) CRITICAL CIRCUMSTANCES CASES.—Section 733(e)(2) (19 U.S.C. 1673b(e)(2)) is amended by striking "warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered." and inserting "warehouse, for consumption on or after the later of—

"(A) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or

"(B) the date on which notice of the determination to initiate the investigation is published in the Federal Register.".

SEC. 216. CONDITIONS ON ACCEPTANCE OF SUSPENSION AGREEMENTS.

(a) COUNTERVAILING DUTIES.—Section 704(d)(1) (19 U.S.C. 1671c(d)(1)) is amended by striking "In applying" and inserting the following:

"Where practicable, the administering authority shall provide to the exporters who would have been subject to the agreement the reasons for not accepting the agreement and, to the extent possible, an opportunity to submit comments thereon. In applying".

(b) ANTIDUMPING DUTIES.—Section 734(d) (19 U.S.C. 1673c(d)) is amended by adding at the end the following flush sentence: "Where practicable, the administering authority shall provide to the exporters who would have been subject to the agreement the reasons for not accepting the agreement and, to the extent possible, an opportunity to submit comments thereon.".

SEC. 217. TERMINATION OF INVESTIGATION.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—Section 704(a)(1) (19 U.S.C. 1671c(a)(1)) is amended—

(1) by striking "Except" and inserting "(A) WITHDRAWAL OF PETITION.—Except";

(2) by indenting the text so as to align it with subparagraph (B) (as added by paragraph (3) of this subsection); and

(3) by adding at the end the following:

"(B) REFILING OF PETITION.—If, within 3 months after the withdrawal of a petition under subparagraph (A), a new petition is filed seeking the imposition of duties on both the subject merchandise of the withdrawn petition and the subject merchandise from another country, the administering authority and the Commission may use in the investigation initiated pursuant to the new petition any records compiled in an investigation conducted pursuant to the withdrawn petition. This subparagraph applies only with respect to the first withdrawal of a petition.".

(b) ANTIDUMPING DUTY INVESTIGATIONS.—Section 734(a)(1) (19 U.S.C. 1673c(a)(1)) is amended—

(1) by striking "Except" and inserting "(A) WITHDRAWAL OF PETITION.—Except";

(2) by indenting the text so as to align it with subparagraph (B) (as added by paragraph (3) of this subsection); and

(3) by adding at the end the following:

"(B) REFILING OF PETITION.—If, within 3 months after the withdrawal of a petition under subparagraph (A), a new petition is filed seeking the imposition of duties on

both the subject merchandise of the withdrawn petition and the subject merchandise from another country, the administering authority and the Commission may use in the investigation initiated pursuant to the new petition any records compiled in an investigation conducted pursuant to the withdrawn petition. This subparagraph applies only with respect to the first withdrawal of a petition.".

SEC. 218. SPECIAL RULES FOR REGIONAL INDUSTRIES.

(a) SUSPENSION AGREEMENTS.—

(1) COUNTERVAILING DUTY INVESTIGATIONS.—Section 704 (19 U.S.C. 1671c) is amended by adding at the end the following new subsection:

"(l) SPECIAL RULE FOR REGIONAL INDUSTRY INVESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b) or (c).

"(2) REQUIREMENTS FOR SUSPENSION AGREEMENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b) or (c), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 705(b) but not in the preliminary affirmative determination under section 703(a), any agreement described in paragraph (1) may be accepted within 60 days after the countervailing duty order is published under section 706.

"(3) EFFECT OF SUSPENSION AGREEMENT ON COUNTERVAILING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the countervailing duty order is published, the administering authority shall rescind the order, refund any cash deposit and release any bond or other security deposited under section 703(d)(1)(B), and instruct the Customs Service that entries of the subject merchandise that were made during the period that the order was in effect shall be liquidated without regard to countervailing duties.".

(2) ANTIDUMPING INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULE FOR REGIONAL INDUSTRY INVESTIGATIONS.—

"(1) SUSPENSION AGREEMENTS.—If the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall offer exporters of the subject merchandise who account for substantially all exports of that merchandise for sale in the region concerned the opportunity to enter into an agreement described in subsection (b), (c), or (l).

"(2) REQUIREMENTS FOR SUSPENSION AGREEMENTS.—Any agreement described in paragraph (1) shall be subject to all the requirements imposed under this section for other agreements under subsection (b), (c), or (l), except that if the Commission makes a regional industry determination described in paragraph (1) in the final affirmative determination under section 735(b) but not in the preliminary affirmative determination

under section 733(a), any agreement described in paragraph (1) may be accepted within 60 days after the antidumping order is published under section 736.

"(3) EFFECT OF SUSPENSION AGREEMENT ON ANTIDUMPING DUTY ORDER.—If an agreement described in paragraph (1) is accepted after the antidumping duty order is published, the administering authority shall rescind the order, refund any cash deposit and release any bond or other security deposited under section 733(d)(1)(B), and instruct the Customs Service that entries of the subject merchandise that were made during the period that the order was in effect shall be liquidated without regard to antidumping duties.".

(b) APPLICABILITY OF ORDERS TO NEW SHIPPERS.—

(1) COUNTERVAILING DUTY CASES.—Section 706 (19 U.S.C. 1671e) is amended by adding at the end the following new subsection:

"(c) SPECIAL RULE FOR REGIONAL INDUSTRIES.—

"(1) IN GENERAL.—In an investigation under this subtitle in which the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

"(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the countervailing duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B).".

(2) ANTIDUMPING DUTY CASES.—Section 736 (19 U.S.C. 1673e) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR REGIONAL INDUSTRIES.—

"(1) IN GENERAL.—In an investigation in which the Commission makes a regional industry determination under section 771(4)(C), the administering authority shall, to the maximum extent possible, direct that duties be assessed only on the subject merchandise of the specific exporters or producers that exported the subject merchandise for sale in the region concerned during the period of investigation.

"(2) EXCEPTION FOR NEW EXPORTERS AND PRODUCERS.—After publication of the antidumping duty order, if the administering authority finds that a new exporter or producer is exporting the subject merchandise for sale in the region concerned, the administering authority shall direct that duties be assessed on the subject merchandise of the new exporter or producer consistent with the provisions of section 751(a)(2)(B).".

SEC. 219. DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

(a) PRELIMINARY DETERMINATION.—

(1) IN GENERAL.—Section 733(d) (19 U.S.C. 1673b(d)) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (1), as amended by section 215(b)(1)(A), as paragraph (2);

(C) by inserting "and" at the end of paragraph (2), as so redesignated; and

(D) by inserting before such paragraph (2) the following new paragraph:

"(1)(A) shall—

"(i) determine an estimated weighted average dumping margin for each exporter and producer individually investigated, and

"(ii) determine, in accordance with section 735(c)(5), an estimated all-others rate for all exporters and producers not individually investigated, and

"(B) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated weighted average dumping margin or the estimated all-others rate, whichever is applicable,".

(2) CONFORMING AMENDMENTS.—Section 733(b)(1)(A) (19 U.S.C. 1673b(b)(1)(A)) is amended by striking the last sentence.

(b) FINAL DETERMINATION.—

(1) IN GENERAL.—Section 735(c)(1) (19 U.S.C. 1673d(c)(1)) is amended—

(A) in subparagraph (B)—

(i) by redesignating such subparagraph as subparagraph (C); and

(ii) by striking "under paragraphs (1) and (2)" and all that follows through "security" and inserting "the suspension of liquidation under section 733(d)(2)";

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) the administering authority shall—

"(I) determine the estimated weighted average dumping margin for each exporter and producer individually investigated, and

"(II) determine, in accordance with paragraph (5), the estimated all-others rate for all exporters and producers not individually investigated, and

"(ii) the administering authority shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated weighted average dumping margin or the estimated all-others rate, whichever is applicable, and".

(2) METHOD FOR DETERMINING WEIGHTED AVERAGE DUMPING MARGIN.—Section 735(c) (19 U.S.C. 1673d(c)) is amended by adding at the end the following new paragraph:

"(5) METHOD FOR DETERMINING ESTIMATED ALL-OTHERS RATE.—

"(A) GENERAL RULE.—For purposes of this subsection and section 733(d), the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any

zero and de minimis margins, and any margins determined entirely under section 776.

"(B) EXCEPTION.—If the estimated weighted average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776, the administering authority may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 733(e)(2) is amended by striking "subsection (d)(1)" and inserting "subsection (d)(2)". 19 USC 1673b.

(2) Section 734(f)(2)(A) is amended— 19 USC 1673c.

(A) in clause (i), by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) in clause (iii), by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(3) Section 734(f)(2)(B) is amended—

(A) by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(4) Section 734(h)(3) is amended—

(A) in subparagraph (A), by striking "section 733(d)(1)" and inserting "section 733(d)(2)"; and

(B) in subparagraph (B), by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(5) Section 734(i)(1)(A) is amended by striking "section 733(d)(1)" and inserting "section 733(d)(2)".

(6) Section 735(c)(2)(A) is amended by striking "section 703(d)(1)" and inserting "section 733(d)(2)". 19 USC 1673d.

(7) Section 735(c)(2)(B) is amended by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(8) Section 735(c)(3)(B) is amended by striking "section 733(d)(2)" and inserting "section 733(d)(1)(B)".

(9) Section 736(b)(1) is amended by striking "section 733(d)(1)" each place it appears and inserting "section 733(d)(2)". 19 USC 1673e.

(10) Section 737(a) is amended by striking "section 733(d)(2)" each place it appears in the heading and in the text and inserting "section 733(d)(1)(B)". 19 USC 1673f.

SEC. 220. REVIEW OF DETERMINATIONS.

(a) IN GENERAL.—Section 751 (19 U.S.C. 1675) is amended to read as follows:

"SEC. 751. ADMINISTRATIVE REVIEW OF DETERMINATIONS.

"(a) PERIODIC REVIEW OF AMOUNT OF DUTY.—

"(1) IN GENERAL.—At least once during each 12-month period beginning on the anniversary of the date of publication of a countervailing duty order under this title or under section 303 of this Act, an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or a notice of the suspension of an investigation, the administering authority, if a request for such a review has been received and Federal Register, publication.

after publication of notice of such review in the Federal Register, shall—

"(A) review and determine the amount of any net countervailable subsidy,

"(B) review, and determine (in accordance with paragraph (2)), the amount of any antidumping duty, and

"(C) review the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any net countervailable subsidy or dumping margin involved in the agreement,

and shall publish in the Federal Register the results of such review, together with notice of any duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

"(2) DETERMINATION OF ANTIDUMPING DUTIES.—

"(A) IN GENERAL.—For the purpose of paragraph (1)(B), the administering authority shall determine—

"(i) the normal value and export price (or constructed export price) of each entry of the subject merchandise, and

"(ii) the dumping margin for each such entry.

"(B) DETERMINATION OF ANTIDUMPING OR COUNTERVAILING DUTIES FOR NEW EXPORTERS AND PRODUCERS.—

"(i) IN GENERAL.—If the administering authority receives a request from an exporter or producer of the subject merchandise establishing that—

"(I) such exporter or producer did not export the merchandise that was the subject of an antidumping duty or countervailing duty order to the United States (or, in the case of a regional industry, did not export the subject merchandise for sale in the region concerned) during the period of investigation, and

"(II) such exporter or producer is not affiliated (within the meaning of section 771(33)) with any exporter or producer who exported the subject merchandise to the United States (or in the case of a regional industry, who exported the subject merchandise for sale in the region concerned) during that period,

the administering authority shall conduct a review under this subsection to establish an individual weighted average dumping margin or an individual countervailing duty rate (as the case may be) for such exporter or producer.

"(ii) TIME FOR REVIEW UNDER CLAUSE (i).—The administering authority shall commence a review under clause (i) in the calendar month beginning after—

"(I) the end of the 6-month period beginning on the date of the countervailing duty or antidumping duty order under review, or

"(II) the end of any 6-month period occurring thereafter,

if the request for the review is made during that 6-month period.

"(iii) POSTING BOND OR SECURITY.—The administering authority shall, at the time a review under this subparagraph is initiated, direct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise.

"(iv) TIME LIMITS.—The administering authority shall make a preliminary determination in a review conducted under this subparagraph within 180 days after the date on which the review is initiated, and a final determination within 90 days after the date the preliminary determination is issued, except that if the administering authority concludes that the case is extraordinarily complicated, it may extend the 180-day period to 300 days and may extend the 90-day period to 150 days.

"(C) RESULTS OF DETERMINATIONS.—The determination under this paragraph shall be the basis for the assessment of countervailing or antidumping duties on entries of merchandise covered by the determination and for deposits of estimated duties.

"(3) TIME LIMITS.—

"(A) PRELIMINARY AND FINAL DETERMINATIONS.—The administering authority shall make a preliminary determination under subparagraph (A), (B), or (C) of paragraph (1) within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under paragraph (1) is requested, and a final determination under paragraph (1) within 120 days after the date on which the preliminary determination is published. If it is not practicable to complete the review within the foregoing time, the administering authority may extend that 245-day period to 365 days and may extend that 120-day period to 180 days. The administering authority may extend the time for making a final determination without extending the time for making a preliminary determination, if such final determination is made not later than 300 days after the date on which the preliminary determination is published.

"(B) LIQUIDATION OF ENTRIES.—If the administering authority orders any liquidation of entries pursuant to a review under paragraph (1), such liquidation shall be made promptly and, to the greatest extent practicable, within 90 days after the instructions to Customs are issued. In any case in which liquidation has not occurred within that 90-day period, the Secretary of the Treasury shall, upon the request of the affected party, provide an explanation thereof.

"(C) EFFECT OF PENDING REVIEW UNDER SECTION 516A.—In a case in which a final determination under paragraph (1) is under review under section 516A and a liquidation of entries covered by the determination is enjoined under section 516A(c)(2) or suspended under section 516A(g)(5)(C), the administering authority shall, within 10 days after the final disposition of the review under section

516A, transmit to the Federal Register for publication the final disposition and issue instructions to the Customs Service with respect to the liquidation of entries pursuant to the review. In such a case, the 90-day period referred to in subparagraph (B) shall begin on the day on which the administering authority issues such instructions.

"(4) ABSORPTION OF ANTIDUMPING DUTIES.—During any review under this subsection initiated 2 years or 4 years after the publication of an antidumping duty order under section 736(a), the administering authority, if requested, shall determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. The administering authority shall notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting a review under subsection (c).

"(b) REVIEWS BASED ON CHANGED CIRCUMSTANCES.—

Federal Register, publication.

"(1) IN GENERAL.—Whenever the administering authority or the Commission receives information concerning, or a request from an interested party for a review of—

"(A) a final affirmative determination that resulted in an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or in a countervailing duty order under this title or section 303,

"(B) a suspension agreement accepted under section 704 or 734, or

"(C) a final affirmative determination resulting from an investigation continued pursuant to section 704(g) or 734(g),

which shows changed circumstances sufficient to warrant a review of such determination or agreement, the administering authority or the Commission (as the case may be) shall conduct a review of the determination or agreement after publishing notice of the review in the Federal Register.

"(2) COMMISSION REVIEW.—In conducting a review under this subsection, the Commission shall—

"(A) in the case of a countervailing duty order or antidumping duty order or finding, determine whether revocation of the order or finding is likely to lead to continuation or recurrence of material injury,

"(B) in the case of a determination made pursuant to section 704(h)(2) or 734(h)(2), determine whether the suspension agreement continues to eliminate completely the injurious effects of imports of the subject merchandise, and

"(C) in the case of an affirmative determination resulting from an investigation continued under section 704(g) or 734(g), determine whether termination of the suspended investigation is likely to lead to continuation or recurrence of material injury.

"(3) BURDEN OF PERSUASION.—During a review conducted by the Commission under this subsection—

"(A) the party seeking revocation of an order or finding described in paragraph (1)(A) shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such revocation, and

"(B) the party seeking termination of a suspended investigation or a suspension agreement shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant such termination.

"(4) LIMITATION ON PERIOD FOR REVIEW.—In the absence of good cause shown—

"(A) the Commission may not review a determination made under section 705(b) or 735(b), or an investigation suspended under section 704 or 734, and

"(B) the administering authority may not review a determination made under section 705(a) or 735(a), or an investigation suspended under section 704 or 734,

less than 24 months after the date of publication of notice of that determination or suspension.

"(c) FIVE-YEAR REVIEW.—

"(1) IN GENERAL.—Notwithstanding subsection (b) and except in the case of a transition order defined in paragraph (6), 5 years after the date of publication of—

"(A) a countervailing duty order (other than a countervailing duty order to which subparagraph (B) applies or which was issued without an affirmative determination of injury by the Commission under section 303), an antidumping duty order, or a notice of suspension of an investigation, described in subsection (a)(1),

"(B) a notice of injury determination under section 753 with respect to a countervailing duty order, or

"(C) a determination under this section to continue an order or suspension agreement,

the administering authority and the Commission shall conduct a review to determine, in accordance with section 752, whether revocation of the countervailing or antidumping duty order or termination of the investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

"(2) NOTICE OF INITIATION OF REVIEW.—Not later than 30 days before the fifth anniversary of the date described in paragraph (1), the administering authority shall publish in the Federal Register a notice of initiation of a review under this subsection and request that interested parties submit— Federal Register, publication.

"(A) a statement expressing their willingness to participate in the review by providing information requested by the administering authority and the Commission,

"(B) a statement regarding the likely effects of revocation of the order or termination of the suspended investigation, and

"(C) such other information or industry data as the administering authority or the Commission may specify.

"(3) RESPONSES TO NOTICE OF INITIATION.—

"(A) NO RESPONSE.—If no interested party responds to the notice of initiation under this subsection, the administering authority shall issue a final determination, within 90 days after the initiation of a review, revoking the order or terminating the suspended investigation to which such notice relates. For purposes of this paragraph, an interested

party means a party described in section 771(9) (C), (D), (E), (F), or (G).

"(B) INADEQUATE RESPONSE.—If interested parties provide inadequate responses to a notice of initiation, the administering authority, within 120 days after the initiation of the review, or the Commission, within 150 days after such initiation, may issue, without further investigation, a final determination based on the facts available, in accordance with section 776.

"(4) WAIVER OF PARTICIPATION BY CERTAIN INTERESTED PARTIES.—

"(A) IN GENERAL.—An interested party described in section 771(9) (A) or (B) may elect not to participate in a review conducted by the administering authority under this subsection and to participate only in the review conducted by the Commission under this subsection.

"(B) EFFECT OF WAIVER.—In a review in which an interested party waives its participation pursuant to this paragraph, the administering authority shall conclude that revocation of the order or termination of the investigation would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) with respect to that interested party.

"(5) CONDUCT OF REVIEW.—

"(A) TIME LIMITS FOR COMPLETION OF REVIEW.—Unless the review has been completed pursuant to paragraph (3) or paragraph (4) applies, the administering authority shall make its final determination pursuant to section 752 (b) or (c) within 240 days after the date on which a review is initiated under this subsection. If the administering authority makes a final affirmative determination, the Commission shall make its final determination pursuant to section 752(a) within 360 days after the date on which a review is initiated under this subsection.

"(B) EXTENSION OF TIME LIMIT.—The administering authority or the Commission (as the case may be) may extend the period of time for making their respective determinations under this subsection by not more than 90 days, if the administering authority or the Commission (as the case may be) determines that the review is extraordinarily complicated. In a review in which the administering authority extends the time for making a final determination, but the Commission does not extend the time for making a determination, the Commission's determination shall be made not later than 120 days after the date on which the final determination of the administering authority is published.

"(C) EXTRAORDINARILY COMPLICATED.—For purposes of this subsection, the administering authority or the Commission (as the case may be) may treat a review as extraordinarily complicated if—

"(i) there is a large number of issues,

"(ii) the issues to be considered are complex,

"(iii) there is a large number of firms involved,

"(iv) the orders or suspended investigations have been grouped as described in subparagraph (D), or

"(v) it is a review of a transition order.

"(D) GROUPED REVIEWS.—The Commission, in consultation with the administering authority, may group orders or suspended investigations for review if it considers that such grouping is appropriate and will promote administrative efficiency. Where orders or suspended investigations have been grouped, the Commission shall, subject to subparagraph (B), make its final determination under this subsection not later than 120 days after the date that the administering authority publishes notice of its final determination with respect to the last order or agreement in the group.

"(6) SPECIAL TRANSITION RULES.—

"(A) SCHEDULE FOR REVIEWS OF TRANSITION ORDERS.—

"(i) INITIATION.—The administering authority shall begin its review of transition orders in the 42d calendar month after the date such orders are issued. A review of all transition orders shall be initiated not later than the 5th anniversary after the date such orders are issued.

"(ii) COMPLETION.—A review of a transition order shall be completed not later than 18 months after the date such review is initiated. Reviews of all transition orders shall be completed not later than 18 months after the 5th anniversary of the date such orders are issued.

"(iii) SUBSEQUENT REVIEWS.—The time limits set forth in clauses (i) and (ii) shall be applied to all subsequent 5-year reviews of transition orders by substituting 'date of the determination to continue such orders' for 'date such orders are issued'.

"(iv) REVOCATION AND TERMINATION.—No transition order may be revoked under this subsection before the date that is 5 years after the date the WTO Agreement enters into force with respect to the United States.

"(B) SEQUENCE OF TRANSITION REVIEWS.—The administering authority, in consultation with the Commission, shall determine such sequence of review of transition orders as it deems appropriate to promote administrative efficiency. To the extent practicable, older orders shall be reviewed first.

"(C) DEFINITION OF TRANSITION ORDER.—For purposes of this section, the term 'transition order' means—

"(i) a countervailing duty order under this title or under section 303,

"(ii) an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or

"(iii) a suspension of an investigation under section 704 or 734,

which is in effect on the date the WTO Agreement enters into force with respect to the United States.

"(D) ISSUE DATE FOR TRANSITION ORDERS.—For purposes of this subsection, a transition order shall be treated as issued on the date the WTO Agreement enters into force with respect to the United States, if such order is based on an investigation conducted by both the administering authority and the Commission.

"(d) REVOCATION OF ORDER OR FINDING; TERMINATION OF SUSPENDED INVESTIGATION.—

"(1) IN GENERAL.—The administering authority may revoke, in whole or in part, a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, after review under subsection (a) or (b). The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States which are specifically intended to offset the countervailable subsidy received.

"(2) FIVE-YEAR REVIEWS.—In the case of a review conducted under subsection (c), the administering authority shall revoke a countervailing duty order or an antidumping duty order or finding, or terminate a suspended investigation, unless—

"(A) the administering authority makes a determination that dumping or a countervailable subsidy, as the case may be, would be likely to continue or recur, and

"(B) the Commission makes a determination that material injury would be likely to continue or recur as described in section 752(a).

"(3) APPLICATION OF REVOCATION OR TERMINATION.—A determination under this section to revoke an order or finding or terminate a suspended investigation shall apply with respect to unliquidated entries of the subject merchandise which are entered, or withdrawn from warehouse, for consumption on or after the date determined by the administering authority.

"(e) HEARINGS.—Whenever the administering authority or the Commission conducts a review under this section, it shall, upon the request of an interested party, hold a hearing in accordance with section 774(b) in connection with that review.

"(f) DETERMINATION THAT BASIS FOR SUSPENSION NO LONGER EXISTS.—If the determination of the Commission under subsection (b)(2)(B) is negative, the suspension agreement shall be treated as not accepted, beginning on the date of publication of the Commission's determination, and the administering authority and the Commission shall proceed, under section 704(i) or 734(i), as if the suspension agreement had been violated on that date, except that no duty under any order subsequently issued shall be assessed on merchandise entered, or withdrawn from warehouse, for consumption before that date.

"(g) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

(b) REVIEW OF DETERMINATIONS.—

19 USC 1516a.

(1) IN GENERAL.—Section 516A(a)(1) (19 U.S.C. 1516A(a)(1)) is amended by striking "or" at the end of subparagraph (B), by inserting "or" at the end of subparagraph (C), and by insert-

ing immediately after subparagraph (C) the following new subparagraph:

"(D) a final determination by the administering authority or the Commission under section 751(c)(3),".

(2) TECHNICAL AMENDMENTS.—Section 516A(b)(1) (19 U.S.C. 1516a(b)(1)) is amended—

(A) in subparagraph (A), by striking "under paragraph (1) of subsection (a)" and inserting "under subparagraph (A), (B), or (C) of subsection (a)(1)", and

(B) in subparagraph (B)—

(i) by striking "(B) in an action" and inserting "(B)(i) in an action",

(ii) by striking the end period and inserting ", or", and

(iii) by adding at the end the following:

"(ii) in an action brought under paragraph (1)(D) of subsection (a), to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(c) CONFORMING AMENDMENT.—Section 504 (19 U.S.C. 1504) is amended—

(1) in subsection (a), by inserting "except as provided in section 751(a)(3)," before "an entry of merchandise not liquidated", and

(2) in subsection (d), by striking "When a suspension" and inserting "Except as provided in section 751(a)(3), when a suspension".

SEC. 221. REVIEW DETERMINATIONS.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII (19 U.S.C. 1675) is amended by adding at the end the following new section:

"SEC. 752. SPECIAL RULES FOR SECTION 751(b) AND 751(c) REVIEWS. 19 USC 1675a.

"(a) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY.—

"(1) IN GENERAL.—In a review conducted under section 751 (b) or (c), the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account—

"(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,

"(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,

"(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and

"(D) in an antidumping proceeding under section 751(c), the findings of the administering authority regarding duty absorption under section 751(a)(4).

"(2) VOLUME.—In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the sus-

pended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including—

"(A) any likely increase in production capacity or existing unused production capacity in the exporting country,

"(B) existing inventories of the subject merchandise, or likely increases in inventories,

"(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and

"(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.

"(3) PRICE.—In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether—

"(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and

"(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.

"(4) IMPACT ON THE INDUSTRY.—In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to—

"(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

"(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.

The Commission shall evaluate all relevant economic factors described in this paragraph within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

"(5) BASIS FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to consider under this subsection shall not necessarily give decisive guidance with respect to the Commission's determination of whether material injury is likely to continue or recur within a reasonably foreseeable time if the order is revoked or the suspended investigation is terminated. In making that determination, the

Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.

"(6) MAGNITUDE OF MARGIN OF DUMPING AND NET COUNTERVAILABLE SUBSIDY; NATURE OF COUNTERVAILABLE SUBSIDY.—In making a determination under section 751 (b) or (c), the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement.

"(7) CUMULATION.—For purposes of this subsection, the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 751 (b) or (c) were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.

"(8) SPECIAL RULE FOR REGIONAL INDUSTRIES.—In a review under section 751 (b) or (c) involving a regional industry, the Commission may base its determination on the regional industry defined in the original investigation under this title, another region that satisfies the criteria established in section 771(4)(C), or the United States as a whole. In determining if a regional industry analysis is appropriate for the determination in the review, the Commission shall consider whether the criteria established in section 771(4)(C) are likely to be satisfied if the order is revoked or the suspended investigation is terminated.

"(b) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF A COUNTERVAILABLE SUBSIDY.—

"(1) IN GENERAL.—In a review conducted under section 751(c), the administering authority shall determine whether revocation of a countervailing duty order or termination of a suspended investigation under section 704 would be likely to lead to continuation or recurrence of a countervailable subsidy. The administering authority shall consider—

"(A) the net countervailable subsidy determined in the investigation and subsequent reviews, and

"(B) whether any change in the program which gave rise to the net countervailable subsidy described in subparagraph (A) has occurred that is likely to affect that net countervailable subsidy.

"(2) CONSIDERATION OF OTHER FACTORS.—If good cause is shown, the administering authority shall also consider—

"(A) programs determined to provide countervailable subsidies in other investigations or reviews under this title, but only to the extent that such programs—

"(i) can potentially be used by the exporters or producers subject to the review under section 751(c), and

"(ii) did not exist at the time that the countervailing duty order was issued or the suspension agreement was accepted, and

"(B) programs newly alleged to provide countervailable subsidies but only to the extent that the administering authority makes an affirmative countervailing duty determination with respect to such programs and with respect to the exporters or producers subject to the review.

"(3) NET COUNTERVAILABLE SUBSIDY.—The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a net countervailable subsidy that was determined under section 705 or subsection (a) or (b)(1) of section 751.

"(4) SPECIAL RULE.—

"(A) TREATMENT OF ZERO AND DE MINIMIS RATES.—A net countervailable subsidy described in paragraph (1)(A) that is zero or de minimis shall not by itself require the administering authority to determine that revocation of a countervailing duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of a countervailable subsidy.

"(B) APPLICATION OF DE MINIMIS STANDARDS.—For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b)(1) of section 751.

"(c) DETERMINATION OF LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING.—

"(1) IN GENERAL.—In a review conducted under section 751(c), the administering authority shall determine whether revocation of an antidumping duty order or termination of a suspended investigation under section 734 would be likely to lead to continuation or recurrence of sales of the subject merchandise at less than fair value. The administering authority shall consider—

"(A) the weighted average dumping margins determined in the investigation and subsequent reviews, and

"(B) the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order or acceptance of the suspension agreement.

"(2) CONSIDERATION OF OTHER FACTORS.—If good cause is shown, the administering authority shall also consider such other price, cost, market, or economic factors as it deems relevant.

"(3) MAGNITUDE OF THE MARGIN OF DUMPING.—The administering authority shall provide to the Commission the magnitude of the margin of dumping that is likely to prevail if the order is revoked or the suspended investigation is terminated. The administering authority shall normally choose a margin that was determined under section 735 or under subsection (a) or (b)(1) of section 751.

"(4) SPECIAL RULE.—

"(A) TREATMENT OF ZERO OR DE MINIMIS MARGINS.—A dumping margin described in paragraph (1)(A) that is zero or de minimis shall not by itself require the admin-

istering authority to determine that revocation of an antidumping duty order or termination of a suspended investigation would not be likely to lead to continuation or recurrence of sales at less than fair value.

"(B) APPLICATION OF DE MINIMIS STANDARDS.—For purposes of this paragraph, the administering authority shall apply the de minimis standards applicable to reviews conducted under subsections (a) and (b) of section 751.".

(b) AFFIRMATIVE DETERMINATIONS BY DIVIDED COMMISSION.—Section 771(11) (19 U.S.C. 1677(11)) is amended by inserting ", including a determination under section 751," after "determination by the Commission".

(c) CONFORMING AMENDMENT.—The table of contents for title VII is amended by inserting after the item relating to section 751 the following:

"Sec. 752. Special rules for section 751(b) and 751(c) reviews.".

SEC. 222. DEFINITIONS.

(a) INDUSTRY.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 771(4) (19 U.S.C. 1677(4) (A) and (B)) are amended to read as follows:

"(A) IN GENERAL.—The term 'industry' means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.

"(B) RELATED PARTIES.—

"(i) If a producer of a domestic like product and an exporter or importer of the subject merchandise are related parties, or if a producer of the domestic like product is also an importer of the subject merchandise, the producer may, in appropriate circumstances, be excluded from the industry.

"(ii) For purposes of clause (i), a producer and an exporter or importer shall be considered to be related parties, if—

"(I) the producer directly or indirectly controls the exporter or importer,

"(II) the exporter or importer directly or indirectly controls the producer,

"(III) a third party directly or indirectly controls the producer and the exporter or importer, or

"(IV) the producer and the exporter or importer directly or indirectly control a third party and there is reason to believe that the relationship causes the producer to act differently than a nonrelated producer.

For purposes of this subparagraph, a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party.".

(2) REGIONAL INDUSTRY.—Section 771(4)(C) (19 U.S.C. 1677(4)(C)) is amended by adding at the end the following new sentence: "The term 'regional industry' means the domestic

producers within a region who are treated as a separate industry under this subparagraph.".

(b) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—

(1) IN GENERAL.—Section 771(7)(C)(iii) (19 U.S.C. 1677(7)(C)(iii)) is amended—

(A) by striking "and" at the end of subclause (III), and

(B) by striking the period at the end of subclause (IV) and inserting ", and

"(V) in a proceeding under subtitle B, the magnitude of the margin of dumping.".

(2) CAPTIVE PRODUCTION.—Section 771(7)(C) (19 U.S.C. 1677(7)(C)) is amended by striking clause (iv) and inserting the following:

"(iv) CAPTIVE PRODUCTION.—If domestic producers internally transfer significant production of the domestic like product for the production of a downstream article and sell significant production of the domestic like product in the merchant market, and the Commission finds that—

"(I) the domestic like product produced that is internally transferred for processing into that downstream article does not enter the merchant market for the domestic like product,

"(II) the domestic like product is the predominant material input in the production of that downstream article, and

"(III) the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article,

then the Commission, in determining market share and the factors affecting financial performance set forth in clause (iii), shall focus primarily on the merchant market for the domestic like product.".

(3) TECHNICAL CORRECTION.—Section 771(7)(C)(iii) is amended by striking "subparagraph (B)(iii)" and inserting "subparagraph (B)(i)(III)".

(c) DETERMINATION OF THREAT OF INJURY.—Clauses (i) and (ii) of section 771(7)(F) (19 U.S.C. 1677(7)(F) (i) and (ii)) are amended to read as follows:

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,

"(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the

subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

"(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

"(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,

"(V) inventories of the subject merchandise,

"(VI) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products,

"(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

"(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

"(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).

"(ii) BASIS FOR DETERMINATION.—The Commission shall consider the factors set forth in clause (i) as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider under clause (i) shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition.".

(d) NEGLIGIBLE IMPORTS.—Section 771 (19 U.S.C. 1677) is amended—

(1) in paragraph (7) by striking clause (v) of subparagraph (C), and

(2) by adding at the end the following:

"(24) NEGLIGIBLE IMPORTS.—

"(A) IN GENERAL.—

"(i) LESS THAN 3 PERCENT.—Except as provided in clauses (ii) and (iv), imports from a country of merchandise corresponding to a domestic like product identified by the Commission are 'negligible' if such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes—

"(I) the filing of the petition under section 702(b) or 732(b), or

"(II) the initiation of the investigation, if the investigation was initiated under section 702(a) or 732(a).

"(ii) EXCEPTION.—Imports that would otherwise be negligible under clause (i) shall not be negligible if the aggregate volume of imports of the merchandise from all countries described in clause (i) with respect to which investigations were initiated on the same day exceeds 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period.

"(iii) DETERMINATION OF AGGREGATE VOLUME.—In determining aggregate volume under clause (ii) or (iv), the Commission shall not consider imports from any country specified in paragraph (7)(G)(ii).

"(iv) NEGLIGIBILITY IN THREAT ANALYSIS.—Notwithstanding clauses (i) and (ii), the Commission shall not treat imports as negligible if it determines that there is a potential that imports from a country described in clause (i) will imminently account for more than 3 percent of the volume of all such merchandise imported into the United States, or that the aggregate volumes of imports from all countries described in clause (ii) will imminently exceed 7 percent of the volume of all such merchandise imported into the United States. The Commission shall consider such imports only for purposes of determining threat of material injury.

"(B) NEGLIGIBILITY FOR CERTAIN COUNTRIES IN COUNTERVAILING DUTY INVESTIGATIONS.—In the case of an investigation under section 701, subparagraph (A) shall be applied to imports of subject merchandise from developing countries by substituting '4 percent' for '3 percent' in subparagraph (A)(i) and by substituting '9 percent' for '7 percent' in subparagraph (A)(ii).

"(C) COMPUTATION OF IMPORT VOLUMES.—In computing import volumes for purposes of subparagraphs (A) and (B), the Commission may make reasonable estimates on the basis of available statistics.

"(D) REGIONAL INDUSTRIES.—In an investigation in which the Commission makes a regional industry determination under paragraph (4)(C), the Commission's examination under subparagraphs (A) and (B) shall be based upon the volume of subject merchandise exported for sale in the regional market in lieu of the volume of all subject merchandise imported into the United States.".

(e) CUMULATION.—Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) in subparagraph (F) by striking clause (iv), and

(2) by adding at the end the following:

"(G) CUMULATION FOR DETERMINING MATERIAL INJURY.—

"(i) IN GENERAL.—For purposes of clauses (i) and (ii) of subparagraph (C), and subject to clause (ii), the Commission shall cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which—

"(I) petitions were filed under section 702(b) or 732(b) on the same day,

"(II) investigations were initiated under section 702(a) or 732(a) on the same day, or

"(III) petitions were filed under section 702(b) or 732(b) and investigations were initiated under section 702(a) or 732(a) on the same day,

if such imports compete with each other and with domestic like products in the United States market.

"(ii) EXCEPTIONS.—The Commission shall not cumulatively assess the volume and effect of imports under clause (i)—

"(I) with respect to which the administering authority has made a preliminary negative determination, unless the administering authority subsequently made a final affirmative determination with respect to those imports before the Commission's final determination is made;

"(II) from any country with respect to which the investigation has been terminated;

"(III) from any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.) for purposes of making a determination with respect to that country, except that the volume and effect of imports of the subject merchandise from such country may be cumulatively assessed with imports of the subject merchandise from any other country designated as such a beneficiary country to the extent permitted by clause (i); or

"(IV) from any country that is a party to an agreement with the United States establishing a free trade area, which entered into force and effect before January 1, 1987, unless the Commission determines that a domestic industry is materially injured or threatened with material injury by reason of imports from that country.

"(iii) RECORDS IN FINAL INVESTIGATIONS.—In each final determination in which it cumulatively assesses the volume and effect of imports under clause (i), the Commission shall make its determinations based on the record compiled in the first investigation in which it makes a final determination, except that when the administering authority issues its final determination in a subsequently completed investigation, the Commission shall permit the parties in the subsequent

investigation to submit comments concerning the significance of the administering authority's final determination, and shall include such comments and the administering authority's final determination in the record for the subsequent investigation.

"(iv) REGIONAL INDUSTRY DETERMINATIONS.—In an investigation which involves a regional industry, and in which the Commission decides that the volume and effect of imports should be cumulatively assessed under this subparagraph, such assessment shall be based upon the volume and effect of imports into the region or regions determined by the Commission. The provisions of clause (iii) shall apply to such investigations.

"(H) CUMULATION FOR DETERMINING THREAT OF MATERIAL INJURY.—To the extent practicable and subject to subparagraph (G)(ii), for purposes of clause (i)(III) and (IV) of subparagraph (F), the Commission may cumulatively assess the volume and price effects of imports of the subject merchandise from all countries with respect to which—

"(i) petitions were filed under section 702(b) or 732(b) on the same day,

"(ii) investigations were initiated under section 702(a) or 732(a) on the same day, or

"(iii) petitions were filed under section 702(b) or 732(b) and investigations were initiated under section 702(a) or 732(a) on the same day,

if such imports compete with each other and with domestic like products in the United States market.".

(f) CONSIDERATION OF POST-PETITION INFORMATION.—Section 771(7) (19 U.S.C. 1677(7)), is amended by adding at the end the following:

"(I) CONSIDERATION OF POST-PETITION INFORMATION.—The Commission shall consider whether any change in the volume, price effects, or impact of imports of the subject merchandise since the filing of the petition in an investigation under subtitle A or B is related to the pendency of the investigation and, if so, the Commission may reduce the weight accorded to the data for the period after the filing of the petition in making its determination of material injury, threat of material injury, or material retardation of the establishment of an industry in the United States.".

(g) INTERESTED PARTY.—Section 771(9) (19 U.S.C. 1677(9)) is amended—

(1) in subparagraph (A), by inserting "producers, exporters, or" before "importers", and

(2) in subparagraph (B), inserting "or from which such merchandise is exported" after "manufactured".

(h) ORDINARY COURSE OF TRADE.—Section 771(15) (19 U.S.C. 1677(15)) is amended—

(1) by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise"; and

(2) by adding at the end the following: "The administering authority shall consider the following sales and transactions, among others, to be outside the ordinary course of trade:

"(A) Sales disregarded under section 773(b)(1).

"(B) Transactions disregarded under section 773(f)(2).".

(i) OTHER DEFINITIONS.—

(1) IN GENERAL.—Section 771 (19 U.S.C. 1677), as amended by subsection (d), is amended by adding at the end the following:

"(25) SUBJECT MERCHANDISE.—The term 'subject merchandise' means the class or kind of merchandise that is within the scope of an investigation, a review, a suspension agreement, an order under this title or section 303, or a finding under the Antidumping Act, 1921.

"(26) SECTION 303.—The terms 'section 303' and '303' mean section 303 of this Act as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act.

"(27) SUSPENSION AGREEMENT.—The term 'suspension agreement' means an agreement described in section 704(b), 704(c), 734(b), 734(c), or 734(l).

"(28) EXPORTER OR PRODUCER.—The term 'exporter or producer' means the exporter of the subject merchandise, the producer of the subject merchandise, or both where appropriate. For purposes of section 773, the term 'exporter or producer' includes both the exporter of the subject merchandise and the producer of the same subject merchandise to the extent necessary to accurately calculate the total amount incurred and realized for costs, expenses, and profits in connection with production and sale of that merchandise.

"(29) WTO AGREEMENT.—The term 'WTO Agreement' means the Agreement defined in section 2(9) of the Uruguay Round Agreements Act.

"(30) WTO MEMBER AND WTO MEMBER COUNTRY.—The terms 'WTO member' and 'WTO member country' mean a state, or separate customs territory (within the meaning of Article XII of the WTO Agreement), with respect to which the United States applies the WTO agreement.

"(31) GATT 1994.—The term 'GATT 1994' means the General Agreement on Tariffs and Trade annexed to the WTO Agreement.

"(32) TRADE REPRESENTATIVE.—The term 'Trade Representative' means the United States Trade Representative.

"(33) AFFILIATED PERSONS.—The following persons shall be considered to be 'affiliated' or 'affiliated persons':

"(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(B) Any officer or director of an organization and such organization.

"(C) Partners.

"(D) Employer and employee.

"(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

"(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

"(G) Any person who controls any other person and such other person.

For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

"(34) DUMPED; DUMPING.—The terms 'dumped' and 'dumping' refer to the sale or likely sale of goods at less than fair value.".

(2) EXPORTER.—Paragraph (13) of section 771 (19 U.S.C. 1677(13)) is repealed.

SEC. 223. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

Section 772 (19 U.S.C. 1677a) is amended to read as follows:

"SEC. 772. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

"(a) EXPORT PRICE.—The term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

"(b) CONSTRUCTED EXPORT PRICE.—The term 'constructed export price' means the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d).

"(c) ADJUSTMENTS FOR EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.—The price used to establish export price and constructed export price shall be—

"(1) increased by—

"(A) when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States,

"(B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States, and

"(C) the amount of any countervailing duty imposed on the subject merchandise under subtitle A to offset an export subsidy, and

"(2) reduced by—

"(A) except as provided in paragraph (1)(C), the amount, if any, included in such price, attributable to any additional costs, charges, or expenses, and United States import duties, which are incident to bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States, and

"(B) the amount, if included in such price, of any export tax, duty, or other charge imposed by the exporting country on the exportation of the subject merchandise to the United States, other than an export tax, duty, or other charge described in section 771(6)(C).

"(d) ADDITIONAL ADJUSTMENTS TO CONSTRUCTED EXPORT PRICE.—For purposes of this section, the price used to establish constructed export price shall also be reduced by—

"(1) the amount of any of the following expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States, in selling the subject merchandise (or subject merchandise to which value has been added)—

"(A) commissions for selling the subject merchandise in the United States;

"(B) expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees and warranties;

"(C) any selling expenses that the seller pays on behalf of the purchaser; and

"(D) any selling expenses not deducted under subparagraph (A), (B), or (C);

"(2) the cost of any further manufacture or assembly (including additional material and labor), except in circumstances described in subsection (e); and

"(3) the profit allocated to the expenses described in paragraphs (1) and (2).

"(e) SPECIAL RULE FOR MERCHANDISE WITH VALUE ADDED AFTER IMPORTATION.—Where the subject merchandise is imported by a person affiliated with the exporter or producer, and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the administering authority shall determine the constructed export price for such merchandise by using one of the following prices if there is a sufficient quantity of sales to provide a reasonable basis for comparison and the administering authority determines that the use of such sales is appropriate:

"(1) The price of identical subject merchandise sold by the exporter or producer to an unaffiliated person.

"(2) The price of other subject merchandise sold by the exporter or producer to an unaffiliated person.

If there is not a sufficient quantity of sales to provide a reasonable basis for comparison under paragraph (1) or (2), or the administering authority determines that neither of the prices described in such paragraphs is appropriate, then the constructed export price may be determined on any other reasonable basis.

"(f) SPECIAL RULE FOR DETERMINING PROFIT.—

"(1) IN GENERAL.—For purposes of subsection (d)(3), profit shall be an amount determined by multiplying the total actual profit by the applicable percentage.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined by dividing the total United States expenses by the total expenses.

"(B) TOTAL UNITED STATES EXPENSES.—The term 'total United States expenses' means the total expenses described in subsection (d)(1) and (2).

"(C) TOTAL EXPENSES.—The term 'total expenses' means all expenses in the first of the following categories which applies and which are incurred by or on behalf of the foreign producer and foreign exporter of the subject merchandise and by or on behalf of the United States

seller affiliated with the producer or exporter with respect to the production and sale of such merchandise:

"(i) The expenses incurred with respect to the subject merchandise sold in the United States and the foreign like product sold in the exporting country if such expenses were requested by the administering authority for the purpose of establishing normal value and constructed export price.

"(ii) The expenses incurred with respect to the narrowest category of merchandise sold in the United States and the exporting country which includes the subject merchandise.

"(iii) The expenses incurred with respect to the narrowest category of merchandise sold in all countries which includes the subject merchandise.

"(D) TOTAL ACTUAL PROFIT.—The term 'total actual profit' means the total profit earned by the foreign producer, exporter, and affiliated parties described in subparagraph (C) with respect to the sale of the same merchandise for which total expenses are determined under such subparagraph.".

SEC. 224. NORMAL VALUE.

Section 773 (19 U.S.C. 1677b) is amended to read as follows:

"SEC. 773. NORMAL VALUE.

"(a) DETERMINATION.—In determining under this title whether subject merchandise is being, or is likely to be, sold at less than fair value, a fair comparison shall be made between the export price or constructed export price and normal value. In order to achieve a fair comparison with the export price or constructed export price, normal value shall be determined as follows:

"(1) DETERMINATION OF NORMAL VALUE.—

"(A) IN GENERAL.—The normal value of the subject merchandise shall be the price described in subparagraph (B), at a time reasonably corresponding to the time of the sale used to determine the export price or constructed export price under section 772(a) or (b).

"(B) PRICE.—The price referred to in subparagraph (A) is—

"(i) the price at which the foreign like product is first sold (or, in the absence of a sale, offered for sale) for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the export price or constructed export price, or

"(ii) in a case to which subparagraph (C) applies, the price at which the foreign like product is so sold (or offered for sale) for consumption in a country other than the exporting country or the United States, if—

"(I) such price is representative,

"(II) the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold by the exporter or producer in such other country is 5 percent or more of the aggregate quantity (or value) of the subject merchandise sold in

the United States or for export to the United States, and

"(III) the administering authority does not determine that the particular market situation in such other country prevents a proper comparison with the export price or constructed export price.

"(C) THIRD COUNTRY SALES.—This subparagraph applies when—

"(i) the foreign like product is not sold (or offered for sale) for consumption in the exporting country as described in subparagraph (B)(i),

"(ii) the administering authority determines that the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold in the exporting country is insufficient to permit a proper comparison with the sales of the subject merchandise to the United States, or

"(iii) the particular market situation in the exporting country does not permit a proper comparison with the export price or constructed export price.

For purposes of clause (ii), the aggregate quantity (or value) of the foreign like product sold in the exporting country shall normally be considered to be insufficient if such quantity (or value) is less than 5 percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

"(2) FICTITIOUS MARKETS.—No pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account in determining normal value. The occurrence of different movements in the prices at which different forms of the foreign like product are sold (or, in the absence of sales, offered for sale) in the exporting country after the issuance of an antidumping duty order may be considered by the administering authority as evidence of the establishment of a fictitious market for the foreign like product if the movement in such prices appears to reduce the amount by which the normal value exceeds the export price (or the constructed export price) of the subject merchandise.

"(3) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—Where the subject merchandise is exported to the United States from an intermediate country, normal value shall be determined in the intermediate country, except that normal value may be determined in the country of origin of the subject merchandise if—

"(A) the producer knew at the time of the sale that the subject merchandise was destined for exportation;

"(B) the subject merchandise is merely transshipped through the intermediate country;

"(C) sales of the foreign like product in the intermediate country do not satisfy the conditions of paragraph (1)(C); or

"(D) the foreign like product is not produced in the intermediate country.

"(4) USE OF CONSTRUCTED VALUE.—If the administering authority determines that the normal value of the subject merchandise cannot be determined under paragraph (1)(B)(i), then,

notwithstanding paragraph (1)(B)(ii), the normal value of the subject merchandise may be the constructed value of that merchandise, as determined under subsection (e).

"(5) INDIRECT SALES OR OFFERS FOR SALE.—If the foreign like product is sold or, in the absence of sales, offered for sale through an affiliated party, the prices at which the foreign like product is sold (or offered for sale) by such affiliated party may be used in determining normal value.

"(6) ADJUSTMENTS.—The price described in paragraph (1)(B) shall be—

"(A) increased by the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States;

"(B) reduced by—

"(i) when included in the price described in paragraph (1)(B), the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the foreign like product in condition packed ready for shipment to the place of delivery to the purchaser,

"(ii) the amount, if any, included in the price described in paragraph (1)(B), attributable to any additional costs, charges, and expenses incident to bringing the foreign like product from the original place of shipment to the place of delivery to the purchaser, and

"(iii) the amount of any taxes imposed directly upon the foreign like product or components thereof which have been rebated, or which have not been collected, on the subject merchandise, but only to the extent that such taxes are added to or included in the price of the foreign like product, and

"(C) increased or decreased by the amount of any difference (or lack thereof) between the export price or constructed export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise provided under this section) that is established to the satisfaction of the administering authority to be wholly or partly due to—

"(i) the fact that the quantities in which the subject merchandise is sold or agreed to be sold to the United States are greater than or less than the quantities in which the foreign like product is sold, agreed to be sold, or offered for sale,

"(ii) the fact that merchandise described in subparagraph (B) or (C) of section 771(16) is used in determining normal value, or

"(iii) other differences in the circumstances of sale.

"(7) ADDITIONAL ADJUSTMENTS.—

"(A) LEVEL OF TRADE.—The price described in paragraph (1)(B) shall also be increased or decreased to make due allowance for any difference (or lack thereof) between the export price or constructed export price and the price described in paragraph (1)(B) (other than a difference for which allowance is otherwise made under this section) that is shown to be wholly or partly due to a difference in level of trade between the export price or constructed

export price and normal value, if the difference in level of trade—

"(i) involves the performance of different selling activities; and

"(ii) is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different levels of trade in the country in which normal value is determined.

In a case described in the preceding sentence, the amount of the adjustment shall be based on the price differences between the two levels of trade in the country in which normal value is determined.

"(B) CONSTRUCTED EXPORT PRICE OFFSET.—When normal value is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the constructed export price, but the data available do not provide an appropriate basis to determine under subparagraph (A)(ii) a level of trade adjustment, normal value shall be reduced by the amount of indirect selling expenses incurred in the country in which normal value is determined on sales of the foreign like product but not more than the amount of such expenses for which a deduction is made under section 772(d)(1)(D).

"(8) ADJUSTMENTS TO CONSTRUCTED VALUE.—Constructed value as determined under subsection (e), may be adjusted, as appropriate, pursuant to this subsection.

"(b) SALES AT LESS THAN COST OF PRODUCTION.—

"(1) DETERMINATION; SALES DISREGARDED.—Whenever the administering authority has reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value have been made at prices which represent less than the cost of production of that product, the administering authority shall determine whether, in fact, such sales were made at less than the cost of production. If the administering authority determines that sales made at less than the cost of production—

"(A) have been made within an extended period of time in substantial quantities, and

"(B) were not at prices which permit recovery of all costs within a reasonable period of time,

such sales may be disregarded in the determination of normal value. Whenever such sales are disregarded, normal value shall be based on the remaining sales of the foreign like product in the ordinary course of trade. If no sales made in the ordinary course of trade remain, the normal value shall be based on the constructed value of the merchandise.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—There are reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the cost of production of the product, if—

"(i) in an investigation initiated under section 732 or a review conducted under section 751, an interested party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) provides information, based upon observed prices or constructed prices or costs, that

sales of the foreign like product under consideration for the determination of normal value have been made at prices which represent less than the cost of production of the product; or

"(ii) in a review conducted under section 751 involving a specific exporter, the administering authority disregarded some or all of the exporter's sales pursuant to paragraph (1) in the investigation or if a review has been completed, in the most recently completed review.

"(B) EXTENDED PERIOD OF TIME.—The term 'extended period of time' means a period that is normally 1 year, but not less than 6 months.

"(C) SUBSTANTIAL QUANTITIES.—Sales made at prices below the cost of production have been made in substantial quantities if—

"(i) the volume of such sales represents 20 percent or more of the volume of sales under consideration for the determination of normal value, or

"(ii) the weighted average per unit price of the sales under consideration for the determination of normal value is less than the weighted average per unit cost of production for such sales.

"(D) RECOVERY OF COSTS.—If prices which are below the per unit cost of production at the time of sale are above the weighted average per unit cost of production for the period of investigation or review, such prices shall be considered to provide for recovery of costs within a reasonable period of time.

"(3) CALCULATION OF COST OF PRODUCTION.—For purposes of this subtitle, the cost of production shall be an amount equal to the sum of—

"(A) the cost of materials and of fabrication or other processing of any kind employed in producing the foreign like product, during a period which would ordinarily permit the production of that foreign like product in the ordinary course of business;

"(B) an amount for selling, general, and administrative expenses based on actual data pertaining to production and sales of the foreign like product by the exporter in question; and

"(C) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the foreign like product in condition packed ready for shipment.

For purposes of subparagraph (A), if the normal value is based on the price of the foreign like product sold for consumption in a country other than the exporting country, the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation.

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the subject merchandise is exported from a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the normal value of the subject merchandise to be determined under subsection (a),

the administering authority shall determine the normal value of the subject merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses. Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the normal value of subject merchandise under paragraph (1), the administering authority shall determine the normal value on the basis of the price at which merchandise that is—

"(A) comparable to the subject merchandise, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,

"(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable merchandise.

"(d) SPECIAL RULE FOR CERTAIN MULTINATIONAL CORPORATIONS.—Whenever, in the course of an investigation under this title, the administering authority determines that—

"(1) subject merchandise exported to the United States is being produced in facilities which are owned or controlled, directly or indirectly, by a person, firm, or corporation which also owns or controls, directly or indirectly, other facilities for the production of the foreign like product which are located in another country or countries,

"(2) subsection (a)(1)(C) applies, and

"(3) the normal value of the foreign like product produced in one or more of the facilities outside the exporting country is higher than the normal value of the foreign like product produced in the facilities located in the exporting country,

it shall determine the normal value of the subject merchandise by reference to the normal value at which the foreign like product is sold in substantial quantities from one or more facilities outside

the exporting country. The administering authority, in making any determination under this paragraph, shall make adjustments for the difference between the cost of production (including taxes, labor, materials, and overhead) of the foreign like product produced in facilities outside the exporting country and costs of production of the foreign like product produced in facilities in the exporting country, if such differences are demonstrated to its satisfaction. For purposes of this subsection, in determining the normal value of the foreign like product produced in a country outside of the exporting country, the administering authority shall determine its price at the time of exportation from the exporting country and shall make any adjustments required by subsection (a) for the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States by reference to such costs in the exporting country.

"(e) CONSTRUCTED VALUE.—For purposes of this title, the constructed value of imported merchandise shall be an amount equal to the sum of—

"(1) the cost of materials and fabrication or other processing of any kind employed in producing the merchandise, during a period which would ordinarily permit the production of the merchandise in the ordinary course of business;

"(2)(A) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

"(B) if actual data are not available with respect to the amounts described in subparagraph (A), then—

"(i) the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise,

"(ii) the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country, or

"(iii) the amounts incurred and realized for selling, general, and administrative expenses, and for profits, based on any other reasonable method, except that the amount allowed for profit may not exceed the amount normally realized by exporters or producers (other than the exporter or producer described in clause (i)) in connection with the sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise; and

"(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the subject

merchandise in condition packed ready for shipment to the United States.

For purposes of paragraph (1), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition which are remitted or refunded upon exportation of the subject merchandise produced from such materials.

"(f) SPECIAL RULES FOR CALCULATION OF COST OF PRODUCTION AND FOR CALCULATION OF CONSTRUCTED VALUE.—For purposes of subsections (b) and (e).—

"(1) COSTS.—

"(A) IN GENERAL.—Costs shall normally be calculated based on the records of the exporter or producer of the merchandise, if such records are kept in accordance with the generally accepted accounting principles of the exporting country (or the producing country, where appropriate) and reasonably reflect the costs associated with the production and sale of the merchandise. The administering authority shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer on a timely basis, if such allocations have been historically used by the exporter or producer, in particular for establishing appropriate amortization and depreciation periods, and allowances for capital expenditures and other development costs.

"(B) NONRECURRING COSTS.—Costs shall be adjusted appropriately for those nonrecurring costs that benefit current or future production, or both.

"(C) STARTUP COSTS.—

"(i) IN GENERAL.—Costs shall be adjusted appropriately for circumstances in which costs incurred during the time period covered by the investigation or review are affected by startup operations.

"(ii) STARTUP OPERATIONS.—Adjustments shall be made for startup operations only where—

"(I) a producer is using new production facilities or producing a new product that requires substantial additional investment, and

"(II) production levels are limited by technical factors associated with the initial phase of commercial production.

For purposes of subclause (II), the initial phase of commercial production ends at the end of the startup period. In determining whether commercial production levels have been achieved, the administering authority shall consider factors unrelated to startup operations that might affect the volume of production processed, such as demand, seasonality, or business cycles.

"(iii) ADJUSTMENT FOR STARTUP OPERATIONS.—The adjustment for startup operations shall be made by substituting the unit production costs incurred with respect to the merchandise at the end of the startup period for the unit production costs incurred during the startup period. If the startup period extends beyond the period of the investigation or review under this title, the administering authority shall use the most recent cost of production data that it reasonably can

obtain, analyze, and verify without delaying the timely completion of the investigation or review. For purposes of this subparagraph, the startup period ends at the point at which the level of commercial production that is characteristic of the merchandise, producer, or industry concerned is achieved.

"(2) TRANSACTIONS DISREGARDED.—A transaction directly or indirectly between affiliated persons may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales of merchandise under consideration in the market under consideration. If a transaction is disregarded under the preceding sentence and no other transactions are available for consideration, the determination of the amount shall be based on the information available as to what the amount would have been if the transaction had occurred between persons who are not affiliated.

"(3) MAJOR INPUT RULE.—If, in the case of a transaction between affiliated persons involving the production by one of such persons of a major input to the merchandise, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the cost of production of such input, then the administering authority may determine the value of the major input on the basis of the information available regarding such cost of production, if such cost is greater than the amount that would be determined for such input under paragraph (2).".

SEC. 225. CURRENCY CONVERSION.

(a) IN GENERAL.—Subtitle D of title VII (19 U.S.C. 1677 et seq.) is amended by inserting after section 773 the following new section:

19 USC 1677b-1.

"SEC. 773A. CURRENCY CONVERSION.

"(a) IN GENERAL.—In an antidumping proceeding under this title, the administering authority shall convert foreign currencies into United States dollars using the exchange rate in effect on the date of sale of the subject merchandise, except that, if it is established that a currency transaction on forward markets is directly linked to an export sale under consideration, the exchange rate specified with respect to such currency in the forward sale agreement shall be used to convert the foreign currency. Fluctuations in exchange rates shall be ignored.

"(b) SUSTAINED MOVEMENT IN FOREIGN CURRENCY VALUE.—In an investigation under subtitle B, if there is a sustained movement in the value of the foreign currency relative to the United States dollar, the administering authority shall allow exporters at least 60 days to adjust their export prices to reflect such sustained movement.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII is amended by inserting after the item relating to section 773 the following new item:

"Sec. 773A. Currency conversion.".

SEC. 226. PROPRIETARY AND NONPROPRIETARY INFORMATION.

(a) PROPRIETARY STATUS MAINTAINED.—

(1) IN GENERAL.—Section 777(b)(1) (19 U.S.C. 1677f(b)(1)) is amended to read as follows:

"(1) PROPRIETARY STATUS MAINTAINED.—

"(A) IN GENERAL.—Except as provided in subsection (a)(4)(A) and subsection (c), information submitted to the administering authority or the Commission which is designated as proprietary by the person submitting the information shall not be disclosed to any person without the consent of the person submitting the information, other than—

"(i) to an officer or employee of the administering authority or the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted or any review under this title covering the same subject merchandise, or

"(ii) to an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title.

"(B) ADDITIONAL REQUIREMENTS.—The administering authority and the Commission shall require that information for which proprietary treatment is requested be accompanied by—

"(i) either—

"(I) a non-proprietary summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(II) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(ii) either—

"(I) a statement which permits the administering authority or the Commission to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(II) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.".

(2) SECTION 751 REVIEWS.—Section 777(b) (19 U.S.C. 1677f(b)) is amended by adding at the end the following:

"(3) SECTION 751 REVIEWS.—Notwithstanding the provisions of paragraph (1), information submitted to the administering authority or the Commission in connection with a review under section 751(b) or 751(c) which is designated as proprietary by the person submitting the information may, if the review results in the revocation of an order or finding (or termination of a suspended investigation) under section 751(d), be used by the agency to which the information was originally submitted in any investigation initiated within 2 years after the date of the revocation or termination pursuant to a petition covering the same subject merchandise.".

(b) UNWARRANTED PROPRIETARY DESIGNATION.—Section 777(b)(2) (19 U.S.C. 1677f(b)(2)) is amended by adding at the end the following new sentence: "In a case in which the administering

authority or the Commission returns the information to the person submitting it, the person may thereafter submit other material concerning the subject matter of the returned information if the submission is made within the time otherwise provided for submitting such material.".

SEC. 227. OPPORTUNITY FOR COMMENT BY CONSUMERS AND INDUSTRIAL USERS.

Section 777 (19 U.S.C. 1677f) is amended by adding at the end the following new subsection:

"(h) OPPORTUNITY FOR COMMENT BY CONSUMERS AND INDUSTRIAL USERS.—The administering authority and the Commission shall provide an opportunity for industrial users of the subject merchandise and, if the merchandise is sold at the retail level, for representative consumer organizations, to submit relevant information to the administering authority concerning dumping or a countervailable subsidy, and to the Commission concerning material injury by reason of dumped or subsidized imports.".

SEC. 228. PUBLIC NOTICE AND EXPLANATION OF DETERMINATIONS.

Section 777 (19 U.S.C. 1677f), as amended by section 227, is amended by adding at the end the following:

"(i) PUBLICATION OF DETERMINATIONS; REQUIREMENTS FOR FINAL DETERMINATIONS.—

Federal Register, publication

"(1) IN GENERAL.—Whenever the administering authority makes a determination under section 702 or 732 whether to initiate an investigation, or the administering authority or the Commission makes a preliminary determination under section 703 or 733, a final determination under section 705 or section 735, a preliminary or final determination in a review under section 751, a determination to suspend an investigation under this title, or a determination under section 753, the administering authority or the Commission, as the case may be, shall publish the facts and conclusions supporting that determination, and shall publish notice of that determination in the Federal Register.

"(2) CONTENTS OF NOTICE OR DETERMINATION.—The notice or determination published under paragraph (1) shall include, to the extent applicable—

"(A) in the case of a determination of the administering authority—

"(i) the names of the exporters or producers of the subject merchandise or, when providing such names is impracticable, the countries exporting the subject merchandise to the United States,

"(ii) a description of the subject merchandise that is sufficient to identify the subject merchandise for customs purposes,

"(iii)(I) with respect to a determination in an investigation under subtitle A or section 753 or in a review of a countervailing duty order, the amount of the countervailable subsidy established and a full explanation of the methodology used in establishing the amount, and

"(II) with respect to a determination in an investigation under subtitle B or in a review of an antidumping duty order, the weighted average dumping margins

established and a full explanation of the methodology used in establishing such margins, and

"(iv) the primary reasons for the determination; and

"(B) in the case of a determination of the Commission—

"(i) considerations relevant to the determination of injury, and

"(ii) the primary reasons for the determination.

"(3) ADDITIONAL REQUIREMENTS FOR FINAL DETERMINATIONS.—In addition to the requirements set forth in paragraph (2)—

"(A) the administering authority shall include in a final determination described in paragraph (1) an explanation of the basis for its determination that addresses relevant arguments, made by interested parties who are parties to the investigation or review (as the case may be), concerning the establishment of dumping or a countervailable subsidy, or the suspension of the investigation, with respect to which the determination is made; and

"(B) the Commission shall include in a final determination of injury an explanation of the basis for its determination that addresses relevant arguments that are made by interested parties who are parties to the investigation or review (as the case may be) concerning volume, price effects, and impact on the industry of imports of the subject merchandise.".

SEC. 229. SAMPLING AND AVERAGING; DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f-1) is amended to read as follows:

"SEC. 777A. SAMPLING AND AVERAGING; DETERMINATION OF WEIGHTED AVERAGE DUMPING MARGIN.

"(a) IN GENERAL.—For purposes of determining the export price (or constructed export price) under section 772 or the normal value under section 773, and in carrying out reviews under section 751, the administering authority may—

"(1) use averaging and statistically valid samples, if there is a significant volume of sales of the subject merchandise or a significant number or types of products, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF AVERAGES AND SAMPLES.—The authority to select averages and statistically valid samples shall rest exclusively with the administering authority. The administering authority shall, to the greatest extent possible, consult with the exporters and producers regarding the method to be used to select exporters, producers, or types of products under this section.

"(c) DETERMINATION OF DUMPING MARGIN.—

"(1) GENERAL RULE.—In determining weighted average dumping margins under section 733(d), 735(c), or 751(a), the administering authority shall determine the individual weighted average dumping margin for each known exporter and producer of the subject merchandise.

"(2) EXCEPTION.—If it is not practicable to make individual weighted average dumping margin determinations under para-

graph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may determine the weighted average dumping margins for a reasonable number of exporters or producers by limiting its examination to—

"(A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the administering authority at the time of selection, or

"(B) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can be reasonably examined.

"(d) DETERMINATION OF LESS THAN FAIR VALUE.—

"(1) INVESTIGATIONS.—

"(A) IN GENERAL.—In an investigation under subtitle B, the administering authority shall determine whether the subject merchandise is being sold in the United States at less than fair value—

"(i) by comparing the weighted average of the normal values to the weighted average of the export prices (and constructed export prices) for comparable merchandise, or

"(ii) by comparing the normal values of individual transactions to the export prices (or constructed export prices) of individual transactions for comparable merchandise.

"(B) EXCEPTION.—The administering authority may determine whether the subject merchandise is being sold in the United States at less than fair value by comparing the weighted average of the normal values to the export prices (or constructed export prices) of individual transactions for comparable merchandise, if—

"(i) there is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and

"(ii) the administering authority explains why such differences cannot be taken into account using a method described in paragraph (1)(A)(i) or (ii).

"(2) REVIEWS.—In a review under section 751, when comparing export prices (or constructed export prices) of individual transactions to the weighted average price of sales of the foreign like product, the administering authority shall limit its averaging of prices to a period not exceeding the calendar month that corresponds most closely to the calendar month of the individual export sale.".

(b) DUMPING MARGIN; WEIGHTED AVERAGE DUMPING MARGIN.—Section 771 (19 U.S.C. 1677), as amended by section 222(i), is amended by adding at the end the following new paragraph:

"(35) DUMPING MARGIN; WEIGHTED AVERAGE DUMPING MARGIN.—

"(A) DUMPING MARGIN.—The term 'dumping margin' means the amount by which the normal value exceeds the export price or constructed export price of the subject merchandise.

"(B) WEIGHTED AVERAGE DUMPING MARGIN.—The term 'weighted average dumping margin' is the percentage deter-

mined by dividing the aggregate dumping margins determined for a specific exporter or producer by the aggregate export prices and constructed export prices of such exporter or producer.

"(C) MAGNITUDE OF THE MARGIN OF DUMPING.—The magnitude of the margin of dumping used by the Commission shall be—

"(i) in making a preliminary determination under section 733(a) in an investigation (including any investigation in which the Commission cumulatively assesses the volume and effect of imports under paragraph (7)(G)(i)), the dumping margin or margins published by the administering authority in its notice of initiation of the investigation;

"(ii) in making a final determination under section 735(b), the dumping margin or margins most recently published by the administering authority prior to the closing of the Commission's administrative record;

"(iii) in a review under section 751(b)(2), the most recent dumping margin or margins determined by the administering authority under section 752(c)(3), if any, or under section 733(b) or 735(a); and

"(iv) in a review under section 751(c), the dumping margin or margins determined by the administering authority under section 752(c)(3).".

SEC. 230. ANTICIRCUMVENTION.

(a) IN GENERAL.—Subsections (a) and (b) of section 781 (19 U.S.C. 1677j (a) and (b)) are amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies,

"(C) the process of assembly or completion in the United States is minor or insignificant, and

"(D) the value of the parts or components referred to in subparagraph (B) is a significant portion of the total value of the merchandise,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

"(2) DETERMINATION OF WHETHER PROCESS IS MINOR OR INSIGNIFICANT.—In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account—

"(A) the level of investment in the United States,

"(B) the level of research and development in the United States,

"(C) the nature of the production process in the United States,

"(D) the extent of production facilities in the United States, and

"(E) whether the value of the processing performed in the United States represents a small proportion of the value of the merchandise sold in the United States.

"(3) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade, including sourcing patterns,

"(B) whether the manufacturer or exporter of the parts or components is affiliated with the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

"(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the initiation of the investigation which resulted in the issuance of such order or finding.

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

"(i) is subject to such order or finding, or

"(ii) is produced in the foreign country with respect to which such order or finding applies,

"(C) the process of assembly or completion in the foreign country referred to in subparagraph (B) is minor or insignificant,

"(D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States, and

"(E) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

"(2) DETERMINATION OF WHETHER PROCESS IS MINOR OR INSIGNIFICANT.—In determining whether the process of assembly or completion is minor or insignificant under paragraph (1)(C), the administering authority shall take into account—

"(A) the level of investment in the foreign country,

"(B) the level of research and development in the foreign country,

"(C) the nature of the production process in the foreign country,

"(D) the extent of production facilities in the foreign country, and

"(E) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

"(3) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing duty order or an antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade, including sourcing patterns,

"(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is affiliated with the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the initiation of the investigation which resulted in the issuance of such order or finding.".

(b) TIME LIMITS FOR ADMINISTERING AUTHORITY DETERMINATIONS.—Section 781 (19 U.S.C. 1677j) is amended by adding at the end the following:

"(f) TIME LIMITS FOR ADMINISTERING AUTHORITY DETERMINATIONS.—The administering authority shall, to the maximum extent practicable, make the determinations under this section within 300 days from the date of the initiation of a countervailing duty or antidumping circumvention inquiry under this section.".

SEC. 231. EVIDENCE.

(a) CONDUCT OF INVESTIGATIONS AND ADMINISTRATIVE REVIEWS.—Subtitle D of title VII (19 U.S.C. 1671) is amended by adding at the end the following new section:

"SEC. 782. CONDUCT OF INVESTIGATIONS AND ADMINISTRATIVE REVIEWS. 19 USC 1677m.

"(a) TREATMENT OF VOLUNTARY RESPONSES IN COUNTERVAILING OR ANTIDUMPING DUTY INVESTIGATIONS AND REVIEWS.—In any investigation under subtitle A or B or a review under section 751(a) in which the administering authority has, under section 777A(c)(2) or section 777A(e)(2)(A) (whichever is applicable), limited the number of exporters or producers examined, or determined a single country-wide rate, the administering authority shall estab-

lish an individual countervailable subsidy rate or an individual weighted average dumping margin for any exporter or producer not initially selected for individual examination under such sections who submits to the administering authority the information requested from exporters or producers selected for examination, if—

"(1) such information is so submitted by the date specified—

"(A) for exporters and producers that were initially selected for examination, or

"(B) for the foreign government, in a countervailing duty case where the administering authority has determined a single country-wide rate; and

"(2) the number of exporters or producers who have submitted such information is not so large that individual examination of such exporters or producers would be unduly burdensome and inhibit the timely completion of the investigation.

"(b) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.

"(c) DIFFICULTIES IN MEETING REQUIREMENTS.—

"(1) NOTIFICATION BY INTERESTED PARTY.—If an interested party, promptly after receiving a request from the administering authority or the Commission for information, notifies the administering authority or the Commission (as the case may be) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information, the administering authority or the Commission (as the case may be) shall consider the ability of the interested party to submit the information in the requested form and manner and may modify such requirements to the extent necessary to avoid imposing an unreasonable burden on that party.

"(2) ASSISTANCE TO INTERESTED PARTIES.—The administering authority and the Commission shall take into account any difficulties experienced by interested parties, particularly small companies, in supplying information requested by the administering authority or the Commission in connection with investigations and reviews under this title, and shall provide to such interested parties any assistance that is practicable in supplying such information.

"(d) DEFICIENT SUBMISSIONS.—If the administering authority or the Commission determines that a response to a request for information under this title does not comply with the request, the administering authority or the Commission (as the case may be) shall promptly inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of investigations or reviews under this title. If that person submits further information in response to such deficiency and either—

"(1) the administering authority or the Commission (as the case may be) finds that such response is not satisfactory, or

"(2) such response is not submitted within the applicable time limits,

then the administering authority or the Commission (as the case may be) may, subject to subsection (e), disregard all or part of the original and subsequent responses.

"(e) USE OF CERTAIN INFORMATION.—In reaching a determination under section 703, 705, 733, 735, 751, or 753 the administering authority and the Commission shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority or the Commission, if—

"(1) the information is submitted by the deadline established for its submission,

"(2) the information can be verified,

"(3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

"(4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the administering authority or the Commission with respect to the information, and

"(5) the information can be used without undue difficulties.

"(f) NONACCEPTANCE OF SUBMISSIONS.—If the administering authority or the Commission declines to accept into the record any information submitted in an investigation or review under this title, it shall, to the extent practicable, provide to the person submitting the information a written explanation of the reasons for not accepting the information.

"(g) PUBLIC COMMENT ON INFORMATION.—Information that is submitted on a timely basis to the administering authority or the Commission during the course of a proceeding under this title shall be subject to comment by other parties to the proceeding within such reasonable time as the administering authority or the Commission shall provide. The administering authority and the Commission, before making a final determination under section 705, 735, 751, or 753 shall cease collecting information and shall provide the parties with a final opportunity to comment on the information obtained by the administering authority or the Commission (as the case may be) upon which the parties have not previously had an opportunity to comment. Comments containing new factual information shall be disregarded.

"(h) TERMINATION OF INVESTIGATION OR REVOCATION OF ORDER FOR LACK OF INTEREST.—The administering authority may—

"(1) terminate an investigation under subtitle A or B with respect to a domestic like product if, prior to publication of an order under section 706 or 736, the administering authority determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order; and

"(2) revoke an order issued under section 706 or 736 with respect to a domestic like product, or terminate an investigation suspended under section 704 or 734 with respect to a domestic

like product, if the administering authority determines that producers accounting for substantially all of the production of that domestic like product, have expressed a lack of interest in the order or suspended investigation.

"(i) VERIFICATION.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(d), and

"(3) a final determination in a review under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), (F), or (G), and

"(B) no verification was made under this subparagraph during the 2 immediately preceding reviews and determinations under section 751(a) of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.".

(b) AVAILABILITY OF NONPROPRIETARY INFORMATION.—Section 777(a)(4) (19 U.S.C. 1677f(a)(4)) is amended by striking "may disclose" and inserting "shall disclose".

(c) DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.—Section 776 (19 U.S.C. 1677e) is amended to read as follows:

"SEC. 776. DETERMINATIONS ON THE BASIS OF THE FACTS AVAILABLE.

"(a) IN GENERAL.—If—

"(1) necessary information is not available on the record, or

"(2) an interested party or any other person—

"(A) withholds information that has been requested by the administering authority or the Commission under this title,

"(B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782,

"(C) significantly impedes a proceeding under this title, or

"(D) provides such information but the information cannot be verified as provided in section 782(i),

the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

"(b) ADVERSE INFERENCES.—If the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from—

"(1) the petition,

"(2) a final determination in the investigation under this title,

"(3) any previous review under section 751 or determination under section 753, or

"(4) any other information placed on the record.

"(c) CORROBORATION OF SECONDARY INFORMATION.—When the administering authority or the Commission relies on secondary information rather than on information obtained in the course of an investigation or review, the administering authority or the Commission, as the case may be, shall, to the extent practicable, corroborate that information from independent sources that are reasonably at their disposal.".

(d) CONFORMING AMENDMENTS.—

(1) Section 777(e) (19 U.S.C. 1677f(e)) is repealed.

(2) The table of contents for title VII is amended—

(A) by amending the item relating to section 776 to read as follows:

"Sec. 776. Determinations on the basis of the facts available.";

and

(B) by inserting after the item relating to section 781 the following new item:

"Sec. 782. Conduct of investigations and administrative reviews.".

SEC. 232. ANTIDUMPING PETITIONS BY THIRD COUNTRIES.

(a) IN GENERAL.—Subtitle D of title VII (19 U.S.C. 1677 et seq.), as amended by section 231(a), is amended by adding at the end the following new section:

"SEC. 783. ANTIDUMPING PETITIONS BY THIRD COUNTRIES. 19 USC 1677n.

"(a) FILING OF PETITION.—The government of a WTO member may file with the Trade Representative a petition requesting that an investigation be conducted to determine if—

"(1) imports from another country are being sold in the United States at less than fair value, and

"(2) an industry in the petitioning country is materially injured by reason of those imports.

"(b) INITIATION.—The Trade Representative, after consultation with the administering authority and the Commission and obtaining the approval of the WTO Council for Trade in Goods, shall determine whether to initiate an investigation described in subsection (a).

"(c) DETERMINATIONS.—Upon initiation of an investigation under this section, the Trade Representative shall request the following determinations be made according to substantive and procedural requirements specified by the Trade Representative, notwithstanding any other provision of this title:

"(1) The administering authority shall determine whether imports into the United States of the subject merchandise are being sold at less than fair value.

"(2) The Commission shall determine whether an industry in the petitioning country is materially injured by reason of imports of the subject merchandise into the United States.

"(d) PUBLIC COMMENT.—An opportunity for public comment shall be provided, as appropriate—

"(1) by the Trade Representative, in making the determination required by subsection (b), and

"(2) by the administering authority and the Commission, in making the determination required by subsection (c).

"(e) ISSUANCE OF ORDER.—If the administering authority makes an affirmative determination under paragraph (1) of subsection (c), and the Commission makes an affirmative determination under paragraph (2) of subsection (c), the administering authority shall issue an antidumping duty order in accordance with section 736 and take such other actions as are required by section 736.

"(f) REVIEWS OF DETERMINATIONS.—For purposes of review under section 516A or review under section 751, if an order is issued under subsection (d), the final determinations of the administering authority and the Commission under this section shall be treated as final determinations made under section 735.

"(g) ACCESS TO INFORMATION.—Section 777 shall apply to investigations under this section, to the extent specified by the Trade Representative, after consultation with the administering authority and the Commission.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII, as amended by section 231(d)(2), is amended by adding after the item relating to section 782 the following new item:

"Sec. 783. Antidumping petitions by third countries.".

SEC. 233. CONFORMING AMENDMENTS.

(a) TERMINOLOGY.—

(1) NORMAL VALUE.—Each of the following sections is amended by striking "foreign market value" each place it appears in the text and in the heading and inserting "normal value":

(A) Section 731 (19 U.S.C. 1673).
(B) Section 734 (19 U.S.C. 1673c).
(C) Section 736 (19 U.S.C. 1673e).
(D) Section 739 (19 U.S.C. 1673h).
(E) Section 780 (19 U.S.C. 1677i).

(2) EXPORT PRICE.—

(A) IN GENERAL.—Each of the following sections is amended by striking "United States price" each place it appears in the text and in the heading and inserting "export price (or the constructed export price)":

(i) Section 731 (19 U.S.C. 1673).
(ii) Section 734 (19 U.S.C. 1673c).
(iii) Section 736 (19 U.S.C. 1673e).
(iv) Section 738 (19 U.S.C. 1673g).
(v) Section 739 (19 U.S.C. 1673h).
(vi) Section 780 (19 U.S.C. 1677i).

(B) EXPORTER'S SALES PRICE.—Section 738(b)(3) (19 U.S.C. 1673g(b)(3)) is amended by striking "exporter's sales price" and inserting "constructed export price".

(3) DOMESTIC LIKE PRODUCT.—

(A) Each of the following sections is amended by striking "like product" each place it appears in the text and in the heading and inserting "domestic like product":

(i) Section 771(4)(C) and (D) (19 U.S.C. 1677(4)(C) and (D)).
(ii) Section 771(7)(C)(iii)(IV) (19 U.S.C. 1677(7)(C)(iii)(IV)).
(iii) Section 771(9) (19 U.S.C. 1677(9)).
(iv) Section 771(10) (19 U.S.C. 1677(10)).

(B) Sections 771(7)(B)(i)(II) and (III) and section 771(7)(C)(ii)(I) (19 U.S.C. 1677(7)(B)(i)(II) and (III) and

(C)(ii)(I)) are amended by striking "like products" and inserting "domestic like products".

(4) FOREIGN LIKE PRODUCT.—Section 771(16) (19 U.S.C. 1677(16)) is amended—

(A) by striking "such or similar merchandise" in the text and inserting "foreign like product", and

(B) by amending the heading to read as follows: "FOREIGN LIKE PRODUCT.".

(5) SUBJECT MERCHANDISE.—

(A) Section 701(d) (19 U.S.C. 1671(d)) is amended by striking "a class or kind of merchandise subject to a countervailing duty investigation" and inserting "subject merchandise".

(B) Section 702(e) (19 U.S.C. 1671a(e)) is amended by striking "class or kind of merchandise that is the subject of the investigation" each place it appears and inserting "subject merchandise".

(C) Section 703(b)(1) (19 U.S.C. 1671b(b)(1)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(D) Section 704(a)(2)(A) (19 U.S.C. 1671c(a)(2)(A)) is amended by striking "merchandise that is subject to the investigation" and inserting "subject merchandise".

(E) Section 704(b) (19 U.S.C. 1671c(b)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(F) Section 704(c)(1) (19 U.S.C. 1671c(c)(1)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(G) Section 704(c)(2) (19 U.S.C. 1671c(c)(2)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(H) Section 704(c)(3) (19 U.S.C. 1671c(c)(3)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(I) Section 704(d)(3) (19 U.S.C. 1671c(d)(3)) is amended by striking "merchandise covered by such agreement" and inserting "subject merchandise".

(J) Section 704(f)(1)(A) (19 U.S.C. 1671c(f)(1)(A)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(K) Subparagraphs (A)(i) and (B) of section 704(f)(2) (19 U.S.C. 1671c(f)(2)(A)(i) and (B)) are amended by striking "merchandise which is the subject of the investigation" each place it appears and inserting "subject merchandise".

(L) Paragraphs (2) and (3) of section 704(h) (19 U.S.C. 1671c(h) (2) and (3)) are amended by striking "merchandise which is the subject of the investigation" each place it appears and inserting "subject merchandise".

(M) Section 704(j) (19 U.S.C. 1671c(j)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(N) Section 705(a)(1) (19 U.S.C. 1671d(a)(1)) is amended by striking "the merchandise" and inserting "the subject merchandise".

(O) Section 706(a)(2) (19 U.S.C. 1671e(a)(2)), as redesignated by section 265, is amended by striking "class or

kind of merchandise to which it applies" and inserting "subject merchandise".

(P) Section 732(e)(1) (19 U.S.C. 1673a(e)(1)) is amended by striking "class or kind of the merchandise which is the subject of the investigation" and inserting "the subject merchandise".

(Q) Section 732(e)(2) (19 U.S.C. 1673a(e)(2)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(R) Section 732(e) (19 U.S.C. 1673a(e)) is amended by striking "class or kind of merchandise that is the subject of the investigation" each place it appears and inserting "subject merchandise".

(S) Section 734(a)(2)(A) (19 U.S.C 1673c(a)(2)(A)) is amended by striking "merchandise that is subject to the investigation" and inserting "subject merchandise".

(T) Subsections (b), (c)(1), (f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j) of section 734 (19 U.S.C 1673c(b), (c)(1), (f)(1)(A), (f)(2)(A)(i), (g)(1), (h)(2), (h)(3), and (j)) are amended by striking "merchandise which is the subject of the investigation" each place it appears and inserting "subject merchandise".

(U) Section 734(f)(2)(B) (19 U.S.C. 1673c(f)(2)(B)) is amended by striking "merchandise subject to the investigation" and inserting "subject merchandise".

(V) Section 735(a)(1) (19 U.S.C. 1673d(a)(1)) is amended by striking "merchandise which was the subject of the investigation" and inserting "subject merchandise".

(W) Section 736(a)(2) (19 U.S.C. 1673e(a)(2)) is amended by striking "class or kind of merchandise to which it applies" and inserting "subject merchandise".

(X) Section 736(b)(1) (19 U.S.C. 1673e(b)(1)) is amended by striking "merchandise subject to the antidumping duty order" and inserting "subject merchandise".

(Y) Section 736(b)(2) (19 U.S.C. 1673e(b)(2)) is amended by striking "merchandise subject to an antidumping duty order" and inserting "subject merchandise".

(Z) Section 762(a)(1) (19 U.S.C. 1676a(a)(1)) is amended by striking "merchandise subject to the agreement" and inserting "subject merchandise".

(AA) Section 762(b)(2) (19 U.S.C. 1676a(b)(2)) is amended by striking "merchandise subject to the order" and inserting "subject merchandise".

(BB) Section 771(7)(B)(i)(I) (19 U.S.C. 1677(7)(B)(i)(I)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(CC) Section 771(9)(A) (19 U.S.C. 1677(9)(A)) is amended by striking "merchandise which is the subject of an investigation under this title" and inserting "subject merchandise".

(DD) Section 771(16)(A) (19 U.S.C. 1677(16)(A)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(EE) Section 771(16)(B)(i) (19 U.S.C. 1677(16)(B)(i)) is amended by striking "merchandise which is the subject of an investigation" and inserting "subject merchandise".

(FF) Section 771(17) (19 U.S.C. 1677(17)) is amended by striking "merchandise which is the subject of the investigation" and inserting "subject merchandise".

(GG) Section 771A(c) (19 U.S.C. 1677–1(c)) is amended by striking "merchandise under investigation" and inserting "subject merchandise".

(6) INITIATE.—(A) Each of the following sections is amended by striking "commenced" and inserting "initiated":

(i) Section 702(a). 19 USC 1671a.
(ii) Section 702(b)(1).
(iii) Section 703(b)(1). 19 USC 1671b.
(iv) Section 703(c)(1).
(v) Section 732(a)(1). 19 USC 1673a.
(vi) Section 732(a)(2)(D).
(vii) Section 732(b)(1).
(viii) Section 733(b)(1)(A) and (B). 19 USC 1673b.
(ix) Section 733(b)(2).
(x) Section 733(c)(1).

(B) Sections 703(g)(1) and 733(b)(2) are each amended by striking "commencement" and inserting "initiation".

(C) Section 732(a)(2)(B) is amended by striking "commence" and inserting "initiate".

(7) TECHNICAL AMENDMENTS.—The table of contents for title VII is amended—

(A) by amending the item relating to section 772 to read as follows:

"Sec. 772. Export price and constructed export price.";

(B) by striking "Foreign market value" in the item relating to section 773 and inserting "Normal value", and

(C) by inserting after the item relating to section 708 the following new item:

"Sec. 709. Conditional payment of countervailing duty.".

(b) OTHER CONFORMING AMENDMENTS.—

(1) WTO MEMBER.—Section 771(7)(F)(iii) (19 U.S.C. 1677(7)(F)(iii)) is amended—

(A) in subclause (I), by striking "GATT member" and inserting "WTO member"; and

(B) in subclause (II)—

(i) in the subclause heading, by striking "GATT MEMBER" and inserting "WTO MEMBER";

(ii) by striking "GATT member" and inserting "WTO member"; and

(iii) by striking "signatory" and all that follows through "measures)" and inserting "WTO member".

(2) ADMINISTERING AUTHORITY.—Section 771(1) (19 U.S.C. 1677(1)) is amended by striking "the Treasury" and inserting "Commerce".

SEC. 234. APPLICATION TO CANADA AND MEXICO. 19 USC 3438 note.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act, the amendments made by this title shall apply with respect to goods from Canada and Mexico.

Subtitle B—Subsidies Provisions

PART 1—COUNTERVAILABLE SUBSIDIES

SEC. 251. COUNTERVAILABLE SUBSIDY.

(a) IN GENERAL.—Section 771 (19 U.S.C. 1677) is amended by striking paragraph (5) and inserting the following:

"(5) COUNTERVAILABLE SUBSIDY.—

"(A) IN GENERAL.—Except as provided in paragraph (5B), a countervailable subsidy is a subsidy described in this paragraph which is specific as described in paragraph (5A).

"(B) SUBSIDY DESCRIBED.—A subsidy is described in this paragraph in the case in which an authority—

"(i) provides a financial contribution,

"(ii) provides any form of income or price support within the meaning of Article XVI of the GATT 1994, or

"(iii) makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments,

to a person and a benefit is thereby conferred. For purposes of this paragraph and paragraphs (5A) and (5B), the term 'authority' means a government of a country or any public entity within the territory of the country.

"(C) OTHER FACTORS.—The determination of whether a subsidy exists shall be made without regard to whether the recipient of the subsidy is publicly or privately owned and without regard to whether the subsidy is provided directly or indirectly on the manufacture, production, or export of merchandise. The administering authority is not required to consider the effect of the subsidy in determining whether a subsidy exists under this paragraph.

"(D) FINANCIAL CONTRIBUTION.—The term 'financial contribution' means—

"(i) the direct transfer of funds, such as grants, loans, and equity infusions, or the potential direct transfer of funds or liabilities, such as loan guarantees,

"(ii) foregoing or not collecting revenue that is otherwise due, such as granting tax credits or deductions from taxable income,

"(iii) providing goods or services, other than general infrastructure, or

"(iv) purchasing goods.

"(E) BENEFIT CONFERRED.—A benefit shall normally be treated as conferred where there is a benefit to the recipient, including—

"(i) in the case of an equity infusion, if the investment decision is inconsistent with the usual investment practice of private investors, including the practice regarding the provision of risk capital, in the country in which the equity infusion is made,

"(ii) in the case of a loan, if there is a difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market,

"(iii) in the case of a loan guarantee, if there is a difference, after adjusting for any difference in guarantee fees, between the amount the recipient of the guarantee pays on the guaranteed loan and the amount the recipient would pay for a comparable commercial loan if there were no guarantee by the authority, and

"(iv) in the case where goods or services are provided, if such goods or services are provided for less than adequate remuneration, and in the case where goods are purchased, if such goods are purchased for more than adequate remuneration.

For purposes of clause (iv), the adequacy of remuneration shall be determined in relation to prevailing market conditions for the good or service being provided or the goods being purchased in the country which is subject to the investigation or review. Prevailing market conditions include price, quality, availability, marketability, transportation, and other conditions of purchase or sale.

"(F) CHANGE IN OWNERSHIP.—A change in ownership of all or part of a foreign enterprise or the productive assets of a foreign enterprise does not by itself require a determination by the administering authority that a past countervailable subsidy received by the enterprise no longer continues to be countervailable, even if the change in ownership is accomplished through an arm's length transaction.

"(5A) SPECIFICITY.—

"(A) IN GENERAL.—A subsidy is specific if it is an export subsidy described in subparagraph (B) or an import substitution subsidy described in subparagraph (C), or if it is determined to be specific pursuant to subparagraph (D).

"(B) EXPORT SUBSIDY.—An export subsidy is a subsidy that is, in law or in fact, contingent upon export performance, alone or as 1 of 2 or more conditions.

"(C) IMPORT SUBSTITUTION SUBSIDY.—An import substitution subsidy is a subsidy that is contingent upon the use of domestic goods over imported goods, alone or as 1 of 2 or more conditions.

"(D) DOMESTIC SUBSIDY.—In determining whether a subsidy (other than a subsidy described in subparagraph (B) or (C)) is a specific subsidy, in law or in fact, to an enterprise or industry within the jurisdiction of the authority providing the subsidy, the following guidelines shall apply:

"(i) Where the authority providing the subsidy, or the legislation pursuant to which the authority operates, expressly limits access to the subsidy to an enterprise or industry, the subsidy is specific as a matter of law.

"(ii) Where the authority providing the subsidy, or the legislation pursuant to which the authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, the subsidy is not specific as a matter of law, if—

"(I) eligibility is automatic,

"(II) the criteria or conditions for eligibility are strictly followed, and

"(III) the criteria or conditions are clearly set forth in the relevant statute, regulation, or other official document so as to be capable of verification.

For purposes of this clause, the term 'objective criteria or conditions' means criteria or conditions that are neutral and that do not favor one enterprise or industry over another.

"(iii) Where there are reasons to believe that a subsidy may be specific as a matter of fact, the subsidy is specific if one or more of the following factors exist:

"(I) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number.

"(II) An enterprise or industry is a predominant user of the subsidy.

"(III) An enterprise or industry receives a disproportionately large amount of the subsidy.

"(IV) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

In evaluating the factors set forth in subclauses (I), (II), (III), and (IV), the administering authority shall take into account the extent of diversification of economic activities within the jurisdiction of the authority providing the subsidy, and the length of time during which the subsidy program has been in operation.

"(iv) Where a subsidy is limited to an enterprise or industry located within a designated geographical region within the jurisdiction of the authority providing the subsidy, the subsidy is specific.

For purposes of this paragraph and paragraph (5B), any reference to an enterprise or industry is a reference to a foreign enterprise or foreign industry and includes a group of such enterprises or industries.

"(5B) CATEGORIES OF NONCOUNTERVAILABLE SUBSIDIES.—

"(A) IN GENERAL.—Notwithstanding the provisions of paragraphs (5) and (5A), in the case of merchandise imported from a Subsidies Agreement country, a subsidy shall be treated as noncountervailable if the administering authority determines in an investigation under subtitle A or a review under subtitle C that the subsidy meets all of the criteria described in subparagraph (B), (C), or (D), as the case may be, or the provisions of subparagraph (E)(i) apply.

"(B) RESEARCH SUBSIDY.—

"(i) IN GENERAL.—Except for a subsidy provided on the manufacture, production, or export of civil aircraft, a subsidy for research activities conducted by

a person, or by a higher education or research establishment on a contract basis with a person, shall be treated as noncountervailable, if the subsidy covers not more than 75 percent of the costs of industrial research or not more than 50 percent of the costs of precompetitive development activity, and such subsidy is limited exclusively to—

"(I) the costs of researchers, technicians, and other supporting staff employed exclusively in the research activity,

"(II) the costs of instruments, equipment, land, or buildings that are used exclusively and permanently (except when disposed of on a commercial basis) for the research activity,

"(III) the costs of consultancy and equivalent services used exclusively for the research activity, including costs for bought-in research, technical knowledge, and patents,

"(IV) additional overhead costs incurred directly as a result of the research activity, and

"(V) other operating costs (such as materials and supplies) incurred directly as a result of the research activity.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) INDUSTRIAL RESEARCH.—The term 'industrial research' means planned search or critical investigation aimed at the discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes, or services, or in bringing about a significant improvement to existing products, processes, or services.

"(II) PRECOMPETITIVE DEVELOPMENT ACTIVITY.—The term 'precompetitive development activity' means the translation of industrial research findings into a plan, blueprint, or design for new, modified, or improved products, processes, or services, whether intended for sale or use, including the creation of a first prototype that would not be capable of commercial use. The term also may include the conceptual formulation and design of products, processes, or services alternatives and initial demonstration or pilot projects, if these same projects cannot be converted or used for industrial application or commercial exploitation. The term does not include routine or periodic alterations to existing products, production lines, manufacturing processes, services, or other ongoing operations even if those alterations may represent improvements.

"(iii) CALCULATION RULES.—

"(I) IN GENERAL.—In the case of a research activity that spans both industrial research and precompetitive development activity, the allowable level of the noncountervailable subsidy shall not exceed 62.5 percent of the costs set forth in

subclauses (I), (II), (III), (IV), and (V) of clause (i).

"(II) TOTAL ELIGIBLE COSTS.—The allowable level of a noncountervailable subsidy described in clause (i) shall be based on the total eligible costs incurred over the duration of a particular project.

"(C) SUBSIDY TO DISADVANTAGED REGIONS.—

"(i) IN GENERAL.—A subsidy provided, pursuant to a general framework of regional development, to a person located in a disadvantaged region within a country shall be treated as noncountervailable, if it is not specific (within the meaning of paragraph (5A)) within eligible regions and if the following conditions are met:

"(I) Each region identified as disadvantaged within the territory of a country is a clearly designated, contiguous geographical area with a definable economic and administrative identity.

"(II) Each region is considered a disadvantaged region on the basis of neutral and objective criteria indicating that the region is disadvantaged because of more than temporary circumstances, and such criteria are clearly stated in the relevant statute, regulation, or other official document so as to be capable of verification.

"(III) The criteria described in subclause (II) include a measurement of economic development.

"(IV) Programs provided within a general framework of regional development include ceilings on the amount of assistance that can be granted to a subsidized project. Such ceilings are differentiated according to the different levels of development of assisted regions, and are expressed in terms of investment costs or costs of job creation. Within such ceilings, the distribution of assistance is sufficiently broad and even to avoid the predominant use of a subsidy by, or the provision of disproportionately large amounts of a subsidy to, an enterprise or industry as described in paragraph (5A)(D).

"(ii) MEASUREMENT OF ECONOMIC DEVELOPMENT.—For purposes of clause (i), the measurement of economic development shall be based on one or more of the following factors:

"(I) Per capita income, household per capita income, or per capita gross domestic product that does not exceed 85 percent of the average for the country subject to investigation or review.

"(II) An unemployment rate that is at least 110 percent of the average unemployment rate for the country subject to investigation or review.

The measurement of economic development shall cover a 3-year period, but may be a composite measurement and may include factors other than those set forth in this clause.

"(iii) DEFINITIONS.—For purposes of this subparagraph—

"(I) GENERAL FRAMEWORK OF REGIONAL DEVELOPMENT.—The term 'general framework of regional development' means that the regional subsidy programs are part of an internally consistent and generally applicable regional development policy, and that regional development subsidies are not granted in isolated geographical points having no, or virtually no, influence on the development of a region.

"(II) NEUTRAL AND OBJECTIVE CRITERIA.—The term 'neutral and objective criteria' means criteria that do not favor certain regions beyond what is appropriate for the elimination or reduction of regional disparities within the framework of the regional development policy.

"(D) SUBSIDY FOR ADAPTATION OF EXISTING FACILITIES TO NEW ENVIRONMENTAL REQUIREMENTS.—

"(i) IN GENERAL.—A subsidy that is provided to promote the adaptation of existing facilities to new environmental requirements that are imposed by statute or by regulation, and that result in greater constraints and financial burdens on the recipient of the subsidy, shall be treated as noncountervailable, if the subsidy—

"(I) is a one-time nonrecurring measure,

"(II) is limited to 20 percent of the cost of adaptation,

"(III) does not cover the cost of replacing and operating the subsidized investment, a cost that must be fully borne by the recipient,

"(IV) is directly linked and proportionate to the recipient's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings that may be achieved, and

"(V) is available to all persons that can adopt the new equipment or production processes.

"(ii) EXISTING FACILITIES.—For purposes of this subparagraph, the term 'existing facilities' means facilities that have been in operation for at least 2 years before the date on which the new environmental requirements are imposed.

"(E) NOTIFIED SUBSIDY PROGRAM.—

"(i) GENERAL RULE.—If a subsidy is provided pursuant to a program that has been notified in accordance with Article 8.3 of the Subsidies Agreement, the subsidy shall be treated as noncountervailable and shall not be subject to investigation or review under this title.

"(ii) EXCEPTION.—Notwithstanding clause (i), a subsidy shall be treated as countervailable if—

"(I) the Trade Representative notifies the administering authority that a determination has been made pursuant to Article 8.4 or 8.5 of the Subsidies Agreement that the subsidy, or the program pursuant to which the subsidy was provided, does not satisfy the conditions and criteria of Article 8.2 of the Subsidies Agreement; and

"(II) the subsidy is specific within the meaning of paragraph (5A).

"(F) CERTAIN SUBSIDIES ON AGRICULTURAL PRODUCTS.—Domestic support measures that are provided with respect to products listed in Annex 1 to the Agreement on Agriculture, and that the administering authority determines conform fully to the provisions of Annex 2 to that Agreement, shall be treated as noncountervailable. Upon request by the administering authority, the Trade Representative shall provide advice regarding the interpretation and application of Annex 2.

"(G) PROVISIONAL APPLICATION.—

"(i) Subparagraphs (B), (C), (D), and (E) shall not apply on or after the first day of the month that is 66 months after the WTO Agreement enters into force, unless the provisions of such subparagraphs are extended pursuant to section 282(c) of the Uruguay Round Agreements Act.

"(ii) Subparagraph (F) shall not apply to imports from a WTO member country at the end of the 9-year period beginning on January 1, 1995. The Trade Representative shall determine the precise termination date for each WTO member country in accordance with paragraph (i) of Article 1 of the Agreement on Agriculture and such date shall be notified to the administering authority.".

(b) NET COUNTERVAILABLE SUBSIDY.—Section 771(6) (19 U.S.C. 1677(6)) is amended by inserting "countervailable" before "subsidy" each place it appears in the text and in the heading.

PART 2—REPEAL OF SECTION 303 AND CONFORMING AMENDMENTS

SEC. 261. REPEAL OF SECTION 303.

(a) IN GENERAL.—Section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is repealed effective on the effective date of this title.

19 USC 1303 note.

(b) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, and other administrative actions—

(A) which have been issued pursuant to an investigation conducted under section 303 of the Tariff Act of 1930, and

(B) which are in effect on the effective date of this title, or were final before such date and are to become effective on or after such date,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, the International Trade Commission, or a court of competent jurisdiction, or by operation of law. Except as provided in paragraph (3), such orders or determinations shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act (as added by this title).

(2) PROCEEDINGS NOT AFFECTED.—The provisions of subsection (a) shall not affect any proceedings, including notices

of proposed rulemaking, pending before the administering authority or the International Trade Commission on the effective date of this title with respect to such section 303. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, in accordance with such section 303 as in effect on the day before the effective date of this title and, except as provided in paragraph (3), shall be subject to review under section 751 of the Tariff Act of 1930 and, to the extent applicable, investigation under section 753 of such Act. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, set aside, or revoked in accordance with law by the administering authority, a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—The provisions of subsection (a) shall not affect the review pursuant to section 516A of the Tariff Act of 1930 of a countervailing duty order issued pursuant to an investigation conducted under section 303 of such Act or a review of a countervailing duty order issued under section 751 of such Act, if such review is pending or the time for filing such review has not expired on the effective date of this title.

(c) DEFINITION OF ADMINISTERING AUTHORITY.—For purposes of this section, the term "administering authority" has the meaning given such term by section 771(1) of the Tariff Act of 1930. 19 USC 1303 note.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) AMENDMENTS TO TRADE ACT OF 1974.—

(i) Section 331(d)(3) of the Trade Act of 1974 (19 U.S.C. 1303 note) is repealed.

(ii) Section 152(a)(2) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended by striking "(A) in the case of" and all that follows through "(B)".

(iii) Section 154(a) of the Trade Act of 1974 (19 U.S.C. 2194(a)) is amended by striking "or section 303(e) of the Tariff Act of 1930,".

(B) AMENDMENTS TO TARIFF ACT OF 1930.—The following sections of the Tariff Act of 1930 are amended:

(i) Section 315(d) (19 U.S.C. 1315(d)) is amended by inserting "(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 701" after "section 303".

(ii) Section 337(b)(3) (19 U.S.C. 1337(b)(3)) is amended—

(I) by striking "of section 303 or subtitle B of title VII of the Tariff Act of 1930" and inserting "of subtitle B of title VII of this Act",

(II) by striking "section 303, 671, or 673" and inserting "section 701 or 731",

(III) by striking "section 303, 701," and inserting "section 701",

(IV) by striking "of the Secretary under section 303 of this Act or", and

(V) by striking "matter within such section 303, 701, or" and inserting "matter within such section 701 or".

(iii) Section 701 (19 U.S.C. 1671) is amended by striking subsection (f).

(iv) Section 780(c)(1) (19 U.S.C. 1677i(c)(1)) is amended by striking ", 732(a), or 303" and inserting "or 732(a)".

19 USC 1303 note.

(C) OTHER REFERENCES.—Any reference to section 303 in any other Federal law, Executive order, rule, or regulation shall be treated as a reference to section 303 of the Tariff Act of 1930 as in effect on the day before the effective date of title II of this Act.

19 USC 1315 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the effective date of this title.

SEC. 262. IMPOSITION OF COUNTERVAILING DUTIES.

Section 701 (a), (b), and (c) (19 U.S.C. 1671 (a), (b), and (c)) are amended to read as follows:

"(a) GENERAL RULE.—If—

"(1) the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, into the United States, and

"(2) in the case of merchandise imported from a Subsidies Agreement country, the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of that merchandise or by reason of sales (or the likelihood of sales) of that merchandise for importation, then there shall be imposed upon such merchandise a countervailing duty, in addition to any other duty imposed, equal to the amount of the net countervailable subsidy. For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.

"(b) SUBSIDIES AGREEMENT COUNTRY.—For purposes of this title, the term 'Subsidies Agreement country' means—

"(1) a WTO member country,

"(2) a country which the President has determined has assumed obligations with respect to the United States which are substantially equivalent to the obligations under the Subsidies Agreement, or

"(3) a country with respect to which the President determines that—

"(A) there is an agreement in effect between the United States and that country which—

"(i) was in force on the date of the enactment of the Uruguay Round Agreements Act, and

"(ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States, and

"(B) the agreement described in subparagraph (A) does not expressly permit—

"(i) actions required or permitted by the GATT 1947 or GATT 1994, as defined in section 2(1) of the Uruguay Round Agreements Act, or required by the Congress, or

"(ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

"(c) COUNTERVAILING DUTY INVESTIGATIONS INVOLVING IMPORTS NOT ENTITLED TO A MATERIAL INJURY DETERMINATION.—In the case of any article or merchandise imported from a country which is not a Subsidies Agreement country—

"(1) no determination by the Commission under section 703(a), 704, or 705(b) shall be required,

"(2) an investigation may not be suspended under section 704(c) or 704(l),

"(3) no determination as to the presence of critical circumstances shall be made under section 703(e) or 705(a)(2),

"(4) section 706(c) shall not apply,

"(5) any reference to a determination described in paragraph (1) or (3), or to the suspension of an investigation under section 704(c) or 704(l), shall be disregarded, and

"(6) section 751(c) shall not apply.".

SEC. 263. DE MINIMIS COUNTERVAILABLE SUBSIDY.

(a) PRELIMINARY DETERMINATIONS.—Section 703(b) (19 U.S.C. 1671b(b)) is amended by adding at the end the following new paragraph:

"(4) DE MINIMIS COUNTERVAILABLE SUBSIDY.—

"(A) GENERAL RULE.—In making a determination under this subsection, the administering authority shall disregard any de minimis countervailable subsidy. For purposes of the preceding sentence, a countervailable subsidy is de minimis if the administering authority determines that the aggregate of the net countervailable subsidies is less than 1 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(B) EXCEPTION FOR DEVELOPING COUNTRIES.—In the case of subject merchandise imported from a Subsidies Agreement country (other than a country to which subparagraph (C) applies) designated by the Trade Representative as a developing country in accordance with section 771(36), a countervailable subsidy is de minimis if the administering authority determines that the aggregate of the net countervailable subsidies does not exceed 2 percent ad valorem or the equivalent specific rate for the subject merchandise.

"(C) CERTAIN OTHER DEVELOPING COUNTRIES.—In the case of subject merchandise imported from a Subsidies Agreement country that is—

"(i) a least developed country, as determined by the Trade Representative in accordance with section 771(36), or

"(ii) a developing country with respect to which the Trade Representative has notified the administering authority that the country has eliminated its export subsidies on an expedited basis within the meaning of Article 27.11 of the Subsidies Agreement,

subparagraph (B) shall be applied by substituting '3 percent' for '2 percent'.

"(D) LIMITATIONS ON APPLICATION OF SUBPARAGRAPH (C).—

"(i) IN GENERAL.—In the case of a country described in subparagraph (C)(i), the provisions of subparagraph (C) shall not apply after the date that is 8 years after the date the WTO Agreement enters into force.

"(ii) SPECIAL RULE FOR SUBPARAGRAPH (C)(ii) COUNTRIES.—In the case of a country described in subparagraph (C)(ii), the provisions of subparagraph (C) shall not apply after the earlier of—

"(I) the date that is 8 years after the date the WTO Agreement enters into force, or

"(II) the date on which the Trade Representative notifies the administering authority that such country is providing an export subsidy.".

(b) FINAL DETERMINATIONS.—Section 705(a) (19 U.S.C. 1671d(a)) is amended by adding at the end the following new paragraph:

"(3) DE MINIMIS COUNTERVAILABLE SUBSIDY.—In making a determination under this subsection, the administering authority shall disregard any countervailable subsidy that is de minimis as defined in section 703(b)(4).".

SEC. 264. DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.

(a) PRELIMINARY DETERMINATION.—Section 703(d) (19 U.S.C. 1673b(d)) is amended— 19 USC 1671b.

(1) by striking paragraph (2);

(2) by redesignating paragraph (1), as amended by section 215(a)(1), as paragraph (2);

(3) by inserting "and" at the end of paragraph (2), as so redesignated; and

(4) by inserting before such paragraph (2) the following new paragraph:

"(1)(A) shall—

"(i) determine an estimated individual countervailable subsidy rate for each exporter and producer individually investigated, and, in accordance with section 705(c)(5), an estimated all-others rate for all exporters and producers not individually investigated and for new exporters and producers within the meaning of section 751(a)(2)(B), or

"(ii) if section 777A(e)(2)(B) applies, determine a single estimated country-wide subsidy rate, applicable to all exporters and producers, and

"(B) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated individual countervailable subsidy rate, the estimated all-others rate, or the estimated country-wide subsidy rate, whichever is applicable,".

(b) FINAL DETERMINATION.—

(1) IN GENERAL.—Section 705(c)(1) (19 U.S.C. 1671d(c)(1)) is amended—

(A) in subparagraph (B)—

(i) by redesignating such subparagraph as subparagraph (C); and

(ii) by striking "under paragraphs (1) and (2)" and all that follows through "security" and inserting "the suspension of liquidation under paragraph (2) of section 703(d)";

(B) by striking "and" at the end of subparagraph (A); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) the administering authority shall—

"(I) determine an estimated individual countervailable subsidy rate for each exporter and producer individually investigated, and, in accordance with paragraph (5), an estimated all-others rate for all exporters and producers not individually investigated and for new exporters and producers within the meaning of section 751(a)(2)(B), or

"(II) if 777A(e)(2)(B) applies, determine a single estimated country-wide subsidy rate, applicable to all exporters and producers,

"(ii) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the subject merchandise in an amount based on the estimated individual countervailable subsidy rate, the estimated all-others rate, or the estimated country-wide subsidy rate, whichever is applicable, and".

(2) METHOD FOR DETERMINING COUNTERVAILABLE SUBSIDY RATE.—Section 705(c) (19 U.S.C. 1671d(c)) is amended by adding at the end the following new paragraph:

"(5) METHOD FOR DETERMINING THE ALL-OTHERS RATE AND THE COUNTRY-WIDE SUBSIDY RATE.—

"(A) ALL-OTHERS RATE.—

"(i) GENERAL RULE.—For purposes of this subsection and section 703(d), the all-others rate shall be an amount equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776.

"(ii) EXCEPTION.—If the countervailable subsidy rates established for all exporters and producers individually investigated are zero or de minimis rates, or are determined entirely under section 776, the administering authority may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated.

"(B) COUNTRY-WIDE SUBSIDY RATE.—The administering authority may calculate a single country-wide subsidy rate,

applicable to all exporters and producers, if the administering authority limits its examination pursuant to section 777A(e)(2)(B). The estimated country-wide rate determined under section 703(d)(1)(A)(ii) or paragraph (1)(B)(i)(II) of this subsection shall be based on industry-wide data regarding the use of subsidies determined to be countervailable.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

19 USC 1671b. (1) Section 703(b)(2) is amended—

(A) by striking "subsection (b)(1)" and inserting "paragraph (1)",

(B) by striking "subsection 702(b)(3)" and inserting "section 702(b)(3)",

(C) by striking "subsection 703(b)(1)" and inserting "paragraph (1)", and

(D) by striking "section 703(c)" and inserting "subsection (c) of this section".

(2) Section 703(e)(2) is amended by striking "subsection (d)(1)" and inserting "subsection (d)(2)".

19 USC 1671c. (3) Section 704(f)(2)(A) is amended—

(A) in clause (i), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in clause (iii), by striking "section 703(d)(1)" and inserting "section 703(d)(1)(B)".

(4) Section 704(f)(2)(B) is amended—

(A) by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(5) Section 704(h)(3) is amended—

(A) in subparagraph (A), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in subparagraph (B), by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(6) Section 704(i)(1)(A) is amended by striking "section 703(d)(1)" and inserting "section 703(d)(2)".

19 USC 1671d. (7) Section 705(c)(2) is amended—

(A) in subparagraph (A), by striking "section 703(d)(1)" and inserting "section 703(d)(2)"; and

(B) in subparagraph (B), by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

(8) Section 705(c)(3)(B) is amended by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

19 USC 1671e. (9) Section 706(b)(1) is amended by striking "section 703(d)(1)" each place it appears and inserting "section 703(d)(2)".

19 USC 1671f. (10) Section 707(a) is amended—

(A) by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)", and

(B) by striking "Section 703(d)(2)" in the heading and inserting "Section 703(d)(1)(B)".

19 USC 1671g. (11) Section 708 is amended by striking "section 703(d)(2)" and inserting "section 703(d)(1)(B)".

SEC. 265. ASSESSMENT OF COUNTERVAILING DUTY.

Section 706(a) (19 U.S.C. 1671e(a)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 266. NATURE OF COUNTERVAILABLE SUBSIDY.

Section 771(7)(E)(i) (19 U.S.C. 1677(7)(E)(i)) is amended to read as follows:

"(i) NATURE OF COUNTERVAILABLE SUBSIDY.—In determining whether there is a threat of material injury, the Commission shall consider information provided to it by the administering authority regarding the nature of the countervailable subsidy granted by a foreign country (particularly whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and the effects likely to be caused by the countervailable subsidy.".

SEC. 267. DEFINITION OF DEVELOPING AND LEAST-DEVELOPED COUNTRY.

Section 771 (19 U.S.C. 1677), as amended, is amended by adding at the end the following new paragraph:

"(36) DEVELOPING AND LEAST DEVELOPED COUNTRY.—

"(A) DEVELOPING COUNTRY.—The term 'developing country' means a country designated as a developing country by the Trade Representative.

"(B) LEAST DEVELOPED COUNTRY.—The term 'least developed country' means a country which the Trade Representative determines is—

"(i) a country referred to as a least developed country within the meaning of paragraph (a) of Annex VII to the Subsidies Agreement, or

"(ii) any other country listed in Annex VII to the Subsidies Agreement, but only if the country has a per capita gross national product of less than $1,000 per annum as measured by the most recent data available from the World Bank.

"(C) PUBLICATION OF LIST.—The Trade Representative shall publish in the Federal Register, and update as necessary, a list of— Federal Register, publication.

"(i) developing countries that have eliminated their export subsidies on an expedited basis within the meaning of Article 27.11 of the Subsidies Agreement, and

"(ii) countries determined by the Trade Representative to be least developed or developing countries.

"(D) FACTORS TO CONSIDER.—In determining whether a country is a developing country under subparagraph (A), the Trade Representative shall consider such economic, trade, and other factors which the Trade Representative considers appropriate, including the level of economic development of such country (the assessment of which shall include a review of the country's per capita gross national product) and the country's share of world trade.

"(E) LIMITATION ON DESIGNATION.—A determination that a country is a developing or least developed country pursuant to this paragraph shall be for purposes of this title only and shall not affect the determination of a country's status as a developing or least developed country with respect to any other law.".

SEC. 268. UPSTREAM SUBSIDIES.

Section 771A(a) (19 U.S.C. 1677–1(a)) is amended—

(1) by striking the matter preceding paragraph (1) and paragraph (1) and inserting the following:

"(a) DEFINITION.—The term 'upstream subsidy' means any countervailable subsidy, other than an export subsidy, that—

"(1) is paid or bestowed by an authority (as defined in section 771(5)) with respect to a product (hereafter in this section referred to as an 'input product') that is used in the same country as the authority in the manufacture or production of merchandise which is the subject of a countervailing duty proceeding;", and

(2) in the flush sentence at the end thereof, by inserting "countervailable" before "subsidy".

SEC. 269. SAMPLING AND AVERAGING; DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.

(a) IN GENERAL.—Section 777A (19 U.S.C. 1677f–1), as amended by section 229, is amended by adding at the end the following new subsection:

"(e) DETERMINATION OF COUNTERVAILABLE SUBSIDY RATE.—

"(1) GENERAL RULE.—In determining countervailable subsidy rates under section 703(d), 705(c), or 751(a), the administering authority shall determine an individual countervailable subsidy rate for each known exporter or producer of the subject merchandise.

"(2) EXCEPTION.—If the administering authority determines that it is not practicable to determine individual countervailable subsidy rates under paragraph (1) because of the large number of exporters or producers involved in the investigation or review, the administering authority may—

"(A) determine individual countervailable subsidy rates for a reasonable number of exporters or producers by limiting its examination to—

"(i) a sample of exporters or producers that the administering authority determines is statistically valid based on the information available to the administering authority at the time of selection, or

"(ii) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that the administering authority determines can be reasonably examined; or

"(B) determine a single country-wide subsidy rate to be applied to all exporters and producers.

The individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5).".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 777A, as amended by section 229, is amended by inserting "**AND COUNTERVAILABLE SUBSIDY RATE**" after "**MARGIN**".

(2) The table of contents for title VII is amended by inserting "; determination of weighted average dumping margin and countervailable subsidy rate" after "averaging" in the item relating to section 777A.

SEC. 270. CONFORMING AMENDMENTS.

(a) COUNTERVAILABLE SUBSIDY.—

(1) Except as provided in paragraph (2), each of the following sections is amended by striking "subsidy" each place it appears in the text and in the heading and inserting "countervailable subsidy":

(A) Section 702(e) (19 U.S.C. 1671a(e)).

(B) Section 703(b)(1) (19 U.S.C. 1671b(b)(1)).

(C) Section 703(b)(2) (19 U.S.C. 1671b(b)(2)).

(D) Section 703(c)(1)(B)(i)(I) (19 U.S.C. 1671b(c)(1)(B)(i)(I)).

(E) Section 704 (19 U.S.C. 1671c).

(F) Section 705(a)(1) (19 U.S.C. 1671d(a)(1)).

(G) Section 705(a)(2) (19 U.S.C. 1671d(a)(2)).

(H) Section 706(a)(1) (19 U.S.C. 1671e(a)(1)).

(I) Section 761 (19 U.S.C. 1676).

(J) Section 762 (19 U.S.C. 1676a).

(K) Section 771A(b) (19 U.S.C. 1677–1(b)).

(L) Section 771A(c) (19 U.S.C. 1677–1(c)).

(M) Section 780(d)(1)(A)(ii) (19 U.S.C. 1677i(d)(1)(A)(ii)).

(N) Section 516A(a)(2)(B)(iv) (19 U.S.C. 1516a(a)(2)(B)(iv)).

(2)(A) The heading for section 704(b) (19 U.S.C. 1671c(b)) is amended by striking "Subsidy" and inserting "Countervailable Subsidy".

(B) The heading for section 771(A)(c) (19 U.S.C. 1677–1(c)) is amended by striking "Subsidy" and inserting "Countervailable Subsidy".

(b) COUNTERVAILABLE SUBSIDIES.—

(1) Except as provided in paragraph (2), each of the following sections is amended by striking "subsidies" each place it appears in the text and in the heading and inserting "countervailable subsidies":

(A) Section 701(d) (19 U.S.C. 1671(d)).

(B) Section 703(c)(1)(B)(i)(III) (19 U.S.C. 1671b(c)(1)(B)(i)(III)).

(C) Section 761 (19 U.S.C. 1676).

(D) Section 771B (19 U.S.C. 1677–2).

(2) The heading for section 761(a) and section 771B (19 U.S.C. 1676(a) and 1677–2) are each amended by striking "Subsidies" and inserting "Countervailable Subsidies".

(c) OTHER CONFORMING AMENDMENTS.—

(1) The heading for section 704(b) (19 U.S.C. 1671c(b)) is amended by striking "Subsidized Merchandise" and inserting "Subject Merchandise".

(2) Subparagraphs (C) and (D) of section 771(4) (19 U.S.C. 1677(4) (C) and (D)) are amended by striking "subsidized or" each place it appears and inserting "or imports of merchandise benefiting from a countervailable subsidy" after "imports".

(3) Section 771A (19 U.S.C. 1677–1), as amended, is amended in subsection (c), by striking "subsidization" and inserting "the countervailable subsidy".

(4) The table of contents for title VII is amended—

(A) in the item relating to section 771B, by inserting "countervailable" before "subsidies", and

(B) in the item relating to section 775, by striking "Subsidy" and inserting "Countervailable subsidy".

(d) SUBSIDIES AGREEMENT.—Section 702(e) (19 U.S.C. 1671a(e)) is amended by striking "Agreement" and inserting "Subsidies Agreement".

(e) SUBSIDIES AGREEMENT AND AGREEMENT ON AGRICULTURE.—Section 771(8) (19 U.S.C. 1677(8)) is amended to read as follows:

"(8) SUBSIDIES AGREEMENT; AGREEMENT ON AGRICULTURE.—

"(A) SUBSIDIES AGREEMENT.—The term 'Subsidies Agreement' means the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act.

"(B) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act.".

PART 3—SECTION 303 INJURY INVESTIGATIONS

SEC. 271. SPECIAL RULES FOR INJURY INVESTIGATIONS FOR CERTAIN SECTION 303 COUNTERVAILING DUTY ORDERS AND INVESTIGATIONS.

(a) IN GENERAL.—Chapter 1 of subtitle C of title VII, as amended, is amended by inserting after section 752 the following new section:

19 USC 1675b.

"SEC. 753. SPECIAL RULES FOR INJURY INVESTIGATIONS FOR CERTAIN SECTION 303 COUNTERVAILING DUTY ORDERS AND INVESTIGATIONS.

"(a) IN GENERAL.—

"(1) INVESTIGATION BY THE COMMISSION UPON REQUEST.—In the case of a countervailing duty order described in paragraph (2), which—

"(A) applies to merchandise that is the product of a Subsidies Agreement country, and

"(B)(i) is in effect on the date on which such country becomes a Subsidies Agreement country, or

"(ii) is issued on a date that is after the date described in clause (i) pursuant to a court order in an action brought under section 516A,

the Commission, upon receipt of a request from an interested party described in section 771(9) (C), (D), (E), (F), or (G) for an injury investigation with respect to such order, shall initiate an investigation and shall determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked.

"(2) DESCRIPTION OF COUNTERVAILING DUTY ORDERS.—A countervailing duty order described in this paragraph is an order issued under section 303 with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time such order was issued.

"(3) REQUIREMENTS OF REQUEST FOR INVESTIGATION.—A request for an investigation under this subsection shall be submitted—

"(A) in the case of an order described in paragraph (1)(B)(i), within 6 months after the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

"(B) in the case of an order described in paragraph (1)(B)(ii), within 6 months after the date the order is issued.

"(4) SUSPENSION OF LIQUIDATION.—With respect to entries of subject merchandise made on or after—

"(A) in the case of an order described in paragraph (1)(B)(i), the date on which the country described in paragraph (1)(A) becomes a Subsidies Agreement country, or

"(B) in the case of an order described in paragraph (1)(B)(ii), the date on which the order is issued,

liquidation shall be suspended at the cash deposit rate in effect on the date described in subparagraph (A) or (B) (whichever is applicable).

"(b) INVESTIGATION PROCEDURE AND SCHEDULE.—

"(1) COMMISSION PROCEDURE.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the provisions of this title regarding evidence in and procedures for investigations conducted under subtitle A shall apply to investigations conducted by the Commission under this section.

"(B) TIME FOR COMMISSION DETERMINATION.—Except as otherwise provided in subparagraph (C), the Commission shall issue its determination under subsection (a)(1), to the extent possible, not later than 1 year after the date on which the investigation is initiated under this section.

"(C) SPECIAL RULE TO PERMIT ADMINISTRATIVE FLEXIBILITY.—In the case of requests for investigations received under this section within 1 year after the date on which the WTO Agreement enters into force with respect to the United States, the Commission may, after consulting with the administering authority, initiate its investigations in a manner that results in determinations being made in all such investigations during the 4-year period beginning on such date.

"(2) NET COUNTERVAILABLE SUBSIDY; NATURE OF SUBSIDY.—

"(A) NET COUNTERVAILABLE SUBSIDY.—The administering authority shall provide to the Commission the net countervailable subsidy that is likely to prevail if the order which is the subject of the investigation is revoked. The administering authority normally shall choose a net countervailable subsidy that was determined under section 705 or subsection (a) or (b)(1) of section 751. If the Commission considers the magnitude of the net countervailable subsidy in making its determination under this section, the Commission shall use the net countervailable subsidy provided by the administering authority.

"(B) NATURE OF SUBSIDY.—The administering authority shall inform the Commission of, and the Commission, in making its determination under this section, shall consider, the nature of the countervailable subsidy and whether the countervailable subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement.

"(3) EFFECT OF COMMISSION DETERMINATION.—

"(A) AFFIRMATIVE DETERMINATION.—Upon being notified by the Commission that it has made an affirmative determination under subsection (a)(1)—

"(i) the administering authority shall order the termination of the suspension of liquidation required pursuant to subsection (a)(4), and

"(ii) the countervailing duty order shall remain in effect until revoked, in whole or in part, under section 751(d).

For purposes of section 751(c), a countervailing duty order described in this section shall be treated as issued on the date of publication of the Commission's determination under this subsection.

"(B) NEGATIVE DETERMINATION.—

"(i) IN GENERAL.—Upon being notified by the Commission that it has made a negative determination under subsection (a)(1), the administering authority shall revoke the countervailing duty order, and shall refund, with interest, any estimated countervailing duties collected during the period liquidation was suspended pursuant to subsection (a)(4).

"(ii) LIMITATION ON NEGATIVE DETERMINATION.—A determination by the Commission that revocation of the order is not likely to result in material injury to an industry by reason of imports of the subject merchandise shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of the subject merchandise to the United States that were specifically intended to offset the countervailable subsidy received.

"(4) COUNTERVAILING DUTY ORDERS WITH RESPECT TO WHICH NO REQUEST FOR INJURY INVESTIGATION IS MADE.—If, with respect to a countervailing duty order described in subsection (a), a request for an investigation is not made within the time required by subsection (a)(3), the Commission shall notify the administering authority that a negative determination has been made under subsection (a) and the provisions of paragraph (3)(B) shall apply with respect to the order.

"(c) PENDING AND SUSPENDED COUNTERVAILING DUTY INVESTIGATIONS.—If, on the date on which a country becomes a Subsidies Agreement country, there is a countervailing duty investigation in progress or suspended under section 303 that applies to merchandise which is a product of that country and with respect to which the requirement of an affirmative determination of material injury under section 303(a)(2) was not applicable at the time the investigation was initiated, the Commission shall—

"(1) in the case of an investigation in progress, make a final determination under section 705(b) within 75 days after the date of an affirmative final determination, if any, by the administering authority,

"(2) in the case of a suspended investigation to which section 704(i)(1)(B) applies, make a final determination under section 705(b) within 120 days after receiving notice from the administering authority of the resumption of the investigation pursuant to section 704(i), or within 45 days after the date of an affirmative final determination, if any, by the administering authority, whichever is later, or

"(3) in the case of a suspended investigation to which section 704(i)(1)(C) applies, treat the countervailing duty order issued pursuant to such section as if it were—

"(A) an order issued under subsection (a)(1)(B)(ii) for purposes of subsection (a)(3); and

"(B) an order issued under subsection (a)(1)(B)(i) for purposes of subsection (a)(4).

"(d) PUBLICATION IN FEDERAL REGISTER.—The administering authority or the Commission, as the case may be, shall publish in the Federal Register a notice of the initiation of any investigation, and a notice of any determination or revocation, made pursuant to this section.

"(e) REQUEST FOR SIMULTANEOUS EXPEDITED REVIEW UNDER SECTION 751(c).—

"(1) GENERAL RULE.—

"(A) REQUESTS FOR REVIEWS.—Notwithstanding section 751(c)(6)(A) and except as provided in subparagraph (B), an interested party may request a review of an order under section 751(c) at the same time the party requests an investigation under subsection (a), if the order involves the same or comparable subject merchandise. Upon receipt of such request, the administering authority, after consulting with the Commission, shall initiate a review of the order under section 751(c). The Commission shall combine such review with the investigation under this section.

"(B) EXCEPTION.—If the administering authority determines that the interested party who requested an investigation under this section is a related party or an importer within the meaning of section 771(4)(B), the administering authority may decline a request by such party to initiate a review of an order under section 751(c) which involves the same or comparable subject merchandise.

"(2) CUMULATION.—If a review under section 751(c) is initiated under paragraph (1), such review shall be treated as having been initiated on the same day as the investigation under this section, and the Commission may, in accordance with section 771(7)(G), cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which such investigations are treated as initiated on the same day.

"(3) TIME AND PROCEDURE FOR COMMISSION DETERMINATION.—The Commission shall render its determination in the investigation conducted under this section at the same time as the Commission's determination is made in the review under section 751(c) that is initiated pursuant to this subsection. The Commission shall in all other respects apply the procedures and standards set forth in section 751(c) to such section 751(c) reviews.".

(b) REVIEW OF DETERMINATIONS.—Section 516A(a)(2) (19 U.S.C. 1516a(a)(2)) is amended—

(1) in subparagraph (A)(i)(I), by striking "or (v)" and inserting "(v), or (viii)", and

(2) in subparagraph (B), by adding at the end the following:

"(viii) A determination by the Commission under section 753(a)(1).".

(c) CONFORMING AMENDMENT.—The table of contents for title VII, as amended, is amended by inserting after the item relating to section 752 the following new item:

"Sec. 753. Special rules for injury investigations for certain section 303 countervailing duty orders and investigations.".

PART 4—ENFORCEMENT OF UNITED STATES RIGHTS UNDER THE SUBSIDIES AGREEMENT

19 USC 3571.

SEC. 281. SUBSIDIES ENFORCEMENT.

(a) ASSISTANCE REGARDING MULTILATERAL SUBSIDY REMEDIES.—The administering authority shall provide information to the public upon request, and, to the extent feasible, assistance and advice to interested parties concerning—

(1) remedies and benefits available under relevant provisions of the Subsidies Agreement, and

(2) the procedures relating to such remedies and benefits.

(b) PROHIBITED SUBSIDIES.—

(1) NOTIFICATION OF TRADE REPRESENTATIVE.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall notify the Trade Representative and shall provide the Trade Representative with the information upon which the administering authority based its determination.

(2) REQUEST BY INTERESTED PARTY REGARDING PROHIBITED SUBSIDY.—An interested party may request that the administering authority determine if there is reason to believe that merchandise produced in a WTO member country is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that there is reason to believe that such merchandise is benefiting from a subsidy which is prohibited under Article 3 of the Subsidies Agreement, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(c) SUBSIDIES ACTIONABLE UNDER THE AGREEMENT.—

(1) IN GENERAL.—If the administering authority determines pursuant to title VII of the Tariff Act of 1930 that a class or kind of merchandise is benefiting from a subsidy described in Article 6.1 of the Subsidies Agreement, the administering authority shall notify the Trade Representative, and shall provide the Trade Representative with the information upon which the administering authority based its determination.

(2) REQUEST BY INTERESTED PARTY REGARDING ADVERSE EFFECTS.—An interested party may request the administering authority to determine if there is reason to believe that a subsidy which is actionable under the Subsidies Agreement is causing adverse effects. The request shall contain such information as the administering authority may require to support the allegations contained in the request. At the request of the administering authority, the Commission shall assist

the administering authority in analyzing the information pertaining to the existence of such adverse effects. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that there is reason to believe that a subsidy which is actionable under the Subsidies Agreement is causing adverse effects, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(d) INITIATION OF SECTION 301 INVESTIGATION.—On the basis of the notification and information provided by the administering authority pursuant to subsection (b) or (c), such other information as the Trade Representative may have or obtain, and where applicable, after consultation with an interested party referred to in subsection (b)(2) or (c)(2), the Trade Representative shall, unless such interested party objects, determine as expeditiously as possible, in accordance with the procedures in section 302(b)(1) of the Trade Act of 1974 (19 U.S.C. 2412(b)(1)), whether to initiate an investigation pursuant to title III of that Act (19 U.S.C. 2411 et seq.). At the request of the Trade Representative, the administering authority and the Commission shall assist the Trade Representative in an investigation initiated pursuant to this subsection.

(e) NONACTIONABLE SUBSIDIES.—

(1) COMPLIANCE WITH ARTICLE 8 OF THE SUBSIDIES AGREEMENT.—

(A) MONITORING.—In order to monitor whether a subsidy meets the conditions and criteria described in Article 8.2 of the Subsidies Agreement and is nonactionable, the Trade Representative shall provide the administering authority on a timely basis with any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program. The administering authority shall review such information and reports, and where appropriate, shall recommend to the Trade Representative that the Trade Representative seek pursuant to Article 8.3 or 8.4 of the Subsidies Agreement additional information regarding the notified subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority has reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(B) REQUEST BY INTERESTED PARTY REGARDING VIOLATION OF ARTICLE 8.—An interested party may request the administering authority to determine if there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists. The request shall contain such information as the administering authority may require to support the allegations contained in the request. If the administering authority, after analyzing the request and other information reasonably available to the administering authority, determines that additional information is needed, the administering authority shall recommend to the Trade Representative that the Trade Representative seek, pursuant to Article 8.3 or 8.4 of the Subsidies Agreement, additional information regarding the particular noti-

fied subsidy program or a subsidy granted pursuant to the notified subsidy program. If the administering authority determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the administering authority shall so notify the Trade Representative, and shall include supporting information with the notification.

(C) ACTION BY TRADE REPRESENTATIVE.—

(i) If the Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (A) or (B), and such other information as the Trade Representative may have or obtain, and after consulting with the interested party referred to in subparagraph (B) and appropriate domestic industries, determines that there is reason to believe that a violation of Article 8 of the Subsidies Agreement exists, the Trade Representative shall invoke the procedures of Article 8.4 or 8.5 of the Subsidies Agreement.

(ii) For purposes of clause (i), the Trade Representative shall determine that there is reason to believe that a violation of Article 8 exists in any case in which the Trade Representative determines that a notified subsidy program or a subsidy granted pursuant to a notified subsidy program does not satisfy the conditions and criteria required for a nonactionable subsidy program under this Act, the Subsidies Agreement, and the statement of administrative action approved under section 101(a).

(D) NOTIFICATION OF ADMINISTERING AUTHORITY.—The Trade Representative shall notify the administering authority whenever a violation of Article 8 of the Subsidies Agreement has been found to exist pursuant to Article 8.4 or 8.5 of that Agreement.

(2) SERIOUS ADVERSE EFFECTS.—

(A) REQUEST BY INTERESTED PARTY.—An interested party may request the administering authority to determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. The request shall contain such information as the administering authority may require to support the allegations contained in the request.

(B) ACTION BY ADMINISTERING AUTHORITY.—Within 90 days after receipt of the request described in subparagraph (A), the administering authority, after analyzing the request and other information reasonably available to the administering authority, shall determine if there is reason to believe that serious adverse effects resulting from a program referred to in Article 8.2 of the Subsidies Agreement exist. If the determination of the administering authority is affirmative, it shall so notify the Trade Representative and shall include supporting information with the notification. The Commission shall assist the administering authority in analyzing the information pertaining to the existence of such serious adverse effects if the administering authority requests the Commission's assistance. If the subsidy program that is alleged to result in serious

adverse effects has been the subject of a countervailing duty investigation or review under subtitle A or C of title VII of the Tariff Act of 1930, the administering authority shall take into account the determinations made by the administering authority and the Commission in such investigation or review and the administering authority shall complete its analysis as expeditiously as possible.

(C) ACTION BY TRADE REPRESENTATIVE.—The Trade Representative, on the basis of the notification and information provided by the administering authority pursuant to subparagraph (B), and such other information as the Trade Representative may have or obtain, shall determine as expeditiously as possible, but not later than 30 days after receipt of the notification provided by the administering authority, if there is reason to believe that serious adverse effects exist resulting from the subsidy program which is the subject of the administering authority's notification. The Trade Representative shall make an affirmative determination regarding the existence of such serious adverse effects unless the Trade Representative finds that the notification of the administering authority is not supported by the facts.

(D) CONSULTATIONS.—If the Trade Representative determines that there is reason to believe that serious adverse effects resulting from the subsidy program exist, the Trade Representative, unless the interested party referred to in subparagraph (A) objects, shall invoke the procedures of Article 9 of the Subsidies Agreement, and shall request consultations pursuant to Article 9.2 of the Subsidies Agreement with respect to such serious adverse effects. If such consultations have not resulted in a mutually acceptable solution within 60 days after the request is made for such consultations, the Trade Representative shall refer the matter to the Subsidies Committee pursuant to Article 9.3 of the Subsidies Agreement.

(E) DETERMINATION BY SUBSIDIES COMMITTEE.—If the Trade Representative determines that—

(i) the Subsidies Committee has been prevented from making an affirmative determination regarding the existence of serious adverse effects under Article 9 of the Subsidies Agreement by reason of the refusal of the WTO member country with respect to which the consultations have been invoked to join in an affirmative consensus—

(I) that such serious adverse effects exist, or

(II) regarding a recommendation to such WTO member country to modify the subsidy program in such a way as to remove the serious adverse effects, or

(ii) the Subsidies Committee has not presented its conclusions regarding the existence of such serious adverse effects within 120 days after the date the matter was referred to it, as required by Article 9.4 of the Subsidies Agreement,

the Trade Representative shall, within 30 days after such determination, make a determination under section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1))

regarding what action to take under section 301(a)(1)(A) of that Act.

(F) NONCOMPLIANCE WITH COMMITTEE RECOMMENDATION.—In the event that the Subsidies Committee makes a recommendation under Article 9.4 of the Subsidies Agreement and the WTO member country with respect to which such recommendation is made does not comply with such recommendation within 6 months after the date of the recommendation, the Trade Representative shall make a determination under section 304(a)(1) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)) regarding what action to take under section 301(a) of that Act.

(f) NOTIFICATION, CONSULTATION, AND PUBLICATION.—

(1) NOTIFICATION OF CONGRESS.—The Trade Representative shall submit promptly to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of the Congress any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.

(2) PUBLICATION IN THE FEDERAL REGISTER.—The administering authority shall publish regularly in the Federal Register a summary notice of any information submitted or report made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding notified subsidy programs.

(3) CONSULTATIONS WITH CONGRESS AND PRIVATE SECTOR.—The Trade Representative and the administering authority promptly shall consult with the committees referred to in paragraph (1), and with interested representatives of the private sector, regarding all information submitted or reports made pursuant to Article 8.3 or 8.4 of the Subsidies Agreement regarding a notified subsidy program.

(4) ANNUAL REPORT.—Not later than February 1 of each year beginning in 1996, the Trade Representative and the administering authority shall issue a joint report to the Congress detailing—

(A) the subsidies practices of major trading partners of the United States, including subsidies that are prohibited, are causing serious prejudice, or are nonactionable, under the Subsidies Agreement, and

(B) the monitoring and enforcement activities of the Trade Representative and the administering authority during the preceding calendar year which relate to subsidies practices.

(g) COOPERATION OF OTHER AGENCIES.—All agencies, departments, and independent agencies of the Federal Government shall cooperate fully with one another in carrying out the provisions of this section, and, upon the request of the administering authority, shall furnish to the administering authority all records, papers, and information in their possession which relate to the requirements of this section.

(h) DEFINITIONS.—For purposes of this section:

(1) ADVERSE EFFECTS.—The term "adverse effects" has the meaning given that term in Articles 5(a) and 5(c) of the Subsidies Agreement.

(2) ADMINISTERING AUTHORITY.—The term "administering authority" has the meaning given that term in section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1)).

(3) COMMISSION.—The term "Commission" means the United States International Trade Commission.

(4) INTERESTED PARTY.—The term "interested party" means a party described in subparagraph (C), (D), (E), (F), or (G) of section 771(9) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A), (C), (D), (E), (F), or (G)).

(5) NONACTIONABLE SUBSIDY.—The term "nonactionable subsidy" means a subsidy described in Article 8.1(b) of the Subsidies Agreement.

(6) NOTIFIED SUBSIDY PROGRAM.—The term "notified subsidy program" means a subsidy program which has been notified pursuant to Article 8.3 of the Subsidies Agreement.

(7) SERIOUS ADVERSE EFFECTS.—The term "serious adverse effects" has the meaning given that term in Article 9.1 of the Subsidies Agreement.

(8) SUBSIDIES AGREEMENT.—The term "Subsidies Agreement" means the Agreement on Subsidies and Countervailing Measures described in section 771(8) of the Tariff Act of 1930 (19 U.S.C. 1677(8)).

(9) SUBSIDIES COMMITTEE.—The term "Subsidies Committee" means the committee established pursuant to Article 24 of the Subsidies Agreement.

(10) SUBSIDY.—The term "subsidy" has the meaning given that term in Article 1 of the Subsidies Agreement.

(11) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(12) VIOLATION OF ARTICLE 8.—The term "violation of Article 8" means the failure of a notified subsidy program or an individual subsidy granted pursuant to a notified subsidy program to meet the applicable conditions and criteria described in Article 8.2 of the Subsidies Agreement.

(i) TREATMENT OF PROPRIETARY INFORMATION.—Notwithstanding any other provision of law, the administering authority may provide the Trade Representative with a copy of proprietary information submitted to, or obtained by, the administering authority that the Trade Representative considers relevant in carrying out its responsibilities under this part. The Trade Representative shall protect from public disclosure proprietary information obtained from the administering authority under this part.

SEC. 282. REVIEW OF SUBSIDIES AGREEMENT. 19 USC 3572.

(a) GENERAL OBJECTIVES.—The general objectives of the United States under this part are—

(1) to ensure that parts II and III of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) (hereafter in this section referred to as the "Subsidies Agreement") are effective in disciplining the use of subsidies and in remedying the adverse effects of subsidies, and

(2) to ensure that part IV of the Subsidies Agreement does not undermine the benefits derived from any other part of that Agreement.

(b) SPECIFIC OBJECTIVE.—The specific objective of the United States under this part shall be to create a mechanism which will

provide for an ongoing review of the operation of part IV of the Subsidies Agreement.

(c) SUNSET OF NONCOUNTERVAILABLE SUBSIDIES PROVISIONS.—

(1) IN GENERAL.—Subparagraphs (B), (C), (D), and (E) of section 771(5B) of the Tariff Act of 1930 shall cease to apply as provided in subparagraph (G)(i) of such section, unless, before the date referred to in such subparagraph (G)(i)—

(A) the Subsidies Committee determines to extend Articles 6.1, 8, and 9 of the Subsidies Agreement as in effect on the date on which the Subsidies Agreement enters into force or in a modified form, in accordance with Article 31 of such Agreement,

(B) the President consults with the Congress in accordance with paragraph (2), and

(C) an implementing bill is submitted and enacted into law in accordance with paragraphs (3) and (4).

President.

(2) CONSULTATION WITH CONGRESS BEFORE SUBSIDIES COMMITTEE AGREES TO EXTEND.—Before a determination is made by the Subsidies Committee to extend Articles 6.1, 8, and 9 of the Subsidies Agreement, the President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding such extension.

(3) IMPLEMENTATION OF EXTENSION.—

(A) NOTIFICATION AND SUBMISSION.—Any extension of subparagraphs (B), (C), (D), and (E) of section 771(5B) of the Tariff Act of 1930 shall take effect if (and only if)—

(i) after the Subsidies Committee determines to extend Articles 6.1, 8, and 9 of the Subsidies Agreement, the President submits to the committees referred to in paragraph (2) a copy of the document describing the terms of such extension, together with—

(I) a draft of an implementing bill,

(II) a statement of any administrative action proposed to implement the extension, and

(III) the supporting information described in subparagraph (C); and

(ii) the implementing bill is enacted into law.

(B) IMPLEMENTING BILL.—The implementing bill referred to in subparagraph (A) shall contain only those provisions that are necessary or appropriate to implement an extension of the provisions of section 771(5B) (B), (C), (D), and (E) of the Tariff Act of 1930 as in effect on the day before the date of the enactment of the implementing bill or as modified to reflect the determination of the Subsidies Committee to extend Articles 6.1, 8, and 9 of the Subsidies Agreement.

(C) SUPPORTING INFORMATION.—The supporting information required under subparagraph (A)(i)(III) consists of—

(i) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(ii) a statement regarding—

(I) how the extension serves the interests of United States commerce, and

(II) why the implementing bill and proposed administrative action is required or appropriate to carry out the extension.

(4) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILL.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(A) in subsection (b)(1)—

(i) by inserting ", or with respect to an extension described in section 282(c)(3) of the Uruguay Round Agreements Act," after "trade agreements",

(ii) by striking "or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988" and inserting ", section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act", and

(iii) by inserting "or such extension" in subparagraphs (A) and (C) after "agreements" each place it appears, and

(B) in subsection (c)(1)—

(i) by inserting "or section 282 of the Uruguay Round Agreements Act" after "section 102", and

(ii) by inserting "or extension" after "agreement" each place it appears.

(5) REPORT BY THE TRADE REPRESENTATIVE.—Not later than the date referred to in section 771(5B)(G)(i) of the Tariff Act of 1930, the Trade Representative shall submit to the Congress a report setting forth the provisions of law which were enacted to implement Articles 6.1, 8, and 9 of the Subsidies Agreement and should be repealed or modified if such provisions are not extended.

(d) REVIEW OF THE OPERATION OF THE SUBSIDIES AGREEMENT.—The Secretary of Commerce, in consultation with other appropriate departments and agencies of the Federal Government, shall undertake an ongoing review of the operation of the Subsidies Agreement. The review shall address—

(1) the effectiveness of part II of the Subsidies Agreement in disciplining the use of subsidies which are prohibited under Article 3 of the Agreement,

(2) the effectiveness of part III and, in particular, Article 6.1 of the Subsidies Agreement, in remedying the adverse effects of subsidies which are actionable under the Agreement, and

(3) the extent to which the provisions of part IV of the Subsidies Agreement may have undermined the benefits derived from other parts of the Agreement, and, in particular—

(A) the extent to which WTO member countries have cooperated in reviewing and improving the operation of part IV of the Subsidies Agreement,

(B) the extent to which the provisions of Articles 8.4 and 8.5 of the Subsidies Agreement have been effective in identifying and remedying violations of the conditions and criteria described in Article 8.2 of the Agreement, and

(C) the extent to which the provisions of Article 9 of the Subsidies Agreement have been effective in remedying the serious adverse effects of subsidy programs described in Article 8.2 of the Agreement.

Reports.

Not later than 4 years and 6 months after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the review required under this subsection.

SEC. 283. AMENDMENTS TO TITLE VII OF THE TARIFF ACT OF 1930.

(a) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Section 703(b) of the Tariff Act of 1930 (19 U.S.C. 1671b(b)), as amended, is amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF ARTICLE 8 VIOLATION.—If the only subsidy under investigation is a subsidy with respect to which the administering authority received notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement, paragraph (1) shall be applied by substituting '60 days' for '65 days'.".

(b) SUBSIDY PRACTICE DISCOVERED DURING A PROCEEDING.—Section 775 of the Tariff Act of 1930 (19 U.S.C. 1677d) is amended to read as follows:

"SEC. 775. COUNTERVAILABLE SUBSIDY PRACTICES DISCOVERED DURING A PROCEEDING.

"If, in the course of a proceeding under this title, the administering authority discovers a practice which appears to be a countervailable subsidy, but was not included in the matters alleged in a countervailing duty petition, or if the administering authority receives notice from the Trade Representative that a subsidy or subsidy program is in violation of Article 8 of the Subsidies Agreement, then the administering authority—

"(1) shall include the practice, subsidy, or subsidy program in the proceeding if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to the merchandise which is the subject of the proceeding, or

"(2) shall transfer the information (other than confidential information) concerning the practice, subsidy, or subsidy program to the library maintained under section 777(a)(1), if the practice, subsidy, or subsidy program appears to be a countervailable subsidy with respect to any other merchandise.".

(c) ADMINISTRATIVE REVIEWS.—Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675), as amended, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) REVIEWS TO IMPLEMENT RESULTS OF SUBSIDIES ENFORCEMENT PROCEEDING.—

"(1) VIOLATIONS OF ARTICLE 8 OF THE SUBSIDIES AGREEMENT.—If—

"(A) the administering authority receives notice from the Trade Representative of a violation of Article 8 of the Subsidies Agreement,

"(B) the administering authority has reason to believe that merchandise subject to an existing countervailing duty order or suspended investigation is benefiting from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement, and

"(C) no review pursuant to subsection (a)(1) is in progress,

the administering authority shall conduct a review of the order or suspended investigation to determine whether the subject merchandise benefits from the subsidy or subsidy program found to have been in violation of Article 8 of the Subsidies Agreement. If the administering authority determines that the subject merchandise is benefiting from the subsidy or subsidy program, it shall make appropriate adjustments in the estimated duty to be deposited or appropriate revisions to the terms of the suspension agreement.

"(2) WITHDRAWAL OF SUBSIDY OR IMPOSITION OF COUNTERMEASURES.—If the Trade Representative notifies the administering authority that, pursuant to Article 4 or Article 7 of the Subsidies Agreement—

"(A)(i) the United States has imposed countermeasures, and

"(ii) such countermeasures are based on the effects in the United States of imports of merchandise that is the subject of a countervailing duty order, or

"(B) a WTO member country has withdrawn a countervailable subsidy provided with respect to merchandise subject to a countervailing duty order,

the administering authority shall conduct a review to determine if the amount of the estimated duty to be deposited should be adjusted or the order should be revoked.

"(3) EXPEDITED REVIEW.—The administering authority shall conduct reviews under this subsection on an expedited basis, and shall publish the results of such reviews in the Federal Register.". Federal Register, publication.

Subtitle C—Effective Date

SEC. 291. EFFECTIVE DATE. 19 USC 1671 note.

(a) IN GENERAL.—Except as provided in section 261, the amendments made by this title shall take effect on the date described in subsection (b) and apply with respect to—

(1) investigations initiated—

(A) on the basis of petitions filed under section 702(b), 732(b), or 783(b) of the Tariff Act of 1930 after the date described in subsection (b), or

(B) by the administering authority under section 702(a) or 732(a) of such Act after such date,

(2) reviews initiated under section 751 of such Act—

(A) by the administering authority or the Commission on their own initiative after such date, or

(B) pursuant to a request filed after such date,

(3) investigations initiated under section 753 of such Act after such date,

(4) petitions filed under section 780 of such Act after such date, and

(5) inquiries initiated under section 781 of such Act—

(A) by the administering authority on its own initiative after such date, or

(B) pursuant to a request filed after such date.

(b) DATE DESCRIBED.—The date described in this subsection is the date on which the WTO Agreement (as defined in section 2(9)) enters into force with respect to the United States.

TITLE III—ADDITIONAL IMPLEMENTATION OF AGREEMENTS

Subtitle A—Safeguards

SEC. 301. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY INTERNATIONAL TRADE COMMISSION.

(a) TREATMENT OF CONFIDENTIAL INFORMATION.—Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended by adding at the end the following: "The Commission may request that parties providing confidential business information furnish nonconfidential summaries thereof or, if such parties indicate that the information in the submission cannot be summarized, the reasons why a summary cannot be provided. If the Commission finds that a request for confidentiality is not warranted and if the party concerned is either unwilling to make the information public or to authorize its disclosure in generalized or summarized form, the Commission may disregard the submission.".

(b) ADMINISTRATIVE PROTECTIVE ORDERS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end the following:

Regulations.

"(i) LIMITED DISCLOSURE OF CONFIDENTIAL BUSINESS INFORMATION UNDER PROTECTIVE ORDER.—The Commission shall promulgate regulations to provide access to confidential business information under protective order to authorized representatives of interested parties who are parties to an investigation under this section.".

(c) NOTICE OF PROCEEDINGS.—Section 202(b) of the Trade Act of 1974 (19 U.S.C. 2252(b)) is amended by striking paragraphs (3) and (4) and inserting the following:

Federal Register, publication.

"(3) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), to respond to the presentations of other parties and consumers, and otherwise to be heard.".

(d) CRITICAL CIRCUMSTANCES.—

(1) IN GENERAL.—Section 202(d)(2) of the Trade Act of 1974 (19 U.S.C. 2252(d)(2)) is amended to read as follows:

"(2)(A) When a petition filed under subsection (a) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to imports of the article identified in the petition, the Commission shall, not later than 60 days after the petition containing the request was filed, determine, on the basis of available information, whether—

"(i) there is clear evidence that increased imports (either actual or relative to domestic production) of the article are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article; and

"(ii) delay in taking action under this chapter would cause damage to that industry that would be difficult to repair.

"(B) If the determinations under subparagraph (A)(i) and (ii) are affirmative, the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.

"(C) The Commission shall immediately report to the President its determinations under subparagraph (A)(i) and (ii) and, if the determinations are affirmative, the finding under subparagraph (B). Reports.

"(D) Within 30 days after receiving a report from the Commission under subparagraph (C) containing an affirmative determination under subparagraph (A)(i) and (ii), the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (B), shall proclaim, for a period not to exceed 200 days, such provisional relief that the President considers necessary to prevent or remedy the serious injury. Such relief shall take the form of an increase in, or the imposition of, a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury.". President.

(2) TIME LIMITS FOR DETERMINATIONS.—Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended—

(A) in subsection (b)(2)—

(i) in subparagraph (A) by inserting "(180 days if the petition alleges that critical circumstances exist)" after "120 days"; and

(ii) in subparagraph (B) by inserting "(210 days if the petition alleges that critical circumstances exist)" after "150 days"; and

(B) in subsection (f)(1) by inserting "(240 days if the petition alleges that critical circumstances exist)" after "180 days".

(3) ACTION BY THE PRESIDENT.—Section 203(a)(4) of the Trade Act of 1974 (19 U.S.C. 2253(a)(4)) is amended—

(A) by striking "The" and inserting "(A) Subject to subparagraph (B), the";

(B) by inserting after "60 days" the following: "(50 days if the President has proclaimed provisional relief under section 202(d)(2)(D) with respect to the article concerned)"; and

(C) by striking "; except that" and all that follows through "received." and inserting a period and the following:

"(B) If a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received, except that, in a case in which the President has proclaimed provisional relief under section 202(d)(2)(D) with respect to the article concerned, action by the President under paragraph (1) may not be taken later than the 200th day after the provisional relief was proclaimed.".

(4) CONFORMING AMENDMENTS.—Section 202(d) of the Trade Act of 1974 (19 U.S.C. 2252(d)) is amended—

(A) in paragraph (3)—

(i) by striking "(2)(B)" and inserting "(2)(D)"; and

(ii) by striking "subsection (b)(1)" and inserting "paragraph (2)(A)"; and

(B) in paragraph (4)(A)(i) by inserting "or (2)(D)" after "(1)(G)".

(e) FACTORS IN MAKING DETERMINATIONS.—Section 202(c) of the Trade Act of 1974 (19 U.S.C. 2252(c)) is amended—

(1) in paragraph (1)(B)(i) by inserting "productivity," after "wages,"; and

(2) in paragraph (6)—

(A) by amending subparagraph (A) to read as follows:

"(A)(i) The term 'domestic industry' means, with respect to an article, the producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article.

"(ii) The term 'domestic industry' includes producers located in the United States insular possessions."; and

(B) by adding at the end the following:

"(C) The term 'serious injury' means a significant overall impairment in the position of a domestic industry.

"(D) The term 'threat of serious injury' means serious injury that is clearly imminent.

(f) LIMITATIONS ON INVESTIGATIONS.—Section 202(h) of the Trade Act of 1974 (19 U.S.C. 2252(h)) is amended by adding at the end the following:

Federal Register, publication.

"(3)(A) Not later than the date on which the Textiles Agreement enters into force with respect to the United States, the Secretary of Commerce shall publish in the Federal Register a list of all articles that are subject to the Textiles Agreement. An investigation may be conducted under this section concerning imports of any article that is subject to the Textiles Agreement only if the United States has integrated that article into GATT 1994 pursuant to the Textiles Agreement, as set forth in notices published in the Federal Register by the Secretary of Commerce, including the notice published under section 331 of the Uruguay Round Agreements Act.

"(B) For purposes of this paragraph:

"(i) The term 'Textiles Agreement' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act.

"(ii) The term 'GATT 1994' has the meaning given that term in section 2(1)(B) of the Uruguay Round Agreements Act.".

SEC. 302. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

(a) AUTHORITY TO ENTER INTO INTERNATIONAL AGREEMENTS.—Section 203 of the Trade Act of 1974 (19 U.S.C. 2253) is amended—

(1) in subsection (a)(3)(E) by striking "orderly marketing";

(2) in subsection (d)(1) by striking "orderly marketing agreements" and inserting "agreements described in subsection (a)(3)(E)";

(3) in subsection (f)—

(A) in the subsection heading by striking "ORDERLY MARKETING AND OTHER" and inserting "CERTAIN";

(B) in paragraph (1)—

(i) by striking "orderly marketing agreements" the first place it appears and inserting "agreements of the type described in subsection (a)(3)(E)"; and

(ii) by striking "orderly marketing agreements with foreign countries" and inserting "agreements of the type described in subsection (a)(3)(E)"; and

(C) in paragraph (2) by striking "orderly marketing agreement implemented under subsection (a)" and inserting "agreement implemented under subsection (a)(3)(E)"; and

(4) in subsection (g)(2)—

(A) in the first sentence by striking "orderly marketing or other"; and

(B) in the second sentence—

(i) by striking "orderly marketing agreement" and inserting "agreement of the type described in subsection (a)(3)(E) that is"; and

(ii) by striking "agreements" and inserting "agreement".

(b) LIMITATIONS ON ACTIONS.—

(1) DURATION OF ACTIONS.—Section 203(e)(1) of the Trade Act of 1974 (19 U.S.C. 2253(e)(1)) is amended to read as follows:

"(1)(A) Subject to subparagraph (B), the duration of the period in which an action taken under this section may be in effect shall not exceed 4 years. Such period shall include the period, if any, in which provisional relief under section 202(d) was in effect.

"(B)(i) Subject to clause (ii), the President, after receiving an affirmative determination from the Commission under section 204(c) (or, if the Commission is equally divided in its determination, a determination which the President considers to be an affirmative determination of the Commission), may extend the effective period of any action under this section if the President determines that—

"(I) the action continues to be necessary to prevent or remedy the serious injury; and

"(II) there is evidence that the domestic industry is making a positive adjustment to import competition.

"(ii) The effective period of any action under this section, including any extensions thereof, may not, in the aggregate, exceed 8 years.".

(2) LIMITATION ON QUANTITATIVE RESTRICTIONS.—Section 203(e)(4) of the Trade Act of 1974 (19 U.S.C. 2253(e)(4)) is amended to read as follows:

"(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the average quantity or value of such article entered into the United States in the most recent 3 years that are representative of imports of such article and for which data are available, unless the President finds that the importation of a different quantity or value is clearly justified in order to prevent or remedy the serious injury.".

(3) PHASING-DOWN OF ACTIONS.—Section 203(e)(5) of the Trade Act of 1974 (19 U.S.C. 2253(e)(5)) is amended to read as follows:

"(5) An action described in subsection (a)(3)(A), (B), or (C) that has an effective period of more than 1 year shall be phased down at regular intervals during the period in which the action is in effect.".

(4) LIMITATIONS ON NEW ACTIONS AND INVESTIGATIONS OF SAME ARTICLE.—(A) Section 203(e) of the Trade Act of 1974 (19 U.S.C. 2253(e)) is amended by adding at the end the following:

"(7)(A) If an article was the subject of an action under subparagraph (A), (B), (C), or (E) of subsection (a)(3), no new action may be taken under any of those subparagraphs with respect to such article for—

"(i) a period beginning on the date on which the previous action terminates that is equal to the period in which the previous action was in effect, or

"(ii) a period of 2 years beginning on the date on which the previous action terminates,

whichever is greater.

"(B) Notwithstanding subparagraph (A), if the previous action under subparagraph (A), (B), (C), or (E) of subsection (a)(3) with respect to an article was in effect for a period of 180 days or less, the President may take a new action under any of those subparagraphs with respect to such article if—

"(i) at least 1 year has elapsed since the previous action went into effect; and

"(ii) an action described in any of those subparagraphs has not been taken with respect to such article more than twice in the 5-year period immediately preceding the date on which the new action with respect to such article first becomes effective.".

(B) Section 202(h)(2) of the Trade Act of 1974 (19 U.S.C. 2252(h)(2)) is amended to read as follows:

"(2) No new investigation shall be conducted with respect to an article that is or has been the subject of an action under section 203(a)(3)(A), (B), (C), or (E) if the last day on which the President could take action under section 203 in the new investigation is a date earlier than that permitted under section 203(e)(7).".

(c) REPORTS ON MONITORING.—Section 204(a) of the Trade Act of 1974 (19 U.S.C. 2354(a)) is amended— 19 USC 2254.

(1) by amending paragraph (2) to read as follows:

"(2) If the initial period during which the action taken under section 203 is in effect exceeds 3 years, or if an extension of such action exceeds 3 years, the Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than the date that is the mid-point of the initial period, and of each such extension, during which the action is in effect."; and

(2) in paragraph (4) by striking "extension,".

(d) INVESTIGATION OF EXTENSION OF ACTION.—Section 204 of the Trade Act of 1974 (19 U.S.C. 2254) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) EXTENSION OF ACTION.—

"(1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under section 203 is to terminate, the Commission shall investigate to determine whether action under section 203 continues to be necessary to prevent or remedy serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

"(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard. Federal Register, publication.

"(3) The Commission shall transmit to the President a report on its investigation and determination under this subsection not later than 60 days before the action under section 203 is to terminate, unless the President specifies a different date.". Reports.

SEC. 303. MISCELLANEOUS AMENDMENTS.

Title II of the Trade Act of 1974 is amended as follows:

(1) Section 202(a)(2)(B)(ii) (19 U.S.C. 2252(a)(2)(B)(ii)) is amended by striking ", or at any time before the 150th day after the date of filing be amended to request,".

(2) Section 202(b)(1)(A) (19 U.S.C. 2252(b)(1)(A)) is amended by striking "(b)" and inserting "(a)".

(3) Section 202(d)(1) (19 U.S.C. 2252(d)(1)) is amended—

(A) in subparagraph (C)(i) by striking "paragraph (2)" and inserting "subparagraph (B)"; and

(B) by striking "or threat thereof" each place it appears in subparagraphs (E) and (G).

(4) Section 202(d)(4)(A)(i) (19 U.S.C. 2252(d)(4)(A)(i)) is amended by striking "203(a)" and inserting "202(b)".

(5) Section 202(c)(6) (19 U.S.C. 2252(c)(6)) is amended by striking "subsection" and inserting "section".

(6) Section 202(f)(2)(G)(ii) (19 U.S.C. 2252(f)(2)(G)(ii)) is amended by striking "is" and inserting "are".

(7) Section 203(a)(2)(C) (19 U.S.C. 2253(a)(2)(C)) is amended by striking "201(b)" and inserting "202(a)".

(8) Section 203(c) (19 U.S.C. 2253(c)) is amended by striking "(c)(2)" and inserting "(d)(2)".

(9) Section 203(e)(2) (19 U.S.C. 2253(e)(2)) is amended—

(A) by striking "may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B)" and inserting "of a type described in subsection (a)(3)(A), (B), or (C) may be taken under subsection (a)(1), under section 202(d)(1)(G), or under section 202(d)(2)(D)"; and

(B) by striking "or threat thereof".

(10) Section 203(e)(6)(B) (19 U.S.C. 2253(e)(6)(B)) is amended—

(A) by striking "203(c)" and inserting "202(e)"; and

(B) by striking "203(a)" and inserting "202(b)".

19 USC 2252 note.

SEC. 304. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 301(b).—The amendment made by section 301(b) takes effect on the date of the enactment of this Act.

Subtitle B—Foreign Trade Barriers and Unfair Trade Practices

SEC. 311. IDENTIFICATION OF FOREIGN ANTICOMPETITIVE PRACTICES.

(a) REPORT TO CONGRESS.—

(1) CONTENTS OF REPORT.—Section 181(b)(2) of the Trade Act of 1974 (19 U.S.C. 2241(b)(2)) is amended—

(A) in subparagraph (A) by striking "or" after the comma;

(B) in subparagraph (B) by striking the period and inserting ", or"; and

(C) by adding after subparagraph (B) the following:

"(C) a section on foreign anticompetitive practices, the toleration of which by foreign governments is adversely affecting exports of United States goods or services.".

(2) ASSISTANCE OF OTHER AGENCIES.—Section 181(c) of the Trade Act of 1974 (19 U.S.C. 2241(c)) is amended by adding at the end of paragraph (1) the following: "In preparing the section of the report required by subsection (b)(2)(C), the Trade Representative shall consult in particular with the Attorney General.".

SEC. 312. CONSULTATION WITH COMMITTEES.

Section 181(b)(3) of the Trade Act of 1974 (19 U.S.C. 2241(b)(3)) is amended by adding at the end the following: "After the submission of the report required by paragraph (1), the Trade Representative shall also consult periodically with, and take into account the views of, the committees described in that paragraph regarding means to address the foreign trade barriers identified in the report, including the possible initiation of investigations under section 302 or other trade actions.".

SEC. 313. IDENTIFICATION OF COUNTRIES THAT DENY PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (b) by adding at the end the following:

"(4) In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—

"(A) the history of intellectual property laws and practices of the foreign country, including any previous identification under subsection (a)(2), and

"(B) the history of efforts of the United States, and the response of the foreign country, to achieve adequate and effective protection and enforcement of intellectual property rights."; and

(2) in subsection (d)—

(A) in paragraph (3) by amending the matter preceding subparagraph (A) to read as follows:

"(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright or related right, patent, trademark, mask work, trade secret, or plant breeder's right, through the use of laws, procedures, practices, or regulations which—"; and

(B) by adding at the end the following:

"(4) A foreign country may be determined to deny adequate and effective protection of intellectual property rights, notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act."; and

(3) by adding at the end the following:

"(g) ANNUAL REPORT.—The Trade Representative shall, by not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving improved intellectual property protection and market access for persons relying on intellectual property rights.".

SEC. 314. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) SCOPE OF AUTHORITY.—

(1) IN GENERAL.—Subsections (a)(1) and (b)(2) of section 301 of the Trade Act of 1974 (19 U.S.C. 2411(a)(1) and (b)(2)) are each amended by adding the following sentence at the end:

"Actions may be taken that are within the power of the President with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country.".

(2) IMPORT RESTRICTIONS.—Section 301(c)(5) of the Trade Act of 1974 (19 U.S.C. 2411(c)(5)) is amended by striking the matter preceding subparagraph (B) and inserting the following:

"(5) If the Trade Representative determines that actions to be taken under subsection (a) or (b) are to be in the form of import restrictions, the Trade Representative shall—

"(A) give preference to the imposition of duties over the imposition of other import restrictions, and".

(b) RELATIONSHIP WITH OTHER AUTHORITIES.—Section 301(c) of the Trade Act of 1974 (19 U.S.C. 2411(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" after the semicolon at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

"(C) in a case in which the act, policy, or practice also fails to meet the eligibility criteria for receiving duty-free treatment under subsections (b) and (c) of section 502 of this Act, subsections (b) and (c) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C.

2702(b) and (c)), or subsections (c) and (d) of section 203 of the Andean Trade Preference Act (19 U.S.C. 3202(c) and (d)), withdraw, limit, or suspend such treatment under such provisions, notwithstanding the provisions of subsection (a)(3) of this section; or".

(c) DEFINITION OF AN UNREASONABLE ACT, POLICY, OR PRACTICE.—Section 301(d)(3) of the Trade Act of 1974 (19 U.S.C. 2411(d)(3)) is amended—

(1) in subparagraph (B)(i) by striking subclauses (II) and (III) and inserting the following:

"(II) provision of adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act,

"(III) nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection, or

"(IV) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by enterprises or among enterprises in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods or services to a foreign market,"; and

(2) by adding at the end the following:

"(F)(i) For the purposes of subparagraph (B)(i)(II), adequate and effective protection of intellectual property rights includes adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such country to secure, exercise, and enforce rights and enjoy commercial benefits relating to patents, trademarks, copyrights and related rights, mask works, trade secrets, and plant breeder's rights.

"(ii) For purposes of subparagraph (B)(i)(IV), the denial of fair and equitable nondiscriminatory market access opportunities includes restrictions on market access related to the use, exploitation, or enjoyment of commercial benefits derived from exercising intellectual property rights in protected works or fixations or products embodying protected works.".

(d) TIME LIMITS FOR DETERMINATIONS OF UNFAIR TRADE PRACTICES.—Section 304(a) of the Trade Act of 1974 (19 U.S.C. 2414(a)) is amended—

(1) in subparagraph (A) of paragraph (2), by striking "(other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979)",

(2)(A) in subparagraph (A) of paragraph (3), by inserting "does not consider that a trade agreement, including the Agreement on Trade-Related Aspects of Intellectual Property (referred to in section 101(d)(15) of the Uruguay Round Agreements Act), is involved or" after "the Trade Representative" the first place it appears, and

(B) in subparagraph (B) of paragraph (3), in the matter preceding clause (i), by striking "any investigation initiated

by reason of section 302(b)(2)" and inserting "an investigation initiated by reason of section 302(b)(2) (other than an investigation involving a trade agreement)", and

(3) in paragraph (4), by striking "(other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979)".

(e) MONITORING OF FOREIGN COMPLIANCE.—Subsections (a) and (b) of section 306 of the Trade Act of 1974 (19 U.S.C. 2416) are amended to read as follows:

"(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement that is entered into, by a foreign country to provide a satisfactory resolution of a matter subject to investigation under this chapter or subject to dispute settlement proceedings to enforce the rights of the United States under a trade agreement providing for such proceedings.

"(b) FURTHER ACTION.—

"(1) IN GENERAL.—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1).".

"(2) WTO DISPUTE SETTLEMENT RECOMMENDATIONS.—If the measure or agreement referred to in subsection (a) concerns the implementation of a recommendation made pursuant to dispute settlement proceedings under the World Trade Organization, and the Trade Representative considers that the foreign country has failed to implement it, the Trade Representative shall make the determination in paragraph (1) no later than 30 days after the expiration of the reasonable period of time provided for such implementation under paragraph 21 of the Understanding on Rules and Procedures Governing the Settlement of Disputes that is referred to in section 101(d)(16) of the Uruguay Round Agreements Act.".

(f) EXTENSION OF SECTION 310 OF THE TRADE ACT OF 1974.—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended to read as follows:

"SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

"(a) IDENTIFICATION.—

"(1) Within 180 days after the submission in calendar year 1995 of the report required by section 181(b), the Trade Representative shall—

"(A) review United States trade expansion priorities,

"(B) identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent, and

"(C) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priority foreign country practices identified.

Reports. Federal Register, publication.

"(2) In identifying priority foreign country practices under paragraph (1) of this section, the Trade Representative shall take into account all relevant factors, including—

"(A) the major barriers and trade distorting practices described in the National Trade Estimate Report required under section 181(b);

"(B) the trade agreements to which a foreign country is a party and its compliance with those agreements;

"(C) the medium- and long-term implications of foreign government procurement plans; and

"(D) the international competitive position and export potential of United States products and services.

"(3) The Trade Representative may include in the report, if appropriate—

"(A) a description of foreign country practices that may in the future warrant identification as priority foreign country practices; and

"(B) a statement about other foreign country practices that were not identified because they are already being addressed by provisions of United States trade law, by existing bilateral trade agreements, or as part of trade negotiations with other countries and progress is being made toward the elimination of such practices.

"(b) INITIATION OF INVESTIGATIONS.—By no later than the date which is 21 days after the date on which a report is submitted to the appropriate congressional committees under subsection (a)(1), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of the priority foreign country practices identified.

"(c) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—In the consultations with a foreign country that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement that provides for the elimination of the practices that are the subject of the investigation as quickly as possible or, if elimination of the practices is not feasible, an agreement that provides for compensatory trade benefits.

"(d) REPORTS.—The Trade Representative shall include in the semiannual report required by section 309 a report on the status of any investigations initiated pursuant to subsection (b) and, where appropriate, the extent to which such investigations have led to increased opportunities for the export of products and services of the United States.".

19 USC 3581.

SEC. 315. OBJECTIVES IN INTELLECTUAL PROPERTY.

It is the objective of the United States—

(1) to accelerate the implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15),

(2) to seek enactment and effective implementation by foreign countries of laws to protect and enforce intellectual property rights that supplement and strengthen the standards of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) and the North American Free Trade Agreement and, in particular—

(A) to conclude bilateral and multilateral agreements that create obligations to protect and enforce intellectual property rights that cover new and emerging technologies and new methods of transmission and distribution, and

(B) to prevent or eliminate discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights,

(3) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection,

(4) to take an active role in the development of the intellectual property regime under the World Trade Organization to ensure that it is consistent with other United States objectives, and

(5) to take an active role in the World Intellectual Property Organization (WIPO) to develop a cooperative and mutually supportive relationship between the World Trade Organization and WIPO.

SEC. 316. EFFECTIVE DATE.

19 USC 3581 note.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

(b) SECTION 314(f).—The amendment made by section 314(f) takes effect on the date of the enactment of this Act.

Subtitle C—Unfair Practices in Import Trade

SEC. 321. UNFAIR PRACTICES IN IMPORT TRADE.

(a) AMENDMENTS TO SECTION 337 OF THE TARIFF ACT OF 1930.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) INVESTIGATION.—Subsection (b) is amended—

(A) by striking "; TIME LIMITS" in the heading;

(B) in paragraph (1) by striking all that follows the second sentence and inserting the following: "The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 45 days after an investigation is initiated, establish a target date for its final determination."; and

(C) in paragraph (3)—

(i) in the first sentence—

(I) by striking "the Tariff Act of 1930" and inserting "this Act"; and

(II) by striking "such Act" and inserting "such subtitle"; and

(ii) by striking the fifth sentence.

(2) DETERMINATION; REVIEW.—Subsection (c) is amended—

(A) in the first sentence by striking "a settlement agreement" and inserting "an agreement between the private

parties to the investigation, including an agreement to present the matter for arbitration";

(B) by inserting the following after the third sentence: "A respondent may raise any counterclaim in a manner prescribed by the Commission. Immediately after a counterclaim is received by the Commission, the respondent raising such counterclaim shall file a notice of removal with a United States district court in which venue for any of the counterclaims raised by the party would exist under section 1391 of title 28, United States Code. Any counterclaim raised pursuant to this section shall relate back to the date of the original complaint in the proceeding before the Commission. Action on such counterclaim shall not delay or affect the proceeding under this section, including the legal and equitable defenses that may be raised under this subsection."; and

(C) by adding at the end the following: "Determinations by the Commission under subsections (e), (f), and (j) with respect to forfeiture of bonds and under subsection (h) with respect to the imposition of sanctions for abuse of discovery or abuse of process shall also be reviewable in accordance with section 706 of title 5, United States Code.".

(3) ENTRY UNDER BOND.—Subsection (e) is amended—

(A) in the last sentence of paragraph (1) by striking "determined by the Commission" and all that follows through the end of the sentence and inserting "prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.";

(B) by adding at the end of paragraph (2) the following: "If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent."; and

(C) by adding at the end the following new paragraph:

"(4) The Commission shall prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).".

(4) CEASE AND DESIST ORDERS.—Subsection (f)(1) is amended by adding at the end the following: "If a temporary cease and desist order is issued in addition to, or in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond, in an amount determined by the Commission to be sufficient to protect the respondent from any injury, as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission shall prescribe the terms and conditions under which the bonds may be forfeited under this paragraph.".

(5) CONDITIONS APPLICABLE FOR GENERAL EXCLUSION ORDERS.—(A) Subsection (d) is amended—

(i) by inserting "(1)" before "If";

(ii) in the first sentence by striking "there is violation" and inserting "there is a violation"; and

(iii) by adding at the end the following new paragraph:

"(2) The authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—

"(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or

"(B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.".

(B) Subsection (g)(2) is amended—

(i) by striking "and" at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(iii) by adding after subparagraph (B) the following:

"(C) the requirements of subsection (d)(2) are met.".

(6) ENTRY UNDER BOND AFTER REFERRAL TO THE PRESIDENT.—Subsection (j)(3) is amended by striking "shall be entitled to entry under bond" and all that follows through the end of the sentence and inserting "shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission shall prescribe the terms and conditions under which bonds may be forfeited under this paragraph.".

(7) ACCESS TO CONFIDENTIAL INFORMATION.—Subsection (n)(2) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) an officer or employee of the Commission who is directly concerned with—

"(i) carrying out the investigation or related proceeding in connection with which the information is submitted,

"(ii) the administration of a bond posted pursuant to subsection (e), (f), or (j),

"(iii) the administration or enforcement of an exclusion order issued pursuant to subsection (d), (e), or (g), a cease and desist order issued pursuant to subsection (f), or a consent order issued pursuant to subsection (c),

"(iv) proceedings for the modification or rescission of a temporary or permanent order issued under subsection (d), (e), (f), (g), or (i), or a consent order issued under this section, or

"(v) maintaining the administrative record of the investigation or related proceeding,"; and

(B) by amending subparagraph (C) to read as follows:

"(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under subsection (d), (e), or (g) resulting from the investigation or related proceeding in connection with which the information is submitted.".

(8) TECHNICAL AMENDMENT.—Subsection (l) is amended by striking "Claims Court" and inserting "Court of Federal Claims".

(b) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) STAY OF ACTIONS.—

(A) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission

"(a) STAY.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

"(1) 30 days after the party is named as a respondent in the proceeding before the Commission, or

"(2) 30 days after the district court action is filed,

whichever is later.

"(b) USE OF COMMISSION RECORD.—Notwithstanding section 337(n)(1) of the Tariff Act of 1930, after dissolution of a stay under subsection (a), the record of the proceeding before the United States International Trade Commission shall be transmitted to the district court and shall be admissible in the civil action, subject to such protective order as the district court determines necessary, to the extent permitted under the Federal Rules of Evidence and the Federal Rules of Civil Procedure.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission.".

(2) COUNTERCLAIMS.—Section 1446 of title 28, United States Code, is amended by adding at the end the following:

"(f) With respect to any counterclaim removed to a district court pursuant to section 337(c) of the Tariff Act of 1930, the district court shall resolve such counterclaim in the same manner as an original complaint under the Federal Rules of Civil Procedure, except that the payment of a filing fee shall not be required in such cases and the counterclaim shall relate back to the date of the original complaint in the proceeding before the International Trade Commission under section 337 of that Act.".

(3) JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"§ 1368. Counterclaims in unfair practices in international trade.

"The district courts shall have original jurisdiction of any civil action based on a counterclaim raised pursuant to section 337(c) of the Tariff Act of 1930, to the extent that it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim in the proceeding under section 337(a) of that Act.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"1368. Counterclaims in unfair practices in international trade.".

SEC. 322. EFFECTIVE DATE. 19 USC 1337 note.

The amendments made by this subtitle apply—

(1) with respect to complaints filed under section 337 of the Tariff Act of 1930 on or after the date on which the WTO Agreement enters into force with respect to the United States, or

(2) in cases under such section 337 in which no complaint is filed, with respect to investigations initiated under such section on or after such date.

Subtitle D—Textiles

SEC. 331. TEXTILE PRODUCT INTEGRATION. 19 USC 3591.

Not later than 120 days after the date that the WTO Agreement, as defined in section 2(9) of the Uruguay Round Implementation Act, enters into force with respect to the United States, the Secretary of Commerce shall publish in the Federal Register a notice containing the list of products to be integrated in each stage set out in Article 2(8) of the Agreement on Textiles and Clothing referred to in section 101(d)(4). After publication of such list, the list may not be changed unless otherwise required by statute or the international obligations of the United States, to correct technical errors, or to reflect reclassifications. Within 30 days after the publication of such list, the Trade Representative shall notify the list to the Textiles Monitoring Body established under Article 8 of the Agreement on Textiles and Clothing. Federal Register, publication.

SEC. 332. AMENDMENT TO SECTION 204 OF THE AGRICULTURAL ACT OF 1956.

Section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854) is amended by amending the second sentence to read as follows: "In addition, if a multilateral agreement, including but not limited to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Implementation Act, has been or is concluded under the authority of this section among countries accounting for a significant part of world trade in the articles with respect to which the agreement was concluded, the President may also issue, in order to carry out such agreement, regulations governing the entry or withdrawal from warehouse of the same articles which are the products of countries not parties to the agreement, or countries to which the United States does not apply the agreement.".

SEC. 333. TEXTILE TRANSSHIPMENTS.

Part V of title IV of the Tariff Act of 1930 is amended by inserting after section 592 the following:

"SEC. 592A. SPECIAL PROVISIONS REGARDING CERTAIN VIOLATIONS. 19 USC 1592a.

"(a) PUBLICATION OF NAMES OF CERTAIN VIOLATORS.—

"(1) PUBLICATION.—The Secretary of the Treasury is authorized to publish in the Federal Register a list of the name of any producer, manufacturer, supplier, seller, exporter, Federal Register, publication.

or other person located outside the customs territory of the United States—

"(A) against whom the Customs Service has issued a penalty claim under section 592, and

"(B) if a petition with respect to that claim has been filed under section 618, against whom a final decision has been issued under such section after exhaustion of administrative remedies,

citing any of the violations of the customs laws referred to in paragraph (2). Such list shall be published not later than March 31 and September 30 of each year.

"(2) VIOLATIONS.—The violations of the customs laws referred to in paragraph (1) are the following:

"(A) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products.

"(B) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the customs territory of the United States of textile or apparel products.

"(C) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labelled as to country of origin or source.

"(D) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

"(3) REMOVAL FROM LIST.—Any person whose name has been included in a list published under paragraph (1) may petition the Secretary to be removed from such list. If the Secretary finds that such person has not committed any violations described in paragraph (2) for a period of not less than 3 years after the date on which the person's name was so published, the Secretary shall remove such person from the list as of the next publication of the list under paragraph (2).

"(4) REASONABLE CARE REQUIRED FOR SUBSEQUENT IMPORTS.—

"(A) RESPONSIBILITY OF IMPORTERS AND OTHERS.—After the name of a person has been published under paragraph (1), the Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labelling that are accurate as to its origin. Such reasonable

care shall not include reliance solely on a source of information which is the named person.

"(B) FAILURE TO EXERCISE REASONABLE CARE.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

"(b) LIST OF HIGH RISK COUNTRIES.—

"(1) LIST.—The President or his designee, upon the advice of the Secretaries of Commerce and Treasury, and the heads of other appropriate departments and agencies, is authorized to publish a list of countries in which illegal activities have occurred involving transshipped textile or apparel products or activities designed to evade quotas of the United States on textile or apparel products, if those countries fail to demonstrate a good faith effort to cooperate with United States authorities in ceasing such activities. Such list shall be published in the Federal Register not later than March 31 of each year. Any country that is on the list and that subsequently demonstrates a good faith effort to cooperate with United States authorities in ceasing illegal activities described in the first sentence shall be removed from the list, and such removal shall be published in the Federal Register as soon as practicable. Federal Register, publication.

"(2) REASONABLE CARE REQUIRED FOR SUBSEQUENT IMPORTS.—

"(A) RESPONSIBILITY OF IMPORTERS OF RECORD.—The Secretary of the Treasury shall require any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products indicated, on the documentation, packaging, or labelling accompanying such products, to be from any country on the list published under paragraph (1) to show, to the satisfaction of the Secretary, that such importer, consignee, or purchaser has exercised reasonable care to ascertain the true country of origin of the textile or apparel products.

"(B) FAILURE TO EXERCISE REASONABLE CARE.—If the Customs Service determines that merchandise is not from the country claimed on the documentation accompanying the merchandise, the failure to exercise reasonable care described in subparagraph (A) shall be considered when the Customs Service determines whether the importer of record is in violation of section 484(a).

"(3) DEFINITION.—For purposes of this subsection, the term 'country' means a foreign country or territory, including any overseas dependent territory or possession of a foreign country.".

SEC. 334. RULES OF ORIGIN FOR TEXTILE AND APPAREL PRODUCTS. 19 USC 3592.

(a) REGULATORY AUTHORITY.—The Secretary of the Treasury shall prescribe rules implementing the principles contained in subsection (b) for determining the origin of textiles and apparel products. Such rules shall be promulgated in final form not later than July 1, 1995.

(b) PRINCIPLES.—

(1) IN GENERAL.—Except as otherwise provided for by statute, a textile or apparel product, for purposes of the customs laws and the administration of quantitative restrictions, originates in a country, territory, or insular possession, and is the growth, product, or manufacture of that country, territory, or insular possession, if—

(A) the product is wholly obtained or produced in that country, territory, or possession;

(B) the product is a yarn, thread, twine, cordage, rope, cable, or braiding and—

(i) the constituent staple fibers are spun in that country, territory, or possession, or

(ii) the continuous filament is extruded in that country, territory, or possession,

(C) the product is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in that country, territory, or possession; or

(D) the product is any other textile or apparel product that is wholly assembled in that country, territory, or possession from its component pieces.

(2) SPECIAL RULES.—Notwithstanding paragraph (1)(D)—

(A) the origin of a good that is classified under one of the following HTS headings or subheadings shall be determined under subparagraph (A), (B), or (C) of paragraph (1), as appropriate: 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6303, 6304, 6305, 6306, 6307.10, 6307.90, 6308, or 9404.90; and

(B) a textile or apparel product which is knit to shape shall be considered to originate in, and be the growth, product, or manufacture of, the country, territory, or possession in which it is knit.

(3) MULTICOUNTRY RULE.—If the origin of a good cannot be determined under paragraph (1) or (2), then that good shall be considered to originate in, and be the growth, product, or manufacture of—

(A) the country, territory, or possession in which the most important assembly or manufacturing process occurs, or

(B) if the origin of the good cannot be determined under subparagraph (A), the last country, territory, or possession in which important assembly or manufacturing occurs.

(4) COMPONENTS CUT IN THE UNITED STATES.—(A) The value of a component that is cut to shape (but not to length, width, or both) in the United States from foreign fabric and exported to another country, territory, or insular possession for assembly into an article that is then returned to the United States—

(i) shall not be included in the dutiable value of such article, and

(ii) may be applied toward determining the percentage referred to in General Note 7(b)(i)(B) of the HTS, subject to the limitation provided in that note.

(B) No article (except a textile or apparel product) assembled in whole of components described in subparagraph (A), or of such components and components that are products of

the United States, in a beneficiary country as defined in General Note 7(a) of the HTS shall be treated as a foreign article, or as subject to duty if—

(i) the components after exportation from the United States, and

(ii) the article itself before importation into the United States

do not enter into the commerce of any foreign country other than such a beneficiary country.

(5) EXCEPTION FOR UNITED STATES-ISRAEL FREE TRADE AGREEMENT.—This section shall not affect, for purposes of the customs laws and administration of quantitative restrictions, the status of goods that, under rulings and administrative practices in effect immediately before the enactment of this Act, would have originated in, or been the growth, product, or manufacture of, a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1987. For such purposes, such rulings and administrative practices that were applied, immediately before the enactment of this Act, to determine the origin of textile and apparel products covered by such agreement shall continue to apply after the enactment of this Act, and on and after the effective date described in subsection (c), unless such rulings and practices are modified by the mutual consent of the parties to the agreement.

(c) EFFECTIVE DATE.—This section shall apply to goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, except that this section shall not apply to goods if—

(1) the contract for the sale of such goods to the United States is entered into before July 20, 1994;

(2) all of the material terms of sale in such contract, including the price and quantity of the goods, are fixed and determinable before July 20, 1994;

(3) a copy of the contract is filed with the Commissioner of Customs within 60 days after the date of the enactment of this Act, together with a certification that the contract meets the requirements of paragraphs (1) and (2); and

(4) the goods are entered, or withdrawn from warehouse, for consumption on or before January 1, 1998.

The origin of goods to which this section does not apply shall be determined in accordance with the applicable rules in effect on July 20, 1994.

SEC. 335. EFFECTIVE DATE.

19 USC 3591 note.

Except as provided in section 334, this subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle E—Government Procurement

SEC. 341. MONITORING AND ENFORCEMENT OF THE AGREEMENT ON GOVERNMENT PROCUREMENT.

(a) IN GENERAL.—Section 305(f)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(f)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "a year" and inserting "the 18 months",

(2) by striking "or" at the end of subparagraph (B),

(3) by redesignating subparagraph (C) as subparagraph (D), and

(4) by inserting after subparagraph (B), the following new subparagraph:

"(C) the procedures result in a determination providing a specific period of time for the other participant to bring its practices into compliance with the Agreement, or".

(b) SANCTIONS AFTER DISPUTE RESOLUTION FAILS.—

(1) SANCTIONS.—Paragraph (3) of section 305(f) of such Act (19 U.S.C. 2515(f)(3)) is amended to read as follows:

"(3) SANCTIONS AFTER DISPUTE RESOLUTION FAILS.—

"(A) FAILURES RESULTING IN SANCTIONS.—If—

"(i) within 18 months from the date dispute settlement procedures are initiated with a signatory country pursuant to this section—

"(I) such procedures are not concluded, or

"(II) the country has not met the requirements of subparagraph (A) or (B) of paragraph (2), or

"(ii) the period of time provided for pursuant to paragraph (2)(C) has expired and procedures for suspending concessions under the Agreement have been completed,

then the sanctions described in subparagraph (B) shall be imposed.

"(B) SANCTIONS.—

"(i) IN GENERAL.—If subparagraph (A) applies to any signatory country—

"(I) the signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933 (41 U.S.C. 10b–1) shall apply to such country, and

"(II) the President shall revoke the waiver of discriminatory purchasing requirements granted to the signatory country pursuant to section 301(a).

"(ii) TIME SANCTIONS ARE IMPOSED.—Any sanction—

"(I) described in clause (i)(I) shall apply from the date that is the last day of the 18-month period described in subparagraph (A)(i) or, in the case of paragraph (2)(C), from the date procedures for suspending concessions under the Agreement have been completed, and

"(II) described in clause (i)(II) shall apply beginning on the day after the date described in subclause (I).".

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 305(f) of such Act (19 U.S.C. 2515(f)(4)) is amended by striking "subparagraph (A) or (B) of paragraph (3)" and inserting "subclause (I) or (II) of paragraph (3)(B)(i)".

(c) REPORT TO CONGRESS.—

(1) Section 305(d)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(2)) is amended by adding at the end the following new subparagraphs:

"(D)(i) are not signatories to the Agreement;

"(ii) fail to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement; and

"(iii) whose products or services are acquired in significant amounts by the United States Government; or

"(E)(i) are not signatories to the Agreement;

"(ii) fail to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement; and

"(iii) whose products or services are acquired in significant amounts by the United States Government.".

(2) Section 305(d)(3)(C) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)(3)(C)) is amended by adding before the period at the end the following: ", including the failure to maintain and enforce effective prohibitions on bribery and other corrupt practices in connection with government procurement".

SEC. 342. CONFORMING AMENDMENTS.

(a) WAIVER OF DISCRIMINATORY PURCHASING REQUIREMENTS REGARDING PURCHASES OF CIVIL AIRCRAFT.—Section 303 of the Trade Agreements Act of 1979 (19 U.S.C. 2513) is amended by inserting "referred to in section 2(c) and approved under section 2(a)" after "Civil Aircraft".

(b) EXPANSION OF COVERAGE OF THE AGREEMENT.—Section 304 of the Trade Agreements Act of 1979 (19 U.S.C. 2514) is amended—

(1) in subsections (a) and (c) by striking "part IX, paragraph 6" and inserting "article XXIV(7)";

(2) in subsection (c) by striking "part VI, paragraph 9" and inserting "article XIX(5)"; and

(3) in subsection (e) by striking "date of enactment of this Act" and inserting "date it enters into force with respect to the United States".

(c) ANNUAL REPORT ON FOREIGN DISCRIMINATION.—Section 305(d) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(d)) is amended by striking out "April 30, 1990, and annually on April 30 thereafter," and inserting "April 30 of each year,".

(d) LABOR SURPLUS AREA STUDIES.—Section 306 of the Trade Agreements Act of 1979 (19 U.S.C. 2516), and the item relating to such section in the table of contents for such Act, are repealed.

(e) AVAILABILITY OF INFORMATION TO CONGRESSIONAL ADVISORS.—Section 307 of the Trade Agreements Act of 1979 (19 U.S.C. 2517) is amended by striking "part VI, paragraph 9," and inserting "article XIX(5)".

(f) DEFINITIONS.—Section 308 of the Trade Agreements Act of 1979 (19 U.S.C. 2518) is amended—

(1) in paragraph (1) by striking "section 2(c) of this Act" and inserting "section 101(d)(17) of the Uruguay Round Agreements Act"; and

(2) in paragraph (4)—

(A) in subparagraph (C) by striking "having a contract value" and all that follows through the end of the subpara-

graph and inserting "for which the United States is obligated to waive Buy National restrictions under—

"(i) the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel, regardless of the thresholds provided for in the Agreement (as defined in paragraph (1)), or

"(ii) any subsequent agreement between the United States and Israel which lowers on a reciprocal basis the applicable threshold for entities covered by the Agreement."; and

(B) in subparagraph (D) by striking "GATT" the first place it appears and all that follows through the end of the subparagraph and inserting "the Agreement (as defined in paragraph (1)), but for the thresholds provided for in the Agreement.".

(g) CONFORMING AMENDMENTS.—Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended—

(1) by striking ", Mexico, or Canada" each place that it appears and inserting "or in any eligible country"; and

(2) by adding at the end the following: "For purposes of this section, an 'eligible country' is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.".

SEC. 343. RECIPROCAL COMPETITIVE PROCUREMENT PRACTICES.

(a) APPLICABILITY.—Section 302(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(a)) is amended to read as follows:

"(a) AUTHORITY TO BAR PROCUREMENT FROM NON-DESIGNATED COUNTRIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the President, in order to encourage additional countries to become parties to the Agreement and to provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products—

"(A) shall, with respect to procurement covered by the Agreement, prohibit the procurement, after the date on which any waiver under section 301(a) first takes effect, of products—

"(i) which are products of a foreign country or instrumentality which is not designated pursuant to section 301(b), and

"(ii) which would otherwise be eligible products; and

"(B) may, with respect to procurement covered by the Agreement, take such other actions within the President's authority as the President deems necessary.

"(2) EXCEPTION.—Paragraph (1) shall not apply in the case of procurements for which—

"(A) there are no offers of products or services of the United States or of eligible products; or

"(B) the offers of products or services of the United States or of eligible products are insufficient to fulfill the requirements of the United States Government.".

(b) ADDITIONAL WAIVER AUTHORITY.—Section 302(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2512(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) waive the prohibition required by subsection (a)(1) on procurement of products of a foreign country or instrumentality which has not yet become a party to the Agreement but—

"(A) has agreed to apply transparent and competitive procedures to its government procurement equivalent to those in the Agreement, and

"(B) maintains and enforces effective prohibitions on bribery and other corrupt practices in connection with its government procurement;"; and

(2) by adding after paragraph (3) the following:

"Before exercising the waiver authority under paragraph (1), the President shall consult with the appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 and with the appropriate committees of the Congress.". President.

(c) CONFORMING AMENDMENT.—Section 305(g) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)) is amended—

(1) in paragraph (1)—

(A) by striking "(B) or (C)" and inserting "(B), (C), (D), or (E)"; and

(B) by striking "their discriminatory procurement practices" and inserting "the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be)"; and

(2) in paragraph (3) by striking "discrimination identified pursuant to subsection (d)(2)(B) or (C)" and inserting "the practices regarding government procurement identified under subparagraph (B)(ii), (C)(ii), (D)(ii), or (E)(ii) (as the case may be)".

SEC. 344. EFFECTIVE DATE. 19 USC 2512 note.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle take effect on the date on which the Agreement on Government Procurement referred to in section 101(d)(17) enters into force with respect to the United States.

(b) SECTION 342(g).—The amendments made by section 342(g) take effect on the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle F—Technical Barriers to Trade

SEC. 351. TECHNICAL BARRIERS TO TRADE.

(a) REFERENCES.—All references in this section are to title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) unless otherwise specified.

(b) SECTION 401.—Section 401 is amended— 19 USC 2531.

(1) by striking "Nothing" and inserting "(b) UNNECESSARY OBSTACLES.—Nothing"; and

(2) by inserting after the section heading the following:

"(a) NO BAR TO ENGAGING IN STANDARDS ACTIVITY.—Nothing in this title may be construed—

"(1) to prohibit a Federal agency from engaging in activity related to standards-related measures, including any such

measure relating to safety, the protection of human, animal, or plant life or health, the environment, or consumers; or

"(2) to limit the authority of a Federal agency to determine the level it considers appropriate of safety or of protection of human, animal, or plant life or health, the environment, or consumers.".

19 USC 2532.

(c) SECTION 402.—Section 402(4) is amended—

(1) by striking "CERTIFICATION ACCESS" in the paragraph heading and inserting "ACCESS";

(2) by striking "certification system" and inserting "conformity assessment procedure"; and

(3) by striking "certification under that system" and inserting "an assessment of conformity and the mark of the system, if any".

19 USC 2544.

(d) SECTION 414.—Section 414(b)(1) is amended—

(1) by inserting "(A)" after "relating to";

(2) by striking "certification systems" and inserting "technical regulations, conformity assessment procedures,";

(3) by striking "such standards, systems" and inserting "such standards, technical regulations, conformity assessment procedures,"; and

(4) after "local" by inserting "and (B) the membership and participation of Federal, State, or local government bodies or private bodies in the United States in international and regional standardizing bodies and conformity assessment systems, as well as in bilateral and multilateral arrangements concerning standards-related activities".

19 USC 2571.

(e) DEFINITIONS.—Section 451 is amended—

(1) so that paragraph (1) reads as follows:

"(1) AGREEMENT.—The term 'Agreement' means the Agreement on Technical Barriers to Trade referred to in section 101(d)(5) of the Uruguay Round Agreements Act.";

(2) so that paragraph (2) reads as follows:

"(2) CONFORMITY ASSESSMENT PROCEDURE.—The term 'conformity assessment procedure' means any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.";

(3) in paragraph (4), by striking "certification system" and inserting "conformity assessment procedure" each place it occurs;

(4) so that paragraph (6)(A) reads as follows:

"(A) the membership of which is open to representatives, whether public or private, of the United States and at least all Members.";

(5) in paragraph (7), by striking "certification system" and inserting "conformity assessment procedure";

(6) so that paragraph (8) reads as follows:

"(8) MEMBER.—The term 'Member' means a WTO member as defined in section 2(10) of the Uruguay Round Agreements Act.";

(7) so that paragraph (13) reads as follows:

"(13) STANDARD.—The term 'standard' means a document approved by a recognized body, that provides, for common and repeated use, rules, guidelines, or characteristics for products or related processes and production methods, with which compliance is not mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking,

or labeling requirements as they apply to a product, process, or production method.";

(8) in paragraph (14), by striking "or any certification system" and inserting ", technical regulation, or conformity assessment procedure"; and

(9) by redesignating paragraph (17) as paragraph (18) and inserting after paragraph (16) the following:

"(17) TECHNICAL REGULATION.—The term 'technical regulation' means a document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. Such term may also include or deal exclusively with terminology, symbols, packaging, marking, or labeling requirements as they apply to a product, process, or production method.".

(f) REPORTS TO CONGRESS.—Section 453 is amended by inserting "through 2001" after "succeeding 3-year period". 19 USC 2573.

(g) EFFECTIVE DATE.—Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by striking section 454. 19 USC 2531 note.

SEC. 352. EFFECTIVE DATE. 19 USC 2531 note.

This subtitle and the amendments made by this subtitle take effect on the date on which the WTO Agreement enters into force with respect to the United States.

TITLE IV—AGRICULTURE-RELATED PROVISIONS

Subtitle A—Agriculture

PART I—MARKET ACCESS

SEC. 401. SECTION 22 AMENDMENTS.

(a) AMENDMENT TO SECTION 22.—

(1) GENERALLY.—Subsection (f) of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624(f)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

"(f) No quantitative limitation or fee shall be imposed under this section with respect to any article that is the product of a WTO member (as defined in section 2(10) of the Uruguay Round Agreements Act).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of entry into force of the WTO Agreement with respect to the United States, except that with respect to wheat, that amendment shall take effect on the later of such date or September 12, 1995. 7 USC 624.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 202 OF THE AGRICULTURAL ACT OF 1956.—Section 202 of the Agricultural Act of 1956 (7 U.S.C. 1852) is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking "(b)".

(2) COTTON IMPORT QUOTAS.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(A) in subsection (a)(5)(F)(i)—

(i) by striking "this section" and inserting "the Uruguay Round Agreements Act"; and

(ii) by striking "limited global";

(B) in subsection (a)(5)(F)(iv), by striking "special quota period has" and inserting "quota period has";

(C) by adding at the end of subsection (a)(5)(F) the following:

"(v) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)), and General Note 3(a)(iv) to the HTS.

"(vi) DEFINITION.—As used in this subparagraph, the term 'special import quota' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota."; and

(D) in subsection (n)—

(i) in the subsection heading, by striking "SPECIAL";

(ii) in paragraph (1), by striking "this section" and inserting "the Uruguay Round Agreements Act";

(iii) in paragraph (1), by striking "special" each place it appears;

(iv) by redesignating paragraph (1)(C) as paragraph (1)(D);

(v) by inserting after subparagraph (B) of paragraph (1) the following:

"(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)), and General Note 3(a)(iv) to the HTS."; and

(vi) in paragraph (1)(D) (as redesignated by clause (iv)), by adding at the end the following:

"(iii) LIMITED GLOBAL IMPORT QUOTA.—As used in this subsection, the term 'limited global import quota' means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota."; and

(vii) in paragraph (2), by striking "special quota period may" and inserting "quota period may".

SEC. 402. CHEESE AND CHOCOLATE CRUMB IMPORTS.

(a) REPEAL OF SECTIONS 701 AND 703.—Sections 701 and 703 of the Trade Agreements Act of 1979 (93 Stat. 268) are hereby repealed.

(b) PRESIDENTIAL ACTION.—Section 702(d)(1) (93 Stat. 268) of the Trade Agreements Act of 1979 is amended to read as follows:

"(1) IN GENERAL.—Not later than 7 days after receiving a report under subsection (c)(3) with respect to an article of cheese subject to an in-quota rate of duty (or not later than 3 days after receiving a report under paragraph (2) in any case in which such paragraph applies), the President shall

proclaim the imposition of a fee on the importation of such article from the country involved in such amount (not to exceed the amount of the subsidy determined under subsection (b)(2)(B)) as may be necessary to ensure that the duty-paid wholesale price of such article will not be less than the domestic wholesale market price of similar articles produced in the United States, and shall direct the Commissioner of Customs to administer and enforce such fee. Any such fee imposed shall be in addition to any customs duty or other fee imposed by law.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 of the Trade Agreements Act of 1979 is amended by striking "of quota cheese" each place it appears and inserting "of cheese subject to an in-quota rate of duty".

(2) Section 702(c)(2) of such Act is amended—

(A) by striking "the Special Representative for Trade Negotiations" and inserting "the United States Trade Representative", and

(B) by striking "The Special Representative" and inserting "The United States Trade Representative".

(3) Subsections (c)(3)(B) and (e) of section 702 of such Act are each amended by striking "or quantitative limitation".

(4) Section 702(f) of such Act is amended—

(A) by inserting "(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act)" after "Tariff Act of 1930", and

(B) by striking "under title I of this Act" and inserting "under title VII of the Tariff Act of 1930".

(5) Section 702(g)(2) of such Act is amended by striking "or quantitative limitations".

(6) Section 702(h) of such Act is amended by adding at the end the following new paragraphs:

"(4) CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY.—The term 'cheese subject to an in-quota rate of duty' means the articles and the quantities of such articles provided for in the Additional U. S. Notes 14 through 23 of chapter 4 of Schedule XX (as defined in section 2(5) of the Uruguay Round Agreements Act).

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.".

SEC. 403. MEAT IMPORT ACT.

The Meat Import Act of 1979 (19 U.S.C. 2253 note) is repealed.

SEC. 404. ADMINISTRATION OF TARIFF-RATE QUOTAS. 19 USC 3601.

(a) ORDERLY MARKETING.—In implementing the tariff-rate quotas set out in Schedule XX for the entry, or withdrawal from warehouse, for consumption of goods in the United States, the President shall take such action as may be necessary to ensure that imports of agricultural products do not disrupt the orderly marketing of commodities in the United States.

(b) INADEQUATE SUPPLY.—Where imports of an agricultural product are subject to a tariff-rate quota, and where the President determines and proclaims that the supply of the same or directly competitive or substitutable agricultural product will be inadequate, because of a natural disaster, disease, or major national market disruption, to meet domestic demand at reasonable prices, the President may temporarily increase the quantity of imports of the

agricultural product that is subject to the in-quota rate of duty established under the tariff-rate quota.

(c) MONITORING.—The Secretary of Agriculture shall monitor the domestic supply of agricultural products subject to a tariff-rate quota as the Secretary considers appropriate and shall advise the President when the domestic supply of the products and substitutable products combined with the estimated imports of the products under the tariff-rate quota may be inadequate to meet domestic demand at reasonable prices.

(d) COVERAGE OF TARIFF-RATE QUOTAS.—

(1) EXCLUSIONS.—The President may, subject to terms and conditions determined appropriate by the President, provide that the entry, or withdrawal from warehouse, for consumption in the United States of an agricultural product shall not be subject to the over-quota rate of duty established under a tariff-rate quota if the agricultural product—

(A) is imported by, or for the account of, any agency of the United States or of any foreign embassy;

(B) is imported as a sample for taking orders, for the personal use of the importer, or for the testing of equipment;

(C) is a commercial sample or is entered for exhibition, display, or sampling at a trade fair or for research; or

(D) is a blended syrup provided for in subheadings 1702.20.28, 1702.30.28, 1702.40.28, 1702.60.28, 1702.90.58, 1806.20.92, 1806.20.93, 1806.90.38, 1806.90.40, 2101.10.38, 2101.20.38, 2106.90.38, or 2106.90.67 of Schedule XX, if entered from a foreign trade zone by a foreign trade zone user whose facilities were in operation on June 1, 1990, to the extent that the annual quantity entered into the customs territory from such zone does not contain a quantity of sugar of nondomestic origin greater than the quantity authorized by the Foreign Trade Zones Board for processing in that zone during calendar year 1985.

(2) RECLASSIFICATION.—Subject to the consultation and layover requirements of section 115, the President may proclaim a modification to the coverage of a tariff-rate quota for any agricultural product if the President determines the modification is necessary or appropriate to conform the tariff-rate quota to Schedule XX as a result of a reclassification of any item by the Secretary of the Treasury.

(3) ALLOCATION.—The President may allocate the in-quota quantity of a tariff-rate quota for any agricultural product among supplying countries or customs areas and may modify any allocation as determined appropriate by the President.

(4) BILATERAL AGREEMENT.—The President may proclaim an increase in the tariff-rate quota for beef if the President determines that an increase is necessary to implement—

(A) the March 24, 1994, agreement between the United States and Argentina; or

(B) the March 9, 1994, agreement between the United States and Uruguay.

(5) CONTINUATION OF SUGAR HEADNOTE.—The President is authorized to proclaim additional United States note 3 to chapter 17 of the HTS, and to proclaim the modifications to the note, as determined appropriate by the President to reflect Schedule XX.

(e) CONFORMING AMENDMENTS.—

(1) SECTION 213 OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d)) is amended to read as follows:

"(d) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.".

(2) SECTION 204 OF THE ANDEAN TRADE PREFERENCE ACT.—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended by adding at the end the following new subsection:

"(g) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this Act.".

(3) GSP.—Section 503 of the Trade Act of 1974 (19 U.S.C. 2463) is amended by adding at the end the following new subsection:

"(d) TARIFF-RATE QUOTAS.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.".

(4) GENERAL NOTE 3(a) TO THE HTS.—General Note 3(a)(iv) to the HTS is amended by adding at the end the following:

"(F) No quantity of an agricultural product that is subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this paragraph.".

(5) DUTY DRAWBACK.—

(A) GENERALLY.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end the following new subsection:

"(w) LIMITED APPLICABILITY FOR CERTAIN AGRICULTURAL PRODUCTS.—No drawback shall be available with respect to an agricultural product subject to the over-quota rate of duty established under a tariff-rate quota, except pursuant to subsection (j)(1).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on the earlier of the date of entry into force of the WTO Agreement with respect to the United States or January 1, 1995. 19 USC 1313 note.

(6) RESTRICTIONS ON IMPORTED PEANUTS.—Paragraph (6) of section 358e(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(f)(6)) is amended by inserting after "issues a proclamation" the following: "under section 404(b) of the Uruguay Round Agreements Act expanding the quantity of peanuts subject to the in-quota rate of duty under a tariff-rate quota, or".

SEC. 405. SPECIAL AGRICULTURAL SAFEGUARD AUTHORITY. 19 USC 3602.

(a) DETERMINATION OF TRIGGER LEVELS.—Consistent with Article 5 as determined by the President, the President shall cause to be published in the Federal Register— President. Federal Register, publication.

(1) the list of special safeguard agricultural goods not later than the date of entry into force of the WTO Agreement with respect to the United States; and

(2) for each special safeguard agricultural good—

(A) the trigger level specified in subparagraph 1(a) of Article 5, on an annual basis;

(B) the trigger price specified in subparagraph 1(b) of Article 5; and

(C) the relevant period.

President. (b) DETERMINATION OF SAFEGUARD.—If the President determines with respect to a special safeguard agricultural good that it is appropriate to impose—

(1) the price-based safeguard in accordance with subparagraph 1(a) of Article 5; or

(2) the volume-based safeguard in accordance with subparagraph 1(b) of Article 5,

the President shall, consistent with Article 5 as determined by the President, determine the amount of the duty to be imposed, the period such duty shall be in effect, and any other terms and conditions applicable to the duty.

President. (c) IMPOSITION OF SAFEGUARD.—The President shall direct the Secretary of the Treasury to impose a duty on a special safeguard agricultural good entered, or withdrawn from warehouse, for consumption in the United States in accordance with a determination made under subsection (b).

(d) NO SIMULTANEOUS SAFEGUARD.—A duty may not be in effect for a special safeguard agricultural good pursuant to this section during any period in which such good is the subject of any action proclaimed pursuant to section 202 or 203 of the Trade Act of 1974 (19 U.S.C. 2252 or 2253).

(e) EXCLUSION OF NAFTA COUNTRIES.—The President may exempt from any duty imposed under this section any good originating in a NAFTA country (as determined in accordance with section 202 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332)).

(f) ADVICE OF SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall advise the President on the implementation of this section.

(g) TERMINATION DATE.—This section shall cease to be effective on the date, as determined by the President, that the special safeguard provisions of Article 5 are no longer in force with respect to the United States.

(h) DEFINITIONS.—For purposes of this section—

(1) the term "Article 5" means Article 5 of the Agreement on Agriculture described in section 101(d)(2);

(2) the term "relevant period" means the period determined by the President to be applicable to a special safeguard agricultural good for purposes of applying this section; and

(3) the term "special safeguard agricultural good" means an agricultural good on which an additional duty may be imposed pursuant to the special safeguard provisions of Article 5.

PART II—EXPORTS

SEC. 411. EXPORT PROGRAMS.

Export Enhancement Program Amendments of 1994. 7 USC 5601 note.

(a) EXPORT ENHANCEMENT PROGRAM.—

(1) SHORT TITLE.—This subsection may be cited as the "Export Enhancement Program Amendments of 1994".

(2) TITLE HEADING.—Title III of the Agricultural Trade Act of 1978 (7 U.S.C. 5651 et seq.) is amended by striking the title heading and inserting the following:

"TITLE III—EXPORT ENHANCEMENT PROGRAM".

(3) GENERAL AUTHORITY.—Subsection (a) of section 301 of such Act (7 U.S.C. 5651(a)) is amended to read as follows:

"(a) IN GENERAL.—The Commodity Credit Corporation shall carry out an export enhancement program in accordance with this section to encourage the commercial sale of United States agricultural commodities in world markets at competitive prices. The program shall be carried out in a market sensitive manner. Activities under the program shall not be limited to responses to unfair trade practices.".

(4) FUNDING.—Section 301 of such Act (7 U.S.C. 5651) is amended—

(A) in subsection (e), by striking "1995" and inserting "2001"; and

(B) by adding at the end the following:

"(g) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS.—Notwithstanding any other provision of this section, the Commodity Credit Corporation shall administer and carry out the program authorized by this section in a manner consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements.".

(b) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by striking "1995" and inserting "2001".

(c) EXPORT SALES OF DAIRY PRODUCTS.—Subsection (a) of section 1163 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1731 note) is amended to read as follows:

"(a) In each fiscal year, the Secretary of Agriculture may sell dairy products for export, at such prices as the Secretary determines appropriate, in a quantity and allocated as determined by the Secretary, consistent with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, if the disposition of the commodities will not interfere with the usual marketings of the United States nor disrupt world prices of agricultural commodities and patterns of commercial trade.".

(d) MARKET PROMOTION PROGRAM.—(1) Section 203(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(c)) is amended—

(A) by striking paragraph (2);

(B) by striking "PARTICIPATION.—" and all that follows through "To" in paragraph (1) and inserting "PARTICIPATION.—To";

(C) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(D) by aligning the margins of paragraphs (1), (2), and (3) (as so redesignated) so as to align with the margin of paragraph (1) of subsection (d).

(2) Section 203(f)(2) of such Act (7 U.S.C. 5623(f)(2)) is amended—

(A) by striking subparagraph (D);

(B) by inserting "or" at the end of subparagraph (C); and

(C) by redesignating subparagraph (E) as subparagraph (D).

(e) FOOD AID.— 19 USC 3611.

(1) POLICY.—In light of the Uruguay Round Agreement on Agriculture and the Ministerial Decision on Measures Concerning the Possible Negative Effects of the Reform Program on Least-Developed and Net-Food Importing Developing Countries, the United States reaffirms the commitment of the United States to providing food aid to developing countries.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the President should initiate consultations with other donor nations to consider appropriate levels of food aid commitments to meet the legitimate needs of developing countries; and

(B) the United States should increase its contribution of bona fide food assistance to developing countries consistent with the Agreement on Agriculture.

SEC. 412. OTHER CONFORMING AMENDMENTS.

(a) PUBLIC LAW 98-332.—Section 106 of Public Law 98-332 (98 Stat. 287), is repealed.

(b) AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 1984.—Section 625(A) of the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1984, as given the force of law by section 101(d) of Public Law 98-151 (97 Stat. 1853), is repealed.

(c) AGRICULTURAL ACT OF 1956.—Section 203 of the Agriculture Act of 1956 (7 U.S.C. 1853) is repealed.

PART III—OTHER PROVISIONS

19 USC 2135 note.

SEC. 421. AUTHORITY FOR CERTAIN ACTIONS UNDER ARTICLE XXVIII.

(a) IN GENERAL.—In the application of section 125(c) of the Trade Act of 1974 (19 U.S.C. 2135) with respect to any item provided for in subheadings 2401.10.60, 2401.20.30, 2401.20.80, 2401.30.30, 2401.30.60, 2401.30.90, 2403.10.00, 2403.91.40, or 2403.99.00 of the HTS, "350" shall be substituted for "20" where it appears in such section.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 422. TOBACCO IMPORTS.

(a) DOMESTIC MARKETING ASSESSMENT.—Section 320C of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314i) is amended by adding at the end the following new subsection:

"(g) EFFECTIVE DATE.—This section shall be effective only for calendar year 1994.".

(b) BUDGET DEFICIT ASSESSMENT.—

(1) IMPORTER ASSESSMENTS.—Section 106(g) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) Effective only for each of the 1994 through 1998 crops of tobacco for which price support is made available under this Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

"(A) in the case of a producer or purchaser of domestic tobacco, .5 percent of the national price support level for each such crop; and

"(B) in the case of an importer of tobacco, 1 percent of the national support price for the same kind of tobacco; as provided for in this section."; and

(B) in paragraph (2), by striking "assessments and purchaser" and inserting ", purchaser, and importer".

(2) CONFORMING AMENDMENT.—Section 106 of such Act (7 U.S.C. 1445) is amended by striking subsection (h).

(c) WAIVER AUTHORITY.—The President may waive the application to imported tobacco of section 106(g), 106A, or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445(g), 1445–1, or 1445–2) or the amendment made in subsection (c) of section 1106 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 323) if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States. 7 USC 1445 note.

(d) DUTY DRAWBACK.—Section 313(w) of the Tariff Act of 1930 (19 U.S.C. 1313) (as added by section 404(d)(5)) is further amended—

(1) by striking "PRODUCTS.—No" and inserting "PRODUCTS.—

"(1) IN GENERAL.—No"; and

(2) by adding at the end the following new paragraph:

"(2) APPLICATION TO TOBACCO.—Notwithstanding paragraph (1), drawback shall also be available pursuant to subsection (a) with respect to any tobacco subject to the over-quota rate of duty established under a tariff-rate quota.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421, establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco. 7 USC 1314i note.

SEC. 423. TOBACCO PROCLAMATION AUTHORITY. 19 USC 3621.

(a) IN GENERAL.—The President, after consultation with the Committee on Ways and Means of the House of Representatives and with the Committee on Finance of the Senate, may proclaim the reduction or elimination of any duty with respect to cigar binder and filler tobacco, wrapper tobacco, or oriental tobacco set forth in Schedule XX.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 424. REPORT TO CONGRESS ON ACCESS TO CANADIAN DAIRY AND POULTRY MARKETS. 19 USC 3622.

The President, not later than 6 months after the date of entry into force of the WTO Agreement with respect to the United States, shall submit a report to the Congress on the extent to which Canada is complying with its obligations under the Uruguay Round Agreements with respect to dairy and poultry products and with its related obligations under the North American Free Trade Agreement.

SEC. 425. STUDY OF MILK MARKETING ORDER SYSTEM. 19 USC 3623.

The Secretary of Agriculture shall conduct a study to determine the effects of the Uruguay Round Agreements on the Federal milk marketing order system. Not later than 6 months after the date of entry into force of the WTO Agreement with respect to the Reports.

United States, the Secretary of Agriculture shall report to the Congress on the results of the study.

19 USC 3624.

SEC. 426. ADDITIONAL PROGRAM FUNDING.

(a) USE OF ADDITIONAL FUNDS.—Consistent, as determined by the President, with the obligations undertaken by the United States set forth in the Uruguay Round Agreements, the Commodity Credit Corporation shall use, in addition to any other funds appropriated or made available for such purposes, any funds made available under subsection (b) for authorized export promotion, foreign market development, export credit financing, and promoting the development, commercialization, and marketing of products resulting from alternative uses of agricultural commodities.

(b) AMOUNT OF ADDITIONAL FUNDS.—Amounts shall be credited to the Commodity Credit Corporation in fiscal year 1995 equal to the lesser of the dollar amount of—

(1) the fiscal year 1995 Pay-As-You-Go savings; and

(2) the 5-year Pay-As-You-Go savings;

under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, resulting from the enactment of the Federal Crop Insurance Reform Act of 1994.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this section.

Subtitle B—Sanitary and Phytosanitary Measures

SEC. 431. SANITARY AND PHYTOSANITARY MEASURES.

(a) TRADE AGREEMENTS ACT OF 1979.—Section 414 of the Trade Agreements Act of 1979 (19 U.S.C. 2544) is amended by adding at the end the following:

"(c) SANITARY AND PHYTOSANITARY MEASURES.—

"(1) PUBLIC INFORMATION.—The standards information center shall, in addition to the functions specified under subsection (b), make available to the public relevant documents, at such reasonable fees as the Secretary of Commerce may prescribe, and information regarding—

"(A) any sanitary or phytosanitary measure of general application, including any inspection procedure or approval procedure proposed, adopted, or maintained by a Federal agency or agency of a State or local government;

"(B) the procedures of a Federal agency or an agency of a State or local government for risk assessment and factors the agency considers in conducting the assessment;

"(C) the determination of the levels of protection that a Federal agency or an agency of a State or local government considers appropriate; and

"(D) the membership and participation of the Federal Government and State and local governments in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements regarding sanitary and phytosanitary measures, and the provisions of those systems and arrangements.

"(2) DEFINITIONS.—The definitions in section 463 apply for purposes of this subsection.".

(b) RAILWAY CAR INSPECTION.—Subsection (a) of the Act of January 31, 1942 (56 Stat. 40, chapter 31; 7 U.S.C. 149), is amended by striking "from Mexico".

(c) FEDERAL PLANT PEST ACT.—The Federal Plant Pest Act (7 U.S.C. 150aa et seq.) is amended—

(1) so that section 103 (7 U.S.C. 150bb) reads as follows:

"SEC. 103. MOVEMENT OF PESTS PROHIBITED.

"(a) IN GENERAL.—No person shall import or enter any plant pest into the United States, or move any plant pest interstate, or accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless the movement is made in accordance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

"(b) REGULATIONS.—The regulations promulgated by the Secretary to implement subsection (a) may include regulations requiring that a plant pest moving into or through the United States, or interstate—

"(1) be accompanied by a permit issued by the Secretary prior to the movement of the plant pest; or

"(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary, by appropriate officials of the country or State from which the plant pest is to be moved."; and

(2) in section 104 (7 U.S.C. 150cc)—

(A) so that subsection (a) reads as follows:

"(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless it is mailed in conformance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.";

(B) by striking subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) PLANT QUARANTINE ACT.—The Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act") is amended—

(1) so that the first section (7 U.S.C. 151) reads as follows:

"SECTION 1. IMPORTATION OF NURSERY STOCK. 7 USC 154.

"(a) IN GENERAL.—No person shall—

"(1) import or enter into the United States any nursery stock; or

"(2) accept delivery of any nursery stock moving from any foreign country into or through the United States;

unless the movement is made in accordance with such regulations as the Secretary of Agriculture may promulgate to prevent dissemination into the United States of plant pests, plant diseases, or insect pests.

"(b) REGULATIONS.—The regulations promulgated by the Secretary of Agriculture to implement subsection (a) may include regulations requiring that nursery stock moving into or through the United States—

"(1) be accompanied by a permit issued by the Secretary of Agriculture prior to the movement of the nursery stock;

"(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary of Agriculture, by appropriate officials of the country or State from which the nursery stock is to be moved;

"(3) be grown under postentry quarantine conditions by or under the supervision of the Secretary of Agriculture for the purposes of determining whether the nursery stock may be infested with plant pests or insect pests, or infected with plant diseases, not discernible by port-of-entry inspection; and

"(4) if the nursery stock is found to be infested with plant pests or insect pests or infected with plant diseases, be subject to remedial measures the Secretary of Agriculture determines to be necessary to prevent the spread of plant pests, insect pests, or plant diseases."; and

(2) so that the last sentence of section 2 (7 U.S.C. 156) reads as follows: "This section does not apply to nursery stock that is imported or entered from a country or a region of a country that the Secretary of Agriculture designates, pursuant to procedures set forth in such regulations as the Secretary may promulgate, as exempt from the requirements of this section.".

(e) HONEYBEE IMPORTATION.—The first section of the Act of August 31, 1922 (42 Stat. 833, chapter 301; 7 U.S.C. 281) (commonly known as the "Honeybee Act"), is amended to read as follows:

"SECTION 1. HONEYBEE IMPORTATION.

"(a) IN GENERAL.—The Secretary of Agriculture is authorized to prohibit or restrict the importation or entry of honeybees and honeybee semen into or through the United States in order to prevent the introduction and spread of diseases and parasites harmful to honeybees, the introduction of genetically undesirable germ plasm of honeybees, or the introduction and spread of undesirable species or subspecies of honeybees and the semen of honeybees.

"(b) REGULATIONS.—The Secretary of Agriculture and the Secretary of the Treasury are each authorized to prescribe such regulations as the respective Secretary determines necessary to carry out this section.

"(c) ENFORCEMENT.—Honeybees or honeybee semen offered for importation into, intercepted entering, or having entered the United States, other than in accordance with regulations promulgated by the Secretary of Agriculture and the Secretary of the Treasury, shall be destroyed or immediately exported.

"(d) DEFINITION.—As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus Apis, except honeybee semen.".

(f) FEDERAL NOXIOUS WEED ACT OF 1974.—Section 4 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2803) is amended so that subsections (a) through (b) read as follows:

"(a) No person shall import or enter any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or move any noxious weed interstate, unless the movement is in accordance with such conditions as the Secretary may prescribe by regulation under this Act to prevent the dissemination into the United States, or interstate, of such noxious weeds.

"(b) The regulations prescribed by the Secretary to implement subsection (a) may include regulations requiring that any noxious weed imported or entered into the United States or moving inter-

state be accompanied by a permit issued by the Secretary prior to the movement of the noxious weed.".

(g) TARIFF ACT OF 1930.—Section 306(b) of the Tariff Act of 1930 (19 U.S.C. 1306(b)) is amended by inserting before the period at the end the following: ", or is, and is likely to remain, a region of low prevalence of rinderpest and foot-and-mouth disease".

(h) IMPORTATION OF ANIMALS.—Section 6 of the Act of August 30, 1890 (26 Stat. 416, chapter 839; 21 U.S.C. 104), is amended to read as follows:

"SEC. 6. IMPORTATION OF ANIMALS.

"(a) IN GENERAL.—The Secretary of Agriculture may by regulation prohibit or restrict the importation or entry of any cattle, sheep, or other ruminants, or swine, that are diseased or infected with any disease, or that have been exposed to an infection, into or through the United States to prevent the dissemination into the United States of a disease.

"(b) PENALTIES.—

"(1) CRIMINAL.—Any person who knowingly violates any regulation promulgated by the Secretary pursuant to this section, or any provision of sections 7 through 10 or any regulation promulgated by the Secretary pursuant to such sections, shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

"(2) CIVIL.—Any person who violates any such provision or any such regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding $1,000. The Secretary may issue an order assessing the civil penalty only after notice and an opportunity for an agency hearing on the record. The order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of the order may not be reviewed in an action to collect such civil penalty.".

(i) INSPECTION OF ANIMALS.—Section 10 of the Act of August 30, 1890 (26 Stat. 417, chapter 839; 21 U.S.C. 105), is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—Except as provided in subsection (b), the" and inserting "The";

(B) in the first sentence, by striking "shall cause careful inspection to be made by a suitable officer of all" and inserting "may cause careful inspection of any"; and

(C) in the third sentence, by striking "they shall not be allowed to be placed" and inserting "the Secretary may prohibit or restrict their placement"; and

(2) by striking subsection (b).

(j) INTERNATIONAL ANIMAL QUARANTINE STATION.—The 6th sentence in the first section of Public Law 91-239 (21 U.S.C. 135) is amended—

(1) by striking "North American"; and

(2) by striking "within the United States".

(k) POULTRY PRODUCTS INSPECTION ACT.—Section 17(d) of the Poultry Products Inspection Act (21 U.S.C. 466) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Notwithstanding any other provision of law, all poultry, or parts or products of poultry, capable of use as human food offered for importation into the United States shall—

"(A) be subject to inspection, sanitary, quality, species verification, and residue standards that achieve a level of sanitary protection equivalent to that achieved under United States standards; and

"(B) have been processed in facilities and under conditions that achieve a level of sanitary protection equivalent to that achieved under United States standards."; and

(2) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) The Secretary may treat as equivalent to a United States standard a standard of an exporting country described in paragraph (1) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the standard of the exporting country achieves the level of sanitary protection achieved under the United States standard. For the purposes of this subsection, the term 'sanitary protection' means protection to safeguard public health.";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(l) FEDERAL MEAT INSPECTION ACT.—Section 20(e) of the Federal Meat Inspection Act (21 U.S.C. 620(e)) is amended—

(1) so that subparagraphs (A) through (B) of paragraph (1) read as follows:

"(A) A certification by the Secretary that foreign plants exporting carcasses or meat or meat products referred to in subsection (a) have complied with requirements that achieve a level of sanitary protection equivalent to that achieved under United States requirements with regard to all inspection, building construction standards, and all other provisions of this Act and regulations issued under this Act.

"(B) The Secretary may treat as equivalent to a United States requirement a requirement described in subparagraph (A) if the exporting country provides the Secretary with scientific evidence or other information, in accordance with risk assessment methodologies determined appropriate by the Secretary, to demonstrate that the requirement achieves the level of sanitary protection achieved under the United States requirement. For the purposes of this subsection, the term 'sanitary protection' means protection to safeguard public health.";

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively.

SEC. 432. INTERNATIONAL STANDARD-SETTING ACTIVITIES.

Title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle F—International Standard-Setting Activities

19 USC 2548.

"SEC. 491. NOTICE OF UNITED STATES PARTICIPATION IN INTERNATIONAL STANDARD-SETTING ACTIVITIES.

President.

"(a) IN GENERAL.—The President shall designate an agency to be responsible for informing the public of the sanitary and

phytosanitary standard-setting activities of each international standard-setting organization.

"(b) NOTIFICATION.—Not later than June 1 of each year, the agency designated under subsection (a) with respect to each international standard-setting organization shall publish notice in the Federal Register of the information specified in subsection (c) with respect to that organization. The notice shall cover the period ending on June 1 of the year in which the notice is published, and beginning on the date of the preceding notice under this subsection, except that the first such notice shall cover the 1-year period ending on the date of the notice. Federal Register, publication.

"(c) REQUIRED INFORMATION.—The information to be provided in the notice under subsection (b) is—

"(1) the sanitary or phytosanitary standards under consideration or planned for consideration by that organization;

"(2) for each sanitary or phytosanitary standard specified in paragraph (1)—

"(A) a description of the consideration or planned consideration of the standard;

"(B) whether the United States is participating or plans to participate in the consideration of the standard;

"(C) the agenda for the United States participation, if any; and

"(D) the agency responsible for representing the United States with respect to the standard.

"(d) PUBLIC COMMENT.—The agency specified in subsection (c)(2)(D) shall provide an opportunity for public comment with respect to the standards for which the agency is responsible and shall take the comments into account in participating in the consideration of the standards and in proposing matters to be considered by the organization.

"SEC. 492. EQUIVALENCE DETERMINATIONS. 19 USC 2578a.

"(a) IN GENERAL.—An agency may not determine that a sanitary or phytosanitary measure of a foreign country is equivalent to a sanitary or phytosanitary measure established under the authority of Federal law unless the agency determines that the sanitary or phytosanitary measure of the foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable sanitary or phytosanitary measure established under the authority of Federal law.

"(b) FDA DETERMINATION.—If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a measure that is required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or other statute administered by the Food and Drug Administration, the Commissioner shall issue a proposed regulation to incorporate such determination and shall include in the notice of proposed rulemaking the basis for the determination that the sanitary or phytosanitary measure of a foreign country provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the proposed regulation. The Commissioner shall not issue a final regulation based on the proposal without taking into account the comments received. Regulations.

Federal Register, publication.

"(c) NOTICE.—If the Commissioner proposes to issue a determination of the equivalency of a sanitary or phytosanitary measure of a foreign country to a sanitary or phystosanitary measure of the Food and Drug Administration that is not required to be promulgated as a rule under the Federal Food, Drug, and Cosmetic Act or other statute administered by the Food and Drug Administration, the Commissioner shall publish a notice in the Federal Register that identifies the basis for the determination that the measure provides at least the same level of sanitary or phytosanitary protection as the comparable Federal sanitary or phytosanitary measure. The Commissioner shall provide opportunity for interested persons to comment on the notice. The Commissioner shall not issue a final determination on the issue of equivalency without taking into account the comments received.

19 USC 2578b.

"SEC. 493. DEFINITIONS.

"(a) IN GENERAL.—As used in this subtitle:

"(1) AGENCY.—The term 'agency' means a Federal department or agency (or combination of Federal departments or agencies).

"(2) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Food and Drugs.

"(3) INTERNATIONAL STANDARD-SETTING ORGANIZATION.—The term 'international standard-setting organization' means an organization consisting of representatives of 2 or more countries, the purpose of which is to negotiate, develop, promulgate, or amend an international standard.

"(4) SANITARY OR PHYTOSANITARY STANDARD.—The term 'sanitary or phytosanitary standard' means a standard intended to form a basis for a sanitary or phytosanitary measure.

"(5) INTERNATIONAL STANDARD.—The term 'international standard' means a standard, guideline, or recommendation—

"(A) regarding food safety, adopted by the Codex Alimentarius Commission, including a standard, guideline, or recommendation regarding decomposition elaborated by the Codex Committee on Fish and Fishery Products, food additives, contaminants, hygienic practice, and methods of analysis and sampling;

"(B) regarding animal health and zoonoses, developed under the auspices of the International Office of Epizootics;

"(C) regarding plant health, developed under the auspices of the Secretariat of the International Plant Protection Convention in cooperation with the North American Plant Protection Organization; or

"(D) established by or developed under any other international organization agreed to by the NAFTA countries (as defined in section 2(4) of the North American Free Trade Agreement Implementation Act) or by the WTO members (as defined in section 2(10) of the Uruguay Round Agreements Act).

"(b) OTHER DEFINITIONS.—The definitions set forth in section 463 apply for purposes of this subtitle except that in applying paragraph (7) of section 463 with respect to a sanitary or phytosanitary measure of a foreign country, any reference in such paragraph to the United States shall be deemed to be a reference to that foreign country.".

Subtitle C—Standards

SEC. 441. THE FEDERAL SEED ACT.

The Federal Seed Act (7 U.S.C. 1551 et seq.) is amended—

(1) in section 301(a) (7 U.S.C. 1581(a))—

(A) by striking "(a)";

(B) in paragraph (1), by striking ", or is required to be stained and is not so stained, under the terms of this title,";

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in section 302 (7 U.S.C. 1582)—

(A) in subsection (a), by striking "staining," both places it appears; and

(B) by striking subsection (e);

(3) by striking section 303 (7 U.S.C. 1585) and inserting the following new section:

"SEC. 303. CERTAIN SEEDS NOT ADAPTED FOR GENERAL AGRICULTURAL USE.

"Whenever the Secretary of Agriculture, after a public hearing, determines that seed of alfalfa or red clover from any foreign country is not adapted for general agricultural use in the United States, the Secretary shall publish the determination and the reasons for the determination."; and

(4) in section 304 (7 U.S.C. 1586)—

(A) in subsection (a)—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking the semicolon at the end of paragraph (3) and inserting a period; and

(iii) by striking paragraphs (4) through (7);

(B) by striking subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

Subtitle D—General Effective Date

SEC. 451. GENERAL EFFECTIVE DATE.

19 USC 3601 note.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect on the date of entry into force of the WTO Agreement with respect to the United States.

TITLE V—INTELLECTUAL PROPERTY

SEC. 501. DEFINITION.

17 USC 101 note.

For purposes of this title—

(1) the term "WTO Agreement" has the meaning given that term in section 2(9) of the Uruguay Round Agreements Act; and

(2) the term "WTO member country" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act.

Subtitle A—Copyright Provisions

SEC. 511. RENTAL RIGHTS IN COMPUTER PROGRAMS.

Section 804(c) of the Computer Software Rental Amendments Act of 1990 (17 U.S.C. 109 note; 104 Stat. 5136) is amended by striking the first sentence.

SEC. 512. CIVIL PENALTIES FOR UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.

(a) IN GENERAL.—Title 17, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 11—SOUND RECORDINGS AND MUSIC VIDEOS

"Sec.
"1101. Unauthorized fixation and trafficking in sound recordings and music videos.

"§ 1101. Unauthorized fixation and trafficking in sound recordings and music videos

"(a) UNAUTHORIZED ACTS.—Anyone who, without the consent of the performer or performers involved—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation,

"(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance, or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States,

shall be subject to the remedies provided in sections 502 through 505, to the same extent as an infringer of copyright.

"(b) DEFINITION.—As used in this section, the term 'traffic in' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

"(c) APPLICABILITY.—This section shall apply to any act or acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

"(d) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the common law or statutes of any State.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding at the end the following:

"11. Sound Recordings and Music Videos ..... 1101".

SEC. 513. CRIMINAL PENALTIES FOR UNAUTHORIZED FIXATION OF AND TRAFFICKING IN SOUND RECORDINGS AND MUSIC VIDEOS OR LIVE MUSICAL PERFORMANCES.

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2319 the following:

"§ 2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

"(a) OFFENSE.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

"(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

"(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

"(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years or fined in the amount set forth in this title, or both, or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years or fined in the amount set forth in this title, or both.

"(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court shall order the forfeiture and destruction of any copies or phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

"(c) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of the Treasury shall, not later than 60 days after the date of the enactment of the Uruguay Round Agreements Act, issue regulations to carry out this subsection, including regulations by which any performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

"(d) DEFINITIONS.—As used in this section—

"(1) the terms 'copy', 'fixed', 'musical work', 'phonorecord', 'reproduce', 'sound recordings', and 'transmit' mean those terms within the meaning of title 17; and

"(2) the term 'traffic in' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

"(e) APPLICABILITY.—This section shall apply to any Act or Acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319 the following:

"2319A. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.".

SEC. 514. RESTORED WORKS.

(a) IN GENERAL.—Section 104A of title 17, United States Code, is amended to read as follows:

"§ 104A. Copyright in restored works

"(a) AUTOMATIC PROTECTION AND TERM.—

"(1) TERM.—

"(A) Copyright subsists, in accordance with this section, in restored works, and vests automatically on the date of restoration.

"(B) Any work in which copyright is restored under this section shall subsist for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States.

"(2) EXCEPTION.—Any work in which the copyright was ever owned or administered by the Alien Property Custodian and in which the restored copyright would be owned by a government or instrumentality thereof, is not a restored work.

"(b) OWNERSHIP OF RESTORED COPYRIGHT.—A restored work vests initially in the author or initial rightholder of the work as determined by the law of the source country of the work.

"(c) FILING OF NOTICE OF INTENT TO ENFORCE RESTORED COPYRIGHT AGAINST RELIANCE PARTIES.—On or after the date of restoration, any person who owns a copyright in a restored work or an exclusive right therein may file with the Copyright Office a notice of intent to enforce that person's copyright or exclusive right or may serve such a notice directly on a reliance party. Acceptance of a notice by the Copyright Office is effective as to any reliance parties but shall not create a presumption of the validity of any of the facts stated therein. Service on a reliance party is effective as to that reliance party and any other reliance parties with actual knowledge of such service and of the contents of that notice.

"(d) REMEDIES FOR INFRINGEMENT OF RESTORED COPYRIGHTS.—

"(1) ENFORCEMENT OF COPYRIGHT IN RESTORED WORKS IN THE ABSENCE OF A RELIANCE PARTY.—As against any party who is not a reliance party, the remedies provided in chapter 5 of this title shall be available on or after the date of restoration of a restored copyright with respect to an act of infringement of the restored copyright that is commenced on or after the date of restoration.

"(2) ENFORCEMENT OF COPYRIGHT IN RESTORED WORKS AS AGAINST RELIANCE PARTIES.—As against a reliance party, except to the extent provided in paragraphs (3) and (4), the remedies provided in chapter 5 of this title shall be available, with respect to an act of infringement of a restored copyright, on or after the date of restoration of the restored copyright if the requirements of either of the following subparagraphs are met:

"(A)(i) The owner of the restored copyright (or such owner's agent) or the owner of an exclusive right therein

(or such owner's agent) files with the Copyright Office, during the 24-month period beginning on the date of restoration, a notice of intent to enforce the restored copyright; and

"(ii)(I) the act of infringement commenced after the end of the 12-month period beginning on the date of publication of the notice in the Federal Register; Federal Register, publication

"(II) the act of infringement commenced before the end of the 12-month period described in subclause (I) and continued after the end of that 12-month period, in which case remedies shall be available only for infringement occurring after the end of that 12-month period; or

"(III) copies or phonorecords of a work in which copyright has been restored under this section are made after publication of the notice of intent in the Federal Register. Federal Register, publication.

"(B)(i) The owner of the restored copyright (or such owner's agent) or the owner of an exclusive right therein (or such owner's agent) serves upon a reliance party a notice of intent to enforce a restored copyright; and

"(ii)(I) the act of infringement commenced after the end of the 12-month period beginning on the date the notice of intent is received;

"(II) the act of infringement commenced before the end of the 12-month period described in subclause (I) and continued after the end of that 12-month period, in which case remedies shall be available only for the infringement occurring after the end of that 12-month period; or

"(III) copies or phonorecords of a work in which copyright has been restored under this section are made after receipt of the notice of intent.

In the event that notice is provided under both subparagraphs (A) and (B), the 12-month period referred to in such subparagraphs shall run from the earlier of publication or service of notice.

"(3) EXISTING DERIVATIVE WORKS.—(A) In the case of a derivative work that is based upon a restored work and is created—

"(i) before the date of the enactment of the Uruguay Round Agreements Act, if the source country of the derivative work is an eligible country on such date, or

"(ii) before the date of adherence or proclamation, if the source country of the derivative work is not an eligible country on such date of enactment,

a reliance party may continue to exploit that work for the duration of the restored copyright if the reliance party pays to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the provisions of this paragraph.

"(B) In the absence of an agreement between the parties, the amount of such compensation shall be determined by an action in United States district court, and shall reflect any harm to the actual or potential market for or value of the restored work from the reliance party's continued exploitation of the work, as well as compensation for the relative contributions of expression of the author of the restored work and the reliance party to the derivative work.

"(4) COMMENCEMENT OF INFRINGEMENT FOR RELIANCE PARTIES.—For purposes of section 412, in the case of reliance parties, infringement shall be deemed to have commenced before registration when acts which would have constituted infringement had the restored work been subject to copyright were commenced before the date of restoration.

"(e) NOTICES OF INTENT TO ENFORCE A RESTORED COPYRIGHT.—

"(1) NOTICES OF INTENT FILED WITH THE COPYRIGHT OFFICE.—(A)(i) A notice of intent filed with the Copyright Office to enforce a restored copyright shall be signed by the owner of the restored copyright or the owner of an exclusive right therein, who files the notice under subsection (d)(2)(A)(i) (hereafter in this paragraph referred to as the 'owner'), or by the owner's agent, shall identify the title of the restored work, and shall include an English translation of the title and any other alternative titles known to the owner by which the restored work may be identified, and an address and telephone number at which the owner may be contacted. If the notice is signed by an agent, the agency relationship must have been constituted in a writing signed by the owner before the filing of the notice. The Copyright Office may specifically require in regulations other information to be included in the notice, but failure to provide such other information shall not invalidate the notice or be a basis for refusal to list the restored work in the Federal Register.

"(ii) If a work in which copyright is restored has no formal title, it shall be described in the notice of intent in detail sufficient to identify it.

"(iii) Minor errors or omissions may be corrected by further notice at any time after the notice of intent is filed. Notices of corrections for such minor errors or omissions shall be accepted after the period established in subsection (d)(2)(A)(i). Notices shall be published in the Federal Register pursuant to subparagraph (B).

Federal Register, publication.

"(B)(i) The Register of Copyrights shall publish in the Federal Register, commencing not later than 4 months after the date of restoration for a particular nation and every 4 months thereafter for a period of 2 years, lists identifying restored works and the ownership thereof if a notice of intent to enforce a restored copyright has been filed.

Federal Register, publication.

"(ii) Not less than 1 list containing all notices of intent to enforce shall be maintained in the Public Information Office of the Copyright Office and shall be available for public inspection and copying during regular business hours pursuant to sections 705 and 708. Such list shall also be published in the Federal Register on an annual basis for the first 2 years after the applicable date of restoration.

"(C) The Register of Copyrights is authorized to fix reasonable fees based on the costs of receipt, processing, recording, and publication of notices of intent to enforce a restored copyright and corrections thereto.

Federal Register, publication.

"(D)(i) Not later than 90 days before the date the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, the Copyright Office shall issue and publish in the Federal Register

regulations governing the filing under this subsection of notices of intent to enforce a restored copyright.

"(ii) Such regulations shall permit owners of restored copyrights to file simultaneously for registration of the restored copyright.

"(2) NOTICES OF INTENT SERVED ON A RELIANCE PARTY.—(A) Notices of intent to enforce a restored copyright may be served on a reliance party at any time after the date of restoration of the restored copyright.

"(B) Notices of intent to enforce a restored copyright served on a reliance party shall be signed by the owner or the owner's agent, shall identify the restored work and the work in which the restored work is used, if any, in detail sufficient to identify them, and shall include an English translation of the title, any other alternative titles known to the owner by which the work may be identified, the use or uses to which the owner objects, and an address and telephone number at which the reliance party may contact the owner. If the notice is signed by an agent, the agency relationship must have been constituted in writing and signed by the owner before service of the notice.

"(3) EFFECT OF MATERIAL FALSE STATEMENTS.—Any material false statement knowingly made with respect to any restored copyright identified in any notice of intent shall make void all claims and assertions made with respect to such restored copyright.

"(f) IMMUNITY FROM WARRANTY AND RELATED LIABILITY.—

"(1) IN GENERAL.—Any person who warrants, promises, or guarantees that a work does not violate an exclusive right granted in section 106 shall not be liable for legal, equitable, arbitral, or administrative relief if the warranty, promise, or guarantee is breached by virtue of the restoration of copyright under this section, if such warranty, promise, or guarantee is made before January 1, 1995.

"(2) PERFORMANCES.—No person shall be required to perform any act if such performance is made infringing by virtue of the restoration of copyright under the provisions of this section, if the obligation to perform was undertaken before January 1, 1995.

"(g) PROCLAMATION OF COPYRIGHT RESTORATION.—Whenever the President finds that a particular foreign nation extends, to works by authors who are nationals or domiciliaries of the United States, restored copyright protection on substantially the same basis as provided under this section, the President may by proclamation extend restored protection provided under this section to any work—

"(1) of which one or more of the authors is, on the date of first publication, a national, domiciliary, or sovereign authority of that nation; or

"(2) which was first published in that nation.

The President may revise, suspend, or revoke any such proclamation or impose any conditions or limitations on protection under such a proclamation.

"(h) DEFINITIONS.—For purposes of this section and section 109(a):

"(1) The term 'date of adherence or proclamation' means the earlier of the date on which a foreign nation which, as of the date the WTO Agreement enters into force with respect

to the United States, is not a nation adhering to the Berne Convention or a WTO member country, becomes—

"(A) a nation adhering to the Berne Convention or a WTO member country; or

"(B) subject to a Presidential proclamation under subsection (g).

"(2) The 'date of restoration' of a restored copyright is the later of—

"(A) the date on which the Agreement on Trade-Related Aspects of Intellectual Property referred to in section 101(d)(15) of the Uruguay Round Agreements Act enters into force with respect to the United States, if the source country of the restored work is a nation adhering to the Berne Convention or a WTO member country on such date; or

"(B) the date of adherence or proclamation, in the case of any other source country of the restored work.

"(3) The term 'eligible country' means a nation, other than the United States, that is a WTO member country, adheres to the Berne Convention, or is subject to a proclamation under section 104A(g).

"(4) The term 'reliance party' means any person who—

"(A) with respect to a particular work, engages in acts, before the source country of that work becomes an eligible country, which would have violated section 106 if the restored work had been subject to copyright protection, and who, after the source country becomes an eligible country, continues to engage in such acts;

"(B) before the source country of a particular work becomes an eligible country, makes or acquires 1 or more copies or phonorecords of that work; or

"(C) as the result of the sale or other disposition of a derivative work covered under subsection (d)(3), or significant assets of a person described in subparagraph (A) or (B), is a successor, assignee, or licensee of that person.

"(5) The term 'restored copyright' means copyright in a restored work under this section.

"(6) The term 'restored work' means an original work of authorship that—

"(A) is protected under subsection (a);

"(B) is not in the public domain in its source country through expiration of term of protection;

"(C) is in the public domain in the United States due to—

"(i) noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, lack of proper notice, or failure to comply with any manufacturing requirements;

"(ii) lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

"(iii) lack of national eligibility; and

"(D) has at least one author or rightholder who was, at the time the work was created, a national or domiciliary of an eligible country, and if published, was first published in an eligible country and not published in the United

States during the 30-day period following publication in such eligible country.

"(7) The term 'rightholder' means the person—

"(A) who, with respect to a sound recording, first fixes a sound recording with authorization, or

"(B) who has acquired rights from the person described in subparagraph (A) by means of any conveyance or by operation of law.

"(8) The 'source country' of a restored work is—

"(A) a nation other than the United States;

"(B) in the case of an unpublished work—

"(i) the eligible country in which the author or rightholder is a national or domiciliary, or, if a restored work has more than 1 author or rightholder, the majority of foreign authors or rightholders are nationals or domiciliaries of eligible countries; or

"(ii) if the majority of authors or rightholders are not foreign, the nation other than the United States which has the most significant contacts with the work; and

"(C) in the case of a published work—

"(i) the eligible country in which the work is first published, or

"(ii) if the restored work is published on the same day in 2 or more eligible countries, the eligible country which has the most significant contacts with the work.

"(9) The terms 'WTO Agreement' and 'WTO member country' have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act.".

(b) LIMITATION.—Section 109(a) of title 17, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, copies or phonorecords of works subject to restored copyright under section 104A that are manufactured before the date of restoration of copyright or, with respect to reliance parties, before publication or service of notice under section 104A(e), may be sold or otherwise disposed of without the authorization of the owner of the restored copyright for purposes of direct or indirect commercial advantage only during the 12-month period beginning on—

"(1) the date of the publication in the Federal Register of the notice of intent filed with the Copyright Office under section 104A(d)(2)(A), or

"(2) the date of the receipt of actual notice served under section 104A(d)(2)(B),

whichever occurs first.".

(c) CONFORMING AMENDMENT.—The item relating to section 104A in the table of sections for chapter 1 of title 17, United States Code, is amended to read as follows:

"104A. Copyright in restored works.".

Subtitle B—Trademark Provisions

SEC. 521. DEFINITION OF "ABANDONED".

Section 45 of the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry

out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1127) (hereafter in this title referred to as the "Trademark Act of 1946"), is amended by amending the paragraph defining "abandoned" to read as follows:

"A mark shall be deemed to be 'abandoned' if either of the following occurs:

"(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. 'Use' of a mark means the bona fide use of such mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.

"(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to become the generic name for the goods or services on or in connection with which it is used or otherwise to lose its significance as a mark. Purchaser motivation shall not be a test for determining abandonment under this paragraph.".

SEC. 522. NONREGISTRABILITY OF MISLEADING GEOGRAPHIC INDICATIONS FOR WINES AND SPIRITS.

Subsection (a) of section 2 of the Trademark Act of 1946 (15 U.S.C. 1052(a)) is amended to read as follows:

"(a) Consists of or comprises immoral, deceptive, or scandalous matter; or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute; or a geographical indication which, when used on or in connection with wines or spirits, identifies a place other than the origin of the goods and is first used on or in connection with wines or spirits by the applicant on or after one year after the date on which the WTO Agreement (as defined in section 2(9) of the Uruguay Round Agreements Act) enters into force with respect to the United States.".

15 USC 1052 note.

SEC. 523. EFFECTIVE DATE.

The amendments made by this subtitle take effect one year after the date on which the WTO Agreement enters into force with respect to the United States.

Subtitle C—Patent Provisions

SEC. 531. TREATMENT OF INVENTIVE ACTIVITY.

(a) IN GENERAL.—Section 104 of title 35, United States Code, is amended to read as follows:

"§ 104. Invention made abroad

"(a) IN GENERAL.—

"(1) PROCEEDINGS.—In proceedings in the Patent and Trademark Office, in the courts, and before any other competent authority, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country other than a NAFTA country or a WTO member country, except as provided in sections 119 and 365 of this title.

"(2) RIGHTS.—If an invention was made by a person, civil or military—

"(A) while domiciled in the United States, and serving in any other country in connection with operations by or on behalf of the United States,

"(B) while domiciled in a NAFTA country and serving in another country in connection with operations by or on behalf of that NAFTA country, or

"(C) while domiciled in a WTO member country and serving in another country in connection with operations by or on behalf of that WTO member country,

that person shall be entitled to the same rights of priority in the United States with respect to such invention as if such invention had been made in the United States, that NAFTA country, or that WTO member country, as the case may be.

"(3) USE OF INFORMATION.—To the extent that any information in a NAFTA country or a WTO member country concerning knowledge, use, or other activity relevant to proving or disproving a date of invention has not been made available for use in a proceeding in the Patent and Trademark Office, a court, or any other competent authority to the same extent as such information could be made available in the United States, the Commissioner, court, or such other authority shall draw appropriate inferences, or take other action permitted by statute, rule, or regulation, in favor of the party that requested the information in the proceeding.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'NAFTA country' has the meaning given that term in section 2(4) of the North American Free Trade Agreement Implementation Act; and

"(2) the term 'WTO member country' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act.".

(b) EFFECTIVE DATE.— 35 USC 104 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to all patent applications that are filed on or after the date that is 12 months after the date of entry into force of the WTO Agreement with respect to the United States.

(2) ESTABLISHMENT OF DATE.—An applicant for a patent, or a patentee, may not establish a date of invention for purposes of title 35, United States Code, that is earlier than 12 months after the date of entry into force of the WTO Agreement with respect to the United States by reference to knowledge or use, or other activity, in a WTO member country, except as provided in sections 119 and 365 of such title.

SEC. 532. PATENT TERM AND INTERNAL PRIORITY.

(a) PATENT RIGHTS.—

(1) CONTENTS AND TERM OF PATENT.—Section 154 of title 35, United States Code, is amended to read as follows:

"§ 154. Contents and term of patent

"(a) IN GENERAL.—

"(1) CONTENTS.—Every patent shall contain a short title of the invention and a grant to the patentee, his heirs or assigns, of the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States, and,

if the invention is a process, of the right to exclude others from using, offering for sale or selling throughout the United States, or importing into the United States, products made by that process, referring to the specification for the particulars thereof.

"(2) TERM.—Subject to the payment of fees under this title, such grant shall be for a term beginning on the date on which the patent issues and ending 20 years from the date on which the application for the patent was filed in the United States or, if the application contains a specific reference to an earlier filed application or applications under section 120, 121, or 365(c) of this title, from the date on which the earliest such application was filed.

"(3) PRIORITY.—Priority under section 119, 365(a), or 365(b) of this title shall not be taken into account in determining the term of a patent.

"(4) SPECIFICATION AND DRAWING.—A copy of the specification and drawing shall be annexed to the patent and be a part of such patent.

"(b) TERM EXTENSION.—

"(1) INTERFERENCE DELAY OR SECRECY ORDERS.—If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

"(2) EXTENSION FOR APPELLATE REVIEW.—If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

"(3) LIMITATIONS.—The period of extension referred to in paragraph (2)—

"(A) shall include any period beginning on the date on which an appeal is filed under section 134 or 141 of this title, or on which an action is commenced under section 145 of this title, and ending on the date of a final decision in favor of the applicant;

"(B) shall be reduced by any time attributable to appellate review before the expiration of 3 years from the filing date of the application for patent; and

"(C) shall be reduced for the period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner.

"(4) LENGTH OF EXTENSION.—The total duration of all extensions of a patent under this subsection shall not exceed 5 years.

"(c) CONTINUATION.—

"(1) DETERMINATION.—The term of a patent that is in force on or that results from an application filed before the date that is 6 months after the date of the enactment of the Uruguay

Round Agreements Act shall be the greater of the 20-year term as provided in subsection (a), or 17 years from grant, subject to any terminal disclaimers.

"(2) REMEDIES.—The remedies of sections 283, 284, and 285 of this title shall not apply to Acts which—

"(A) were commenced or for which substantial investment was made before the date that is 6 months after the date of the enactment of the Uruguay Round Agreements Act; and

"(B) became infringing by reason of paragraph (1).

"(3) REMUNERATION.—The acts referred to in paragraph (2) may be continued only upon the payment of an equitable remuneration to the patentee that is determined in an action brought under chapter 28 and chapter 29 (other than those provisions excluded by paragraph (2)) of this title.".

35 USC 154 note. Regulations.

(2) PROVISION OF FURTHER LIMITED REEXAMINATION AND CONDITIONS OF RESTRICTION REQUIREMENTS.—(A) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for further limited reexamination of applications that have been pending for 2 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as added by paragraph (1) of this subsection, taking into account any reference made in such application to any earlier filed application under section 120, 121, or 365(c) of such title. The Commissioner may establish appropriate fees for such further limited reexamination.

(B) The Commissioner of Patents and Trademarks shall prescribe regulations to provide for the examination of more than 1 independent and distinct invention in an application that has been pending for 3 years or longer as of the effective date of section 154(a)(2) of title 35, United States Code, as added by paragraph (1) of this subsection, taking into account any reference made in such application to any earlier filed application under section 120, 121, or 365(c) of such title. The Commissioner may establish appropriate fees for such examination.

(b) ESTABLISHMENT OF A DOMESTIC PRIORITY SYSTEM.—

(1) IN GENERAL.—Section 119 of title 35, United States Code, is amended—

(A) by amending the section caption to read as follows:

"§ 119. Benefit of earlier filing date; right of priority";

(B) by designating the undesignated paragraphs as subsections (a), (b), (c), and (d), respectively; and

(C) by adding at the end the following:

"(e)(1) An application for patent filed under section 111(a) or section 363 of this title for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in a provisional application filed under section 111(b) of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under section 111(b) of this title, if the application for patent filed under section 111(a) or section 363 of this title is filed not later than 12 months after the date on which the provisional application was filed and if it contains or is amended to contain a specific reference to the provisional application.

"(2) A provisional application filed under section 111(b) of this title may not be relied upon in any proceeding in the Patent and Trademark Office unless the fee set forth in subparagraph (A) or (C) of section 41(a)(1) of this title has been paid and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title.".

(2) FEES.—Section 41(a)(1) of title 35, United States Code, is amended by adding at the end the following:

"(C) On filing each provisional application for an original patent, $150.".

(3) APPLICATIONS.—Section 111 of title 35, United States Code, is amended to read as follows:

"§ 111. Application

"(a) IN GENERAL.—

"(1) WRITTEN APPLICATION.—An application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Commissioner.

"(2) CONTENTS.—Such application shall include—

"(A) a specification as prescribed by section 112 of this title;

"(B) a drawing as prescribed by section 113 of this title; and

"(C) an oath by the applicant as prescribed by section 115 of this title.

"(3) FEE AND OATH.—The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

"(4) FAILURE TO SUBMIT.—Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable or unintentional. The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

"(b) PROVISIONAL APPLICATION.—

"(1) AUTHORIZATION.—A provisional application for patent shall be made or authorized to be made by the inventor, except as otherwise provided in this title, in writing to the Commissioner. Such application shall include—

"(A) a specification as prescribed by the first paragraph of section 112 of this title; and

"(B) a drawing as prescribed by section 113 of this title.

"(2) CLAIM.—A claim, as required by the second through fifth paragraphs of section 112, shall not be required in a provisional application.

"(3) FEE.—(A) The application must be accompanied by the fee required by law.

"(B) The fee may be submitted after the specification and any required drawing are submitted, within such period and

under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner.

"(C) Upon failure to submit the fee within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee was unavoidable or unintentional.

"(4) FILING DATE.—The filing date of a provisional application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

"(5) ABANDONMENT.—The provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival thereafter.

"(6) OTHER BASIS FOR PROVISIONAL APPLICATION.—Subject to all the conditions in this subsection and section 119(e) of this title, and as prescribed by the Commissioner, an application for patent filed under subsection (a) may be treated as a provisional application for patent.

"(7) NO RIGHT OF PRIORITY OR BENEFIT OF EARLIEST FILING DATE.—A provisional application shall not be entitled to the right of priority of any other application under section 119 or 365(a) of this title or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c) of this title.

"(8) APPLICABLE PROVISIONS.—The provisions of this title relating to applications for patent shall apply to provisional applications for patent, except as otherwise provided, and except that provisional applications for patent shall not be subject to sections 115, 131, 135, and 157 of this title.".

(c) CONFORMING CHANGES.—

(1) Section 156(a)(2) of title 35, United States Code, is amended by inserting "under subsection (e)(1) of this section" after "extended".

(2) Section 172 of title 35, United States Code, is amended—

(A) by striking "section 119" and inserting "subsections (a) through (d) of section 119"; and

(B) by inserting at the end the following new sentence: "The right of priority provided for by section 119(e) of this title shall not apply to designs.".

(3) Section 173 of title 35, United States Code, is amended by inserting "from the date of grant" after "years".

(4) Section 365 of title 35, United States Code, is amended—

(A) in subsection (a), by striking "section 119" and inserting "subsections (a) through (d) of section 119"; and

(B) in subsection (b), by striking "the first paragraph of section 119" and inserting "section 119(a)".

(5) Section 373 of title 35, United States Code, is amended by striking "section 119" and inserting "subsections (a) through (d) of section 119".

(6) The table of sections for chapter 11 of title 35, United States Code, is amended—

(A) by striking the item relating to section 111 and inserting the following:

"111. Application.";

and

(B) by striking the item relating to section 119 and inserting the following:

"119. Benefit of earlier filing date; right of priority.".

SEC. 533. PATENT RIGHTS.

(a) DEFINITION OF INFRINGEMENT.—Section 271 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ", offers to sell," after "uses"; and

(B) by inserting "or imports into the United States any patented invention" after "the United States";

(2) in subsection (c), by striking "sells" and inserting "offers to sell or sells within the United States or imports into the United States";

(3) in subsection (e)—

(A) in paragraph (1), by striking "or sell" and inserting "offer to sell, or sell within the United States or import into the United States";

(B) in paragraph (3), by striking "or selling" and inserting "offering to sell, or selling within the United States or importing into the United States";

(C) in paragraph (4)(B), by striking "or sale" and inserting "offer to sell, or sale within the United States or importation into the United States"; and

(D) in paragraph (4)(C), by striking "or sale" and inserting "offer to sell, or sale within the United States or importation into the United States";

(4) in subsection (g)—

(A) by striking "sells" and inserting "offers to sell, sells,";

(B) by striking "importation, sale," and inserting "importation, offer to sell, sale,"; and

(C) by striking "other use or" and inserting "other use, offer to sell, or"; and

(5) by adding at the end the following:

"(i) As used in this section, an 'offer for sale' or an 'offer to sell' by a person other than the patentee, or any designee of the patentee, is that in which the sale will occur before the expiration of the term of the patent.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 41(c) of title 35, United States Code, is amended to read as follows:

"(2) A patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall not abridge or affect the right of any person or that person's successors in business who made, purchased, offered to sell, or used anything protected by the patent within the United States, or imported anything protected by the patent into the United States after the 6-month grace period but prior to the acceptance of a maintenance fee under this subsection, to continue the use of, to offer for sale, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, or used within the United States, or imported into the United States, as specified, or for the manufacture, use, offer for sale,

or sale in the United States of which substantial preparation was made after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, and the court may also provide for the continued practice of any process that is practiced, or for the practice of which substantial preparation was made, after the 6-month grace period but before the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the 6-month grace period but before the acceptance of a maintenance fee under this subsection.".

(2) The second undesignated paragraph of section 252 of title 35, United States Code, is amended to read as follows:

"A reissued patent shall not abridge or affect the right of any person or that person's successors in business who, prior to the grant of a reissue, made, purchased, offered to sell, or used within the United States, or imported into the United States, anything patented by the reissued patent, to continue the use of, to offer to sell, or to sell to others to be used, offered for sale, or sold, the specific thing so made, purchased, offered for sale, used, or imported unless the making, using, offering for sale, or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use, offer for sale, or sale of the thing made, purchased, offered for sale, used, or imported as specified, or for the manufacture, use, offer for sale, or sale in the United States of which substantial preparation was made before the grant of the reissue, and the court may also provide for the continued practice of any process patented by the reissue that is practiced, or for the practice of which substantial preparation was made, before the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.".

(3) Section 262 of title 35, United States Code, is amended—

(A) by striking "use or sell" and inserting "use, offer to sell, or sell"; and

(B) by inserting "within the United States, or import the patented invention into the United States," after "invention".

(4) Section 272 of title 35, United States Code, is amended by striking "not sold" and inserting "not offered for sale or sold".

(5) Section 287 of title 35, United States Code, is amended—

(A) in subsection (a)—

(i) by striking "making or selling" and inserting "making, offering for sale, or selling within the United States"; and

(ii) by inserting "or importing any patented article into the United States," after "under them,"; and

(B) in subsection (b)—

(i) in paragraph (1)(C), by striking "use, or sale" and inserting "use, offer for sale, or sale";

(ii) in paragraph (4)(A), by striking "sold or" and inserting "sold, offered for sale, or" in the matter preceding clause (i);

(iii) in paragraph (4)(A)(ii), by striking "use, or sale" and inserting "use, offer for sale, or sale";

(iv) in paragraph (4)(C), by striking "have been sold" and inserting "have been offered for sale or sold"; and

(v) in paragraph (4)(C), by striking "United States before" and inserting "United States, or imported by the person into the United States, before".

(6) Section 292(a) of title 35, United States Code, is amended—

(A) by striking "used, or sold by him" and inserting "used, offered for sale, or sold by such person within the United States, or imported by the person into the United States"; and

(B) by striking "made or sold" and inserting "made, offered for sale, sold, or imported into the United States".

(7) Section 295 of title 35, United States Code, is amended by striking "sale, or use" and inserting "sale, offer for sale, or use".

(8) Section 307(b) of title 35, United States Code, is amended by striking "used anything" and inserting "used within the United States, or imported into the United States, anything".

35 USC 154 note.

SEC. 534. EFFECTIVE DATES AND APPLICATION.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this subtitle take effect on the date that is one year after the date on which the WTO Agreement enters into force with respect to the United States.

(b) PATENT APPLICATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by section 532 take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all patent applications filed in the United States on or after the effective date.

(2) SECTION 154(a)(1).—Section 154(a)(1) of title 35, United States Code, as amended by section 532(a)(1) of this Act, shall take effect on the effective date described in subsection (a).

(3) EARLIEST FILING.—The term of a patent granted on an application that is filed on or after the effective date described in subsection (a) and that contains a specific reference to an earlier application filed under the provisions of section 120, 121, or 365(c) of title 35, United States Code, shall be measured from the filing date of the earliest filed application.

TITLE VI—RELATED PROVISIONS

Subtitle A—Expiring Provisions

SEC. 601. GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is

amended by striking "September 30, 1994" and inserting "July 31, 1995".

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.— 19 USC 2465 note.

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 1994, and

(B) that was made after September 30, 1994, and before such date of enactment,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 602. U.S. INSULAR POSSESSIONS.

(a) EXTENSION OF VERIFICATION AND CERTIFICATE ISSUANCE PROVISIONS.—Additional U.S. Note 5(h)(i) to chapter 91 of the HTS is amended by striking "and before January 1, 1995," and inserting "and before January 1, 2007,".

(b) EXTENSION OF CERTIFICATE NUMBER PIC–EV–89.—Notwithstanding any other provision of law, the production incentive certificate, number PIC–EV–89, issued jointly by the Secretary of Commerce and the Secretary of the Interior, pursuant to paragraph (h)(i)(B) of Additional U.S. Note 5 to chapter 91 of the HTS (formerly paragraph (h)(i)(II) of headnote 6 of schedule 7, part 2, subpart E of the Tariff Schedules of the United States), shall be deemed to have been reissued on the date of the enactment of this Act in the amount of the balance remaining on such certificate, and shall expire on the date that is 1 year after such date of enactment. Expiration date.

Subtitle B—Certain Customs Provisions

SEC. 611. REIMBURSEMENTS FROM CUSTOMS USER FEE ACCOUNT.

(a) IN GENERAL.—Subclause (II) of section 13031(f)(3)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(i)(II)) is amended to read as follows:

"(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the total cost of all the premium pay for such year calculated under section 5(b) and the cost of the night and holiday premium pay that the Customs Service would have incurred for the same inspectional work on the day before the effective date of section 13813 of the Omnibus Budget Reconciliation Act of 1993,".

19 USC 58c note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to customs inspectional services performed on or after January 1, 1994.

SEC. 612. MERCHANDISE PROCESSING FEES.

(a) IN GENERAL.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a)(9)—

(A) in subparagraph (A), by striking "0.17" and inserting "0.21",

(B) in subparagraph (B)(i), by striking "(but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would" and inserting "(but not to a rate of more than 0.21 percent nor less than 0.15 percent) and the amounts specified in subsection (b)(8)(A)(i) (but not to more than $485 nor less than $21) to rates and amounts which would", and

(C) in subparagraph (B)(ii), by striking "section 613A of the Tariff Act of 1930" and inserting "subsection (f)",

(2) in subsection (a)(10)—

(A) in subparagraph (C), by striking "entry or release." and inserting "entry or release,",

(B) in clause (ii), by striking "$5" and inserting "$6", and

(C) in clause (iii), by striking "$8" and inserting "$9", and

(3) in subsection (b)(8)(A)(i), by striking "$400 or be less than $21", and inserting "$485 or be less than $25, unless adjusted pursuant to subsection (a)(9)(B)".

19 USC 58c note.

(b) EFFECTIVE DATE.—The amendments made by this section apply to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

Subtitle C—Conforming Amendments

SEC. 621. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1317(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 1677k(a)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) by striking "General Agreement on Tariffs and Trade" and inserting "GATT 1994"; and

(C) by adding at the end the following:

"(B) The term 'GATT 1994' has the meaning given that term in section 2(1)(B) of the Uruguay Round Agreements Act.".

(2) Section 212(c)(4) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(c)(4)) is amended by striking "General" and all that follows through "1979" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(3) Section 203(d)(4) of the Andean Trade Preference Act (19 U.S.C. 3202(d)(4)) is amended by striking "General" and all that follows through "1979" and inserting "WTO Agreement and the multilateral trade agreements (as such terms are

defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(4) Section 1106 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2905) is amended—

(A) in subsection (a), by striking "the GATT" and inserting "the GATT 1947, or to the WTO Agreement,";

(B) in subsections (b) and (c), by inserting after "the GATT" each place it appears "1947 or the WTO Agreement";

(C) by adding at the end the following new subsection:

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'GATT 1947' has the meaning given that term in section 2(1)(A) of the Uruguay Round Agreements Act.

"(2) The term 'WTO Agreement' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994 and the multilateral trade agreements (as such term is defined in section 2(4) of the Uruguay Round Agreements Act)."; and

(D) by inserting after "GENERAL AGREEMENT ON TARIFFS AND TRADE" in the heading "FOR THE WTO".

(5) Section 1107(a)(3) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2906(3)) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the GATT 1947 (as defined in section 2(1)(A) of the Uruguay Round Agreements Act)".

(6) Section 1378(2) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3107(2)) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(7) Section 1382 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3111) is amended by striking "the General Agreement on Tariffs and Trade" and inserting "the WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)".

(8) Section 141(c)(1) of the Trade Act of 1974 (19 U.S.C. 2171(c)(1)) is amended—

(A) in subparagraph (C) by inserting "all negotiations on any matter considered under the auspices of the World Trade Organization," after "including"; and

(B) in subparagraph (D) by inserting ", including any matter considered under the auspices of the World Trade Organization," after "functions".

(9) Section 301(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2411(a)(2)(A)) is amended by striking "the Contracting Parties" and all that follows through "Parties," and inserting "the Dispute Settlement Body (as defined in section 121(5) of the Uruguay Round Agreements Act) has adopted a report,".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date on which the WTO Agreement enters into force with respect to the United States. 19 USC 1677k note.

TITLE VII—REVENUE PROVISIONS

SEC. 700. AMENDMENT OF 1986 CODE AND TABLE OF CONTENTS.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TABLE OF CONTENTS.—

TITLE VII—REVENUE PROVISIONS

Sec. 700. Amendment of 1986 Code and table of contents.

Subtitle A—Withholding Tax Provisions

Sec. 701. Withholding on distributions of Indian casino profits to tribal members.
Sec. 702. Voluntary withholding on certain Federal payments and on unemployment compensation.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

Sec. 711. Treatment of subpart F and section 936 income of taxpayers using annualized method for estimated tax.
Sec. 712. Time for payments and deposits of certain taxes.
Sec. 713. Reduction in rate of interest paid on certain corporate overpayments.

Subtitle C—Earned Income Tax Credit

Sec. 721. Extension of earned income tax credit to military personnel stationed outside the United States.
Sec. 722. Certain nonresident aliens ineligible for earned income tax credit.
Sec. 723. Income of prisoners disregarded in determining earned income tax credit.

Subtitle D—Provisions Relating To Retirement Benefits

Sec. 731. Treatment of excess pension assets used for retiree health benefits.
Sec. 732. Rounding rules for cost-of-living adjustments.
Sec. 733. Increase in inclusion of social security benefits paid to nonresidents.

Subtitle E—Other Provisions

Sec. 741. Partnership distributions of marketable securities.
Sec. 742. Taxpayer identification numbers required at birth.
Sec. 743. Extension of Internal Revenue Service user fees.
Sec. 744. Modification of substantial understatement penalty for corporations participating in tax shelters.
Sec. 745. Modification of authority to set terms and conditions for savings bonds.

Subtitle F—Pension Plan Funding and Premiums

Sec. 750. Short title.

PART I—PENSION PLAN FUNDING

SUBPART A—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

Sec. 751. Minimum funding requirements.
Sec. 752. Limitation on changes in current liability assumptions.
Sec. 753. Anticipation of bargained benefit increases.
Sec. 754. Modification of quarterly contribution requirement.
Sec. 755. Exceptions to excise tax on nondeductible contributions.

SUBPART B—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 761. Minimum funding requirements.
Sec. 762. Limitation on changes in current liability assumptions.
Sec. 763. Anticipation of bargained benefit increases.
Sec. 764. Modification of quarterly contribution requirement.

SUBPART C—OTHER FUNDING PROVISIONS

Sec. 766. Prohibition on benefit increases where plan sponsor is in bankruptcy.

Sec. 767. Single sum distributions.
Sec. 768. Adjustments to lien for missed minimum funding contributions.
Sec. 769. Special funding rules for certain plans.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 771. Reportable events.
Sec. 772. Certain information required to be furnished to PBGC.
Sec. 773. Enforcement of minimum funding requirements.
Sec. 774. Computation of additional PBGC premium.
Sec. 775. Disclosure to participants.
Sec. 776. Missing participants.
Sec. 777. Modification of maximum guarantee for disability benefits.
Sec. 778. Procedures to facilitate distribution of termination benefits.

PART III—EFFECTIVE DATES

Sec. 781. Effective dates.

Subtitle A—Withholding Tax Provisions

SEC. 701. WITHHOLDING ON DISTRIBUTIONS OF INDIAN CASINO PROFITS TO TRIBAL MEMBERS.

(a) IN GENERAL.—Section 3402 (relating to income tax collected at source) is amended by inserting after subsection (q) the following new subsection: 26 USC 3402

"(r) EXTENSION OF WITHHOLDING TO CERTAIN TAXABLE PAYMENTS OF INDIAN CASINO PROFITS.—

"(1) IN GENERAL.—Every person, including an Indian tribe, making a payment to a member of an Indian tribe from the net revenues of any class II or class III gaming activity conducted or licensed by such tribe shall deduct and withhold from such payment a tax in an amount equal to such payment's proportionate share of the annualized tax.

"(2) EXCEPTION.—The tax imposed by paragraph (1) shall not apply to any payment to the extent that the payment, when annualized, does not exceed an amount equal to the sum of—

"(A) the basic standard deduction (as defined in section 63(c)) for an individual to whom section 63(c)(2)(C) applies, and

"(B) the exemption amount (as defined in section 151(d)).

"(3) ANNUALIZED TAX.—For purposes of paragraph (1), the term 'annualized tax' means, with respect to any payment, the amount of tax which would be imposed by section 1(c) (determined without regard to any rate of tax in excess of 31 percent) on an amount of taxable income equal to the excess of—

"(A) the annualized amount of such payment, over

"(B) the amount determined under paragraph (2).

"(4) CLASSES OF GAMING ACTIVITIES, ETC.—For purposes of this subsection, terms used in paragraph (1) which are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), as in effect on the date of the enactment of this subsection, shall have the respective meanings given such terms by such section.

"(5) ANNUALIZATION.—Payments shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(6) ALTERNATE WITHHOLDING PROCEDURES.—At the election of an Indian tribe, the tax imposed by this subsection

on any payment made by such tribe shall be determined in accordance with such tables or computational procedures as may be specified in regulations prescribed by the Secretary (in lieu of in accordance with paragraphs (2) and (3)).

"(7) COORDINATION WITH OTHER SECTIONS.—For purposes of this chapter and so much of subtitle F as relates to this chapter, payments to any person which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee."

26 USC 3402 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1994.

SEC. 702. VOLUNTARY WITHHOLDING ON CERTAIN FEDERAL PAYMENTS AND ON UNEMPLOYMENT COMPENSATION.

26 USC 3402.

(a) IN GENERAL.—Subsection (p) of section 3402 (relating to voluntary withholding agreements) is amended to read as follows:

"(p) VOLUNTARY WITHHOLDING AGREEMENTS.—

"(1) CERTAIN FEDERAL PAYMENTS.—

"(A) IN GENERAL.—If, at the time a specified Federal payment is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages by an employer to an employee.

"(B) AMOUNT WITHHELD.—The amount to be deducted and withheld under this chapter from any payment to which any request under subparagraph (A) applies shall be an amount equal to the percentage of such payment specified in such request. Such a request shall apply to any payment only if the percentage specified is 7, 15, 28, or 31 percent or such other percentage as is permitted under regulations prescribed by the Secretary.

"(C) SPECIFIED FEDERAL PAYMENTS.—For purposes of this paragraph, the term 'specified Federal payment' means—

"(i) any payment of a social security benefit (as defined in section 86(d)),

"(ii) any payment referred to in the second sentence of section 451(d) which is treated as insurance proceeds,

"(iii) any amount which is includible in gross income under section 77(a), and

"(iv) any other payment made pursuant to Federal law which is specified by the Secretary for purposes of this paragraph.

"(D) REQUESTS FOR WITHHOLDING.—Rules similar to the rules that apply to annuities under subsection (o)(4) shall apply to requests under this paragraph and paragraph (2).

"(2) VOLUNTARY WITHHOLDING ON UNEMPLOYMENT BENEFITS.—If, at the time a payment of unemployment compensation (as defined in section 85(b)) is made to any person, a request by such person is in effect that such payment be subject to withholding under this chapter, then for purposes of this chapter and so much of subtitle F as relates to this chapter, such payment shall be treated as if it were a payment of wages

by an employer to an employee. The amount to be deducted and withheld under this chapter from any payment to which any request under this paragraph applies shall be an amount equal to 15 percent of such payment.

"(3) AUTHORITY FOR OTHER VOLUNTARY WITHHOLDING.—The Secretary is authorized by regulations to provide for withholding— Regulations.

"(A) from remuneration for services performed by an employee for the employee's employer which (without regard to this paragraph) does not constitute wages, and

"(B) from any other type of payment with respect to which the Secretary finds that withholding would be appropriate under the provisions of this chapter,

if the employer and employee, or the person making and the person receiving such other type of payment, agree to such withholding. Such agreement shall be in such form and manner as the Secretary may by regulations prescribe. For purposes of this chapter (and so much of subtitle F as relates to this chapter), remuneration or other payments with respect to which such agreement is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect."

(b) STATE LAW MUST PERMIT VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX FROM UNEMPLOYMENT COMPENSATION.—Section 3304(a) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph: 26 USC 3304.

"(18) Federal individual income tax from unemployment compensation is to be deducted and withheld if an individual receiving such compensation voluntarily requests such deduction and withholding; and".

(c) WITHHOLDING FROM UNEMPLOYMENT COMPENSATION OF FEDERAL, STATE, AND LOCAL INCOME TAXES PERMITTED.—

(1) Subparagraph (C) of section 3304(a)(4) is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax,".

(2) Subsection (f) of section 3306 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) nothing in this subsection shall be construed to prohibit deducting any amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor;".

(3) Paragraph (5) of section 303(a) of the Social Security Act is amended by inserting after "health insurance" the following: ", or the withholding of Federal, State, or local individual income tax,". 42 USC 503.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1996. 26 USC 3304 note.

Subtitle B—Provisions Relating to Estimated Taxes and Payments and Deposits of Taxes

SEC. 711. TREATMENT OF SUBPART F AND SECTION 936 INCOME OF TAXPAYERS USING ANNUALIZED METHOD FOR ESTIMATED TAX.

26 USC 6655.

(a) CORPORATIONS.—Section 6655(e) (relating to lower required installment where annualized income installment is less) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF SUBPART F AND SECTION 936 INCOME.—

"(A) IN GENERAL.—Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under paragraph (2) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

"(B) PRIOR YEAR SAFE HARBOR.—

"(i) IN GENERAL.—If a taxpayer elects to have this subparagraph apply for any taxable year—

"(I) subparagraph (A) shall not apply, and

"(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in subparagraph (A) in an amount equal to 115 percent of the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year).

"(ii) SPECIAL RULE FOR NONCONTROLLING SHAREHOLDER.—

"(I) IN GENERAL.—If a taxpayer making the election under clause (i) is a noncontrolling shareholder of a corporation, clause (i)(II) shall be applied with respect to items of such corporation by substituting '100 percent' for '115 percent'.

"(II) NONCONTROLLING SHAREHOLDER.—For purposes of subclause (I), the term 'noncontrolling shareholder' means, with respect to any corporation, a shareholder which (as of the beginning of the taxable year for which the installment is being made) does not own (within the meaning of section 958(a)), and is not treated as owning (within the meaning of section 958(b)), more than 50 percent (by vote or value) of the stock in the corporation."

(b) INDIVIDUALS.—Section 6654(d)(2) (relating to lower required installment where annualized income installment is less) is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF SUBPART F AND SECTION 936 INCOME.—

"(i) IN GENERAL.—Any amounts required to be included in gross income under section 936(h) or 951(a) (and credits properly allocable thereto) shall be taken into account in computing any annualized income installment under subparagraph (B) in a manner similar to the manner under which partnership income inclusions (and credits properly allocable thereto) are taken into account.

"(ii) PRIOR YEAR SAFE HARBOR.—If a taxpayer elects to have this clause apply to any taxable year—

"(I) clause (i) shall not apply, and

"(II) for purposes of computing any annualized income installment for such taxable year, the taxpayer shall be treated as having received ratably during such taxable year items of income and credit described in clause (i) in an amount equal to the amount of such items shown on the return of the taxpayer for the preceding taxable year (the second preceding taxable year in the case of the first and second required installments for such taxable year)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining underpayments of estimated tax for taxable years beginning after December 31, 1994. 26 USC 6654 note.

SEC. 712. TIME FOR PAYMENTS AND DEPOSITS OF CERTAIN TAXES.

(a) DEPOSITS REQUIRED FOR SEMIMONTHLY PERIODS.—Subsection (f) of section 6302 (relating to collection authority) is amended to read as follows: 26 USC 6302.

"(f) TIME FOR DEPOSIT OF CERTAIN EXCISE TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection and subsection (e), if any person is required under regulations to make deposits of taxes under subtitle D with respect to semimonthly periods, such person shall make deposits of such taxes for the period beginning on September 16 and ending on September 26 not later than September 29. In the case of taxes imposed by sections 4261 and 4271, this paragraph shall not apply to periods before January 1, 1997.

"(2) TAXES ON OZONE DEPLETING CHEMICALS.—If any person is required under regulations to make deposits of taxes under subchapter D of chapter 38 with respect to semimonthly periods, in lieu of paragraph (1), such person shall make deposits of such taxes for—

"(A) the second semimonthly period in August, and

"(B) the period beginning on September 1 and ending on September 11,

not later than September 29.

"(3) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of deposits not required to be made by electronic funds transfer, paragraphs (1) and (2) shall be applied by substituting 'September 25' for 'September 26', 'September 10' for 'September 11', and 'September 28' for 'September 29'.

"(4) SPECIAL RULE WHERE DUE DATE ON SATURDAY OR SUNDAY.—If, but for this paragraph, the due date under paragraph

(1), (2), or (3) would fall on a Saturday or Sunday, such due date shall be deemed to be—

"(A) in the case of Saturday, the preceding day, and

"(B) in the case of Sunday, the following day."

(b) TAXES ON DISTILLED SPIRITS, WINES, AND BEER.—

26 USC 5061.

(1) Subsection (d) of section 5061 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(A) IN GENERAL.—Notwithstanding the preceding provisions of this subsection, the taxes on distilled spirits, wines, and beer for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

"(B) SAFE HARBOR.—The requirement of subparagraph (A) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on distilled spirits, wines, and beer for the period beginning on September 1 and ending on September 15.

"(C) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of payments not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting 'September 25' for 'September 26', 'September 28' for 'September 29', and '2/3' for '11/15'."

(2) Section 5061(d)(5), as redesignated by paragraph (1), is amended—

(A) by inserting "(or the immediately following day where the due date described in paragraph (4) falls on a Sunday)" before the period at the end, and

(B) by striking "14TH DAY" in the heading and inserting "DUE DATE".

(c) TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES.—

(1) Paragraph (2) of section 5703(b) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

"(ii) SAFE HARBOR.—The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

"(iii) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting 'September 25' for 'September 26', 'September 28' for 'September 29', and '2/3' for '11/15'."

(2) Section 5703(b)(2)(E), as redesignated by paragraph (1), is amended—

(A) by inserting "(or the immediately following day where the due date described in subparagraph (D) falls on a Sunday)" before the period at the end, and

(B) by striking "14TH DAY" in the heading and inserting "DUE DATE".

(d) COMMUNICATION SERVICES AND AIRLINE TICKETS.—Subsection (e) of section 6302 is amended to read as follows: 26 USC 6302.

"(e) TIME FOR DEPOSIT OF TAXES ON COMMUNICATIONS SERVICES AND AIRLINE TICKETS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by section 4251 or subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate.

"(2) SPECIAL RULE FOR TAX DUE IN SEPTEMBER.—

"(A) AMOUNTS CONSIDERED COLLECTED.—In the case of a person required to make deposits of the tax imposed by—

"(i) section 4251, or

"(ii) effective on January 1, 1997, section 4261 or 4271,

with respect to amounts considered collected by such person during any semimonthly period, the amount of such tax included in bills rendered or tickets sold during the period beginning on September 1 and ending on September 11 shall be deposited not later than September 29.

"(B) SPECIAL RULE WHERE SEPTEMBER 29 IS ON SATURDAY OR SUNDAY.—If September 29 falls on a Saturday or Sunday, the due date under subparagraph (A) shall be—

"(i) in the case of Saturday, the preceding day, and

"(ii) in the case of Sunday, the following day.

"(C) TAXPAYERS NOT REQUIRED TO USE ELECTRONIC FUNDS TRANSFER.—In the case of deposits not required to be made by electronic funds transfer, subparagraphs (A) and (B) shall be applied by substituting 'September 10' for 'September 11' and 'September 28' for 'September 29'."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995. 26 USC 5061 note.

SEC. 713. REDUCTION IN RATE OF INTEREST PAID ON CERTAIN CORPORATE OVERPAYMENTS.

(a) IN GENERAL.—Paragraph (1) of section 6621(a) (defining overpayment rate) is amended by adding at the end the following new flush sentence:

"To the extent that an overpayment of tax by a corporation for any taxable period (as defined in subsection (c)(3)) exceeds $10,000, subparagraph (B) shall be applied by substituting '0.5 percentage point' for '2 percentage points'."

26 USC 6621 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for purposes of determining interest for periods after December 31, 1994.

Subtitle C—Earned Income Tax Credit

SEC. 721. EXTENSION OF EARNED INCOME TAX CREDIT TO MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.

26 USC 32.

(a) IN GENERAL.—Subsection (c) of section 32 (relating to earned income credit) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF MILITARY PERSONNEL STATIONED OUTSIDE THE UNITED STATES.—For purposes of paragraphs (1)(A)(ii)(I) and (3)(E), the principal place of abode of a member of the Armed Forces of the United States shall be treated as in the United States during any period during which such member is stationed outside the United States while serving on extended active duty (as defined in section 1034(h)(3)) with the Armed Forces of the United States."

(b) REPORTING OF MILITARY EARNED INCOME.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and by inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) in the case of an employee who is a member of the Armed Forces of the United States, such employee's earned income as determined for purposes of section 32 (relating to earned income credit)."

(c) ADVANCE PAYMENT OF EARNED INCOME CREDIT BASED ON MILITARY EARNED INCOME.—Paragraph (1) of section 3507(c) (defining earned income advance amount) is amended by adding at the end the following new sentence:

"In the case of an employee who is a member of the Armed Forces of the United States, the earned income advance amount shall be determined by taking into account such employee's earned income as determined for purposes of section 32."

(d) EFFECTIVE DATES.—

26 USC 32 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

26 USC 3507 note.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to remuneration paid after December 31, 1994.

SEC. 722. CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 32(c) (defining eligible individual) is amended by adding at the end the following new subparagraph:

"(E) LIMITATION ON ELIGIBILITY OF NONRESIDENT ALIENS.—The term 'eligible individual' shall not include any individual who is a nonresident alien individual for any portion of the taxable year unless such individual is treated for such taxable year as a resident of the United States for purposes of this chapter by reason of an election under subsection (g) or (h) of section 6013."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994. 26 USC 32 note.

SEC. 723. INCOME OF PRISONERS DISREGARDED IN DETERMINING EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 32(c)(2) (defining earned income) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause: 26 USC 32.

"(iv) no amount received for services provided by an individual while the individual is an inmate at a penal institution shall be taken into account."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1993. 26 USC 32 note.

Subtitle D—Provisions Relating To Retirement Benefits

SEC. 731. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.

(a) 5-YEAR EXTENSION.—Paragraph (5) of section 420(b) (defining qualified transfer) is amended by striking "1995" and inserting "2000".

(b) MINIMUM BENEFIT REQUIREMENTS.—Paragraph (3) of section 420(c) (relating to requirements of plans transferring assets) is amended to read as follows:

"(3) MAINTENANCE OF BENEFIT REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable health benefits provided by the employer during each taxable year during the benefit maintenance period are substantially the same as the applicable health benefits provided by the employer during the taxable year immediately preceding the taxable year of the qualified transfer.

"(B) ELECTION TO APPLY SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(C) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more benefit maintenance periods, this paragraph shall be applied by taking into account the highest level of benefits required to be provided under subparagraph (A) for such taxable year."

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 420(b)(1)(C) is amended by striking "cost" and inserting "benefits".

(2) Subparagraph (B) of section 420(e)(1) is amended to read as follows:

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A)

shall be reduced by the amount which bears the same ratio to such amount as—

"(i) the value (as of the close of the plan year preceding the year of the qualified transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the qualified current retiree health liability, bears to

"(ii) the present value of the qualified current retiree health liabilities for all plan years (determined without regard to this subparagraph)."

26 USC 420. (3) Subparagraph (D) of section 420(e)(1) is amended by striking "or in calculating applicable employer cost under subsection (c)(3)(B)" and inserting "and shall not be subject to the minimum benefit requirements of subsection (c)(3)".

(4)(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "1991" and inserting "1995".

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "1991" and inserting "1995".

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking "1996" and inserting "2001", and

(ii) by striking "1991" and inserting "1995".

26 USC 420 note. (d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsections (a) and (c)(3) shall apply to taxable years beginning after December 31, 1995.

(2) BENEFITS.—The amendments made by subsections (b) and (c)(1) and (2) shall apply to qualified transfers occurring after the date of the enactment of this Act.

SEC. 732. ROUNDING RULES FOR COST-OF-LIVING ADJUSTMENTS.

(a) COST-OF-LIVING ADJUSTMENT FOR COMPENSATION LIMIT.—Section 401(a)(17)(B) is amended to read as follows:

"(B) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the $150,000 amount in subparagraph (A) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period shall be the calendar quarter beginning October 1, 1993, and any increase which is not a multiple of $10,000 shall be rounded to the next lowest multiple of $10,000."

(b) COST-OF-LIVING ADJUSTMENT FOR MAXIMUM DEFINED BENEFIT AMOUNT AND MAXIMUM ANNUAL ADDITION.—

(1) IN GENERAL.—Section 415(d) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A),

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B), and

Regulations. "(C) the $30,000 amount in subsection (c)(1)(A),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—The regulations prescribed under paragraph (1) shall provide for—

"(A) an adjustment with respect to any calendar year based on the increase in the applicable index for the calendar quarter ending September 30 of the preceding calendar year over such index for the base period, and

"(B) adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(3) BASE PERIOD.—For purposes of paragraph (2)—

"(A) $90,000 AMOUNT.—The base period taken into account for purposes of paragraph (1)(A) is the calendar quarter beginning October 1, 1986.

"(B) SEPARATIONS AFTER DECEMBER 31, 1994.—The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer after December 31, 1994, is the calendar quarter beginning July 1 of the calendar year preceding the calendar year in which such separation occurs.

"(C) SEPARATIONS BEFORE JANUARY 1, 1995.—The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer before January 1, 1995, is the calendar quarter beginning October 1 of the calendar year preceding the calendar year in which such separation occurs.

"(D) $30,000 AMOUNT.—The base period taken into account for purposes of paragraph (1)(C) is the calendar quarter beginning October 1, 1993.

"(4) ROUNDING.—Any increase under subparagraph (A) or (C) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000."

(2) CONFORMING AMENDMENT.—Section 415(c)(1)(A) is amended by striking "(or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A))". 26 USC 415.

(c) COST-OF-LIVING ADJUSTMENT FOR MAXIMUM SALARY DEFERRAL.—Section 402(g)(5) is amended by inserting before the period "; except that any increase under this paragraph which is not a multiple of $500 shall be rounded to the next lowest multiple of $500".

(d) COST-OF-LIVING ADJUSTMENT FOR ELIGIBILITY FOR SIMPLIFIED EMPLOYEE PENSIONS.—Section 408(k)(8) is amended by inserting before the period "; except that any increase in the $300 amount which is not a multiple of $50 shall be rounded to the next lowest multiple of $50".

(e) EFFECTIVE DATES.— 26 USC 401 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1994.

(2) ROUNDING NOT TO RESULT IN DECREASES.—The amendments made by this section providing for the rounding of indexed amounts shall not apply to any year to the extent the rounding would require the indexed amount to be reduced below the amount in effect for years beginning in 1994.

SEC. 733. INCREASE IN INCLUSION OF SOCIAL SECURITY BENEFITS PAID TO NONRESIDENTS.

26 USC 871.

(a) IN GENERAL.—Subparagraph (A) of section 871(a)(3) (relating to taxation of Social Security benefits) is amended by striking "one-half" and inserting "85 percent".

26 USC 871 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits paid after December 31, 1994, in taxable years ending after such date.

Subtitle E—Other Provisions

SEC. 741. PARTNERSHIP DISTRIBUTIONS OF MARKETABLE SECURITIES.

(a) IN GENERAL.—Section 731 (relating to extent of recognition of gain or loss on distribution) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF MARKETABLE SECURITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and section 737—

"(A) the term 'money' includes marketable securities, and

"(B) such securities shall be taken into account at their fair market value as of the date of the distribution.

"(2) MARKETABLE SECURITIES.—For purposes of this subsection:

"(A) IN GENERAL.—The term 'marketable securities' means financial instruments and foreign currencies which are, as of the date of the distribution, actively traded (within the meaning of section 1092(d)(1)).

"(B) OTHER PROPERTY.—Such term includes—

"(i) any interest in—

"(I) a common trust fund, or

"(II) a regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer,

"(ii) any financial instrument which, pursuant to its terms or any other arrangement, is readily convertible into, or exchangeable for, money or marketable securities,

"(iii) any financial instrument the value of which is determined substantially by reference to marketable securities,

"(iv) except to the extent provided in regulations prescribed by the Secretary, any interest in a precious metal which, as of the date of the distribution, is actively traded (within the meaning of section 1092(d)(1)) unless such metal was produced, used, or held in the active conduct of a trade or business by the partnership,

"(v) except as otherwise provided in regulations prescribed by the Secretary, interests in any entity if substantially all of the assets of such entity consist

(directly or indirectly) of marketable securities, money, or both, and

"(vi) to the extent provided in regulations prescribed by the Secretary, any interest in an entity not described in clause (v) but only to the extent of the value of such interest which is attributable to marketable securities, money, or both.

"(C) FINANCIAL INSTRUMENT.—The term 'financial instrument' includes stocks and other equity interests, evidences of indebtedness, options, forward or futures contracts, notional principal contracts, and derivatives.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the distribution from a partnership of a marketable security to a partner if—

"(i) the security was contributed to the partnership by such partner, except to the extent that the value of the distributed security is attributable to marketable securities or money contributed (directly or indirectly) to the entity to which the distributed security relates,

"(ii) to the extent provided in regulations prescribed by the Secretary, the property was not a marketable security when acquired by such partnership, or

"(iii) such partnership is an investment partnership and such partner is an eligible partner thereof.

"(B) LIMITATION ON GAIN RECOGNIZED.—In the case of a distribution of marketable securities to a partner, the amount taken into account under paragraph (1) shall be reduced (but not below zero) by the excess (if any) of—

"(i) such partner's distributive share of the net gain which would be recognized if all of the marketable securities of the same class and issuer as the distributed securities held by the partnership were sold (immediately before the transaction to which the distribution relates) by the partnership for fair market value, over

"(ii) such partner's distributive share of the net gain which is attributable to the marketable securities of the same class and issuer as the distributed securities held by the partnership immediately after the transaction, determined by using the same fair market value as used under clause (i).

Under regulations prescribed by the Secretary, all marketable securities held by the partnership may be treated as marketable securities of the same class and issuer as the distributed securities. Regulations.

"(C) DEFINITIONS RELATING TO INVESTMENT PARTNERSHIPS.—For purposes of subparagraph (A)(iii):

"(i) INVESTMENT PARTNERSHIP.—The term 'investment partnership' means any partnership which has never been engaged in a trade or business and substantially all of the assets (by value) of which have always consisted of—

"(I) money,

"(II) stock in a corporation,

"(III) notes, bonds, debentures, or other evidences of indebtedness,

"(IV) interest rate, currency, or equity notional principal contracts,

"(V) foreign currencies,

"(VI) interests in or derivative financial instruments (including options, forward or futures contracts, short positions, and similar financial instruments) in any asset described in any other subclause of this clause or in any commodity traded on or subject to the rules of a board of trade or commodity exchange,

"(VII) other assets specified in regulations prescribed by the Secretary, or

"(VIII) any combination of the foregoing.

"(ii) EXCEPTION FOR CERTAIN ACTIVITIES.—A partnership shall not be treated as engaged in a trade or business by reason of—

"(I) any activity undertaken as an investor, trader, or dealer in any asset described in clause (i), or

"(II) any other activity specified in regulations prescribed by the Secretary.

"(iii) ELIGIBLE PARTNER.—

"(I) IN GENERAL.—The term 'eligible partner' means any partner who, before the date of the distribution, did not contribute to the partnership any property other than assets described in clause (i).

"(II) EXCEPTION FOR CERTAIN NONRECOGNITION TRANSACTIONS.—The term 'eligible partner' shall not include the transferor or transferee in a nonrecognition transaction involving a transfer of any portion of an interest in a partnership with respect to which the transferor was not an eligible partner.

"(iv) LOOK-THRU OF PARTNERSHIP TIERS.—Except as otherwise provided in regulations prescribed by the Secretary—

"(I) a partnership shall be treated as engaged in any trade or business engaged in by, and as holding (instead of a partnership interest) a proportionate share of the assets of, any other partnership in which the partnership holds a partnership interest, and

"(II) a partner who contributes to a partnership an interest in another partnership shall be treated as contributing a proportionate share of the assets of the other partnership.

If the preceding sentence does not apply under such regulations with respect to any interest held by a partnership in another partnership, the interest in such other partnership shall be treated as if it were specified in a subclause of clause (i).

"(4) BASIS OF SECURITIES DISTRIBUTED.—

"(A) IN GENERAL.—The basis of marketable securities with respect to which gain is recognized by reason of this subsection shall be—

"(i) their basis determined under section 732, increased by

"(ii) the amount of such gain.

"(B) ALLOCATION OF BASIS INCREASE.—Any increase in basis attributable to the gain described in subparagraph (A)(ii) shall be allocated to marketable securities in proportion to their respective amounts of unrealized appreciation before such increase.

"(5) SUBSECTION DISREGARDED IN DETERMINING BASIS OF PARTNER'S INTEREST IN PARTNERSHIP AND OF BASIS OF PARTNERSHIP PROPERTY.—Sections 733 and 734 shall be applied as if no gain were recognized, and no adjustment were made to the basis of property, under this subsection.

"(6) CHARACTER OF GAIN RECOGNIZED.—In the case of a distribution of a marketable security which is an unrealized receivable (as defined in section 751(c)) or an inventory item (as defined in section 751(d)(2)), any gain recognized under this subsection shall be treated as ordinary income to the extent of any increase in the basis of such security attributable to the gain described in paragraph (4)(A)(ii).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations to prevent the avoidance of such purposes."

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of section 737(c)(1) is amended to read as follows: "For purposes of determining the basis of the distributed property (other than money), such increase shall be treated as occurring immediately before the distribution." 26 USC 737.

(2) Section 737 is amended by adding at the end the following new subsection:

"(e) MARKETABLE SECURITIES TREATED AS MONEY.—

"For treatment of marketable securities as money for purposes of this section, see section 731(c)."

(c) EFFECTIVE DATE.— 26 USC 731 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after the date of the enactment of this Act.

(2) CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1995.—The amendments made by this section shall not apply to any marketable security distributed before January 1, 1995, by the partnership which held such security on July 27, 1994.

(3) DISTRIBUTIONS IN LIQUIDATION OF PARTNER'S INTEREST.—The amendments made by this section shall not apply to the distribution of a marketable security in liquidation of a partner's interest in a partnership if—

(A) such liquidation is pursuant to a written contract which was binding on July 15, 1994, and at all times thereafter before the distribution, and

(B) such contract provides for the purchase of such interest not later than a date certain for—

(i) a fixed value of marketable securities that are specified in the contract, or

(ii) other property.

The preceding sentence shall not apply if the partner has the right to elect that such distribution be made other than in marketable securities.

(4) DISTRIBUTIONS IN COMPLETE LIQUIDATION OF PUBLICLY TRADED PARTNERSHIPS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to the distribution of a marketable security in a qualified partnership liquidation if—

(i) the marketable securities were received by the partnership in a nonrecognition transaction in exchange for substantially all of the assets of the partnership,

(ii) the marketable securities are distributed by the partnership within 90 days after their receipt by the partnership, and

(iii) the partnership is liquidated before the beginning of the 1st taxable year of the partnership beginning after December 31, 1997.

(B) QUALIFIED PARTNERSHIP LIQUIDATION.—For purposes of subparagraph (A), the term "qualified partnership liquidation" means—

(i) a complete liquidation of a publicly traded partnership (as defined in section 7704(b) of the Internal Revenue Code of 1986) which is an existing partnership (as defined in section 10211(c)(2) of the Revenue Act of 1987), and

(ii) a complete liquidation of a partnership which is related to a partnership described in clause (i) if such liquidation is related to a complete liquidation of the partnership described in clause (i).

(5) MARKETABLE SECURITIES.—For purposes of this subsection, the term "marketable securities" has the meaning given such term by section 731(c) of the Internal Revenue Code of 1986, as added by this section.

SEC. 742. TAXPAYER IDENTIFICATION NUMBERS REQUIRED AT BIRTH.

26 USC 32.

(a) EARNED INCOME CREDIT.—Clause (i) of section 32(c)(3)(D) is amended to read as follows:

"(i) IN GENERAL.—The requirements of this subparagraph are met if the taxpayer includes the name, age, and TIN of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year."

(b) DEPENDENCY EXEMPTION.—Subsection (e) of section 6109 is amended to read as follows:

"(e) FURNISHING NUMBER FOR DEPENDENTS.—Any taxpayer who claims an exemption under section 151 for any dependent on a return for any taxable year shall include on such return the identifying number (for purposes of this title) of such dependent."

26 USC 32 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns for taxable years beginning after December 31, 1994.

(2) EXCEPTION.—The amendments made by this section shall not apply to—

(A) returns for taxable years beginning in 1995 with respect to individuals who are born after October 31, 1995, and

(B) returns for taxable years beginning in 1996 with respect to individuals who are born after November 30, 1996.

SEC. 743. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by striking "October 1, 1995" and inserting "October 1, 2000". 26 USC 7801 note.

SEC. 744. MODIFICATION OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR CORPORATIONS PARTICIPATING IN TAX SHELTERS.

(a) IN GENERAL.—Subparagraph (C) of section 6662(d)(2) (relating to special rules in cases involving tax shelters) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) SUBPARAGRAPH (B) NOT TO APPLY TO CORPORATIONS.—Subparagraph (B) shall not apply to any item of a corporation which is attributable to a tax shelter."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 6662(d)(2)(C) is amended by striking "In the case of any item" and inserting "In the case of any item of a taxpayer other than a corporation which is".

(2) Clause (iii) of section 6662(d)(2)(C), as redesignated by subsection (a), is amended by striking "clause (i)" and inserting "this subparagraph".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items related to transactions occurring after the date of the enactment of this Act. 26 USC 6662 note.

SEC. 745. MODIFICATION OF AUTHORITY TO SET TERMS AND CONDITIONS FOR SAVINGS BONDS.

(a) IN GENERAL.—Subsection (b) of section 3105 of title 31, United States Code, is amended to read as follows:

"(b)(1) The Secretary may—

"(A) fix the investment yield for savings bonds; and

"(B) change the investment yield on an outstanding savings bond, except that the yield on a bond for the period held may not be decreased below the minimum yield for the period guaranteed on the date of issue.

"(2) The Secretary may prescribe regulations providing that—

"(A) owners of savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection; and

"(B) savings bonds earning a different rate of interest before the regulations are prescribed shall earn a rate of interest consistent with paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after October 31, 1994. 31 USC 3105 note.

Retirement Protection Act of 1994.

Subtitle F—Pension Plan Funding and Premiums

26 USC 1 note.

SEC. 750. SHORT TITLE.

This subtitle may be cited as the "Retirement Protection Act of 1994".

PART I—PENSION PLAN FUNDING

Subpart A—Amendments to the Internal Revenue Code of 1986

SEC. 751. MINIMUM FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ADDITIONAL FUNDING REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

(1) LIMITATIONS ON ADDITIONAL FUNDING REQUIREMENT FOR CERTAIN PLANS.—

26 USC 412.

(A) IN GENERAL.—Paragraph (1) of section 412(l) (relating to additional funding requirements for plans which are not multiemployer plans) is amended by striking "which has an unfunded current liability" and inserting "to which this subsection applies under paragraph (9)".

(B) PLANS TO WHICH REQUIREMENT APPLIES.—Section 412(l) is amended by adding at the end the following new paragraph:

"(9) APPLICABILITY OF SUBSECTION.—

"(A) IN GENERAL.—Except as provided in paragraph (6)(A), this subsection shall apply to a plan for any plan year if its funded current liability percentage for such year is less than 90 percent.

"(B) EXCEPTION FOR CERTAIN PLANS AT LEAST 80 PERCENT FUNDED.—Subparagraph (A) shall not apply to a plan for a plan year if—

"(i) the funded current liability percentage for the plan year is at least 80 percent, and

"(ii) such percentage for each of the 2 immediately preceding plan years (or each of the 2d and 3d immediately preceding plan years) is at least 90 percent.

"(C) FUNDED CURRENT LIABILITY PERCENTAGE.—For purposes of subparagraphs (A) and (B), the term 'funded current liability percentage' has the meaning given such term by paragraph (8)(B), except that such percentage shall be determined for any plan year—

"(i) without regard to paragraph (8)(E), and

"(ii) by using the rate of interest which is the highest rate allowable for the plan year under paragraph (7)(C).

"(D) TRANSITION RULES.—For purposes of this paragraph:

"(i) FUNDED PERCENTAGE FOR YEARS BEFORE 1995.—The funded current liability percentage for any plan year beginning before January 1, 1995, shall be treated as not less than 90 percent only if for such plan year the plan met one of the following requirements (as in effect for such year):

"(I) The full-funding limitation under subsection (c)(7) for the plan was zero.

"(II) The plan had no additional funding requirement under this subsection (or would have had no such requirement if its funded current liability percentage had been determined under subparagraph (C)).

"(III) The plan's additional funding requirement under this subsection did not exceed the lesser of 0.5 percent of current liability or $5,000,000.

"(ii) SPECIAL RULE FOR 1995 AND 1996.—For purposes of determining whether subparagraph (B) applies to any plan year beginning in 1995 or 1996, a plan shall be treated as meeting the requirements of subparagraph (B)(ii) if the plan met the requirements of clause (i) of this subparagraph for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive)."

(2) RELATIONSHIP OF ADDITIONAL FUNDING REQUIREMENT TO FUNDING STANDARD ACCOUNT CHARGES AND CREDITS.—

(A) Clause (ii) of section 412(l)(1)(A) is amended to read as follows: 26 USC 412.

"(ii) the sum of the charges for such plan year under subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B) of subsection (b)(3), plus".

(B) The last sentence in section 412(l)(1) of such Code is amended to read as follows:

"Such increase shall not exceed the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent."

(3) AMENDMENT TO DEFICIT REDUCTION CONTRIBUTION.—Paragraph (2) of section 412(l) is amended—

(A) by striking "plus" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", plus"; and

(C) by adding at the end the following new subparagraph:

"(C) the expected increase in current liability due to benefits accruing during the plan year."

(4) INCREASE IN CURRENT LIABILITY DUE TO CHANGE IN REQUIRED ASSUMPTIONS.—

(A) Paragraph (3) of section 412(l) is amended by adding at the end the following new subparagraphs:

"(D) SPECIAL RULE FOR REQUIRED CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(i) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year shall be increased by the amount necessary to amortize the amount of additional unfunded old liability under the plan in equal annual installments over a period of 12 plan years (beginning with the first plan year beginning after December 31, 1994).

"(ii) ADDITIONAL UNFUNDED OLD LIABILITY.—For purposes of clause (i), the term 'additional unfunded old liability' means the amount (if any) by which—

"(I) the current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the current liability of the plan as of the beginning of such first plan year, valued using the same assumptions used under subclause (I) (other than the assumptions required by paragraph (7)(C)), using the prior interest rate, and using such mortality assumptions as were used to determine current liability for the first plan year beginning after December 31, 1992.

"(iii) PRIOR INTEREST RATE.—For purposes of clause (ii), the term 'prior interest rate' means the rate of interest that is the same percentage of the weighted average under subsection (b)(5)(B)(ii)(I) for the first plan year beginning after December 31, 1994, as the rate of interest used by the plan to determine current liability for the first plan year beginning after December 31, 1992, is of the weighted average under subsection (b)(5)(B)(ii)(I) for such first plan year beginning after December 31, 1992.

"(E) OPTIONAL RULE FOR ADDITIONAL UNFUNDED OLD LIABILITY.—

"(i) IN GENERAL.—If an employer makes an election under clause (ii), the additional unfunded old liability for purposes of subparagraph (D) shall be the amount (if any) by which—

"(I) the unfunded current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the unamortized portion of the unfunded old liability under the plan as of the beginning of the first plan year beginning after December 31, 1994.

"(ii) ELECTION.—

"(I) An employer may irrevocably elect to apply the provisions of this subparagraph as of the beginning of the first plan year beginning after December 31, 1994.

"(II) If an election is made under this clause, the increase under paragraph (1) for any plan year beginning after December 31, 1994, and before January 1, 2002, to which this subsection applies (without regard to this subclause) shall not be less than the increase that would be required under paragraph (1) if the provisions of this title as in effect for the last plan year beginning before January 1, 1995, had remained in effect."

(B) Clause (i) of section 412(l)(4)(B) is amended by inserting ", the unamortized portion of the additional unfunded old liability," after "old liability". 26 USC 412.

(5) APPLICABLE PERCENTAGE FOR DETERMINING UNFUNDED NEW LIABILITY AMOUNT.—Subparagraph (C) of section 412(l)(4) is amended—

(A) by striking ".25" and inserting ".40", and

(B) by striking "35" and inserting "60".

(6) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

(A) Subparagraph (A) of section 412(l)(5) is amended—

(i) by striking "greater of" and inserting "greatest of" before clause (i);

(ii) by striking "or" at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting ", or"; and

(iv) by adding after clause (ii) the following new clause:

"(iii) the additional amount that would be determined under paragraph (4)(A) if the unpredictable contingent event benefit liabilities were included in unfunded new liability notwithstanding paragraph (4)(B)(ii)."

(B) Paragraph (5) of section 412(l) is amended by adding at the end the following new subparagraph:

"(E) LIMITATION.—The present value of the amounts described in subparagraph (A) with respect to any one event shall not exceed the unpredictable contingent event benefit liabilities attributable to that event."

(C) Clause (ii) of section 412(m)(4)(D) is amended—

(i) by striking "greater of" and inserting "greatest of" before subclause (I);

(ii) by striking "or" at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ", or"; and

(iv) by adding after subclause (II) the following new clause:

"(III) 25 percent of the amount determined under subsection (l)(5)(A)(iii) for the plan year."

(7) REQUIRED INTEREST RATE AND MORTALITY ASSUMPTIONS FOR DETERMINING CURRENT LIABILITY.—

(A) IN GENERAL.—Subparagraph (C) of section 412(l)(7) is amended to read as follows:

"(C) INTEREST RATE AND MORTALITY ASSUMPTIONS USED.—Effective for plan years beginning after December 31, 1994— Effective date.

"(i) INTEREST RATE.—

"(I) IN GENERAL.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5), except that the highest rate in the permissible range under subparagraph (B)(ii) thereof shall not exceed the specified percentage under subclause (II) of the weighted average referred to in such subparagraph.

"(II) SPECIFIED PERCENTAGE.—For purposes of subclause (I), the specified percentage shall be determined as follows:

"In the case of plan years beginning in calendar year:	The specified percentage is:
1995	109
1996	108
1997	107
1998	106
1999 and thereafter	105.

"(ii) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(III) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(iii) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (ii)—

"(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (ii)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(III) PLAN YEARS BEGINNING IN 1995.—In the case of any plan year beginning in 1995, a plan may use its own mortality assumptions for individuals who are entitled to benefits under the plan on account of disability."

(B) AMORTIZATION OF UNFUNDED MORTALITY INCREASE AMOUNT.—

(i) IN GENERAL.—Paragraph (2) of section 412(l), as amended by paragraph (3), is amended by striking "plus" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph:

"(D) the aggregate of the unfunded mortality increase amounts."

(ii) UNFUNDED MORTALITY INCREASE AMOUNT.—Section 412(l), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(10) UNFUNDED MORTALITY INCREASE AMOUNT.—

"(A) IN GENERAL.—The unfunded mortality increase amount with respect to each unfunded mortality increase is the amount necessary to amortize such increase in equal annual installments over a period of 10 plan years (beginning with the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III)).

"(B) UNFUNDED MORTALITY INCREASE.—For purposes of subparagraph (A), the term 'unfunded mortality increase' means an amount equal to the excess of—

"(i) the current liability of the plan for the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III), over

"(ii) the current liability of the plan for such plan year which would have been determined if the mortality table in effect for the preceding plan year had been used."

(iii) CONFORMING AMENDMENT.—Clause (i) of section 412(l)(4)(B), as amended by paragraph (4)(B), is amended by inserting "the unamortized portion of each unfunded mortality increase," after "additional unfunded old liability,".

(8) TRANSITION RULE.—Section 412(l), as amended by paragraph (7), is amended by adding at the end the following new paragraph:

"(11) PHASE-IN OF INCREASES IN FUNDING REQUIRED BY RETIREMENT PROTECTION ACT OF 1994.—

"(A) IN GENERAL.—For any applicable plan year, at the election of the employer, the increase under paragraph (1) shall not exceed the greater of—

"(i) the increase that would be required under paragraph (1) if the provisions of this title as in effect for plan years beginning before January 1, 1995, had remained in effect, or

"(ii) the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is nec-

essary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) for the applicable plan year to a percentage equal to the sum of the initial funded current liability percentage of the plan plus the applicable number of percentage points for such applicable plan year.

"(B) APPLICABLE NUMBER OF PERCENTAGE POINTS.—

"(i) INITIAL FUNDED CURRENT LIABILITY PERCENTAGE OF 75 PERCENT OR LESS.—Except as provided in clause (ii), for plans with an initial funded current liability percentage of 75 percent or less, the applicable number of percentage points for the applicable plan year is:

"In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1995	3
1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

"(ii) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percentage points for any such applicable plan year is the sum of—

"(I) 2 percentage points;

"(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;

"(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);

"(IV) for applicable plan years beginning in 2000, 1 percentage point; and

"(V) for applicable plan years beginning in 2001, 2 percentage points.

"(iii) PLANS TO WHICH CLAUSE (ii) APPLIES.—

"(I) IN GENERAL.—Clause (ii) shall apply to a plan for an applicable plan year if the initial funded current liability percentage of such plan is more than 75 percent.

"(II) PLANS INITIALLY UNDER CLAUSE (i).—In the case of a plan which (but for this subclause) has an initial funded current liability percentage of 75 percent or less, clause (ii) (and not clause (i)) shall apply to such plan with respect to applicable plan years beginning after the first applicable plan year for which the sum of the initial funded current liability percentage and the applicable number of percentage points (determined under clause (i)) exceeds 75 percent. For purposes of applying clause (ii) to such a plan,

the initial funded current liability percentage of such plan shall be treated as being the sum referred to in the preceding sentence.

"(C) DEFINITIONS.—For purposes of this paragraph:

"(i) The term 'applicable plan year' means a plan year beginning after December 31, 1994, and before January 1, 2002.

"(ii) The term 'initial funded current liability percentage' means the funded current liability percentage as of the first day of the first plan year beginning after December 31, 1994."

(9) LIQUIDITY REQUIREMENT.—

(A) IN GENERAL.—Section 412(m) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph: 26 USC 412.

"(5) LIQUIDITY REQUIREMENT.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a defined benefit plan (other than a multiemployer plan or a plan described in subsection (l)(6)(A)) which—

"(i) is required to pay installments under this subsection for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph:

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of the base amount with respect to such quarter over the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disburse-

ments from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under clause (i) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funded current liability percentage (as defined in subsection (l)(8)) for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities and such other assets as specified by the Secretary in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph."

(B) EXCISE TAX ON UNPAID LIQUIDITY SHORTFALL.—

26 USC 4971.

(i) Subsection (e) of section 4971 is amended by striking "(a) or (b)" wherever it appears and inserting "(a), (b), or (f)".

(ii) Section 4971 is amended by redesignating subsection (f) as subsection (g) and adding a new subsection (f) to read as follows:

"(f) FAILURE TO PAY LIQUIDITY SHORTFALL.—

"(1) IN GENERAL.—In the case of a plan to which section 412(m)(5) applies, there is hereby imposed a tax of 10 percent of the excess (if any) of—

"(A) the amount of the liquidity shortfall for any quarter, over

"(B) the amount of such shortfall which is paid by the required installment under section 412(m) for such quarter (but only if such installment is paid on or before the due date for such installment).

"(2) ADDITIONAL TAX.—If the plan has a liquidity shortfall as of the close of any quarter and as of the close of each of the following 4 quarters, there is hereby imposed a tax

equal to 100 percent of the amount on which tax was imposed by paragraph (1) for such first quarter.

"(3) DEFINITIONS AND SPECIAL RULE.—

"(A) LIQUIDITY SHORTFALL; QUARTER.—For purposes of this subsection, the terms 'liquidity shortfall' and 'quarter' have the respective meanings given such terms by section 412(m)(5).

"(B) SPECIAL RULE.—If the tax imposed by paragraph (2) is paid with respect to any liquidity shortfall for any quarter, no further tax shall be imposed by this subsection on such shortfall for such quarter."

(C) TREATMENT OF FAILURE TO MAKE CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORTFALL.—Section 401(a) is amended by adding at the end the following new paragraph: 26 USC 401.

"(32) TREATMENT OF FAILURE TO MAKE CERTAIN PAYMENTS IF PLAN HAS LIQUIDITY SHORTFALL.—

"(A) IN GENERAL.—A trust forming part of a pension plan to which section 412(m)(5) applies shall not be treated as failing to constitute a qualified trust under this section merely because such plan ceases to make any payment described in subparagraph (B) during any period that such plan has a liquidity shortfall (as defined in section 412(m)(5)).

"(B) PAYMENTS DESCRIBED.—A payment is described in this subparagraph if such payment is—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during the period referred to in subparagraph (A),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(C) PERIOD OF SHORTFALL.—For purposes of this paragraph, a plan has a liquidity shortfall during the period that there is an underpayment of an installment under section 412(m) by reason of paragraph (5)(A) thereof."

(10) AMENDMENT TO DEFINITION OF FULL-FUNDING LIMITATION.—

(A) Subparagraph (A) of section 412(c)(7) is amended by inserting "(including the expected increase in current liability due to benefits accruing during the plan year)" after "current liability" in clause (i).

(B) Section 412(c)(7) is amended by adding at the end the following new subparagraph:

"(E) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) CURRENT LIABILITY; ASSETS.—For purposes of clause (i)—

"(I) the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof), and

"(II) assets shall not be reduced by any credit balance in the funding standard account."

26 USC 412. (C) Subparagraph (B) of section 412(c)(7) is amended to read as follows:

"(B) CURRENT LIABILITY.—For purposes of subparagraph (D) and subclause (I) of subparagraph (A)(i), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraphs (C) and (D) thereof) and using the rate of interest used under subsection (b)(5)(B)."

(11) REFERENCE TO ACT.—Section 404(g)(4) is amended by striking "the Single-Employer Pension Plan Amendments Act of 1986" and inserting "the Retirement Protection Act of 1994".

26 USC 401 note. (b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1994.

(2) REFERENCE.—The amendment made by subsection (a)(11) shall take effect on the date of the enactment of this Act.

SEC. 752. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.

(a) IN GENERAL.—Paragraph (5) of section 412(c) is amended—

(1) by striking "If the funding method" and inserting the following:

"(A) IN GENERAL.—If the funding method", and

(2) by adding at the end the following new subparagraph:

"(B) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

"(i) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (l)(7)(C)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary.

"(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

"(I) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV of the Employee Retirement Income Security Act of 1974 applies;

"(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section

4001(a)(14) of such Act) which are covered by title IV of such Act (disregarding plans with no unfunded vested benefits) exceed $50,000,000; and

"(III) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the unfunded current liability of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the current liability of the plan before such change."

(b) EFFECTIVE DATE.— 26 USC 412 note.

(1) IN GENERAL.—The amendment made by this section shall apply to changes in assumptions for plan years beginning after October 28, 1993.

(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

(B) such change is not so approved.

SEC. 753. ANTICIPATION OF BARGAINED BENEFIT INCREASES.

(a) IN GENERAL.—Section 412(c) is amended by adding at the end the following new paragraph: 26 USC 412.

"(12) ANTICIPATION OF BENEFIT INCREASES EFFECTIVE IN THE FUTURE.—In determining projected benefits, the funding method of a collectively bargained plan described in section 413(a) (other than a multiemployer plan) shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement applicable to the plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1994, with respect to collective bargaining agreements in effect on or after January 1, 1995. 26 USC 412 note.

SEC. 754. MODIFICATION OF QUARTERLY CONTRIBUTION REQUIREMENT.

(a) IN GENERAL.—Paragraph (1) of section 412(m) is amended—

(1) by inserting "which has a funded current liability percentage (as defined in subsection (l)(8)) for the preceding plan year of less than 100 percent" before "fails", and

(2) by striking "any plan year" and inserting "the plan year".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of enactment of this Act. 26 USC 412 note.

SEC. 755. EXCEPTIONS TO EXCISE TAX ON NONDEDUCTIBLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 4972(c) is amended by adding at the end the following new paragraph:

"(6) EXCEPTIONS.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account—

"(A) contributions that would be deductible under section 404(a)(1)(D) if the plan had more than 100 participants if—

"(i) the plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, and

"(ii) the plan is terminated under section 4041(b) of such Act on or before the last day of the taxable year, and

"(B) contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7), but only to the extent such contributions do not exceed 6 percent of compensation (within the meaning of section 404(a)) paid or accrued (during the taxable year for which the contributions were made) to beneficiaries under the plans.

If 1 or more defined benefit plans were taken into account in determining the amount allowable as a deduction under section 404 for contributions to any defined contribution plan, subparagraph (B) shall apply only if such defined benefit plans are described in section 404(a)(1)(D). For purposes of subparagraph (B), the deductible limits under section 404(a)(7) shall first be applied to amounts contributed to a defined benefit plan and then to amounts described in subparagraph (B)."

26 USC 4972 note.

(b) EFFECTIVE DATE.—

(1) SECTION 4972(c)(6)(A).—Section 4972(c)(6)(A) of the Internal Revenue Code of 1986 (as added by this section) shall apply to taxable years ending on or after the date of enactment of this Act.

(2) SECTION 4972(c)(6)(B).—Section 4972(c)(6)(B) of such Code (as added by this section) shall apply to taxable years ending on or after December 31, 1992.

Subpart B—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 761. MINIMUM FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ADDITIONAL FUNDING REQUIREMENTS FOR SINGLE-EMPLOYER PLANS.—

(1) LIMITATIONS ON ADDITIONAL FUNDING REQUIREMENT FOR CERTAIN PLANS.—

(A) IN GENERAL.—Paragraph (1) of section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by striking "which has an unfunded current liability" and inserting "to which this subsection applies under paragraph (9)".

(B) PLANS TO WHICH REQUIREMENT APPLIES.—Section 302(d) of such Act is amended by adding at the end the following new paragraph:

"(9) APPLICABILITY OF SUBSECTION.—

"(A) IN GENERAL.—Except as provided in paragraph (6)(A), this subsection shall apply to a plan for any plan year if its funded current liability percentage for such year is less than 90 percent.

"(B) EXCEPTION FOR CERTAIN PLANS AT LEAST 80 PERCENT FUNDED.—Subparagraph (A) shall not apply to a plan for a plan year if—

"(i) the funded current liability percentage for the plan year is at least 80 percent, and

"(ii) such percentage for each of the 2 immediately preceding plan years (or each of the 2d and 3d immediately preceding plan years) is at least 90 percent.

"(C) FUNDED CURRENT LIABILITY PERCENTAGE.—For purposes of subparagraphs (A) and (B), the term 'funded current liability percentage' has the meaning given such term by paragraph (8)(B), except that such percentage shall be determined for any plan year—

"(i) without regard to paragraph (8)(E), and

"(ii) by using the rate of interest which is the highest rate allowable for the plan year under paragraph (7)(C).

"(D) TRANSITION RULES.—For purposes of this paragraph:

"(i) FUNDED PERCENTAGE FOR YEARS BEFORE 1995.—The funded current liability percentage for any plan year beginning before January 1, 1995, shall be treated as not less than 90 percent only if for such plan year the plan met one of the following requirements (as in effect for such year):

"(I) The full-funding limitation under subsection (c)(7) for the plan was zero.

"(II) The plan had no additional funding requirement under this subsection (or would have had no such requirement if its funded current liability percentage had been determined under subparagraph (C)).

"(III) The plan's additional funding requirement under this subsection did not exceed the lesser of 0.5 percent of current liability or $5,000,000.

"(ii) SPECIAL RULE FOR 1995 AND 1996.—For purposes of determining whether subparagraph (B) applies to any plan year beginning in 1995 or 1996, a plan shall be treated as meeting the requirements of subparagraph (B)(ii) if the plan met the requirements of clause (i) of this subparagraph for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive)."

(2) RELATIONSHIP OF ADDITIONAL FUNDING REQUIREMENT TO FUNDING STANDARD ACCOUNT CHARGES AND CREDITS.—

(A) Clause (ii) of section 302(d)(1)(A) of such Act is amended to read as follows: 29 USC 1082.

"(ii) the sum of the charges for such plan year under subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B) of subsection (b)(3), plus".

(B) The last sentence in section 302(d)(1) of such Act is amended to read as follows:

"Such increase shall not exceed the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent."

29 USC 1082.

(3) AMENDMENT TO DEFICIT REDUCTION CONTRIBUTION.—Paragraph (2) of section 302(d) of such Act is amended—

(A) by striking "plus" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", plus"; and

(C) by adding at the end the following new subparagraph:

"(C) the expected increase in current liability due to benefits accruing during the plan year."

(4) INCREASE IN CURRENT LIABILITY DUE TO CHANGE IN REQUIRED ASSUMPTIONS.—

(A) Paragraph (3) of section 302(d) of such Act is amended by adding at the end the following new subparagraphs:

"(D) SPECIAL RULE FOR REQUIRED CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(i) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year shall be increased by the amount necessary to amortize the amount of additional unfunded old liability under the plan in equal annual installments over a period of 12 plan years (beginning with the first plan year beginning after December 31, 1994).

"(ii) ADDITIONAL UNFUNDED OLD LIABILITY.—For purposes of clause (i), the term 'additional unfunded old liability' means the amount (if any) by which—

"(I) the current liability of the plan as of the beginning of the first plan year beginning after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the current liability of the plan as of the beginning of such first plan year, valued using the same assumptions used under subclause (I) (other than the assumptions required by paragraph (7)(C)), using the prior interest rate, and using such mortality assumptions as were used to determine current liability for the first plan year beginning after December 31, 1992.

"(iii) PRIOR INTEREST RATE.—For purposes of clause (ii), the term 'prior interest rate' means the rate of interest that is the same percentage of the weighted average under subsection (b)(5)(B)(ii)(I) for the first plan year beginning after December 31, 1994, as the rate of interest used by the plan to determine current liability for the first plan year beginning after December 31, 1992, is of the weighted average under subsection (b)(5)(B)(ii)(I) for such first plan year beginning after December 31, 1992.

"(E) OPTIONAL RULE FOR ADDITIONAL UNFUNDED OLD LIABILITY.—

"(i) IN GENERAL.—If an employer makes an election under clause (ii), the additional unfunded old liability for purposes of subparagraph (D) shall be the amount (if any) by which—

"(I) the unfunded current liability of the plan as of the beginning of the first plan year beginning

after December 31, 1994, valued using the assumptions required by paragraph (7)(C) as in effect for plan years beginning after December 31, 1994, exceeds

"(II) the unamortized portion of the unfunded old liability under the plan as of the beginning of the first plan year beginning after December 31, 1994.

"(ii) ELECTION.—

"(I) An employer may irrevocably elect to apply the provisions of this subparagraph as of the beginning of the first plan year beginning after December 31, 1994.

"(II) If an election is made under this clause, the increase under paragraph (1) for any plan year beginning after December 31, 1994, and before January 1, 2002, to which this subsection applies (without regard to this subclause) shall not be less than the increase that would be required under paragraph (1) if the provisions of this title as in effect for the last plan year beginning before January 1, 1995, had remained in effect."

(B) Clause (i) of section 302(d)(4)(B) of such Act is amended by inserting ", the unamortized portion of the additional unfunded old liability," after "old liability". 29 USC 1082.

(5) APPLICABLE PERCENTAGE FOR DETERMINING UNFUNDED NEW LIABILITY AMOUNT.—Subparagraph (C) of section 302(d)(4) of such Act is amended—

(A) by striking ".25" and inserting ".40", and

(B) by striking "35" and inserting "60".

(6) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

(A) Subparagraph (A) of section 302(d)(5) of such Act is amended—

(i) by striking "greater of" and inserting "greatest of" before clause (i);

(ii) by striking "or" at the end of clause (i);

(iii) by striking the period at the end of clause (ii) and inserting ", or"; and

(iv) by adding after clause (ii) the following new clause:

"(iii) the additional amount that would be determined under paragraph (4)(A) if the unpredictable contingent event benefit liabilities were included in unfunded new liability notwithstanding paragraph (4)(B)(ii)."

(B) Paragraph (5) of section 302(d) of such Act is amended by adding at the end the following new subparagraph:

"(E) LIMITATION.—The present value of the amounts described in subparagraph (A) with respect to any one event shall not exceed the unpredictable contingent event benefit liabilities attributable to that event."

(C) Clause (ii) of section 302(e)(4)(D) of such Act is amended—

(i) by striking "greater of" and inserting "greatest of" before subclause (I);

(ii) by striking "or" at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ", or"; and

(iv) by adding after subclause (II) the following new clause:

"(III) 25 percent of the amount determined under subsection (d)(5)(A)(iii) for the plan year."

(7) REQUIRED INTEREST RATE AND MORTALITY ASSUMPTIONS FOR DETERMINING CURRENT LIABILITY.—

(A) IN GENERAL.—Subparagraph (C) of section 302(d)(7) of such Act is amended to read as follows:

29 USC 1082.

"(C) INTEREST RATE AND MORTALITY ASSUMPTIONS USED.—Effective for plan years beginning after December 31, 1994—

Effective date.

"(i) INTEREST RATE.—

"(I) IN GENERAL.—The rate of interest used to determine current liability under this subsection shall be the rate of interest used under subsection (b)(5), except that the highest rate in the permissible range under subparagraph (B)(ii) thereof shall not exceed the specified percentage under subclause (II) of the weighted average referred to in such subparagraph.

"(II) SPECIFIED PERCENTAGE.—For purposes of subclause (I), the specified percentage shall be determined as follows:

"In the case of plan years beginning in calendar year:	The specified percentage is:
1995	109
1996	108
1997	107
1998	106
1999 and thereafter	105.

"(ii) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this subsection shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary of the Treasury shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(III) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subsection and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience. Regulations.

"(iii) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (ii)—

"(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (ii)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(III) PLAN YEARS BEGINNING IN 1995.—In the case of any plan year beginning in 1995, a plan may use its own mortality assumptions for individuals who are entitled to benefits under the plan on account of disability."

(B) AMORTIZATION OF UNFUNDED MORTALITY INCREASE AMOUNT.—

(i) IN GENERAL.—Paragraph (2) of section 302(d) of such Act, as amended by paragraph (3), is amended by striking "plus" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraph: 29 USC 1082.

"(D) the aggregate of the unfunded mortality increase amounts."

(ii) UNFUNDED MORTALITY INCREASE AMOUNT.—Section 302(d) of such Act, as amended by paragraph (1), is amended by adding at the end the following new paragraph:

"(10) UNFUNDED MORTALITY INCREASE AMOUNT.—

"(A) IN GENERAL.—The unfunded mortality increase amount with respect to each unfunded mortality increase is the amount necessary to amortize such increase in equal annual installments over a period of 10 plan years (beginning with the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III)).

"(B) UNFUNDED MORTALITY INCREASE.—For purposes of subparagraph (A), the term 'unfunded mortality increase' means an amount equal to the excess of—

"(i) the current liability of the plan for the first plan year for which a plan uses any new mortality table issued under paragraph (7)(C)(ii)(II) or (III), over

"(ii) the current liability of the plan for such plan year which would have been determined if the mortality table in effect for the preceding plan year had been used."

(iii) CONFORMING AMENDMENT.—Clause (i) of section 302(d)(4)(B) of such Act, as amended by paragraph (4)(B), is amended by inserting "the unamortized portion of each unfunded mortality increase," after "additional unfunded old liability,".

(8) TRANSITION RULE.—Section 302(d) of such Act, as amended by paragraph (7), is amended by adding at the end the following new paragraph:

"(11) PHASE-IN OF INCREASES IN FUNDING REQUIRED BY RETIREMENT PROTECTION ACT OF 1994.—

"(A) IN GENERAL.—For any applicable plan year, at the election of the employer, the increase under paragraph (1) shall not exceed the greater of—

"(i) the increase that would be required under paragraph (1) if the provisions of this title as in effect for plan years beginning before January 1, 1995, had remained in effect, or

"(ii) the amount which, after taking into account charges (other than the additional charge under this subsection) and credits under subsection (b), is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) for the applicable plan year to a percentage equal to the sum of the initial funded current liability percentage of the plan plus the applicable number of percentage points for such applicable plan year.

"(B) APPLICABLE NUMBER OF PERCENTAGE POINTS.—

"(i) INITIAL FUNDED CURRENT LIABILITY PERCENTAGE OF 75 PERCENT OR LESS.—Except as provided in clause (ii), for plans with an initial funded current liability percentage of 75 percent or less, the applicable number of percentage points for the applicable plan year is:

"In the case of applicable plan years beginning in:	The applicable number of percentage points is:
1995	3
1996	6
1997	9
1998	12
1999	15
2000	19
2001	24.

"(ii) OTHER CASES.—In the case of a plan to which this clause applies, the applicable number of percent-

age points for any such applicable plan year is the sum of—

"(I) 2 percentage points;

"(II) the applicable number of percentage points (if any) under this clause for the preceding applicable plan year;

"(III) the product of .10 multiplied by the excess (if any) of (a) 85 percentage points over (b) the sum of the initial funded current liability percentage and the number determined under subclause (II);

"(IV) for applicable plan years beginning in 2000, 1 percentage point; and

"(V) for applicable plan years beginning in 2001, 2 percentage points.

"(iii) PLANS TO WHICH CLAUSE (ii) APPLIES.—

"(I) IN GENERAL.—Clause (ii) shall apply to a plan for an applicable plan year if the initial funded current liability percentage of such plan is more than 75 percent.

"(II) PLANS INITIALLY UNDER CLAUSE (i).—In the case of a plan which (but for this subclause) has an initial funded current liability percentage of 75 percent or less, clause (ii) (and not clause (i)) shall apply to such plan with respect to applicable plan years beginning after the first applicable plan year for which the sum of the initial funded current liability percentage and the applicable number of percentage points (determined under clause (i)) exceeds 75 percent. For purposes of applying clause (ii) to such a plan, the initial funded current liability percentage of such plan shall be treated as being the sum referred to in the preceding sentence.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'applicable plan year' means a plan year beginning after December 31, 1994, and before January 1, 2002.

"(ii) The term 'initial funded current liability percentage' means the funded current liability percentage as of the first day of the first plan year beginning after December 31, 1994."

(9) LIQUIDITY REQUIREMENT.—

(A) IN GENERAL.—Section 302(e) of such Act is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph: 29 USC 1082.

"(5) LIQUIDITY REQUIREMENT.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a defined benefit plan (other than

a multiemployer plan or a plan described in subsection (d)(6)(A)) which—

"(i) is required to pay installments under this subsection for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funded current liability percentage (taking into account the expected increase in current liability due to benefits accruing during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of the base amount with respect to such quarter over the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under clause (i) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funded current liability percentage (as defined in subsection (d)(8)) for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disburse-

ments as the Secretary of the Treasury shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities and such other assets as specified by the Secretary of the Treasury in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph."

(B) LIMITATION ON DISTRIBUTIONS OTHER THAN LIFE ANNUITIES PAID BY THE PLAN.—

(i) Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(e) LIMITATION ON DISTRIBUTIONS OTHER THAN LIFE ANNUITIES PAID BY THE PLAN.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, the fiduciary of a pension plan that is subject to the additional funding requirements of section 302(d) shall not permit a prohibited payment to be made from a plan during a period in which such plan has a liquidity shortfall (as defined in section 302(e)(5)).

"(2) PROHIBITED PAYMENT.—For purposes of paragraph (1), the term 'prohibited payment' means—

"(A) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)), that occurs during the period referred to in paragraph (1),

"(B) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(C) any other payment specified by the Secretary of the Treasury by regulations.

"(3) PERIOD OF SHORTFALL.—For purposes of this subsection, a plan has a liquidity shortfall during the period that there is an underpayment of an installment under section 302(e) by reason of paragraph (5)(A) thereof.

"(4) COORDINATION WITH OTHER PROVISIONS.—Compliance with this subsection shall not constitute a violation of any other provision of this Act."

(ii) Section 502 of such Act is amended by adding at the end a new subsection (m) to read as follows: 29 USC 1132.

"(m) In the case of a distribution to a pension plan participant or beneficiary in violation of section 206(e) by a plan fiduciary, the Secretary shall assess a penalty against such fiduciary in an amount equal to the value of the distribution. Such penalty shall not exceed $10,000 for each such distribution."

(10) AMENDMENT TO DEFINITION OF FULL-FUNDING LIMITATION.—

(A) Subparagraph (A) of section 302(c)(7) of such Act is amended by inserting "(including the expected increase 29 USC 1082.

in current liability due to benefits accruing during the plan year)" after "current liability" in clause (i).

29 USC 1082.

(B) Section 302(c)(7) of such Act is amended by adding at the end the following new subparagraph:

"(E) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) CURRENT LIABILITY; ASSETS.—For purposes of clause (i)—

"(I) the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof), and

"(II) assets shall not be reduced by any credit balance in the funding standard account."

(C) Subparagraph (B) of section 302(c)(7) of such Act is amended to read as follows:

"(B) CURRENT LIABILITY.—For purposes of subparagraph (D) and subclause (I) of subparagraph (A)(i), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraphs (C) and (D) thereof) and using the rate of interest used under subsection (b)(5)(B)."

(11) DEFINITION OF CONTRIBUTING SPONSOR.—Paragraph (13) of section 4001(a) of such Act (29 U.S.C. 1301(a)(13)) is amended by striking "means a person—" and all that follows and inserting "means a person described in section 302(c)(11)(A) of this Act (without regard to section 302(c)(11)(B) of this Act) or section 412(c)(11)(A) of the Internal Revenue Code of 1986 (without regard to section 412(c)(11)(B) of such Code)."

29 USC 1056 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 1994.

(2) CONTRIBUTING SPONSOR.—The amendment made by subsection (a)(11) shall be effective as if included in the Pension Protection Act.

SEC. 762. LIMITATION ON CHANGES IN CURRENT LIABILITY ASSUMPTIONS.

(a) IN GENERAL.—Paragraph (5) of section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(5)) is amended—

(1) by striking "If the funding method" and inserting the following:

"(A) IN GENERAL.—If the funding method", and

(2) by adding at the end the following new subparagraph:

"(B) APPROVAL REQUIRED FOR CERTAIN CHANGES IN ASSUMPTIONS BY CERTAIN SINGLE-EMPLOYER PLANS SUBJECT TO ADDITIONAL FUNDING REQUIREMENT.—

"(i) IN GENERAL.—No actuarial assumption (other than the assumptions described in subsection (d)(7)(C)) used to determine the current liability for a plan to which this subparagraph applies may be changed without the approval of the Secretary of the Treasury.

"(ii) PLANS TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to a plan only if—

"(I) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV applies;

"(II) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed $50,000,000; and

"(III) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the unfunded current liability of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the current liability of the plan before such change."

(b) EFFECTIVE DATE.— 29 USC 1082 note.

(1) IN GENERAL.—The amendment made by this section shall apply to changes in assumptions for plan years beginning after October 28, 1993.

(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

(B) such change is not so approved.

SEC. 763. ANTICIPATION OF BARGAINED BENEFIT INCREASES.

(a) IN GENERAL.—Section 302(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)) is amended by adding at the end the following new paragraph:

"(12) ANTICIPATION OF BENEFIT INCREASES EFFECTIVE IN THE FUTURE.—In determining projected benefits, the funding method of a collectively bargained plan described in section 413(a) of the Internal Revenue Code of 1986 (other than a multiemployer plan) shall anticipate benefit increases scheduled to take effect during the term of the collective bargaining agreement applicable to the plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1994 with respect to collective bargaining agreements in effect on or after January 1, 1995. 29 USC 1082 note.

SEC. 764. MODIFICATION OF QUARTERLY CONTRIBUTION REQUIREMENT.

(a) IN GENERAL.—Paragraph (1) of section 302(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(e)) is amended—

(1) by inserting "which has a funded current liability percentage (as defined in subsection (d)(8)) for the preceding plan year of less than 100 percent" before "fails", and

(2) by striking "any plan year" and inserting "the plan year".

29 USC 1082 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after the date of enactment of this Act.

Subpart C—Other Funding Provisions

SEC. 766. PROHIBITION ON BENEFIT INCREASES WHERE PLAN SPONSOR IS IN BANKRUPTCY.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (i) as (j) and inserting after subsection (h) the following new subsection:

"(i)(1) In the case of a plan described in paragraph (3) which is maintained by an employer that is a debtor in a case under title 11, United States Code, or similar Federal or State law, no amendment of the plan which increases the liabilities of the plan by reason of—

"(A) any increase in benefits,

"(B) any change in the accrual of benefits, or

"(C) any change in the rate at which benefits become nonforfeitable under the plan,

with respect to employees of the debtor, shall be effective prior to the effective date of such employer's plan of reorganization.

"(2) Paragraph (1) shall not apply to any plan amendment that—

"(A) the Secretary of the Treasury determines to be reasonable and that provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor,

"(B) only repeals an amendment described in section 302(c)(8),

"(C) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986, or

"(D) was adopted prior to, or pursuant to a collective bargaining agreement entered into prior to, the date on which the employer became a debtor in a case under title 11, United States Code, or similar Federal or State law.

"(3) This subsection shall apply only to plans (other than multiemployer plans) covered under section 4021 of this Act for which the funded current liability percentage (within the meaning of section 302(d)(8) of this Act) is less than 100 percent after taking into account the effect of the amendment.

"(4) For purposes of this subsection, the term 'employer' has the meaning set forth in section 302(c)(11)(A), without regard to section 302(c)(11)(B)."

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 401(a), as amended by section 751 of this Act, is further amended by adding at the end the following new paragraph:

"(33) PROHIBITION ON BENEFIT INCREASES WHILE SPONSOR IS IN BANKRUPTCY.—

"(A) IN GENERAL.—A trust which is part of a plan to which this paragraph applies shall not constitute a qualified trust under this section if an amendment to such plan is adopted while the employer is a debtor in a case under title 11, United States Code, or similar Federal or State law, if such amendment increases liabilities of the plan by reason of—

"(i) any increase in benefits,

"(ii) any change in the accrual of benefits, or

"(iii) any change in the rate at which benefits become nonforfeitable under the plan,

with respect to employees of the debtor, and such amendment is effective prior to the effective date of such employer's plan of reorganization.

"(B) EXCEPTIONS.—This paragraph shall not apply to any plan amendment if—

"(i) the plan, were such amendment to take effect, would have a funded current liability percentage (as defined in section 412(l)(8)) of 100 percent or more,

"(ii) the Secretary determines that such amendment is reasonable and provides for only de minimis increases in the liabilities of the plan with respect to employees of the debtor,

"(iii) such amendment only repeals an amendment described in subsection 412(c)(8), or

"(iv) such amendment is required as a condition of qualification under this part.

"(C) PLANS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply only to plans (other than multiemployer plans) covered under section 4021 of the Employee Retirement Income Security Act of 1974.

"(D) EMPLOYER.—For purposes of this paragraph, the term 'employer' means the employer referred to in section 412(c)(11) (without regard to subparagraph (B) thereof)."

(c) EFFECTIVE DATE OF PLAN AMENDMENT.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) is amended by inserting at the end the following new subsection:

"(f) For purposes of this section, the effective date of a plan amendment described in section 204(i)(1) shall be the effective date of the plan of reorganization of the employer described in section 204(i)(1) or, if later, the effective date stated in such amendment."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan amendments adopted on or after the date of enactment of this Act. 26 USC 401 note.

SEC. 767. SINGLE SUM DISTRIBUTIONS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 RELATING TO MINIMUM BENEFITS.—

(1) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON MANDATORY DISTRIBUTIONS.—Subparagraph (B) of section 411(a)(11) is amended to read as follows:

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be calculated in accordance with section 417(e)(3)."

(2) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Paragraph (3) of section 417(e) is amended to read as follows:

26 USC 417.

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—

"(i) PRESENT VALUE.—Except as provided in subparagraph (B), for purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(ii) DEFINITIONS.—For purposes of clause (i)—

"(I) APPLICABLE MORTALITY TABLE.—The term 'applicable mortality table' means the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5)).

"(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary may by regulations prescribe.

"(B) EXCEPTION.—In the case of a distribution from a plan that was adopted and in effect before the date of the enactment of the Retirement Protection Act of 1994, the present value of any distribution made before the earlier of—

"(i) the later of the date a plan amendment applying subparagraph (A) is adopted or made effective, or

"(ii) the first day of the first plan year beginning after December 31, 1999,

shall be calculated, for purposes of paragraphs (1) and (2), using the interest rate determined under the regulations of the Pension Benefit Guaranty Corporation for determining the present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 417(e)(3) as in effect on the day before such date of enactment."

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 RELATING TO MAXIMUM BENEFITS.—Subparagraph (E) of section 415(b)(2) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively,

(2) by striking clause (i) and inserting the following new clauses:

"(i) Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

"(ii) For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3), the applicable interest rate (as defined in section 417(e)(3)) shall be substituted for '5 percent' in clause (i).", and

(3) by adding at the end the following new clause:

"(v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date the adjustment is being made (without regard to any other subparagraph of section 807(d)(5))."

(c) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON MANDATORY DISTRIBUTIONS.—Section 203(e)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the present value shall be calculated in accordance with section 205(g)(3)."

(2) DETERMINATION OF PRESENT VALUE FOR PURPOSES OF RESTRICTIONS ON CASH-OUTS.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—

"(i) PRESENT VALUE.—Except as provided in subparagraph (B), for purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(ii) DEFINITIONS.—For purposes of clause (i)—

"(I) APPLICABLE MORTALITY TABLE.—The term 'applicable mortality table' means the table prescribed by the Secretary of the Treasury. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of section 807(d)(5) of such Code).

"(II) APPLICABLE INTEREST RATE.—The term 'applicable interest rate' means the annual rate of interest on 30-year Treasury securities for the month before the date of distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

"(B) EXCEPTION.—In the case of a distribution from a plan that was adopted and in effect prior to the date of the enactment of the Retirement Protection Act of 1994, the present value of any distribution made before the earlier of—

"(i) the later of when a plan amendment applying subparagraph (A) is adopted or made effective, or

"(ii) the first day of the first plan year beginning after December 31, 1999,

shall be calculated, for purposes of paragraphs (1) and (2), using the interest rate determined under the regulations of the Pension Benefit Guaranty Corporation for determining the present value of a lump sum distribution on plan termination that were in effect on September 1, 1993, and using the provisions of the plan as in effect on the day before such date of enactment; but only if such provisions of the plan met the requirements of section 205(g)(3) as in effect on the day before such date of enactment."

26 USC 411 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years and limitation years beginning after December 31, 1994; except that an employer may elect to treat the amendments made by this section as being effective on or after the date of the enactment of this Act.

(2) NO REDUCTION IN ACCRUED BENEFITS.—A participant's accrued benefit shall not be considered to be reduced in violation of section 411(d)(6) of the Internal Revenue Code of 1986 or section 204(g) of the Employee Retirement Income Security Act of 1974 merely because (A) the benefit is determined in accordance with section 417(e)(3)(A) of such Code, as amended by this Act, or section 205(g)(3) of the Employee Retirement Income Security Act of 1974, as amended by this Act, or (B) the plan applies section 415(b)(2)(E) of such Code, as amended by this Act.

(3) SECTION 415.—

(A) NO REDUCTION REQUIRED.—An accrued benefit shall not be required to be reduced below the accrued benefit as of the last day of the last plan year beginning before January 1, 1995, merely because of the amendments made by subsection (b).

(B) TIMING OF PLAN AMENDMENT.—A plan that operates in accordance with the amendments made by subsection (b) shall not be treated as failing to satisfy section 401(a) of the Internal Revenue Code of 1986 or as not being operated in accordance with the provisions of the plan until such date as the Secretary of the Treasury provides merely because the plan has not been amended to include the amendments made by subsection (b).

SEC. 768. ADJUSTMENTS TO LIEN FOR MISSED MINIMUM FUNDING CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) CLARIFICATION OF APPLICABILITY OF PROVISION.—Paragraph (2) of section 412(n) is amended by adding at the end the following new sentence: "This subsection shall not apply to any plan to which section 4021 of the Employee Retirement

26 USC 412.

Income Security Act of 1974 does not apply (as such section is in effect on the date of the enactment of the Retirement Protection Act of 1994).".

(2) REPEAL OF $1,000,000 OFFSET.—Paragraph (3) of section 412(n) is amended to read as follows: 26 USC 412.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(A) for plan years beginning after 1987, and

"(B) for which payment has not been made before the due date."

(3) REPEAL OF 60-DAY DELAY.—Section 412(n)(4)(B) is amended by striking "60th day following the".

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) CLARIFICATION OF APPLICABILITY OF PROVISION.—Section 302(f)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(f)(1)) is amended by striking "to which this section applies" and inserting "covered under section 4021 of this Act".

(2) REPEAL OF $1,000,000 OFFSET.—Paragraph (3) of section 302(f) of such Act is amended to read as follows:

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

"(A) for plan years beginning after 1987, and

"(B) for which payment has not been made before the due date."

(3) REPEAL OF 60-DAY DELAY.—Section 302(f)(4)(B) of such Act is amended by striking "60th day following the".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 412 of the Internal Revenue Code of 1986 or under part 3 of subtitle B of the Employee Retirement Income Security Act of 1974 that become due on or after the date of enactment. 26 USC 412 note.

SEC. 769. SPECIAL FUNDING RULES FOR CERTAIN PLANS. 26 USC 412 note.

(a) FUNDING RULES NOT TO APPLY TO CERTAIN PLANS.—Any changes made by this Act to section 412 of the Internal Revenue Code of 1986 or to part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 shall not apply to—

(1) a plan which is, on the date of enactment of this Act, subject to a restoration payment schedule order issued by the Pension Benefit Guaranty Corporation that meets the requirements of section 1.412(c)(1)–3 of the Treasury Regulations, or

(2) a plan established by an affected air carrier (as defined under section 4001(a)(14)(C)(ii)(I) of such Act) and assumed by a new plan sponsor pursuant to the terms of a written agreement with the Pension Benefit Guaranty Corporation dated January 5, 1993, and approved by the United States Bankruptcy Court for the District of Delaware on December 30, 1992.

(b) CHANGE IN ACTUARIAL METHOD.—Any amortization installments for bases established under section 412(b) of the Internal

Revenue Code of 1986 and section 302(b) of the Employee Retirement Income Security Act of 1974 for plan years beginning after December 31, 1987, and before January 1, 1993, by reason of nonelective changes under the frozen entry age actuarial cost method shall not be included in the calculation of offsets under section 412(l)(1)(A)(ii) of such Code and section 302(d)(1)(A)(ii) of such Act for the 1st 5 plan years beginning after December 31, 1994.

PART II—AMENDMENTS RELATED TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 771. REPORTABLE EVENTS.

(a) RESPONSIBILITY FOR REPORTABLE EVENTS REPORTING.—Section 4043(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1343(a)) is amended—

(1) in the first sentence, by inserting "or the contributing sponsor" before "knows or has reason to know";

(2) in the first sentence, by inserting ", unless a notice otherwise required under this subsection has already been provided with respect to such event" before the period at the end; and

(3) by striking the last sentence.

(b) NOTIFICATION THAT EVENT IS ABOUT TO OCCUR.—Section 4043 of such Act is amended by redesignating subsections (b), (c), and (d) as (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The requirements of this subsection shall be applicable to a contributing sponsor if, as of the close of the preceding plan year—

"(A) the aggregate unfunded vested benefits (as determined under section 4006(a)(3)(E)(iii)) of plans subject to this title which are maintained by such sponsor and members of such sponsor's controlled groups (disregarding plans with no unfunded vested benefits) exceed $50,000,000, and

"(B) the funded vested benefit percentage for such plans is less than 90 percent.

For purposes of subparagraph (B), the funded vested benefit percentage means the percentage which the aggregate value of the assets of such plans bears to the aggregate vested benefits of such plans (determined in accordance with section 4006(a)(3)(E)(iii)).

"(2) This subsection shall not apply to an event if the contributing sponsor, or the member of the contributing sponsor's controlled group to which the event relates, is—

"(A) a person subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, or

"(B) a subsidiary (as defined for purposes of such Act) of a person subject to such reporting requirements.

"(3) No later than 30 days prior to the effective date of an event described in paragraph (9), (10), (11), (12), or (13) of subsection (c), a contributing sponsor to which the requirements of this subsection apply shall notify the corporation that the event is about to occur.

"(4) The corporation may waive the requirement of this subsection with respect to any or all reportable events with respect to any contributing sponsor."

(c) NEW REPORTABLE EVENTS.—Subsection (c) of section 4043 of such Act (as redesignated by subsection (b)) is amended— 29 USC 1343.

(1) by striking the "or" at the end of paragraph (8);

(2) by striking paragraph (9); and

(3) by inserting after paragraph (8) the following new paragraphs:

"(9) when, as a result of an event, a person ceases to be a member of the controlled group;

"(10) when a contributing sponsor or a member of a contributing sponsor's controlled group liquidates in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State;

"(11) when a contributing sponsor or a member of a contributing sponsor's controlled group declares an extraordinary dividend (as defined in section 1059(c) of the Internal Revenue Code of 1986) or redeems, in any 12-month period, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of a contributing sponsor and all members of its controlled group;

"(12) when, in any 12-month period, an aggregate of 3 percent or more of the benefit liabilities of a plan covered by this title and maintained by a contributing sponsor or a member of its controlled group are transferred to a person that is not a member of the controlled group or to a plan or plans maintained by a person or persons that are not such a contributing sponsor or a member of its controlled group; or

"(13) when any other event occurs that may be indicative of a need to terminate the plan and that is prescribed by the corporation in regulations."

(d) DISCLOSURE EXEMPTION.—Section 4043 of such Act is amended by adding at the end the following new subsection:

"(f) Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 4043 of such Act, and subsections (d) and (e) of such section 4043 (as redesignated by subsection (b)), are each amended by striking "subsection (b)" each place it appears and inserting "subsection (c)".

(2) Section 4042(a)(3) of such Act is amended by striking "4043(b)(7)" and inserting "4043(c)(7)". 29 USC 1342.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective for events occurring 60 days or more after the date of enactment of this Act. 29 USC 1342 note.

SEC. 772. CERTAIN INFORMATION REQUIRED TO BE FURNISHED TO PBGC.

(a) GENERAL RULE.—Subtitle A of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

29 USC 1310.

"SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMATION.

Regulations.

"(a) INFORMATION REQUIRED.—Each person described in subsection (b) shall provide the corporation annually, on or before a date specified by the corporation in regulations, with—

"(1) such records, documents, or other information that the corporation specifies in regulations as necessary to determine the liabilities and assets of plans covered by this title; and

"(2) copies of such person's audited (or, if unavailable, unaudited) financial statements, and such other financial information as the corporation may prescribe in regulations.

"(b) PERSONS REQUIRED TO PROVIDE INFORMATION.—The persons covered by subsection (a) are each contributing sponsor, and each member of a contributing sponsor's controlled group, of a single-employer plan covered by this title, if—

"(1) the aggregate unfunded vested benefits at the end of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed $50,000,000 (disregarding plans with no unfunded vested benefits);

"(2) the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met with respect to any plan maintained by the contributing sponsor or any member of its controlled group; or

"(3) minimum funding waivers in excess of $1,000,000 have been granted with respect to any plan maintained by the contributing sponsor or any member of its controlled group, and any portion thereof is still outstanding.

"(c) INFORMATION EXEMPT FROM DISCLOSURE REQUIREMENTS.—Any information or documentary material submitted to the corporation pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this section is intended to prevent disclosure to either body of Congress or to any duly authorized committee or subcommittee of the Congress."

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of such Act is amended by inserting after the item relating to section 4009 the following new item:

"Sec. 4010. Authority to require certain information."

29 USC 1310 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 773. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 4003(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(1)) is amended—

(1) by inserting "(A)" after "enforce"; and

(2) by striking the period after "title" and inserting ", and (B) in the case of a plan which is covered under this title (other than a multiemployer plan) and for which the conditions for imposition of a lien described in section 302(f)(1)(A) and (B) of this Act or section 412(n)(1)(A) and (B) of the Internal Revenue Code of 1986 have been met, section 302 of this Act and section 412 of such Code."

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 that become due on or after the date of the enactment of this Act. 29 USC 1303 note.

SEC. 774. COMPUTATION OF ADDITIONAL PBGC PREMIUM.

(a) PHASE-OUT OF VARIABLE RATE PREMIUM CAP.—

(1) IN GENERAL.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking clause (iv), and by redesignating clause (v) as clause (iv).

(2) EFFECTIVE DATE.— 29 USC 1306 note.

(A) IN GENERAL.—The amendments made by this subsection shall be effective for plan years beginning on or after July 1, 1994.

(B) TRANSITION RULE.—In the case of plan years beginning on or after July 1, 1994, and before July 1, 1996, the additional premium payable with respect to any participant by reason of the amendments made by this section shall not exceed the sum of—

(i) $53, and

(ii) the product derived by multiplying—

(I) the excess (if any) of the amount determined under clause (i) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974, over $53, by

(II) the applicable percentage.

For purposes of this subparagraph, the applicable percentage shall be the percentage specified in the following table:

For the plan year beginning: on or after	but before	The applicable percentage is:
July 1, 1994	July 1, 1995	20 percent
July 1, 1995	July 1, 1996	60 percent

(b) INTEREST RATE AND ASSET VALUATION.—

(1) INTEREST RATE.—Subclause (II) of section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking "80 percent" and inserting "the applicable percentage", and

(B) by adding at the end the following new sentence: "For purposes of this subclause, the applicable percentage is 80 percent for plan years beginning before July 1, 1997, 85 percent for plan years beginning after June 30, 1997, and before the 1st plan year to which the first tables prescribed under section 302(d)(7)(C)(ii)(II) apply, and 100 percent for such 1st plan year and subsequent plan years."

29 USC 1306.

(2) ASSET VALUATION.—Clause (iii) of section 4006(a)(3)(E) of such Act is amended—

(A) by inserting "or (III)" after "subclause (II)" in subclause (I), and

(B) by adding at the end the following new subclause:

"(III) In the case of any plan year for which the applicable percentage under subclause (II) is 100 percent, the value of the plan's assets used in determining unfunded current liability under subclause (I) shall be their fair market value."

29 USC 1306 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after the date of the enactment of this Act.

29 USC 1306 note.

(c) TRANSITION RULE FOR CERTAIN REGULATED PUBLIC UTILITIES.—In the case of a regulated public utility described in section 7701(a)(33)(A)(i) of the Internal Revenue Code of 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(1) January 1, 1998, or

(2) the date the regulated public utility begins to collect from utility customers rates that reflect the costs incurred or projected to be incurred for additional premiums under section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 pursuant to final and nonappealable determinations by all public utility commissions (or other authorities having jurisdiction over the rates and terms of service by the regulated public utility) that the costs are just and reasonable and recoverable from customers of the regulated public utility.

SEC. 775. DISCLOSURE TO PARTICIPANTS.

(a) PARTICIPANT NOTICE REQUIREMENT.—Subtitle A of title IV of the Employee Retirement Income Security Act of 1974 (as amended by section 772 of this Act) is further amended by adding at the end the following new section:

29 USC 1311.

"SEC. 4011. NOTICE TO PARTICIPANTS.

"(a) IN GENERAL.—The plan administrator of a plan subject to the additional premium under section 4006(a)(3)(E) shall provide, in a form and manner and at such time as prescribed in regulations of the corporation, notice to plan participants and beneficiaries of the plan's funding status and the limits on the corporation's guaranty should the plan terminate while underfunded. Such notice shall be written in a manner so as to be understood by the average plan participant.

"(b) EXCEPTION.—Subsection (a) shall not apply to any plan to which section 302(d) does not apply for the plan year by reason of paragraph (9) thereof."

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of such Act is amended by inserting after the item relating to section 4010 (as added by section 772 of this Act) the following new item:

"Sec. 4011. Notice to participants."

29 USC 1311 note.

(c) EFFECTIVE DATE.—The amendment made by this section shall be effective for plan years beginning after the date of enactment of this Act.

SEC. 776. MISSING PARTICIPANTS.

(a) IN GENERAL.—Subtitle C of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341 et seq.) is amended by adding at the end the following new section:

"SEC. 4050. MISSING PARTICIPANTS. 29 USC 1350.

"(a) GENERAL RULE.—

"(1) PAYMENT TO THE CORPORATION.—A plan administrator satisfies section 4041(b)(3)(A) in the case of a missing participant only if the plan administrator—

"(A) transfers the participant's designated benefit to the corporation or purchases an irrevocable commitment from an insurer in accordance with clause (i) of section 4041(b)(3)(A), and

"(B) provides the corporation such information and certifications with respect to such designated benefits or irrevocable commitments as the corporation shall specify.

"(2) TREATMENT OF TRANSFERRED ASSETS.—A transfer to the corporation under this section shall be treated as a transfer of assets from a terminated plan to the corporation as trustee, and shall be held with assets of terminated plans for which the corporation is trustee under section 4042, subject to the rules set forth in that section.

"(3) PAYMENT BY THE CORPORATION.—After a missing participant whose designated benefit was transferred to the corporation is located—

"(A) in any case in which the plan could have distributed the benefit of the missing participant in a single sum without participant or spousal consent under section 205(g), the corporation shall pay the participant or beneficiary a single sum benefit equal to the designated benefit paid the corporation plus interest as specified by the corporation, and

"(B) in any other case, the corporation shall pay a benefit based on the designated benefit and the assumptions prescribed by the corporation at the time that the corporation received the designated benefit.

The corporation shall make payments under subparagraph (B) available in the same forms and at the same times as a guaranteed benefit under section 4022 would be available to be paid, except that the corporation may make a benefit available in the form of a single sum if the plan provided a single sum benefit (other than a single sum described in subsection (b)(2)(A)).

"(b) DEFINITIONS.—For purposes of this section—

"(1) MISSING PARTICIPANT.—The term 'missing participant' means a participant or beneficiary under a terminating plan whom the plan administrator cannot locate after a diligent search.

"(2) DESIGNATED BENEFIT.—The term 'designated benefit' means the single sum benefit the participant would receive—

"(A) under the plan's assumptions, in the case of a distribution that can be made without participant or spousal consent under section 205(g);

"(B) under the assumptions of the corporation in effect on the date that the designated benefit is transferred to the corporation, in the case of a plan that does not pay

any single sums other than those described in subparagraph (A); or

"(C) under the assumptions of the corporation or of the plan, whichever provides the higher single sum, in the case of a plan that pays a single sum other than those described in subparagraph (A).

"(c) REGULATORY AUTHORITY.—The corporation shall prescribe such regulations as are necessary to carry out the purposes of this section, including rules relating to what will be considered a diligent search, the amount payable to the corporation, and the amount to be paid by the corporation."

(b) CONFORMING TITLE IV AMENDMENTS.—

(1) AMENDMENT TO SECTION 4003.—Section 4003(a) of such Act (29 U.S.C. 1303(a)) is amended in the second sentence by inserting before the period the following: "and whether section 4050(a) has been satisfied".

(2) AMENDMENT TO SECTION 4005.—Section 4005(b)(2)(A) of such Act (29 U.S.C. 1305(b)(2)(A)) is amended by inserting "or benefits payable under section 4050" after "section 4022A".

(3) AMENDMENT TO SECTION 4041.—Section 4041(b)(3)(A)(ii) of such Act (29 U.S.C. 1341(b)(3)(A)(ii)) is amended by adding at the end the following new sentence: "A transfer of assets to the corporation in accordance with section 4050 on behalf of a missing participant shall satisfy this subparagraph with respect to such participant."

(c) CONFORMING ERISA AMENDMENTS.—

(1) The table of contents contained in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item related to section 4049 the following new item:

"Sec. 4050. Missing participants."

(2) Section 206 of such Act (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(f) MISSING PARTICIPANTS IN TERMINATED PLANS.—In the case of a plan covered by title IV, the plan shall provide that, upon termination of the plan, benefits of missing participants shall be treated in accordance with section 4050."

(d) CONFORMING INTERNAL REVENUE CODE AMENDMENTS.—Section 401(a), as amended by section 766 of this Act, is further amended by inserting after paragraph (33) the following new paragraph:

"(34) BENEFITS OF MISSING PARTICIPANTS ON PLAN TERMINATION.—In the case of a plan covered by title IV of the Employee Retirement Income Security Act of 1974, a trust forming part of such plan shall not be treated as failing to constitute a qualified trust under this section merely because the pension plan of which such trust is a part, upon its termination, transfers benefits of missing participants to the Pension Benefit Guaranty Corporation in accordance with section 4050 of such Act."

29 USC 1056 note.

(e) EFFECTIVE DATE.—The provisions of this section shall be effective with respect to distributions that occur in plan years commencing after final regulations implementing these provisions are prescribed by the Pension Benefit Guaranty Corporation.

SEC. 777. MODIFICATION OF MAXIMUM GUARANTEE FOR DISABILITY BENEFITS.

(a) IN GENERAL.—Section 4022(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(3)) is amended by adding at the end the following new sentences: "The maximum guaranteed monthly benefit shall not be reduced solely on account of the age of a participant in the case of a benefit payable by reason of disability that occurred on or before the termination date, if the participant demonstrates to the satisfaction of the corporation that the Social Security Administration has determined that the participant satisfies the definition of disability under title II or XVI of the Social Security Act, and the regulations thereunder. If a benefit payable by reason of disability is converted to an early or normal retirement benefit for reasons other than a change in the health of the participant, such early or normal retirement benefit shall be treated as a continuation of the benefit payable by reason of disability and this subparagraph shall continue to apply."

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for plan terminations under section 4041(c) of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act, or under section 4042 of such Act with respect to which proceedings are instituted by the corporation, on or after the date of enactment of this Act. 29 USC 1322 note.

SEC. 778. PROCEDURES TO FACILITATE DISTRIBUTION OF TERMINATION BENEFITS.

(a) REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS FOR STANDARD TERMINATION.—

(1) NOTICE OF NONCOMPLIANCE.—Section 4041(b)(2)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)(2)(C)(i)) is amended—

(A) by striking subclause (I) and inserting the following new subclause:

"(I) it determines, based on the notice sent under paragraph (2)(A) of subsection (b), that there is reason to believe that the plan is not sufficient for benefit liabilities,";

(B) by striking the period at the end of subclause (II) and inserting ", or"; and

(C) by adding at the end the following new subclause:

"(III) it determines that any other requirement of subparagraph (A) or (B) of this paragraph or of subsection (a)(2) has not been met, unless it further determines that the issuance of such notice would be inconsistent with the interests of participants and beneficiaries."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any plan termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 with respect to which the Pension Benefit Guaranty Corporation has not, as of the date of enactment of this Act, issued a notice of noncompliance that has become final, or otherwise issued a final determination that the plan termination is nullified. 29 USC 1341 note.

(b) DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.—

(1) CLARIFICATION OF DISTRESS CRITERION.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)) is amended by inserting after "under any similar" the following: "Federal law or".

29 USC 1341 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall be effective as if included in the Single-Employer Pension Plan Amendments Act of 1986.

PART III—EFFECTIVE DATES

26 USC 401 note.

SEC. 781. EFFECTIVE DATES.

Except as otherwise provided in this subtitle, the amendments made by this subtitle shall be effective on the date of enactment of this Act.

TITLE VIII—PIONEER PREFERENCES

SEC. 801. PIONEER PREFERENCES.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

"(13) RECOVERY OF VALUE OF PUBLIC SPECTRUM IN CONNECTION WITH PIONEER PREFERENCES.—

"(A) IN GENERAL.—Notwithstanding paragraph (6)(G), the Commission shall not award licenses pursuant to a preferential treatment accorded by the Commission to persons who make significant contributions to the development of a new telecommunications service or technology, except in accordance with the requirements of this paragraph.

"(B) RECOVERY OF VALUE.—The Commission shall recover for the public a portion of the value of the public spectrum resource made available to such person by requiring such person, as a condition for receipt of the license, to agree to pay a sum determined by—

"(i) identifying the winning bids for the licenses that the Commission determines are most reasonably comparable in terms of bandwidth, scope of service area, usage restrictions, and other technical characteristics to the license awarded to such person, and excluding licenses that the Commission determines are subject to bidding anomalies due to the award of preferential treatment;

"(ii) dividing each such winning bid by the population of its service area (hereinafter referred to as the per capita bid amount);

"(iii) computing the average of the per capita bid amounts for the licenses identified under clause (i);

"(iv) reducing such average amount by 15 percent; and

"(v) multiplying the amount determined under clause (iv) by the population of the service area of the license obtained by such person.

"(C) INSTALLMENTS PERMITTED.—The Commission shall require such person to pay the sum required by subparagraph (B) in a lump sum or in guaranteed installment payments, with or without royalty payments, over a period of not more than 5 years.

"(D) RULEMAKING ON PIONEER PREFERENCES.—Except with respect to pending applications described in clause (iv) of this subparagraph, the Commission shall prescribe regulations specifying the procedures and criteria by which the Commission will evaluate applications for preferential treatment in its licensing processes (by precluding the filing of mutually exclusive applications) for persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service. Such regulations shall—

"(i) specify the procedures and criteria by which the significance of such contributions will be determined, after an opportunity for review and verification by experts in the radio sciences drawn from among persons who are not employees of the Commission or by any applicant for such preferential treatment;

"(ii) include such other procedures as may be necessary to prevent unjust enrichment by ensuring that the value of any such contribution justifies any reduction in the amounts paid for comparable licenses under this subsection;

"(iii) be prescribed not later than 6 months after the date of enactment of this paragraph;

"(iv) not apply to applications that have been accepted for filing on or before September 1, 1994; and

"(v) cease to be effective on the date of the expiration of the Commission's authority under subparagraph (F).

"(E) IMPLEMENTATION WITH RESPECT TO PENDING APPLICATIONS.—In applying this paragraph to any broadband licenses in the personal communications service awarded pursuant to the preferential treatment accorded by the Federal Communications Commission in the Third Report and Order in General Docket 90-314 (FCC 93-550, released February 3, 1994)—

"(i) the Commission shall not reconsider the award of preferences in such Third Report and Order, and the Commission shall not delay the grant of licenses based on such awards more than 15 days following the date of enactment of this paragraph, and the award of such preferences and licenses shall not be subject to administrative or judicial review;

"(ii) the Commission shall not alter the bandwidth or service areas designated for such licenses in such Third Report and Order;

"(iii) except as provided in clause (v), the Commission shall use, as the most reasonably comparable licenses for purposes of subparagraph (B)(i), the broadband licenses in the personal communications service for blocks A and B for the 20 largest markets

(ranked by population) in which no applicant has obtained preferential treatment;

"(iv) for purposes of subparagraph (C), the Commission shall permit guaranteed installment payments over a period of 5 years, subject to—

"(I) the payment only of interest on unpaid balances during the first 2 years, commencing not later than 30 days after the award of the license (including any preferential treatment used in making such award) is final and no longer subject to administrative or judicial review, except that no such payment shall be required prior to the date of completion of the auction of the comparable licenses described in clause (iii); and

"(II) payment of the unpaid balance and interest thereon after the end of such 2 years in accordance with the regulations prescribed by the Commission; and

"(v) the Commission shall recover with respect to broadband licenses in the personal communications service an amount under this paragraph that is equal to not less than $400,000,000, and if such amount is less than $400,000,000, the Commission shall recover an amount equal to $400,000,000 by allocating such amount among the holders of such licenses based on the population of the license areas held by each licensee.

The Commission shall not include in any amounts required to be collected under clause (v) the interest on unpaid balances required to be collected under clause (iv).

"(F) EXPIRATION.—The authority of the Commission to provide preferential treatment in licensing procedures (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service shall expire on September 30, 1998.

"(G) EFFECTIVE DATE.—This paragraph shall be effective on the date of its enactment and apply to any licenses issued on or after August 1, 1994, by the Federal Communications Commission pursuant to any licensing procedure

that provides preferential treatment (by precluding the filing of mutually exclusive applications) to persons who make significant contributions to the development of a new service or to the development of new technologies that substantially enhance an existing service.".

Approved December 8, 1994.

LEGISLATIVE HISTORY—H.R. 5110 (S. 2467):

HOUSE REPORTS: No. 103-826, Pt. 1 (Comm. on Ways and Means) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 103-412 accompanying S. 2467 (Comm. on Finance, Comm. on Agriculture, Nutrition, and Forestry, and Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
Nov. 29, considered and passed House.
Nov. 30, Dec. 1, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):
Dec. 8, Presidential remarks.

PRIVATE LAWS

SECOND SESSION, ONE HUNDRED THIRD CONGRESS

Private Law 103-2
103d Congress

An Act

To validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

July 5, 1994
[H.R. 1183]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Right-of-Way Conveyance Validation Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 5, the conveyances described in section 3 (involving certain lands in Nevada County, State of California) and section 4 (involving certain lands in San Joaquin County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyances of land in Nevada County, State of California, referred to in section 2 are as follows:

(1) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and David G. "Otis" Kantz and Virginia Thomas Bills Kantz, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–15995 in the official records of the county of Nevada.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Antone Silva and Martha E. Silva, his wife, grantees, recorded June 10, 1987, as instrument number 87–15996 in the official records of the county of Nevada.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Charlie D. Roeschen and Renee Roeschen, husband and wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–15997 in the official records of the county of Nevada.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel F. Nevarez and Margarita Nevarez, his wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–15998 in the official records of the county of Nevada.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Susan P. Summers, grantee, recorded June 10, 1987, as instrument number 87–15999 in the official records of the county of Nevada.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James L. Porter, a single man, as his sole and separate property, grantee, recorded June 10, 1987, as instrument number 87–16000 in the official records of the county of Nevada.

(7) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert L. Helin, a single man, grantee, recorded June 10, 1987, as instrument number 87–16001 in the official records of the county of Nevada.

(8) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas S. Archer and Laura J. Archer, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–16002 in the official records of the county of Nevada.

(9) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Wallace L. Stevens, a single man, grantee, recorded June 10, 1987, as instrument number 87–16003 in the official records of the county of Nevada.

(10) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Sierra Pacific Power Company, grantees, recorded June 10, 1987, as instrument number 87–16004 in the official records of the county of Nevada.

(11) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Truckee Public Utility District, grantees, recorded June 10, 1987, as instrument number 87–16005 in the official records of the county of Nevada.

(12) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Dwayne W. Haddock and Bertha M. Haddock, his wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–16006 in the official records of the county of Nevada.

(13) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William C. Thorn, grantee, recorded June 10, 1987, as instrument number 87–16007 in the official records of the county of Nevada.

(14) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Guadelupe Lopez, grantees, recorded June 10, 1987, as instrument number 87–16008 in the official records of the county of Nevada.

(15) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harold O. Dixon, an unmarried man, as to an undivided half interest, and Pedro Lopez, a married man, as to an undivided half interest, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–16009 in the official records of the county of Nevada.

(16) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert E. Sutton and Patricia S. Sutton, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–16010 in the official records of the county of Nevada.

(17) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Angelo C. Besio

and Eva G. Besio, his wife, grantees, recorded June 10, 1987, as instrument number 87–16011 in the official records of the county of Nevada.

(18) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Lawrence P. Young and Mary K. Young, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–16012 in the official records of the county of Nevada.

(19) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the estate of Charles Clyde Cozzaglio, grantee, recorded June 10, 1987, as instrument number 87–16013 in the official records of the county of Nevada.

(20) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Noel T. Hargreaves, an unmarried woman, as her sole and separate property, grantee, recorded June 10, 1987, as instrument number 87–16014 in the official records of the county of Nevada.

(21) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Athleisure Enterprises, Incorporated, a Nevada corporation, grantees, recorded January 24, 1989, as instrument number 89–01803 in the official records of the county of Nevada.

(22) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Richard Bwarie, a single man as to an undivided one-half interest, and Roger S. Gannam and Lucille Gannam, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89–01804 in the official records of the county of Nevada.

(23) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Campbell and Juanita R. Campbell, his wife as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01805 in the official records of the county of Nevada.

(24) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William E. Cannon and Lynn M. Cannon, husband and wife, as joint tenants as to an undivided one-half interest, and Brent Collinson and Dianne Collinson, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89–01806 in the official records of the county of Nevada.

(25) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton and Bernadette M. Eaton, husband and wife as community property, grantees, recorded January 24, 1989, as instrument number 89–01807 in the official records of the county of Nevada.

(26) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton, grantee, recorded January 24, 1989, as instrument number 89–01808 in the official records of the county of Nevada.

(27) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Valeria M. Kelly, an unmarried woman, grantee, recorded January 24, 1989, as instrument number 89–01809 in the official records of the county of Nevada.

(28) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William J. Kuttel and Delia Rey Kuttel, husband and wife, grantees, recorded January 24, 1989, as instrument number 89–01810 in the official records of the county of Nevada.

(29) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas A. Lippert and Laurel A. Lippert, husband and wife, grantees, recorded January 24, 1989, as instrument number 89–01811 in the official records of the county of Nevada.

(30) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Fred J. Mahler, a single man, grantee, recorded January 24, 1989, as instrument number 89–01812 in the official records of the county of Nevada.

(31) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Francis Doyle McGwinn also known as Doyle F. McGwinn, a widower, grantee, recorded January 24, 1989, as instrument number 89–01813 in the official records of the county of Nevada.

(32) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James D. Ritchie and Susan Ritchie, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01814 in the official records of the county of Nevada.

(33) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William R. Smith and Joan M. Smith, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01815 in the official records of the county of Nevada.

(34) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Anthony J. Stile and Laura A. Stile, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01816 in the official records of the county of Nevada.

(35) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas R. Stokes, a single man, and Carla J. Stewart, a single woman, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01817 in the official records of the county of Nevada.

(36) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California Corporation, grantees, recorded January 24, 1989, as instrument number 89–01818 in the official records of the county of Nevada.

(37) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California corporation, grantees, recorded January 24, 1989, as instrument number 89–01819 in the official records of the county of Nevada.

(38) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and Harry M. Welch and Betty R. Welch, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89–01820 in the official records of the county of Nevada.

(39) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harry Fariel

and Joan Fariel, husband and wife, as joint tenants, grantees, recorded February 2, 1989, as instrument number 89–02748 in the official records of the county of Nevada.

(40) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Edward Candler and May Candler, husband and wife as community property, as to an undivided two-thirds interest; and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, as to an undivided one-third interest, grantees, recorded February 2, 1989, as instrument number 89–02749 in the official records of the county of Nevada.

(41) The conveyance entered into between the Central Pacific Railroad, grantor, and E.W. Hopkins and J.O.B. Gann, grantees, recorded April 7, 1894, in Book 79 of Deeds at page 679, official records of the county of Nevada.

(42) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and John David Gay and Elizabeth Jean Gay, as Trustees of the David and Elizabeth Gay Trust, grantees, recorded October 3, 1991, as instrument number 91–30654 of the official records of the county of Nevada.

SEC. 4. CONVEYANCES OF LAND IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of land in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ronald M. Lauchland and Lillian R. Lauchland, grantees, recorded October 1, 1985, as instrument number 85066621 in the official records of the county of San Joaquin.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bradford A. Lange and Susan J. Lange, his wife, as to an undivided one-half, and Randall W. Lange and Charlene J. Lange, his wife, as to an undivided one-half interest, grantees, recorded October 1, 1985, as instrument number 85066623 in the official records of the county of San Joaquin.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Leo G. Lewis and Vasiliki L. Lewis, and Billy G. Lewis and Dimetria Lewis, grantees, recorded October 1, 1985, as instrument number 85066625 in the official records of the county of San Joaquin.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Louis J. Bennett, grantees, recorded October 1, 1985, as instrument number 85066627 in the official records of the county of San Joaquin.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Joe Alves Correia and Leontina Correia, his wife, grantees, recorded September 1, 1970, instrument number 33915, in book 3428, page 461, of the official records of the county of San Joaquin.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Willard H. Fike, Jr., and Dorla E. Fike, his wife, grantees, recorded January 7, 1988, instrument number 88001473 of the official records of the county of San Joaquin.

(7) The conveyance entered into between Central Pacific Railway, Grantor, and Nettie M. Murray and Marie M.

Hallinan, Grantees, dated May 31, 1949, recorded June 14, 1949, in volume 1179 at page 394 of the official records of the county of San Joaquin.

(8) The conveyance entered into between the Central Pacific Railway Company, a corporation, and its Lessee, Southern Pacific Company, a corporation, Grantor, and Lodi Winery, Incorporated, Grantee, dated August 2, 1938, recorded May 23, 1940, in volume 692, page 249, of the official records of the county of San Joaquin.

SEC. 5. LIMITATIONS ON VALIDATION OF CONVEYANCES.

(a) SCOPE.—Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3 or 4, any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

(b) MINERALS.—(1) The United States hereby reserves any federally-owned minerals that may exist in land that is conveyed pursuant to section 2 of this Act, including the right of the United States, its assignees or lessees, to enter upon and utilize as much of the surface of said land as is necessary to remove minerals under the laws of the United States.

(2) Any and all minerals reserved by paragraph (1) are hereby withdrawn from all forms of entry, appropriation, and patent under the mining, mineral leasing, and geothermal leasing laws of the United States.

Approved July 5, 1994.

Private Law 103-3
103d Congress

An Act

Aug. 1, 1994
[H.R. 572]

For the relief of Melissa Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR THE BENEFIT OF CLAIMANT.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $125,000 to Melissa Johnson of Barryville, New York. Such sum shall be in full and complete settlement of all claims against the United States arising out of the personal injuries and mental pain and suffering incurred as a result of the sexual assault and molestation of Melissa Johnson by an employee of the United States Postal Service on June 3, 1982, and various other dates.

SEC. 2. DEPOSIT OF AMOUNT IN TRUST ACCOUNTS.

Barbara Johnson Lizzi.

Barbara Johnson Lizzi of Barryville, New York, the mother of Melissa Johnson, shall deposit the sum paid under section 1

in a federally insured depository institution in an interest bearing account or accounts in trust for Melissa Johnson. Barbara Johnson Lizzi shall serve as sole trustee of such account or accounts and, as such trustee—

(1) shall pay those debts and obligations which are outstanding at the time the sum is paid under section 1 to the extent those debts and obligations arise from the injuries and pain and suffering described in section 1;

(2) shall, until Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay, from the amounts in the trust account or accounts, expenses incurred for Melissa Johnson's medical care and education; and

(3) shall, when Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay to Melissa Johnson all amounts remaining in the trust account or accounts.

SEC. 3. LIMITATION ON ATTORNEYS' FEES.

Not more than 10 percent of the amount appropriated by section 1 may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim described in section 1, notwithstanding any contract which provides otherwise. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

Approved August 1, 1994.

Private Law 103-4
103d Congress

An Act

For the relief of Tania Gil Compton.

Aug. 1, 1994
[S. 537]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR TANIA GIL COMPTON.

(a) IN GENERAL.—Subject to subsection (b), Tania Gil Compton shall be classified as a child within the meaning of section 101(b)(1)(F) of the Immigration and Nationality Act for the purposes of the approval of an immediate relative visa petition filed by her adoptive parent, and the filing of an application for an immigrant visa or adjustment of status, under that Act.

(b) ADJUSTMENT OF STATUS.—If Tania Gil Compton enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully, and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of enactment of this Act, except that paragraph (2) of section 245(c) of that Act shall not apply.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the petition and the application for issuance of an immigrant visa or the application for adjust-

ment of status are filed with appropriate fees within 90 days after the date of enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Tania Gil Compton, the Secretary of State shall instruct the proper officer to reduce by one number, for the current or next following fiscal year, the total number of immigrant visas available under section 201(c)(1)(A) of the Immigration and Nationality Act, in accordance with clause (ii) of that section.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—No natural parent, brother, or sister, if any, of Tania Gil Compton shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved August 1, 1994.

Private Law 103-5
103d Congress

An Act

Oct. 18, 1994
[H.R. 810]

For the relief of Elizabeth M. Hill.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Elizabeth M. Hill—

(1) the sum of $6,780, and

(2) interest on such sum—

(A) calculated at the rate determined in the manner provided in subsections (a) and (b) of section 1961 of title 28, United States Code, and

(B) payable for the period beginning on October 5, 1985, and ending on the date on which such sum is paid.

Such sum represents the amount that was recovered by the United States under Public Law 87-693 (76 Stat. 593; 42 U.S.C. 2651 et seq.) in satisfaction of its claim against a tortiously liable third person for the value of medical care and treatment the United States furnished to Elizabeth M. Hill, but would have been recovered by Elizabeth M. Hill if a timely request for a waiver of such claim had been submitted on her behalf.

SEC. 2. LIMITATION ON ATTORNEY'S AND AGENT'S FEES.

Not more than 10 percent of the sums appropriated by section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1,000.

Approved October 18, 1994.

Private Law 103-6
103d Congress

An Act

For the relief of Orlando Wayne Naraysingh.

Oct. 22, 1994
[H.R. 2266]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR ORLANDO WAYNE NARAYSINGH.

(a) IN GENERAL.—Orlando Wayne Naraysingh shall be classified as a child under section 101(b)(1)(E) of the Immigration and Nationality Act for purposes of approval of a relative visa petition filed under section 204 of such Act by his adoptive parent and the filing of an application for an immigrant visa or adjustment of status.

(b) ADJUSTMENT OF STATUS.—If Orlando Wayne Naraysingh enters the United States before the filing deadline specified in subsection (c), he shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the petition and the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Orlando Wayne Naraysingh, the Secretary of State shall instruct the proper officer to reduce by 1, for the current or next following fiscal year, the worldwide level of family-sponsored immigrants under section 201(c)(1)(A) of the Immigration and Nationality Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Orlando Wayne Naraysingh shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 22, 1994.

Private Law 103-7
103d Congress

An Act

For the relief of Leteane Clement Monatsi.

Oct. 22, 1994
[H.R. 2411]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR LETEANE CLEMENT MONATSI.

(a) IN GENERAL.—Leteane Clement Monatsi shall be classified as a child under section 101(b)(1)(E) of the Immigration and Nationality Act for purposes of approval of a relative visa petition

filed under section 204 of such Act by his adoptive parent and the filing of an application for an immigrant visa or adjustment of status.

(b) ADJUSTMENT OF STATUS.—If Leteane Clement Monatsi enters the United States before the filing deadline specified in subsection (c), he shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the petition and the application for issuance of an immigrant visa or the application for adjustment of status are filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Leteane Clement Monatsi, the Secretary of State shall instruct the proper officer to reduce by 1, for the current or next following fiscal year, the worldwide level of family-sponsored immigrants under section 201(c)(1)(A) of the Immigration and Nationality Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Leteane Clement Monatsi shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Approved October 22, 1994.

Private Law 103-8
103d Congress

An Act

Oct. 25, 1994
[H.R. 808]

For the relief of James B. Stanley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROPRIATION OF FUNDS.

(a) PAYMENT.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $400,577 to James B. Stanley.

(b) BASIS.—The payment required by subsection (a) shall be to compensate James B. Stanley for the physical, psychological, and economic injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1958.

SEC. 2. SATISFACTION OF CLAIMS.

The payment made pursuant to section 1(a) shall be in full satisfaction of all claims James B. Stanley may have against the United States for—

(1) the injuries received by him as described in section 1; and

(2) for any injuries received by him subsequent to his discharge from the United States Army that are the result of the injuries described in section 1.

SEC. 3. INELIGIBILITY FOR ADDITIONAL BENEFITS.

James B. Stanley shall not be eligible for any compensation or benefits from the Department of Veterans Affairs or the Department of Defense for any injury received by him as described in section 1.

SEC. 4. LIMITATION OF ATTORNEYS' OR AGENTS' FEES.

It shall be unlawful for an amount of more than 10 per centum of the amount paid pursuant to section 1 to be paid to or received by any attorney or agent of James B. Stanley for any service rendered in connection with the payment made by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

Approved October 25, 1994.